

Planning and Licensing Committee

Tuesday, 11 December 2018 at 10:30

County Hall, West Bridgford, Nottingham, NG2 7QP

AGENDA

1	Minutes of the last meeting held on 23 October 2018	3 - 14
2	Apologies for Absence	
3	Declarations of Interests by Members and Officers:- (see note below) (a) Disclosable Pecuniary Interests (b) Private Interests (pecuniary and non-pecuniary)	
4	Declarations of lobbying	
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Notes

- (1) Councillors are advised to contact their Research Officer for details of any Group Meetings which are planned for this meeting.
- (2) Members of the public wishing to inspect "Background Papers" referred to in the reports on the agenda or Schedule 12A of the Local Government Act should contact:-

Customer Services Centre 0300 500 80 80

- (3) Persons making a declaration of interest should have regard to the Code of Conduct and the Council's Procedure Rules. Those declaring must indicate the nature of their interest and the reasons for the declaration.

Councillors or Officers requiring clarification on whether to make a declaration of interest are invited to contact Peter Barker (Tel. 0115 977 4416) or a colleague in Democratic Services prior to the meeting.

- (4) Councillors are reminded that Committee and Sub-Committee papers, with the exception of those which contain Exempt or Confidential Information, may be recycled.
- (5) This agenda and its associated reports are available to view online via an online calendar - <http://www.nottinghamshire.gov.uk/dms/Meetings.aspx>

Meeting **PLANNING AND LICENSING COMMITTEE**

Date **Tuesday 23 October 2018 (commencing at 10.30 am)**

Membership

Persons absent are marked with 'A'

COUNCILLORS

Chris Barnfather (Chairman)

Jim Creamer (Vice-Chair)

Pauline Allan

Andy Brown

Neil Clarke MBE

Sybil Fielding

Paul Henshaw

John Longdon

Rachel Madden

Kevin Rostance

Tracey Taylor

Keith Walker

Andy Wetton

OTHER COUNTY COUNCILLORS IN ATTENDANCE

John Knight

Jason Zadrozny

OFFICERS IN ATTENDANCE

Pete Barker - Chief Executive's Department

Sue Bearman - Chief Executive's Department

Sally Gill - Place Department

Ruth Kinsey - Place Department

Jane Marsden-Dale - Place Department

Oliver Meek - Place Department

Jonathan Smith - Place Department

Tim Turner - Place Department

Claudine White - Place Department

Debbie Wragg - Place Department

1. MINUTES OF LAST MEETING HELD ON 18th September 2018

The minutes of the meeting held on 18th September 2018, having been circulated to all Members, were taken as read and were confirmed and signed by the Chair of the meeting.

2. APOLOGIES FOR ABSENCE

Councillor Barnfather apologised to Committee for his late withdrawal from the previous meeting and thanked Councillor Creamer for chairing the meeting in his absence.

3. DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS

No declarations of interest were made.

4. DECLARATIONS OF LOBBYING OF MEMBERS

Referring to Agenda Item 6, 'Storage and Bulking of Glass – Portland Industrial Estate, Welshcroft Close, Kirkby in Ashfield', Councillor Madden declared that she had attended some early meetings in connection with the facility and had also provided information to objectors regarding Committee procedures.

Councillor Creamer declared that he had been lobbied by fellow Labour Members regarding the same item.

The above declarations did not preclude either Councillor from speaking or voting on that item.

5. ANIMAL HEALTH LICENSING WORK CARRIED OUT BY THE TRADING STANDARDS & COMMUNITIES SERVICE

Ms White introduced the report which updated Members on the work of the Service and informed them of the new changes that had come into force.

Following the introductory remarks of Ms White, Members debated the item and the following comments and questions were responded to:-

- The responsibility for monitoring also passed to District councils on 1st October 2018.
- All District Councils have been made aware of their new responsibilities, though not all of the information for the media has been disseminated.
- There is a need at present for the County Council to continue to work with, and offer advice to, the District councils.

On a motion by the Chair, duly seconded, it was:-

RESOLVED 2018/025

That the appropriate use of the media to communicate the legal changes be approved.

6. STORAGE AND BULKING OF GLASS – PORTLAND INDUSTRIAL ESTATE, WELSHCROFT CLOSE, KIRKBY IN ASHFIELD

Mr Smith introduced the report which concerned two planning applications. The first application related to the proposed construction of external bays for the storage and associated bulking of glass at the existing Waste Transfer Facility. The second application sought to vary the extant planning permission to facilitate the development and operation of the glass storage bays, enabling locally collected glass to be deposited, stored and bulked up for onward transit.

Mr Smith informed Committee of a change to proposed condition 10 in Appendix 1 of the report in that glass deliveries and tipping would be further restricted to the hours of 11am to 3pm on a Sunday.

Mr Smith stated that there had been no increase in the road traffic accident rate since the site became operational and that NCC Highways had raised no objections to the applications.

Mr Smith informed Committee that two late representations had been received. One representation had been received from Gloria De Piero MP who objected to the applications on various grounds including noise, odour, pollution, road safety and the lack of publicity regarding the proposals. A late representation was also received from a local resident, Mr Denzil Rayworth, who missed the deadline for registering to speak at Committee. Mr Rayworth objected on various grounds including noise, odour, vermin and the increased numbers of HGVs on the highway. Mr Smith stated that all of the points raised in the late representations had been addressed in the report to Committee. In terms of publicity, Mr Smith informed Committee that press and site notices had been issued and 38 neighbour notification notices had been sent to the nearest local residents and businesses. Publicity had all been carried out in accordance with the County Council's adopted Statement of Community Involvement and exceeded statutory requirements.

Some objectors had referred to the poor response by Veolia to complaints received and Mr Smith informed Committee that the company had been trying to improve its performance in this area and gave the example of a recent complaint. A complaint about odour had been received by Veolia at 4.10pm and by 4.55pm one of their employees was on site to investigate, though no odour was detected. An officer from the County Council attended the site next day and again no unpleasant odour was detected.

Following the introductory remarks of Mr Smith, Mr Severn was given the opportunity to speak and a **summary** of that speech is set out below:-

- I am a life-long resident of Kirkby in Ashfield and live approximately 180 metres away from the Veolia facility on Welshcroft Close.
- A well-known Olympic sprinter could cover that distance in less than 20 seconds. The closest house to the facility is actually only 65 metres away according to today's Committee report.
- Since Veolia have been on site residents have had to endure terrible odours emanating from the site and, at times, this has prevented us from enjoying our gardens that we have worked so hard to pay for and enjoy. These problems have been addressed to some degree, but no new waste streams with potential new issues should be introduced while original ones do still occur.
- My family and I fear that the introduction of glass will add yet another potential reason for us not to be able to enjoy our garden because of noise and odour.
- In order to gauge noise levels, in my own time I have visited and witnessed a reported 4.5 tonne glass deposit at the Veolia site in Worksop. Whilst that particular deposit was not too noisy from where I was standing, I never got to witness the next stage in the process which is the filling up of the large open-topped, metal-bodied lorries where the glass is dropped from height by a scoop until the load is complete. This will be extremely noisy.
- The publicity carried out for the site itself, and now this glass proposal, has been woeful with so few notified but so many affected.
- Why did it take the residents of Kirkby to form their own group for Veolia to acknowledge that there were issues?
- Veolia's website states: *'Veolia takes responsibility for promoting the harmonious development of territories and for improving the living conditions of people concerned by its activities.'* This has not been our experience with Veolia. Given people's experiences, the feeling in the area is that Veolia have been extremely inconsiderate in their operation of this facility and I am obviously sceptical about future proposals. Are we going to have to make dozens of complaints in future, if the glass does prove to be a problem, before anything gets done? We have lives to live and enjoy. We do not want to be constantly complaining on the phone or by email.
- I have taken the day off work today to be here, such is the importance of this matter.
- We were told by the Environment Agency (EA) to forward any complaints directly to Veolia, but on several occasions these were responded to by a generic letter stating *'the plant is operating normally.'* This dismissive attitude has led people to become disheartened and feel like hope is lost

of getting their lives back to normal. To my knowledge Veolia do not have to report nor are they audited on complaints received so they are never held to account on their activities by the authorities that can make them improve their processes.

- This cycle of failure falls squarely on the shoulders of Veolia, Nottinghamshire County Council (NCC) and the EA, but it is the residents living around it that are expected to live with the consequences. This is not acceptable. How do we know that any future complaints will be taken seriously and acted upon accordingly?

Following Mr Severn's speech the following comments and questions were responded to:-

- Mr Severn confirmed he lived on May Street (Mr Smith indicated on the projected map the location of May Street).
- Mr Severn stated that he viewed recycling in a positive light but that it should not be to the detriment of people's lives.
- Mr Severn expanded on his criticisms of the Veolia complaints system stating that it was not always possible to submit a complaint at the same time as the problem first occurred. For example, someone might not be able to report a problem immediately as they could be on their way to work. By the time they have reported the problem the smell could have dissipated or the noise could have ceased.
- Mr Severn works shifts and can be in his garden during the day when the amount of traffic generated by the facility can be a problem.
- The meetings of the Community Liaison Group (CLG) tend to take place in the afternoons which means that not everybody who would like to attend can. The venue is not always easy to reach by public transport.

Officers/Mr Smith responded to Mr Severn's comments as follows:

- Condition 13 requires the bulking operation to take place close to the waste transfer building to mitigate the potential noise problem for nearby residents.
- The invitations to the CLG meetings are sent out by Veolia but Mr Smith agreed to investigate to see if the timing of meetings could be changed.
- The local community is well represented on the CLG with officers and members of NCC and Ashfield District Council (ADC) attending, along with representatives from the Kirkby Action Group (KAG) and Veolia.

Mr Bridgwood, the agent for the applicants, was then given the opportunity to speak and a **summary** of that speech is set out below:-

- I acknowledge that there have been problems with odour in the past and Veolia's responses could have been quicker. Problems are monitored and issues are now responded to promptly.
- Permission already exists to handle glass on site, we are seeking permission to handle glass outside. The existing permission is for 75k tonnes of throughput per annum and we are not seeking to increase this, therefore there will not be extra vehicles using the highway.
- The glass itself is not odorous. There is a slight smell but this dissipates quickly and is not noticeable from distances in excess of 10 feet.
- Noise levels have been measured elsewhere and as a result it is anticipated that the noise generated by this facility will not be audible by residents.
- The glass is dense and will not be affected by wind. The glass will be stored below the tops of the proposed bays.
- The site activities will be governed by the conditions imposed and by the EA permit.

Following Mr Bridgwood's speech the following comments and questions were responded to:-

- The facility is open on Sundays and Bank Holidays as NCC have asked for the site to be available at these times. Weekends and Bank Holidays are busy times for the site.
- It was originally intended to house the glass facility indoors but the odour from the recycled bales, when stored outside, caused too many problems. It is not clear why, but the bales of recycled material processed at this site contain a higher level of organic matter and as a result generate more of the objectionable odour. The filtration system has been improved with the charcoal being changed and recharged on a regular basis.
- The buildings on site could be extended so that the glass operations take place indoors, but following noise assessments elsewhere, and after taking account of the local context, the predicted noise levels do not justify such an extension. The anticipated noise levels are expected to be inaudible from residents' gardens at 15db. Background / ambient noise has been measured at 32db and as these noise levels are so low the possible building of an extension has not been costed.
- The glass would come from Household Waste and Recycling Centres (HWRCs) and local authorities. Some of the glass bottles / jars do contain a residue of material, though some people do wash them out, but it is not enough for odour to be a problem.

- No glass is processed on site at present. All of the past problems pre date this application and have been caused by the processing of plastics and paper.
- Having the glass facility at this site would minimise HGV movements and consequently reduce the generation of CO2. If permission were to be refused the next nearest site is in Worksop, but the use of this site would not allow the minimisation of lorry movements before the bulking of the glass. There would be an average of 1 ½ loads per week for bulking and this is a facility that has been requested by NCC.

Councillor Knight, in whose division the facility is situated, was then given the opportunity to speak and a **summary** of that speech is set out below:-

- This facility was not requested by either Ashfield District Council or Nottinghamshire County Council. It is designed solely to save Veolia money. As Members we are here to represent the views of residents, we are not shareholders of Veolia.
- I have made clear my objections as detailed on Page 26 of the report to Committee.
- Context is important – this facility is not needed. There have been untold problems in the past, though these have curtailed recently.
- The liaison group has no power – we objected but Veolia went ahead anyway.
- If this application were to be refused no one would be any worse off as similar facilities are available elsewhere.
- The bulking of glass may only be infrequent and for short periods but what if you are sitting in a nearby garden.
- The plans are misleading – the conurbation is very near and the nearby estate suffers from noise and odour.
- Veolia were asked to delay the application for a year or two so that trust could be regained but no response was received.
- The facility may not be in other members' divisions but it may be one day and you will be asking for my support.
- Given all of the problems that have been encountered with this site in the past it would be ludicrous to approve these new applications.

Councillor Zadrozny, whose division is adjacent to the facility, was then given the opportunity to speak and a **summary** of that speech is set out below:-

- Context is important. Historically, this has been a badly run site. The fact that the glass operation was originally planned to be operated inside but now needs to be carried on outside confirms this. The site is vile and smelly.
- A similar facility is located outside Kirkby in Ashfield and vermin love it.
- The operation should take place indoors in an extension and preferably behind double-doors.
- I hope the filtration system is staying. The stack has had to be raised in the past because of problems. There is also the possibility that lorries may hit the system.
- The CLG only receives generic responses from Veolia to its queries. There is a lack of trust with this operator.
- There is no noise mitigation in terms of my division. The wind blows both ways and emptying glass into metal containers is very noisy and is not acceptable on a Sunday or bank holiday. If Veolia know when the site is going to busy then it should empty the site at a more appropriate time, it is not the residents' fault that Veolia cannot manage this.

Councillor Zadrozny responded to the following comment:-

- Councillor Zadrozny stated that he was aware that Ashfield District Council had not opposed the applications but that was an officer decision which he did not support.

Following Councillor Knight's and Councillor Zadrozny's speeches officers made the following comments:-

- Regarding the driver for the provision of glass collection at the site, paragraph 22 of the report was read out which states: "Whilst glass is not a waste stream which forms part of the County Council's PFI Waste Contract, kerbside collection of glass is now being undertaken in Ashfield and it is hoped a similar scheme will start in Mansfield in the near future. The ability to bulk up these glass collections at the application site would therefore be beneficial in this respect."
- There are conditions proposed that are designed to minimise the noise impacts arising from the operation of the site.
- Similarly, there are conditions proposed to ensure that vermin are controlled on site.
- The CLG was set up as a result of the number of complaints received. It has opened up ways of communication and has proved effective in reporting views and affecting change. The number of complaints has reduced and Veolia have taken on board comments made by NCC who

will continue to look at ways that the management of the site could be improved.

- Paragraph 34 of the report states that the EA regard the site as operating to a high standard.
- Veolia are reviewing their complaints system with the aim of providing more detailed and less generic responses.
- The recommended hours of operation have been changed, the tipping of glass on Sundays will now be restricted to between the hours of 11am and 3pm.

Members then debated the item and the following comments and questions were responded to:-

- The management of the site is not a material consideration for the Committee.
- Vermin mitigation measures are referred to in the report and this matter is also a matter for the EA through the permit process.
- The proposed applications will have no impact on the filtration system.
- A cross reference to the restrictions on the loading of bulkers, as detailed in Condition 10 of Appendix 1, could be added to Condition 13.
- Noise assessments indicate that no further noise mitigation measures, other than those proposed, are required. Proposed conditions need to be reasonable and necessary, which they are considered to be in this case. Officers have visited a similar site and, from a distance, when glass was tipped the noise was less than that from passing traffic. At this site the noise from glass being tipped and bulked is not expected to be above the background noise. If noise proves to be a problem then Condition 15 can be enforced, but this is not anticipated.
- The tipping of glass can be noisy but on this site properties will be at least 100m from operations which should take place close to buildings which will also provide some sound mitigation.
- Veolia do have another facility that is not near to a conurbation but that site performs a different function – it separates waste for onward movement. This site provides for the bulking up of materials and is the most appropriate site.
- Highways have not objected to the proposals and the situation will not be any worse for residents than that which they are currently experiencing. No formal vehicle movement conditions have been proposed, but drivers of large vehicles will want to take the quickest way to the strategic highway network. This will not be achieved by turning right when leaving the site

and heading to the centre of Kirkby-in-Ashfield and so it is anticipated that vehicles will continue to turn left out of the site and head north towards the A38.

- The complaints system is a good way of getting immediate action concerning problems. A complaint regarding odour was reported recently to Veolia at 4.10pm and their staff were on site by 4.55pm.
- The bulking of glass on Sundays and Bank Holidays will only take place if the site is nearing capacity.
- Mr Bridgwood stated that avoiding the bulking of glass on a Sunday should not present a problem as the bays had sufficient capacity for 5 days. In the run up to a Bank Holiday the glass could be collected on a Thursday with the aim of freeing up enough capacity to cope with the demand over the holiday period. Mr Bridgwood stated that this may cause a potential problem depending on the demand in that period. The Chair stated that restricting the bulking on a Sunday and Bank Holiday would reassure local residents. Mr Bridgwood replied that he was happy for this restriction to be made a condition and that if this proved problematical in practice then Veolia would come back with revised proposals.

Given the concerns expressed by residents and local members regarding noise, odour and opening hours, Members suggested that the decision on the applications be delayed.

An amendment to the motion was moved by Councillor Wetton and seconded by Councillor Henshaw which sought to defer the decision on the applications pending further investigations.

The amendment was put to the vote and the Chair declared the amendment was not carried.

Members continued to debate the item and the following comments and questions were responded to:-

- Concern continued to be expressed at the potential for the site to generate noise problems, but officers responded by stating that, if the noise assessments had indicated further mitigation measures were required, then these would have been recommended.
- The noise assessments did not consider the area to the west of the site, but concentrated on residential properties on Low Moor Road where the closest receptors are, as per standard practice. At this point Mr Smith showed all members an aerial photo of the site which showed the location of the site and the surrounding conurbation.
- Various concerns continued to be expressed regarding odour, traffic problems and the possible further restricting of deliveries and tipping to 11 - 3 on Bank Holidays.

At this stage of the meeting an amendment to the motion was moved by Councillor Taylor, duly seconded, which sought to amend the recommended opening hours.

At the request of officers the Chair agreed to adjourn the meeting at this point to take stock of the position.

After reconvening the meeting the Chair confirmed to Committee that kerbside collections would never take place on a Sunday and that the proposed opening hours needed to accommodate the needs of several different parties.

Ms Bearman then explained to Members that Mr Smith would now clarify the current position for Members. Ms Bearman confirmed that Councillor Taylor could then put forward an amendment if she wished to do so.

Mr Smith then clarified for Members the proposed recommended opening times, confirming that although it was never proposed that the bulking of glass would be allowed to take place on a Sunday, it would also not now be allowed on Public or Bank Holidays. To be clear on opening hours Mr Smith projected the details on a slide.

The position regarding operating hours and days agreed during the meeting is shown in the table below (the wording in bold/underlined highlights the differences to those times originally contained in the report to Committee):

Mondays to Sundays, including Bank and Public Holidays for glass deliveries and tipping	09:00hrs – 15:00hrs <u>except on Sundays and Public and Bank Holidays where the hours shall be restricted to 11:00hrs – 15:00hrs</u>
Mondays to Saturdays, <u>except for Public and Bank holidays</u> , for the loading of glass onto bulker vehicles and export of glass on bulker vehicles (there shall be no export of glass on bulker vehicles on Sundays)	09:00hrs – 15:00hrs

On a motion by the Chair, duly seconded, it was:-

Resolved 2018/026

1. That planning permission be granted for planning application 4/V/2018/0233 subject to the conditions set out in Appendix 1 with operating hours as detailed in the table above.
2. That planning permission be granted for planning application 4/V/2018/0417 subject to the conditions set out in Appendix 2 with operating hours as detailed in the table above

7. RESPONSE TO TWO CONSULTATION PAPERS RELATING TO SHALE GAS PROPOSALS

Mr Smith introduced the report which sought Members' approval of the response to the Government's consultation papers relating to shale gas proposals entitled 'Permitted development for shale gas exploration' and 'Inclusion of shale gas projects in the nationally significant infrastructure project regime' as set out in the appendix to this report.

Mr Smith confirmed that the responses now reflected the changes that had been requested by Members.

Committee thanked officers for the hard work that had gone into the production of the responses.

On a motion by the Chair, duly seconded, it was:-

RESOLVED 2018/027

That Members approve the detailed response as set out in the appendix to the report as the formal comments of the County Council to the Government departments on their two consultation papers.

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8. DEVELOPMENT MANAGEMENT PROGRESS REPORT

Ms Gill introduced the report and confirmed that it was the usual regular report detailing which reports were likely to come before Committee. At present there are a large number of reports due to come before the December Committee but this could change.

Resolved 2018/028

That no further actions are required as a direct result of the contents of the report.

The meeting closed at 1.12pm

CHAIR

11th December 2018

Agenda Item: 5

REPORT OF CORPORATE DIRECTOR – PLACE

PROPOSAL 1

GEDLING DISTRICT REF. NO.: 7/2017/1491NCC

**PROPOSAL: 4.5 HECTARE EASTERN EXTENSION TO EXISTING SAND QUARRY
WITH RESTORATION TO NATURE CONSERVATION**

PROPOSAL 2

GEDLING DISTRICT REF. NO.: 7/2017/1504NCC

**PROPOSAL: TO VARY CONDITIONS 3, 6 AND 29 OF PLANNING PERMISSION
7/2014/1156/NCC FOR AN EXTENSION OF TIME TO EXTRACT THE
REMAINING MINERAL WITHIN BESTWOOD II QUARRY UNTIL 31ST
DECEMBER 2028.**

PROPOSAL 3

GEDLING DISTRICT REF. NO.: 7/2017/1505NCC

**PROPOSAL: VARY CONDITION 4 OF PLANNING PERMISSION 7/2015/0320NCC TO
ENABLE RETENTION OF THE VISITORS CAR PARK UNTIL FINAL
RESTORATION OF THE QUARRY (31ST DECEMBER 2030 OR WITHIN
TWO YEARS OF THE COMPLETION OF MINERAL EXTRACTION
(WHICHEVER IS SOONER).**

PROPOSAL 4

GEDLING DISTRICT REF. NO.: 7/2017/1493NCC

**PROPOSAL: ERECTION OF A PORTABLE UNIT TO PROVIDE CHANGING
FACILITIES FOR FEMALE STAFF.**

**LOCATION: BESTWOOD II QUARRY, MANSFIELD ROAD, PAPPLEWICK, NEAR
RAVENSHEAD, NG15 8FL**

APPLICANT: TARMAC TRADING LIMITED

Purpose of Report

1. To consider four planning applications in connection with Bestwood II Quarry located near Ravenshead. The most significant of these applications seeks permission for a 4.5 hectare eastern extension to the quarry to facilitate the extraction of 1.4 million tonnes of Sherwood Sandstone over a ten year period.
2. The key planning considerations relate to Green Belt policy and minerals planning policy issues concerning the allocation and extraction of Sherwood Sandstone. The report incorporates a detailed assessment of potential environmental effects resulting from the development.
3. The recommendations support a grant of condition planning permission for all four planning applications subject to imposing a Section 106 legal agreement as part of the decision to grant planning permission for the main eastern extension quarry extraction planning application to regulate the creation and management of new habitat in the nearby Calverton (Burntstump) Quarry and to regulate for the continued hosting of the quarry liaison meeting.

The Site and Surroundings

4. Bestwood II Quarry is located approximately 1.1 km to the south of Ravenshead, 3.5 km to the north-east of Hucknall and approximately 4.4 km to the north-west of Calverton, Nottinghamshire. The site is located on the east side of the A60 (Mansfield Road) (see Plan 1). Access to the site is via a purpose built haul road, leading from the A60/Mansfield Road, which forms the western boundary of the quarry.
5. The quarry is located on a minor ridgeline with a local high point of 130 m above Ordnance Datum (AOD) coinciding with the southern boundary of the site. The landform falls generally to the northeast to an elevation of between approx. 113 m – 117 m AOD.
6. The quarry has been operational for many years. The consented area extends to approximately 23.5 hectares and includes land being used for mineral extraction, land undergoing restoration operations and restored former mineral working areas. In addition there is a dedicated plant site and administration area and silt lagoons in the northern part of the quarry floor. The worked out mineral voids have a maximum depth of 85m AOD (approximately 40m depth from original ground levels). The Sherwood Sandstone extracted within the quarry is used to produce high specification construction materials for local and regional needs.
7. The approved restoration scheme for the site does not permit any waste importation (landfill) and therefore the resulting landscape is dominated by a worked out void. The approved restoration scheme provides for a rise to approx. 115m AOD in the centre of the northern half of the site using overburden and soils, but would slope to the south at a gradient of approx. 1:2 to 1:4 to areas of surface water and marsh within the deepest part of the quarry void which would have a depth of approximately 85m AOD. Exposed sandstone

faces and benches are retained around the perimeter of the quarry. Landscape treatments include woodland planting, wildflower habitat and heathland areas.

8. The site of the proposed eastern extension extends to 4.5 hectares. It incorporates an oak-birch woodland forming part of the Longdale Plantation Local Wildlife Site. The site is also in the Greenwood Community Forest area and the Green Belt. The eastern extension is surrounded on its northern and eastern boundaries by woodland, by agricultural (arable) land and a covered Severn Trent freshwater reservoir to the south and the existing quarry workings on the western boundary.
9. The nearest residential properties to the Eastern Extension are located on Longdale Lane (no. 270 & 272) at a distance of about 200m. Isolated residential properties adjoin the existing quarry including Forest Farm Cottages on the A60 to the south and a group of properties on Grays Drive to the North of the quarry.

Proposed Development

10. The report relates to four planning applications associated with Bestwood II Quarry.

Planning application for Eastern Extension to Quarry

11. The main planning application (7/2017/1491NCC) seeks permission for a 4.5ha eastern extension to the quarry. Mineral would be extracted from 3.1 hectares of this site, yielding an anticipated 1.4 million tonnes of sand and providing a further 10 years to the life of the quarry based on the current extraction rate of 140,000 tonnes per annum. The boundaries of the application site incorporate the eastern most extent of the existing quarry wherein the existing quarry face would be removed and access would be obtained to the extended quarry. (See Plan 2)
12. Prior to mineral extraction commencing the existing woodland would be cleared. These works would be undertaken in the autumn/winter period thus avoiding the bird nesting season. Subsequently soils and overburden would be stripped and either stored in specified screening / storage bunds around the perimeter of the extension area to varying heights of between 3m – 4m or placed directly for use in progressive restoration elsewhere within the quarry.
13. Sand would be extracted from the extension area and the existing quarry in three phases with the final phase incorporating the completion of sand extraction and progressive restoration within the consented areas.
14. The extraction of sand would be undertaken in a manner identical to that employed at present with mobile plant used to remove sand. This sand would be transported to the existing plant site for processing along the existing conveyor belt or by using articulated dump trucks. The maximum depth of working would be 85m AOD or 38m lower than existing ground levels. The

quarry sides would incorporate a series of benches to avoid a single vertical face to the quarry.

15. It is proposed to operate the site in accordance with existing operational conditions between 0700 hours to 2000 hours Monday to Friday and 0700 hours to 1800 hours on Saturday with no working on Sundays or Public/Bank Holidays. Operations outside of these hours will be restricted to water pumping and emergency repairs. No soil stripping or amenity bund construction would take place within 200 metres of any occupied residential property before 0800 hours Monday to Saturday, and no such activity will take place on Sundays or Public/Bank Holidays.
16. There would be no change to the vehicle movements associated with the quarry which generates an average of 25 loads per day (50 movements). The extension of the quarry would secure the retention of existing employment within the quarry which directly employs nine people.
17. The restoration of the quarry site would retain the existing void/excavation and create a variety of habitats incorporating:
 - seasonally wet and marshy areas;
 - heathland/acid grassland habitat with low nutrient sandy substrate;
 - areas allowed to regenerate naturally;
 - retention of elements of woodland plantation;
 - proposed woodland planting within the application site;
 - establishment of areas of woodland planting using woodland soils directly placed from the initial soil strip within the proposed extension area; and
 - retention of exposed sandstone faces.
18. The restoration plan is attached as Plan 3.
19. To address issues and concerns raised following the initial planning consultation process a series of modifications and additional environmental assessments have been submitted in response to formal requests made by the Council under Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (Reg. 25 request). The additional information has been submitted in two separate submissions. The first Reg. 25 response incorporates the following additional information:
 - a. Ecology: The broad subject areas for which further information has been submitted are as follows:
 - Assessment of habitat value of the application site: Additional ecological survey work has been undertaken to conclude that the existing woodland is generally poor in species diversity and habitat structure with little or no ground flora.
 - Breeding birds: The surveys of the site confirm that the habitat is unsuitable for breeding nightjar and woodlark. It is recognised that the location of the application site is within two important bird areas and that

night jar may occasionally be present at the site. However, given the proximity of the existing quarry and proposed extension area to other areas of much more favourable habitat, the effects of the proposed extension area on these species is considered to be negligible by the applicant's ecological consultant. One willow tit was recorded foraging at the site. Modifications have been made to the restoration arrangements for the site to provide willow tit breeding boxes and habitat for breeding and foraging nightjar.

- Bats: A supplementary assessment concludes that the semi-mature trees within the woodland contain very few potential bat roost features. Three trees with the greatest potential have been more closely examined and confirms that their suitability for bats is negligible. Subject to a precautionary inspection of the trees prior to felling it is considered the risk to bat roosting habitat as a result of the development is negligible.
 - Invertebrates: Additional invertebrate surveys have not been undertaken because there is little deadwood to support habitat. In order to mitigate for any impacts selected standing deadwood and humus/leaf litter or deadwood piles will be translocated to areas of the quarry that are being retained, as well as log piles provided to create new habitat.
- b. Compensatory habitat for the loss of Local Wildlife Site habitat: In order to mitigate for the loss of the woodland required for mineral extraction (approximately 3.48 hectares) revisions have been made to the working and restoration proposals including:
- The placement of soils in the quarry floor (1.5 hectares) in year 1, Tree stumps and dead wood would be translocated with the soils to maintain invertebrate habitat.
 - The creation of 2.55 hectares of heathland within the quarry floor and sides created progressively through the life of the quarry,
 - New woodland within the quarry floor and sides (2.42 hectares) created progressively through the life of the quarry, and
 - The creation of 3.33 hectares of heathland habitat in the nearby Calverton (Burntstump) Quarry provided in year 2 of the quarry development.
- c. Phasing of quarry development and modifications to the restoration of the site: The applicant states that the modifications to the working and restoration of the site will provide landscape enhancements for the site and therefore address reservations that have been expressed in the original landscape planning consultation. The revised scheme has enabled the retention of 0.41 Ha of existing woodland by reducing the footprint of the perimeter soil storage / screening bund. This provides a wider section of retained trees on the southern boundary of the site to enhance the visual screening of the site. The revisions to the restoration proposals provide an increased focus on higher priority habitats and landscape features and compensatory habitats, at both the application site and nearby Calverton Quarry to offset the loss of 3.48 hectares of plantation woodland.

- d. Consideration of alternative locations for the quarry development which have a lower potential ecological value: The applicant has considered potential options for the extension of the quarry to consider whether there are any feasible options for the development which would have less ecological impacts. The assessment has demonstrated that existing physical and environment features including the location of residential property and roads means that the current option is the only feasible area for developing a lateral extension to Bestwood Quarry.
- e. Noise emissions and the effect on sensitive ecological sites: As part of the revised proposals a barrier fence is proposed to replace soil stockpiles around the perimeter of the extraction area. This fence would provide a noise barrier to ecological receptors in the retained woodland surrounding the site.

20. The second Reg. 25 response provides the following additional information:

- a. Acoustic fence: The applicant confirms that the fence on the eastern boundary of the extended quarry would be installed as a single operation. The fence would provide the same acoustic properties as the soil bund which was originally proposed on this boundary and assist in reducing the level of noise to ground nesting birds which may use the adjoining land, principally woodlark and nightjar, notwithstanding the fact that the habitat is assessed as being not favourable for these species.
- b. Noise monitoring on Longdale Lane: In response to questions asked by residents on Longdale Lane the applicant has clarified that noise monitoring was undertaken from land at the rear of 282 Longdale Lane.
- c. Landscape and Ecology: An arboricultural assessment and report has been submitted to assess the impact to trees within the woodland adjacent to the extraction area and identify tree protection measures for the retained trees. The report confirms that the design of the quarry allows for the retention of sufficient trees around the periphery of the extraction area to provide screening from the wider landscape and ensure a wooded skyline is retained around the site. The submission also incorporates a planting scheme aimed at increasing the density of the retained woodland and increase its screening density.
- d. Further data has been provided which sets out the quantity of habitats created (area) within the development including the lateral extension and revisions to the existing quarry restoration scheme, as set out below:

Restoration type	Existing permitted area. (metres ³)	Existing permitted area with extension area. (metres ³)	Difference between existing and proposed scheme. (metres ³)
Seasonally wet areas	8,847	5,089	-3,758
Heathland/acid grassland	89,850	115,389	25,539
Natural regeneration	37,033	60,204	23,171
Woodland	67,714	44,966	-22,748
Woodland incorporating soils from Eastern Extension	0	19,337	19,337

Sandstone faces	30,502	30,315	-187
Extension area existing woodland	41,354	0	-41,354
Totals	275,300	275,300	0

Extension of time for existing quarry

21. Application 7/2017/1504NCC seeks planning permission to extend the end date for the completion of mineral extraction within the existing consented quarry area.
22. The planning application has been submitted as a Section 73 submission to vary planning conditions 3, 6 and 29 of planning permission 7/2014/1156NCC to allow the extension of the end date for mineral extraction and attendant operations at Bestwood II Quarry until 31st December 2028.
23. The extant consent for Bestwood II Quarry was granted under reference 7/2014/1156NCC allowing mineral extraction until 31st December 2023 and a period of two years after cessation of mineral extraction for site restoration. This planning permission also allowed for the retention of the quarry offices and associated development including the weighbridge/wheelwash facility for this period.
24. Mineral extraction operations and progressive restoration are ongoing in a phased manner within the existing consented quarry and although around 1.3 million tonnes of mineral reserves remain in the quarry, a significant proportion of this mineral cannot be worked until extraction has progressed in the extended area due to level differences between the extracted quarry and adjoining land and due to a need to retain the existing plant site and infrastructure (which overlays a significant proportion of this mineral) until the final phase of the quarry.

Extension of time for car park area

25. Application 7/2017/1505NCC seeks planning permission to extend the end date for the retention of the car park at the quarry. The planning application has been submitted as a Section 73 submission to vary planning conditions 4 of the original planning permission to extend the end date for the retention of the car park until 31st December 2030.
26. The extant consent for the car park at Bestwood II Quarry was granted under reference 7/2015/0320NCCEIA and permitted the retention of the car park until 31st December 2025.

Provision of portable unit to provide changing facilities for female staff

27. The current welfare facilities at the quarry incorporate one changing area which does not provide any separation for male and female staff. A need for an

additional changing facility has arisen following the employment of a female member of staff at the quarry.

28. To address this problem the applicant has recently installed a portable unit to provide female only changing facilities. Planning application 7/2017/1493NCC seeks retrospective planning permission to retain this unit. The portable unit has been installed immediately adjacent but to the south of the existing office and welfare facilities compound. The unit measures 4.8 metres x 2.7 metres and is 2.9 metres in height. It is externally finished in a grey colour.

Consultations

29. The four planning applications have each been separately publicised and advertised.
30. Most consultees have provided a joint/similar response for each of the four planning applications. In the interest of brevity, where consultees have provided similar consultation responses to all four planning applications these comments are reported collectively. In cases where different consultation responses are provided from consultees this is clearly identified in the summary of the consultees response.
31. Planning application 7/2017/1491NCC for the 4.5-hectare quarry extension has also been re-advertised on two further occasions following receipt of the two Regulation 25 supplementary environmental information submissions. Where consultees have provided responses to these consultations these are set out below:
32. **Gedling Borough Council:** *Raise no observations to all four planning applications.*
33. **Ravenshead Parish Council:** *No representation received in connection with all four planning applications.*
34. **Environment Agency (EA):** *Raise no objections to all four planning applications.*
- *In respect of planning application 7/2017/1491NCC for the 4.5-hectare quarry extension the EA has requested planning conditions be imposed requiring details of foul water drainage and oil storage to be approved in writing prior to the commencement of the development.*
 - *The EA raise no further comments in respect to the submission of the second Reg. 25 information.*
 - *The EA raise no issues in connection with the three other planning applications.*
35. **Natural England:** *Raise no objection to planning application 7/2017/1491NCC for the 4.5-hectare quarry extension.*

- *Natural England is satisfied that the proposed development would not damage or destroy habitats of national designation including the nearby Linby Quarries SSSI. The quarry is located in the Sherwood Forest area, in proximity to habitats identified as important for breeding nightjar and woodlark and therefore Natural England recommend Nottinghamshire County Council assess the potential impacts from the development on breeding nightjar and woodlark populations within the Sherwood Forest area taking a 'risk based approach'.*
 - *Natural England were not consulted in connection with the three other planning applications.*
 - *Natural England does not wish to raise any further observations in response to the two Regulation 25 submissions.*
36. **NCC (Archaeology):** *Raise no objections to planning application 7/2017/1491NCC for the 4.5-hectare quarry extension subject to a planning condition being imposed requiring an archaeological scheme of investigation to be submitted prior to soil stripping. The methodology used within the scheme of investigation shall be informed by a Lidar survey of the development site.*
- *NCC Archaeology were not consulted in connection with the three other planning applications.*
37. **NCC (Built Heritage):** *Raise no objections and confirm that the proposed extension of quarry workings would not cause significant harm to the appreciation of the significance of heritage assets in the area. NCC Built Heritage were not consulted in connection with the three other planning applications.*
38. **Historic England:** *Do not wish to offer any comments and have reconfirmed this position in response to the additional information provided in the Reg. 25 submissions.*
39. **NCC (Highways):** *Raise no objections to all four planning applications.*
- *The permitted levels of output at the quarry are to remain unchanged and therefore the proposal would not result in an increase in daily traffic generated by the site. The existing access is adequate to serve the development and the levels of traffic flows it will generate.*
 - *NCC Highways has nothing further to add in respect of additional information supplied under Reg. 25.*
40. **NCC (Nature Conservation):** *Raise no objections to planning application 7/2017/1491NCC for the 4.5-hectare quarry extension following the receipt of the Regulation 25 supplementary ecological information.*
- *In respect of planning application 7/2017/1491NCC for the 4.5-hectare quarry extension, concerns were raised to the original planning submission with the following points being noted:*

- a. *The application site is an area of oak-birch woodland (a Habitat of Principle Importance) and designated as a Local Wildlife Site (LWS) – Longdale Plantation LWS 2/363. Its ecological value is of County importance. The scheme would result in the loss of 4.5ha of this habitat (in addition to the 3.8ha loss of habitat which occurred with the previous extension), this accounts for about 30% of the site area of the original LWS. The loss of this habitat is the main direct ecological impact, the level of impact is considered significantly negative in scale and it has not been satisfactorily demonstrated that the impact cannot be avoided or adequately mitigated through the timing of the restoration of the site which would occur many years after the original habitat is lost.*
- b. *The ecological surveys have been undertaken in accordance with the relevant guidelines and are up to date. The surveys identify:*
 - *There are no active badger setts on the site, but there is evidence of historical inactive setts within the site.*
 - *The breeding bird survey confirms the site provides habitat to a typical assemblage of birds, the most notable species being willow tit. The loss of habitat used by this species is a concern and has not been considered in the ecological impact assessment (EcIA).*
 - *Adequate surveys have not been carried out for nightjar. The loss of woodland habitat has potential to impact nightjar and woodlark and has not been assessed in the EcIA.*
 - *Bat activity surveys confirm the site is used by foraging or commuting pipistrelle bats, but the level of activity has not been properly considered.*
 - *Concern is expressed that the level of invertebrate interest at the site has been under-estimated.*
 - *Reptiles are not present within the application area and no Great Crested Newts are present within ponds at or within 500m.*
- c. *The potential impact from noise emissions to breeding birds has not been addressed.*
- d. *Dust management should be secured through planning conditions to avoid negative ecological impacts.*
- e. *In addition to the developer addressing the concerns raised in respect to the timing of the mitigation measures, the following specific mitigation measures will be required, secured through planning condition:*
 - *To minimise impacts on birds, vegetation clearance (i.e. removal of woodland) must take place outside the bird nesting season, which runs from March to August inclusive.*
 - *Nest boxes should be installed around the existing quarry site; in particular, these should target willow tit, and further details will need to be provided.*

- *Pre-commencement surveys for badgers should be undertaken, in advance of each phase.*
 - *Controls on artificial lighting, through the submission of a lighting plan, and hours of operation, to ensure that woodland edges are not illuminated.*
 - *The protection of retained habitat during site clearance, including the use of temporary protective fencing.*
 - *A detailed restoration scheme, to include species mixes, establishment methods and maintenance regimes will be required and an extended period of time for the aftercare of the site.*
- *The Reg. 25 submission incorporates a series of modifications to the scheme of working to mitigate/compensate for the ecological effects of the development. These demonstrate that:*
 - *In terms of impacts on the LWS and application of the mitigation hierarchy, further justification has been provided for the eastern extension into the LWS. Given that the loss of the LWS therefore appears to be 'unavoidable' in the context of how this site is extended, the planning assessment will need to ensure that the need for the quarry extension at this location outweighs the value of the LWS, and that sufficient mitigation/compensation is duly provided.*
 - *Notwithstanding this, the retention of 0.41ha of woodland around the perimeter of the extraction area that would otherwise have been removed is welcomed (and is, in part, avoidance of a proportion of the impact).*
 - *Further detail has been provided showing the phasing and progressive restoration of the quarry, which is also welcomed.*
 - *Off-site habitat creation is now additionally proposed, involving the creation of 3.33ha of heathland at the nearby Calverton Quarry, which is welcomed. This will need to be secured through an appropriate mechanism. Therefore, whilst there will still be a net loss of woodland, there will be an overall increase in heathland (with less reliance on natural regeneration, as requested).*
 - *Precautionary Methods of Working in relation to the felling of trees with 'low' bat roost potential, and for avoiding impacts on common amphibians, will need to be conditioned.*
 - *Installation of willow tit nest boxes should be regulated by planning condition.*
 - *The translocation of woodland soils and other woodland material (including tree root plates and selected standing deadwood) is welcomed and will provide invertebrate habitat. The submission of a detailed methodology, based on the submitted details, should be required prior to soil stripping within the extension area, secured through a condition.*
 - *The use of acoustic fencing as proposed will need to be conditioned.*

- *It is noted that an extended aftercare period has been accepted by the applicant, for a period of 25 years.*
 - *In respect of the second Reg. 25 submission, NCC Ecology are satisfied that the further information provides satisfactory clarification of the habitat totals that would be provided before and after the extension has taken place.*
 - *In respect of planning application 7/2017/1504NCC to extend the operational life of the existing quarry until 2028, NCC Ecology ask whether there are any opportunities to bring forward parts of the restoration of the quarry to an earlier date.*
 - *NCC Ecology were not consulted in connection with the other three planning applications.*
41. **Nottinghamshire Wildlife Trust:** *Nottinghamshire Wildlife Trust object to the planning application. The Wildlife Trust's concerns are set out below:*
- *In respect of planning application 7/2017/1491NCC for the 4.5-hectare quarry extension an objection was raised to the original planning submission with the following points being noted:*
 - a. *The ecological surveys are not satisfactory with the following concerns being raised:*
 - *An invertebrate survey has not been undertaken.*
 - *The bat surveys have not been undertaken to a satisfactory standard.*
 - *The breeding bird survey was undertaken from the 18th May onwards and therefore did not cover the earlier part of the breeding season and potentially could miss some key species.*
 - *A survey for nightjars has not been undertaken.*
 - *Further surveys for frogs and toads should be undertaken.*
 - *Further plant species surveys should be provided.*
 - b. *The mitigation provided for the loss of habitat and its replacement with different habitat over a decade in the future is considered to be inadequate.*
 - c. *Specific mitigation for the loss of foraging bat habitat should be provided.*
 - d. *No mitigation of ecological compensation is proposed for loss of breeding bird habitat, and in particular loss of willow tit habitat.*
 - e. *There has been no impact assessment of noise emissions and their effect on ecological receptors.*
 - f. *Badger surveys should be undertaken throughout the operational life of the quarry to ensure they do not re-occupy the site.*

- g. *Whilst the indicative restoration scheme incorporates a range of potentially suitable habitats the wildlife trust consider this would not adequately replace the loss of existing habitats. Further information regarding the methodology for carrying out the restoration scheme is required.*
 - *Nottinghamshire Wildlife Trust have reviewed the Reg.25 submission and maintain their objection to the planning application raising the following concerns:*
 - a. *There is a lack of adequate survey information which consequently results in an incomplete impact assessment. In particular concerns are raised that:*
 - *An invertebrate survey should be undertaken to provide knowledge of the species present on the site and develop an accurate mitigation strategy.*
 - *Further clarification is sought as to whether an endoscope examination was undertaken to examine potential bat habitats. The importance of the woodland habitat for bats has been underestimated.*
 - *Bird surveys should have been undertaken earlier in the season and a nightjar survey should have been carried out.*
 - *Further surveys for toads should be undertaken.*
 - *Concerns are raised that the botanical plant surveys are not comprehensive.*
 - b. *The scheme would result in the loss of a substantial area of Local Wildlife Site contrary to Minerals Local Plan and NPPF Policies.*
 - c. *The indicative restoration scheme contains a range of potentially suitable habitats that are appropriate to the area but without further detailed specification it is not possible to conclude whether this would adequately replace the loss of existing local wildlife habitat.*
 - d. *The intention to provide enhanced habitat at Calverton (Burntstump) Quarry is welcomed, but without a detailed scheme being provided it is not possible to determine whether the habitat gains would outweigh the value of habitat that would be lost.*
 - *No consultation response has been received in respect of planning application 7/2017/1504NCC to extend the operational life of the existing quarry until 2028.*
 - *Nottinghamshire Wildlife Trust was not consulted in connection with the other two planning applications.*
42. **NCC (Countryside Access):** *No definitive public rights of way are affected by planning application 7/2017/1491NCC for the 4.5 hectare quarry extension. NCC Countryside Access was not consulted in connection with the other three planning applications.*

- *NCC Countryside Access does not raise any further observations in response to the two Regulation 25 submissions.*
43. **Via (Landscape):** *Raise no objections to planning application 7/2017/1491NCC for the 4.5 hectare quarry extension.*
- *Via (Landscape) originally raised an objection to the planning application based on concerns that the extension of the quarry would result in the loss of a substantial area of woodland within a designated Local Wildlife Site/priority habitat with adverse impacts to the landscape character of the area. No satisfactory mitigation of this impact was provided.*
 - *To address these concerns an arboricultural report has been provided as part of the Reg. 25 response which confirms that the design of the quarry allows for the retention of sufficient trees around the periphery of the extraction area to provide screening from the wider landscape and ensure a wooded skyline is retained around the site. The submission also incorporates a planting scheme to increase the density of the undergrowth planting.*
 - *Planning conditions are recommended to regulate the planting mix used within the landscape works, ensure the identified tree protection measures are implemented, undertake the restoration of the site in a phased programme and provide 25 years aftercare for the restored site.*
 - *NCC Landscape was not consulted in connection with the other three planning applications.*
44. **Via (Noise Engineer):** *Raise no objections to planning application 7/2017/1491NCC for the 4.5 hectare quarry extension subject to the imposition of planning conditions to regulate the following matters:*
- *Limits on the maximum level of noise emissions at nearby property to regulate day to day and temporary operations at the quarry.*
 - *A restriction on the operating hours consistent with the existing planning permission for the site.*
 - *The use of noise abatement measures on all plant, machinery and vehicles operated on the site.*
 - *The use of 'white noise' reverse warning devices.*
 - *Via (Noise Engineer) has reviewed the Reg. 25 submission and does not wish to raise any further comments in respect to the installation of the acoustic fence other than to note it is to be installed at the beginning of Phase 1 and retained for the life of the quarry to provide acoustic screening to ground nesting birds.*
 - *Via (Noise Engineer) was not consulted in connection with the other three planning applications.*
45. **Via (Reclamation):** *Raise no objections to planning application 7/2017/1491NCC for the 4.5 hectare quarry extension*

- *The Reclamation Officer is satisfied that the correct assessments have been undertaken to assess potential impacts in relation to ground/surface waters and air quality. The applicant has addressed issues related to dust suppression, water management and ground/surface water protection. Provided the existing management and monitoring systems are maintained, adverse impacts are not envisaged in relation to the quarry extension to adjacent and/or underlying land, air quality and/or surface/groundwaters.*
 - *Via (Reclamation) were not consulted in connection with the other three planning applications.*
46. **Cadent Gas:** *Raise no objections subject to a planning condition being imposed to provide a working methodology to ensure the protection of a 610mm High pressure gas pipeline running at the bottom (southern) boundary of the proposed extension site. Cadent Gas have reconfirmed that suitable protection should be put in place for the gas pipeline.*
47. **Seven Trent Water, Western Power Distribution:** No representation received in connection with all four planning applications. Any responses received shall be orally reported.

