



**22 September 2015**

**Agenda Item:**

**REPORT OF CORPORATE DIRECTOR – PLACE**

**RUSHCLIFFE DISTRICT REF. NO.: 8/14/01550/CMA**

**PROPOSAL: LAND RECLAMATION OF FORMER MINERAL WORKINGS THROUGH THE IMPORTATION OF INERT WASTE WITH RESTORATION TO NOTABLE NATIVE AND ALIEN PLANT SPECIES HABITAT, CHARACTERISTIC OF THE CROPWELL BISHOP GYPSUM SPOIL WILDLIFE SITE**

**LOCATION: CANALSIDE INDUSTRIAL PARK, KINOULTON ROAD, CROPWELL BISHOP**

**APPLICANT: CHRIS ALLSOP PROPERTIES**

**Purpose of Report**

1. To consider a planning application for the reclamation of former mineral workings at land adjacent to Canalside Industrial Park, Kinoulton Road, Cropwell Bishop. The key issues relate to the site's location in the Green Belt and its suitability for the deposit of waste, and the impact of HGVs on the local road network and the need for the site. The recommendation is to grant planning permission subject to conditions and a legal agreement.

**The Site and Surroundings and Site History**

2. The application site is located to the immediate east of the Canalside Industrial Park and approximately 500 metres south of the village of Cropwell Bishop. The industrial park, which comprises a number of old buildings originally developed in association with historical gypsum extraction and processing activities in the area along with some more modern industrial units, is accessed off Kinoulton Road which, to the north, connects to Nottingham Road at a 'T' junction at the south western edge of the village. Heading west from this junction for around 1.5 kilometres, Nottingham Road links with the A46. To the north of Cropwell Bishop is the village of Cropwell Butler with Tithby to the north east (see Plan 1).
3. Kinoulton Road continues south from the industrial park and past some residential properties, the most northern of which is approximately 300 metres south west of the application site, before meeting Colston Road at a crossroads at which the Lime Kiln Inn public house is located. Colston Road links Cotgrave (2.5 kilometres from the application site) to the west and Colston Bassett (1.7 kilometres from the application site) to the south east.

4. The area around these settlements and the application site is predominately agricultural, although large areas of land to the west of Kinoulton Road and north of Nottingham Road to the west of Cropwell Bishop have been subject to opencast gypsum extraction, the land having been restored. Close to the access into the industrial park, Kinoulton Road crosses the Grantham Canal which runs north to the west of the village before heading in a predominately westerly direction towards Nottingham, whilst heading south the canal continues towards Kinoulton before heading in a generally easterly direction towards Grantham. The section of canal close to the access into the industrial park is designated as the Grantham Canal (Hollygate Bridge to Kinoulton) Local Wildlife Site (LWS) and is recognised as 'a long stretch of disused canal providing a good variety of aquatic, marsh, and dry grassland communities'.
5. Around 60 metres south of the access into the industrial park, Cropwell Bishop Footpath Number 16 commences and heads in a southerly direction adjacent to Kinoulton Road to the Colston Road crossroads before it turns west and follows Colston Road. Approximately 100 metres north of the access into the industrial park, Cropwell Bishop Footpath Number 18 leaves Kinoulton Road and heads east and then north east towards Nottingham Road in the village. Approximately 100 metres further east on Nottingham Road, close to the point where it becomes Fern Road, Cropwell Bishop Footpath Number 20 heads south before reaching a point at which it heads south east and Cropwell Bishop Footpath Number 19 heads south west and links with the Grantham Canal at Colston Road.
6. The application site itself, which covers an area of around 1.9 hectares, and its immediate surroundings has for a number of years been an area of rough grassland (see Plan 2). Historic maps and aerial photographs from as early as the beginning of the 20<sup>th</sup> Century to as recently as 1984 confirm that the site and its immediate surroundings have been associated with the former gypsum workings in the area along with a plaster and cement works and an old limestone quarry. This industrial past is relevant to the area having been designated as the Cropwell Bishop Gypsum Spoil Local Wildlife Site (LWS) which is described as 'gypsum spoil colonised by a variety of notable native and alien plant species'. The site is bordered by hedgerows on its northern, southern and eastern boundaries with the industrial park to the west. The application site and the surrounding area lie within the Green Belt.
7. In 2011, the County Council was made aware of activities taking place on the site and investigations confirmed that a significant amount of material had been excavated and made available to the Environment Agency as part of the flood alleviation works being carried out at that time on the River Trent. It is also understood that some of the material was delivered to the former Barnstone landfill as part of an engineering operation taking place there. The supporting statement accompanying the application states that the clay material removed comprised red brown mudstone and siltstone material containing bands and nodules of gypsum. The statement claims that British Gypsum had mined gypsum from this area with the mudstone and siltstone material being left as spoil.
8. The applicant extracted the material under what he considered to be an extant planning permission for the site associated with previous gypsum workings but the County Council has been unable to clarify any such permission and, even if

a permission had existed at any time for the site, it, along with the other gypsum permissions in the area, would no longer be in place.

9. At the present time, evidence of the recent clay extraction is clear to see on site with the application area being approximately two to three metres below previous ground levels. A number of mounds of spoil are also on site and comprise surface material scraped from the site in advance of the clay extraction. The area has begun to recolonise to a degree.

### **Proposed Development**

10. The application seeks planning permission to import approximately 60,000 tonnes of inert waste material over a three year period to bring levels on site back to those present prior to the clay extraction taking place. The application states that the material proposed for importation would be clay-based inert material which is uneconomical to recycle.
11. Upon the completion of infilling, the imported material would be capped by the spoil that was retained on site during the clay extraction activities with the aim to reinstate the ecological interest on the site which led to its Local Wildlife Site designation. It is proposed to restore the site with a varied microtopography with gentle undulations providing humps and hollows, depressions and mounds in order to maximise the biodiversity value of the site. The ecological survey submitted with the application proposes to sow the infilled area with a 'long season meadow mixture' seed mix which comprises a mixture of herb and grass species. A maintenance regime is proposed including the removal of any ruderal species so that they do not out-compete the floral species sown. The meadow mixture, once established, would be cut on an annual basis, although some small areas would be left uncut each year to provide a variety of sward structures for faunal species.
12. A number of other mitigation measures are proposed in the wider area from where the excavation has taken place, including the removal of scrub from an area to the south and east of the excavated area in order to retain the grassland habitat and to limit scrub encroachment. In addition to this, an area of bare earth to the west of the excavated area would be allowed to naturally recolonise. The ecological survey report recommends the ongoing management of the whole area for at least five years.
13. Vehicles accessing the site would do so from the A46 and Nottingham Road before turning right into Kinoulton Road and then turning left into the industrial park. Vehicles would travel along the access road on the northern edge of the industrial park before entering the site. The Highway Impact Assessment accompanying the application states that the proposed development would generate up to nine HGV trips per day, or 18 movements, although this is based on the site only being operational for half a year, or 156 working days, given that suitable material is not expected to be available on a constant basis. As a result of the assessment of the application, some realignment works are now proposed to Kinoulton Road close to the access into the industrial park in order to provide additional visibility for vehicles leaving the site.
14. The site would operate between the hours of 7am and 6pm Mondays to Fridays and 7.30am to 12.30pm on Saturdays. There would be no working on Sundays,

Public or Bank Holidays. The proposed development is anticipated to generate employment for three people on site: a site manager, and banksman and an environmental manager.

15. Confirmation has been sought from the applicant regarding the nature of the proposed operations on site given that there is reference in certain sections of the supporting statement to a screener and crusher being available if required, yet other sections allude to the material being imported as being the non-recyclable element of inert waste streams generated by the applicant's waste recycling business which would have been processed at a site in Colwick. The applicant has subsequently confirmed that there would be no crusher or screener operating on site and the only piece of plant on site would be either a D6 bulldozer or equivalent, or a 360° tracked excavator to blade and compact the inert waste as it is imported.

## Consultations

16. **Rushcliffe Borough Council** *has no objection to the application subject to conditions regarding the commencement of the development; the sampling of the capping layer to ascertain its suitability for the proposed end use; the submission of a method statement for the control of noise, dust and vibration; details of any security lighting on site; the protection of retained trees and hedges; the hours of operation on site; and the provision of a biodiversity management plan.*
17. *Rushcliffe's Development Control Committee wishes to draw to the County Council's attention to significant concerns they have about the potential impacts of the development on local residents and businesses, including vehicle movements and the potential for dust and noise. The committee indicated that it would object to the proposal unless the recommended conditions could be imposed and that strict controls were in place to monitor the activity to ensure that only suitable inert material is used to fill the void and to ensure that suitable mitigation measures are enforced to avoid adverse impacts on residents through noise and dust. Furthermore, the committee requested that the method statement required to be submitted should include a requirement that HGVs transporting material to the site include covers over the material.*
18. **Cropwell Bishop Parish Council** *objects to the application on the grounds of noise, dust, traffic movements and safety, on-site activities, the monitoring of the site, residential amenity, the presence of sufficient waste on site already to fill the void, an out-of-date walkover survey, and disregard of planning laws.*
19. *Regarding noise, reference is made in the supporting statement to the use of a mobile screener and crusher. This plant would seriously impact on nearby residential properties and has already been used without planning permission. There would also be noise impacts from vehicle movements through the village and plant and machinery working on site six days a week.*
20. *The use of a mobile screener and crusher would also cause high volumes of dust to local residents as would traffic movements. The supporting statement says no works would be undertaken on windy days but how would this be controlled. There are also potential impacts on the cheese creamery. Winds from the south west would take noise and pollution towards Cropwell Bishop.*