Publicity

48. The four planning applications have each been publicised as a departure by means of site notices and press notices. The decision to advertise as a departure was made because of a potential non-compliance with Green Belt Policy and because the Eastern Extension extraction area is not allocated for mineral extraction, thus potentially raising policy issues with Nottinghamshire Minerals Local Plan Policy M7.2. 34 neighbour notification letters have been posted to occupiers of the nearest residential and business properties.
49. Subsequently, planning application 7/2017/1491NCC has been re-advertised following the receipt of the supplementary environmental information provided under the Regulation 25 submission. The publicity has been undertaken in accordance with the County Council's adopted Statement of Community Involvement Review.
50. Two local residents of Longdale Lane have made representations/objections in connection with the planning application which raise the following objections and concerns:
- The extended quarry would extend to the boundary of residential property and result in the loss of a mature woodland which is home to extensive wildlife. It is unacceptable to remove this habitat.
 - The quarry provides no benefit to the local community.
 - Tarmac have ignored the fact that the road on the eastern boundary leading into the site is owned by a local resident and as such they are now denying access along this land.

- The development would have an adverse impact on residential amenity by reason of noise and disturbance. Residents state they regularly hear noise from the quarry. The extension will bring the quarry closer to residential property and it is anticipated that noise will become significantly louder resulting in a dramatic impact on the quality of life. The removal of the tree screen would also increase noise transmission.
- No. 272 Longdale Lane is currently being converted into a respite centre for autistic adults. The quarry development will affect the peace and quiet of the users of this facility.
- The area is at risk of becoming over developed with housing developments in the local area. The development of the quarry would be another intrusion into the rural area.
- The application address states the site is in Bestwood. The site is not in Bestwood but Ravenshead.
- If this application was to proceed can consideration be given to a staged approach instead of the felling of the full 19 acres of woodland.
- It is understood there is a gas pipe within this area, what safety considerations have been considered in relation to this and the land being destabilised around it?
- in the event that planning approval is granted the Council should ensure the proposed 6ft close boarded wooden fence is erected on the boundary of the site.
- The quarry workings should be undertaken in a series of strips to lessen the impact of the quarry on the environment

51. Councillor Chris Barnfather has been notified of the application.

52. The issues raised are considered in the Observations Section of this report.

Observations

Planning Policy

53. Planning law requires that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the most relevant part of the development plan relating to this minerals development is the 2005 adopted Nottinghamshire Minerals Local Plan (adopted MLP). Policies within the 2014 Gedling Aligned Core Strategy and the recently adopted 2018 Gedling Borough Local Planning Document Part 2 Local Plan are also relevant to the decision.
54. In assessing the relative weight that should be given to policies within the adopted MLP the revised NPPF (published in 2018) advises that a Local Plan should not be considered out-of-date simply because it was adopted prior to publication of the NPPF. Specifically, the NPPF states that *'due weight should be given to them (policies), according to their degree of consistency with this*

Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)'.

55. The adopted MLP focuses on meeting the supply needs of the mineral industry in Nottinghamshire for the period up to 31st December 2014. Chapter 7 of the plan relates to the supply of Sherwood Sandstone with Policy M7.1 stating that the County Council's objective is to maintain a landbank of permitted reserves of Sherwood Sandstone sufficient for at least 7 years extraction and also to maintain adequate production capacity in order that Nottinghamshire will meet its reasonable share of regional provision of aggregates throughout the plan period.
56. The most recent assessment of the Sherwood Sandstone landbank is incorporated in the Nottinghamshire and Nottingham Local Aggregates Assessment (October 2017). This identifies that as of December 2016 the landbank stood at 10 years. This meets national and Nottinghamshire's aim to maintain at least a 7-year landbank, in line with the NPPF and Policy M7.1 of the Minerals Local Plan.
57. Paragraph 7.27 of the adopted MLP concerns itself with the future supply of Sherwood Sandstone within Nottinghamshire. It recognises that the County landbank is high but that reserves are very unevenly distributed between individual quarries and some sites will run out of reserves well before the end of the plan period. The plan concludes that if the County is to maintain an adequate production capacity then further reserves would need to be released during the adopted MLP plan period. It also acknowledges that the countywide landbank does not take account of the fact that the individual quarries do not generally produce the same products. Some quarries produce mainly asphalt sand, others mortar sand where differences in colour may be important and therefore these factors should be taken into account in assessing need and adequacy of production capacity.
58. The adopted MLP incorporates three allocations for Sherwood Sandstone extraction, all extensions of existing sites, these are:
 - Policy M7.3: 7.5 hectares at Rufford Colliery – This quarry is now permanently closed and the extension was never developed.
 - Policy M7.4: 9.2 hectares at Scrooby Top – This allocation has been granted planning permission and is currently being extracted. The policy therefore has not been saved.
 - Policy M7.5: 12 hectares at Carlton Forest – This quarry is mothballed and the extension has never been developed.
59. The adopted MLP does not allocate any additional land for mineral extraction at Bestwood II Quarry. Paragraphs 7.38 and 7.39 of the adopted MLP explains that the currently consented extraction area at Bestwood II was permitted in 2001 and incorporates 2.7 million tonnes of sand which (at the time of the plan) was considered sufficient to maintain production until 2013. The plan acknowledges that further extensions at Bestwood II may be possible, but as the plan was expected to be fully reviewed by 2009 it concluded that it would be

more appropriate to assess the need for allocating further reserves of aggregate sand at that time.

60. The 4.5 hectare eastern extension sought planning permission in this planning application therefore is not within an area allocated for mineral extraction in the adopted MLP. Policy M7.2 of the plan relates to Sherwood Sandstone on unallocated land and states:

Policy M7.2 – Sherwood Sandstone extraction in unallocated land.

Proposals for Sherwood Sandstone extraction falling outside allocated areas will not be permitted unless it is evident that existing permitted reserves and the remaining allocations cannot sustain an adequate landbank and processing capacity as provided for in Policy M7.1.

61. Policy M7.2 therefore is not supportive of Sherwood Sandstone extraction on unallocated sites unless it can be demonstrated that there is not an adequate landbank of permitted reserves, (which there currently is), or the remaining allocations cannot sustain adequate processing capacity.
62. This approach is consistent with the NPPF which states that mineral planning authorities should use the length of landbank as an indicator to determine whether there is a need to permit additional mineral extraction in an area, but consideration should also be given to the availability of processing capacity to ensure that the capacity of quarries to supply a wide range of materials in an area is not compromised.
63. The Government's Planning Practice Guidance (PPG) in connection with minerals (Paragraph 084) states that "*there is no maximum landbank level and each application for minerals extraction must be considered on its own merits regardless of the length of the landbank*".
64. Having regard to the approach set out within the NPPF, its supporting PPG and adopted MLP Policy M7.2 requiring the maintenance of appropriate processing capacity in the County, it is clear that a refusal of planning permission cannot be justified solely on the grounds that the landbank stands at above 7 years with a need to undertake a wider assessment of all material considerations such as the availability of processing capacity needs to be made when making a decision.
65. Mineral reserves within Bestwood II Quarry are not exhausted with around 1.3 million tonnes of consented sandstone remaining in the quarry. The recovery of this mineral reserve requires sandstone extraction to the full consented depth in the existing working area followed by mineral extraction beneath the existing plant site as a final phase. If the proposed eastern extension was not entered into before mineral extraction was completed in the existing workings it would effectively sterilise the working of the proposed eastern extension of the quarry due to the level differences which would exist between the base of the extracted quarry floor and the unexcavated eastern extension (around 40m vertical difference). This would prohibit access by plant and machinery. The operator reports that there is now a need to enter the eastern extension proposed in this

planning application to avoid the vertical difference between the two sites becoming excessive and effectively sterilising any future mineral extraction. NPPF paragraph 204 seeks to ensure that minerals are not needlessly sterilised which would in essence be the outcome if this planning application was refused planning permission at this time. It is therefore considered that refusing planning permission for the proposed development at this time would impact on the county's processing capacity, contrary to Policy M7.2, as it would significantly shorten the operating life of the quarry and impact on the processing capacity of the county as a whole.

66. NPPF paragraph 207 requires mineral planning authorities to plan for a steady and adequate supply of industrial minerals. In this respect, Bestwood II Quarry is an important source of Sherwood Sandstone, it has been operational since the mid 1940's and currently supplies around 38% of Nottinghamshire's annual Sherwood Sandstone output. The NPPF expects planning decisions to proactively drive and support sustainable economic development and assist the expansion of business. It requires significant weight to be placed on the need to support economic growth through the planning system.
67. The extension of Bestwood II Quarry would allow the quarry to continue to operate and would maintain the existing economic and employment benefits which the quarry provides, including the direct employment of nine quarry staff and supporting 50 staff in associated operations including road haulage. The socio-economic benefits of the scheme include:
 - The continued effective operation of Bestwood II Quarry;
 - security of existing employment at the site;
 - continued positive contribution of the site to the local and regional economy; and
 - maintenance of an important supply of aggregate sand into the Midlands region.
68. It is considered that the socio-economic effects of the scheme are beneficial and these are material in the determination of this planning application.
69. In conclusion, the adopted MLP acknowledges that further extensions may be possible at Bestwood II but these are not allocated in the adopted MLP because the mineral would not be required within the anticipated lifetime of the plan which was expected to be fully reviewed by 2009. Adopted MLP paragraph 7.40 concludes that it is more appropriate to assess the need for allocating further reserves of aggregate sand as part of the review of the plan. Although this review is ongoing, it has not progressed to an advanced stage and therefore limited or no weight can be given to the plan review in this decision.
70. Whilst the planning application was initially advertised as a departure to adopted MLP Policy M7.2 on the basis that Nottinghamshire currently has a landbank of Sherwood Sandstone in excess of 7 years, the NPPF/PPG and adopted MLP Policy M7.2 make it clear that having a landbank above the minimum level is not justification on its own to refuse planning permission and the wider merits of the development should be assessed including a need to maintain an adequate

processing capacity within sites. In this instance the wider benefits of the development, including the avoidance of mineral sterilisation, maintaining a continuity of Sherwood Sandstone production at Bestwood II, and the economic benefits which it brings, provide support for the development and argue in favour of granting planning permission, subject to there being no unacceptable environmental impacts. As an extension of a quarry, the development is also supported by adopted MLP Paragraph 6.36 which acknowledges that potential extensions to quarries will often have lower environmental effects than new greenfield sites.

Draft New Minerals Local Plan

71. On the 27th July 2018 Nottinghamshire County Council issued a draft Minerals Local Plan for consultation. The new plan will cover the period from 2016 to 2036.
72. The availability of Sherwood Sandstone reserves within Nottinghamshire is considered within this plan under Policy MP3. This policy seeks to maintain an adequate supply of Sherwood Sandstone to meet the expected level of demand over the plan period. It seeks to achieve this by allowing the completion of sand extraction with the existing consented sandstone quarries in the County including the remaining mineral at Bestwood II, and also by allocating three new extensions to existing quarries including:
 - MP3(e): Bestwood II East yielding an anticipated 1.44mt
 - MP3(f): Bestwood II North yielding an anticipated 0.75mt.
73. The boundaries of the Bestwood II East allocation identified within Policy MP3(e) coincide with boundaries of the Eastern Extension planning application site currently sought planning permission.
74. The draft plan provides some context to future planning policy direction, but given it is at a very early stage of preparation little weight can be given to the policies the plan incorporates or its proposed allocations within the decision on this planning application, at the present time.

Green Belt

75. The boundaries of the Green Belt within Gedling Borough are identified on the proposals map of the Gedling Borough Local Planning Document Part 2 Local Plan. The application site is within the Green Belt. Policies LPD12 – LPD16 of the plan set out Green Belt policy within the Gedling area. These policies are silent in their reference to minerals development in the Green Belt.
76. The adopted MLP does not incorporate a specific policy in relation to minerals development in the Green Belt. The supporting text of the plan at paragraph 3.59 states that mineral extraction in the Green Belt can be considered acceptable subject to there being no adverse impacts to the Green Belt, in particular its open character. It advises that industrial development associated with mineral extraction is likely to be unacceptable in the Green Belt unless very special circumstances can be identified.

77. Paragraph 146 of the NPPF states that mineral extraction is not inappropriate within the Green Belt provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.
78. The mineral extraction associated with both the completion of mineral extraction in the existing Bestwood II Quarry and the eastern extension are assessed as being appropriate development within the Green Belt. The excavation activities would utilise existing mobile plant with mineral extraction progressively increasing the depth of the workings and restoration of the wider quarry to provide a mixed ecological habitat undertaken on a phased basis to minimise the amount of active workings as far as practical. The extended quarry would be visually contained by existing landscaping ensuring there would be no significant impacts to the openness of the Green Belt or conflict with any of the purposes of including land in the Green Belt (as set out in Paragraph 134 of the NPPF).
79. Planning permission is also sought for a number of ancillary works including soil storage mounds, the acoustic fence, the processing plant, stockpile areas, the retention of the existing quarry offices/structures, parking areas and the retrospective retention of the new changing room. In terms of the effect that these aspects of the development would have on the openness of the Green Belt and the purposes of including land within the Green Belt it is noted that the works are required for a temporary period and will be removed upon the restoration of the quarry, thus ensuring there are no permanent impacts from these features. The soil bunds and fence around the perimeter of the site are located within woodland areas which screen these features and makes them non-prominent when viewed in wider area. The buildings, plant site, stock piles and car park/access road are all more centrally located within the quarry site, would be at a lower level to surrounding land, constructed at a low height and therefore would not be visible from outside the quarry boundaries.
80. It is therefore concluded that there would be no impact to the openness of the Green Belt or the other purposes of including land within the Green Belt (as listed in NPPF paragraph 134) from the developments sought planning permission and therefore they can be considered as appropriate development in the context of Green Belt policy.

Assessment of Environmental Effects

81. To assist the Council in making an assessment of the environmental effects of the development the planning application is supported by an Environmental Impact Assessment (EIA) prepared under the Environmental Impact Assessment Regulations. The EIA thoroughly assesses the environmental implications of development and its findings have been examined and appropriate technical advice taken through the planning consultation process. The conclusions of this assessment are considered below.

Landscape Assessment

82. Adopted MLP Policy M3.22 (Landscape Character) requires landscape character and local distinctiveness to be considered within planning decisions.

The policy seeks to minimise impacts as far as possible and not grant planning permission for minerals developments which are likely to adversely impact the character and distinctiveness of the landscape unless there are reasons of overriding public interest.

83. NPPF Paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.
84. The EIA incorporates a Landscape and Visual Impact Assessment which defines the existing or baseline landscape character and visual context of the site and the wider study area and then identifies likely effects of the scheme on landscape character and visual amenity.
85. The landscape and visual effects of the scheme have been assessed:
 - During the clearance and preparation of the site.
 - During the mineral extraction and initial restoration of the site.
 - 15 years after the restoration of the site.
86. The Greater Nottinghamshire Landscape Character Assessment identifies that the site is within the Papplewick Wooded Estate Lands Landscape Character Area. The site does not have any statutory landscape protection of identified quality within the development plan.
87. The trees along the southern boundary of the site occupy a prominent local skyline. The clearance of the woodland within the quarry has potential to have a high adverse effect on the landscape character of the site if it results in the opening up of views into the quarry along this southern boundary.
88. To reduce the potential for this impact, alterations have been made to the quarry design as part of the Reg. 25 process to maximise the retention of a satisfactory screen along this southern boundary. This has been achieved by removing a soil bund which was originally proposed to be provided in the retained southern woodland and its replacement with a fence. This alteration reduces the number of trees that would have been felled to provide land for the soil bund thus ensuring that a denser woodland belt is retained. The Reg. 25 submission also incorporates a tree protection strategy to minimise damage to trees during the construction work and an under-planting scheme to increase the woodland density and improve its screening benefit. These measures ensure that a satisfactory landscape block of trees would be retained along the southern boundary of the site and minimise the impact on the landscape. Planning conditions are recommended to regulate tree protection and carry out the under-planting.
89. A local resident has requested the quarry development scheme be amended to enable the tree removal to be undertaken in a series of strips to delay the felling of some of the trees for a period of time. Tarmac have stated their preference to clear the entirety of the site at the start of the development, stating that if they progressed on the basis of a series of tree felling strips they would very quickly

need to complete the full felling of the trees within a year or two of the quarry extension commencing due to the level differences which would soon occur as quarrying progresses which would make access to the retained land increasingly difficult, it would also mean that the full construction of boundary screens and fencing/supplementary landscaping could not be undertaken in a single phase and would also delay the use of the soil resources and deadwood material from being utilised to create new offset habitats within the existing quarry to compensate for lost habitat from tree felling. It is therefore concluded that the phased felling of trees within the Eastern Extension would not result in any significant benefit to the development scheme.

90. The alterations to the ground levels within the site would result in a change to the landscape. In the wider landscape area these alterations would have a slight adverse effect on the landscape character of the Papplewick Wooded Estatelands.
91. Following the restoration of the site many of the adverse effects from previous phases would be reduced in scale. A moderate adverse landscape effect would remain in relation to the permanently altered topography and uncharacteristic slope profiles of the restored site. These would be in stark contrast to the profiles of the undeveloped slopes to the north, east and south although these new landform components would tie-in with those used in the existing quarry once restored. The moderate adverse effect on land cover would be reduced to slight adverse by Year 15 following restoration due to the reinstatement of land cover across the restored site.
92. The operator has sought to ameliorate impacts to the landscape as far as practical within the scheme, nevertheless, this would not overcome the landscape changes that would inevitably result from the extraction of sand and the resultant void that is created. The overall impact of the development on the landscape is therefore considered to be negative.
93. Adopted MLP Policy M3.22 advises that development which adversely impacts the character and distinctiveness of the landscape should not be granted but the policy provides scope to balance these impacts against any wider benefits that may be provided by the development. This assessment of planning balance is considered within the conclusions section of the report.

Visual Impact Assessment

94. Adopted MLP Policies M3.3 (Visual Intrusion) and M3.4 (Screening) aim to minimise the visual impact of minerals development, encouraging screening measures to minimise impacts as far as practicable.
95. The mature woodland around the perimeter of the existing quarry limits views of the site and application area. There would be no significant adverse visual effects resulting from the clearance of woodland at the site subject to an adequate width of woodland belt being retained and the provision of appropriate thickening along the southern boundary of the site. The retained woodland on the north-east boundary of the site would help to screen views from 280 – 284 Longdale Lane. Any visual impact which may occur would be for a

comparatively short duration whilst the quarry operates at the existing surface level. Impacts would reduce as the quarry progresses to a greater depth and supplementary woodland underplanting matures in the retained woodland belt on the south of the quarry.

96. Overall, it is concluded that the visual impacts of the development are minor and not significant and once vegetation has established the development is likely to be visually imperceptible from surrounding viewpoints.

Ecology

97. Chapter 15 of the NPPF sets out national policy concerning the conservation and enhancement of the natural environment. Paragraph 170 and 175 set out that the overall objective concerning ecology is to minimise impacts to biodiversity. This objective is achieved by following the ecological hierarchy which gives preference to development in areas of low ecological value and avoiding development in ecologically sensitive locations. In circumstances where harm to biodiversity cannot be avoided (for example by developing an alternative site with less harmful impacts), developers are required to mitigate or, as a last resort, compensate any ecological harm that may result from the development.
98. Adopted MLP Policies M3.17 and M3.20 generally reflect NPPF policy in seeking to protect important habitats including Local Wildlife Sites from adverse effects, stating that minerals development should only be granted planning permission on such sites where it can be demonstrated that the importance of the development outweighs the ecological value of the site taking into account measures to mitigate/compensate against any adverse impact.
99. The site is designated as Longdale Plantations Local Wildlife Site (LWS) and is therefore of regional/county level ecological importance. The development would result in the loss of 4.5ha of this habitat over and above the 3.8ha loss of habitat which occurred with the previous extension and which, in combination, accounts for about 30% of the site area of the original LWS. The loss of this habitat is the main direct ecological impact. The level of impact (without compensation/mitigation) is considered significantly negative in scale.
100. As part of the Regulation 25 submission the applicant was asked to justify the choice of site in the context of the ecological hierarchy. In response the applicant states that the site selection process investigated options to develop the quarry in a less ecologically important area. It concluded that physical and environmental constraints in the surrounding area meant there were no alternative sites to undertake an extension of the quarry. The constraints include the presence of residential property and roads surrounding the site. The development of the Bestwood II northern proposed allocation would have a similar ecological effect to the current eastern extension. The applicant concludes that the current location is the only feasible option for developing a lateral extension to Bestwood II Quarry at this present time.
101. There is a clear need for the additional mineral resources from Bestwood II to ensure the long-term future of the quarry. Given the loss of the LWS is

‘unavoidable’ in the context of the ecological hierarchy it is concluded that the need for the quarry extension outweighs any harm resulting from the loss of part of the LWS subject to the agreed mitigation and compensatory works being undertaken. The policy requirements of adopted MLP Policies M3.17 and M3.20 and the NPPF which seek to protect habitats or species of priority from adverse effect have therefore been satisfied.

102. The Environmental Statement incorporates an ecological assessment which assesses and defines the existing ecological baseline of the site and considers the likely ecological impact of the scheme. The surveys of the site identify:
- No rare or protected plant species were found at the site.
 - Several trees within the broad-leaved woodland were identified as having limited potential to support roosting bats and the woodland edge habitat features is considered to be suitable for foraging bats.
 - The site provides habitat for birds including nesting habitats.
 - The site provides potential terrestrial habitat for Great Crested Newts, but the local biological records show no records of Great Crested Newts within 500m of the application site. The habitat within the three ponds in the quarry is considered to be poor for Great Crested Newts and therefore impacts are not anticipated.
 - Reptiles are not currently present within the application site.
 - No protected or rare terrestrial invertebrate species were recorded during the survey.
 - Badger surveys of the site and a 30m radius confirm that the species are not present on the site.
103. As part of the Regulation 25 response revisions have been made to the working and restoration of the existing quarry to compensate for ecological impacts including the placement of soils in the quarry floor and translocation of tree stumps and deadwood to provide new habitat, the creation of 2.55 hectares of heathland within the quarry floor and sides created progressively through the life of the quarry and the planting of new woodland within the quarry floor and sides.
104. Also as part of the Regulation 25 response the developer has sought to offset and mitigate the ecological impact of the development by creating a new heathland habitat within Calverton (Burntstump) Quarry to offset/replace habitat loss resulting from site clearance works. Since these works would be undertaken outside of the planning application site, their implementation would need to be regulated by Section 106 legal agreement.
105. It is noted that Nottinghamshire Wildlife Trust maintain their objection to the application raising concern that there is a lack of adequate survey information and incomplete impact assessments to justify the substantial loss of LWS. These concerns have been examined by NCC’s Ecologist who is satisfied that the ecological survey, supplemented by the Reg. 25 information, satisfactorily provides sufficient ecological surveys and assessment information to accurately assess the magnitude of ecological effect from the development.

106. In accordance with the advice received from NCC's Ecological Officer a series of planning conditions are recommended to ensure that appropriate working methodologies are put in place to avoid ecological harm in connection with the following:
- To minimise impacts on birds, vegetation clearance (i.e. removal of woodland) must take place outside the bird nesting season, which runs from March to August inclusive.
 - Precautionary Methods of Working in relation to the felling of trees with 'low' bat roost potential.
 - Precautionary methods of working for avoiding impacts on common amphibians.
 - Nest boxes should be installed around the existing quarry site; in particular, these should target willow tit, and further details will need to be provided.
 - Pre-commencement survey for badgers, in advance of each phase. A written report should be provided, detailing any mitigation measures that may be required, and identifying whether a licence is required from Natural England.
 - Controls on artificial lighting, through the submission of a lighting plan, and hours of operation, to ensure that woodland edges are not lit.
 - The protection of retained habitat during site clearance, including the use of temporary protective fencing.
 - The installation and retention of acoustic fencing to minimise impacts to nesting birds in the retained woodlands.
 - The provision of extended aftercare for the restored site for a period of 25 years following its restoration.
107. In terms of effects that may occur to any future designation of a Sherwood Forest Special Protection Area, the existing habitat comprises dense plantation woodland and is not particularly suitable for nightjar and woodlark and therefore direct impacts to these species are not anticipated. The restoration proposals for the site will create areas of heathland and other habitat which is more desirable for these species. Fencing is proposed to reduce the level of noise transmission into the adjacent woodland and reduce impacts to ground nesting birds. Adverse impacts to any future designation of a Sherwood Forest Special Protection Area therefore are not anticipated.
108. Overall, it is concluded that the loss of habitat within the Longdale Plantations LWS is unavoidable in the context of how the Bestwood II Quarry can successfully be extended. Satisfactory ecological mitigation and compensation arrangements are provided to ensure that the development is compliant with policy within the NPPF and adopted MLP Policy M3.20.

Traffic

109. Vehicular access into Bestwood II Quarry is obtained from a purpose built junction off the A60 Mansfield Road. The junction is served by a dedicated right turn facility. The extended quarry would continue to utilise these existing access arrangements and would not change the traffic flows into the site on a daily basis.
110. The access arrangements have successfully operated for many years without adverse impact to the highway network. The Highways Authority has reviewed the application and raised no objections. The vehicle movements associated with the development are therefore considered to be acceptable and compliant with adopted MLP Policy M3.13 (Vehicular Movements).
111. The quarry has an established metalled haul road, lorry sheeting bay and wheel cleaning facility which control mud and debris from entering the public highway. The retention of these facilities is recommended to be regulated by planning condition and thus ensure compliance with adopted MLP Policy M3.12 (Highway Safety and Maintenance).

Noise

112. Policy M3.5 of the adopted MLP states that planning permission for minerals development will only be granted where noise emissions outside the boundary of the mineral workings do not exceed acceptable levels. The policy encourages planning conditions to be imposed to control and reduce potential for noise impact including restrictions over operating hours, sound proofing plant and machinery, setting maximum noise levels at sensitive locations, and the use of acoustic screening, such as baffle mounds or fencing.
113. The Planning Practice Guidance (PPG) on minerals states that mineral planning authorities should impose limits on the maximum level of noise at surrounding properties to ensure that noise levels attributable to quarrying activities do not exceed the background level by more than 10dB(A) during normal working hours (0700-1900). The PPG acknowledges that there may be circumstances where achieving this noise limit can impose unreasonable burdens on the mineral operator. In such instances the noise limit should be set as near as possible to a 10dB(A) increase with a maximum absolute noise level of 55dB(A) LAeq 1h.
114. A noise assessment has been undertaken as part of the Environmental Statement to calculate the effect that the normal quarrying activities would have on the level of noise at six noise monitoring locations which have been selected as being representative of the nearest noise sensitive locations to the site. The results of the assessment are set out below:

Location	Existing Noise Levels (dB(A))		Predicted Worst Case (dB L _{Aeq,1h})	Difference (dB(A))		
	L _{Aeq, T}	L _{A90, T}		Existing L _{Aeq}	NPPG L _{A90} + 10 dB	NPPG Max 55 L _{Aeq}
1 st Galaxy Fireworks	43	38	46	+3	-2	-9
Woodland Grange	49	43	45	-4	-8	-10
270 Longdale Lane	44	38	45	+1	-3	-10
284 Longdale Lane	45	37	46	+1	-1	-9
Longdale Plantation	44	40	42	-2	-8	-13
Forest Farm Cottages	53	37	39	-14	-8	-16

115. The predicted noise levels indicate that, without exception, all normal operations within the proposed site produce worst case noise levels that are compliant with criteria within the PPG.
116. In addition to the noise limits that are recommended in the PPG for the normal operation of the quarry, noise levels for temporary operations including soil-stripping, the construction and removal of baffle mounds, soil storage mounds and spoil heaps, construction of new permanent landforms and aspects of site road construction and maintenance have been assessed to ensure that these activities are undertaken within the upper noise limit of 70 dB(A) L_{Aeq,1h} (free field) for these temporary operations prescribed in the PPG.

No.	Location	Existing Noise Levels (dB(A))		Predicted Worst Case (dB L _{Aeq,1h})	Difference (dB(A))	
		L _{Aeq, T}	L _{A90, T}		Existing L _{Aeq}	NPPG Max 70 L _{Aeq}
1	1 st Galaxy Fireworks	43	38	49	+6	-21
2	Woodland Grange	49	43	45	-4	-25
3	270 Longdale Lane	44	38	48	+4	-22
4	284 Longdale Lane	45	37	48	+3	-22
5	Longdale Plantation	44	40	45	+1	-25
6	Forest Farm Cottages	53	37	40	-13	-30

117. The predicted noise levels indicate that, without exception, all temporary operations within the proposed development produce worst case noise levels that are below the criteria of PPG.
118. Specific concerns have been raised about potential for noise disturbance to users of a new respite centre for autistic adults being constructed at 272 Longdale Lane. The noise assessment incorporates a measurement point at 270 Longdale Lane, directly next door to this new facility. The noise modelling in this location identifies a maximum of 1dB increase in noise from day to day quarrying operations at this property. This level of noise increase would not be perceptible to the human ear and therefore is considered to not be significantly intrusive to users of the facility.
119. The applicant's noise assessment identifies a scheme of noise mitigation to minimise the magnitude of impact and control noise emissions with the following controls being suggested:
- a. All construction plant and equipment should comply with EU noise emission limits;
 - b. Ensure machinery is regularly well maintained and where appropriate fitted with exhaust silencers;
 - c. Avoid unnecessary revving of engines and switch off equipment when not required;
 - d. Select plant and equipment which is inherently quiet where appropriate. For example, compressors should be sound reduced models with sealed acoustic lining, pneumatic tools should be fitted with manufacturer specified silencers or mufflers;
 - e. Keep internal haul routes well maintained;
 - f. Minimise drop heights of materials, line the inside of chutes and hoppers with attenuating materials to reduce impact noise;
 - g. Ensure perimeter bunds are to the required height, with no gaps or inconsistencies.
 - h. The use of audible reversing warning systems on mobile plant and vehicles which results in a minimum noise impact on persons outside of the site.
120. The existing planning permission permits mineral extraction at Bestwood II Quarry between 7am – 8pm Monday to Friday and 7am to 6pm on Saturdays. In practice the quarry closes at around 5:30pm Monday to Friday and operates Saturday morning closing about lunchtime. This application seeks planning permission to allow the existing consented operating hours within the Eastern Extension area. The noise assessment demonstrates that the operation of the quarry over these requested operating hours would not be intrusive and it is proposed to continue to regulate the operating hours to these hours by planning condition.
121. Subject to the imposition of controls over noise emissions from the development the operation of the extended quarry is anticipated to be capable of operating in compliance with nationally set limits for minerals extraction developments as set out within the PPG. The operation of the site would therefore be compliant with adopted MLP Policy M3.5.

Air Quality (Dust)

122. Adopted MLP Policy M3.7 (Dust) and the NPPF encourage careful siting of potential dust emitting activities and the implementation of dust mitigation measures to minimise the impact from dust emissions, encouraging the use of controls through planning conditions to appropriately regulate activities.
123. The plant that would be operated within Bestwood 2 Quarry together with associated vehicle movements have the potential to generate dust and other airborne pollutants in the immediate vicinity of their operations. The likelihood of problems caused by such pollutants is largely influenced by the effectiveness of on-site environmental controls with the objective to minimise the generation of dust.
124. The magnitude and significance of impact from dust emissions has been assessed through an air quality assessment to consider the potential for adverse dust impacts to occur using the source-pathway-receptor concept with particular regard to the potential for significant effects to occur as a consequence of uncontrolled dust emissions.
125. The current dust climate has been measured at the site boundary and closest potential sensitive receptors and these are seen to be typical of a rural area. Climatic conditions local to the site have been assessed and analysed to give an indication of how often the site could be susceptible to fugitive dust events. Significant impacts from dust are not anticipated. Also, a full PM10 assessment in line with the latest recommendations has been undertaken and this shows that the Air Quality Objectives are not expected to be exceeded.
126. Monitoring of dust emissions over a number of years in connection with the operation of the existing quarry has not identified any dust concerns. Going forward the operator proposes to routinely monitor dust emissions from the site and take action to deal with any sources of dust emissions, particularly during dry and windy periods. A complaints log is to be maintained by the operator to ensure any dust incidents are appropriately investigated and remediation action is taken. In the event of a failure of dust mitigation measures, for example in extreme weather conditions, the dust generating activity shall be temporarily suspended, until appropriate dust mitigation is implemented or until a change in weather condition occurs.
127. Significant impacts to air quality or dust emissions are therefore not anticipated, subject to the dust controls identified above being regulated by planning condition. The development therefore is compliant with adopted MLP Policy M3.7.

Hydrology and Flood Risk

128. Adopted MLP Policy M3.8 (Water Environment) states that planning permission will only be granted for minerals development where surface water flows and groundwater levels are not altered and there are no risks of pollution.

129. An assessment of the hydrogeological and hydrological impact of the proposed quarry development at Bestwood II Quarry has considered potential impacts upon groundwater and surface water quantity and quality. Mineral extraction would be undertaken above the level of the water table and therefore no dewatering is required to operate the quarry. No disturbance to the aquifer therefore will occur, whether by lowering of the groundwater levels, or impedance or interception of groundwater flow from quarrying or restoration operations.
130. Risks from pollution incidents are considered to be very low to negligible from the scheme and subject to operational practices concerning fuel storage being regulated by planning condition, no additional mitigation is considered to be necessary.
131. Adopted MLP Policy M3.9 (Flooding) supports minerals development where it does not give rise to unacceptable impact on flood flows and flood storage capacity, or on the integrity or function of flood defences and local land drainage systems. The proposed quarry is located in Flood Zone 1 and therefore has an extremely low probability of flooding during the working life of the quarry.
132. Surface water will be managed within the site to ensure that the surface water flood risk to and from the site is appropriately mitigated. The proposed restoration of the site will provide a landform lower than the surrounding land which naturally drains freely. It is therefore concluded that the proposed quarry workings at Bestwood II Quarry are considered appropriate in accordance with adopted MLP Policy M3.9.

Protection of the Aquifer from Pollution

133. The Sherwood Sandstone and underlying Magnesian Limestone form major aquifers in the area with regional groundwater at a level approximately 50m AOD, this is 35m below the consented limit of extraction which is currently regulated by planning condition at 85m AOD. This 35m separation between quarry workings and groundwater provides pollution protection.
134. The Environmental Agency have not raised any objection to the extension of the quarry subject to controls being imposed on fuel storage and refuelling and foul water drainage. Planning conditions are recommended to regulate these matters.

Cultural Heritage

135. Adopted MLP Policy M3.25 (Listed Buildings and Conservation Areas) seeks to ensure that minerals developments do not cause unacceptable harm to conservation areas, listed buildings, historic battlefields and historic parks and gardens.
136. In line with the requirements set out in paragraphs 189 and 190 of the NPPF the applicant has identified the heritage assets in the area and considered the

significance of impact resulting from the development proposal. This has identified that:

- The earlier phases of the quarry have affected two designated listed structures, the Howe Plantation Obelisk (National Heritage ref: 1264008) and a parish boundary stone (National Heritage ref: 1264007). Both have been relocated to near their original positions as part of mitigation from earlier phase/s of quarrying and are not within the proposed new quarry working area.
 - Some impacts will be felt on the setting of the assets closest to the proposal area, most notably the boundary stone (Heritage list ref: 1268476), and the non-designated covered reservoir associated with the Papplewick Pumping Station.
 - Other impacts stemming from noise may be felt at the Papplewick Pumping Station site.
137. The Heritage Assessment has been reviewed by NCC's Heritage Officer and Historic England who are satisfied the extension of the quarry would have a less than significant impact on the heritage assets of the area. Any impacts could be mitigated through control of landscaping, in particular the retention of trees around the periphery of the site, particularly to the south and east.
138. NPPF Policy set out within paragraph 196 states that when a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
139. It is concluded in this instance the need for the mineral and the economic benefits that would be derived outweigh any harm to the heritage assets in the surrounding area. The development therefore is assessed as being compliant with NPPF heritage Policy and adopted MLP Policy M3.25.

Archaeology

140. The Environmental Statement submitted in support of the planning application incorporates an archaeological assessment. This assessment identifies that the site does not incorporate any known archaeological remains of national importance or features which warrant preservation. The site therefore has a low potential for yielding any significant archaeological remains.
141. Adopted MLP Policy M3.24 (Archaeology) identifies that mineral workings on sites which incorporate archaeological remains of less than national importance (as is the case here) can be worked provided it is demonstrated that the importance of the development outweighs the significance of remains and subject to provision being made through the planning permission for the appropriate excavation and recording of any remains.
142. The potential of the site to produce buried archaeological remains is low. In this instance it is concluded that the need for the quarry development outweighs the

preservation of this potentially limited resource. Notwithstanding this conclusion, the presence of archaeology cannot be dismissed and to ensure it is appropriately investigated a planning condition is recommended requiring the developer to undertake a Lidar survey of the site to inform the preparation of a written scheme of investigation and subsequent implementation of field investigations to ensure any archaeological remains are recorded. The implementation of this scheme can be secured through planning condition, thus ensuring compliance with adopted MLP Policy M3.24.

Consideration of cumulative and combined effects

143. Significant adverse cumulative effects are not anticipated from the scheme. This is because the individual assessments of environmental impacts do not identify any significant residual impacts associated with the proposals. Therefore, the likelihood for significant cumulative effects to occur as a result of the scheme is extremely low.

Duration of development

144. The eastern extension area incorporates a 1.4 million tonne mineral reserve which the applicant proposes to extract over a ten-year period. A planning condition is recommended as part of the schedule of conditions for this planning application (7/2017/1491NCC) to ensure the duration of this quarry is appropriately regulated.
145. With regard to the existing quarry area, the quarry phasing identifies that this would be extracted following mineral extraction in the eastern extension. This timetable creates some tension with the period requested for the existing quarry area including the stocking/processing areas, admin offices and haulage routes which seek consent for an extension of working in this area until 31st December 2028. Whilst it is acknowledged that this period is likely to be sufficient to allow all the remaining consented mineral reserves to be extracted from the site, it is not reasonable at this stage to give a longer period through planning condition because the proposed end date has clearly been stated in the planning application description and publicity undertaken.
146. It is acknowledged that the implication of this is that the developer may/will be required to seek further planning permission for an extension of time for the existing quarry to allow the removal remaining reserves from this area. This application would be assessed on its merits at the time of its submission.

Quarry Liaison Meeting

147. Bestwood II Quarry has an established liaison meeting which meets at least once a year to discuss the quarry development. As part of the proposals put forward for the eastern extension the quarry operator has suggested the arrangements for continuing the liaison meeting could be formulated through the Section 106 legal agreement. This suggestion is welcomed by officers and it is

recommended that the continuation of the liaison meeting is secured through the Section 106 agreement.

Land Ownership Concerns

148. Concerns have been raised by a local resident who owns a two-acre parcel of land near to the quarry which is served by a private roadway which crosses land on the eastern boundary of the quarry. The local resident states that the extension of the quarry would deny them access to their land which Tarmac have ignored.
149. These concerns have been raised with Tarmac which has researched the matter but cannot reconcile the local resident's plan with the plan the company have filed with the Land Registry. The Tarmac Land Registry plan shows different land ownership records, identifying that the planning application incorporates no land owned by the local residents. The residents have access to their land from an alternative access route which the proposed quarry extension scheme would not interfere with. Tarmac are in the process of writing to the local resident to seek further evidence in support of their claim, but as it stands at present, Tarmac do not concur with the local resident's claimed right of way through the application area.
150. It is evident from the above that there is a clear dispute in land ownership between the developer and the local resident. Whilst it is understandable that this matter is a concern to both parties, it is not the function of the planning system to arbitrate on land ownership disputes. The concerns relating to land ownership are private legal matters which any decision on this planning application would not prejudice, and therefore is not a material planning consideration in the determination of this planning application.

Gas Pipeline

151. Within their planning consultation response Cadent Gas has raised concerns about a 610mm high pressure gas pipeline which runs adjacent to the eastern boundary of the extension area. Cadent Gas state that the planning application does not identify the presence of this pipeline, nor does it demonstrate any stand-off or protection measures to ensure the safety of the gas pipeline is not compromised by the mineral extraction scheme. Cadent Gas has requested a planning condition be imposed requiring Tarmac to submit a scheme to ensure the pipeline is satisfactorily protected throughout the life of the quarry.
152. Cadent Gas' concerns have been raised with Tarmac which states that there is a separate legal process regulated through the Mining Code in the 1965 Deed of Grant. This provides the necessary legal framework allowing Tarmac to serve notice on Cadent Gas that they propose to extract mineral from the planning application site and require Cadent Gas to either relocate their pipeline or ensure it is maintained in a safe condition. Tarmac therefore state that a planning condition is not required to protect the gas pipeline since this matter is regulated through other legislation.

153. Paragraph 55 of the NPPF states that planning conditions should not be used when they are not necessary or not relevant to planning. The Government's Planning Practice Guidance confirms that planning conditions which require compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning. Since the planning condition recommended by Cadent Gas relating to the protection of the gas pipeline duplicates another regulatory regime it is concluded in this instance not to be appropriate to regulate this matter by planning condition. It is however proposed to attach an informative note to ensure this matter is not overlooked.

Other Options Considered

154. Schedule 4 Part II(4) of the EIA Regulations requires an Environmental Statement to provide an outline of the main alternatives considered by the applicant and an indication of the main reasons for choosing a development having taken account of the environmental effects.
155. The applicant has considered the potential for alternative locations for the development and identified that the current location is the only feasible option for developing a lateral extension to Bestwood II Quarry at this present time. A range of restoration alternatives including various configurations in terms of landform and restored habitats have also been considered.

Statutory and Policy Implications

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

Implications for Service Users

157. The extension to Bestwood II Quarry would ensure continuity of supply of Sherwood Sandstone to established markets.

Crime and Disorder Implications

158. The development would extend the existing quarry making use of the established security features within the site and extending the perimeter fencing around the perimeter of the site.

Data Protection and Information Governance

159. All consultees who have made representations on this application are informed that copies of their representations, including their names and addresses, are

publically available and are retained for the period of the application and for a relevant period thereafter.

Human Rights Implications

160. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol and Article 6 may be affected. The proposals have the potential to introduce limited impacts in terms of noise and dust. These potential impacts need to be balanced against the wider benefits the proposals would provide in terms of providing a continuity of mineral resources. Members will need to consider whether these benefits would outweigh the potential impacts.

Implications for Sustainability and the Environment

161. These have been considered within the observations section above.
162. There are no financial implications, human resource implications, public sector equality duty implications, safeguarding of children and adults at risk implications, smarter working implications or NHS constitution (public health services) implications.

Conclusion

163. Although mineral reserves within Bestwood II Quarry are not exhausted, the recovery of the remaining consented mineral reserve requires sandstone extraction to the full consented depth in the existing working area followed by mineral extraction beneath the existing plant site as a final phase. This would effectively sterilise the working of the eastern extension of the quarry at a later date due to the level differences that would result between the existing quarry and the extension area and the removal of the infrastructure to process any mineral that was won, thus effectively sterilising the eastern extension mineral reserve from future working against the objectives of NPPF paragraph 204. A refusal of planning permission at this time would therefore adversely impact on the county's sand processing capacity contrary to Nottinghamshire Minerals Local Plan Policy M7.2.
164. The extension of Bestwood II Quarry at this time would allow the quarry to continue to operate and would maintain the existing economic and employment benefits which the quarry provides, including the direct employment of nine quarry staff and supporting 50 staff in associated operations including road haulage. It would also secure the continued positive contribution the site makes to the local and regional economy whilst maintaining an important supply of aggregate sand into the Midlands region.
165. The planning applications have been assessed as being appropriate development in the context of NPPF Green Belt Policy and they would not prejudice the openness of the Green Belt or the other reasons for including land within the Green Belt.

166. The operator has sought to minimise impacts to the landscape as far as practical within the scheme, nevertheless, this would not overcome the landscape changes that would inevitably result from the extraction of sand and the resultant void that is created. The overall impact of the development on the landscape is therefore considered to be negative. Nottinghamshire Minerals Local Plan Policy M3.22 advises that development which adversely impacts the character and distinctiveness of the landscape should not be granted unless the wider benefits of the development outweigh the landscape harm. In this instance it is concluded the wider benefits provided by the development including the need for the mineral outweigh the harm to the landscape.
167. In terms of visual effects there would be some potential for some filtered views into the extended working area resulting from the felling of the trees and prior to the establishment of any under-planting/thickening. These impacts are anticipated to occur for a comparatively short duration. During the course of mineral extraction visual impacts are not anticipated once screening is established and the depth of quarry workings increases which will make the development visually imperceptible from surrounding viewpoints.
168. The extended quarry would continue to utilise the existing access arrangements and would not change the traffic flows into the site on a daily basis. The access arrangements have successfully operated for many years without adverse impact to the highway network. The vehicle movements associated with the development are therefore considered to be acceptable and compliant with Nottinghamshire Minerals Local Plan Policy M3.13 (Vehicular Movements).
169. In terms of impacts on the Local Wildlife Site and the application of the ecological mitigation hierarchy, the additional justification, compensation and mitigation of ecological impacts that has been provided as part of the Regulation 25 submission is welcomed and should ensure that there would be no overall ecological detriment from the development. There is a clear need for the additional mineral resources from Bestwood II to ensure the long-term future of the quarry is sustained. Given the loss of the local wildlife site appears to be 'unavoidable' in the context of how this quarry is extended, the need for the quarry extension outweighs any harm resulting from the loss of part of the local wildlife site subject to the agreed mitigation and compensatory works being undertaken.
170. The noise emissions from the quarry would be in compliance with nationally set limits for minerals extraction developments as set out within the Government's Planning Practice Guidance. The operation of the site therefore would be compliant with Minerals Local Plan Policy M3.5.
171. Significant impacts to air quality or dust emissions are not anticipated. The development therefore is compliant with Minerals Local Plan Policy M3.7.

Statement of Positive and Proactive Engagement

172. In determining this application the Mineral Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; encouraging pre-application community engagement which the

applicant acceded to by holding a pre-application exhibition and a leaflet drop; and the scoping of the application. The proposals and the content of the Environmental Statement have been assessed against relevant Development Plan policies, the National Planning Policy Framework, including the accompanying technical guidance and European Regulations. The Mineral Planning Authority has identified all material considerations; forwarded consultation responses that have been received in a timely manner; considered any valid representations received; liaised with consultees to resolve issues and progressed towards a timely determination of the application. Issues of concern have been raised with the applicant including matters concerning ecology and have been addressed through negotiation and acceptable amendments to the proposals requested through Regulation 25 submissions. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

RECOMMENDATION 1

GEDLING DISTRICT REF. NO.: 7/2017/1491NCC

PROPOSAL: 4.5 HECTARE EASTERN EXTENSION TO EXISTING SAND QUARRY WITH RESTORATION TO NATURE CONSERVATION

173. It is RECOMMENDED that the Corporate Director – Place be instructed to enter into a legal agreement under section 106 of the Town and Country Planning Act 1990 to:
- a. To create and thereafter manage for a period of 25 years a new heathland based habitat within Calverton (Burntstump) Quarry.
 - b. To continue to hold a liaison meeting.

It is FURTHER RECOMMENDED that subject to the completion of the legal agreement before the 31st March 2019 or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of this report. In the event that the legal agreement is not signed by the 31st March 2019, or within any subsequent extension of decision time agreed with the Minerals Planning Authority, it is RECOMMENDED that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section.

RECOMMENDATION 2

GEDLING DISTRICT REF. NO.: 7/2017/1504NCC

PROPOSAL: TO VARY CONDITIONS 3, 6 AND 29 OF PLANNING PERMISSION 7/2014/1156/NCC FOR AN EXTENSION OF TIME TO EXTRACT THE REMAINING MINERAL WITHIN BESTWOOD II QUARRY UNTIL 31ST DECEMBER 2028.

174. It is RECOMMENDED that planning permission be granted for Planning Application 7/2017/1504NCC subject to the conditions set out in Appendix 2.

RECOMMENDATION 3

GEDLING DISTRICT REF. NO.: 7/2017/1505NCC

PROPOSAL: VARY CONDITION 4 OF PLANNING PERMISSION 7/2015/0320NCC TO ENABLE RETENTION OF THE VISITORS CAR PARK UNTIL FINAL RESTORATION OF THE QUARRY (31ST DECEMBER 2030 OR WITHIN TWO YEARS OF THE COMPLETION OF MINERAL EXTRACTION, (WHICHEVER IS SOONER).

175. It is RECOMMENDED that planning permission be granted for Planning Application 7/2017/1505NCC subject to the conditions set out in Appendix 3.

RECOMMENDATION 4

GEDLING DISTRICT REF. NO.: 7/2017/1493NCC

PROPOSAL: ERECTION OF A PORTABLE UNIT TO PROVIDE CHANGING FACILITIES FOR FEMALE STAFF.

176. It is RECOMMENDED that planning permission be granted for Planning Application 7/2017/1493NCC subject to the conditions set out in Appendix 4.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments (RHC 15/11/2018)

Planning and Licensing Committee is the appropriate body to consider the contents of this report.

Financial Comments [RWK 15/11/2018]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

Newstead

Councillor Chris Barnfather

Report Author/Case Officer

Mike Hankin

0115 9932582

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

RECOMMENDED PLANNING CONDITIONS

GEDLING DISTRICT REF. NO.: 7/2017/1491NCC

PROPOSAL: 4.5 HECTARE EASTERN EXTENSION TO EXISTING SAND QUARRY WITH RESTORATION TO NATURE CONSERVATION

Commencement

1. The development hereby permitted shall be begun within 3 years from the date of this permission.

Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The operator shall provide written notification of commencement of the development hereby permitted to the Mineral Planning Authority (MPA) at least seven days but no more than fourteen days prior to the commencement of the development.

Reason: To assist with the monitoring of the planning permission.

Development Granted Planning Permission

3. This permission relates to a 4.5 hectare eastern extension of Bestwood II Quarry with restoration to a mixed ecological based habitat. The planning permission is issued subject to a Section 106 legal agreement which regulates habitat creation and management works as off-set habitat at Calverton (Burntstump) Quarry. Except where amendments are made pursuant to the other conditions attached to the permission, the development hereby permitted shall be carried out in accordance with the following documents:
 - a. Planning application form dated 2nd May 2017 and received by the MPA on 21st November 2017.
 - b. Planning Statement dated April 2017 and received by the MPA on 21st November 2017.
 - c. Environment Statement, technical appendices and Supporting Non-Technical Summary dated April 2017 and received by the MPA on 21st November 2017.
 - d. Submission of further information under Regulation 25 dated July 2018 and received by the MPA on 20th July 2018.
 - e. Drawing No. SPS 1: Site Plan dated April 2017 and received by the MPA on 21st November 2017.
 - f. Landscape and restoration strategy (Chapter 2) setting out the restoration objectives for the wider quarry area incorporated within the Submission of

further Information made in respect of Planning Application 7/2017/1491NCC received by the MPA on 20th July 2018, and in particular:

- Drawing No. D16PD118.PDF, 218/PDF, 318.PDF 418.PDF, 518.PDF Eastern Extension Area Phase 1-5 development (incorporating overburden and soil storage arrangements in original quarry area) received by the MPA on 20th July 2018.
- Drawing No. D16/PD618.PDF – Bestwood II Eastern Extension Final Restoration dated 25/06/2018.

Reason: For the avoidance of doubt and to assist with the monitoring of the planning permission.

Duration of Planning Permission

4. All sand extraction operations shall cease within ten years from the date of commencement, as notified under condition 2 above.

Reason: To secure proper restoration of the site within an acceptable timescale and in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.

5. The quarry shall be developed on a phased basis incorporating ongoing extraction and restoration in accordance with the details shown Drawing No.'s D16PD118/218/318/418/518.PDF: Eastern Extension Area – Phase 1 – Phase 5. Final quarry restoration works within the Eastern Extension shall be completed within one year of the completion of mineral extraction, or within eleven years of the date of commencement, as notified under Condition 2, whichever is sooner.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.

Buildings, Fixed Plant and Machinery

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any future replacement order), no buildings, fixed plant, or machinery, other than approved by this permission shall be erected or placed on the site without the prior written approval of the MPA.

Reason: To enable the Minerals Planning Authority to control the development and minimise its impact on the amenity of the local area, in particular the openness of the Green Belt, in accordance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

Quarry Access

7. All mineral extracted from the Eastern Extension shall be processed within the existing sand processing plant in the original quarry area and thereafter transported via the existing quarry access road to the A60. There shall be no vehicular, plant or pedestrian access in connection with the quarrying operations hereby approved from any other point on the boundary of site.

Reason: In the interest of highway safety and amenity of surrounding land users in accordance with Policy M3.13 of the Nottinghamshire Minerals Local Plan.

Annual Topographical Survey

8. A topographical survey of the site shall be submitted to the MPA by 31 December each year, following the commencement of the planning permission. The survey shall identify areas of the site which are unworked, those restored, those undergoing mineral extraction and those to be restored.

Reason: To monitor the phased extraction and restoration of the quarry in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.

Working Hours

9. Mineral extraction, movement/conveying, soil stripping and quarry restoration works shall only take place within the Eastern Extension between the hours of 7.00 am and 7.00 pm Monday to Friday, 7.00am to 6.00pm on Saturdays and at no time on Sundays, Public or Bank Holidays, except in cases of emergency which shall be notified to the MPA in writing within 48 hours of their occurrence.

Reason: In the interest of amenity and in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Drainage and Pollution Prevention

10. There shall be no discharge of foul or contaminated drainage from the Eastern Extension site into either groundwater or any surface waters, whether direct or via soakaway.

Reason: In the interests of groundwater protection, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

11. Any facilities for the storage of oils, fuels or chemicals and their associated filling points, vents, gauges, sight glasses and pipework shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of their aggregate storage capacity, whichever is the greater. There must be no drain through the bund floor or walls.

Reason In the interests of groundwater protection, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

Noise

The free field noise levels associated with the operation of the development attributable to normal operations at the site, when measured at any of the noise-sensitive properties listed below, shall not exceed the following limits measured as Equivalent Continuous Noise Level and 1 hour LAeq:

Location	Maximum site noise limit dB LAeq,1h (free-field)
Former 1 st Galaxy Fireworks	48
Woodland Grange	53
270 Longdale Lane	48
284 Longdale Lane	47
Longdale Plantation	50
Forest Farm Cottages	47

Reason To minimise the impact on the amenity of the local area, in accordance with Policies M3.5 and M3.7 of the Nottinghamshire Minerals Local Plan

12. For temporary operations such as restoration operations, the LAeq level at any noise sensitive properties shall not exceed 70 dB(A). Temporary operations which exceed the normal day to day criterion set out within Condition 14 shall be limited to a total of eight working weeks in any twelve-month period at any individual noise sensitive property.

Reason To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

13. All plant, machinery and vehicles used on the site shall incorporate such noise abatement measures as, from time to time, may reasonably be required by the MPA and shall be silenced at all times in accordance with the manufacturers' recommendations.

Reason: To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

14. All reversing warning devices fitted to plant and machinery operated on the site shall utilise white noise warning devices. Reversing beepers shall not be utilised.

Reason: To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

15. In the event that a complaint is received regarding noise arising from the development hereby permitted which the MPA considers may be justified the operator shall, within 1 month of a request of the MPA, undertake and submit to the WPA for its written approval a BS4142:1997 noise survey to assess whether noise arising from the development exceeds the limits set out within Conditions 12 and 13 above. The monitored noise levels are to be "free-field" carried out at a height of 1.2m to 1.5m above ground level and presented as a Laeq1hour, value. In the event that the noise survey indicates that the levels set out within Conditions 12 and 13 are exceeded then the submitted survey shall include further measures to mitigate the noise impact so as to ensure compliance with the noise criterion. Any additional noise mitigation measures approved by the MPA shall be implemented within one month of the date of their approval and shall thereafter be maintained in accordance with the approved details.

Reason: To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

16. Measures shall be taken to minimise the generation of dust from operations at the site. These shall include, but not necessarily be limited to any or all of the following steps as appropriate:

- a. The use of water bowsers to dampen haul roads, stock-piles and other operational areas of the site;
- b. The sweeping of access and haul roads, where necessary;
- c. The minimisation of drop heights during loading and unloading of sand and gravel;
- d. Limiting on-site vehicle speeds;
- e. The use of sealant as appropriate to create a crust on dusty surfaces.
- f. Upon request of the MPA, the temporary suspension of mineral processing, mineral extraction or soil movements during periods of unfavourably dry or windy weather conditions.

Reason To ensure that dust impacts associated with the operation of the development are minimised, in accordance with the requirements of Policy M3.7 of the Nottinghamshire Minerals Local Plan.

Archaeology

17. No stripping of soil shall take place on the site until a written scheme of archaeological investigation has been submitted to and approved in writing by the MPA. The preparation of the written scheme of archaeological investigation shall be informed from a Lidar survey of the application site. The results of the Lidar survey shall be used to identify targeted areas of potential archaeological interest within the site and the written scheme of archaeological investigation shall incorporate a methodology for the archaeological investigation and treatment of the site and the arrangements for reporting the results of this investigation. The archaeological scheme of investigation shall be implemented as approved. The written report of the archaeological investigation shall be submitted to the MPA within 12 months of the completion of soil stripping.

Reason: To ensure that that adequate archaeological investigation and recording is undertaken prior to the development taking place, in accordance with Policy M3.25 of the Nottinghamshire Minerals Local Plan.

Tree protection.

18. A tree protection methodology for the retained trees around the perimeter of the quarry excavation area shall be agreed in writing with the MPA prior to the commencement of any tree felling works on the site. Individual trees which are identified to be retained within the Arboricultural Report (Reference: CE-BS-1034-RP08 – FINAL: specifically, chapter 5 and supporting Drawing no. D16 Ext East (Drawing D16 Bestwood 2)) shall be protected from damage/felling throughout the life of the quarry development. Individual trees which are identified to be retained shall be tagged to assist with their identification prior to the commencement of any tree felling work. Works in the vicinity of the retained trees shall thereafter by

undertaken in compliance with the approved tree protection methodology at all times.

Reason: To protect the integrity of the boundaries of the site in accordance with Policy M3.4 of the Nottinghamshire Minerals Local Plan and provide opportunities for ecological enhancements.

Screening of site during its operational life

19. In the first planting season following the commencement of soil stripping in the Eastern Extension, supplementary woodland planting shall be provided along the southern boundary of the application site in accordance with the scheme submitted as part of the Arboricultural Report (Reference: CE-BS-1034-RP08 – FINAL) Paragraphs 5.3.1 – 5.3.7. The species mix used within the woodland planting area shall be as set out below (and not as detailed in paragraph 5.3.7 Table 3):

- 15 No Rowan
- 15 No Scots Pine
- 10 No Holly
- 5 No Oak
- 5 No Sweet Chestnut.

Reason: To protect the integrity of the boundaries of the site in accordance with Policy M3.4 of the Nottinghamshire Minerals Local Plan and provide opportunities for ecological enhancements.

Ecology

20. Supplementary nesting boxes shall be installed to target the enhancement of the willow tit population in the area surrounding the quarry within six months of the commencement of the planning permission. The location of the nesting boxes shall be agreed in writing with the MPA prior to their installation.

Reason In the interest of protecting species and their habitats, in accordance with government policy set out within the National Planning Policy Framework.

21. Site clearance operations that involve the destruction and removal of vegetation, including felling, clearing or removal of trees, shrubs or hedgerows shall not be undertaken during the months of March to August inclusive, except when approved in writing by the MPA and in such circumstances following the carrying out and submission in writing to the MPA for approval in writing of an ecological appraisal undertaken by an appropriately qualified person.

Reason To ensure that breeding birds are not adversely affected by the development in accordance with government policy set out within the National Planning Policy Framework.

22. Prior to any tree removal, a licensed bat worker shall re-survey all trees to be felled. The results of the bat survey shall be submitted in writing to the MPA. If bats are present, a working design, method and timetable to mitigate any undue adverse effects on the species involved shall be submitted to the MPA for approval in writing. The mitigation measures shall be implemented as approved.

Reason In the interest of protecting species and their habitats, in accordance with government policy set out within the National Planning Policy Framework.

23. Prior to any vegetation clearance within any phase of the development a walk over survey shall be carried out by an appropriately qualified ecologist to ensure that no badger setts have become established within the working area. The results of the walk over survey shall be submitted in writing to the MPA. If badgers are present, a working design, method and timetable to mitigate any undue adverse effects on these species shall be submitted to the MPA for approval in writing. The mitigation measures shall be implemented as approved.

Reason In the interest of protecting species and their habitats, in accordance with government policy set out within the National Planning Policy Framework.

24. Any protected amphibians or reptiles encountered during the operational life of the quarry shall be removed carefully by hand and moved to a safe location.

Reason In the interest of protecting species in accordance with government policy set out within the National Planning Policy Framework.

25. No floodlighting shall be installed on the site without the prior written consent of the MPA. In the event that consent is sought for floodlighting, the operator shall provide a specification of the proposed floodlighting including its location, angling, shielding and hours of operation which shall be submitted to and approved in writing by the MPA prior to its installation on site. Development shall be carried out in accordance with the approved details.

Reason To minimise impact on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan and to minimise disturbance to bat activity and their roosts.

26. Prior to the stripping of soils from the Eastern Extension area, a working plan shall be submitted setting out the methodology for the creation and subsequent management of the off-set/mitigation habitats that are to be created in the existing quarry, specifically:

- a. The methodology for creating the woodland soil receptor site (3.48ha) including arrangements for direct placement of stripped woodland soils and translocated tree root plates and selected felled timber.
- b. The methodology for creating the additional heathland (2.55ha) within the quarry floor and side slopes.
- c. The methodology for creating the additional woodland (2.42ha) within the quarry.

- d. The methodology for creating the new heath grassland (1.15ha) within the quarry.
- e. The methodology for creating the new wetland (0.34ha within the quarry).

Soil stripping in the Eastern Extension shall not commence until such time that off-set/mitigation strategy is approved in writing by the MPA. The habitats shall thereafter be provided and managed in accordance with the approved details.

Reason In the interest of protecting species and their habitats, in accordance with government policy set out within the National Planning Policy Framework.

- 27. Prior to the stripping of soils within the Eastern Extension the acoustic fence identified along the eastern boundary of the extraction area as identified on Drawing No. D16PD218.PDF – Eastern Extension Phase 2 Development shall be installed in accordance with the details provided as part of Appendix 4 of the Regulation 22 submission. The fence shall thereafter be retained throughout the operational life of the quarry.

Reason: To minimise noise emissions from the development into potentially noise sensitive bird breeding habitats, in accordance with government policy set out within the National Planning Policy Framework.

Soil Stripping, Handling and Storage

- 28. The MPA shall be notified in writing at least 5 working days before soil stripping is due to commence on any phase, or part phase in the event that a phase is not stripped in its entirety in one stripping campaign.

Reason To ensure satisfactory restoration of the site, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

- 29. No turf, topsoil, subsoil or overburden shall be removed from the Bestwood II Quarry. No waste materials including soils and mineral working wastes shall be brought onto the site.

Reason To ensure satisfactory restoration of the site, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

- 30. All soil handing shall be carried out in accordance with the MAFF 'Good Practice Guidance for Handling Soil' (2000) and the DEFRA 'Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (2009).

Reason: To ensure proper restoration and in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

- 31. A detailed soil-handling scheme for each phase of the development shall be submitted in writing to the MPA at least one month prior to the stripping of any soil from each phase of the site. Such a scheme shall include the following details:

- a. The size, location, volume and composition of soil to be stripped;

- b. Details of where the soils will be placed either for direct placement as part of phased restoration operations, or their storage within mounds;
- c. The types of machinery to be used;
- d. The routes to be taken by plant and machinery involved in soil handling operations;
- e. The depths of subsoil and topsoil to be replaced;
- f. The spacing and depth of any post-replacement soil ripping and cultivations.

The development of that phase shall thereafter be carried out in accordance with the approved scheme.

Reason To ensure satisfactory restoration of the site, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

- 32. The topsoil shall be stripped to the full depth of not less than 300mm, and all subsoil shall be stripped to its full depth.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

- 33. No plant or vehicles shall cross any area of unstripped topsoil or subsoil except where such trafficking is essential and unavoidable for purposes of undertaking permitted operations. Essential trafficking routes shall be marked in such a manner as to give effect to this condition. No part of the site shall be excavated or traversed or used for a road, or storage of topsoil, subsoil or overburden or waste or mineral deposits until all available topsoil and subsoil to a minimum depth of 1000mm has been stripped from that part.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

- 34. Soil stripping shall not commence until any standing vegetation has been cut and removed from the area to be stripped.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

- 35. Topsoil, subsoil, and soil making material shall only be stripped when it is in a dry and friable condition and movements of soils shall only occur when all soil above a depth of 300mm is in a suitable condition that it is not subject to smearing and when topsoil is sufficiently dry that it can be separated from subsoil without difficulty.

Reason: To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

36. All storage mounds that will remain in situ for more than 6 months, or over winter, shall be seeded with a suitable mix to benefit farmland birds within 3 weeks of their construction in accordance with a seed mixture which has been agreed in writing by the MPA. The mounds shall thereafter be maintained free of weeds until used for restoration purposes.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

37. Details of the volumes and location of soils stored on the site shall be submitted to the MPA by 31 December each year.

Reason To monitor the restoration of the site and to ensure all available soil resources are conserved or managed, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Soil Replacement

38. The MPA shall be notified in writing at least 5 working days before each of the following:

- a. overburden has been prepared ready for soil replacement to allow inspection of the area before further restoration of this part is carried out, and
- b. when subsoil has been prepared ready for topsoil replacement to allow inspection of the area before further restoration of this part is carried out, and
- c. on completion of topsoil replacement to allow an opportunity to inspect the completed works before the commencement of any cultivation and seeding operation.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

39. Subsoils shall only be replaced on those parts of the site which are restored above water level when the ground on which they are to be placed is in a dry and friable condition and no movements, re-spreading, levelling, ripping or loosening of subsoil or topsoil shall occur when there are pools of water on the surface of the storage mound or receiving area.

Reason: To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

40. Plant and vehicles shall not cross any area of replaced and loosened ground, replaced subsoil, or topsoil except where essential and unavoidable for purposes of carrying out ripping and stone picking or beneficially treating such areas. Only low ground pressure machines shall work on prepared ground.

Reason: To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Replacement Minerals Local Plan.

41. Subsoil shall be re-laid so that the total thickness of settled subsoil is no less than 0.7 metres.

Reason: To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Replacement Minerals Local Plan.

42. Each subsoil layer shall be cross-rippled:

- a. to provide loosening to a minimum depth of 450mm with tine spacings no wider than 1.5m, and
- b. any rock, boulder or larger stone greater than 200mm in any dimension shall be removed from the loosened surface before further soil is laid. Materials that are removed shall be disposed of off-site or buried at a depth not less than 2 metres below the final contours.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

43. Topsoil shall be evenly re-spread on the land to achieve at least a minimum of 300mm settled depth.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

44. The re-spread topsoil shall be rendered suitable for agricultural cultivation by loosening:

- a. to provide loosening equivalent to a single pass at a tine spacing of 1.5 metres or closer;
- b. to full depth of the topsoil plus 100mm;
- c. and any non-soil making material or rock or boulder or larger stone lying on the loosened topsoil surface and greater than 100mm in any dimension shall be removed from the site or buried at a depth not less than 2 metres below the final settled contours.

Reason To ensure proper restoration of the site, conserving and managing all available soil resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

45. The operator shall take all reasonable precautions to prevent the mixing of topsoil, subsoil and overburden.

Reason: To ensure proper restoration and in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Restoration

46. The phased restoration plan and landscaping scheme for the total application site shall be carried out in accordance with Drawing No. D16PD618.PDF: Eastern Extension Area – Final Restoration received by the MPA on 20th July 2018. The implementation of the restoration and landscaping scheme shall be carried out progressively in general compliance with the timetable shown on Drawing No.'s D16PD118/218/318/418/518.PDF: Eastern Extension Area – Phase 1 – Phase 5. The backfilled material shall be levelled and graded in accordance with the restoration contours identified on the plan and the level of the site.

Reason: To ensure proper restoration and in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

47. At the completion of each phase of restoration the operator shall meet on site with representatives of the MPA, and other parties with an interest in the land. The purpose of the meeting shall be to agree that the replacement material conforms generally with the landform and levels as set out in the agreed restoration plan.

Reason: To ensure proper restoration and in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

Aftercare

48. Following restoration the land shall undergo aftercare management for a 25 year period.

Reason To provide for aftercare of the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.

49. Prior to any area being entered into aftercare the extent of the area and its date of entry into aftercare shall be agreed in writing with the MPA, the aftercare period shall run from the agreed date.

Reason To provide for aftercare of the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.

50. An aftercare scheme and strategy shall be submitted for the written approval of the MPA no later than 3 months before the spreading of subsoil commences within each phase. The strategy shall outline the steps to be taken, the period during which they are taken, and who will be responsible for taking those steps to ensure the land is restored and brought back to a satisfactory condition. The aftercare scheme shall include but not be restricted to details of the following:

- a. cultivations;
- b. weed control;
- c. sowing of seed mixtures;
- d. soil analysis;

- e. keeping of records and an annual review of performance and proposed operations for the coming year, to be submitted to the MPA between 31 March and 31 May each year;
- f. drainage arrangements;
- g. subsoiling and underdrainage proposals;
- h. management practices such as the cutting of vegetation;
- i. tree protection;
- j. remedial treatments;
- k. irrigation; and
- l. fencing.

Reason To provide for aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.

- 51. Site management meetings shall be held with the MPA each year to assess and review the detailed annual programmes of aftercare operations referred to in Condition 51(e) above, having regard to the condition of the land; progress in its rehabilitation and necessary maintenance.

Reason To provide for aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.

- 52. The aftercare programme shall be implemented in accordance with the details approved under Condition 51 above, as amended following the annual site meeting referred to in Condition 52 above.

Reason To provide for aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.

Cessation of Workings

- 53. Should, for any reason the winning and working of minerals from the application site cease for a period in excess of 6 months which in the reasonable opinion of the MPA constitutes a permanent cessation of mineral extraction, then within three months of the receipt of a written request from the MPA, a revised scheme for the restoration of the site shall be submitted to the MPA. Such a scheme shall include a schedule of timings, final contours, provision of soiling, sowing of grass, planting of trees and shrubs, drainage and fencing in a similar manner to that submitted with the application and modified by these conditions. The revised restoration scheme shall be implemented within 12 months of its approval by the MPA, and shall be subject to the aftercare provisions of Conditions 49 – 53.above.

Reason: To achieve a satisfactory restoration of the site in the event of premature closure of the site.

Notes to Applicant

1. The Environment Agency advise that abstractions for the purpose of dewatering mines, quarries or engineering excavations are currently exempt from the need for a licence under the Water Resources Act 1991. This changes under the Water Act 2003 and draft regulations have been laid in parliament before coming into force from 1st January 2018. Once the regulations become live on 1st January 2018 a licence will be required for the majority of dewatering activities. There will be a two year application window until December 2019 for applications for existing dewatering operations to be made, to be followed by a three year determination period (from January 2020) for the Agency to process them. If the dewatering operations will take commence after 1st January 2018 the applicant would need to consult us at the earliest opportunity to discuss licensing requirements. Any new licence would be dependent on whether resources are available as set out in the abstraction licensing strategy. The applicant should be aware that the Sherwood Sandstone aquifer at Bestwood is closed to further consumptive abstraction licences. A copy of the Abstraction Licensing Strategy for the Lower Trent and Erewash area can be found on Gov.uk following the link below:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/291403/LI
2. Cadent Gas advise that there is a 610mm high pressure gas pipeline which runs adjacent to the eastern boundary of the extension area. The applicant is reminded of their legal obligations to ensure the safety and integrity of this pipeline is protected. The scheme of protection shall have regard to the legal obligations imposed through the 1965 Deed of Grant which includes the provisions under the Mining Code.

RECOMMENDED PLANNING CONDITIONS

GEDLING DISTRICT REF. NO.: 7/2017/1504NCC

PROPOSAL: TO VARY CONDITIONS 3, 6 AND 29 OF PLANNING PERMISSION 7/2014/1156/NCC FOR AN EXTENSION OF TIME TO EXTRACT THE REMIANING MINERAL WITHIN BESTWOOD II QUARRY UNTIL 31ST DECEMBER 2028.

Commencement

- 1 The development hereby permitted shall be begun within 3 years from the date of this permission.

Reason To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990.

2. The Minerals Planning Authority (MPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of the development.

Reason To enable the MPA to monitor compliance with the conditions of the planning permission.

Scope of Planning Permission

3. This permission is for the continuation of Sherwood Sandstone extraction, processing and stockpiling until 31st December 2028 from the area edged red on Drawing No. D016-00053 Bestwood II Quarry Site Plan dated 24/08/2017. The planning permission consolidates the development rights for mineral workings provided by planning permission 7/2014/1156/NCC, 7/97/0249, 7/97/1338, 7/99/0553 and 7/2007/0557. These earlier planning permissions are referenced in this section on the basis that a number of the documents identified in the following conditions originate from the original planning permission for the development of the quarry.

Reason To explain the context of this planning permission and for the avoidance of doubt.

4. The development shall be carried out only in accordance with the details set out within the following documents, unless otherwise agreed in writing with the MPA, or where amendments are made pursuant to the other conditions below:
 - Drawing No. D016-00052 Bestwood II Quarry Location Plan dated 24/08/2017.
 - Drawing No. D016-00053 Bestwood II Quarry Site Plan dated 24/08/2017

- Drawing No. D16/36: Extraction Development Cross Sections – Bestwood II Quarry dated 23rd May 2007.
- Drawing No. D16/37 Restoration Cross Sections – Bestwood II Quarry received 23rd May 2007.
- Drawing No.'s. D16/40/41 Phase 1 & 2 Extraction – Bestwood II Quarry received 23rd May 2007.
- Landscape and restoration strategy (Chapter 2) setting out the restoration objectives for the wider quarry area incorporated within the Submission of further Information made in respect of Planning Application 7/2017/1491NCC received by the MPA on 20th July 2018, and in particular:
 - Drawing No. D16PD118.PDF, 218/PDF, 318.PDF 418.PDF, 518.PDF Eastern Extension Area Phase 1-5 development (incorporating overburden and soil storage arrangements in original quarry area) received by the MPA on 20th July 2018.
 - Drawing No. D16/PD618.PDF – Bestwood II Eastern Extension Final Restoration dated 25/06/2018.

Reason For the avoidance of doubt

5. From the commencement of the development to its completion a copy of this permission including all plans and documents hereby approved, and any other plans and documents subsequently approved in accordance with this permission, shall always be available at the site offices for inspection by the MPA during normal working hours.

Reason To ensure that the development is carried out in an orderly manner.

Duration

6. The extraction, processing and stockpiling of sand hereby permitted shall cease on or before 31st December 2028. The site thereafter by restored in accordance with Drawing No. D16/PD618.PDF – Bestwood II Eastern Extension Final Restoration dated 25/06/2018 and supporting landscape and restoration strategy (Chapter 2) setting out the restoration objectives for the wider quarry area incorporated within the Submission of further Information made in respect of Planning Application 7/2017/1491NCC received by the MPA on 20th July 2018. Restoration works within the original quarry area shall be completed by 31st December 2030. All buildings, plant and machinery shall be removed from the site within six months of the completion of mineral extraction in the Eastern Extension or by 31st December 2030, should this date occur first.

Reason To secure proper restoration of the site within an acceptable timescale and in accordance with Policy M4.8 of the Nottinghamshire Minerals Local Plan.

Buildings, Fixed Plant and Machinery

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, no buildings, fixed plant, or machinery,

other than approved by this permission shall be erected or placed on the site without the prior written approval of the MPA.

Reason To enable the Minerals Planning Authority to control the development and minimise its impact on the amenity of the local area and the openness of the Green Belt, in accordance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

Access

8. There shall be no direct vehicular access to the A60, or any other public highway, from the site other than via the existing quarry access road permitted under Planning Permission Ref. No. 7/17/86/1566 dated 22 January 1988.

Reason In the interests of highway safety and to safeguard the local environment and in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

Working Practices

9. The maximum depth of mineral extraction shall be:
- Within the areas hatched red and green on Drawing No. D016/14/02: Bestwood II Quarry Site Plan dated 09/14 the maximum depth of workings shall be 85m AOD.
 - Within the areas hatched blue and purple on Drawing No. D016/14/02: Bestwood II Quarry Site Plan dated 09/14 the maximum depth of workings shall be 80m AOD.

Reason For the avoidance of doubt and to ensure protection of groundwater in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

10. All mineral extracted from the application site shall be processed within the existing quarry sand processing plant and thereafter transported along the existing quarry access road to the A60.

Reason For the avoidance of doubt and to safeguard the local environment in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

Hours of working

11. Except in emergencies when life, limb or property are in danger and which are to be notified to the MPA within 48 hours of their occurrence, or with the prior written agreement of the MPA, the following shall not take place except within the hours specified below:

	Monday to Friday	Saturdays	Sundays, Bank and Public Holidays
Mineral extraction, processing or treatment	7am to 8pm	7am to 6pm	Not at all
Replacement, regrading or ripping of soils or overburden	7am to 6pm	7am to 1pm	Not at all
Servicing, testing or maintenance of plant and machinery	7am to 8pm	7am to 5pm	Not at all
Heavy goods vehicles entering and leaving the site.	7am to 7pm	7am to 1pm	Not at all

Reason To minimise the impact of the development on the amenity of the local area, in accordance with Policies M3.5 and M3.7 of the Nottinghamshire Minerals Local Plan.

Surface Water Drainage and Pollution Prevention

12. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaway.

Reason In the interests of groundwater protection, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

13. Any facilities for the storage of oils, fuels or chemicals and their associated filling points, vents, gauges, sight glasses and pipework shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of their aggregate storage capacity, whichever is the greater. There must be no drain through the bund floor or walls.

Reason In the interests of groundwater protection, in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

Noise

14. The free field noise levels associated with the development, when measured at any of the noise-sensitive properties listed below, shall not exceed the following limits measured as Equivalent Continuous Noise Level and 1 hour LAeq:

Criterion Noise Levels 0 LAeq, 1 hour

<u>Location</u>	<u>LAeq</u>
Woodland Grange	55
The Bungalow	53
270, Longdale Lane	50

Reason To minimise the impact of the development on the amenity of the local area, in accordance with Policies M3.5 and M3.7 of the Nottinghamshire Minerals Local Plan.

15. For temporary operations such as restoration operations, the LAeq level at any noise sensitive properties shall not exceed 70 dB(A). Temporary operations which exceed the normal day to day criterion set out within Condition 14 shall be limited to a total of eight working weeks in any twelve month period at any individual noise sensitive property.

Reason To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

16. All plant, machinery and vehicles used on the site shall incorporate such noise abatement measures as, from time to time, may reasonably be required by the MPA and shall be silenced at all times in accordance with the manufacturers' recommendations.

Reason To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

17. All reversing warning devices fitted to plant and machinery shall be operated in accordance with the details submitted by the applicant on 15th April 2002 and approved by the MPA on the 2nd May 2002 in discharge of Condition 28 of Planning Permission 7/99/0553.

Reason To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Highway Protection and Safety

18. All vehicles leaving the site shall use the wheel cleaning facilities which shall be maintained in an effective state for the duration of the development so that no vehicle shall leave the site in a condition whereby mud or other deleterious material is carried onto the public highway.

Reason In the interests of highway safety and to safeguard the local environment, in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

19. The loads of all vehicles transporting minerals from the site shall be fully covered by sheeting prior to leaving the site.