21. *30 vehicle movements a day into the area would be very disruptive as the traffic would have to come past the village playing field/park which is a potential danger and there is an awkward turn from Kinoulton Road onto Nottingham Road. There would be damage to road surfaces and there is already heavy farming traffic on Kinoulton Road and Nottingham Road during the summer months. There have already been various accidents at the entrance into the industrial park.*
22. *The parish council is concerned that the site would be a waste management station with plant, machinery, crushers and screeners on site dealing with the input and output of processed materials. This would severely impact on local residents.*
23. *Concerns are also raised regarding the monitoring and control of the types of waste brought into the site and the monitoring of the site in inclement windy weather conditions.*
24. *The application site is only 360 metres from residents on Kinoulton Road and Colston Road to the south of the site and these residents would be able to see, hear and suffer the consequences of the proposed development. There would be plain views into the site during winter when there is no foliage on the trees.*
25. *The parish council considers that there is sufficient material on site to fill the void. It is not a restoration scheme, rather a landfill scheme of an illegally created void. The parish council also considers the walk-over survey to be out-of-date.*
26. *Planning laws are already being flouted as items such as the mobile crusher and screener have been in use and skips have already been in place. In conclusion, the proposed development would have an adverse effect on the balance and well-being of the village and its residents. Cropwell Bishop has spent 15 years recovering from the impacts of previous mineral workings and planning regulations have a history of non-compliance on the site. It is considered that the objective of the planning application is to establish a waste transfer station.*
27. *In response to the revised highways report, the parish council considers that the report falsely states that the site was previously used for gypsum extraction. Despite the unauthorised extraction of clay, there is enough material on site to restore it without importing any materials, negating the need for the application. The traffic report does not provide a confident and safe conclusion to the proposed traffic movements due to the inadequate splays of the road at the site access, the unsafe situation regarding vehicles turning at the Kinoulton Road/Nottingham Road junction, and concerns regarding visibility and speed.*
28. **The Environment Agency** *has no objection to the application but highlights that the proposed development would require a bespoke environmental permit which would likely require an approved waste recovery plan.*
29. **NCC (Planning Policy)** *has no objection to the application. The application site is as an area of former opencast gypsum working situated within the Green Belt. More recently there appears to have been unauthorised clay extraction from part of the site and the applicant is now seeking to reinstate this as part of an overall reclamation scheme for the whole site. As existing material on site*

would only enable a low level restoration, it is proposed to import up to 60,000 tonnes of inert waste to reinstate the land to original levels in keeping with the surrounding farmland.

30. *Policy WCS5 of the Nottinghamshire and Nottingham Waste Core Strategy (Disposal sites for hazardous, non-hazardous and inert waste) prioritises sites within the main disposal shortfall areas around Nottingham and Mansfield/Ashfield as identified on the Key Diagram. Development outside this area is supported where there is no reasonable, closer alternative. Policy WCS5 further establishes a sequential approach to waste disposal which includes the reclamation of mineral workings, other man-made voids and derelict land where this would have associated environmental benefits. Disposal on greenfield land would only be considered as a last resort.*
31. *The application site history is therefore relevant in determining whether this should be considered as greenfield or previously developed land. Aerial photography from 1996 shows the line of the existing road and buildings on the area now occupied by the industrial estate. The remainder of the application site can be seen as disturbed rough ground covered in scrub. This is in direct contrast to the cultivated agricultural fields adjoining the site boundary. Previous aerial photographs from 1984 and 1971 show a distinct area of opencast mineral working covering the majority of the site. Prior to this, historic Ordnance Survey mapping, dating back to 1919 and 1920, shows a gypsum and plaster works and clear evidence of mineral extraction corresponding with the area photographed in 1984 and 1971. There are also archive photographs of the site operating in 1915 and earlier Ordnance Survey mapping from 1900 shows a small limestone pit and again refers to a gypsum and plaster works being present.*
32. *The documented history of opencast gypsum quarrying on this site pre-dates the introduction of modern planning controls and restoration requirements. Therefore, despite the more recent and apparently unauthorised clay extraction, there is clear evidence of long term, unrestored gypsum working as opposed to this having been a greenfield site. Evidence of prior working is also still discernible on site from the disturbed ground levels surrounding the more recent area of clay extraction.*
33. *In policy terms it is therefore appropriate to consider the site as a former mineral working/man-made void on the basis of this un-restored former gypsum working area. The proposal therefore accords with Policy WCS5 insofar as it can be clearly identified as a man-made void/former mineral working.*
34. *Disposal is generally to be considered at the bottom of the waste hierarchy but it is also recognised that inert disposal, in particular, can provide a legitimate means of restoring otherwise derelict sites and/or former mineral workings. The Waste Core Strategy (WCS) therefore expects that the majority of future inert disposal capacity will be met from extensions to existing inert disposal sites and existing and future mineral voids.*
35. *The WCS anticipates that there will be a need to identify additional inert disposal capacity towards the end of the plan period but does not identify a critical requirement for disposal capacity at the current time. It is, however, acknowledged that the majority of the County's existing, dedicated inert disposal capacity is concentrated within a single large site at Mansfield Woodhouse and*

*a much smaller site near Newark. It is therefore recognised that there would be potential sustainability benefits from a wider geographical spread of suitable sites subject to all relevant policy criteria.*

36. *The application site lies on the edge of the main shortfall area to the east of Nottingham and is remote from the main inert disposal/recovery sites currently operating. The scale and location of the current proposal mean that it would not make a significant contribution to future inert disposal requirements as this would be a relatively small-scale, temporary, operation but it could nevertheless offer a 'windfall opportunity' for local disposal/land recovery with the materials being put to a beneficial restoration use in accordance with part (b) of Policy WCS5.*
37. *The application site lies within the Green Belt and substantial weight must therefore be given to any harm to the Green Belt in accordance with national policy set out in the National Planning Policy Framework. Development which is considered inappropriate in the Green Belt should only be permitted in 'very special circumstances'. Waste disposal is, by definition, considered to be generally inappropriate and must therefore demonstrate that any potential harm to the Green Belt can be justified by very special circumstances. The NPPF goes on to clarify such circumstances will only exist where it can be shown that the potential harm to the Green Belt is clearly outweighed by other considerations.*
38. *Policy WCS5 of the adopted Nottinghamshire and Nottingham Waste Core Strategy therefore requires that, where disposal sites proposed in the Green Belt constitute inappropriate development, very special circumstances would need to be demonstrated in line with national policy. Paragraph 7.26 of the adopted Waste Core Strategy explains that very special circumstances can include enhancing the beneficial use of the Green Belt, such as opportunities to provide access, outdoor sport and recreation, retaining and enhancing landscapes, visual amenity and biodiversity or to improve damaged and derelict land'.*
39. *As a stand-alone infill proposal that does not form part of an approved scheme of mineral extraction and restoration, the proposed waste disposal operation has to be considered in policy terms as 'inappropriate' and will therefore need to demonstrate very special circumstance as set out above. In this case, however, it is considered that reclamation through inert waste disposal would provide an opportunity to improve the existing appearance of the entire site rather than the more limited low level restoration of just the clay extraction area that might otherwise be achieved through enforcement action. Given that there would be a similar level of ecological disturbance resulting from either a partial, low level, restoration or from reclaiming the site back to original ground levels, this provides an opportunity for significant landscape improvement and would continue to maintain the openness of the Green Belt.*
40. *The proposal is therefore considered to meet the policy requirement to demonstrate 'very special circumstances' due to both the lack of harm to the Green Belt and the beneficial enhancement of the landscape.*
41. *From a policy perspective it is therefore considered that, in this specific case, the use of inert waste to restore an area of former mineral (gypsum) working is*

*justified within the Green Belt in order to deliver the most sustainable environmental outcome in both biodiversity and landscape terms.*

42. **NCC (Landscape)** has no objections to the development proposal in principle. *The site lies in Policy Zone VB 01 (Vale of Belvoir) of the Greater Nottinghamshire Landscape Character Assessment, and has an overall Policy Action of Conserve and Enhance. It is a predominantly flat landform with rural character and a mixed field pattern. There is little woodland cover and there are long views to the east to the Belvoir Ridge.*
43. *The site lies to the east of Kinoulton Lane, and is screened from the road (and canalside footpaths) by the buildings. Although there are footpaths in the vicinity, none pass immediately adjacent to the boundary, the nearest being a north-south footpath lying about 100m to the east. The flat ground and scrubby vegetation on the site boundaries effectively screen views into the site for recreational receptors.*
44. *The existing site is a former quarry; the proposed restoration comprises the importation of inert fill and spreading of original site material before implementing an as yet unspecified restoration plan. Relevant Policy Actions for the area focus on the conservation of existing rural features – maintaining field boundaries, gapping up hedgerows and increasing hedgerow trees as well as more specific actions relating to village expansion, protection of views and future development at Langar. There are no specific actions relating to the future of redundant industrial sites, but given the general focus to enhance the former pastoral landscape and to conserve the remote and rural character of the locality, it is considered that restoration of the site is consistent with the overall Policy Actions, especially as the proposals can be expected to include additional tree and hedge planting.*
45. *It is concluded that although there will be a period of noise and disturbance when the quarry is filled, the end product could contribute positively to local landscape character by removing a long-standing pocket of industrial land use and providing a non-agricultural site for the establishment of native flora and fauna, consistent with the SINC status. The post-development impact on landscape character will be beneficial. Although the site is not generally overlooked, users of the footpath to the east (generally considered to be of moderate-high status) will also have improved views.*
46. *Although the long-term aims of the development are welcomed, there is insufficient information to assess the process of restoration, establishment and long-term management and the applicant should provide further details either as part of the application or as a condition. There is concern that without adequate establishment maintenance the site could become colonised with invasive weeds that then smother less vigorous but more interesting species. Pastoral landscapes require grazing or mowing to maintain and the applicant should be asked to elaborate on the long-term vision for the site.*
47. **NCC (Highways)** has no objection to the application, given the revised access plan which improves access arrangements on site and provides adequate visibility in both directions. *Other issues regarding levels of traffic impact and the restricted nature of the Kinoulton Road/Nottingham Road junction have also been addressed. Conditions are recommended regarding improvements to the access into the site off Kinoulton Road; restricting deliveries to the site between*



8.30am and 9am, and 3.30pm to 4.30pm during school term times; measures to prevent the deposit of debris onto the public highway; and the submission of a haulage routing strategy to ensure vehicles do not pass through any of the adjacent villages or environmental weight limit zones. The improvements required to the public highway are on land over which the applicant has no control and so requires a Section 278 legal agreement to cover the design and construction of the works.