Reason In the interests of highway safety and to safeguard the local environment, in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

Topographical Survey

20. A topographical survey of the entire application site shall be supplied to the MPA on an annual basis. The topographical survey shall utilise a grid spacing no greater than 20 metres.

Reason: To ensure the site is worked and restored in accordance with the approved plans.

Dust

21. Dust control and management shall be undertaken in accordance with the scheme submitted by the applicant on the 11th November 2002 in discharge of Condition 29 of Planning Permission 7/99/0553. Should at any time the scheme prove ineffective such that a dust nuisance occurs, then upon written request from the MPA such other measures or changes in working practice as may be reasonably agreed with the MPA shall be undertaken to remedy the nuisance, including, when appropriate, the temporary suspension of mineral extraction and replacement operations during periods of unfavourable dry and windy weather conditions. All dust measurement equipment shall be maintained in good working order throughout the life of the site.

Reason To minimise the impact of the development on the amenity of the local area, in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.

Soil Preservation

22. All stripped topsoil and subsoils shall be permanently retained within the quarry for subsequent use in restoration.

Reason To ensure proper restoration of the site, conserving and managing all available soils resources, in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Soil Replacement

23. Except where otherwise agreed with the MPA, restoration to nature conservation and woodland shall be carried out in accordance with the following documents:

- Landscape and restoration strategy (Chapter 2) setting out the restoration objectives for the wider quarry area incorporated within the Submission of further Information made in respect of Planning Application 7/2017/1491NCC received by the MPA on 20th July 2018, and in particular:
 - Drawing No. D16PD118.PDF, 218/PDF, 318.PDF 418.PDF, 518.PDF Eastern Extension Area Phase 1-5 development (incorporating overburden and soil storage arrangements in original quarry area) received by the MPA on 20th July 2018.
 - Drawing No. D16/PD618.PDF – Bestwood II Eastern Extension Final Restoration dated 25/06/2018.

Overburden material shall be replaced and levelled so that after replacement of topsoil and subsoil the post settlement contours conform with those shown on Drawing No. D16/42A.

Reason To ensure proper restoration of the site, conserving and managing all available soils resources, in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

24. Subsoils or soil making material shall only be replaced when they and the ground on which they are to be placed are in a dry and friable condition. No movements, respreading, levelling, ripping or loosening of subsoil or topsoil shall occur when there are pools of water on the surface of the storage mound or receiving area.

Reason To ensure proper restoration of the site, conserving and managing all available soils resources, in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

25. Where wet weather conditions render it impractical to complete topsoil reinstatement and it becomes clear that operations cannot be completed before winter then the surface of the reinstated soil should be temporarily seeded (by hand if necessary) to provide some ground cover and aid drying out the soil in the spring. Details of how the vegetation should be treated the following spring shall be agreed in writing by the MPA before restoration resumes the following season. Also necessary precautions shall be undertaken to control surface water run-off and prevent soil erosion in accordance with details previously submitted to, and approved in writing by, the MPA.

Reason To ensure proper restoration of the site, conserving and managing all available soils resources, in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

Restoration

26. The site shall be restored in accordance with Drawing No. D16/PD618.PDF – Bestwood II Eastern Extension Final Restoration dated 25/06/2018. From the date of aftercare commencement, replacement trees shall be planted during the first planting season which runs between 1 November and 31 March. Any trees or shrubs forming part of an approved planting scheme that die or become deceased, damaged or removed within 5 years of planting shall be replaced during the first planting season thereafter with others of a similar size and species

and maintained, unless the MPA gives written consent for a variation to be replanted.

Reason To ensure proper restoration of the site, conserving and managing all available soils resources, in accordance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

Aftercare

27. Prior to the replacement of any soils/regarding of the final landform an aftercare scheme providing for such steps as may be necessary to bring the land up to the required standard for conservation/heathland use within a five-year aftercare period shall be submitted to, and approved by, the MPA. The aftercare scheme shall include but not be restricted to details of the following:

- (a) cultivations;
- (b) weed control;
- (c) sowing of seed mixtures;
- (d) soil analysis;
- (e) Keeping of records and an annual review of performance and proposed operations for the coming year, to be submitted to the MPA between 31 March and 31 May each year;
- (f) drainage amendments;
- (g) management practices such as the cutting of vegetation;
- (h) tree protection;
- (i) remedial treatments;
- (j) irrigation;
- (k) fencing; and
- (l) As far as practical, the retention of as much naturally regenerated vegetation within the site.

Reason To provide aftercare for the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.

28. Site management meetings shall be held with the MPA each year to assess and review the details of the annual programmes of aftercare operations, having regard to the condition of the land; progress in its rehabilitation and necessary maintenance. The aftercare programme shall thereafter be amended (if necessary) following the annual site meeting review to take account of any recommendations.

Reason To provide aftercare for the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.

Removal of Mining Facilities

29. Within three months of the completion of mineral extraction or not later than 31st December 2030, whichever is the sooner, all plant, machinery, buildings, conveyors and associated structures shall be removed from the application site. Any areas of hardstanding, shall be broken up and removed from the site.

Reason To secure proper restoration of the site within an acceptable timescale and in accordance with Policy M4.8 of the Nottinghamshire Minerals Local Plan.

Temporary Cessation of Working

30. Should, for any reason, the extraction of sandstone from the site cease for a period in excess of 12 months then, within 3 months of the receipt of a written request from the MPA, a revised scheme for the restoration of the site shall be submitted to, for approval in writing by, the MPA. Such a scheme shall include a schedule of timings, final contours, provision of soiling, sowing of grass, planting of trees and shrubs, drainage and fencing in a similar manner to that submitted with the application and subsequently modified by these conditions. The revised restoration scheme shall be implemented in accordance with the approved details approved and thereafter shall be subject to the aftercare provisions of conditions 27-28 above.

Reason To secure proper restoration of the site within an acceptable timescale and in accordance with Policy M4.8 of the Nottinghamshire Minerals Local Plan.

RECOMMENDED PLANNING CONDITIONS

GEDLING DISTRICT REF. NO.: 7/2017/1505NCC

PROPOSAL: VARY CONDITION 4 OF PLANNING PERMISSION 7/2015/0320NCC TO ENABLE RETENTION OF THE VISITORS CAR PARK UNTIL FINAL RESTORATION OF THE QUARRY (31ST DECEMBER 2030 OR WITHIN TWO YEARS OF THE COMPLETION OF MINERAL EXTRACTION, (WHICHEVER IS SOONER).

1. Planning permission is granted for the retention of the car park facility at Bestwood II Quarry as identified in red shading on Drawing No. DN016-00053 Bestwood II Site Plan for a temporary period expiring on 31st December 2030 or two years following the completion of mineral extraction, whichever occurs sooner. At the end of this period the car park shall be removed and the site shall be restored as part of the wider quarry restoration scheme in accordance with Drawing No. D16/PD618.PDF – Bestwood II Eastern Extension Final Restoration dated 25/06/2018. The restored site shall thereafter undergo five year aftercare as part of the provisions in place for the wider quarry site provided under the requirements of Condition's 27 and 28 of Planning Permission 7/2017/1504NCC, or any subsequent Section 73 decision issued against this planning permission.

Reason To secure proper restoration of the site within an acceptable timescale and in accordance with Policy M4.8 of the Nottinghamshire Minerals Local Plan.

RECOMMENDED PLANNING CONDITIONS

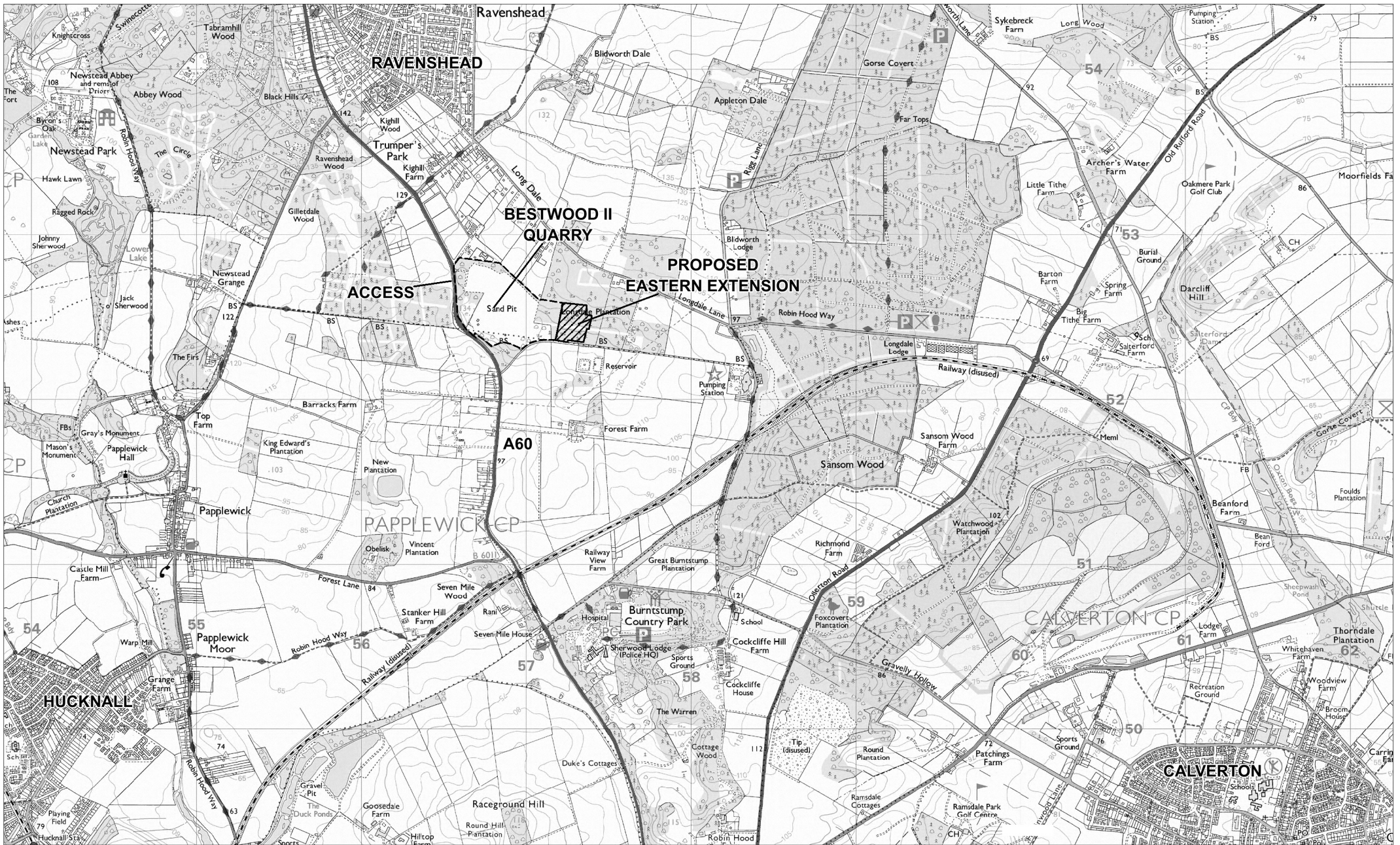
GEDLING DISTRICT REF. NO.: 7/2017/1493NCC

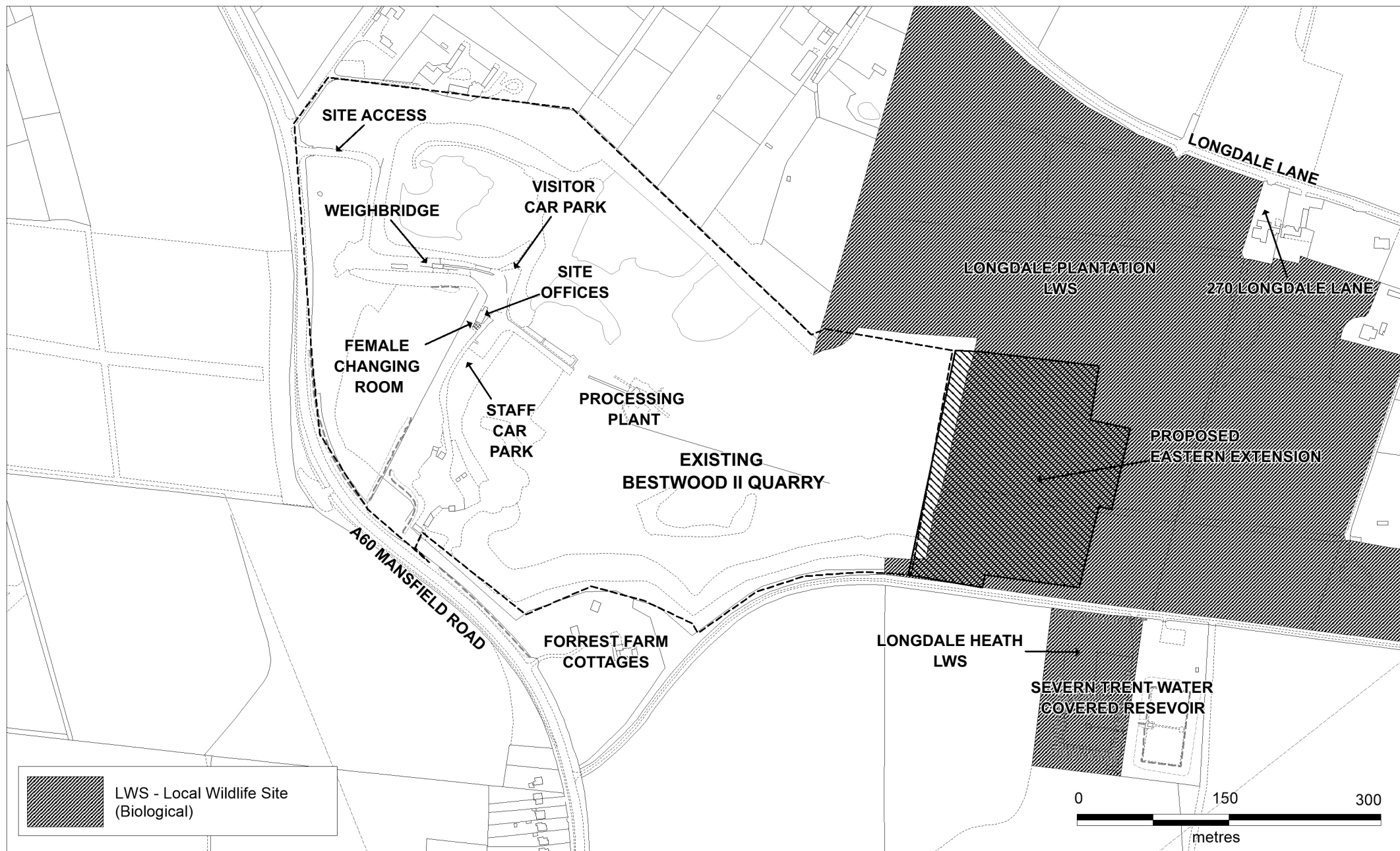
PROPOSAL: ERECTION OF A PORTABLE UNIT TO PROVIDE CHANGING FACILITIES FOR FEMALE STAFF.

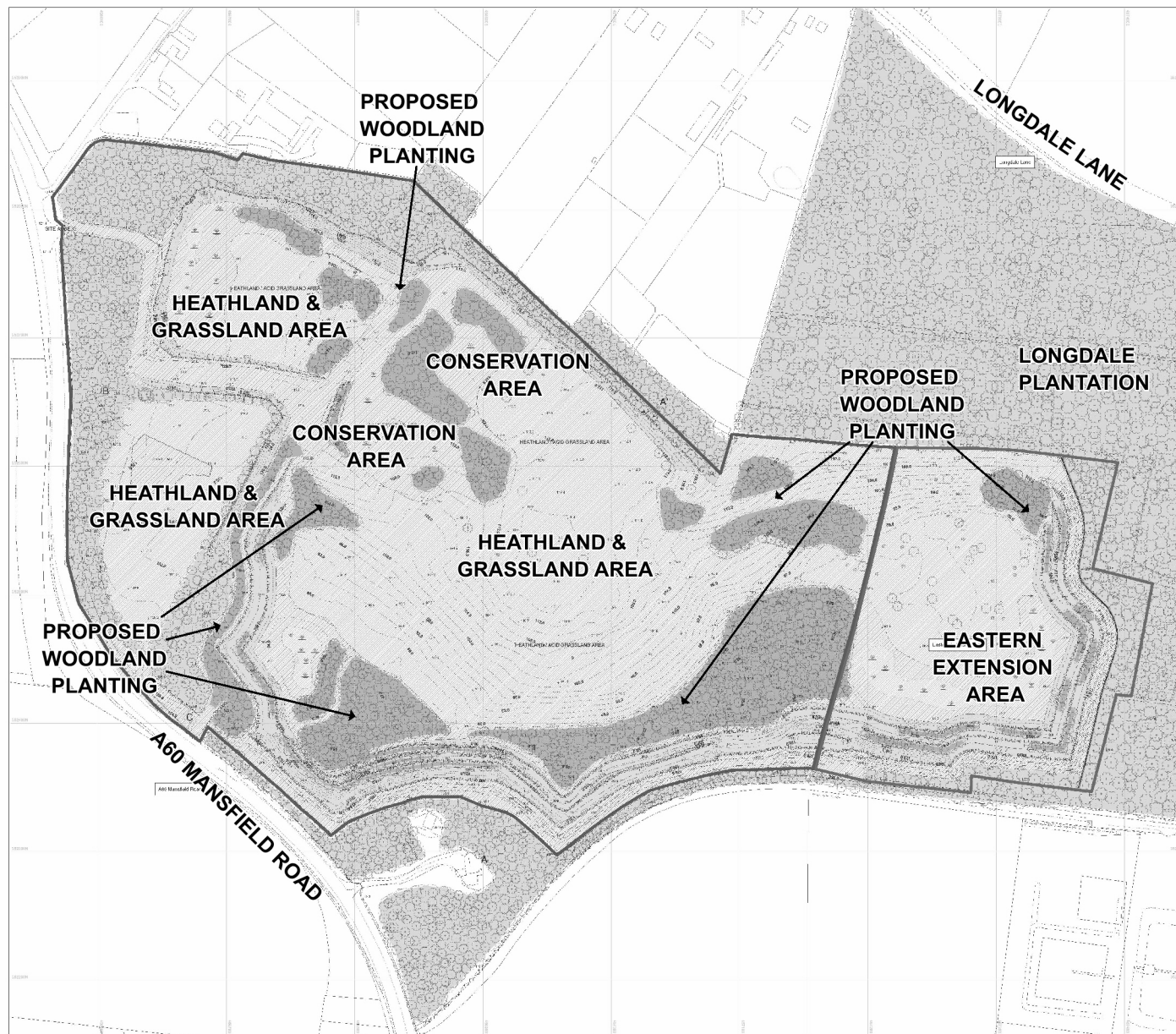
Commencement

1. Planning permission is granted for the retention of the portable changing facilities for female staff at Bestwood II Quarry as identified in red shading on Drawing No. DN016- 00055 Bestwood II Site Plan and PBSE5698 Rev. A Plan and Elevations for a temporary period expiring on 31st December 2030 or two years following the completion of mineral extraction, whichever occurs sooner. At the end of this period the portable building shall be removed and the site shall be restored as part of the wider quarry restoration scheme in accordance with Drawing No. D16/PD618.PDF – Bestwood II Eastern Extension Final Restoration dated 25/06/2018. The restored site shall thereafter undergo five year aftercare as part of the provisions in place for the wider quarry site provided under the requirements of Condition's 27 and 28 of Planning Permission 7/2017/1504NCC, or any subsequent Section 73 decision issued against this planning permission.

Reason To secure proper restoration of the site within an acceptable timescale and in accordance with Policy M4.8 of the Nottinghamshire Minerals Local Plan.









11 December 2018

Agenda Item: 6

REPORT OF CORPORATE DIRECTOR – PLACE

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/18/01737/CMA

PROPOSAL: VARY CONDITIONS 3 AND 33 OF PLANNING PERMISSION 3/14/01995/CMA TO AMEND RESTORATION AND METHOD OF WORKING, FOR OPERATIONAL REASONS.

LOCATION: CROMWELL QUARRY, GREAT NORTH ROAD, CROMWELL, NEWARK, NG23 6JF

APPLICANT: CEMEX UK

Purpose of Report

1. To consider a planning application for proposed changes to the approved method of working/phasing plans and to the approved restoration plan under conditions 3 and 33 of the operational planning permission for Cromwell quarry. The key issue relates to the suitability of the restoration design for landscape and conservation objectives. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1.

The Site and Surroundings

2. Cromwell quarry is a sand and gravel quarry situated between the River Trent and the A1 approximately 7km north of Newark. The area is characterised by the A1 arterial corridor and by expansive arable farming in the river valley. The historic village of Cromwell extends along the remnant of the former Great North Road located on the opposite, west side of the present A1 and is subject to restricted HGV access. Quarry traffic is subject to a routeing agreement (part of a legal agreement) to/from the A1 avoiding the centre of the village with access utilising an overbridge and existing slip roads near to the Milestone Brewery. Access into the site is directly opposite the overbridge by means of an internal haul road. The location and means of HGV routeing is shown on plan 1.
3. Cromwell quarry continues a long history of local mineral extraction. Directly to the north of the present quarry is a mothballed quarry with permission for some inert waste operations. It includes several flooded quarry 'pits' which are recognised as a Local Wildlife Site (LWS). Lying across the River Trent are the much larger expanses of Langford quarry, with its extensive wetland restoration

now an RSPB reserve. To the north-east is Besthorpe quarry, again forming an expansive area of restored habitats and continued mineral extraction.

4. Cromwell weir and lock lies to south east. A small lane also designated as a public footpath (No.5) runs down to the locks and a fisherman's car park. This forms the site's southern boundary and is flanked by dense hedgerows.
5. The quarry area extends to 26 hectares of arable farmland predominantly split across a northern and a southern field, bound by mature hedgerows. Soils and overburden stripped from the first phases have been used to form landscaped bunds on the western boundary with the A1 and along the southern and eastern boundaries, with the latter screening operations from the riverside bridleway. This right of way follows the flood bank/pasture and lies within the planning site boundary, but is excluded from the permitted extraction area. A modular processing plant, site offices and parking area has been established behind the bunding on the western side. A clean water lagoon has been created, along with a discharge drain and outfall into the river.
6. Mineral extraction is taking place over 10 phased strips of farmland. To date extraction has been completed across the southern field phases 1-4, working west to east after which a series of silt settlement and water lagoons have and are in the process of being created. Mineral extraction has now moved into the northern field and into phases 5 and 6 on the north-eastern corner of the quarry and will progressively work in a westerly direction towards the plant site. The current situation is depicted on plan 2.

Planning history

7. The development of the quarry has a history of initial delays and complications. Planning permission for sand and gravel extraction at the site was first granted in 1998 (ref 3/94/1169/CM) with the requirement to commence within five years. As the development did not commence within this timescale an application was submitted (ref 3/03/02626/CMA) seeking more time in which to commence the development and eventually approved in 2009 after completion of a legal agreement.
8. Enabling and site set-up works commenced in 2009 with the stripping of some soils and formation of landscape bunds and some drainage ponds. These works took place despite a number of pre-commencement conditions not being satisfied by the operator. Despite this, investigations by the Council concluded that there was no actual breach of planning control as mineral extraction had not yet commenced.
9. Works were then mothballed by the operator in 2014. Two applications to further extend the time for implementation were subsequently submitted, but later withdrawn due to legal issues. A third application (ref 3/14/01995/CMA) for more time for implementation was then granted in March 2016. Works then recommenced and a new processing plant was erected which enabled the start of mineral extraction. This operational planning permission is subject to 42 planning conditions and a legal agreement. The permission requires completion

of extraction by May 2028 and restoration by May 2029 which is 12/13 years from the commencement of extraction in 2016.

10. Various Non-Material Amendments and approvals to the permission have been agreed during its operational life to date to retain an in-situ electricity pole in the south-west corner, as well as changes to some soil bunds and the addition of a wheel wash, offices and stores.

Proposed Development

11. This application, under Section 73 of the Town and Country Planning Act 1990, seeks to vary certain approved plans pursuant to conditions 3 and 33 of the extant planning permission 3/14/01995/CMA.
12. Condition 3 contains the general list of approved plans for the quarry. The application seeks permission to substitute the working/phasing plans with a new set of plans starting with phase 5 (the current situation) through to completion and restoration.
13. The application also seeks to substitute the approved site restoration plan cited in condition 33 which requires restoration to be undertaken in a phased manner which achieves the final restoration design and landform as detailed on the approved restoration plan.
14. The changes are sought due to the operator encountering higher than anticipated levels of silts and clay materials during extraction to date. Silt levels were originally predicted at levels of 3%, but have been experienced at levels of 20% of total extraction volumes. This has consequently required the formation of additional silt settlement lagoons within the worked-out areas across the southern area of the quarry. The extant phasing plans envisaged a requirement for only two linear settlement lagoons to be created in phase 1 (after the prior extraction of minerals). This has delayed the restoration of these areas until they have been filled and dried out as well as impacting on the final restoration design.
15. As per the existing restoration design the revised design still proposes restoration to a mix of open waterbodies, reed beds/marsh and marginal habitats, neutral grassland meadow, tree planting and hedgerows. Two earth banks suitable for kingfisher nesting are also still planned. Only materials indigenous to the site would be used in the restoration.
16. During the course of processing the application, concerns were raised by NCC Nature Conservation and NCC Landscape. The restoration plan has been amended in response and this revised plan is shown on plan 3.
17. The main changes to the design of the restoration scheme when compared with the currently approved scheme are:
 - Creation of two separate lakes across the northern parts of the site instead of one naturalistic lake across the north and into the south. Full retention of a

north-south hedgerow between the lakes, which marks a land ownership boundary. This results in a two hectare reduction in the area of open lakes.

- An increased final water depth from 4m to 5mAOD as a result of a better understanding of the local water table. Omission of small islands within the lake due to lack of restoration materials. Addition of tern rafts in lieu.
- Relocation of marsh/reedbeds and wet grassland area from the eastern side of the lake to the southern area of the silt lagoons. This will provide an increase of 1.5ha of reed beds compared to the existing plan. New woodland and scrub planting along the southern edge (1.2ha increase).
- Creation of a neutral grassland meadow on one capped silt lagoon. Riverside meadowland retained (1.9ha reduction).
- Addition of maintenance access tracks.
- Increased number of ponds and scrapes.

Consultations

18. Newark and Sherwood District Council- No objection.

Raises no objection provided that Nottinghamshire County Council is satisfied that the proposal complies with the relevant Development Plan policies.

19. Cromwell Parish Meeting - Comment.

The Parish Meeting understands the position of Cemex and that it is necessary to put the excess silt back into the ground. They however believe Cemex had ample opportunity to test the geology prior to the original planning permission.

Some concern is expressed in relation to the creation of the resulting marsh area and for the safety of children and others. Fencing and safety signage will be essential.

It is a pity that the plans could no longer feature the island in the lake, since this would have provided very safe nesting sites.

20. NCC (Nature Conservation) - No objection.

Whilst it remains disappointing that changes have had to be made to scheme, there seems little alternative but to accommodate these within a revised restoration and efforts have been made to tweak the revised restoration to address concerns previously raised.

The most significant element of the restoration scheme is now the reedbed area, extending to nearly 4.5ha, on the proposed silt lagoon area. Silt will be deposited to a level of 4.0-4.5m AOD, with water levels predicted to settle at 5.0m AOD. Covering this area with 0.5-1.0m of water will restrict willow colonisation. However, meeting these specifications will be critical to success, including through careful silt deposition to avoid silt lagoons being unevenly

filled or filled above the 4.0-4.5m AOD, and to accommodate open water areas within the proposed reedbed (presumably by having areas of deeper water).

A detailed reedbed creation methodology should be required by condition to cover the management of silt deposition, the design of open water areas, and the design of water management structures (e.g. to allow topping up of water levels during later winter/spring, from the main lake to the north, if necessary). This area should also be subject to an extended aftercare period, to ensure that the reedbed has properly established.

21. Nottinghamshire Wildlife Trust - Comments

NWT welcomes the provision of more reedbed and less open water in the proposed restoration scheme, but is disappointed that the area of wet grassland has been further reduced.

NWT would support the revised restoration scheme if further enhancements to benefit priority habitats and species are included. These are:

- An increased area of wet grassland by lowering the eastern lake area and landforming it with shallow scrapes and undulations;*
- Redesign of the wet woodland areas, preferably as a single block rather than narrow strips;*
- Provision of additional ponds in the neutral grassland field in the south west corner of the site;*
- Provisions of channels of water within the reedbed area.*

22. Via (Landscape) – No objection.

Welcomes the amendments made to the restoration scheme during the course of the application and has no further comments to make.

23. Natural England – Does not wish to make any specific comments.

24. Environment Agency - No objection.

Provides general advice on permit requirements.

25. Canal and River Trust – Does not wish to make any specific comments.

26. NCC Flood Risk – Standing advice applies.

27. Via (Countryside Access) - No objection.

The revisions are unlikely to have any impact on the riverside bridleway. With the bunds currently in place and the fact that no reports or concerns have been raised by horse riders, at present no concern is raised.

Notes that Cemex will fence off the restored reed beds with stock proof post and wire fencing and that the ownership boundary would be reinstated.

28. **Western Power Distribution** have not responded. Any response received will be orally reported.

Publicity

29. The application has been publicised by means of site notices placed within the village as well as around the periphery of the quarry, and by means of a press notice. There are no neighbouring properties requiring individual notification. This approach accords with the County Council's adopted Statement of Community Involvement. No representations from members of the public have been received.
30. Councillor Bruce Laughton has been notified of the application.

Observations

Planning policy assessment

31. As an application under Section 73, the decision maker is required to concern themselves with the matter of the conditions which are proposed to be varied and not to revisit the overall acceptability of the development which already benefits from planning permission. However as a planning application in its own right it is correct to consider the proposal against relevant Development Plan policies and material considerations, including any revised or new policy requirements since the extant permission was granted.
32. In this case there have been no changes to the adopted Development Plan since the grant of the extant planning permission in 2016. The Development Plan comprises the Nottinghamshire Minerals Local Plan (2005) (MLP), along with any relevant policies within the Newark and Sherwood Core Strategy and its accompanying Allocations and Development Management Policies Development Plan Document. The most relevant policies are contained within the MLP.
33. MLP policy M2.1 sets out the overarching sustainable development objectives for mineral working. These include: the conservation and efficient use of minerals and ensuring an adequate supply to meet society's needs; minimising the production of waste during mineral working; ensuring that the environmental and transport impacts are kept to an acceptable minimum; the protection of designated landscapes, cultural heritage or nature conservation sites and the use of sensitive working, restoration and aftercare practices so as to preserve and enhance the overall quality of the environment once extraction has ceased with the creation of valuable new habitats and features.
34. Consultation has taken place on a draft replacement Minerals Local Plan, to which negligible weight can be given to its policies at this stage.
35. The revised National Planning Policy Framework (NPPF) published in July 2018 (and supporting practice guidance) are full material considerations. The revised

NPPF largely carries forward previous policy aims for mineral extraction and for biodiversity and the following summary is considered to be relevant.

36. Under the NPPF minerals are confirmed as a finite resource and a sufficient supply is essential to provide for the infrastructure and buildings the country needs. It should be ensured that mineral extraction would not create unacceptable adverse impacts on the natural and historic environment, human health, or aviation safety, (taking into account cumulative effects of multiple impacts from sites and/or from multiple sites in the locality). Minerals planning authorities should seek site restoration and aftercare at the earliest opportunity and which should achieve high environmental standards (para 205).
37. Chapter 15 of the revised NPPF sets out the objectives relating to the conservation and enhancement of the natural environment. Planning decisions should minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (para 170). The NPPF also promotes through the plan making system the conservation, restoration and enhancement of priority habitats, ecological networks/ corridors and the protection and recovery of priority species.

Impacts to the phasing/sequence of extraction and restoration

38. Sand and gravel extraction is taking place in a phased sequence of working across the permitted site area. A set of phasing plans forms part of the planning permission. This approach is in line with good operational practice and accords with the principle of MLP policy M4.1 which requires extraction, restoration and after-use to be undertaken on a phased, sequenced approach. Depending on the circumstances this allows the extent of operational areas at any one time to be minimised, whilst getting restoration works underway once extraction is complete in an area and where it is no longer needed for operational use. The MLP however also recognises that there can sometimes be uncertainties in mineral extraction such that final restoration plans can evolve in terms of their landscaping detail and final contours for example.
39. Extraction is presently occurring on phases 5 and 6 within the northern area. The operator has opted to create a series of additional settlement lagoons across the southern phases 1 to 4 to deal with greater than expected volumes of silts (as well as some reject materials).
40. Further explanation for the underestimate for silt occurrence has been provided by the applicant. Silt is arising as a consequence of the type of processing being undertaken through the on-site plant in order to produce a product sought by the concrete market. The plant removes any lignite deposits and in doing so some of the finer or soft sands go into the silt system. The applicant states that the original 3% silt estimate from several years ago was a very conservative estimate and 'slightly unrealistic'.
41. Notwithstanding the comments of the Parish Meeting, the situation, whilst unfortunate, is not unprecedented in mineral extraction operations and the applicant has identified a revised way of working and site restoration in

response, whilst broadly delivering the same expected landscape and biodiversity outcomes.

42. Under this revised approach there would be a short delay to the first restoration works taking place. Restoration works in phases 1 to 4 were expected to now be underway with the formation of the southern part of the final lake area, along with peripheral grassland and reedbed areas. The lake itself however would not have been able to have been filled until after phase 10 at completion.
43. Due to the proposed creation of additional silt lagoons needed to serve the ongoing mineral extraction phases, the restoration of these areas would not now take place until the silt lagoons have been filled, dried out and completed at a later stage. Furthermore the silt lagoons result in consequences for the design of the final site restoration.
44. It is now proposed to create a large marsh area out of the former silt lagoons, with the lake element moving to the north and west. The first restoration works are now envisaged to take place whilst extraction is ongoing in phases 8 and 9 when phases 5 and 6 would be formed into a landform for the eastern side of the future lake. The initial silt lagoon would also be capped at this point. This would result in a short delay to the first restoration works at the site and a greater area of temporarily despoiled land (within the confines of the quarry site) than originally designed. However the site is well screened such that any increased visual impacts are limited and in any event temporary. The revised programme would also deliver the lake element slightly earlier than planned.
45. Furthermore if the current pace of working is continued, extraction at the site will be completed significantly ahead of the 2028 deadline set by the planning permission. Restoration is required to be complete by 2029.
46. If the site continues to be worked and thereafter restored on a phase by phase basis so far as is practicable, there is no conflict with MLP Policy M4.1, but the MPA would now expect to see restoration works following as close as possible the completed extraction phases. The MPA will continue to monitor such progress. In order to ensure there is no delay to the final restoration a change to recommended condition 26 is noted at paragraph 65 of the report.

Final Restoration

47. MLP Policy M4.4 requires details of final restoration designs, including final landform, planting, establishment methods and maintenance arrangements. Restoration designs should harmonise with the existing landscape character and aim to promote strategic landscape features. They should aim to meet Local Biodiversity Action Plan targets.
48. The emerging MLP establishes a biodiversity led restoration strategy approach within policy SP3 and DM12, however given the early stage of its preparation only limited weight can be afforded to this plan policy.

49. Against paragraph 170 of the NPPF the site offers the opportunity to deliver net gains for biodiversity and to work as part of a large scale wetland ecological network across the local Trent valley landscape.
50. Changes are proposed to the final restoration design as a result of additional silt lagoons being needed to manage increased silt quantities but it does not fundamentally alter the types of habitat to be created. The proposed revised restoration remains a low-level water based restoration design requiring no importation of materials to create the required landform and lakes.
51. The lakes and fringing habitats remain as the priority and largest element of the scheme. The new marsh would be the second largest element. In addition a small field would be created for neutral grassland possibly suitable for grazing. In and around these habitats would be areas for hedgerow and tree/scrub planting and grassland. Some additional features to improve habitats have also now been added such as the provision of tern rafts (in lieu of the islands), some additional ponds and scrapes and some micro-topographic variations around the wetlands.
52. The Nature Conservation Officer commented on the higher than expected water levels and the means of successfully establishing the proposed reedbeds. The detailed methodology for creating this element can be required by planning condition as an amendment to part of recommended condition 29 which requires further detailed designs to be submitted for approval on a phase by phase basis. Subject to this and the additional aftercare arrangements continuing, no objection is raised to the revised approach.
53. Nottinghamshire Wildlife Trust seeks further minor amendments to the restoration scheme which planning officers broadly agree with. However these detailed matters are also capable of being agreed under recommended condition 29 when detailed plans for each phase can be considered.
54. This broad approach is considered acceptable in the context of the Trent valley and the biodiversity led restorations which are being delivered in the vicinity such as at Langford across the river. Collectively these restored sites will provide extensive and rich wetland habitats which are a priority for the County. The approach accords with the above policy context and detailed phase by phase restoration plans (to accord with the overall restoration plan) will be required pursuant to recommended condition 29.

Aftercare

55. In accordance with MLP Policy M4.9 aftercare arrangements are in place to ensure the success of the restoration phase. There is provision for a total of 10 years of aftercare – the first five years are covered by planning condition and the subsequent 5 years are by legal agreement. The site will then return to the landowners/tenants. There is no public access envisaged.

Visual Impact

56. MLP Policy M3.3 seeks to ensure that the visual impacts from mineral extraction are kept to an acceptable level. Policy M3.4 provides the basis for conditions to be put in place to require appropriate measures to screen the site such as landscape bunds, the maintenance of existing vegetation and/or new landscape planting, along with details of the method of working and phasing to cause the least visual intrusion.
57. In terms of visual effects, under the revised plans there may be greater areas of active quarry and temporary despoiled land as a result of the delays to the initial restoration phases. However the quarry will continue to be screened with a mix of landscaped bunds and retained hedgerows. Views from the adjacent public rights of way and from the river are greatly limited as a result. There are also extremely limited and fleeting views from the A1 including of the processing plant. The proposed operations therefore continue to accord with the above policies in containing visual impacts. Conditions can be carried forward to regulate the establishment and seeding of all temporary landscape bunds and overburden stockpiles and to control any new buildings or structures that may be required, along with any floodlighting.

Rights of way

58. The bridleway alongside the river and the public footpath which runs along the lane leading to Cromwell locks will not be directly affected. The bridleway passes through the application site boundary, but forms part of a wide buffer area to the river which is excluded from the permitted extraction area by planning condition. This requirement can be carried forward. A large landscape bund is currently in place to screen and separate the bridleway from the active quarry. A post and wire fence, along with safety signage also secures this boundary. No concerns are raised by the rights of way officer.

Public safety

59. The Parish Meeting highlights the risks that quarries, both active and restored, can pose to those who seek to place themselves in danger, through gaining unauthorised access.
60. The arrangements for fencing the site are required to be submitted as part of the aftercare strategy pursuant to a planning condition. In this case no public access is envisaged as part of the restoration strategy and the MPA will expect appropriate fencing to be put in place to secure the site from possible trespass and misadventure. The applicant states that the restored reedbeds will be protected by a combination of stock-proof post and wire fencing and shrub and tree planting. These will generally be appropriate for the rural context.
61. It is separately noted that details of fencing and safety signage are not expressly sought by planning condition requiring phase by phase restoration details (such as planting and seeding schedules). It is considered prudent to require such additional details to be set out when agreeing the first and all subsequent phases of site restoration as part of recommended condition 29.

Other matters

62. Satisfactory access arrangements are in place in the interests of local amenity, as controlled through a legal agreement. HGVs utilise the A1 slip roads and overbridge to the north of the village. Access arrangements will not change. Arrangements for wheel cleaning and for the sheeting of loads to protect the public highway are also part of the existing planning controls and can be carried forward.
63. Planning conditions are also in place to safeguard local amenity and the environment including the control of dust, noise, lighting, drainage/containment and hours of operation. Schemes agreed under condition are in place to deal with archaeology; ecology and protected species and for the good handling and conservation of soils.

Review of conditions

64. As this relates to a Section 73 (variation) planning application, planning conditions from the extant permission governing its operation and restoration are generally carried forward if the new permission, as varied, is approved. A review of the existing conditions has been carried out. Within this report references to condition numbers relate to current planning conditions and those 'recommended' relate to the revised conditions set out in appendix 1.
65. Given the pace of extraction to date the requirement under condition 9 of the existing planning permission requiring restoration to be complete within 13 years of the commencement of mineral extraction (i.e. by May 2029) is no longer fit for purpose and does not require restoration works to be undertaken or completed at the earliest practicable opportunity as required by the NPPF. It is therefore considered necessary to insert an additional clause into this condition requiring completion of site restoration works *within 12 months of the final completion of mineral extraction* or by May 2029, whichever is the earliest. This condition has been re-ordered and is now recommended condition 26.
66. Additional detail has been added into recommended conditions 1 and 3 to make clear the extent of the permitted extraction area does not include three retained ponds, along with maintaining the stand-off to the River Trent.
67. As noted above recommended condition 29 can be strengthened to require a detailed methodology for the establishment of reedbeds (as requested by NCC Nature Conservation) and to require further ecological enhancements as requested by Nottinghamshire Wildlife Trust. Details of fencing within the phased restoration and subsequent aftercare plans can also be required to secure the site and safeguard the local community, thereby addressing the concerns raised by Cromwell Parish Meeting.
68. Where existing conditions have previously been satisfied through the submission of later plans and schemes these details have now been incorporated into the relevant conditions and/or into the general list of approved details. References to the new working and restoration plans have replaced any

superseded versions. Some minor re-ordering of conditions would also be beneficial.

Legal Agreement

69. The existing legal agreement securing HGV routeing to/from the site and the A1 and also an additional 5 years of aftercare (making a total of 10 years in conjunction with recommended condition 30) will continue to have effect if the permission, as varied, is granted.

Other Options Considered

70. 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

71. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

72. Site security is dealt with in the Observations section above.

Data Protection and Information Governance

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

Human Rights Implications

74. 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.

Public Sector Equality Duty Implications

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

Safeguarding of Children and Adults at Risk Implications

76. The report considers issues in relation to public safety and trespass above.

Implications for Sustainability and the Environment

77. These have been considered in the Observations section above, including an assessment of the changes to the approved restoration design.
78. There are no financial, or human resource implications. There are no implications for service users.

Conclusion

79. The applicant has revised the working and restoration designs as a result of encountering increased silt and reject materials in undertaking mineral extraction at this quarry. The new working arrangements are not fundamentally different and are considered acceptable. Amendments to the final restoration design have been further negotiated to maximise the landscape and biodiversity benefits of the site on its completion which are in line with the objectives of the NPPF. Planning conditions are recommended to be carried forward to govern all aspects of the site's working, restoration and aftercare. These have been reviewed and updated where considered necessary and as a result of the observations of consultees. In conclusion the mineral extraction and the means of site restoration continues to accord with the sustainable development objectives of the MLP and the NPPF.