48. **NCC (Nature Conservation)** welcomes clarification that the proposed development would not involve the crushing and screening of material entering the site, as this could have led to ecological impacts.
49. The site is locally designated as a Local Wildlife Site (Cropwell Bishop Gypsum Spoil LWS) described as 'gypsum spoil colonised by a variety of notable native and alien plant species'. Part of the site was excavated a few years ago, in relation to other works.
50. The site is located in proximity to the Grantham Canal (Hollygate Bridge to Kinoulton) LWS and impacts on this site appear unlikely. The nearest SSSI, Kinoulton Marsh and Canal, is located approximately 4.3km to the south and the site does not lie within the Impact Risk Zone of any SSSI for the type of works proposed.
51. The application is supported by a range of ecological survey work, including an Ecological Walk-over Survey dated September 2011, a Reptile Survey dated July 2012, and an Ecological Walk-over, Badger and Reptile Survey dated July 2013. In summary, surveys have identified the following key issues:
  - (a) The site continues to support a number of notable plant species, and is assessed as being of county value for its ephemeral/short perennial and semi-improved grassland habitats;
  - (b) Grass snakes were recorded at the site in low numbers, along with a common toad;
  - (c) No evidence of badgers was recorded (although a possible badger sett was previously identified);
  - (d) Scrub at the site will support nesting birds;
  - (e) Hedgehogs, a Section 41 species, are present on the site.
52. It is noted that the void which currently exists at the site was excavated a few years ago (without planning permission). In that respect, the main ecological impact (i.e. habitat loss) has already occurred. The Ecological Walk-over, Badger and Reptile Survey states, in section 5.4, that "providing the mitigation detailed within this report is followed, it is considered that the overall impacts will be negligible...". Whilst this would appear to be the case for direct impacts, some consideration of indirect impacts (particularly noise) is required.
53. In terms of mitigation, those measures outlined in section 6.2 of the Ecological Walk-over, Badger and Reptile Survey should be delivered. It is therefore recommended that the production of an Ecological Mitigation Measures document, based on section 6.2, is secured through a condition. In addition to what is proposed, the use of some sort of temporary barrier or fencing is

*recommended to demarcate the northern, eastern and southern boundaries of the working area and to prevent accidental ingress into the retained habitat that is adjacent.*

54. *Clarification is sought that restoration works will be limited to the red line area shown on the Site Plan 001. The reason this clarification is sought is that the Restoration Plan appears to show more-or-less the whole site. It is important that those areas of habitat outside the red line boundary are retained and left undisturbed during the works, so it is suggested that the Restoration Plan is overlain with the red line boundary, and labelled to make it clear that restoration works will only take place therein.*
55. *Following on from this, a number of soil samples are provided for three mounds of substrate that exist at the site. Whilst the pH and phosphorous characteristics of these samples indicate that the material would be suitable for creating species-rich calcareous grassland, it is unclear if only these three stockpiles will be used in the restoration (presumably to be spread in a layer on top of the inert fill once importation has been completed), or whether additional stockpiles will need to be used. This is in part due to reference in the Ecological Walk-over, Badger and Reptile Survey to the use of substrate occurring widely across the eastern part of the site. Therefore, further information is requested clearly showing which stockpiles will be used, along with a methodology for their removal and placement (e.g. the depth to which the soils will be placed etc.).*
56. *Some general information relating to site restoration is provided in section 6.3 of the Ecological Walk-over, Badger and Reptile Survey dated. However, further details will be required, such as soil preparation, methodology for seeding etc., so it is requested that a condition is used to require the submission of this information.*
57. *In order to ensure that the created habitat establishes as desired, and is managed and maintained appropriately, the submission of a Habitat Management Plan covering the 5 year aftercare period should be conditioned.*
58. *Finally, the Ecological Walk-over, Badger and Reptile Survey recommend that scrub control works should take place within the southern and eastern parts of the site to further compensate for the loss of grassland habitat. A condition should be used to require that a scheme for this work (to include details of how areas to be removed will be identified on the ground, stump treatment and disposal of brash) is submitted and implemented within 12 months of work commencing (avoiding the bird nesting season, which runs from March to August inclusive).*
59. **Nottinghamshire Wildlife Trust (NWT)** *objects to the proposed development, as the impacts on habitats and species have not been properly assessed and therefore cannot be adequately mitigated.*
60. *It appears that an ecological walkover survey was undertaken in August 2011, followed by a reptile survey in 2012. No other surveys for fauna have been undertaken. The proposed development site lies within the Cropwell Bishop Gypsum Spoil Local Wildlife Site (LWS 5/2110), which was designated in 2001. It is very disappointing that substantial damage was sustained to the LWS in 2011 due to the unauthorised excavation of clay in the central area resulting in the loss of almost 50% of the LWS habitat. It is extraordinary of the applicant to*

assert that they assumed they had permission for extraction, given the cessation of gypsum quarrying in the area several years before and the sale of the land by British Gypsum. Moreover, in 2011 the presence of the LWS/SINC was publicly available information which either or both of the parties involved could have found. It is extremely unfortunate that as a public body charged with the protection of the environment, the EA did not undertake due diligence in the sourcing of this clay material, and has not sought, with the landowner/applicant, to remediate the impacts subsequently and restore the LWS habitats.

61. *The Applicant states that there is material available on site which could be re-contoured to restore the LWS, but cite the depth of the void as an issue that would result in wet ground conditions in the winter. Given the presence of grass snake on site currently, the presence of wet/marshy/pond habitat would be an advantage in sustaining that population, rather than a disadvantage. The establishment of seasonally wet calcareous habitat in the damaged area of the LWS would be beneficial, therefore it is NWT's position that remedial restoration work to re-establish the lost calcareous habitat on the site should be a priority, that it should be undertaken as mitigation for the previous damage to the LWS from the unauthorised operation and that it does not require the importation of inert fill to achieve this.*
62. *The consultant's report concluded that there are some of the key calcareous indicator species remaining on the site, despite the presence of encroaching scrub and the previous loss of the large area of the LWS/SINC through excavation. The means to restore the lost habitat is therefore potentially available on site, were the substrate to be re-contoured. If additional seed for those soil conditions were to be needed, it may be possible to source it from the other calcareous grassland LWS present in the vicinity. This habitat is an extremely rare resource in Nottinghamshire, being confined to the gypsum-derived marls of Rushcliffe and south of Newark. These are different soil conditions to those found on the magnesian limestone in the west of the county.*
63. *The reptile report found grass snake and toad to be present on site and concluded that the likely size of the grass snake population was "good", and therefore as a UK BAP priority species, an important population in a local and possible county context. The grass snakes were found in the LWS habitat that had not been lost through the excavation. There is no assessment in the report of the likelihood of a toad population, which is also a UK BAP priority species.*
64. *A reptile mitigation methodology is proposed which is based on the assumption that the proposed infill operation would not encroach further on the reptile habitat, but no detailed site plan that verifies this. There is no plan that shows the layout of the proposed operations and how the reptiles would be protected from injury/death (as required by law). The methodology states that site operatives would be trained to be vigilant for reptiles and would rescue them if they see them, but this is not realistic in the day to day operation of a landfill site such as is proposed and so there are concerns as to whether the reptile and toad populations would be protected by the scheme as proposed.*
65. *NWT is satisfied that no bat roosting habitat would be lost through the proposed development, but no activity survey has been undertaken to identify whether these bats are foraging over these species-rich habitats. Given the proximity to the canal and the known presence of numerous roosts in Cropwell Bishop, combined with the potentially suitable buildings for roosting in the Canalside*

*industrial estate, it is important to establish bat activity on the proposed site, or to prepare a mitigation scheme that assumes their presence and provides for continuous uninterrupted foraging throughout any working scheme, with the necessary restrictions in place on light and noise.*