Statement of Positive and Proactive Engagement

80. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by assessing the proposals against relevant Development Plan policies, all material considerations, consultation responses and any valid representations that may have been received. Issues of concern have been raised with the applicant and addressed through negotiation and acceptable amendments to the proposals. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

81. It is RECOMMENDED that planning permission under section 73 be granted subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 19/11/2018]

Planning & Licensing Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

Financial Comments [RWK 15/11/2018]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

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

Electoral Division and Member Affected

Muskham & Farnsfield Councillor Bruce Laughton

Report Author/Case Officer

Joel Marshall

0115 9932578

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

RECOMMENDED PLANNING CONDITIONS

Scope of the planning permission

1. This planning permission is only for the extraction of sand and gravel within the area edged with a dashed line on drawing set P1/1379/6R (dated 18 July 2018) (excluding ponds 1, 2 and 3 and their respective stand-off areas) together with the operation of the mobile processing plant and ancillary infrastructure within the area edged red on 'Drawing Number 14_C048_CROM_001 – Site Location', dated July 2014 and for the restoration of that land to nature conservation lakes, marginal reedbed habitat, marshy areas, seasonally wet grassland, neutral grassland and other associated habitat. This permission comes into effect on the date of this notice.

Reason: To define the extent of the permission and for the avoidance of doubt.

2. The development hereby permitted shall only be carried out in accordance with the following plans and documents, except where amendments are made pursuant to other conditions below or through the approval of a non-material amendment to the permission:
 - (a) Planning application forms and supporting letter received by the MPA on 7 August 2018.
 - (b) Set of drawings No.d P1/1379/6R: 'Method of Working Phase 5/6 South'; 'Method of Working Phase 7 and 8'; 'Method of Working Phase 9'; 'Method of Working Phase 10'; 'Method of Working Plant Site'; 'Restoration of Plant Site'; 'Restoration Complete' all dated 18 July 2018 and received by the MPA on 7 August 2018.
 - (c) Drawing No. P1/1379/9/I 'Restoration Plan' Rev I dated November 2018, and received by the MPA on 7 November 2018.
 - (d) Planning application forms, planning statement and environmental statement received by the MPA on 28 October 2014;
 - (e) Regulation 22 submission received by the MPA on 6 March 2015 (with the exception of the plans).
 - (f) Drawing Number P1/1379/13 'Weighbridge Location Plan' received by the MPA on 12 February 2009 and approved on 15 May 2009 for the purposes of denoting the access road to the quarry.
 - (g) Drawing No. 14_C048_CROM_007_A 'Condition 10 -8m Road' received by the MPA on 14 March 2016 and approved on 12 April 2016 pursuant to condition 10 of planning permission 3/14/01995/CMA.
 - (h) Drawing No.s DUO15-031-01 'Plant Layout'; 15_C034_CROM_003 'Office/Weighbridge'; 15_C034_CROM_004 'Canteen'; 15_C034_CROM_005 'Changing Room'; 15_C034_CROM_006 'Weighbridge' all received by the MPA on 14 March 2016 and approved on 12 April 2016 pursuant to condition 22 of planning permission 3/14/01995/CMA.

- (i) Drawing No. 15_C034_CROM_001_C 'Plant Site' and the technical specification for 'Hippowash' both received by the MPA on 4 April 2016 and approved on 22 April 2016 (under NMA 3501).
- (j) Drawings no. P1/1379/16 'Fuel Storage Location' and 'Cemex Fuel Store NMA Plan View 1' both received by the MPA on 16 March 2017 and approved 31 March 2017 (under NMA 3639).
- (k) Drawings 18_C034_CROM_001_A 'Location Plan' Rev A dated September 2018 (showing arrangement of plant site); 18_C034_CROM_002 'Office/weighbridge 9.7m x3.0m' dated August 2018; 18_C034_CROM_003 'Storage Unit 8m x 3.0m' dated August 2018, all approved by the MPA on 20 September 2018 (under ref PD/3913).

Reason: To define the permission and for the avoidance of doubt.

- 3. Notwithstanding condition 1 no excavation shall take place outside the extraction area as shown on the Method of Working Plans (Drawings set No.d P1/1379/6R - 'Method of Working Phase 5/6 South through to 'Restoration Complete') dated 18 July 2018 and received by the MPA on 7 August 2018.

Reason: To define the extent of mineral extraction in the interests of retaining landscape and ecological features necessary to mitigate the impacts of the development and in order to ensure the integrity of flood defences.

Monitoring

- 4. From the commencement of the development to its completion a copy of this planning permission including all plans and documents hereby approved, and any other plans and documents subsequently approved in accordance with this permission shall always be available at the site offices for inspection by the MPA during normal working hours.

Reason: To enable an easy reference and to encourage compliance with the requirements of this permission.

Access

- 5. All vehicles accessing and leaving the site shall only do so via the access road highlighted in yellow and marked as 'Access Road to the Quarry' on 'Drawing Number P1/1379/13 – Weighbridge Location Plan' received by the MPA on 12 February 2009 and approved in writing by the MPA on 15 May 2009.

The access road shall be maintained in accordance with the details within drawing Number 14_C048_CROM_007_A – 'Condition 10 -8m Road' received by the MPA on 14 March 2016.

Reason: In the interests of road safety, in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

6. All outbound HGVs shall use the wheel cleaning facilities and procedures under Condition 2i) above and the wheel cleaning facilities shall be maintained in an effective state for the duration of the development so that no vehicle shall leave the site in a condition whereby mud or other deleterious material is carried onto the public highway.

Reason: In the interests of road safety, in accordance with Policy M3.12 of the Nottinghamshire Minerals Local Plan.

7. All HGVs transporting minerals from the site shall be sheeted prior to leaving site.

Reason: In the interests of road safety and to control dust, in accordance with policies M3.7 and M3.12 of the Nottinghamshire Minerals Local Plan.

Hours of Working

8. Except in emergencies, which are to be notified to the MPA within 48 hours of their occurrence, or with the prior written agreement of the MPA, the following shall not take place except within the hours specified below:

	Mondays to Fridays	Saturdays	Sundays, Public and Bank Holidays
Mineral extraction, processing or treatment	7am to 7pm	7am to 1pm	Not at all
Stripping, replacement, regrading or ripping of soils or overburden	7am to 7pm	7am to 1pm	Not at all
Servicing, testing, or maintenance of plant or machinery	7am to 5pm	7am to 4pm	Not at all
Heavy goods vehicles entering and leaving the site	7am to 6pm	7am to 1pm	Not at all

Reason: To protect the amenities of local residents in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Operations

9. All plant and machinery on site shall be regularly serviced and maintained to ensure that noise emissions do not exceed the manufacturers' specifications. In the event that the manufacturers' maximum operating noise levels are exceeded then the machinery shall be switched off and repaired/adjusted so as to ensure compliance with these operating noise levels.

Reason: To protect the amenities of local residents in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

10. All plant and vehicles under the control of the operator must only employ white noise (broadband) reversing alarms when operating on the site.

Reason: To protect the amenities of local residents in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

11. Best practicable means shall be taken to minimise the generation of dust from operations at the site. These shall include, but not be restricted to, taking any or all of the following steps as appropriate.

- (a) The use of water bowzers to dampen haul roads and other operational areas of the site;
- (b) Upon request from the MPA, the temporary suspension of mineral extraction, soil and overburden stripping and replacement operations during periods of unfavourable dry and windy weather conditions.

Reason: To protect the amenities of local residents in accordance with Policy M3.7 of the Nottinghamshire Minerals Local Plan.

12. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank, of the combined capacity of the interconnected tanks, plus 10%. All filling points, vents, gauges, and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land, or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

13. All foul drainage must be contained within a sealed and watertight cesspit fitted with a level warning device.

Reason: To minimise the risk of pollution to the local water environment in accordance with Policy M3.8 of the Nottinghamshire Minerals Local Plan.

Ancillary Buildings and Plant

14. Unless specifically provided for under Part 17 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, replacing or re-enacting that Order), the design, siting, layout and the colours to be used on the external elevations of all fixed plant machinery, and buildings, structures, erections, or private ways shall be submitted to and

approved in writing by the MPA prior to their erection/installation. The development shall thereafter be carried out in accordance with the approved details and maintained in a satisfactory condition until it is removed upon cessation of mineral extraction.

Reason: To minimise any visual impact from the development in accordance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

15. The processing plant shall be removed from the site upon the completion of mineral extraction operations, to be notified in accordance with Condition 25 below, and all other plant, ancillary buildings and associated structures removed from the site within 12 months of the completion of mineral extraction.

Reason: In the interest of visual amenity in accordance with Policy M3.3 of the Nottinghamshire Minerals Local Plan and so to provide a high standard of restoration in accordance with paragraph 205 of the National Planning Policy Framework.

16. No additional floodlighting or security lighting (over and above the previously approved Hilclare Talca floodlight details received by the MPA on 14 March 2016 and approved in writing by the MPA on 12 April 2016) shall be used on site except in accordance with details previously submitted to, and approved in writing by, the MPA. The details shall ensure that the floodlighting or security lighting shall be angled downwards and suitably shielded to ensure that it does not result in glare or dazzle to surrounding land. The floodlighting and security lighting shall not be used outside the hours of operations detailed in Condition 8 above. Outside these hours any external lighting shall be individually operated through a movement sensor switch with a maximum lighting cycle not exceeding five minutes. The floodlighting and security lighting shall be implemented and maintained in accordance with the approved details for the life of the development hereby permitted.

Reason: To minimise the visual intrusion of the development in accordance with Policy M3.3 of the Nottinghamshire Minerals Local Plan.

Archaeology

17. Archaeological works at the site, and the reporting of findings to the MPA, shall be carried out in accordance with the Trent and Peak Archaeology document entitled 'Archaeological General Project Design for Sand and Gravel Extraction at Land East of Cromwell, Nottinghamshire' received by the MPA on 12 August 2009.

Reason: To ensure that adequate archaeological investigation and recording is undertaken in accordance with Policy M3.24 of the Nottinghamshire Minerals Local Plan.

Protected Species

18. The development shall be undertaken in accordance with the recommendations of the Protected Species Mitigation Programme (Scarborough Nixon Associates Ltd.) dated July 2005 received by the MPA on 14 March 2016 and approved in writing by the MPA on 12 April 2016. In accordance with this Programme the operator must:
- a) Retain the three existing ponds and the purpose-built hibernacula alongside each (together with fencing and a ten-metre buffer zone) along with their ongoing management and monitoring in order to retain suitable amphibian and reptile habitat on site throughout the development hereby permitted;
 - b) Retain (until when required for site restoration purposes) the landscaped soil bund along the eastern periphery of the extraction boundary to prevent reptiles along the river corridor from entering the working quarry;
 - c) Follow the recommendations for the carrying out of hand surveys for amphibians and reptiles prior to works commencing in any phase along with the mitigation steps should any be encountered at any time in undertaking the development;
 - d) Follow the survey recommendations for potential badgers prior to works commencing in any phase along with the mitigation steps should any be encountered at any time in undertaking the development;
 - e) Manage vegetation in operational areas, and areas which have been previously hand searched and which are soon to become operational, to deter amphibians and reptiles from entering these areas;
 - f) Retain hedgerows, trees and shrubs within and on the boundary of the site which are to be retained, protected, enhanced and managed for the duration of the development hereby permitted and the subsequent aftercare period, along with the provision of stand-offs and/or protective fencing and their ongoing management in order to provide enhanced habitat for birds and foraging bats.

Reason: To provide suitable protection and habitats for protected species on the site in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

19. Site clearance operations that involve the removal and destruction of vegetation shall not be undertaken during the months of March to August inclusive except following the carrying out of a walkover survey of the affected area by a suitably qualified ecologist in accordance with details which have been previously submitted to, and approved in writing by, the MPA.

Reason: In the interests of protecting species and their habitats in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

20. Should there be a need to remove the tree identified on the Method of Working Plans No.d P1/1379/6R, no works to the tree shall be undertaken until it has been the subject of a full bat emergence survey, undertaken in accordance with details previously submitted to, and approved in writing by, the MPA. The survey shall be carried out in accordance with the approved details and, should the presence of roosting bats in the tree be identified, details of mitigation measures to be implemented prior to the removal of the tree shall be submitted to the MPA for its approval in writing. The approved mitigation measures shall be implemented in accordance with the approved details prior to the tree being removed.

Reason: To provide the necessary conservation of protected species in accordance with Policy M3.21 of the Nottinghamshire Minerals Local Plan.

Soil Handling

21. Soil handling on the site shall be carried out in accordance with the Method of Working Plans under Condition 2 above and the document entitled 'Cromwell Soil Handling Scheme' submitted as part of the Regulation 22 submission received by the MPA on 6 March 2015, except with respect to the seeding of soil mounds which shall be carried out in accordance with Condition 24 below.

Reason: To ensure that soil resources are preserved and used beneficially within the restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

22. No turf, topsoil, subsoil, or overburden shall be removed from the site. No waste materials, including soils and mineral working wastes, shall be brought onto the site.

Reason: To ensure that soil resources are preserved and used beneficially within the restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

23. Soil stripping and replacement operations in each phase of the development shall not commence until at least seven working days after the MPA have been notified of such operations in writing.

Reason: To enable adequate control of the development by the MPA and to ensure compliance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

24. All soil and overburden storage mounds that remain in situ for more than six months, or over winter, shall be seeded and maintained in accordance with the 'Bird and Invertebrate Seed Mix Recommendations' received on 4 April 2016 and approved by the MPA on 12 April 2016.

Reason: To ensure that soil resources are preserved and used beneficially within the restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Duration

25. All mineral extraction shall cease no later than 18 May 2028. The MPA shall be notified in writing of the date when mineral extraction ceases within 14 days of its occurrence.

Reason: To minimise the duration of disturbance from the development hereby permitted, in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.

26. All restoration operations in accordance with conditions 27-29 below shall be completed within 12 months after completion of mineral extraction (as notified by condition 25) or no later than 18 May 2029, whichever is the earliest.

Reason: To ensure the satisfactory and early restoration of the site in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan and paragraph 205 of the National Planning Policy Framework.

Restoration

27. The application site shall be subject to a phased restoration in order to achieve a final restoration which accords with the details, including final contours, shown on Drawing No. P1/1379/9/I 'Restoration Plan' Rev I dated November 2018, and received by the MPA on 7 November 2018.

Reason: To ensure that the site is restored to a condition capable of beneficial use at an early date in the interests of the amenity of the area and in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.

28. Prior to the replacement of any overburden and topsoil within any phase of the site in accordance with the soil-handling programme approved under Condition 21 above, a topographical survey of the site, showing the surface contours of the replaced overburden in that phase, shall have been submitted to, and approved in writing by, the MPA.

Reason: To ensure that the site is restored to a condition capable of beneficial use at an early date in the interests of the amenity of the area and in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.

29. No restoration works shall be undertaken within any phase until detailed restoration proposals have been submitted to, and approved in writing by, the MPA. The details shall include the following:

- (a) Full details of tree and scrub planting areas; seasonally wet grassland areas (to include additional areas of wet grassland alongside the eastern

- lake shore); and neutral meadow grassland areas, including full seed mixes, sowing rates, establishment methods and maintenance regimes;
- (b) A detailed reedbed creation methodology to cover the management of silt deposition, the design of open water areas/channels and the design of water management structures. Full details of the planting of the aquatic margins/reedbed areas, including species, numbers, positions, establishment and maintenance regimes;
- (c) Underwater contours for the lakes to provide for shallow sloping margins and shallows/beaches.
- (d) Details for the provision of ponds and scrapes including additional provision within the neutral grassland field.
- (e) Details of fencing arrangements/ means of enclosure and any necessary safety signage.

The detailed restoration proposals shall be submitted for approval in advance of the completion of mineral extraction in that particular phase so that seeding and planting can be carried out in the first seeding and planting seasons following the replacement of soils in that phase. The site shall be restored in accordance with the approved details.

Reason: To ensure the site is restored to a condition capable of beneficial ecological afteruse at the earliest possible date in the interests of protected species in the area and in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Aftercare

30. Following the restoration of any phase of the site, that phase shall undergo aftercare management for a 5 year period.

Reason: To provide for the aftercare of the restored site in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.

31. Prior to any phase being entered into aftercare, the extent of the area and its date of entry into aftercare shall be agreed in writing with the MPA. The 5 year aftercare period shall run from the agreed date.

Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.

32. An aftercare scheme and strategy for each phase shall be submitted for the written approval of the MPA at the same time as restoration details for that phase are submitted under Condition 29 above. The aftercare scheme and strategy shall outline the steps to be taken, the period during which they are to be taken, and who will be responsible for taking those steps to ensure the land is restored and brought back to its intended restored afteruse. The aftercare scheme shall include, but not be restricted to, details of the following:

- (a) Cultivations;
- (b) Weed control;

- (c) Sowing of seed mixtures;
- (d) Soil analysis;
- (e) Keeping of records and an annual review of performance and proposed operations for the coming year, to be submitted to the MPA between 31 October and 31 December of each year;
- (f) Drainage provision;
- (g) Management practices such as the cutting of vegetation;
- (h) Tree protection and replacement;
- (i) Remedial treatments;
- (j) Fencing;
- (k) Proposals for a survey visit by a suitably qualified ecologist, to be undertaken in year 5, to assess the ecological interest of the site, including their habitats, flora and fauna, to inform management practices for the additional periods of aftercare secured through the legal agreement; and
- (l) A report detailing the findings of the survey visit referred to in (k) above, to be submitted to the MPA before the end of year 5.

Reason: To provide for the aftercare of the restored site, in accordance with Policy M4.10 of the Nottinghamshire Minerals Local Plan.

33. Site management meetings shall be held with the MPA each year to determine the detailed annual programmes of aftercare operations referred to in Condition 32(e) above, having regard to the condition of the land and progress in its rehabilitation.

Reason: To enable adequate control of the development by the MPA and to ensure compliance with Policy M4.4 of the Nottinghamshire Minerals Local Plan.

34. The aftercare programme for each phase of the site shall be implemented in accordance with the details approved under Condition 32 above, as amended following the annual site meeting referred to in Condition 33 above.

Reason: To ensure that the site is restored to a condition capable of beneficial use at an early date in the interests of the amenity of the area and in accordance with Policy M4.1 of the Nottinghamshire Minerals Local Plan.

Alternative Restoration

35. Should, for any reason, mineral extraction from the application site cease for a period in excess of 12 months, then within three months of the receipt of a written request from the MPA, a revised scheme for the restoration of the site shall be submitted to, for approval in writing by, the MPA. Such a scheme shall include a schedule of timings, final contours, provision of soiling, sowing of grass, planting of trees and shrubs, drainage and fencing in a similar manner to that submitted with the application and modified by these conditions. The revised restoration scheme shall be implemented within 12 months of its

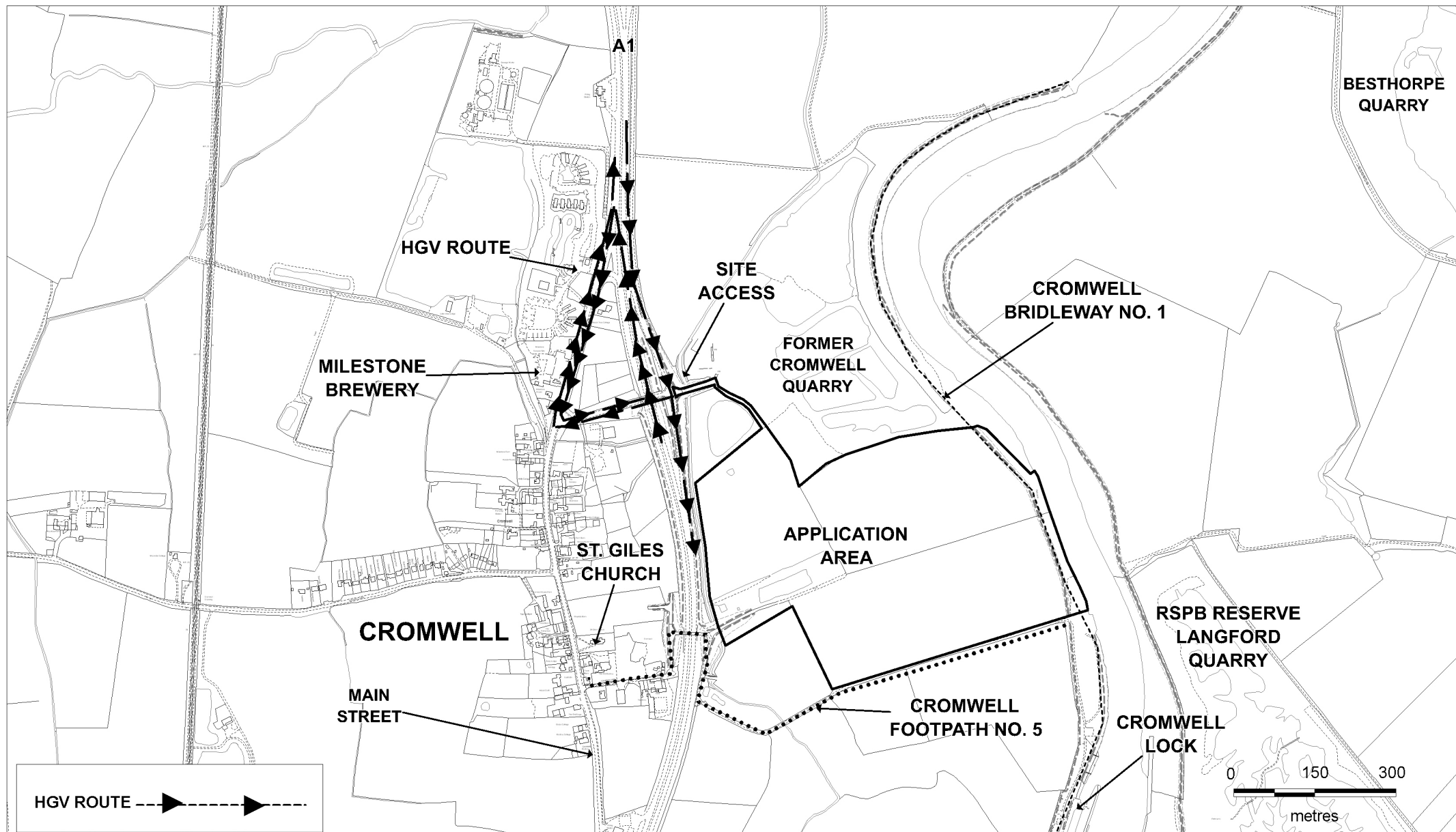
approval by the MPA, and shall be subject to the aftercare provisions of conditions 30-34 above.

Reason: To ensure that should mineral extraction ceases prior to the phased closure of the quarry interim restoration measures progress to reduce environmental impacts and to ensure compliance with Policy M4.7 of the Nottinghamshire Minerals Local Plan.

Informatives/notes to applicants

1. This decision should be read alongside the legal agreement (under Section 106 of the Town and Country Planning Act 1990, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011) dated 9 March 2016 providing for controlled lorry routeing to and from the quarry and the A1 and for an additional 5 years of aftercare management (making 10 years in total).
2. Your attention is drawn to the consultation response from the Environment Agency dated 5 June 2014, and 8 October 2018 copies of which are attached to this decision notice.
3. With respect to condition 29 which requires the submission of detailed phase by phase restoration details to accord with the overarching restoration scheme, your attention is drawn to the comments and recommendations of NCC Nature Conservation and from the Nottinghamshire Wildlife Trust. The MPA would expect such details to respond positively to these recommendations as far as practicable.
4. In order to ensure the successful establishment of the reedbeds (so that they do not scrub over) it will be critical that silt deposition is carefully undertaken so that they are not filled above 4.0-4.5mAOD, based on a final water level of 5.0mAOD, as well as providing some open areas of deeper water within the reed beds. It may also be necessary to include water management structures to permit the seasonal topping up of water levels from the main lake to the north.
5. As a general guide the following points are recommended by the County Council Lead Local Flood Authority to control flood risk for all developments:
 1. The development should not increase flood risk to existing properties or put the development at risk of flooding.
 2. Any discharge of surface water from the site should look at infiltration – watercourse – sewer as the priority order for discharge location.
 3. SUDS should be considered where feasible and consideration given to ownership and maintenance of any SUDS proposals for the lifetime of the development.
 4. Any development that proposes to alter an ordinary watercourse in a manner that will have a detrimental effect on the flow of water (eg culverting / pipe

crossing) must be discussed with the Flood Risk Management Team at Nottinghamshire County Council.



**Nottinghamshire
County Council**

Vary conditions 3 and 33 of planning permission 3/14/01995/CMA
to amend restoration and method of working, for operational reasons.
Cromwell Quarry, Great North Road, Cromwell, Newark, Nottinghamshire.
Planning Application No. 3/18/01737/CMA
[Page 117 of 292](#)

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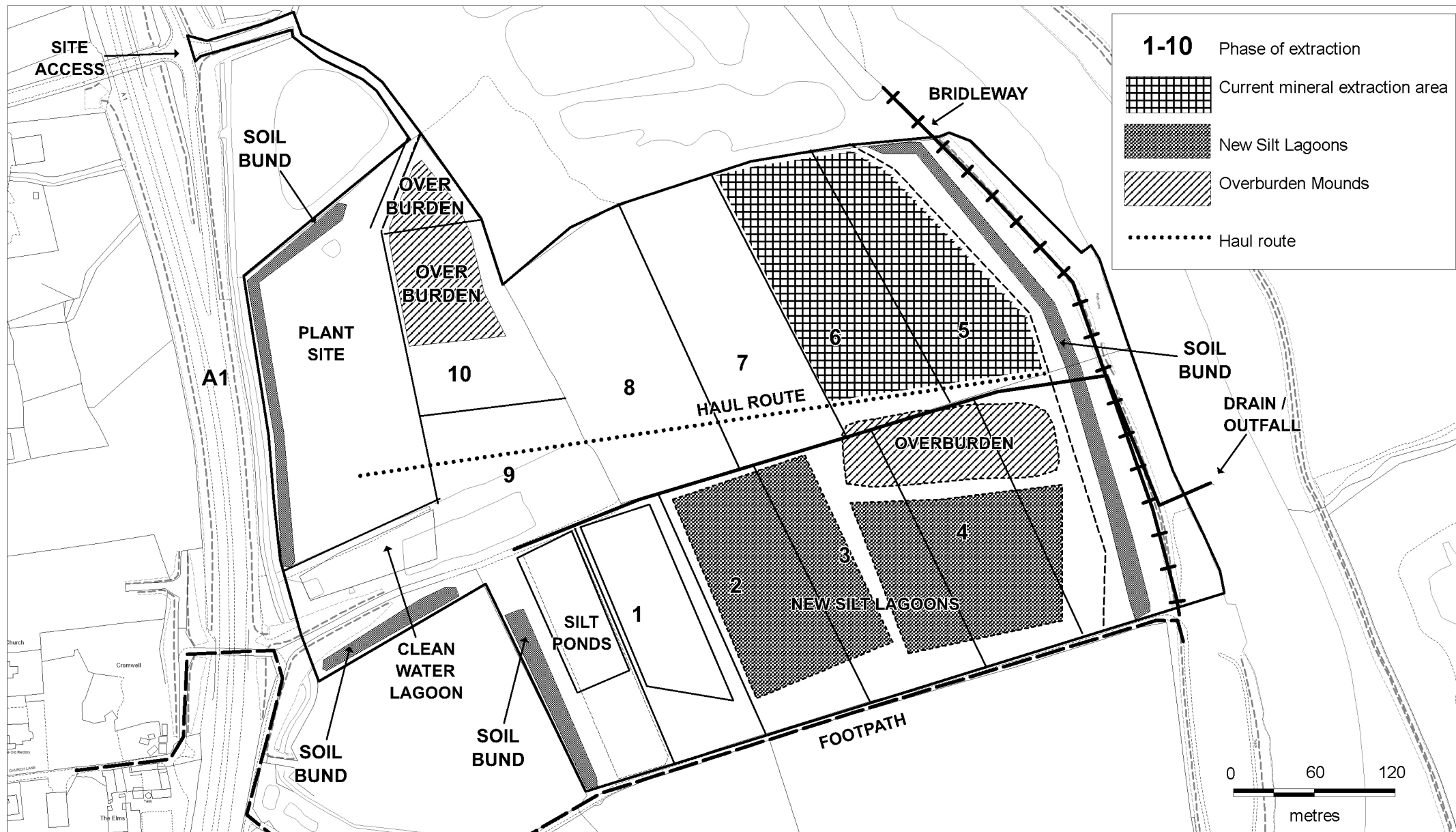


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Date: DECEMBER 2018

PLAN 1



**Nottinghamshire
County Council**

Vary conditions 3 and 33 of planning permission 3/14/01995/CMA
to amend restoration and method of working, for operational reasons.
Cromwell Quarry, Great North Road, Cromwell, Newark, Nottinghamshire.
Planning Application No. 3/18/01737/CMA
[Page 119 of 292](#)

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PLAN 2

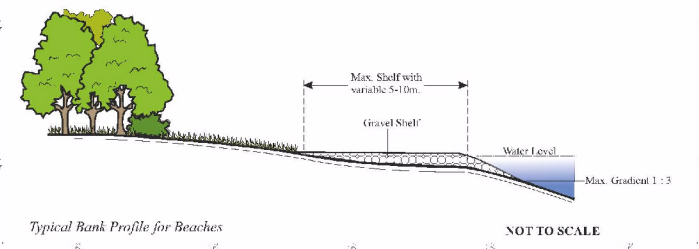
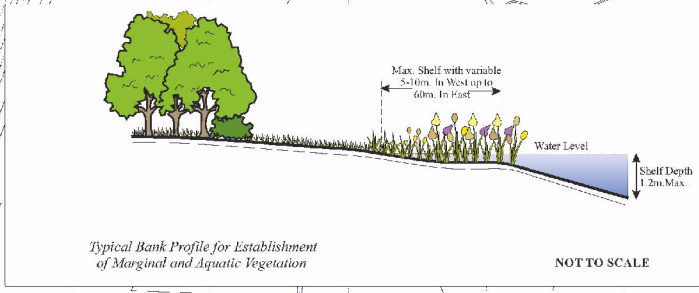
PLAN 3

PLANTING SCHEDULE		SIZE	NOTES	P1	P2	S1	S2
TREES							
Acer campestre	(Field Maple)	0.45-0.6m /s	P1, S1, S2 and S3 to be planted at 2.0m c/s; P2 at 3.0m c/s	100	500	35	75
Alnus glutinosa	(Alder)	0.45-0.6m /s		25	150	10	
Betula pubescens	(Downy Birch)	0.35-0.4m c/g		25	150		
Populus tremula	(Aspen)	0.45-0.6m /s					10
Prunus avium	(Wild Cherry)	0.45-0.6m /s		50			
Quercus robur	(Oak)	1.2-1.8m thd					10
Quercus robur	(Oak)	0.35-0.4m /s		125			5
Salix alba	(White Willow)	0.45-0.6m /s		75	500		
Salix fragilis	(Crack Willow)	0.45-0.6m /s		50	500		
Ulmus glabra	(Wych Elm)	0.45-0.6m /s		25			90
Total Trees				475	1800	45	75
SHRUBS							
Cornus sanguinea	(Dogwood)	0.45-0.6m /s	H1 to be planted in a double staggered row at 4 plants per linear metre	50		25	10
Corylus avellana	(Hazel)	0.45-0.6m /s		100		75	90
Crataegus monogyna	(Hawthorn)	0.45-0.6m /s		50	50	75	1350
Prunus spinosa	(Blackthorn)	0.45-0.6m /s		50	35	75	50
Rosa canina	(Dog Rose)	0.45-0.6m /s	All to be protected with "Tubex" tree shelters	50	10	25	15
Salix caprea	(Goat Willow)	0.45-0.6m /s		50	250	25	325
Salix cinerea	(Sallow)	0.45-0.6m /s		50	250	25	275
Viburnum opulus	(Guelder Rose)	0.45-0.6m /s				10	45
Total Shrubs				350	500	155	225
TOTAL TREES AND SHRUBS				825	2300	200	300



RECEIVED
By rk18 at 3:28 pm, Nov 07, 2018

- KEY :**
- Application Area
 - Company Freehold
 - Extraction Area
 - Existing Vegetation and Hedgerows
 - Proposed Tree Planting
 - Proposed Hedgerow Planting
 - Proposed Shrub/Scrub Planting
 - Neutral Meadow Grassland - Above 5.5m AOD
 - Seasonally Wet Grassland / Fen Meadow / Marshland - 4.8m AOD - 5.5m AOD
 - Aquatic Margins/Reedbed - 4.0-5.0m AOD
 - Open Water
 - Ponds and Scrapes
 - 4.0m wide Agricultural Access Grassed Track
 - Enhanced Variation to Marginal Interface: Minor Topographic Works
 - Retained Sand Face / Gravel Beach Creation



Cromwell Quarry EIL, 2018	
Revisions	1. 1st EIL approved 15/01/2018
2. 2nd EIL approved 15/01/2018	
3. 3rd EIL approved 15/01/2018	
4. 4th EIL approved 15/01/2018	
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11 December 2018

Agenda Item: 7

REPORT OF CORPORATE DIRECTOR – PLACE

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/18/01811/FULR3N

**PROPOSAL: RETROSPECTIVE PLANNING APPLICATION FOR THE RETENTION OF
8M X 4M TIMBER BUILDING**

**LOCATION: KIRKLINGTON PRIMARY SCHOOL, SCHOOL LANE, KIRKLINGTON,
NOTTINGHAMSHIRE, NG22 8NG**

APPLICANT: MRS TRACEY BURN-SMITH

Purpose of Report

1. To consider a planning application for the retention of a timber building at Kirklington Primary School. The key issues relate to the effect on the character of a conservation area and impact on the amenity of nearby occupiers. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1.

The Site and Surroundings

2. Kirklington is situated on the A617, 5km to the east of the junction with the A614. Kirklington Primary School is located in the southern part of the village and is accessed along a non-adopted road, School Lane, from Southwell Road. In addition to providing access to the school, School Lane serves residential properties to the south and east of the school site. A public footpath (Kirklington FP9) runs eastward along School Lane (Plan 1).
3. The school lies within Kirklington Conservation Area. The principal school building dates from the early 20^c with later additions to the rear and has been identified as a non-designated heritage asset.
4. There is off-street parking for four cars to the west of the school building, and additional parking for a further 5 vehicles takes place in front and to either side of the school access gate. A sign on the school access gate advises 'No parking in front of these gates emergency access required at all times'.
5. The school has a roll of 77 (November 2018) with children taught in three class groups: infant; lower junior and upper junior across the age range 3-11. In addition, a maximum of 12 children attend the nursery in either the morning or

afternoon. The school has a Published Admission Number (PAN) of 8 which would equate to a school roll of 56 but has a capacity for 105 places. The current number of children in each school age group are detailed in the table below.

Year 2018/19		R	1	2	3	4	5	6
Number	77	10	5	14	11	13	17	7

Nursery

Year 2018/19		Monday	Tuesday	Wednesday	Thursday	Friday
Number	a.m.	10	12	9	10	12
	p.m.	7	8	Closed	6	10

6. Planning permission for a single-storey flexible teaching space (11.5m x 6.8m) faced in timber (redwood) with a natural finish was granted in December 2015 (reference 3/15/01771/FULR3N) and was erected to the east of the school entrance gate, freeing up space within the Edwardian school. It incorporates a disability accessible toilet.



School parking



School entrance

7. A 8m x 4m timber building has been erected on the edge of the school playing field 11m to the north of the principal school building and 8m from the western boundary, adjacent to Holmlea (Plan 2). At closest the building is 26m from the rear of Holmlea and 33m from The Forge. An enclosed area between the school and timber building and the western site boundary has been used (prior to the commencement of works to erect the timber building) as an outdoor activity area for the delivery of the Early Years and Reception class curriculum and includes some raised decking immediately adjacent to the western boundary. A timber fence is erected along the boundary between the outdoor play area and residential property to the west.
8. Full-height glazing is provided in the west and south elevations, with the entrance door formed in the west elevation. The east and north elevations, which can be seen from the east across the school playing field do not have windows or other openings.



Outdoor activity area



Timber building



Timber building viewed from the school playing field



Background

9. The 8m x 4m timber building has been erected by the school without the benefit of planning permission and was brought to the attention of the County Planning Authority through a complaint in April 2018.
10. The area where the building has been erected is adjacent to an outdoor play area that was previously fully enclosed and used by the nursery and Reception aged children for outdoor play. Work has stopped on the timber building, which has not yet been brought into use. As the outdoor area is not secure, a largely hard surfaced outdoor space between the school and The Forge is in greater use.

Proposed Development

11. Planning permission is sought to retain the 8m x 4m timber building, which has an eaves height of 2.4m and ridge height of 3.1m, in its present position. When visiting the site in October 2018 an underfelt roof covering had been installed, providing a degree of weather-tightness, but proposed grey coloured mineralised felt shingles had not been fixed. The timber elevations had not been

treated/coloured. The building has not yet been provided with electricity and is not heated.

12. The building is proposed to be used as a flexible learning space and has been sited adjacent to the existing Early Years Foundation Stage outdoor learning area (not currently suitable for use during works) to allow children to access outdoor learning in all weathers. The building would also be used for the storage for large items of outdoor equipment.
13. The statement supporting the planning application explains that the building is to be used daily with the outdoor area to create a holistic learning environment for the children in a variety of weather conditions. The building is located within the secure play area to meet safeguarding and safety requirements for young children. The school does not envisage that the number of children attending the school will increase through the provision of this facility.

Consultations

14. **Newark and Sherwood District Council** – *No objection subject to NCC being satisfied that development complies with relevant Development Plan policies.*
15. **Kirklington Parish Council** - *Object. Objection is raised to the siting of the building, not the principle of having the teaching space. The building overlooks, and is overlooked by, residents' properties. It would be preferred that the teaching space be rotated through 90° or 180° to overcome this. Alternatively, it may be possible to swap the windows to the other side of the teaching space.*
16. *A previous lack of consultation is disappointing as points could have been raised and considered prior to works being completed.*
17. **NCC Built Heritage** – *No objection subject to a condition to review the need to colour/stain treat the building. The roof should be covered with a dark coloured felt or other membrane.*
18. *The application is supported by a planning statement that considers the impact on the designated conservation area and the non-designated heritage asset that is the Edwardian School. As such it conforms to the requirements of National Planning Policy Framework Paragraph 189.*
19. *Timber units of this type are required by schools for a variety of purposes and can be justifiable in order to continue to use the original Edwardian school building. The Edwardian architecture of the original school building contributes to the character of the conservation area and is the reason it is a non-designated heritage asset. Its continued use as a school is an ongoing heritage conservation goal.*
20. *The building is already in place and the impact on the character of the conservation area can be judged accurately. The planning statement is correct in describing the visual impacts of the timber building on the character of the conservation area and the setting of the non-designated heritage asset as slight.*

21. *The timber unit is visible from historic buildings within the conservation area and from the northern end of School Lane where it can be seen against a backdrop of mature trees. These views are not of significance to the conservation area and the position of the building does not cause harm.*
22. *The light, untreated, colour of the wood presently draws attention to the timber unit, and most other timber buildings on site are treated with a 'dark oak' type stain which helps them blend into their green hedge and tree backdrop. However, other green oak and softwood timber buildings along School Lane have been generally left untreated to grey naturally.*
23. **Sport England** – No objection. *The proposal broadly meets exception E3 of Sport England's Playing Fields Policy. The proposed development results in a minor encroachment onto the playing field which could have been improved by turning the building by 90°. However, having considered the nature of the playing field and the existing fenced area adjacent to the building, it is not considered that the development would reduce the sporting capability of the site.*
24. **NCC Project Engineer (Noise)** – No objection. *A note is recommended to advise the school that the courtyard should be used for quieter play activities. It is noted that the new timber classroom building is located within the existing school grounds adjacent to the playground. Kirklington Primary is a small school with a pupil roll of approximately 80 pupils in attendance, and the new classroom building would be in use only on school days, during term time.*
25. *It appears that there has been an intensification of activities in the courtyard area since the new building was erected due to a temporary loss of secure outdoor space until the development works are complete. The courtyard area in question existed prior to the new building being erected and so while not directly related to the application being considered, the objector believes that there has been an escalation in activities in this area and is concerned that this escalation is a permanent change as a consequence of the development. Once this space becomes available again, there is no reason why noise levels at the objector's property will be any higher than pre-development noise levels.*
26. **NCC Highways Development Control** - No objection. *The application states there is to be no increase in the number of pupils and staff as a result of this development.*
27. **NCC Countryside Access Team** – No response received. Any response received shall be orally reported.

Publicity

28. The application has been publicised by means of site notice, press notice and neighbour notification letters sent to the nearest occupiers in accordance with the County Council's adopted Statement of Community Involvement.
29. Councillor Bruce Laughton has been notified of the application.

30. Two identical letters from two residents of The Forge (a house to the immediate west of the principal school building) and letters from two residents of School Lane have been received. The following issues have been raised:
- a) The building is to be used as a classroom, not as a storage shed. The structure is highly insulated and intended as classroom space. Concern that the building will increase the capacity of the school and reassurance is sought that this will not be the case (2). The school capacity has increased in recent years from 75 to 105 places without additional infrastructure. The building is to be used as a 19 place nursery.
 - b) Objection is raised to the location of the building (2). The structure is immediately behind the residential property (2).
 - c) Loss of privacy from overlooking and school building being overlooked (3). Direct inter-visibility between windows (2). The loss of privacy (3) will be worse in winter months due to use of lighting and loss of foliage (2). Loss of view.
 - d) Out of keeping in a conservation area. The open nature of the area should be retained. The building could be better sited in consideration of impact on neighbours within the building line of existing buildings fronting School Lane (3). Encroachment into playing field. The school has advised that loss of playing field would not comply with the requirements of Sport England.
 - e) The building should be turned through 180° so that windows face over the playing field (3), which would improve natural daylighting in the building (2).
 - f) Noise from outdoor play and loss of privacy associated with use of the adjacent outdoor play area (2).
 - g) Re-siting the building would help reduce loss of privacy and noise (2).
 - h) Traffic issues, dangerous parking, danger to school children, pedestrians and other road users. An increase in numbers would increase traffic and cause congestion. A parking area (2) should be provided for staff. The Parish Council has agreed to support the provision of a car park through Community Infrastructure Levy money. The use of school grounds for parking must be included in any application to increase accommodation for pupils. It has been advised that other applications for development on School Lane would not be acceptable on highway grounds.
 - i) Safeguarding of children (2). The school has a duty of care to ensure that safeguarding requirements are met (2).
 - j) Lack of consultation by the school and discussion with neighbours (4).
31. The issues raised are considered in the Observations Section of this report.

Observations

32. Small ancillary buildings can be erected by the County Council at schools without the express need for planning permission as *permitted development* subject to size and height limits not being exceeded. The timber building is to be used to support outdoor learning in addition to equipment storage, and as such will be used for a primary purpose (delivery of education) and is therefore considered to be more than an ancillary structure. If not used to deliver education the building would be permitted development.
33. Although an application has been made to regularise a breach of planning control, that fact that the building has already been erected does not alter the planning considerations in determining the acceptability of the development. However, it does allow the impact of development to be assessed.
34. The proposed timber building would broaden educational opportunities for children at the school, providing a teaching space to support all-weather outdoor-based activities and is welcome in principle. Provision for the storage of outdoor equipment is also considered to be acceptable. However, consideration needs to be given to the potential adverse impacts that could arise in terms of the siting of the building and loss of amenity to neighbouring occupiers, and possible traffic impacts.