66. *There is no suitable habitat for water voles on the site, so no impact is anticipated.*
67. *There was evidence in the 2011 survey of the recent presence of badgers (hair and excavated spoil) although it appears that they were not present when the survey was undertaken. Given badger behaviour in re-use of previous setts, this survey should be updated, so that any potential impacts on this protected species can be properly evaluated.*
68. *No surveys were undertaken for breeding birds, despite the presence of suitable habitat for a range of bird species including red list BoCC such as linnet and yellowhammer. The proposed removal of scrub could have detrimental impacts on species such as these, and so should be properly evaluated compared to the need to reinstate the calcareous grassland habitat. An up to date breeding bird survey is required in order to be able to undertake this evaluation and also to properly assess the impacts of the proposed scheme through noise and disturbance.*
69. *No invertebrate surveys have been undertaken, despite the diverse range of suitable habitats on site and the potential presence in this area of BAP species such as dingy and grizzled skippers (which are notably found on other ex-gypsum sites in Rushcliffe). Invertebrate surveys should be undertaken, including specific ones for these species.*
70. *No detailed restoration scheme has been submitted, and there is insufficient evidence provided on how the stated aim to restore the habitats of the LWS might be achieved. Such a scheme should include details of substrate preparation, sources of seed, target plant communities, aftercare and management, including provision for the long term management of the LWS.*
71. *The Highway Impact Statement has used an incorrect baseline for the assessment of impact, relying on a generalised figure for HGV movements for a non-related (and larger) gypsum site. Moreover, as gypsum extraction ceased over a decade ago, this is not, anyway, the correct baseline to use, it should be based on actual vehicle movements at the current time, into and out of the industrial estate. It will not be possible to accurately assess the impacts of the potential noise and disturbance from increased vehicle movements on sensitive fauna, in the absence of this information.*
72. *On the basis of the above, NWT object to this proposed development, as the impacts on habitats and species have not been properly assessed and therefore cannot be adequately mitigated. That notwithstanding, we consider that restoration work should be undertaken to the LWS using the existing materials on site to repair the damage undertaken by the previous unauthorised clay extraction, otherwise the integrity of the planning system risks being undermined.*
73. **NCC (Reclamation)** *considers that the proposed development does not present any opportunity to cause contamination of the wider environment. The*

*site would rely on the underlying geology to provide containment of any fugitive emissions which would be further limited by the nature of the material that would be accepted on the site. The issues of dust and tracking waste onto the public highway are controlled by standard operational procedures and should not be an issue if site controls are exercised. The nature of deposited material should be carefully considered as the restoration process is to reinstate the LWS and the associated soil system. The subsoil geology, in this case the imported material, would have an impact on the soil horizons above and the restoration plan should consider this issue.*

74. **NCC (Noise Engineer)** considers that the proposed development is unlikely to lead to any noise impacts at nearby receptors, on the basis of there being only one piece of plant on site, given that the nearest property is some 250 metres away from the site boundary. A condition is recommended to guard against additional plant being introduced without a noise assessment being carried out. Conditions are also recommended regarding plant using broadband reversing alarms, the maximum number of HGVs per day/week, and hours of operation. A condition to deal with any justifiable complaints should also be considered, although it is questioned whether this is necessary if only one piece of plant is going to be operating on site and if there is a condition regarding the need for a noise assessment if additional plant is introduced.
75. **NCC (Countryside Access)** has no objection as there are no rights of way affected.
76. **The Canal and River Trust** has no comments to make on the application.
77. **The Coal Authority** has no objection to the application but highlights that a small part of the application site falls within the defined Development High Risk Area. The Coal Authority's records indicate that there is an anhydrite mine entry on the edge of the western boundary of the site with a zone of influence which extends into the application site. The Coal Authority recommends that the applicant is made aware of this entry and a stand-off distance of approximately five metres from the part of the site boundary to which the mine entrance is adjacent is maintained in respect of the importation of waste to the site.
78. **Severn Trent Water Limited** has no objection to the proposal and has no comments to make.
79. **National Grid (Gas)** has apparatus in the vicinity of the site which may be affected by the proposed development.
80. **NCC (Planning Policy), National Grid Company PLC and Western Power Distribution** have not responded on the application.

## **Publicity**

81. The application has been publicised by means of site notices at the entrance to the industrial park and in Cropwell Bishop, in particular along Kinoulton Road and Nottingham Road along which HGVs associated with the proposed development would travel. The application has also been publicised by means of a press notice in the Nottingham Post and has been publicised as a departure from the development plan as the deposit of waste in inappropriate development in the Green Belt. Neighbour notification letters have been sent to 17 business

premises on the business park and 32 residential properties on Nottingham Road, Kinoulton Road and Colston Road in accordance with the County Council's adopted Statement of Community Involvement Review.

82. 173 letters of objection have been submitted on the application raising concerns regarding the following matters (listed in order of the number of times they have been raised by objectors):
- (a) The impact of HGVs on local roads and the danger to other road users;
  - (b) Noise;
  - (c) Dust, including mud on the road;
  - (d) The extraction of clay from the site was carried out without the benefit of planning permission;
  - (e) Proximity to the village and residential properties;
  - (f) There is a danger that the site would become a permanent waste site and so should be recontoured using existing material;
  - (g) Impacts on air quality;
  - (h) Disruption caused by the crusher and screener;
  - (i) The site is designated as a Local Wildlife Site;
  - (j) Health impacts;
  - (k) Inadequate and dangerous site access;
  - (l) Odour and vermin;
  - (m) Impact on footpaths and horse riders;
  - (n) Impact on local businesses;
  - (o) Impact on ecology and wildlife;
  - (p) Impact on the countryside/visual impact;
  - (q) Difficult to control the waste types imported into the site;
  - (r) Concerns over the monitoring of the site;
  - (s) Impact on the water table and watercourses;
  - (t) The site is in the Green Belt;
  - (u) Hours of operation would cause disruption.
83. One letter of support has been submitted from a resident in Cropwell Bishop.

84. **Councillor Richard Butler** objects to the application for a number of reasons and also due to the receipt of considerable comment and representation from the parish council and numerous residents, all of which are against.
85. Kinoulton Road is a narrow, winding lane which would be badly affected by the inevitable high numbers of HGV vehicles traveling to and fro the site. The road is also used by a considerable number of walkers and cyclists especially in connection with the canal. Cropwell Bishop (and other surrounding villages) has a 7.5 tonne HGV weight limit so this would surely be contravened by so many heavy vehicles. Other approach roads are also generally minor status and would struggle to cope with dozens to hundreds of HGV movements. There are domestic residences on Kinoulton Road either side of the site entrance that would be affected by many heavy lorry movements.
86. The nature of the delivering, unloading and handling/crushing of materials will cause noise and possibly vibration issues for neighbouring residents and indeed businesses on the business park. There are comments being made from residents that the applicant already has some sort of crushing machine on the site which is causing noise nuisance not just to the very near properties but can also be heard within Cropwell Bishop. The parish council and residents are concerned that there appears to be little respect for getting permissions for such operations.
87. Considerable dust will be produced which, depending on wind direction, could be of nuisance to residents and businesses. There is annoyance and unhappiness from the community that the void that needs filling should not be there in the first place, because the applicant has previously removed clay/soil from the site without the benefit of planning permission some years ago.
88. Residents say that the applicants have stated that much of the inert waste will come from building sites at Bingham and Cotgrave, and are therefore concerned about it all being 'pre-arranged and approved'. There are concerns about 'differing information' and understanding about the re-contouring and appearance/lie of the land.
89. This area and the approaches are within the Green Belt and the application/proposed works and related transport and noise issues, would not be suitable or sympathetic.
90. There is no doubt that this application is causing considerable comment and concern within the community for genuine and understandable reasons and would ask that these are all looked at very carefully.
91. The issues raised are considered in the Observations Section of this report.

## **Observations**

### Planning policy considerations

- The need for the site

92. Government guidance on waste can be found in the National Planning Policy for Waste (NPPW), which was published in October 2014 after the application was submitted. The NPPW gives special protection to the Green Belt by stating that local plans should first look for suitable sites and areas outside the Green Belt for waste management facilities that, if located in the Green Belt, would be inappropriate development, whilst also recognising the particular locational needs of some types of waste management facilities. This is an important consideration given the site's location in the Green Belt and this is considered in detail below.
93. For disposal facilities not in line with the local plan, the NPPW requires applicants to demonstrate that the proposals do not undermine the objectives of the local plan through prejudicing the movement of waste up the waste hierarchy. The applicant has confirmed that material deposited on the site would be what is considered to be non-recyclable inert waste as there are technical difficulties in processing what are described as 'heavy inert' materials containing soils and clay. Residual inert waste from aggregate recycling facilities for which it is difficult to find an end use have historically been used as landfill cover. However, this market has significantly reduced given the closure of many landfill sites in the county and surrounding areas, including Barnstone landfill which is only around six kilometres from the application site but no longer operational.
94. When determining planning applications, the NPPW states that waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new waste management facilities where proposals are not consistent with an up to date local plan and, in such instances, take account of the capacity of existing operational facilities to satisfy any identified need. Given that the site is located in the Green Belt and waste disposal is generally considered to be inappropriate development in the Green Belt, it is considered that there is a requirement for the need for the site to be assessed.
95. The applicant has cited the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (WCS) which states that, nationally, it is estimated that between 80% and 90% of construction and demolition waste is either re-used or recycled. Whilst this is a high percentage, it confirms the need for continued disposal facilities for the remaining 10% – 20% which cannot be recycled or re-used and, as detailed above, the applicant has identified the types of inert waste that comprise these residual non-recyclable and non re-usable inert wastes and their comments in this respect are accepted. With the WCS stating that around one million tonnes of construction and demolition waste is produced in the county each year, there is a requirement for disposal capacity of between 100,000 and 200,000 tonnes per annum and the WCS further states that around 230,000 tonnes was disposed of in the county in 2010. More recent figures have confirmed that almost 300,000 tonnes of inert waste was deposited in the county in 2012.
96. The applicant has also highlighted that the WCS indicates that there is only one significant landfill site for construction and demolition waste, located at Vale Road in Mansfield Woodhouse, although it has recently been resolved to grant planning permission, subject to the signing of a legal agreement, for a significant extension to this site, adding a further 2.06 million cubic metres of disposal capacity. There is some disposal capacity also available at Coneygre Farm at Hoveringham but this is a small-scale facility and, of the almost 300,000 tonnes



of inert waste deposited in the county in 2012, over 85% was deposited at Vale Road.