Siting, Playing Field and Heritage Impact

35. Sport England Planning Policy Statement: *A Sporting Future for the Playing Fields of England* seeks to oppose the development of playing fields unless one of five exception criteria can be met. Sport England has not objected to the development, considering that the proposal meets Exception Criteria E3 where *the proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing areas of any playing pitch or the loss of any other sporting/ancillary facilities on the site.*
36. The school lies within a conservation area and heritage assets have been satisfactorily identified by the applicant as required by NPPF Paragraph 189. Newark & Sherwood LDF Allocations and Development Management Development Plan Document 2013 (N&S-A&DM) Policy DM9 *Protecting and Enhancing the Historic Environment* requires development to take account of the distinctive character and setting of conservation areas including open spaces and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing. N&S-A&DM Policy DM5 *Design – Local Distinctiveness and Character* requires the scale, form, mass, layout, design, materials and detailing to be assessed. The building has been sited behind (to the north) of the original school and frontage to School Lane, is not dissimilar to detached timber buildings sited to the rear of residential properties, and is not read visually in the context of other buildings on the road frontage which make up the conservation area.

37. In the absence of a conservation area appraisal for Kirklington, an appraisal has been undertaken by NCC Built Heritage team and concludes that the development would not cause harm. The building has been sited on the edge of the playing field, relates to the principal school building and adjacent outdoor play area, and does not intrude into the adjacent open space. When viewed from the east the building is seen against a backdrop of established planting and the siting is considered to be acceptable.
38. The building has been roofed to be made weather-tight but is not yet complete. The proposed use of a grey-coloured felt shingle is considered appropriate. The timber building has not been treated and the bright appearance of the new timber may fade and silver over time, in a way not dissimilar to the classroom building approved under application reference 3/15/01771/FULR3N. It is recommended that this is reviewed after twelve months and if the visual appearance has not satisfactorily mellowed that the building is coloured with a *dark oak* type stain to reduce the visual impact of the building (Condition 3).
39. It is considered that the building does not harm the character of the conservation area and is acceptable in compliance with N&S-A&DM Policy DM9 *Protecting and Enhancing the Historic Environment* and N&S-A&DM Policy DM5 *Design – Local Distinctiveness and Character*.

Amenity Impact

40. The planning system controls the development of land in the public interest but does not protect private property interests. The planning test is whether the siting and use of a building is acceptable in planning terms, rather than requiring a land owner to re-site a building to benefit a neighbouring property. Loss of a private view, raised in representations, is not a material planning consideration.
41. N&S-A&DM Policy DM5 *Design – Amenity* requires development to be assessed against amenity criteria to ensure that the distance from neighbouring development is sufficient to ensure that neither suffers loss of amenity including overbearing impacts, loss of light and privacy. Development should have regard to their impact on the amenity of surrounding land uses and where necessary mitigate for any detrimental impact.
42. Potential loss of privacy is material to the determination of the application and is raised both by the Parish Council and in neighbour representations. The view of the timber building from a first floor bedroom window at The Forge is shown below, to the left of the main school building, and is filtered by trees.



Looking towards the school and timber building from the first floor bedroom window of The Forge

43. In considering the acceptability of the development, the building has been viewed from ground and first floor windows of The Forge and from the garden of that property. The outdoor play area adjacent to the building is screened from the gardens of neighbouring property by the boundary fences, and established planting offers only some direct and mostly filtered views towards the adjacent residential properties. It is acknowledged that the building will be more visible with loss of foliage during winter months. Whilst concern has been raised over loss of privacy, The Forge lies closer and has more direct inter-visibility with classroom windows in the west elevation of the school. The timber building has not been designed as a classroom and would be used less intensively. At a distance of 26m to Holmlea and at an angle and closest distance of 33m to The Forge, it is considered that use of the building would not give rise to unacceptable loss of privacy and that the development would be acceptable in compliance with N&S-A&DM Policy DM5 *Design – Amenity*.
44. The suggestion in representations that openings should be formed in the building elevations facing the school playing field to address privacy issues have been raised with the applicant. In response that applicant has stated that *“the building has been sited with safeguarding of the children in mind with the glazing and doors on an elevation that opens onto an enclosed, secure easily supervised space”*. To change the orientation or location of the building would require additional fencing and potential intrusion into the playing field to ensure that safeguarding issues are addressed. Such an arrangement would not permit direct access between the building and the current outdoor activity area, and there would be no opportunity for supervision of the outdoor area from within the building. Whilst moving openings in the building may address perceived threat to privacy of neighbouring property, such a change would be detrimental to the function of the building.
45. The applicant has suggested that the provision of lighting in the building could be omitted subject to a suitable risk assessment being undertaken, window blinds or

shutters could be installed, or screen planting could be provided if necessary (how this could be done has not been submitted). Having regard to the relationship of the building to neighbouring property the need for mitigation is not considered a necessary requirement to make the development acceptable.

Noise

46. Noise impact has been raised in representations at Paragraph 30f). The school is an established feature of the village and a school use is considered to be compatible alongside residential development within the community it serves. There is not an unreasonable expectation that noise from outdoor activities will be heard at residential properties close to a school. Noise impacts will generally be experienced at play times and during formal outdoor activities and are limited to school term times.
47. The building has been sited adjacent to an enclosed area historically used for outdoor activities. The school has a relatively small number of children on the school roll and it is anticipated that the number of children that would use the building and activity area at one time would be limited. Outdoor learning would take place under staff supervision which may help control noise, and the timber boundary fence will reduce noise breakout. NCC Project Engineer (Noise) considers noise impact to be acceptable and the development is considered acceptable in compliance with N&S-A&DM Policy DM5 *Design – Amenity*. Bringing the outdoor activity area back in to use once the timber building has been completed is likely to reduce outdoor noise levels in the area between the school building and The Forge. Newark & Sherwood District Council Environmental Health Officers would be able to investigate and enforce a statutory noise nuisance. A note is recommended to advise that the school carry out quieter activities in the outdoor area between the school building and boundary with The Forge (Note 3).

Other Matters

48. With reference to concerns raised that the development will lead to increased school numbers and traffic implications (Paragraph 30i-j)), NCC Pupil Place Planning has advised that *“although the building would increase the space available to the school there is no plan to change the PAN, therefore the additional space will not generate additional pupils. Any change to the PAN requires consultation to which interested parties can contribute.”*
49. The school has clarified that *“there is no intention for any regular use of this Early Years Foundation Stage area by any other year groups and the school does not consider lettings to any outside groups either. There is no intention of using the development which is an uninsulated, unheated wooden building, for anything other than storage and shelter to deliver the curriculum. It is acknowledged that it is not suitable for use as a classroom.”*
50. Whilst the building is considered to be suitable as a teaching space for outdoor-based activities, it lacks facilities that would be required to make it suitable as a

classroom. There would be no toilet facilities and foul drainage has not been provided. The structure, as built, would need to be substantially upgraded, insulated, heated and drained, and would need to comply with relevant guidance and regulations to be suitable as permanent teaching accommodation.

51. The provision of a teaching space to support outdoor learning at the school would not increase pupil numbers. The Highways Authority has not raised objection to the development and it would not be reasonable to require the provision of car parking as a requirement of this development. To allay fears that the building may at some future date be used as a full-time classroom a condition is recommended to limit the use of the building (Condition 2). A planning application would be required to vary the condition should it be proposed to upgrade the building to make the building suitable as permanent teaching accommodation at which point the amenity and traffic impacts of additional children at the school, including the need for car parking, would be assessed.
52. It has been noted that cars currently park in front of the emergency access gate to the school. This is a school management issue and an informative is recommended to draw the current unsatisfactory parking arrangement to the attention of the school (Note 2).
53. The issue of safeguarding raised in representations (Paragraph 30i)) has been referred to Pupil Place Planning which advises that the school will discharge their responsibility to ensure the safeguarding of the children on the site.
54. With reference to the comment from the Parish Council and neighbours about a lack of pre-development consultation, although pre-application engagement is encouraged there is no statutory requirement for consultation prior to the submission of an application.

Other Options Considered

55. 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

56. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder and Safeguarding of Children and Adults at Risk Implications

57. Although not benefitting from perimeter security fencing, the school is enclosed. No changes to perimeter fencing are proposed. The outdoor activity area outside the entrance to the timber building would be enclosed.

Data Protection and Information Governance

58. All members of the public who have made representations on this application are informed that copies of their representations, including their names and addresses, are publically available and are retained for the period of the application and for a relevant period thereafter.

Human Rights Implications

59. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6.1 (Right to a Fair Trial) are those to be considered. The proposals have the potential to cause loss of amenity from increased noise disturbance and loss of privacy to the occupiers of neighbouring residential properties from use of the building and increased outdoor activity. However, these potential impacts need to be balanced against the wider benefits the proposals would provide in supporting outdoor learning at the school. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

Implications for Sustainability and the Environment

60. The provision of a facility that would enhance the range of education offered may increase the appeal and support the viability of a small rural school.
61. There are no Financial, Human Resources implications, Public Sector Equality Duty, or implications for Service Users arising from the development.

Statement of Positive and Proactive Engagement

62. In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion; assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

63. It is RECOMMENDED that planning permission be granted for the purposes of Regulation 3 of the Town and Country Planning General Regulations 1992 subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [SJG16.11.2018]

The recommendation falls within the remit of the Planning and Licencing Committee.

Financial Comments [RWK 15.11.2018]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

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

Electoral Division and Member Affected

Muskham & Farnsfield

Councillor Bruce Laughton

Report Author/Case Officer

David Marsh

0115 9932574

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

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RECOMMENDED PLANNING CONDITIONS

1. The approved development is for the retention of the timber building shown on the Location Plan (Drawing 00157 NA ZZGF1100 Rev A) received by the County Planning Authority (CPA) on 25 September 2018, to be used as set out in the submitted application and supporting information, unless otherwise required by other conditions of this permission.

Reason For the avoidance of doubt as to the development permitted.

2. The timber building shall only be used a teaching space to support outdoor learning activity and school related storage as proposed in the application, and shall not be used as a dedicated teaching or nursery facility other than with the express permission of the CPA.

Reason For the avoidance of doubt as to the development permitted and to retain control over the future use of the building and related potential traffic and amenity impacts in consideration of Newark & Sherwood LDF Allocations and Development Management Development Plan Document 2013 Policy DM5 - Design.

3. After 12 months of the date of this permission and no later than 13 months of the date of this permission, the site shall be inspected by the school to determine the need to colour/stain or otherwise treat the external timber elevations of the building and a report submitted to the CPA for its approval in writing setting out the findings of this inspection. If the inspection determines that the external timber elevations need to be coloured/stained or otherwise treated, the report shall include details of the treatment proposed which, subject to first being agreed in writing by the CPA, shall be applied to the external timber to the written satisfaction of the CPA no later than 15 months of the date of this permission.

Reason In the interest of visual amenity in compliance with Newark & Sherwood LDF Allocations and Development Management Development Plan Document 2013 Policy DM9 – Protecting and Enhancing the Historic Environment, and to allow a reasonable time period for any treatment to be applied with minimal inconvenience to the operation of the school.

Informatives/notes to applicants

1. The development will require consent from Nottinghamshire County Council in its capacity as landlord. Further advice can be given by emailing corporate.property@nottscc.gov.uk
2. Attention is drawn to the current unsatisfactory arrangement where cars are parking in front of an emergency access gate which should be addressed by the school.
3. The school is advised that quieter outdoor activities should take place in the outdoor area between the school and The Forge.

Ravelston

The
Shieling

Holmlea

26.0m

8.0m

4.0m

8.0m

33.0m

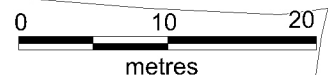
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The
Forge

the Old
School
Bungalow

Green
Cottage

SCHOOL LANE



**Nottinghamshire
County Council**

Retrospective planning application for the retention of 8m x 4m timber building
Kirklington Primary School, School Lane, Kirklington, Nottinghamshire.
Planning Application No. 348/01811/FULR3N

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Scale 1:500
Produced by: JW
DECEMBER 2018

11 December 2018**Agenda Item: 8****REPORT OF CORPORATE DIRECTOR – PLACE****RUSHCLIFFE BOROUGH REF. NO.: 8/16/02736/CMA**

PROPOSAL: THE PROPOSED CONSTRUCTION OF AN INLAND LEISURE MARINA, ASSOCIATED ANCILLARY BUILDING, INFRASTRUCTURE, CAR PARKING AND LANDSCAPING WITH INCIDENTAL MINERAL EXCAVATION

LOCATION: REDHILL MARINA, REDHILL LOCK, RATCLIFFE ON SOAR

APPLICANT: REDHILL MARINE LIMITED

Purpose of Report

1. To consider a planning application for the construction of a 290 berth inland leisure marina involving prior extraction of circa 117,500 tonnes of sand and gravel, at land near to Redhill Marina, Redhill Lock, Ratcliffe on Soar. The key issues relate to the principle of development within the Green Belt, impacts on the rural landscape and visual impacts, and on matters of archaeology and ecology. Implications regarding the safeguarding for the route of the planned HS2 rail line are also pertinent.
2. The site lies within the designated Green Belt and in line with this Authority's handling of previous proposals at this site the application has been treated and consulted upon as a 'departure' from the Development Plan.
3. The application was originally submitted in July 2016 and validated in October 2016. Following consultation, a formal request for further information on a variety of topics was issued to the applicant in January 2017. To date this remains outstanding and Officers now consider there is an overriding public interest in determining the application as originally submitted.
4. The recommendation is to refuse planning permission for the reasons given at paragraph 260 of the report.

The Site and Surroundings

5. The site is located within the River Soar washlands close to the Ratcliffe on Soar power station and East Midlands Parkway railway station. It is accessed off the dualled A453 and is approximately 13km south-west from Nottingham

city centre. The River Soar forms the county boundary with Leicestershire and its confluence with the River Trent is close-by to the north.

6. The general area is framed by the A453 to the south, the River Soar to the south and west, with the Midland Mainline and Parkway station to the east, beside the power station. With its eight cooling towers the power station provides a prominent local landmark. The applicant owns and operates a marina/boatyard at Redhill Farm which lies to the north and accessed by a private track from the Parkway Station junction off the A453. The settlement at Ratcliffe on Soar is situated to the south of the A453 and contains a number of historic and listed buildings. This area is shown on plan 1.
7. The land beside the River Soar is predominantly low lying permanent pasture interspersed with some hedgerows and riparian trees along with river bank. Beyond Redhill Farm the terrain rises into a wooded escarpment at Red Hill, through which the Midland Mainline passes via its tunnels before continuing north across the Trent valley. On the southern flanks of the hill beside the railway tunnels are the buried remains of the Roman shrine and town at Red Hill which is designated a Scheduled Ancient Monument (SAM). Further SAMs including the buried remains of a Roman villa are situated on the Leicestershire side of the river which together indicate the area around the confluence of the Rivers Soar and Trent are of rich archaeological significance.
8. There are also a number of sites noted for their wildlife/ecology interest in the vicinity. The nearest nationally designated site is the Lockington Marshes Site of Special Scientific Interest (SSSI) which at its closest point is approximately 130m to the west of the application site on the Leicestershire side of the River Soar. Red Hill escarpment is locally noted as a Local Wildlife Site (LWS) as is the River Soar and its environs.
9. At the existing marina there are a number of workshop buildings housing boat building and other related businesses along with areas of informal external storage for boats and related equipment. There is a narrowboat lock featuring a Grade II Listed packhorse bridge. There are extensive areas of boat moorings immediately around the existing marina complex and in the area around the lock. A line of moorings (numbering 96 and possibly more in the summer) extends south of the marina along a 1.3km stretch of the eastern river bank. There are also two small basins offering off-line boat moorings. All of these are understood to be let by the applicant.
10. Beyond the marina to the north there is a line of around a dozen permanent residential properties following alongside the bank of the river. Access for these properties is via the private road through the marina complex.
11. A public footpath (FP7) runs along the access road to the marina and to the packhorse bridge. There are further public footpaths following alongside the Leicestershire side of the river bank as part of a wider footpath network as shown on plan 2.
12. The application site itself covers an area of 13 hectares comprising a large pasture field in the bend of the River Soar. For the purposes of serving the proposed development the application red line boundary envisages a new

access track across the adjacent field to the east to adjoin the existing Redhill Farm access road. Alongside the proposed access track there is a small watercourse which broadly defines the northern site boundary. This flows from the vicinity of the power station and crosses via a culvert under the access road, across the fields and into the Soar. The eastern field boundary is defined by a mature hedge. Along the river bank there are occasional clusters of trees including alongside an existing off-line mooring basin which has been excluded from the application site area. A flood defence embankment cuts across the western corner of the site. A pond surrounded by scrubby vegetation is present in the south of the site. There are several rough vehicular tracks crossing the field and following along the river bank.

13. The site and wider area lie within the designated Green Belt as defined by the Rushcliffe Local Plan, the western boundary of which is demarked by the River Soar. The site and its Green Belt context are shown on plan 3. The site is also noted as being within Flood Zone 3, at a high risk of flooding.
14. In terms of the nearest affected permanent residents these are limited to Middle Gate Cottage which is situated alongside the access road. There are a further two long-term vacant properties in the area: Masons Barn situated south of Middle Gate Cottage and North Bridge Cottage, at the A453 parkway junction. There are upwards of 96 boat moorings alongside the River Soar, many of which are permanent residential and let by the applicant.
15. The route for the planned HS2 High Speed Rail line (Phase 2b spur to Leeds) runs south-west to north-east through the application site on its approach across the Soar and Trent valleys towards the East Midlands 'Hub' at Toton. The safeguarded route is shown on plan 4 and this matter is further considered within the report.

Planning History

16. The applicant has submitted three previous planning applications for inland leisure marina proposals at this site. These involved the prior extraction of sand and gravel in volumes significant enough for the County Council, as the Minerals Planning Authority (MPA) to be the determining authority for the proposed developments as a whole. Two of these applications are worth noting.
17. In 2011 an application was made for a 632 berth marina along with a main facilities block, boat house, satellite sanitary and waste building, and associated vehicle parking, landscaping and infrastructure (Ref 8/11/00753/CMA). This application was subsequently withdrawn by the applicant.
18. In 2012 an application (Ref 8/12/00856/CMA) was made for the construction of a 553 berth leisure marina comprising marina basin with leisure moorings and ancillary buildings, associated vehicle parking, landscaping and infrastructure. The applicant appealed to the Secretary of State against this authority's non-determination of the application and this appeal was subsequently dismissed by the appointed Planning Inspector in his decision of 20th January 2015. The County Council resolved that had the appeal not been made, it would have

refused planning permission on the grounds of inappropriate development in the Green Belt and lack of need for the marina berths. Loss of archaeology, impacts to aviation safety and insufficient information on a number of other aspects were other reasons cited. These issues were heard in detail by the appeal Inspector.

19. In summary the Inspector found that the marina was inappropriate development in the Green Belt, by definition and by its form, scale and size affecting the undeveloped openness of the riverside pasture. The proposal was considered to be visually intrusive, particularly from local public footpaths and which would harm local landscape character.
20. The Inspector was not persuaded that there was a pressing need for the additional marina berths and although the prior extraction of sand and gravel had some positive weight, overall he did not agree there were any 'very special circumstances' made out to overrule the importance of maintaining the undeveloped Green Belt. A key finding was that the open and undeveloped character of the site took on greater importance due to the intervening infrastructure/developments in the vicinity, which therefore did not justify further erosion of the Green Belt. The harm to the rural landscape and from the loss of archaeology further tipped the balance against the development.
21. Separately there is a lengthy and mixed history of applications and enforcement work concerning elements of buildings and external storage in and around the existing marina which are in the remit of Rushcliffe Borough Council. It is not necessary to consider these in detail.

Proposed Development

22. This latest application seeks planning permission to construct a 290 berth inland leisure marina along with an associated marina building, car parking, access/site infrastructure and landscaping with prior extraction of mineral deposits. The proposed masterplan is shown on plan 5.
23. The application is accompanied by an Environmental Impact Assessment (EIA) pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the 2018 Regulations do not apply in this case as the application pre-dates these) and includes a package of background reports and assessments on a range of topics.
24. The main elements in further detail are:

A 290 berth marina basin

25. This would be excavated and constructed as a broadly rectangular basin within the centre of the existing field. The marina would be split up into a northern and southern area by an engineered split extending from the eastern side. Two small islands with some marginal areas providing wildlife enhancements would be constructed in the southern area.

26. An entrance from the river would be created at its north-west corner just upstream of the existing off-line basin moorings. This would incorporate a flood control gate.
27. The various berths for boats would be created by a series of linked floating pontoons held in place by driven poles ensuring dry egress in times of flood. In places these would line the banksides whilst in others they would extend out into the basin. Different areas and berths are designed and sized for varying types of craft including for small leisure craft, narrowboats and wide-beam craft/Dutch barges. Various paths and walkways around the marina would link these all together to the facilities building and car parks.
28. The application also proposes that this 1.3 km length of riverbank is cleared of all existing moored boats with a view to reaching terms with the boat occupants whereby they are relocated into the proposed new marina. A similar proposition was offered during the course of the previously refused application.

Facilities building

29. This would be a relatively small and functional single-storey building providing a café and toilet and shower facilities. Measuring 130 sqm this building would be raised up on stilts and positioned to overlook the northern side of the marina. Access would be via steps up to a surrounding balcony. Facing materials are indicated to be brickwork with a tiled hipped roof. The café would have floor to ceiling windows on two sides offering views overlooking the marina. This building is shown on plan 6.

Car parking (130 spaces in two areas, including 6 disabled spaces)

30. A main car park would be created to the rear of the facilities building at the entrance to the marina site. This would provide space for 72 spaces and formed with permeable hardcore. A second car park with a further 58 spaces would be created on the northern side of the marina.

Vehicular access track

31. This would be formed with permeable hardcore and would circulate the marina leading from the main car park and facilities building. The track would then continue across the edge of the adjacent field alongside the watercourse and join onto the current marina access road.

Habitat areas

32. The western corner of the site within the bend in the river would be enhanced as a habitat creation area. Elsewhere the site would be enhanced with additional landscape and tree planting. In particular the plans show a broad landscape strip alongside the existing hedgerow to the east. Additional tree planting is also

shown along the northern side alongside the car park. The marina and access track would be set back from the river which would be left in a natural state.

Construction works

33. Construction works would be split into two main phases - excavation and then construction of the marina infrastructure.
34. The excavation of the marina basin to extract the sand and gravel deposits would take approximately one to two years, but the application indicates this would depend on the local market prices at the time. Works would be progressive across the site and could be done on a campaign basis. The mineral would be hauled off-site for processing elsewhere. No processing plant is therefore envisaged. Extraction would require the dewatering of the works by using pumps operating 24/7. Excavation would be undertaken using a hydraulic excavator, with dump trucks or HGVs.
35. Soils and clays would be stripped and placed in temporary stockpiles around the site for use in final engineering and restoration works. The basin would be excavated in three phases starting with the northern area and then working south. An estimated 117,500m³ of sand and gravel would be extracted. The full extent of mineral across the basin would be extracted after which the split and islands would be constructed utilising the stockpiled materials. The excavated basin would provide for a minimum water depth of 1.4m requiring some over excavation into the underlying clay. Surrounding slopes would be generally formed at 1 in 3 or 1 in 5 and battered with clay. There is no requirement to import engineering materials.
36. Based upon a higher (i.e. worst case) scenario of extraction of 117,500 tonnes per annum (over 250 working days) the application estimates the extraction phase would generate 46 HGV movements per day (23 in 23 out) based on standard industry loads of 20 tonnes. If the appointed contractor uses larger articulated type HGVs then this number will decrease.
37. Working hours are anticipated to be 07.00-18.00 Monday to Friday, 07.00hrs to 13.00hrs on Saturdays with no working on Sundays or public/bank holidays.
38. Following the marina excavation and shaping, the remaining infrastructure and building elements would be undertaken including the roadways, services, pontoons and the installation of the lock gates. Water would then be let into the marina and the final connection to the River Soar opened up. This phase would take between 6 to 12 months to complete. The facilities building would then be constructed and the existing river moorings removed.

Marina operation

39. When fully operational the applicant envisages the employment of 7 or 8 new positions including a full-time manager a full-time groundsman and part time administrative, café, groundsmen and cleaning staff.

Consultations

40. **Rushcliffe Borough Council – No Objection.**

At its meeting of the Development Control Committee of the 15 December 2016 the Borough Council considered an officer's report and recommendation that an objection be raised to the proposed development. The Committee however resolved to support the application.

It was considered that the proposal to extract minerals was not inappropriate development in the Green Belt and that the resulting restoration of the site by the creation of the marina would be appropriate development. Furthermore, the Council did not consider that the proposal would have an adverse impact upon the openness of the Green Belt.

The Borough Council requests that the County Council give full consideration to and are satisfied on matters of biodiversity; protected species; landscaping; and archaeology.

The Borough Council notes the Secretary of State for Transport's announcement of 15th November 2016 and the issuing of the formal HS2 Safeguarding Direction. The preferred route for Phase 2b passes through the application site. The Borough Council requests that the County Council have full regard to the consultation process required.

The Borough Council requests that the marina is limited (by planning condition or legal agreement) to leisure moorings only (i.e. no full time residential moorings) and that the existing riverside moorings are removed. It is also requested that conditions be imposed on the following matters:

- *Measures to control noise, dust, vibration during extraction/construction including controls on the hours of working (including deliveries) to 07.00-19.00 hrs Mondays - Fridays; 08.00-17.00 Saturdays and not at all on Sundays/Bank Holidays.*
- *The design of any lighting should be submitted for approval.*
- *The finished floor level of the building should be set at 600mm above the flood level and not 300mm as currently shown. Further flood resilience measures along with a Flood Management Plan should be implemented.*
- *Delivery and waste collection times for the marina use should be restricted to 07.00-18.00 hrs Monday-Friday; 08.00-17.00hrs Saturdays and not at all on Sundays/Bank Holidays.*

41. **Ratcliffe on Soar Parish Meeting - No response has been received. Any comments received will be orally reported to Committee.**

42. **Kegworth Parish Council - Comments.**

Attention is drawn to the East Midlands Gateway development starting in 2017 including highway improvement works to the A453 and to M1 junction 24. The Parish Council is working with the developer, Local Authorities and Highways England to manage disruption in the area. The marina excavation will mean significant works and considerable HGV movements. The Parish Council would like a carefully planned, joined up approach.

The Parish Council is extremely concerned that HGVs [associated with the Redhill marina project] may consider using the A6 which runs through Kegworth as an alternative route to avoid the works and possible delays. It is suggested that very specific instructions are made clear to HGV drivers on acceptable routes, so to ensure the village is not affected by any unnecessary HGV movements.

43. Leicestershire County Council - No objection.

It is considered that the submitted Landscape and Visual Impact Assessment has adequately demonstrated that the development will not result in any significant adverse landscape or visual effects for the people of Leicestershire. There will be impacts on the river, but it is considered that these can be mitigated.

There should be opportunities for biodiversity enhancements and wetland creation. Wetlands (ponds/marsh) are not shown in the 'Habitat Creation area' of the Masterplan which is a missed opportunity. An updated Water Vole survey before development commences is also recommended.

44. North West Leicestershire District Council – No objection.

Raises no objection, subject to all statutory consultees and Nottinghamshire County Council being satisfied that the proposal would not cause significant impacts on North West Leicestershire particularly in respect of an accumulation of HGV movements on the highway network associated with the development site as well as the Strategic Rail Freight Interchange to the west of Kegworth.

45. Lockington Parish Council has not responded. Any comments will be orally reported to Committee.

46. High Speed Two (HS2) Limited - Objection.

(Original consultation response 5 December 2016)

Since the planning application was submitted and validated, the Government on 15 November 2016 formally announced the preferred route for Phase 2b of High Speed 2 (HS2). The Secretary of State for Transport simultaneously issued Safeguarding Directions in order to protect the preferred HS2 route from conflicting development. Safeguarding is an established tool of the planning system designed for this purpose and aims to ensure that new developments along the route does not impact on the ability to build or operate HS2 or lead to excessive additional costs.

It is apparent that part of the application site is located within the limits of land subject to the formal Safeguarding Direction. The preferred route for the railway crosses the application site from the south-western boundary to the north-eastern boundary. Therefore, there may be a requirement for part of the site to be permanently acquired for the construction and/or operation of the railway.

In light of the above, further discussion needs to take place in order to fully understand the interface between the proposed marina development and the railway in that location and unless and until HS2 Ltd are convinced that the two proposals can co-exist it is considered that the application proposals will potentially conflict with the preferred line of route for HS2. Therefore HS2 Ltd are left with no alternative at this time but to lodge a holding objection to the proposed development.

(Updated position 21 November 2018)

The proposed development is located directly under the proposed alignment of the HS2 Ratcliffe Viaduct crossing the valley and the River Soar. In the permanent situation HS2 Ltd would acquire land both beneath the viaduct and land either side of the viaduct edges for maintenance and access purposes. HS2 Ltd's technical opinion is that the railway would preclude the construction of a marina or other development below the viaduct.

A working draft Environmental Statement (WDES) has been published for consultation in advance of a hybrid bill submission to Parliament. The WDES presents draft environmental information, describes the likely environmental impacts of building and operating Phase 2b of HS2; as well as proposed ways to avoid, reduce, mitigate and monitor the effects. It is based on a point-in-time assessment in the ongoing development of Phase 2b. Consultation closes on 21 December 2018 and feedback will be taken into consideration as the plans are developed.

With reference to the WDES in the temporary construction period, HS2 has determined that land shaded pink within the so called CCB (Consolidated Construction Boundary) is required to construct the viaduct and the railway. This area of land is needed for storage of materials and plant, assembly of items, office facilities, parking, environmental mitigation and landscaping and would not be available to develop until after HS2 have vacated the area within the CCB. From a main works civil engineering activities perspective that could mean until 2030, and 2032 for Rail Systems completion. It is assumed that the applicant would not be prepared to wait up to 12 years for that land to become available for a scaled back form of development potentially being accommodated on the remaining land in the Red Hill vicinity.

HS2 provide a suggested reason for refusal.

47. Environment Agency – Objection.

The submitted Flood Risk Assessment (FRA) does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

- *Identify the effects that raising the access track and other areas may have to the River Soar and the Ratcliffe on Soar Power Station Main River floodplain, which may increase the risk of flooding elsewhere as a consequence.*
- *Consider the impacts of the proposed development to the existing flood defence (embankment) onsite.*
- *Consider the effect of raising the ground levels of the access road immediately adjacent to the Ratcliffe on Soar Power Station Main River. We recommend easements (approximately 8m) are provided from the top of the bank of the Main River.*
- *Confirm whether the moorings will be used as permanent or temporary accommodation, which may change the flood risk vulnerability of the development. The site is located in the functional floodplain, therefore only water compatible and essential infrastructure is appropriate.*

The EA recommends that a detailed hydraulic model is undertaken to understand the third-party flood risk impacts. The objection will be maintained until an adequate FRA has been submitted.

48. Canal and River Trust – Comment.

It is noted that this application follows the dismissal at appeal of an application for a 553 berth marina on this site, and the earlier withdrawal of a scheme for a 632 berth marina in 2011. The number of berths has been further reduced to 290 in this proposal.

Impact on Water Resources/Navigational Safety:

An assessment of water resources was undertaken by the CRT in relation to the previously withdrawn scheme for a 632 berth marina. Although the Erewash, Trent and Mersey and Grand Union Canals would all be affected by increased lockage it concluded that there were sufficient water resources available to meet the additional demands of the scheme. This was on the basis that the 632 berths included moving 96 existing moorings on the river into the new marina.

The supporting environmental information accompanying the current proposal continues to be based on the marina achieving a reduction in the number of on-line moorings along this stretch of the River Soar, and states that 96 boats currently moored on-line in the vicinity of the application site will be relocated to the new marina. Given that the environmental impact of the scheme has been assessed on this basis the CRT would expect that the Council will seek to ensure, through the planning process, that the moorings on the river are required to be relocated into the marina.

The application does not provide any clear breakdown of the intended tenure of the berths within the marina (i.e. leisure moorings, visitor moorings, hire boats etc), and this makes it more problematic to predict the likely number of boat movements generated, and thus the impact on water resources. However, the

CRT confirm that there are sufficient water resources available to support the much smaller 290 berth marina development now proposed.

This is based on the assumption that the current proposal does not include any provision for hire boats to operate from the marina, as there is no reference to this within the application and only a suggestion that the berths will comprise a mix of leisure and visitor moorings. The CRT request that any planning permission as may be granted restricts the operation of hire boats from the marina by condition, unless it can be demonstrated through the submission of a suitably detailed water resources assessment that there are sufficient water resources available to accommodate their operation.

The marina entrance itself appears unchanged from the previous scheme and therefore remains acceptable in terms of navigational safety.

Submitted Information on Need/Demand:

The CRT wish to make clear that they have not provided any specific information for this scheme in relation to need or demand for offline moorings, nor does it carry out such studies. It is for the applicant to deal with these matters.

Some concern is expressed in relation to references in the application to out of date document sources attributed to the CRT's predecessor (British Waterways) and to statements within the application claiming that it is government policy to encourage development of marinas, as essential facilities to support the use of waterways for tourism and leisure purposes, when no such general policy is known to exist.

49. Natural England – No objection.

Natural England considers that the proposed development will not damage or destroy the nearby Lockington Marsh SSSI or its features of interest for which it has been notified and raises no objection.

The development presents significant opportunities to develop biodiversity and habitats that can complement and expand on those found on the opposite side of the river. The conservation area should be looking to replicate the features found at Lockington Marsh SSSI namely shallow areas of open water surrounded by fen and with areas allowed to develop as wet willow woodland. This could be achieved by extending slightly the area of gravel winning or re profiling the land to ensure some stays wet throughout the year. Work on the large back water which extends it and reprofiles the bank could provide not just better habitat but also an enhanced fish refuge on the site. In addition the area to the north of the car park (currently unlabelled) should also aim to replicate the Lockington Marsh habitats.

These changes would help the application make a significant contribution to the creation of nationally rare wet woodland habitats and provide additional space for rare species found at Lockington Marshes working towards both national and county biodiversity targets. The habitats suggested also have the advantage on not being particularly attractive to roosting birds so reducing bird management

issues. Natural England would be happy to work with the applicant under its discretionary advice service to help build an appropriate habitat creation package.

Standing advice with respect to protected species should be followed. General advice is offered on a range of other matters.

50. NCC (Nature Conservation) – Objection.

The Preliminary Ecological Appraisal (PEA) describes the results of fieldwork carried out in mid-November 2015, which included badger and riparian mammal surveys, and an assessment of two ponds in relation to great crested newts. Importantly, the PEA highlights that further surveys are required in relation to: Bat roosts; Bat activity; Wintering birds; Breeding birds; Reptiles. It is assumed that these additional surveys have been completed during winter 2015-16 and spring/summer 2016, so the results surveys of these are requested.

If such surveys have not been completed, then they need to be carried out prior to the determination of the application, noting that British Standard BS 42020:2013 (Biodiversity – code of practice for planning and development) states, in paragraph 6.4.5, that “...where a PEA contains recommendations that further detailed survey work is necessary in order to inform a planning application, this work should be undertaken before the determination of the planning application.”

The County Ecologist requests that a decision on this application is deferred until the required surveys have been carried out and supplied, and a proper ecological impact assessment has been completed. The Ecologist has concerns with the adequacy of the submitted information, given that no assessment of impacts has been carried out. A full and proper ecological impact assessment should be carried out, to accord with the CIEEM guidelines.

51. Nottinghamshire Wildlife Trust - Objection.

A Preliminary Ecological Assessment has been submitted, based on a single day survey in November 2015, where riparian mammal and badger surveys were also undertaken. Given the very basic level of this survey, the Consultants have quite correctly recommended surveys for notable and protected fauna (Breeding and overwintering birds; reptiles; bats; further riparian mammals surveys). These surveys do not appear to have been undertaken, as the information is not included. Old surveys from the previous application, undertaken in 2008-2010 have been included, but this information is now very out of date.

With regard to the nearby Lockington Marshes SSSI, the consultant states that they “understand” that there would be no impact, but no evidence has been provided to underpin this assertion. Therefore it has not been adequately demonstrated.

In the absence of the above ecological survey information, it is not possible to undertake a robust Ecological Impact Assessment i.e. there is insufficient information to assess either the direct or the indirect effects to protected fauna

and/or designated habitat (River Soar Local Wildlife Site). No meaningful mitigation or ecological compensation is proposed. It is also not possible to consider the merits or otherwise of any proposed habitats, given the lack of baseline information.

NWT would expect to see additional assessments of the marginal vegetation along the affected river bank and for the potential for Great Crested Newts in a pond on site.

Given the above, NWT judge that there is insufficient ecological information to determine this application and therefore objects to this scheme.

52. Historic England – Comment.

Historic England recommend that this case is determined with reference to national and local planning policy and guidance, the report of Planning Inspector Mr John Woolcock [in respect of the previously refused application] and the detailed advice of the County Council Archaeologist.

The present scheme whilst differing in detail and extent [from the previous appealed application] is supported by the same archaeological field assessment report. Historic England concurs with the previous assessment of the County Archaeologist in her letter to the Planning Inspectorate on the above reference dated 13th August 2013, viz:

"The unusually deep stratified Roman deposits with apparent continuities of occupation into the Anglo-Saxon period are of at least regional importance and potentially contain elements of national importance. The significance of the site is further enhanced by the proximity of nationally important designated remains comprising the Roman Site on Red Hill Scheduled Monument (ref NT 141)."

In respect of the importance of undesignated remains, paragraphs 135 and 139 of the NPPF require a proportionate approach to importance up to and including parity with Scheduled Monuments where there is demonstrable equivalence.

With regard to the setting impact upon Scheduled Monument NT 141 there is evident harm from the removal of important contemporary remains with a strong spatial association (bearing in mind also the material discovered on the intervening East Midland Parkway Rail Station Site). In that respect all harm to designated heritage assets requires clear and convincing justification and for conservation of the asset's significance to be given great weight when set against public benefits.

Where it is proposed to work a gravel site dry in such an archaeologically sensitive location (i.e. to lower the water table by pumping down) there is a strong likelihood that waterlogged remains both on and off site may be harmed through desiccation and oxygen percolation.

53. NCC (Archaeology) – Objection.

This proposal has two distinct archaeological zones, a dryland area and a more complex wetland area. The dryland one has been evaluated through the

previous fieldwork, which has adequately demonstrated that there is archaeology present, associated with the scheduled site to the north and including human remains, but nothing of such great archaeological significance that it clearly provides grounds for refusal of the application. The dryland archaeology can be mitigated for should consent be granted.

For a long while the main issue from the archaeological viewpoint has been the unknowns of the wetland area. Palaeochannels and other slight earth forms are evident and have the potential to contain a wide range of archaeological material, from boats, to fish weirs, possibly an Anglo-Saxon mill, and potentially Roman wharfage.

Because river channel fills are anaerobic and waterlogged, organic materials which would normally rot away on most dryland sites can be beautifully preserved and can provide significant information. The dry excavation of a large area in the middle of a complex set of palaeochannels has also the potential to introduce oxygen into surrounding deposits, so that not only will any archaeology within the excavated area be destroyed, but so also potentially will a significant area beyond the limit of excavation.

The location of the scheduled Roman town at the confluence of the Rivers Soar and Trent makes it highly likely that there was Roman wharfage here. These may have been destroyed by subsequent river movement, or they may still exist within or adjacent to the application site. If they do survive, they are likely to be impacted on by the proposal. Roman wharves associated with the Roman town and shrine would be of national importance. Dealing with such archaeology properly is associated with significant costs and is a time-consuming affair. The possibility that a site such as this is uncovered in the course of excavation for the marina is a real risk. However this risk has not been assessed using up to date specialist techniques.

The archaeological potential of the wetland zone is sufficient to recommend refusal of the application, as a safe mitigation strategy cannot reasonably be identified. If, however, there are pressing reasons for approving the application which feasibly outweigh the high potential for nationally significant archaeology, then it is recommended that the applicant be requested to provide additional information in the form of further evaluation of the wetland areas of the site. The results of this work should take into account the potential impacts of development on palaeoenvironmental remains beyond the limit of extraction. It is the County Archaeologist's view that this work would demonstrate the presence of nationally significant archaeological remains, the destruction of which – in the words of the NPPF, should be wholly exceptional.

54. **Highways England** - No objection.

55. **NCC Highways** – No objection.

It is noted that the submitted Transport Assessment (TA) originates from the previous appeal [against non-determination] of the application for a 553 berth marina. On this basis, it presents a more robust assessment of how traffic patterns could manifest themselves.

800 tonnes of material will be transported from the site in 20 tonne HGVs, equating to 8 HGV trips per hour. In terms of highway impacts, this additional traffic is not considered significant and does not require any mitigation measures to address capacity issues.

Concerns have been raised regarding the impact of major highway works at nearby developments being able to compromise the operational highway capacity, thereby encouraging HGV traffic to divert through Kegworth. These occurrences are unlikely as all arms of M1 J24 will be affected at some stage by the works and any potential advantage gained slim. Side Ley, Station Road, Kingston Lane and Kegworth Road are subject to a 7.5T weight restriction which can be enforced making such occurrences less likely.

When operational there is plenty of spare capacity to accommodate the related traffic without any improvements being required.

56. NCC (Planning Policy)- Comments

Confirms the national policy context in relation to mineral extraction is clear in that in determining planning applications for minerals development, great weight should be given to the benefits to be derived from extraction, including to the economy, whilst ensuring that there are no unacceptable adverse impacts (both individually and cumulatively on the natural and historic environment, human health and aviation safety). Securing of restoration and aftercare at high environmental standards at the earliest opportunity is also mentioned.

As of December 2016 (as stated in the latest Local Agreement Assessment, published October 2017) the sand and gravel landbank stood at 10.29 years, with permitted reserves totalling 17.5 million tonnes. This is therefore above the minimum 7-year requirement within the NPPF and under MLP Policy M6.2.

Under Policy M6.3: 'Sand and gravel extraction in unallocated land' extraction outside allocated areas will not be permitted unless it is evident that existing permitted reserves and the remaining allocations cannot sustain the landbank requirements. Paragraph 084 of the Planning Practice Guidance also states that applications should not solely be decided on the landbank situation and each application must be considered on its own merits. Policy M14.1 'Incidental mineral extraction' is also relevant to this proposal as the principle of recovering minerals as an incidental element of another development proposal promotes sustainable development.

The proposal should also be considered against NPPF with respect to the Green Belt. Environment and amenity impacts will also need to be assessed.