97. It is therefore considered that the provision of further inert disposal sites, particularly in parts of the county that are some distance from the Vale Road site, would be beneficial in terms of managing this waste stream more effectively.
98. In order to provide sufficient future disposal capacity for construction and demolition waste, the County Council put out 'a call for sites' as part of the preparation of the Site Allocations Document for the Waste Development Plan Documents. A total of 13 sites have been put forward for consideration for allocation which have a potential capacity of over 14 million cubic metres, but the application site is not one of the sites put forward.
99. Although there are a limited number of inert landfill sites in the county, there are, and historically have been, other outlets for non-recyclable construction and demolition waste, such as large reclamation/recovery schemes and non-hazardous landfill sites which use inert material for engineering purposes and as daily cover. In terms of whether there is a need for the application site, it is worthwhile considering these alternative outlets.
100. As noted above, the availability of landfill sites has diminished in recent years, including the closure of Barnstone landfill site which is reasonably close to the application site in the south of the county. However, in recent years, two significant reclamation/recovery schemes requiring significant amounts of inert material have come forward at Bentinck Colliery Tip and Welbeck Colliery. The schemes have a combined requirement for 2.095 million cubic metres of inert waste material with each scheme scheduled to last for five years. Both sites are now operational with their respective permissions providing additional disposal capacity until 2018 for Welbeck and 2019 for Bentinck and so they provide a combined 479,000 cubic metres of inert disposal capacity per annum for the next three to four years. In tonnes, this equates to 718,500 tonnes per annum using the 1:1.5 conversion ratio published by HMRC after the WCS was adopted, although the WCS itself uses a 1:1 ratio.
101. It needs to be highlighted again, though, that both these sites are to the north of Nottingham and, in the case of Welbeck, significantly so. Managing any waste stream effectively and efficiently is reliant to a significant extent on the proximity of waste management sites and the availability of inert disposal sites in the south of the county is limited.
102. Taking both inert landfill and other outlets such as reclamation/recovery schemes into account, in 2012, 566,000 tonnes of inert waste was deposited, reclaimed or recovered in the county, either deposited as inert landfill (297,000 tonnes), reclaimed/recovered in construction or restoration schemes (215,000 tonnes), or deposited at non-hazardous landfill sites (54,000 tonnes), probably as daily cover material.
103. In terms of available disposal capacity in the county, this totalled 1.764 million cubic metres at the end of 2012. Since then, it has been resolved to grant planning permission, subject to the signing of a legal agreement, for 2.06 million cubic metres of additional disposal capacity at Vale Road and additional reclamation/recovery capacity totalling 2.095 million cubic metres has been

granted permission at Welbeck and Bentinck. Together, these total 4.155 million cubic metres and, when added to the 1.764 million cubic metres of remaining inert disposal capacity at the end of 2012, minus two years of inert disposal and recovery at 566,000 tonnes per annum (1.132 million tonnes), leaves approximately 4.787 million cubic metres of remaining disposal and recovery capacity in the county as of the end of 2014, based on a ratio of one tonne of waste per cubic metre. This remaining capacity would provide sufficient disposal and reclamation/recovery capacity for around 8½ years using a density ratio of 1:1 and around 12½ years using the HMRC's 1:1.5 density ratio.

104. Whether looking solely at inert landfill capacity or when also taking into account additional reclamation/recovery capacity, it is considered that there is sufficient existing inert disposal capacity available in the county as a whole, both at the present time and in the short to medium term, to manage arisings of inert waste which cannot be recycled. However, with most of this disposal capacity being north of the Nottingham conurbation, from where a significant amount of inert waste arisings can be expected to be generated, there could be benefits from the availability of what would be considered to be a small site in the south of the county. However, other justifiable reasons need to be demonstrated if the application is to be supported.

- The waste hierarchy

105. The waste hierarchy is a key consideration and managing waste in accordance with it is one of the key principles in the WCS and the NPPW. The waste hierarchy is set out in the diagram below.



106. It can clearly be seen that the disposal of waste is at the bottom of the waste hierarchy and this is reflected in Policy WCS3 of the WCS which prioritises new or extended recycling, composting and anaerobic digestion facilities and only allows for new or extended energy recovery facilities where it can be shown that this would divert waste that would otherwise need to be disposed of. The policy only supports new or extended disposal capacity where it can be shown that this is necessary to manage waste that cannot be economically recycled or recovered. The application puts forward arguments as to the types of residual

inert wastes that cannot be recycled and which would be disposed of at the site. In addition to this, and in light of concerns raised by local residents regarding the potential use of a crusher and/or screener at the site, the applicant has confirmed that such plant would not be used with waste entering the site having been sorted beforehand at their facility at Colwick. However, as detailed above, there is not considered to be an overriding county-wide need for the site in terms of managing the disposal of inert waste which cannot be re-used or recycled.

107. Appropriate controls could be secured through planning conditions to ensure that all waste destined for the landfill has been pre-treated off-site and, with such controls in place, it is considered that the proposed development would accord with this element of the NPPW and Policy WCS3 and would not prejudice recycling operations further up the waste hierarchy.

- The appropriateness of the site's location

108. The key policy for determining the appropriateness of the site for waste disposal is Policy WCS5 of the Waste Core Strategy which states:

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

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

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

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

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

109. Regarding the first part of the policy, the available disposal capacity in the county as a whole, as detailed above, is considered sufficient at the present time and for the short to medium term looking forward. However, the availability of disposal capacity in the south of the county is not ideal and a short-term site such as the application site would be beneficial in terms of its proximity to waste arisings, if the deposit of waste can be seen as the most sustainable way of

restoring the site. The County Council's Planning Policy Team considers the site to be on the edge of the main shortfall area to the east of Nottingham and also confirms that it is remote from the main inert disposal and reclamation/recovery sites presently operating in the county. It is therefore considered that the proposed development partially accords with this part of the policy.

110. Regarding the second part of the policy, the proposed development does not represent an extension of an existing site and so is not the most preferable option available. It should be noted that only the Vale Road or Coneygre Farm site would meet this policy requirement. However, the County Council's Planning Policy Team does consider that it would represent the second most preferable option as it would provide for the reclamation of a mineral working/man-made void/derelict land, although the policy confirms that this is subject to there being associated environmental benefits. In this respect, it is considered that the quality of the restoration of the site is critical, given its LWS status, in addition to the landscape benefits that would derive from the proposed scheme. These matters are considered in detail below and subject to them being satisfactorily addressed, it is considered that the proposed development accords with part (b) of Policy WCS5.
111. It is important to highlight why the site is considered to fall into the description of either a mineral working, other man-made void or derelict land as opposed to being considered as a greenfield site, given that the void has been created without the benefit of planning permission. Two thirds of residents objecting to the application have cited that the initial extraction took place without the benefit of planning permission and there are concerns that the applicant is going to further benefit from filling the void created with inert waste.
112. In terms of previous planning permissions covering the application site, it can be confirmed that the County Council has no records of it having previous planning permissions for gypsum extraction, although extraction did take place over an area of around 70 hectares to the west and south of the village (see Plan 3). However, evidence has been found, from old maps and aerial photographs, which indicate significant activities on the site associated with gypsum extraction in the area over a significant period of time. An ordnance survey map from 1900 shows the original buildings on what is now the industrial park and highlights these as a 'plaster and cement works'. A small limestone pit is denoted on the southern edge of the application site and limestone is a key component in the production of cement and lime plaster. Another ordnance survey map dating from around 1920 again shows the plaster and cement works with some additional buildings on what is now the industrial park and shows quarrying over a far wider area, including much of the application site.
113. A number of aerial photographs from later in the last century also confirm the presence of activities on the site. Aerial photographs from 1971 and 1984 confirm much or all of the application site and its immediate surroundings covered in a white material and it is believed that this was waste from the gypsum extraction that was ongoing in the near vicinity at that time, evidence of which can be seen from these aerial photographs on land to the north west. The use of the application site for the disposal of gypsum waste is supported by the fact that the LWS designation that covers the site is described as 'gypsum spoil colonised by a variety of notable native and alien plant species'.

114. Although it makes no specific reference to the application site, the Cropwell Bishop Village Plan (2009) confirms the industrial activities in the general area by stating:
- A brickworks was established beside the canal and then, in the first half of the 20<sup>th</sup> Century, gypsum was mined on the western side of the village. This came to an end at the end of the 20<sup>th</sup> Century. The factory building where the gypsum was processed still stands beside the canal. Its outside appearance has changed little but now it houses several of the fourteen businesses that operate from the Canalside Industrial Park.*
115. Given all of the above, it is considered that, notwithstanding the recent unauthorised extraction of clay, the application site can be considered to be associated with former mineral workings, is presently a man-made void and, even before the recent extraction, could have been considered to have a derelict appearance, albeit one without any derelict buildings on it, with the derelict nature of the land benefitting its colonisation by the plant species which resulted in its LWS status. In terms of how the site can be described in relation to Policy WCS5, it is considered that it meets the description in (b) (mineral workings, other man-made voids and derelict land) and so therefore has policy support subject to there being associated environmental benefits.
116. The final part of Policy WCS5 concerns sites located in the Green Belt, which the application site is, and waste disposal is generally considered to be inappropriate development in the Green Belt, a matter confirmed by the NPPF. The NPPF states that:
- “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason is inappropriateness, and any other harm, is clearly outweighed by other considerations.”*
117. Policy WCS5 confirms that ‘where disposal sites proposed in the Green Belt constitute inappropriate development, very special circumstances would need to be demonstrated in line with national guidance.’ Whether ‘very special circumstances’ exist is considered in greater detail below and is linked to the requirement of (b) of the policy which requires development to provide environmental benefits.
118. The policy on Green Belts in the Waste Local Plan (WLP) also remains with Policy W3.17 only allowing for waste disposal in the Green Belt where it represents the best option for reclaiming mineral voids or other derelict voids. As set out in greater detail below, particularly in the landscape observations, it is considered that the proposed development accords with this policy.
119. It is also worthwhile considering Green Belt policy guidance in the NPPF which confirms the five purposes of the Green Belt which are:
- (a) To check the unrestricted sprawl of large built-up areas;
  - (b) To prevent neighbouring towns merging into one another;

- (c) To assist in safeguarding the countryside from encroachment;
  - (d) To preserve the setting and special character of historic towns; and
  - (e) To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
120. It is considered that the proposed development would not compromise any of these purposes and would in fact help recycle what can presently be described as derelict land, although not as part of a scheme of urban regeneration.
121. Policy WCS7 provides guidance on general site criteria and supports certain types of waste management facilities in certain locations. For the disposal of waste by landfill, Policy WCS7 supports the following locations:
- Derelict land/other previously developed land – land that is no longer needed or has been abandoned. This could include former un-restored or poorly restored colliery land in need of restoration, old quarries, disused railway land etc;*
- Open countryside/agricultural land – rural land, including farmland, which is not covered by any environmental designation, especially where this enables the re-use of farm or forestry buildings;*
- Green Belt – land within the Green Belt where very special circumstances can be demonstrated. This could include derelict or previously developed land, old quarries etc. All proposals will be subject to Green Belt policies.*
122. Again, given that the site is considered to be derelict, it is considered that the site accords with this policy in this respect. The Green Belt element of this policy is consistent with Policy WCS5 and Policy W3.17 of the WLP.
123. In relation to the appropriateness of the site, there is clear evidence that the site has been subject to significant levels of industrial use over a long period of time. This is largely in association with the old cement and plaster works on what is now the industrial park and in association with gypsum extraction to the south and west of the village. As a result of this, it is considered most appropriate to class the site as a former mineral working/derelict land. However, it is accepted that the present condition of the site is as a result of unauthorised mineral extraction.
124. In terms of the site's location in the Green Belt, Government guidance confirms that waste disposal is inappropriate development in the Green Belt and 'very special circumstances' need to be demonstrated if the proposed development is to be supported. However, local waste planning policies in the WLP and WCS acknowledge that waste disposal can provide the best option to help restore mineral voids and derelict land in Green Belt locations.

#### Green Belt protection and intentional unauthorised development

125. A significant number of objectors have raised concerns about the unauthorised nature of the clay extraction that has taken place and which has led to this application being submitted. The applicant has stated that the material was

removed in the belief that an extant planning permission existed on the site associated with the previous gypsum operations in the area. There is no reason to disbelieve the applicant in this respect but it is worthwhile highlighting that the Government is concerned about what it describes as 'intentional unauthorised development' in the Green Belt.

126. At the end of August 2015, the Government's Chief Planner issued a letter regarding the protection of the Green Belt from intentional unauthorised development. The letter states that such development is now a material consideration in the determination of planning applications due to concerns about the harm that is caused where development is undertaken in advance of obtaining planning permission, thereby providing no opportunity to appropriately mitigate any harm that has already taken place.
127. The letter confirms that this new policy only applies to new planning applications and appeals received from 31 August 2015 and so the new guidance is not applicable to this application. In any event, the applicant has stated that they thought an old permission still existed for the site and there is no reason to not accept that in planning terms. Officers have not seen any contrary evidence to dispute this and accordingly it is considered that there was no intentional unauthorised development given that the applicant thought a planning permission existed. The issue here is to rationalise the unauthorised development and bring it back under planning control and to determine if planning permission should be granted for the development that has occurred and which will be ongoing. In light of the objections made by local residents, it is appropriate to update Members on changes to guidance on Green Belt issues, notwithstanding that they do not apply to this application.

#### Environmental impact of the proposed development

128. Appendix B of the NPPW identifies a number of locational criteria for testing the suitability of sites and areas for new waste development. These include the consideration of water quality and flood risk; land 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 vibration; litter; and potential land use conflict. Policy WCS13 of the WCS supports new waste disposal facilities 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 there would be no unacceptable cumulative impact. The policy also requires proposals to maximise opportunities to enhance the local environment through the provision of landscape, habitat or community facilities. There are also a number of policies in the WLP which individually consider these potential impacts.
129. Many of these issues have been raised as concerns by local residents and are considered below. In addition to this, the consultation response from Rushcliffe Borough Council recognises the potential for environmental impacts from the proposed development and recommends a condition be attached to any planning permission granted which requires a method statement detailing techniques for the control of noise, dust and vibration during the works. This condition is considered acceptable.

## Highways impacts

130. The impact of HGVs on the local road network is the biggest concern of local residents objecting to the application and has been the subject of significant discussions between the applicant, the Waste Planning Authority and the Highways Authority. Policy W3.14 of the WLP does not allow for waste developments where the vehicle movements likely to be generated cannot be satisfactorily accommodated by the highway network or where they would cause unacceptable disturbance to local communities. Policy W3.15 provides for the imposition of conditions to ensure certain HGV routes are either avoided or followed, and allows for highways improvements to be secured. Policy W3.11 seeks to ensure that no mud or other deleterious material is trafficked onto the public highway.
131. The proposed development is anticipated to generate 9 HGV trips per day, or 18 HGV movements, along with three trips per day associated with employees of the proposed development (six movements). However, the applicant has calculated that the level of HGV traffic is based on the site only being operational for half a year, or 156 working days, given that suitable material is not expected to be available on a constant basis. It is therefore anticipated that there would be days when no HGVs would enter the site at all. As previously highlighted, the proposed development is anticipated to require the importation of material for a temporary three year period. Traffic accessing the site would do so through the established access point into the industrial park off Kinoulton Road and it is this point of access, along with the junction of Kinoulton Road and Nottingham Road which HGVs would need to travel through along the proposed HGV route, which has been the subject of significant consideration.
132. As a result of the discussions that have taken place during the consideration of the application, the applicant is now proposing some realignment works to Kinoulton Road to address what the Highways Authority considers to be insufficient visibility when exiting the industrial park. The realignment works would, in effect, move slightly forward the point where HGVs leaving the industrial park stop before turning right out of the site. This would increase the visibility for HGV drivers looking left (south) when leaving the site. The Highways Authority also recommends some additional works on Kinoulton Road north of the junction to provide a smoother alignment with the changes south of the junction and the applicant has accepted this matter. These works would need to be carried out under Section 278 of the Highways Act 1980 and would need to be in place prior to any material being imported into the site.
133. Detailed assessment has also been carried out on the Kinoulton Road/Nottingham Road junction. The junction is considered to be substandard in terms of visibility to the north west heading out of the village and HGVs would need to cross the centreline of either Nottingham or Kinoulton Road depending on the direction of travel. However, given that this junction is located within the village envelope and constrained by adjacent properties, there is limited scope to undertake any works within the highway to improve visibility or turning facilities.
134. A review of accident data in the vicinity of the junction has been undertaken and there has only been one minor accident at this location in the last five years, resulting in a vehicle turning right out of the junction into the path of a car heading north along Nottingham Road. As visibility in this direction (looking



south) meets current standards, a lack of visibility is not considered to have been a contributing factor.

135. The applicant has provided automated traffic counts which show the average number of two-way HGV movements on Kinoulton Road to be around 130 per day. Given that an environmental weight limit applies south of the site entrance, it is considered likely that the majority of these movements will have used the Nottingham Road junction in order to access Kinoulton Road.
136. Considering the above accident data in addition to the fact that the proposed development would only last three years, along with the fact that the proposed development would only increase the total number of HGV movements through the junction by 18 (or 14%), the Highways Authority considers it unlikely that the proposed development would lead to a significant increase in accidents in this location. However, concerns remain regarding the fact that HGVs would not be able to turn in and out of the junction without crossing the centre of the road which is likely to be an issue at peak times when other road users are waiting at the junction. In order to mitigate these concerns, the Highways Authority recommends that delivery hours are restricted during the busiest times.
137. In terms of restrictions during busy times, it is considered most appropriate to prevent HGVs from entering the site at the start and end of the school day during term time. The primary school is located at the eastern edge of the village whereas the HGV route would be along the south western edge of the village. However, it is accepted that children travel to the school from throughout the village and from other villages nearby and it is considered important to restrict HGV movements when school children are travelling to and from school, either by foot or by car. The school's website confirms that the school day starts at 8.55am and finishes at 3.30pm and the Highways Authority recommends that HGVs are restricted from delivering material to the site from 8.30am to 9am and from 3.30pm to 4.30pm during term time. This is considered acceptable and would help minimise the impact of HGVs in the village. Based on the proposed 7am to 6pm operating hours Monday to Friday, these restrictions would reduce the number of hours during which HGVs could access the site to 9½ hours a day. With a maximum of nine HGV trips per day (18 movements) permitted, this would equate to an average of one trip, or two movements, per hour. It is considered that this level of traffic, in addition to the restrictions around school opening and closing times, would not result in any unacceptable disturbance to local communities.
138. The other matters that would need to be in place include securing a HGV route which would require all vehicles leaving the site to use a route which travels north from the industrial park access along Kinoulton Road to its junction with Nottingham Road before turning left and heading west to the A46, with incoming HGVs doing the route in reverse. This matter would need to be secured by a legal agreement as it relates to matters outside the application area and would ensure compliance with Policy W3.15 of the WLP. It is also considered most appropriate to secure the restrictions on delivery hours through a legal agreement as it would apply to both HGV leaving the site and HGV travelling towards the site. Rushcliffe Borough Council has recommended that all HGVs entering the site with inert waste are sheeted and, again, as this matter relates to HGVs travelling to the site, it would be most appropriate to provide for this through a legal agreement. A condition is recommended to prevent the

trafficking of mud onto the public highway, as required by Policy W3.11 of the WLP.