Progress on the new MLP:

The development of a new Minerals Local Plan has been underway since July 2017. To date evidence gathering has included a call for sites exercise with the minerals industry. The Redhill proposal was submitted and was assessed alongside all the proposals put forward. An Issues and Options document and a Draft Plan document have also been drafted and consulted on. The Draft Plan set out proposed site allocations and draft policies. The Redhill proposal was not

included as a site-specific allocation as it was not considered deliverable due to the lack of a mineral operator to deliver the scheme.

57. Via (Countryside Access) - No objection

Ratcliffe on Soar Footpath No. 7 runs along part of the current access road. Although there would be more traffic overall using the access route this should not be significant at any particular time and the public are already aware of a certain level of traffic at present. During the construction/extraction phase all machinery/vehicles should be made aware of the potential for walkers using the path and signage should be installed to that effect.

58. Via (Landscape) – Comment.

The application is accompanied by a Landscape and Visual Impact Assessment (LVIA) carried out to current guidance and standards. Overall there is broad agreement with the majority of the findings of the LVIA.

The proposed marina consists of a 290 berth marina and a single storey facilities building with a footprint of 130m². A car park for 130 vehicles is located to the north east of the site directly east of the building. The extent of any ancillary items such as bollards, lighting, bin storage and signage are not shown on the drawings.

The application area is made up of low lying, flat agricultural land, with some willow and hawthorn scrub fringing the River Soar along the western boundary. Isolated outgrown hawthorn scrub runs along old field boundaries to the south eastern section of the site.

The site lies within the Soar Valley Farmlands Policy Zone TSV02 of the Trent Valley Regional Character Area. This area is described as being:

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

This policy zone is assessed as having a “moderate” landscape condition with “moderate to strong” landscape strength, leading to a landscape policy of “conserve and enhance.”

Landscape Actions associated with this policy zone and applicable to the proposed development include:

- Conserve the older field patterns such as those reflecting open systems and the irregular and regular geometric patterns;*
- Conserve areas of permanent pastoral farming along the river floodplain;*
- Conserve and where possible enhance the continuity of riparian trees, meandering rivers and pasture along the river;*
- Enhance riparian trees through local replanting;*
- Conserve river meadows where present along the riverbanks;*

- Enhance hedgerow boundaries and ensure replacement;
- Conserve the wooded impression of the DPZ through maintenance and planting of hedgerow and riparian trees;
- Conserve the infrequent nature of built form on lowest ground and the villages situated on rising higher ground.

The development is not in accordance with two of the landscape actions for this policy zone, namely to “Conserve areas of permanent pastoral farming along the river floodplain” and to “Conserve the infrequent nature of built form on lowest ground”. However, it is acknowledged that there are opportunities to carry out many of the other actions through the landscape mitigation works.

The amount of vegetation to be removed has not been shown on a drawing or quantified. The minerals operation and the marina development will cause the permanent loss of one medium sized field of unimproved grassland. A pond fringed by a group of mature trees set within an area of rough grassland will also be removed.

The applicant considers that the overall level of landscape effect of the development (which includes mineral extraction) with regards to landform to be slight adverse.

The impact of the development will alter the character of the landscape particularly to the south of the site at a localised scale. With mitigation this may reduce to a slight adverse effect but this is dependent on the detailed landscape proposals and the future land management of the site. The relocation of boats into the marina are described as having a slight beneficial effect but this should be balanced against the loss of unimproved pasture with the creation of the marina site and may be off-set by the views of parked vehicles along the access roads within the marina itself.

Overall it is considered that the impact on landscape character is **slight to medium adverse** over the immediate landscape. Comprehensive landscape works may reduce this to a slight adverse impact over a 15 year period.

In terms of visual impact the applicant examined 15 representative viewpoints of which they considered Viewpoint 1 (from Footpath L61/3 to the west of the site) and Viewpoint 6 (from a public right of way south of the site at Ratcliffe Lock) as having a “substantial to moderate” effect during the construction period. There is agreement with this level of effect for this phase of the development.

Post-completion the County Council’s appointed landscape architect considers that at viewpoint 1 there would be a **medium adverse** impact for year 1 and **slight adverse** for year 15. At viewpoint 6 it is considered that there would be a **medium adverse** impact for year 1 and **medium to slight** for year 15 dependent on planting and detail design.

The proposed landscape works are at an illustrative stage as shown on the Master plan. Broad principles have been set out in the LVIA. Ideally more detail on the plan should be provided at this stage of the design process given the

location of the site and the dependency on landscape mitigation to reduce landscape and visual impacts of the development.

Further detail as to the planting design, new habitats to be created and long-term management should be provided by the applicant. All trees and hedgerows to be retained should be identified.

Heights of storage topsoil/subsoil and overburden mounds have not been specified though this is a temporary feature.

There has been no visual impact assessment of any proposed lighting arising from this development which may increase the level of visual intrusion into this river corridor landscape.

[The landscape officer has subsequently confirmed that details of landscaping/planting; lighting; temporary stockpiles can be secured by planning condition and the finding that there would be a slight to medium adverse landscape impact would remain unchanged if such details were subsequently agreed and implemented.]

Conclusion

This is a smaller, more constrained scheme than previous applications for this site and as such the impacts on landscape and visual receptors is marginally less.

*However it is considered that the impact on the landscape character within the study area of the Soar Valley Farmlands Policy Zone is **slight** to **medium** rather than a neutral to slight adverse impact as stated by the applicant. Depending on detailed design and the extent of mitigation works, this may reduce this in the longer term (Year 15) to a slight adverse impact. Currently the application does not demonstrate that the mitigation proposed will achieve this.*

On balance it is not considered that the visual impacts or the impacts on landscape character are insurmountable should a comprehensive landscape scheme be put forward.

59. **Via (Noise Engineer) – No objection.**

The noise assessment submitted in support of this latest application is from 2010 and was first submitted in support of the original marina application in 2012. However, the latest proposals are a scaled down version of the original marina plans. It would have been preferable to have an up to date noise assessment however given the dualling of the A453 and the increased distance to the nearest receptors, it is accepted that the background noise levels and the predicted noise impacts are likely to represent the 'worst case' scenario in the 2010 assessment and given this demonstrates compliance with the latest Planning Practice Guidance for minerals, it is accepted that the latest proposals should not give rise to unacceptable noise impacts.

The proposals are acceptable in terms of noise impacts subject to the inclusion of recommended conditions controlling extraction/construction noise and hours

(to be 0700 - 1800 hours Monday to Friday and 0700 - 1300hours on Saturday with no working on Sundays or Bank Holidays). Noise from a proposed refuelling and pump out station should also be limited.

60. Via (Reclamation) - No objection.

Concurs with the conclusions and recommendations made within the ground conditions section of the application in that contamination is not expected and that a planning condition addressing the risks from encountering unexpected contamination would be most prudent.

The construction of the marina will necessitate excavations within and immediately adjacent to the watercourse. The management of these activities to prevent uncontrolled release of sediments, fuel oils etc. will be crucial. Discharge of dewatering volumes will be regulated through the Environment Agency and settlement of sediments will be required prior to any discharge to the watercourse.

There are no proposals to import any earth materials. Should this not be the case and imported materials are required for landscaping etc. then the provenance of such materials should be ascertained, ensuring that no contaminated materials are imported to the site. Guidance is given in relation to preparing an Environmental Management Plan for the construction/excavation works.

Controls are required to protect fuel storage and prevent any leakage from such.

Recommendations are made relating to the handling of soils in accordance with good practice.

61. Network Rail Civil Engineering - Objection.

Network Rail has no objection in principle to a development of this type at this location but cannot support the proposals in the current format. This is because the development as proposed appears to be partly located on an area of land still in the ownership of Network Rail.

Concerns are raised in relation to construction traffic and traffic associated with the mineral extraction and the potential impact upon the road surfaces under NR ownership. Given the frequency and nature of traffic proposed, the road leading from the roundabout to the site is of lightweight single track construction and there would be insufficient room for vehicles to pass each for both construction/mineral extraction and the subsequent operation of the marina. The Council should be satisfied that the road construction and width is sufficient to support the proposed development without impacting the free flow of traffic.

The applicant is advised to discuss the proposed access arrangements with NR and agree to a strategy to protect the road assets from potential damage.

All access to any part of the railway undertaker's land shall be kept open at all times during and after the development including access to East Midlands Parkway station.

A condition is recommended to control/manage any abnormal loads.

62. East Midlands Airport - No objection subject to conditions.

The site is located in close proximity to the Airport and has an inherent attraction to bird species that are hazardous to aircraft. Increased bird activity in the vicinity of the Airport can increase the risk of birdstrike to aircraft and therefore affect aircraft and passenger safety.

The application includes a proposed Bird Management Plan (BMP) for the development which fails to assess and fully mitigate the bird hazard risk associated with the proposals. However the Airport would be happy to discuss with the applicant an amended BMP to address the risk of birdstrike the development may pose.

The Airport requires conditions to be attached to any grant of planning permission requiring submission of a) a satisfactory BMP agreed in consultation with the Airport and b) a detailed landscaping scheme designed so as not to increase the level of bird activity at the site, such submissions to be approved prior to commencement of the development.

63. National Air Traffic Services (Safeguarding) - No objection.

The proposed development has been examined from a technical safeguarding aspect and does not conflict with NATS safeguarding criteria.

64. NCC (Built Heritage); NCC (Flood Risk Management Team); The Ramblers Association; Western Power Distribution; National Grid (Gas); Severn Trent Water Limited have not responded. Any response received will be orally reported.

Publicity

65. The application has been publicised as a 'departure' application which is supported by an Environmental Statement by means of the placement of 6 site notices (two within Ratcliffe on Soar village), a press notice and neighbour notification letters sent to 19 of the nearest occupiers (including several moorings) in accordance with the County Council's adopted Statement of Community Involvement Review.
66. A copy of the application, its plans and the Environmental Statement have been deposited at the waterside café at the current Redhill Marina for public inspection.
67. In accordance with the Environmental Impact Assessment Regulations a full copy of the application and Environmental Statement has also be deposited with the National Planning Casework Unit acting on behalf of the Secretary of State.
68. 15 letters in support of the proposal have been received, including 9 proforma letters from employees of businesses based at Redhill Marina. The following points are made:

- (a) The proposal would enhance the marina site and provide much needed local moorings of a high standard;
 - (b) It would secure and possibly create much needed employment;
 - (c) The provision of a purpose built off-navigation would be of benefit to boats in times of flood;
 - (d) The marina would be a beneficial local leisure facility/ the Government is keen to promote outdoor activity;
 - (e) The existing marina has good access both by water, road and rail. It is 5 minutes from East Midlands Parkway, 10 minutes to the M1 and 15 minutes to East Midlands Airport.
 - (f) The new marina would bring increased income and work to support the existing boat sales/repair/maintenance businesses and support the local economy.
69. A detailed letter of objection has been received on behalf of Pillings Lock Marina (Quorn). The main issues raised are:
- a) The development is inappropriate development in the Green Belt. The situation has not changed since the previous refusal;
 - b) The applicant's survey of locally available moorings was estimated over one day in 2015 and is now out of date. The applicant has not shown there is need/demand for the marina moorings. There is a lack of need/demand data in the application;
 - c) Nationally there has been a decline in boat ownership whilst the supply of moorings has increased significantly and there is a high supply in the area;
 - d) If a new marina is constructed and is filled this will be matched by decline in occupancy elsewhere;
 - e) This scale of marina is still very significant so the harm to the landscape and the Green Belt and to other interests remains.
70. One further response raises concerns:
- a) Cumulative concerns regarding the urbanising effect of developments along the A453 corridor (A453 dualling; East Midlands Gateway project; Lockington Quarry; HS2)
 - b) Design details need to respect the rural character, such as low-key lighting.
 - c) First impressions on entering the County are impaired by former works compounds, and some empty dwellings. Sensitive remediation should be conditioned.
71. Councillor Andrew Brown was originally notified of the application. Councillor Reg Adair has now also been advised of this application.

72. The issues raised are considered in the Observations Section of this report.

Observations

Background

73. As noted above this application has remained undetermined since being validated in October 2016 and the applicant has been in receipt of the MPA's formal request for further information since January 2017. Discussions with the applicant/agent have been indicative of wholly unsatisfactory progress over this time and more recently appear to indicate some additional survey work has been cancelled at the applicant's request. The public interest in providing certainty in planning decisions is now considered to outweigh the option of delaying determination any further.
74. The planning history section above shows the site has been subject to several previous development proposals for leisure marinas which were considered by this Authority due to the significant levels of mineral (sand/gravel) extraction. The present proposal represents a further down-sizing of the applicant's marina plans. The first noted application sought permission for a 632 berth marina over 20 hectares before it was withdrawn. The second application noted sought permission for a 553 berth application over the same area and in this case was dismissed at appeal. Although the present proposal is substantially the same type/form and location of development as the previously refused application, the present proposal differs in a number of respects.
75. With the exception of the access track the site now encompasses a single agricultural field defined by the bend in the River Soar, by a hedgerow field boundary and by a small watercourse. The previous proposals encompassed an adjacent field to the east up to the access road as well as a further area to the north of the watercourse reaching nearly as far as the existing marina complex. The previously refused application also included a substantial facilities building, a large car park and separate boat house and ancillary store.
76. The present application must though be determined on its own merits in accordance with relevant planning policy and material considerations as they stand today. It is however appropriate to consider certain aspects of the previous Inspector's report so far as they are material to the present application, particularly where the planning policy context remains the same.
77. For the purposes of this assessment the application falls to be determined against the adopted 'development plan' which in this case comprises:
- The Rushcliffe Local Plan Part 1: Core Strategy (2014)
 - The Rushcliffe Borough Local Plan (1996) - saved policies only.
 - The Nottinghamshire Minerals Local Plan (2005).

78. In addition to the above there are certain material considerations relevant to the development proposal, these being:
- Rushcliffe Local Plan Part 2: Land and Planning Policies (Publication version May 2018). This has now been submitted to the Secretary of State for examination and moderate weight can be afforded to its policies.
 - Policies contained within the Rushcliffe Borough Non-Statutory Replacement Local Plan (2006) (depending on their consistency with within the NPPF and/or whether the Local Plan Part 2 is more up to date).
 - The National Planning Policy Framework (Revised July 2018) and related Planning Practice Guidance.
 - Emerging Nottinghamshire Replacement Minerals Local Plan. Only limited weight can be afforded to this draft plan at this stage.
 - Safeguarding Direction for development affecting the route of the planned High Speed Two Rail Project – Phase 2b, issued by the Secretary of State for Transport on 15th November 2016 and confirmed in September 2017.
 - HS2 Phase 2b Working Draft Environmental Statement published 11 October 2018.
 - Report of Planning Inspector Mr John Woolcock dated 20 January 2015 for the previous application proposal.

Principle of the development

79. In assessing the general principle of the marina development, the key considerations are the appropriateness or 'inappropriateness' of the marina development (and mineral extraction phase) within the designated Green Belt. The report will later consider whether there is a clear need for the marina berths in this location; whether there is a need for the associated mineral extraction; other impacts and considerations; and whether *very special circumstances* exist to justify development in the Green Belt.
80. The site does fall wholly within the Green Belt as designated by the 1996 Rushcliffe Local Plan via Policy EN15. The Rushcliffe Core Strategy has largely saved the extent of the Green Belt except where modifications were made to enable several large housing led allocations, none of which affect the application site. Core Strategy Policy 4 states that the principle of the Green Belt will be retained and will be subject to a strategic review in the Part 2 document.
81. The Rushcliffe Borough Non-Statutory Local Plan has been applied as a material consideration in planning decisions within Rushcliffe. Policy EN14 deals with individual development proposals in the Green Belt. However it is now considered to be an out of date material consideration which has been overtaken by the emerging Part 2 Local Plan and the NPPF.

82. The Local Plan Part 2 - Land and Planning Policies (LAPP) has recently been submitted for examination prior to its eventual adoption. Given its advanced stage of preparation moderate weight can be afforded to its policies, but this depends on their consistency with the NPPF as advised by paragraph 48 of the NPPF.
83. Policy 21 of the LAPP states that the Green Belt boundaries are defined on the accompanying policies map. This map shows the extent of the Green Belt at Red Hill will not be altered with all the land up to the River Soar included. For the purposes of assessing individual development proposals in the Green Belt the policy then defers to national policy, stating that applications should be determined in accordance with the NPPF.
84. In this case the revised NPPF stands on its own as a significant material consideration and which supersedes the previous version of the NPPF. It is therefore used as the basis for considering proposals in the Green Belt within Rushcliffe.
85. Within Chapter 13 of the NPPF the Government reaffirms the great importance that it attaches to Green Belts and to their fundamental aim of preventing urban sprawl by keeping land permanently open. The Green Belt serves five purposes which are: to check the unrestricted sprawl of large built-up areas; prevent neighbouring towns merging into one another; assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land (paras 133 and 134).
86. Local Planning Authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity (para 141).
87. The guidance then goes on to deal with individual development proposals setting out two lists of types of development proposals. The first list within paragraph 145 concerns 'buildings'. It states that the construction of new buildings should be deemed inappropriate in the Green Belt save for a defined list of buildings which are excepted from this definition. Of potential relevance is: b): "the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it".
88. In the second list within paragraph 146 certain other forms of development are deemed 'not inappropriate' (and so are appropriate) in the Green Belt so long as they preserve openness and do not conflict with any of the five Green Belt purposes listed above. This includes three categories of potential relevance: a) mineral extraction; b) engineering operations; and e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

89. Where a development proposal does not fall within paragraph 145 or, if falling within paragraph 146 it does not then satisfy the tests to preserve openness and avoid conflict with Green Belt purposes, the proposal must be adjudged as inappropriate development in the Green Belt.
90. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (para 143). Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations (para 144).
91. The first step therefore is to determine whether the proposal falls within the types of development listed in NPPF paragraphs 145 or 146.
92. Firstly it is clear that mineral extraction and lagoon engineering works (if they are proposed as such) are capable of being appropriate development within the Green Belt under paragraph 146. Part of this would involve creating several temporary stockpiles which have potential to affect the openness of the Green Belt. However, it is considered that the locations and sizes of stockpiles could be controlled under detailed plans/conditions so to preserve openness as required by paragraph 146. They would in any event be transitory and temporary in nature. The mineral extraction/engineering works are however only an enabling phase for the proposed end use as a leisure marina and so it is this end use which is determinative.
93. When looking at the proposed marina end use, it is noted that under paragraph 145 appropriate building facilities in connection with outdoor sport, outdoor recreation etc are considered capable of being appropriate development in the Green Belt. These must be in connection with an existing sport/recreation land use or connected to a change of use of land for that purpose. This is also subject to preserving openness and not conflicting with the purposes of including the land within the Green Belt. It is pertinent that this relates solely to new buildings, and not a marina itself.
94. The proposed facilities building and café included in the application could be considered appropriate if the marina end use is found to be acceptable.
95. The development of a new marina itself would instead be classed as a material change of use of the land (following extraction and engineering works) and as such is capable of falling under paragraph 146 e). This is how the Inspector classed the previously proposed marina development and his finding in this respect remains pertinent to the present application.
96. Material changes of use were missing from the equivalent lists in the former NPPF which formed the key consideration at the last planning appeal and so the proposed marina development was found by the Inspector to be inappropriate development 'by definition' (additionally in terms of impacts to openness and other harmful effects to the Green Belt).
97. The insertion of paragraph 146 e) into the revised NPPF suggests that certain forms of changes of use of land suited to countryside locations are capable of

being an appropriate form of development in the Green Belt. Examples of outdoor sport and recreation are cited. This represents a key policy change which arguably corrects a mistake within the former NPPF as historically such changes of use had been classed as potentially appropriate before planning guidance was rationalised into the first NPPF.

98. Having regard to the revised NPPF, officers consider that the development of a leisure marina can be (by definition) an appropriate type of development in the Green Belt (and the countryside more generally) and can be assessed under 146 e). However in order to be appropriate the proposal must meet the tests that are to preserve openness and to not conflict with the purposes of including the land within the Green Belt, otherwise the proposal must be dealt with as being inappropriate development in the Green Belt.
99. The concept of 'openness' and what is meant as 'preserve' in this context has been subject to case law. Openness of the Green Belt has a spatial as well as a visual aspect. It can mean to keep land free from development, but does not mean that the land has to be left entirely unchanged. Instead the effects on openness from a development proposal must not be *harmful* in order to 'preserve' Green Belt openness.¹ Two extracts from relevant judgements follow.

*"openness" is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs and factors relevant to the visual impact on the aspect of openness which the Green Belt presents."*²

*"There is an important visual dimension to checking "the unrestricted sprawl of large built-up areas" and the merging of neighbouring towns, as indeed the name "Green Belt" itself implies. Greenness is a visual quality: part of the idea of the Green Belt is that the eye and the spirit should be relieved from the prospect of unrelenting urban sprawl. Openness of aspect is a characteristic quality of the countryside, and "safeguarding the countryside from encroachment" includes preservation of that quality of openness."*³

100. The marina would be a substantial development accommodating 290 boats of varying sizes/types and whilst a notably smaller development proposal to previous plans, there remains concern that the boats, their moorings, jetties, access tracks, lighting, car parks, services and associated paraphernalia would together result in a built character of development affecting the openness and permanence of the Green Belt.

¹ Samuel Smith Old Brewery (Tadcaster) and Oxtan Farm vs North Yorkshire County Council & Darrington Quarries Ltd [2018] EWCA Civ 489

² Turner v SoS CLG & Anor [2016] EWCA Civ 466

³ Samuel Smith Old Brewery (Tadcaster), Oxtan Farms v North Yorkshire County Council & Anor [2018] EWCA Civ 489

101. The applicant contends that the development would be formed such as to break up the massing of boats and enhanced with additional landscaping and habitat areas to result in a more naturalistic character and appearance. However the plans clearly show a reliance on regimented rows of moorings and engineered embankments necessary so to provide safe access. Landscape screening and planting could serve to partly screen and break up its visual appearance, however the details of this have yet to be shown in any great detail and would in any case take several years to be effective. Overall the development would be detrimental to maintaining the open nature of the site and would represent encroachment into the open countryside.
102. It is also relevant that the Inspector to the previous appealed application attached great weight to preserving the openness of the riverside pasture.
- “The openness of the Green Belt in this area is already impacted by important infrastructure, such as the power station and railway line/station. The existing marina, with large areas of open storage, also has an impact. In this context, the remaining open areas take on a greater significance and importance. Openness within the Green Belt is a finite resource. The existing development in the Green Belt in the vicinity of the appeal site is not an argument in favour of further erosion of its openness.”⁴*
103. It is considered that the development proposal, whilst revised in scale and content, results in a harmful impact to the Green Belt key characteristics of openness and permanence and would represent an encroachment of development into the countryside, thereby conflicting with one of the five purposes of the Green Belt. The site’s rural and open characteristics was found at the previous appeal to have a particularly important function in providing a natural contrast against the nearby transport and power infrastructure, or as the Inspector put it: *“the open rural landscape here serves as a useful foil to the nearby built forms of the railway station and electricity generating infrastructure.”*
104. After considering the relevant tests and considerations the proposed development must be deemed inappropriate development which is by definition harmful to the Green Belt requiring demonstration of very special circumstances in order to succeed. This is informed by the Inspector’s previous findings and relevant up to date case law.
105. It is for these reasons Officers disagree with the reasoning of Rushcliffe Borough Council which resolved to raise no objection. The Borough Council came to this view on the basis that the mineral extraction was appropriate development and the ‘restoration’ to a marina was also appropriate development. Further they considered there to be no adverse impact upon the openness of the Green Belt.
106. Whilst it is a key aim of the NPPF to promote and provide access and opportunities for outdoor sport and recreation to which a marina would partly assist, this in itself does not mean that such development proposals are

⁴ Para 39 Appeal Decision APP/L3055/A/13/2194755 20/01/15

appropriate or do not need to pass the high thresholds of demonstrating very special circumstances. This policy aim can though be taken into account when considering whether very special circumstances are made out to exist.

107. Paragraph 144 of the NPPF states that substantial weight should be given to the identified definitional Green Belt harm and that very special circumstances will only be demonstrated where this harm and other harmful planning aspects is outweighed (clearly) by other considerations.
108. The applicant has put forward reasons for where they consider very special circumstances would arise in this case. In summary these are:
- a) The provision of an appropriate recreation facility in the countryside providing outdoor sport and recreation.
 - b) An economic benefit and increase in employment opportunities.
 - c) Contributing towards an identified need for marinas as well as contributing towards an identified need for sand, gravel and minerals.
 - d) Presenting the opportunity to enhance the river by removing online moorings as well as improving navigability and flood safety.
 - e) Contributing to the local environment by promoting a gain in biodiversity enhancements by introducing new habitats.
109. These matters are considered individually and in the overall planning and Green Belt balancing exercise further in the report.

Ecology

110. The site comprises part of the riverside pastures alongside the River Soar and includes areas of hedgerow, trees (particularly along with river bank) and a couple of ponds. The bulk of the site itself is not notified for wildlife interest, however the River Soar is designated as a Local Wildlife Site and would be affected due to the need for a connection into the proposed marina basin. The site also lies within proximity to the Lockington Marshes Site of Special Scientific Interest (SSSI) which is 130m to the west on the Leicestershire side of the river.
111. The application has been accompanied by a Preliminary Ecological Appraisal (PEA) which looked at the types of habitat present and the potential notable and/or protected species which might be affected and which would necessitate further surveys. Some survey work was undertaken for riparian mammals, bats and a suitability assessment of two ponds for potential amphibians. In practice therefore the PEA exercise is only a first stage to identify where supplementary work is required. The ecological consultants indeed recommended that further surveys be undertaken in relation to bat roosts; bat activity; wintering birds; breeding birds and reptiles. These surveys have not however been provided with the application documentation. A request for these surveys was made in January 2017 as part of a wider Regulation 22 request for further information but they have not been provided to the MPA.

112. Adopted MLP Policy M3.1 states that planning permission for minerals development will not be granted unless sufficient information is provided to enable a balanced assessment of all relevant factors including assessment of the ecological value of the area and of the potential impacts of the development.
113. The adopted MLP Policy M3.17 states that planning permission will not be granted for minerals development which will adversely affect the integrity or continuity of habitats or features identified as priorities in the UK and/ or Nottinghamshire Local Biodiversity Action Plan, unless an overriding need for development is demonstrated to outweigh the nature conservation interests. In such circumstances provision of compensatory measures are sought.
114. The NPPF states that planning decisions should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity particularly through establishing coherent ecological networks (para 170). Paragraph 175 sets out the sequential approach to biodiversity i.e. significant harm to biodiversity should first be avoided (including if necessary through refusing planning permission), followed by providing adequate mitigation, or as a last resort compensated for.
115. This more up to date approach is reflected in Rushcliffe Core Strategy Policy 17 which seeks to increase biodiversity, improve Green Infrastructure networks and ensure that development proposals first demonstrate that no alternative sites or scheme designs are suitable before harm to biodiversity is permitted when mitigation and lastly compensatory measures are required.
116. The County Ecologist and the Nottinghamshire Wildlife Trust raise similar objections to the application as it stands. This is on the basis of the inadequate level of information provided and the assumptions made within the chapter of the Environmental Statement in summarising the ecological appraisal work undertaken. This latter aspect falls short of what should be a fit and proper Ecological Impact Assessment (EclA).
117. Although the application lacks a proper EclA to consider potential impacts on the SSSI, Natural England as the lead regulator with respect to SSSIs has concluded that the proposal would not have an adverse impact on the SSSI. However they defer assessment of impacts to protected species or local designated sites to this authority.
118. It is well established planning practice and law that full and adequate ecological baseline information should be provided in support of planning applications. Such information allows for an informed appraisal of any impacts from the proposed development and if necessary, provision of appropriate mitigation or compensation. The applicant has had sufficient opportunity to produce and submit the additional surveys. Typically many surveys have to be undertaken in the spring/summer seasons to coincide with the presence of species such as bats or breeding birds. Officers became aware that partial surveys had only been undertaken this summer i.e. in the second summer survey window following the request and that the work was then stopped at the applicant's request with respect to bat surveys and reptiles, for which the seasonal survey window is closed again. It is understood that the applicant had hoped to access

survey work being undertaken by a different consultant working on behalf of HS2 on the site and to utilise this for the present proposal, but it remains unclear whether this is available to other parties such as the landowner/applicant and at what stage it is at (the recently published HS2 phase 2b Working Draft Environmental Statement states that such field work is ongoing). In any event none of the additional surveys have been provided to the MPA.

119. It is not possible with the available information to make positive conclusions on this issue and given the initial findings of the PEA (in recommending further survey work for notable species) the proposals do not accord with planning policy. In the absence of the survey work and a proper EcIA, it can only be concluded that the applicant has not properly identified or assessed the potential impacts to ecological interests. The proposal also cannot be adjudged to be sustainable development if the environmental arm of sustainability (along with social and economic arms) are not fully informed and in balance.
120. Outline proposals for landscaping works and an area for 'habitat creation' are shown on the submitted plans and set out in the Landscape and Visual Impact Assessment. These would require additional planning work to deliver optimal habitat which would be suited for the site. It is also not possible in light of the above to know whether this would act as compensatory habitat provision or whether it would result in an overall ecological enhancement as is claimed by the applicant.
121. Consequently it can only be concluded that the application does not accord with adopted MLP policies M3.1, M3.17, Rushcliffe Core Strategy Policy 17 and paragraphs 170/175 of the NPPF with respect to ecology.

Archaeology and heritage

122. The potential for significant archaeology to be present and to be affected by the excavation of the proposed marina is a key consideration in the determination of this application.
123. The application has been accompanied with a report from an archaeological field evaluation undertaken in 2007 and which was provided with the earlier planning application. As part of this, a series of trenches were opened across the area associated with the previous larger marina proposal and which provided various finds related to Roman and Romano-British settlement associated with the nearby Scheduled Ancient Monument (SAM) at Red Hill. The interpretation of the field work shows that the site was spiritually important at this time, as evidenced by the site of a shrine at the confluence of the Rivers Trent and Soar and also commercially important as borne out by the finds including pottery, metal working and human burials. The Roman finds were mainly found within an area alongside the current access road to Redhill Farm.
124. In terms of dealing with archaeology Policy M3.24 of the adopted MLP is the starting point. It states that planning permission will not be granted for minerals development which would destroy or degrade nationally important archaeological remains and their settings, whether scheduled or not. Planning permission will only be granted for development which would affect

archaeological remains of less than national importance where it can be demonstrated that the importance of the development outweighs the regional or local significance of the remains and where appropriate provision is made for the excavation and recording of the remains. This policy therefore requires an assessment and understanding of the significance of the archaeology (in its context) and which then determines how it is dealt with in the planning decision in terms of it being nationally, regionally or locally important.

125. The NPPF, which is a key material consideration, takes a similar approach to dealing with heritage assets in terms of their relative significance. It states that all heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
126. At paragraph 189 of the NPPF is the requirement on the applicant to describe the significance of any heritage assets affected (including any contribution made by their setting). Where there are archaeological interests, applicants are required to submit an appropriate desk-based assessment and where necessary additional field evaluation surveys. The level of detailed information should be proportionate to the importance of the asset(s).
127. Planning authorities are then required to assess the impacts by taking into account the available evidence and any necessary expertise and should aim to first avoid or minimise conflict between the heritage asset and the proposed development. In considering impacts to the significance of heritage assets great weight should be afforded to the asset's conservation, with the greatest weight attached to the more important assets (para 193). The NPPF makes clear that this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to significance. Any harm to, or loss of, the significance of a designated heritage asset (which can arise directly through alteration or destruction or as a result of development within its setting) should require clear and convincing justification (para 194).
128. NPPF paragraph 194 sets out that substantial harm to or loss of designated heritage assets of the highest significance, notably *inter alia* scheduled monuments, should be wholly exceptional.
129. A footnote states that "*non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.*"
130. Paragraph 195 sets out that where a proposal would lead to substantial harm to designated heritage assets, consent should be refused "*unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all the following apply.*

(a) the nature of the heritage asset prevents all reasonable uses of the site; and

- (b) *no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
 - (c) *conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
 - (d) *the harm or loss is outweighed by the benefit of bringing the site back into use. All four criteria have to apply to justify substantial harm to heritage assets if substantial public benefits are not identified."*
131. Paragraph 196 relates to where there is less than substantial harm to the significance of heritage assets, allowing this to be weighed against the public benefits of the proposal.
 132. It is also relevant to note paragraph 199 which confirms that developers should be required to record and interpret for public record heritage assets (such as archaeological finds) which would be lost through the course of development. Importantly, however, it states that such recording should not be a factor in deciding whether such a loss should be permitted in the first instance.
 133. Emerging Policy 29 of the LAPP affirms that planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them. Where remains of significance are identified planning permission can be granted where either: the remains will be preserved *in situ* through careful design and layout and siting of the proposed development; or when this is not justified or feasible, that appropriate excavation and recording and study of the remains is secured from the developer.
 134. The supporting text makes clear that in deciding which is the appropriate course the planning authority may refuse planning permission; or require modifications to be made so that remains may be preserved *in situ*; or require detailed survey/recording and excavation where it is considered the development should proceed with no *in situ* preservation.
 135. This policy context is relevant to the proposal in broadly two ways. Firstly there is potential for the marina development to indirectly affect the nearby designated Red Hill SAM in terms of effects on its setting and secondly through the direct impact and possible loss of buried archaeology from the excavation of the site, which whilst being non-designated is capable of being categorised as of equivalence to the most important assets which include SAMs.
 136. The 2007 archaeological fieldwork and previous investigations undertaken in the area have provided a level of understanding of the significance of the site and area, showing in particular Romano-British settlement and continuing into the Anglo-Saxon period. There is a clear relationship between the application site and the SAM nearby. This understanding was however limited to the techniques and practice available at the time.
 137. The County Archaeologist advises that the site can be broadly split into a dry zone and a more complex wet zone beside the river. High profile national archaeological discoveries (most notably at Must Farm in the Cambridgeshire

Fens) have shown that in waterlogged anaerobic conditions organic remains can be preserved to a very high degree.

138. The standards of assessment of wet zone archaeology has advanced in that time such the 2007 report is now considered out of date by the County Archaeologist. The 2007 work did not properly deal with this area, indeed it acknowledges that the floodplain deposits could at that time only be briefly tackled and that the trenching programme was not designed to map the substantial palaeochannel deposits.
139. The report concludes at chapter 7 with the following:

“With such an active river as the Soar the probability that the site will produce not only palaeochannels but also structures associated with exploiting wetland resources is high...The confluence of the Trent and Soar lies to the north east of the Red Hill SAM and the importance and significance of the dryland remains cannot be divorced from the wetland, in both practical and spiritual terms. The positioning of an ancient shrine at the high point in the landscape and its proximity to the confluence of two major rivers indicates the site’s importance in terms of its spiritual significance throughout antiquity as well as its significance as an exploitable natural resource.”
140. The County Archaeologist concurs that the location makes it highly likely that it would have been the site of Roman activity such as river wharfage or possibly a river crossing as mentioned in the 2017 report. Such remains would be considered of national archaeological importance commensurate with SAMs and which should only be destroyed in a wholly exceptional situation in accordance with NPPF paragraph 194. Even if they were outside of the application area the effect of de-watering for the construction of the marina would likely lead to the degradation of wetland remains though the introduction of oxygen into the ground. This issue is also noted by Historic England in its response. The County Archaeologist recommends refusal of the application on the basis of the information presented.
141. Historic England comment that the findings of the Planning Inspector remain relevant to the determination of the current application. Historic England agrees that the site has at least regionally important deposits and potentially nationally important remains with a strong spatial association with the Red Hill SAM.
142. The applicant has been given a request and further opportunity to investigate the significance/potential of the wetland zone but has chosen not to submit further information on this matter.
143. In dealing with the previous larger application the County Council was ‘minded to refuse’ planning permission on the basis *inter alia* that the site contains at least regionally important archaeological remains and potentially nationally important remains. There was no demonstrative pressing need for the marina and hence this was outweighed by the importance of preserving the archaeology. The Inspector in considering the subsequent appeal noted that the site has potential for archaeological remains by reason of its proximity to the Roman shrine at Red Hill, being as it is located at the confluence of two rivers,

and to Romano-British sites in the area. He found that the (then larger) marina proposal would not accord with Policy M3.24. He wrote:

“The proposed excavation and dewatering could harm any archaeological remains on the appeal site. The risk is difficult to quantify. However, given the nature of the works proposed, I consider that the risk would be significant, because the possible existence of remains that would require in situ preservation cannot be ruled out. I find that the risk to archaeological remains is a factor that, to some extent, weighs against the proposal.”⁵

144. Whilst it is possible that the smaller marina proposal in consideration would now avoid direct impacts to the known Roman remains alongside the access road, the requirement for it to be sited by the river places it within the wetland zone which is now of concern. In such situations mitigation measures may be limited. It may not be possible to avoid archaeology by means of preservation *in situ* due to the nature and scale of excavations to form the marina basin. Nor is it clear as to whether any preservation *in situ* (which could require subsequent revisions to the development) would actually be achievable or successful – as noted above works could lead to the introduction of degrading oxygen into any surviving remains.
145. From the level of information available to the MPA and to the consultees, the MPA understands the significance of the archaeology on site to qualify as nationally significant, of equivalence to a Scheduled Ancient Monument and therefore of the highest significance. The wetland zone archaeology cannot be divorced from the dryland archaeology and in turn there are strong associations with the Roman shrine SAM.
146. Footnote 63 of the NPPF states that “*Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets*”. On this basis it is therefore appropriate to apply the test at paragraph 194b of the NPPF (that any harm to, or loss of, the significance of a scheduled monument should be wholly exceptional) and the tests at paragraph 195 (that a proposed development that will lead to substantial harm to (or total loss of significance of) a designated heritage asset should be refused consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss; or alternatively the 4 criteria detailed in paragraph 130 above apply. As will be explored elsewhere in this report, the position of the officers remains that the need for and public benefits of a marina are not so clear and/or great as to outweigh the identified harm to archaeology in this case and the great weight which should be afforded to their continued preservation. Furthermore the separate tests under paragraph 195 do not apply or are not satisfied with respect to the archaeological interests. These interests do not prevent the continuing and reasonable use of the site for agricultural use. Therefore, it is considered that the application fails the tests in NPPF paragraph 195. As such

⁵ Para 28 Appeal Decision APP/L3055/A/13/2194755 20/01/15

the proposed development does not accord with Policy M3.24 and should be refused in accordance with paragraphs 193 to 195 of the NPPF.

147. Briefly in terms of impacts to other built heritage, the application site does not lie in proximity to any Listed Buildings, the nearest being located within Ratcliffe on Soar village to the south. These are however separated from the site by the A453 and the proposed development would not impact on their setting. There is also a Grade II listed packhorse bridge at the existing marina to the north, which would again be unaffected. In this respect there is no conflict with Policy M3.25 or national planning guidance.

Flooding

148. The site comprises low lying land within the River Soar floodplain and is classified within Flood Zone 3 i.e. at a high risk of river flooding. In addition to the river there is a small ditch along the northern site boundary which discharges into the river as well as a couple of on-site ponds. A flood defence embankment is present across the site. Land generally to the east of the existing access road is at a higher level where the Parkway Station is situated. The access road itself has a low point near to the ditch/culvert and rises up to higher ground at the parkway station roundabout.
149. MLP Policy M3.1 requires sufficient information to be provided in planning applications including assessment of surface drainage and hydrogeology.
150. MLP Policy M3.9 states that minerals development will not be permitted where there would be an unacceptable impact on flood flows, flood storage capacity or to the integrity of flood defences and local drainage systems, unless appropriate conditions can be imposed.
151. Policy 17 of the emerging LAAP generally follows the approach within the NPPF.
152. The NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe for its lifetime without increasing flood risk elsewhere (para 155). It puts in place the sequential approach to site selection whereby development should not be permitted if there are reasonably available sites in lower risk areas (para 158). It also provides for an exception test where planning permission can be granted if it is not possible for developments to be located in lower risk zones (taking into account wider sustainable development objectives and also the potential vulnerability of the site and proposal) and subject to passing the tests.
153. For the exception test to be passed it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. (para 160). (Both elements of the exception test should be satisfied).

154. Development should only be allowed in areas at risk of flooding where, in light of a Flood Risk Assessment (FRA) (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site the most vulnerable development is located in areas of lowest flood risk (unless there are overriding reasons); b) development is appropriately flood resistant and resilient; c) sustainable drainage is incorporated unless it is clearly inappropriate d) any residual risks can be safely managed and e) safe access and escape routes are included with emergency planning (para 163).
155. A FRA accompanies the application and considers the general acceptability of the proposals in this location and the flooding impacts at both the extraction phase and final user/occupation phase. Mitigation measures are also identified in order to make the development safe and flood resilient. The FRA does not consider the sequential assessment of alternative sites.
156. The FRA includes calculations of likely flooding, making appropriate allowances for the effects of future climate change. Whilst the existing flood embankment provides some protection, the flood modelling indicates that in a 1 in 100 year + climate change flood event the whole site would be flooded to a depth of between 1m and 1.6m. The existing access road would be cut off at its low point near Masons Barn but would still be passible in a lesser 1 in 20 year flood.
157. At the mineral extraction phase, the FRA advises that all surface waters and ground waters can be satisfactorily managed within the workings using pumps to dewater active mineral working areas, the outflow from which would be discharged into the river under regulation from the Environment Agency. Stockpiles such of soils or mineral would typically be of short existence and could be arranged parallel to potential flood flows so not to become a barrier in a flood event.
158. The proposed marina basin would provide a large open area for flood water to traverse in a flood event and overall there would be no loss of flood plain storage. A flood control gate at the marina entrance could potentially be used to regulate water levels, however the moorings would all use floating pontoons and walkways designed for 1 in 100 year flood events (plus climate change). All access routes and walkways would be finished at 30.4m AOD to deal with a 1 in 50 year to 1 in 100 year flood event, so to ensure safe and dry emergency access. Roadways would have marker posts to show the edge of the roadway in times of flood. Also the low point at the access road at Masons Barn would be raised to ensure dry safe access in times of flood.
159. The FRA states that the existing flood defences would not be affected. It is however noted that a roadway would be constructed along the top of part of the embankment and other hard surfaces would be built including substantial areas of car parking. The type of surfacing is not clear but could potentially be mitigated by using a permeable material or hardcore.
160. The facilities building would be located at a slightly lower risk area of the site and raised on piles with floor level above a 1 in 100 year flood event. Further flood resilient design could be included such as raised services. Mitigation is also proposed in the requirement for an emergency flood management plan.