139. Subject to the above matters being provided, the Highways Authority has no objection to the proposed development and it is considered that it would therefore comply with Policy W3.14 and Policy W3.15 of the WLP. It should also be noted that the proposed works would also benefit traffic using the industrial park in the long term after the proposed development has been completed.

#### Noise

140. Policy W3.9 of the WLP allows for conditions to be attached to planning permissions for waste management facilities to reduce noise impacts. Conditions can include restricting the hours of operation, soundproofing fixed and mobile plant, providing alternatives to reversing beepers, stand-off distances between operations and noise sensitive locations, noise baffle mounds, and setting maximum noise levels at sensitive locations.
141. Noise from the proposed development is the second most raised issue amongst local residents and there has been some confusion on this matter with the applicant's supporting statement making reference to a crusher and screener being available for use during the proposed works. Such pieces of plant are commonly used by inert waste operators to sort and process inert waste into products suitable for sale but they can generate significant levels of noise. During the assessment of the application, there has been an instance when the operator had a crusher on site and this matter generated complaints to the County Council.
142. The applicant has been asked to clarify this matter and has confirmed that no crusher and screener would be on site, with material imported into the site being residual inert waste resulting from operations at their inert waste recycling centre in Colwick. In light of the need to clarify this matter, it is considered appropriate to attach a condition to the granting of any planning permission confirming not only that no crushing or screening of incoming waste would be permitted on site, but that the only piece of plant permitted to operate on site would be either one bulldozer or one 360° tracked excavator, required to blade out the incoming material within the site. The applicant has also confirmed that whichever piece of equipment is used on site would be fitted with a white noise/broadband reversing alarm which would help reduce noise impacts further.
143. Based on the above, the County Council's Noise Engineer has no objection to the application and considers that it is unlikely that there would be any adverse noise impacts at nearby receptors, given that the nearest property is around 300 metres away. It is also considered that noise impacts on footpath users would also be minimal. In addition to the conditions regarding the plant on site and the use of a white noise/broadband reversing alarm, conditions are also recommended regarding the maximum number of HGVs per day accessing the site and the hours of operation, along with a condition to deal with any justifiable noise complaint received, although the Noise Engineer considers this unlikely given the above consideration. The recommended condition from Rushcliffe Borough Council would also require the operator to confirm many of these and

other matters to reduce the noise impact of the proposed development. With these controls on place, it is considered that the proposed development would accord with Policy M3.5 (Noise) of the MLP.

### Dust

144. The NPPW confirms that impacts to the local environment and amenity should be considered but it is not necessary to carry out detailed assessments of epidemiological and other health studies on the basis that these controls would be provided through the pollution control regime issued by the Environment Agency. Policy W3.10 of the WLP allows for conditions to be attached to planning permissions to control dust by means including the use of water bowsers on haul roads and the temporary suspension of operations when necessary.
145. Dust and air quality impacts are a concern raised by more than two thirds of objectors. It is considered that much of the concern has been raised due to references in the application to the use of a crusher and screener on site, pieces of plant which can generate significant levels of dust. As stated above, the applicant has now confirmed that neither a screener or crusher would be used on site and this removes a significant potential source of dust generation. However, despite this, there are other potential sources of dust from the proposed development, particularly during dry and windy conditions. The arrival and departure of HGVs delivering inert material to the site and the blading of tipped material across the site are activities that could generate dust and it is important to ensure that these are minimised for the benefit of nearby sensitive receptors, particularly other businesses on the industrial park, and also to protect undisturbed vegetation immediately adjacent to the site but which also forms part of the LWS designation.
146. To this end, it is considered that the condition recommended by Rushcliffe Borough Council requiring a method statement to control noise, dust and vibration would provide the necessary safeguards required to ensure the proposed development accords with Policy W3.10 of the WLP and would require the applicant to detail the measures, through the submission of a dust management plan, that would be implemented. The condition highlighted in the highways observation above regarding the prevention of the trafficking of mud onto the public highway would also help to minimise dust impacts.

### Landscape and visual impacts

147. Policy W3.4 of the WLP seeks to minimise the visual impacts of waste developments by including conditions which retain, protect and manage existing features of interest and value for screening and their contribution to the reclamation of this site. Policy W4.6 requires landscape proposals to include an overall landscape concept or masterplan; details of the final landform which should harmonise with the existing landscape character; and the location, form, number, species, size, and method of proposed planting.
148. Policy WCS13 seeks to maximise opportunities to enhance the landscape and it is considered that the improvement to the landscape that the proposed development could bring is a key consideration of the 'very special circumstances' required to comply with Green Belt policy. The NPPW requires

landfill sites to be restored to beneficial afteruses at the earliest opportunity and to high environmental standards.

149. The County Council's Landscape Officer has no objection to the application and acknowledges that the proposed development would bring about benefits to the landscape character of the area, as opposed to what could be achieved through a low-level restoration requiring no importation of inert material. The proposed development would not change views of the site as these are restricted given the height of the hedgerows surrounding the site which screen almost all views from nearby rights of way and from the canal towpath. Views from the nearest residential properties, approximately 300 metres to the south, would be quite distant and again would be largely screened by canalside and field hedgerows and trees. There might be views of HGVs tipping material at the site and a bulldozer subsequently blading the material, but again these would be distant and largely screened. It is therefore considered that the visual impacts of the actual infilling of the site would be minimal. In respect of Green Belt policies, it is considered that there would be no significant impact on the openness of the Green Belt whilst the proposed development is taking place.
150. The site is in the Vale of Belvoir Policy Zone of the Greater Nottingham Landscape Character Assessment which is characterised by a predominately flat low lying landform with very gentle undulations. The overall policy action for the zone is to conserve and enhance, including what the County Council's Landscape Team describes as a general focus to enhance the former pastoral landscape and to conserve the remote and rural character of the locality. It is considered that the proposed development, and in particular the implementation of the proposed restoration scheme which seeks to restore the features which led to its designation as a LWS, would enhance what presently has the appearance of a derelict piece of land and would improve the rural character of the locality.
151. It is considered important to distinguish between landscape and visual effects, given that it is accepted that the site is well screened and the improvements the proposed development would bring to the site would not necessarily be visible from nearby properties or rights of way. The landscape can be subject to either positive or negative effects and negative effects can, for example, result from the removal of hedgerows or trees or changes to landform. These are impacts on the landscape as a resource and are important in their own right regardless of whether they can be viewed or not. The positive improvements to the landscape that would result from the proposed development are therefore an important consideration in the determination of the application, even if these improvements would be largely screened from view.
152. Given the Landscape Team's consultation response and the derelict condition of the site at present, it is considered that the improvements to the landscape that can be delivered through the proposed development represent 'very special circumstances' as required by Green Belt policy.
153. The County Council's Landscape Team wishes to see greater details regarding the restoration scheme and how it would be implemented but is satisfied that this is a matter which could be secured by condition. The applicant has already provided details of the final proposed contours, which it is considered would result in no long-term impacts on the openness of the Green Belt, and confirmed that it is proposed to restore the LWS interest on the site through the sowing of

a suitable grass and herb seed mix. However, it is accepted that further details on the methodology are required and to this end, a prior to commencement condition requiring detailed landscaping proposals is recommended in accordance with Policy W4.6 of the WLP.

154. Nottinghamshire Wildlife Trust (NWT) has suggested that the site could be restored to a lower level, without importing any material, in a manner which would re-establish the lost calcareous habitat on site. Whilst this might be the case, this does not take into account the landscape benefits that could be derived from restoring the site to levels which tie in with the surrounding land, as required by Policy W4.6 of the WLP, and which also delivers this habitat type. Therefore, if it is considered that the importation of material can be undertaken in a manner which does not cause adverse impacts to the environment and amenity, then this should be the preferred approach given the landscape benefits that would derive.

### Ecology

155. Policy W3.23 of the WLP only allows for waste development which is likely to affect sites of regional or local importance where the importance of the development outweighs the local value of the site, taking into account the scope for mitigation. This application provides a rather peculiar situation whereby the main adverse ecological impact on the site, the loss of habitat, has already occurred through the unauthorised mineral extraction that took place in 2011. However, the survey report submitted with the application does confirm that the site continues to support a number of notable plant species, species which were central to its original designation as a local wildlife site. Since the extraction took place, the site has begun to recolonise with plant species.
156. Despite the loss of ecological habitat, the site retains its LWS status and it is considered imperative that the restoration scheme reinstates the habitat interest that led to the LWS designation in the first place. It is considered that providing this would also demonstrate the 'very special circumstances' required by Green Belt policy, in addition to the landscape benefits that a high quality restoration scheme could provide.
157. The County Council's Ecologist is satisfied that the ecological interest on site can be reinstated, subject to a number of matters being addressed by conditions. Once the deposit of inert material has been completed, it is proposed to cover the area with on-site substrate that was removed from the excavation area prior to clay extraction taking place and tests of three of these mounds have confirmed that the material is suitable for creating species-rich calcareous grassland. The applicant has calculated the volume of the three mounds to be around 4,500 cubic metres which would be more sufficient to provide a minimum of 200mm of this material across the infilled area. A condition is recommended requiring a detailed methodology for the removal and placement of this material.
158. Once this substrate has been spread across the infilled area, it is proposed to sow it with a grass and herb seed mix but the County Council's Ecologist considers it important for this sowing to be restricted to the infilled area so that areas undisturbed during the proposed works remain undisturbed. Again, this is a matter that could be secured by condition, along with a detailed methodology

for the seeding. Rushcliffe Borough Council has recommended a condition requiring a biodiversity management plan to ensure that all the mitigation, compensation and enhancement recommendations made in the ecological survey report are provided, and this is considered acceptable. A five year aftercare period is also recommended, and has been proposed by the applicant, and could also be secured by condition.

159. It is considered that, subject to the agreement of a detailed methodology for the restoration of the void area, which would be a 'prior to commencement' condition, and the retention of the adjacent habitat during the proposed works, in addition to the management of the site for a five year period following completion of restoration, the site can be returned to a condition which is representative of the habitat for which it was designated as a LWS and so the proposed development would accord with Policy W3.23 of the WLP.
160. There are also some ecological matters that need to be addressed either before or during the proposed works. The ecological survey report has identified the presence of reptiles (grass snakes and toads) on site and there is possible habitat for another protected species. It is considered that the site should be resurveyed prior to commencement to ensure none of these species are present on site, after which any of the sparse vegetation that has begun to recolonise the void area should be removed so that it is unattractive to these species compared to the surrounding habitat. A condition is also proposed requiring a suitable methodology to be submitted and approved prior to the commencement of operations which ensures that these protected species are not endangered by the proposed works. This methodology would require the clear demarcation of the void area to prevent works from taking place in any of the adjacent habitat, a matter also raised by Rushcliffe Borough Council in respect of protecting retained trees and hedgerows.
161. NWT has also raised concerns about the impact of the proposed development on nesting birds but the County Council's Ecologist considers that this matter would be addressed by ensuring that works are restricted to the previously excavated area that is largely devoid of scrub and dense vegetation which could be utilised by nesting birds. Potential noise disturbance to birds is considered to have been addressed through confirmation that no crushing or screening of material would take place on site, in addition to the low number of HGVs that would access the site per day and the generally low level of activities that would take place. In addition to this, the most suitable bird nesting habitat is on the boundaries of the wider site area and therefore between 40 and 100 metres from the excavated void, a distance considered to be sufficient to ensure that any disturbance to birds would be minor.
162. Although the proposed development would not result in the loss of any bat roosting habitat, there is potential for bat foraging on the land adjacent to the void. Limiting works to the void area only would ensure the retention of suitable foraging habitat and the level of activity on site would ensure that noise levels are generally low. A condition is recommended regarding any lighting that might be erected on site to ensure that any foraging activity is not disturbed by the proposed development. A lighting condition has also been recommended by Rushcliffe Borough Council in the interests of residential amenity.
163. NWT also considers that invertebrate surveys should have been carried out but the County Council's Ecologist considers that impacts should be minimal if the

works are confined to the working void which is largely devoid of vegetation. NWT has made reference to the potential for grizzled skipper butterfly but the closest known population is over 4.5 kilometres away from the site at Langar.

### Other matters

164. Around a third of objectors have raised concerns that that the site could become a permanent waste transfer station, a concern which it is considered has largely resulted from references in the application to the potential use of a crusher and screener on site. As already highlighted, the applicant has now confirmed that this would not be the case and a condition confirming that this would be the case is recommended. In addition to this, a condition limiting the period of waste disposal to the three years stipulated in the application is also recommended to confirm the temporary nature of the proposed operations.
165. A small number of objectors have raised concerns about the types of material that would be imported into the site and the potential impacts from odour and vermin and also impacts on the water table and water courses. As already detailed, the site would only accept inert waste and a condition to confirm this is recommended. The applicant would also need to secure an environmental permit from the Environment Agency which would also provide the same controls in terms of material deposited at the site. Odour and vermin are only usually associated with non-hazardous landfill sites and so this issue is not anticipated to arise as a result of the proposed development. The inert nature of the deposited material would also ensure that there are no pollution impacts on the water table or nearby water courses such as the canal. The Environment Agency has raised no objection to the application.

### The Town and Country Planning (Consultation) (England) Direction 2009

166. The above Direction requires local planning authorities to consult the Secretary of State on certain applications which the planning authority is not proposing to refuse planning permission. This includes development which consists of or includes inappropriate development on land allocated as Green Belt in an adopted local plan and which consists of or includes:
- (a) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
  - (b) any other development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt.
167. The application site is located in the Green Belt but, as detailed in the landscape observations above, it is not considered that the proposed development would result in an impact on the openness of the Green Belt, either during the proposed inert waste disposal or upon the restoration of the site. It is therefore considered that the Secretary of State does not need to be consulted in this instance.

### Conclusions

168. The proposed development has resulted in some complex planning policy considerations and it is considered that the application is finely balanced. It is considered that there is not a county-wide need for additional inert waste disposal facilities given existing permitted inert landfill and reclamation/recovery schemes requiring significant amounts of inert waste. However, the fact of the matter is that the vast majority of this capacity is to the north of the Nottingham conurbation and the application site would be beneficial in terms of managing this waste stream in closer proximity to where it is generated. It is considered that the material that would be deposited at the site would not prejudice the movement of waste up the waste hierarchy.
169. The application site is located in the Green Belt and whilst Government guidance considers waste disposal to be inappropriate development in the Green Belt, WLP and WCS policies acknowledge that such development can be beneficial in terms of restoring mineral workings, other man-made voids and derelict land. It is considered that the application site meets the above description and has a long history of industrial use associated with nearby gypsum extraction. It is not considered that the initial unauthorised extraction of clay was carried out intentionally as the applicant thought a planning permission associated with the previous gypsum activities on the site remained in place. However, there is now therefore a need to regularise the unauthorised development and this report has considered whether regularising it through the importation of inert material is acceptable or not.
170. Given the site's Green Belt location, 'very special circumstances' need to be demonstrated to outweigh the harm resulting from the inappropriate nature of the development and any other harm. It is considered that 'very special circumstances' have been demonstrated through the landscape improvements that would result from the proposed development and in particular from the careful restoration of the site. The proposed development would accord with the overall policy action of the Vale of Belvoir Policy Zone of the Greater Nottingham Landscape Character Assessment which is to 'preserve and enhance' the landscape. The restoration of the site would improve the rural character of the area by improving the appearance of a derelict piece of land. Whilst it is accepted that the ecological interest that led to the site gaining its Local Wildlife Site designation could be recreated at a lower level without importing inert material into the site, this would result in a bowl-like restoration which would be incongruous with the wider landscape and so it is considered beneficial to restore the site to levels which tie in with the surrounding landscape. It is considered that the proposed development, including its final restoration, would not have a significant impact on the openness of the Green Belt.
171. In relation to any other harm, it is considered that potential impacts from the proposed development in terms of traffic, noise, dust and ecological impacts have all been addressed through the consideration of the application and the imposition of conditions. Consideration also needs to be given to the fact that the development would be for a temporary, three year period.
172. Given that it is considered that the proposed development can be undertaken without adverse impacts on the environment and local amenity, and given that 'very special circumstances' have been demonstrated in line with Green Belt policy, it is recommended that planning permission is granted.



## **Other Options Considered**

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

## **Statutory and Policy Implications**

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

### Financial Implications

175. A legal agreement would be required to provide the necessary highways improvements and to secure the HGV routeing agreement. However, the applicant would pay all reasonable costs incurred during the preparation of any agreements and would fund the highways improvements.

### Crime and Disorder Implications

176. In its present condition, the site could attract anti-social behaviour and it is considered that its restoration would help to alleviate any such issues.

### Human Rights Implications

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

### Implications for Sustainability and the Environment

178. These are considered in the Observations Section above.
179. There are no service user, equalities, safeguarding of children, or human resource implications.

## **Statement of Positive and Proactive Engagement**

180. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; scoping of the application; assessing the proposals against relevant Development Plan policies; the National Planning Policy Framework, including the accompanying technical guidance. The Waste Planning Authority

has identified all material considerations; forwarding consultation responses that may have been received in a timely manner; considering any valid representations received; liaising with consultees to resolve issues and progressing towards a timely determination of the application. Issues of concern have been raised with the applicant, such as impacts of noise, dust and traffic, and these have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions and is aware of the need to provide a legal agreement to provide a lorry routeing agreement and highways improvements. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

## **RECOMMENDATIONS**

181. It is RECOMMENDED that the Corporate Director for Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 to secure a lorry routeing agreement, control the hours during which HGVs can access and leave the site, and to ensure that all incoming HGVs are sheeted; and to enter into a legal agreement under Section 278 of the Highways Act 1980 to provide improvements to the public highway.
182. It is FURTHER RECOMMENDED that subject to the completion of the legal agreements before 22 December 2015, or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman, the Corporate Director for 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 by the 22 December 2015, or within any subsequent extension of decision time agreed with the Waste Planning Authority, it is RECOMMENDED that the Corporate Director for 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 and the Section 278 legal agreement within a reasonable period of time.

**TIM GREGORY**

**Corporate Director – Place**

## **Constitutional Comments**

Planning and Licensing Committee is the appropriate committee to consider and determine this application.

[DWK 07.09.15]

## **Comments of the Service Director - Finance**

The financial implications are set out in the report.

[SES 04.09.15]

### **Background Papers Available for Inspection**

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

### **Electoral Division and Member Affected**

Cotgrave

Councillor Richard Butler

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Jonathan Smith

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