161. National Planning Practice Guidance sets out the appropriateness of certain types of development in each flood zone. Sand and gravel workings are classified as 'water-compatible' development and are generally appropriate in Flood Zone 3 including Zone 3b which is the functional floodplain. Marinas, water-based recreation, outdoor sports (and essential facilities such as changing rooms) and areas for amenity open space or nature conservation are also classified as 'water-compatible' development which are appropriate in flood zones 3a and 3b. However this appropriateness is subject to the development satisfying certain conditions, namely: the development should remain operational and safe for users in times of flood; result in no net loss of floodplain storage; not impede water flows; and not increase flood risk elsewhere. These matters apply to all stages of the proposal from mineral extraction through to end marina use.
162. The sequential approach to locating development in areas at lesser risk of flooding is a key provision in the NPPF and should usually be applied to development proposals. However the appropriateness of the proposed development should also be considered and in this case all main aspects of the proposed development from mineral extraction through to final marina use (with ancillary buildings and open spaces) is classified as water compatible in principle. This is because the mineral deposits are naturally found in the river floodplain (and can only be worked where they are found) and because the marina requires a waterside location.
163. Whilst the FRA does not include a sequential site selection assessment, flooding has been one of several considerations in the submitted Alternative Site Appraisal. Fourteen alternative sites were considered along the Soar valley, 6 of which were identified at partial flood risk with flood mapping showing in some cases these outside or partly within Flood Zone 3. Purely on flood risk therefore there may be other suitable sites at lesser risk of flooding which could warrant further investigation through a robust sequential test approach. The Environment Agency however do not challenge the proposed site selection process and the development is classified as generally appropriate at this waterside location in terms of flooding impacts. Importantly however the relevant policies require that the development should not heighten the risk of flooding elsewhere or adversely impact on flood flows or the integrity of flood defences. The development should also be designed to be flood resistant/resilient.
164. The Environment Agency has raised an objection on the basis of there being an inadequate Flood Risk Assessment, which needs reviewing to take into account a number of matters raised in their response. In particular, questions are raised about the impacts/changes to the existing flood defence embankment running across the site and the effects from the raising of levels where access tracks are proposed. These may have impacts to flooding in the wider area. The Agency also questions whether the moorings would be permanent residential or for leisure accommodation.
165. This information has been requested from the applicant. It is understood that discussions have taken place between the Agency and the applicant/agent however no supplementary information has been forthcoming and the Agency

has recently reconfirmed that the objection stands. Therefore in this situation it can only be concluded that the development proposals and FRA as submitted cannot satisfactorily demonstrate that it would not lead to increased flood risk elsewhere or adversely affect the existing flood defences, in particular to nearby residential properties at Middle Gate Cottage or to the current access road which is the sole access/egress route for properties to the north of Redhill Farm as well as the farmhouse and current marina. The proposal is thereby contrary to NPPF paragraphs 155 and 163, associated practice guidance, MLP policies M3.1 and M3.9 and emerging LAPP Policy 17.

High Speed Two

166. The application site is directly affected by the Government's plans for the High Speed Two (HS2) rail project. The second phase of this project will expand the first phase from London to Birmingham (now under construction) into a Y-shaped network, with the eastern leg passing via the East Midlands to Sheffield and Leeds. This eastern leg (phase 2b) includes a hub station at Toton sidings and this preferred route was confirmed by the Government in an announcement on 15th November 2016 (after submission of the application). At the same time the Department for Transport issued formal safeguarding directions under the planning acts to protect the preferred alignment from conflicting development.
167. Whilst some changes to its alignment have been made since the initial route was first announced back in 2013 (around East Midlands Airport and Kegworth) and refinements will be needed in places such as Long Eaton, the HS2 plans have consistently shown the route passing directly through the middle of the application site and are unlikely to change at this stage. It would do so by means of a 14m high viaduct crossing the A453, the Soar valley, through Redhill escarpment and across the Trent valley. Plans are for construction of the eastern leg to commence in 2023 with the line opening in 2033.
168. The guidance notes issued with the Safeguarding Direction states that safeguarding procedures are an established tool of the planning system which aims to ensure that new developments along the route do not impact on the ability to build or operate HS2 or lead to excessive additional costs (the safeguarding purposes). In practice the Direction requires the planning authority to consult with HS2 Ltd (the Government established body charged with its development) on most types of applications along the safeguarded route. This was duly done with the present application and in their response HS2 Ltd (as a statutory consultee) has objected to the planning application.
169. In their original objection HS2 Ltd confirmed that the application site lies within the boundary of the safeguarded land and that therefore the land will need to be permanently acquired for the railway's construction/operation. HS2 reiterated the purposes of the safeguarding and advised that they are not convinced that the proposed marina development could co-exist with the railway. HS2 were open to meeting with the applicant and/or the MPA to discuss the situation and this was relayed to the applicant as part of the request for further information under Regulation 22. It is understood that after some difficulty, this meeting did take place, but that this has not changed the position of HS2.

170. HS2 Ltd has recently reaffirmed their objection and supports a refusal of planning permission. They state that they plan to permanently acquire land both beneath the viaduct and either side for future maintenance purposes. It is their technical opinion that the railway would preclude the construction of the marina. Furthermore HS2 have identified a requirement for additional areas of the applicant's landholding for the purposes of constructing the railway viaduct as set out in the HS2 Draft Working Environmental Statement (published October 2018). The land would not be available for redevelopment until after HS2 had vacated the area, which could be 2030 or 2032.
171. Procedurally the objection from HS2 does not prevent this authority from disagreeing with its position and 'approving' planning permission. However any such resolution would require referral to the Secretary of State for Transport who would be likely to use powers to 'call in' and determine the application himself (or the SoS for Communities) or to require that planning permission be refused. The safeguarding objection is though clearly a significant material planning consideration in its own right. Case law confirms that the HS2 safeguarding directions are capable of being material planning considerations⁶ and in particular their three purposes; i.e. to ensure that new developments along the route do not impact of the ability to build (1) or operate (2) HS2 or lead to excessive additional costs (3).
172. Policies 3, 14 and 15 of the Rushcliffe Core Strategy support improvements to public transport services and sustainable transport options in order to reduce car travel and support the delivery of the economic and housing growth strategy for the Borough and the wider Nottingham area.
173. The County Council's Plan 'Your Nottinghamshire Your Future' recognises the significance of HS2 as a once in lifetime opportunity to change the economy of the county and to improve connectivity. The Council is leading on the development of a vision for a Growth Zone around the HS2 station at Toton to maximise benefits for people and businesses throughout Nottinghamshire.
174. At a regional level *East Midlands Councils*, which represents the interests of local authorities, has established a HS2 Strategic Board and drawn up an East Midlands HS2 Growth Strategy. It believes that the opportunities for trade, investment and jobs that HS2 brings could lead to the equivalent of 74,000 new jobs and an extra £4bn GVA (Gross Value Added) to the local economy by 2042 taking the region above the nationally projected trend. The strategic importance of HS2 is therefore evident.
175. The safeguarded route across the Trent and Soar valleys, passing as it does directly through application site, represents a mature alignment and one which is at a stage where it is unlikely to change. The development of an inland marina in this location would certainly interfere with the construction of the railway and at the very least require additional engineering related to the viaduct construction along with consequent implications for costs to the public purse.

⁶ HS2 Action Alliance and London Borough of Hillingdon vs Secretary of State for Transport EWCA Civ 1578 [2014]

176. If planning permission was to be granted for the proposed marina development and in the event that the marina was completed in advance of HS2 main construction works in 2023, it is probable that the site and wider Redhill Farm would be taken up as a construction zone for the railway as indicated within the HS2 working draft Environmental Statement. HS2 Ltd would also permanently acquire some of the land needed for the railway and they may well do this before any development of the marina commences. All of this construction activity would potentially impact on the viability of a marina and whose future could not be guaranteed.
177. Furthermore the theoretical living conditions and general amenity of anyone staying in moored boats beside a high speed railway line (225mph) raises planning compatibility concerns. At its operational phase from 2033, the HS2 working draft Environmental Statement gives an indication of the likely noise effects of the railway passing over the site. The line is expected to run between the hours of 05.00 and 00.00 with 10 trains per hour in each direction at its peak. Noise contour maps show that train only noise (not taking into account background noise at this stage) would be 55-60dB night time (between 23.00 and 07.00) within 30m of the rail line and 65-70dB daytime passing through the centre of the application site – a level which is identified as having a significant effect on the nearby Middle Gate cottage which, if not demolished by HS2, would require noise insulation mitigation. Beyond this the remainder of the application site would fall within the 50-55dB night time and 60-65dB daytime contour. Such impacts raise fundamental viability and compatibility concerns and it is not obvious how this could be mitigated.
178. The submitted application makes no consideration of the effects/implications of HS2 on the marina project (the safeguarding was confirmed after submission). It is not possible to approve planning permission without supplementary evidence of how the two projects could both be delivered, (without conflict with the HS2 project) and evidence that the amenity of the marina would not be so adversely affected to undermine its viability and attractiveness and hence the need for this Green Belt development. The applicant has been given sufficient opportunity to respond on this matter, however the conflict is now further compounded by HS2 Ltd.'s developing plans. The applicant has sought a further delay to the consideration of the planning application since the publication of the HS2 Working Draft Environmental Statement. Officers have considered this request but consider this latest information does not assist or overcome the conflict with the HS2 safeguarding and consider that a further postponement of a planning decision would not be in the public interest.
179. In this situation the national importance and significance of the HS2 project along with the three purposes of the safeguarding direction, and the objection from HS2 Ltd must be considered to be relevant and highly material considerations which strongly weigh against the grant of planning permission. The national and local importance of the HS2 project clearly outweighs the local benefits a marina might bring to the area and needs to be weighed together with any other factors weighing against the application.

180. The site comprises low-lying pasture fields alongside the meander of the River Soar before its confluence with the Trent to the north. There is some fringing willow and hawthorn scrub alongside the river bank and hawthorn dominant field hedgerows to the east. There are some detracting and intervening built features within the immediate landscape setting, notably the sheer bulk of the power station to the east and the elevated A453 cutting across the river valley to the south. The proliferation of certain aspects of the existing marina/yard area to the north are also detracting from the rural landscape, particularly with respect to the areas of open storage. It is also worth noting that the moorings extending along the river bank could also be perceived as a detracting feature particularly with the residential paraphernalia such as seating, planters, washing lines, parked vehicles and such like, although this is not as significant. The application site therefore, whilst seen in this modified context, is itself still intrinsically a pastoral landscape, part of the natural washlands and within the designated Green Belt.
181. The landscape character has been categorised as within the Soar Valley Farmlands Policy Zone of the Trent Valley Regional Character Area as set out in the Greater Nottingham Landscape Character Assessment (LCA). This states that it is characterised by low-lying land associated with the River Soar floodplain. The land is mostly pastoral and fields are bounded by species-rich hedgerows and ash trees. The character strength of the area is 'moderate to strong' whilst its condition is 'moderate', leading to a landscape policy of 'conserve and enhance'. The LCA sets out the conservation and enhancement actions appropriate to the area. These are highlighted in the landscape officer's advice above, but most notably include the action to conserve areas of permanent pastoral farming along the river floodplain; conserve and enhance riparian trees and to limit built form on areas of the lowest ground.
182. In terms of relevant planning policy, MLP Policy M3.22 states that planning permission for minerals development which is likely to adversely impact local character and landscape distinctiveness will not be granted unless there are reasons of overriding public interest or where amelioration can reduce impact to acceptable levels. Policy M3.3 states that minerals development will only be permitted where any adverse visual impacts can be kept to acceptable levels.
183. Rushcliffe Core Strategy Policy 16 seeks to provide a Green Infrastructure (GI) network, including along the Soar valley, but also seeks to protect, conserve or enhance landscape character in line with the recommendations of the Greater Nottingham Landscape Character Assessment.
184. The emerging LAPP recognises the Soar as a Green Infrastructure Corridor. It seeks to promote its primary functions which are for ecology, floodwater storage, improved pedestrian/cycling connectivity and for outdoor recreation. Policy 34 seeks to ensure that Green Infrastructure (GI) assets including rivers, and flood areas will usually be protected from development which may adversely affect their GI function. Proposals which protect, enhance, or widen their GI importance will be supported, provided it does not adversely affect their primary functions. The loss of GI should generally be replaced. Policy 35 requires the Soar GI corridor to be maintained and enhanced. Opportunities for improvements, such as to connectivity, or to its function should be taken.

185. The NPPF recognises the intrinsic character and beauty of the countryside along with the wider benefits from natural capital and ecosystem services.
186. The submitted development masterplan shows that the intention would be that existing areas of trees and vegetation would be largely retained and supplemented with new woodland planting around the boundaries to provide screening of the development and to mitigate views of the building and car park. A landscape buffer would run along the eastern boundary, while retaining the existing hedgerow. Similarly a belt of trees would enclose the northern boundary. The eastern corner in the river bend would be set aside as a habitat area, possibly of more open grassland character. The plan shows other tree planting across green and peripheral areas of the marina basin to soften the overall appearance. The landscaping is indicative at this stage, but there is a basis for detailed landscape proposals to be drawn up in consultation with East Midlands Airport as a result of their consultation response.
187. The plans have been supported with a Landscape and Visual Impact Assessment (LVIA) which has also considered the proposals from several key viewpoints in the vicinity, including from public footpaths. This work has been reviewed by the MPA's landscape advisor who considers that the assessment underplays the level of impact in the short to medium term, at least until new landscape planting has become established after 15 years. The level of impact is assessed as in the range of between *slight to medium adverse* to the surrounding landscape character, with the exact level of impact dependent on achieving a comprehensive and successful landscape planting scheme. The proposed development would also not accord with two of the landscape policy zone actions, namely to conserve areas of permanent pastoral farming along the river floodplain and to conserve the infrequent nature of built form on the lowest ground.
188. In terms of visual effects the LVIA has considered visual impacts of the proposed development from 15 viewpoints within the surrounding landscape. The most crucial views are considered to be those from close-by public footpaths as walkers are considered very sensitive to visual intrusion as they pass through what is essentially a rural situation. The MPA's landscape advisor considers that views from viewpoint 1 (from footpath L61/3) should be uprated to a medium adverse impact at year 1, reducing to slight adverse at year 15 as opposed to the slight impact as put forward in the LVIA. This footpath cuts across the field on the opposite bank side, however there is a further footpath (L63/4) closely hugging the western bankside which joins L61/3 and which would appear to be more affected but has not been selected as a viewpoint. Viewpoint 6 at Ratcliffe Lock, just to the south provides a better view of the site at close quarters from footpath L63/2. Again the landscape advisor considers that visual impacts should be uprated to medium adverse at year 1 and medium to slight adverse at year 15.
189. When walking these footpaths, particularly those on the Leicestershire side of the river, it is within a picturesque and undeveloped scene, following the gentle meander of the Soar and looking directly across the river to the application site. The site is read within the context of the river floodplain but has the backdrop of the power station beyond. The Inspector appointed in considering the previous

marina appeal considered the visual effects upon viewpoints including users of the public footpaths. A key passage of his decision letter states:

“the proposed marina, with extensive areas of moored boats and large areas of car parking, would by reason of the overall scale of the facility, have an adverse visual effect. With appropriate landscaping some adverse impacts could be minimised in time, but the scheme would be visually intrusive in this part of the open countryside. This would have a harmful visual effect because the open rural landscape here serves as a useful foil to the nearby built forms of the railway station and electricity generating infrastructure.”

190. Although this concerned a much larger marina development, the currently proposed development is sited in the same situation set against the river in the undeveloped floodplain. The proposed development would introduce a built form to this open countryside and designated Green Belt detracting from its open and pastoral character. Whilst the existing boat moorings could be cleared from the riverbank, those within the marina would still be visible and conspicuous from the footpath viewpoints, along with a multitude of pontoons/poles, walkways and elevated access tracks. The facilities building, elevated on stilts would also be seen across the marina basin, along with the car parks.
191. Whilst boats and moorings are a familiar sight on this part of the river they are largely related to existing development and wharfs, including at the current Redhill marina. The proposed marina, located away from the current marina, would appear as a large intrusion into the landscape and a landscape which requires conserving and enhancing, particularly given the detractions of road, rail and power infrastructure locally. It would not relate well to the current built development at the existing marina and would not appear as any form of extension or improvement.
192. It should also be noted that during construction/extraction works the level of visual intrusion and other disturbance to local walkers would be very noticeable and substantial as a result of the excavation areas, temporary stockpiles and use of mobile plant and machinery. Whilst this would be a short-term impact, it is an adverse impact nonetheless and the Inspector in considering the previous marina proposal considered such intrusion to result in a considerable level and duration of harm.
193. It is therefore considered that the proposed development would not accord with the landscape policy aims applying to this situation, would result in adverse visual impacts and would not conserve and enhance the condition of the landscape as required in this character area, including taking into account mitigation planting. This is contrary to Core Policy 16 and emerging LAAP policies 34 and 35 with respect to Green Infrastructure aims. Compliance with MLP Policy M3.3 is also at risk with respect to temporary adverse effects from mineral extraction. MLP Policy M3.22 therefore would require reasons of overriding public interest to outweigh the identified landscape harm. The level of identified harm must therefore be weighed alongside all other considerations.

Transport

194. The application site has excellent main highway access to and from the A453 which has been upgraded to a dual carriageway in recent years. The existing and planned marina take access via the remodelled junction serving the Parkway Station, the Power Station and Ratcliffe on Soar village. The village can also be accessed by a lane leading under the A453. Further rural routes are possible to Kegworth (3km to the south) and east towards Gotham.
195. The application estimates that the construction and mineral extraction phase would generate around 46 daily HGV movements (23 in 23 out) which would be routed onto the A453 to be exported to third-party sites for processing and sale, rather than establish a processing operation on site. These destination(s) are not known at this stage, but feasibly could include local quarries or other aggregate sites.
196. At the operational marina stage, the application relies on the submitted Transport Assessment produced for the previous marina proposal in order to provide a robust basis for assessing likely trip rates. This assessment estimated that over 700 daily two-way trips could be generated. Given that this proposal was for a 553 berth marina (as opposed to the 290 now proposed) the figures are considered more than robust and also took into account the redeveloped A453 and the Parkway Station.
197. Policy M3.13 of the adopted Minerals Local Plan states that minerals development will only be permitted subject to the highways network being able to satisfactorily accommodate the associated traffic and without causing unacceptable impact to the environment or to local amenity. Policy M3.15 states that 'major' proposals reliant on road haulage should demonstrate that more sustainable forms of transport (such as barge or rail) are not viable.
198. It appears the applicant has made no analysis of potential sustainable transport options (such as barging the extracted mineral) so to comply with the requirement of Policy M3.15, however it is possible that the width/beam of the river navigation may preclude practical use of commercial bulk carrying barges and the works are nonetheless limited and temporary in nature. As such this issue is not challenged in the present case.
199. The Highways Authority raises no objection to the proposed development. Whilst it is noted that the application relies on an older Transport Assessment related to the previous proposal, the information is considered robust given the reduced scale of the current proposal. There is adequate highway capacity to accommodate both the HGVs associated with the mineral extraction stage and of those vehicles associated with the marina use. Highways England, which is responsible for the A453, also raise no objection.
200. On the matter raised by neighbouring Kegworth Parish Council regarding disruption from other road improvement works at M1 Junction 24, the Highways Authority notes that the use of back lanes from Ratcliffe on Soar to the A6 at Kegworth is protected by a 7.5 tonne weight limit and so HGVs would not be able to cut through the settlement or avoid Junction 24. The works are now substantially in progress.

201. On the matter raised by Network Rail relating to the use of the access route which is in their ownership and particularly concerns about impacts or possible damage during the extraction/construction phase, officers are of the view that this primarily consists of a private interest matter which concerns private land and not a public highway. Notwithstanding this there is a public interest in maintaining the public right of way which exists along the current access road and ensuring the safety of users at the extraction/construction stage. The County Rights of Way officer has advised that the issue of construction traffic along the public footpath can be managed with appropriate signage and with other traffic management measures. In accordance with Policy M3.12 measures could also be required to be put in place to prevent mud/deleterious materials being deposited off-site.
202. In terms of the construction and extraction phase, the proposal is considered compliant with policies M3.12, M3.13 and M3.15 subject to conditions regarding the above matters.
203. In terms of transport and access for the operational marina, there are no highway capacity concerns which has led to no objection being raised by the Highway consultees.
204. It is however worth giving some consideration to the site's sustainability in terms of access, other than means of private car, to local facilities and destinations. Policy 14 of the Rushcliffe Core Strategy (Local Plan Part 1) seeks to ensure that demand for travel by private car is reduced by locating developments in the most accessible locations which are or can be made accessible by public transport, walking and cycling.
205. Saved policy MOV11 (Water Transport) from the Rushcliffe Non-Statutory Local Plan also has relevance. It states that planned infrastructure associated with freight or passenger movement on navigable waterways should inter alia be appropriate to a sustainable transport network and should not generate significant levels of road traffic.
206. No highway comments have been offered on this matter, however the submitted Transport Assessment does indicate that, notwithstanding its marina use, such developments do generate the day-to-day comings and goings of private cars associated with everyday use. The planned provision of two car parks accommodating circa 130 spaces also indicates a reliance on private cars to access local shops and facilities which are not available on site (other than a small café and marina services) nor in the village. The site does have the benefit of the adjacent Parkway Station which offers regular train services to Nottingham, Leicester, Sheffield and London, but for day to day services trips are likely to be to local centres, the nearest of which is Kegworth which lies beyond the usual 2km distance indicator for making it a viable/attractive cycle option. Bus services are limited in the village. There is therefore at least some concern that the proposed marina development may not be as sustainably situated as could be and this is a matter to be considered in the overall planning balance.

207. This section deals with noise impacts arising without the potential HS2 project, which is covered above.
208. The previous Noise Assessment has been submitted with the current application to assess likely noise at the extraction and operational stages. This has been reviewed by the MPA's appointed Noise Engineer who notes it would have been preferable to have an updated assessment, however the Noise Engineer is content that the assessment is a worst case scenario particularly now that the A453 has been dualled (and so background noise levels are unlikely to have decreased) and also now that the size and scale of the marina has been reduced and thereby increasing the separation distance to the few properties which are present alongside the access road.
209. There are four properties which have been assessed; Redhill Farmhouse (occupied by the applicant and therefore not considered to be sensitive); Middle Gate Cottage; Masons Barn and Bungalow; and North Bridge Cottage. The latter two remain unoccupied and are in Network Rail ownership. The closest affected property currently therefore is Middle Gate Cottage. In the previous marina proposal this was 200m from the extraction boundary whereas it would now have an increased separation distance of 235m. The Noise Engineer is of the view that this should be sufficient standoff to limit noise at this property during extraction.
210. The acceptable noise levels associated with minerals development as set out in National Planning Practice Guidance can be complied with, these being 55dB LAeq for daytime noise and 42dB LAeq at night, when only a dewatering pump would be required to run. At the operational marina stage the only notable noise source would be from a Pump Out Station, but this can be controlled by condition.
211. In conclusion the proposal would not lead to any unacceptable noise impacts to local amenity and is therefore considered to accord with Policy M3.5 of the adopted Minerals Local Plan, subject to any controls as recommended by the Noise Engineer and those recommended by Rushcliffe Borough Council to set noise limits at the nearest properties (backed up with a complaints procedure) and controls on hours of operation and plant and machinery.

Aviation Safeguarding

212. The proposed marina development has potential to attract increased bird activity which could increase the risk of bird strike/danger to aircraft in the vicinity of East Midlands Airport (EMA). Paragraph 205 of the NPPF requires minerals development to prevent unacceptable adverse impacts on aviation safety. Draft Policy DM10 of the Emerging Minerals Local Plan requires the applicant to demonstrate that the proposed extraction, restoration and after use will not result in any unacceptable adverse impacts on aviation safety.
213. The Safeguarding Officer at EMA has reviewed the application and in particular the submitted Bird Management Plan (BMP) and considers the BMP to not be acceptable as it currently stands. However the airport would be willing to work with the applicant to submit an acceptable BMP by way of a planning condition

and therefore do not object to the application. EMA further request that final detailed landscape plans for the site are agreed in consultation with them. The MPA is satisfied that these matters of detail could be controlled through planning conditions.

Pollution prevention/reclamation

214. The MPA's appointed Reclamation Officer is satisfied that the extraction and construction works could be undertaken in a safe and controlled manner to protect the environment. This would include measures to contain all fuels and oils securely. Dewatering of the excavations would also be controlled via regulation of the Environment Agency. This would prevent uncontrolled releases of sediments into the River Soar. As such the proposed development is considered compliant with MLP Policy M3.8 relating to the water environment.

Need considerations – mineral extraction

215. In order to demonstrate very special circumstances necessary to permit inappropriate development within the Green Belt, the applicant needs to show that other considerations, including the need for the development, *clearly* outweigh the identified harm to the Green Belt (and additionally any other identified harm) (NPPF para 144).
216. MLP Policy M6.2 states that the MPA will endeavour to maintain 7 year landbank of sand and gravel reserves. This is also the requirement within the NPPF at paragraph 207 and which also states that great weight should be afforded to the benefits of mineral extraction at paragraph 205. MLP Policy M6.3 states that proposals for sand and gravel extraction outside of allocated areas will not be permitted unless it is evident that the existing reserves cannot sustain the landbank.
217. MLP Policy M14.1 states that the extraction of minerals as a necessary element of other development proposal on the same site will be permitted provided any resulting environmental or other impacts are acceptable and that the extraction is of a limited nature and short duration.
218. Policy 42 of the emerging LAAP states that development will not be permitted where they would sterilise mineral resources of economic importance.
219. The proposed prior extraction of sand and gravel from the application site is promoted by the applicant as a necessary aspect of the overall development. An estimated 117,500 tonnes of sand and gravel would be recovered and put to economic use within the general aggregates market. The extraction phase would be of limited duration lasting around one or two years, with other works continuing thereafter. The application states that the mineral extraction would be short term and provide a limited windfall of sand and gravel which would support sustainable economic growth and not significantly harm the MPA's Minerals Local Plan process including site allocations and landbank. It is also claimed that the county has a pressing need for the mineral to address a shortfall in the landbank supply and this is advanced as a contributing very special circumstance to justify the overall development within the Green Belt.

220. Based on the latest available Local Aggregate Assessment (October 2017) the county can demonstrate a more than adequate landbank of over 10 years, based on annual average sales in the County of 1.7 million tonnes and reserves totalling 17.5 million tonnes. In planning for the future, the new MLP being prepared will make provision to meet the needs for the plan period and will take into account the geographic spread of supply to serve local markets. Therefore there is no pressing, identified need for sand and gravel extraction at this site and Policy M6.3 creates a presumption against planning permission.
221. In the event that the need for a marina end use can be demonstrated, the prior mineral extraction could be considered against Policy M14.1 as incidental mineral extraction.
222. The working period of one to two years would clearly be of limited duration. In terms of volumes, taking the last three years of available figures for sand and gravel sales in Nottinghamshire (1.43 million tonnes in 2014, 1.52 million tonnes in 2015, and 1.27 million tonnes in 2016), the 117,500 tonnes (if extracted in year one) would equate to 7.7% to 9.3% of existing county-wide sales. Therefore whilst the overall volumes are relatively modest in industry terms the annual proportion would be not insignificant. The application has also failed to satisfy various environmental aspects.
223. The sand and gravel would therefore amount to a windfall to the county's sand and gravel production and if the end use is found to be needed/acceptable, then the recovery of the mineral for economic use would be a notable benefit of the proposed development which should be afforded great weight in accordance with NPPF paragraph 205. The construction of the marina basin would also ensure that mineral deposits (as a finite resource) would be put to economic use, rather than it being sterilised (for example by using cut and fill techniques) or disposed of. This approach would accord with Policy 42 of the emerging LAAP.
224. In conclusion the mineral extraction on its own is not supported by policies in the Minerals Local Plan as there is no pressing requirement for the mineral to be worked at this time, given the current landbank supply and proposed allocations. However if the need for a marina is borne out the mineral should be put to economic use and thus would amount to a windfall, which would carry weight in favour of the proposed development as guided by the aims of the NPPF.

Need considerations – marina berths

225. The applicant has submitted a Need Assessment to provide justification for the proposed new marina use. As part of this, a simple occupancy survey of existing marinas and moorings was undertaken along the River Soar/Grand Union Canal; River Trent; Trent and Mersey Canal; and the Erewash Canal within a 20 mile radius of Red Hill. This survey involved traveling along the waterways and counting the vacant berths available at existing marinas and moorings. Firstly this shows that the local waterways appear to be well-served by numerous marinas and on-line moorings. The results pertain to show that occupancy levels are high ranging from 73% to 100% full.

226. This survey is a very brief and cursory approach and provides essentially a 'snap shot' in time, which given that the survey was undertaken in July/August 2015 is now rather dated. Furthermore a snapshot survey of occupancy does not equate to demonstrating a pressing or unmet need for new moorings in the Green Belt. Lacking from the assessment are data and analysis of trends in the regional and national use of waterways such as market trends, changes in the numbers of licence holders, waiting lists at marinas and such like. The previous application for a larger marina included such information in much more detail, but the Planning Inspector was still not persuaded of the applicant's need case. The Canal and River Trust have also taken issue with some of the statements made within the Need Assessment. The Trust make it clear that it is the applicant's responsibility to prove need. It is also unclear how many existing riverside moorings may be affected and moved into the marina and whether these would be on a permanent residential basis and/or on what terms.
227. The objection received on behalf of an established marina further downstream on the River Soar includes detailed reasons why the need case is considered to be deficient. It is claimed that the previous growth in the numbers of boat licences has reversed in recent time, but the applicant has not considered such trends.
228. Officers broadly agree with the points made by the objector and that the applicant's case is inadequate to prove an unmet need for off-line moorings. The inadequacy of the Need Assessment has been raised with the applicant within a request for further information under Regulation 22, which remains unanswered.
229. The application also includes an Alternative Site Assessment as part of the justification for the chosen Green Belt site. This has considered 14 potentially suitable locations along the River Soar navigation along a 40 mile stretch to Narborough. Factors taken into account include the physical size and access to the location; constraints such as Green Belt, flood risk, nature and historic conservation interests, and other factors. In looking at the principal constraint that is the Green Belt, which is affecting the application site, a number of potential alternative sites have been incorrectly stated as being within the Green Belt. For example there are sites nearby around Kegworth, which contrary to the assessment, are not constrained by this designation (nor HS2) and which appear to warrant further detailed investigation if a local need can be established. These sites may also benefit from access to local amenities and facilities, whereas the application site at Red Hill is distant and isolated from such.

Benefits to the rural / visitor economy

230. A further consideration in the planning balance is the potential gains to the rural and visitor economy, from visitor spending in local businesses and services, as well as direct job creation.
231. Rushcliffe Core Strategy Policy 13 states that provision of new tourism facilities of an appropriate scale will be generally encouraged, but that these should be

focussed in or adjoining district centres, or through improvement or further development of existing facilities.

232. Policy 31 of the emerging LAPP follows with more details. The development of new tourism and leisure attractions (including accommodation) is generally supported, particularly where this would be well connected to other tourist/leisure destinations and amenities (particularly by public transport, walking and cycling) and those which enhance environments and local distinctiveness including landscapes and heritage. Under this policy new tourist attractions and accommodation should be directed towards district centres where they can make use of existing infrastructure. It recognises however that there may be instances where a proposal requires a countryside location (for example riverside and canal side moorings), provided proposals comply with other policies such as on the Green Belt. Proposals should respect the character of the countryside and be of an appropriate scale to the local landscape and the surrounding environment.
233. Saved Non-Statutory Rushcliffe Policy COM11 sets out to safeguard the River Soar corridor (amongst others) from development which would prejudice its recreational, tourist and commercial potential. It states that particular protection will be given to environmental and wildlife features which contribute to the character of the area. The supporting text comments on the potential tourism and recreational opportunities for the corridors, but also makes clear that development will be strictly controlled and over-intensive tourism and recreational developments will not be permitted where these would spoil and lessen the attractiveness of the environment.
234. Paragraph 83 of the NPPF gives support to the sustainable growth of rural businesses, rural diversification and sustainable rural tourism and leisure developments so long as they respect the character of the countryside.
235. Against this policy context it is evident that marina developments such as that proposed could enhance the local tourism and leisure offering and support local businesses such as those based at the existing marina. A new marina could capitalise on the site's central location, at a junction on the navigable waterway network and attract touring boat (and enable overnight and short break accommodation) visitors to the area. The marina would create a limited number of new jobs but would undoubtedly create some business opportunities for the associated businesses based within the current marina complex involved in boat building and associated specialist services. The majority of representations received in favour of the application are linked to these businesses.
236. The applicant's socio-economic assessment accompanying the application sets out the expected benefits to the local economy from the construction and thereafter operation of the proposed marina. With an expected turnover of £1.2 million (and using industry calculations) the assessment estimates that the marina would add £793,000 Gross Value Added (GVA) to the economy with the majority spent at a local level, spread across direct and indirect employment and spend with suppliers and businesses. In addition, the assessment calculates an anticipated visitor spend outside of the marina of £520,000 per annum with services and amenities, with the majority of these expected to be at the local or

district level. The applicant believes these direct and indirect economic gains would be a major benefit.

237. Clearly there would be some resulting visitor spending at local shops, pubs and other amenities. However, due to the site's location away from District Centres and other settlements providing a wider range of day to day services and amenities, the benefits to the local economy may not be fully realised and can be expected to be widely dispersed.
238. Whilst benefits may not be fully realised in the immediate locality, Rushcliffe Core Strategy Policy 13 and Policy 31 of the emerging LAPP nonetheless allow this type of waterside development in rural situations subject to scale and landscape character assessments. Applying Saved Non-Statutory Rushcliffe Policy COM11 to this ensures there are checks and balances for over-intensive and unsympathetic leisure and tourism developments.
239. There is therefore support for the proposed leisure marina development in this rural location (Green Belt and other considerations aside) which could enhance the local visitor and tourism offer. However there remain concerns about its scale and visual impacts and impacts on the open character of the landscape – the very features of the countryside which make it attractive to visitors.
240. On balance therefore the proposal is not considered to fully accord with the aims of promoting sustainable rural tourism within policies 13, 31, COM11, and national planning guidance. Due to the site's detached situation, the benefits to the rural economy may not be fully realised and, by virtue of its scale, siting and nature, the proposed marina would not be sympathetic to the rural character.

Overall conclusions and assessment of Very Special Circumstances

241. It is established planning practice that it is for the applicant to demonstrate that very special circumstances exist to justify overriding the great importance of the Green Belt and to its planning purposes. The benefits of the development proposed must clearly (and decisively) outweigh the identified harm to the Green Belt, in particular the identified harm to its openness and the conflict with its purpose in safeguarding the countryside from encroachment together with all other identified harms and deficiencies. For reference the applicant states the following reasons for where they consider very special circumstances would arise:
- The development would provide an appropriate recreation facility in the countryside providing outdoor sport and recreation.
 - There would be an economic benefit and increase in employment opportunities.
 - It would contribute towards an identified need for marinas as well as contributing towards an identified need for sand and gravel minerals.
 - It presents the opportunity to enhance the river by removing existing online moorings as well as improving navigability and flood safety.

- It would contribute to the local environment by promoting a gain/enhancement in biodiversity by introducing new habitats.
242. This report has found that the proposed marina would offer only limited benefits to the rural and visitor economy and a modest number of new jobs to directly manage the facility. There is no identified need for the associated sand and gravel extraction due to adequate landbank reserves and future plans. The applicant has not demonstrated there is a need for new moorings/berths in an area already well served with a range and choice of other facilities. The proposed removal of the existing moorings along the river bank could provide a benefit to river navigation, however it is not evident that these are presently causing a particular hindrance or hazard to other river users. Due to insufficient information it is not possible to understand the ecological impacts of the proposal or whether the development would lead to a net enhancement of habitat or biodiversity. Also due to incomplete information it is not possible to show that the development would be safe in times of flooding and not result in increased flood risk elsewhere. The applicant's very special circumstances are therefore not demonstrated.
243. It is a material consideration that paragraph 141 of the NPPF sets out to promote the enhancement and beneficial use of the Green Belt, such as looking for opportunities for outdoor sport and recreation. However the same paragraph also includes reference to retaining and enhancing landscapes, visual amenity and biodiversity. It is also pertinent that the emerging LAPP, within the supporting text to policy 21, states that the health and well-being benefits of proposals for outdoor sport and recreation will constitute very special circumstances –subject to assessment of their effects on the openness of the Green Belt, and on the purposes of including land in the Green Belt. Therefore whilst the new marina would promote recreational access to the Green Belt and to the River Soar corridor more widely, officers have found that it fails to preserve the openness of the Green Belt and it prejudices the function of the land as part of the countryside, acting as a 'foil' to the built forms of development nearby. These material considerations do not point to very special circumstances being made out.
244. In weighing up, the starting point is to attach substantial weight to the identified harm to the Green Belt, including to its purpose to safeguard the countryside from encroachment and harm to its openness. Added to this should be any other harm as identified. These include conflicts with landscape character aims and objectives and adverse visual impacts which are considered a moderate adverse impact and to which minor to moderate weight can be attached; loss of potentially nationally significant archaeology, considered to be of the highest importance and to which significant weight can be attached; and inadequate information on ecology and flood risk to which considerable weight is attached in the absence of additional information. The application also directly conflicts with the safeguarding direction for HS2 to which significant weight is attached. In favour is a benefit to the local economy and from the creation of new employment opportunities to which moderate weight is attached. Given that there is no identified need for new moorings nor any need for the mineral extraction in its own right, the need for the development overall is only a neutral consideration which is afforded only limited weight.

245. Given the serious deficiency with the application and the wholly inadequate case for a need for the marina, the weighing exercise is straight-forward and determinative that planning permission should be refused. The applicant has been given sufficient and multiple opportunities to provide further information to potentially overcome the concerns identified but has not responded with this information and therefore the application should now be taken to a decision. In doing so all material considerations have been considered and this leads to the conclusion that the proposal is unacceptable and there are clear and decisive reasons for refusing the application most notably in terms of national planning policy to protect the Green Belt. Accordingly, the proposal is not sustainable development for the purposes of paragraph 11 of the NPPF.

Other Options Considered

246. The report relates to the determination of a planning application. Further information under Regulation 22 (Town and Country Planning Environmental Impact Assessment Regulations 2011) was requested by the MPA in January 2017. Despite multiple agreements to extensions for more time the applicant has not made any additional submission and officers have no confidence that this is likely to be forthcoming. Therefore the County Council is under a duty to consider the planning application as submitted.
247. If committee is minded to resolve in favour of a grant of planning permission, contrary to the advice within this report and contrary to the objection of HS2 Ltd, the authority must refer the application to the Secretary of State for Transport under the requirements of HS2 Safeguarding Direction and not issue any decision for a period of 21 days to allow for him to consider the application. In addition it would also be necessary to refer the application to the Secretary of State for Housing, Communities and Local Government under the requirements of the Town and Country Planning (Consultation) (England) Direction with respect to Green Belt development and with respect to the decision being contrary to the objection from the Environment Agency on flood risk matters, again allowing a period of 21 days for him to decide whether to call in the application for his own determination.

Statutory and Policy Implications

248. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

249. All members of the public who have made representations on this application are informed that copies of their representations, including their names and addresses, are publically available and are retained for the period of the application and for a relevant period thereafter.

Human Rights Implications

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

Public Sector Equality Duty Implications

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

Implications for Sustainability and the Environment

252. In reaching the recommendation the report considers the effects on the local environment including matters of ecology; landscape and heritage. Inadequate supporting information has been prepared to support the planning application with respect to potential impacts to ecology and local habitats. Objections have been lodged with respect to archaeology and flooding.
253. The proposed development would not satisfy the three arms of sustainable development. A refusal of planning permission, as recommended, would preserve the current environmental interests of the land for future generations.
254. As a result of the recommendation there are no implications arising with respect to human resources; finance; crime/disorder and children/adults at risk safeguarding. There are no implications for County Council service users.

Conclusion

255. The application was originally validated in October 2016. The applicant has failed to respond to a request for further information under Regulation 22 of the EIA Regulations issued by the MPA in January 2017 which included objections from statutory consultees. Discussions with the applicant have indicated wholly unsatisfactory progress to date and the application is therefore to be determined on the basis of the original submission.
256. Whilst it is considered that the proposed development would promote the beneficial enjoyment of the Green Belt for outdoor leisure and recreation it is considered to be inappropriate development, (for the purposes of paras 143 and 144 of the NPPF) by failing to preserve the openness of the Green Belt and by

prejudicing the land's function in safeguarding the countryside from the encroachment. The proposal conflicts with landscape character policy aims, creates adverse visual impacts to rural amenity and would be detrimental to Green Infrastructure objectives contrary to Rushcliffe Core Policy 16 and emerging LAAP policies 34 and 35, and MLP policies M3.3 and M3.22.

257. In addition, the application and Environmental Statement have been found to be inadequate with respect to assessing impacts to ecology, flooding and archaeology. The requirement of MLP Policy M3.1 to provide adequate assessments as part of the planning application has not been fully complied with. The proposal is likely to result in the loss of nationally significant archaeology. The proposal is contrary to emerging LAAP Policy 29 and MLP M3.24 and national planning policy with respect to archaeology; contrary to MLP Policy M3.17, Rushcliffe Core Policy 17, and national policy with respect to ecology; and contrary to national policy and guidance, MLP Policy M3.9 and emerging LAAP Policy 17 with respect to flooding.
258. The application also directly conflicts with the safeguarding direction for HS2 and would therefore compromise a project of national importance. Taken together these harmful impacts are not outweighed by other considerations weighing in favour (which include benefits from visitor/customer spend and from mineral extraction, albeit there is no identified need for the minerals) and therefore very special circumstances do not exist to justify the harm to the Green Belt. There are other nearby locations which lie outside of the Green Belt which warrant further analysis. An insufficient case for the need for the marina has been made to justify overriding the Green Belt, archaeology, landscape and HS2 considerations.

Statement of Positive and Proactive Engagement

259. In determining this application the Minerals Planning Authority has worked positively and proactively with the applicant by assessing the proposals and the content of the Environmental Statement against relevant Development Plan policies, the National Planning Policy Framework, including the accompanying technical guidance and European Regulations. The Minerals Planning Authority has identified all material considerations; forwarded consultation responses that may have been received in a timely manner; considered any valid representations received; liaised with consultees and progressed towards a determination of the application. Multiple issues of concern have been raised with the applicant affording a generous opportunity to consider whether such matters can be suitably resolved through submission of further information under Regulation 22. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this instance, however, no additional supporting information has been forthcoming and therefore it has not been possible to resolve the issues of concern so as to overcome the harm as identified in the reasons for refusal.

RECOMMENDATIONS

260. It is RECOMMENDED that planning permission be refused for the reasons set out below. Members need to consider the issues set out in the report and resolve accordingly.

Reasons for Refusal

- i) The National Planning Policy Framework confirms the great importance of Green Belts and their fundamental aim in preventing urban sprawl by keeping land permanently open. Their essential characteristics are their openness and permanence (paragraph 133). The proposed marina is considered to constitute a material change of use of the land following mineral extraction and engineering operations by reference to paragraph 146 of the National Planning Policy Framework. The proposed development by virtue of its scale, numbers of moorings, buildings, associated infrastructure and overall engineered appearance would significantly harm and erode openness and represent an encroachment into the open countryside contrary to the purposes of Green Belts and their essential characteristics within the aims of the National Planning Policy Framework. Consequently, the proposed development is considered to be inappropriate development in the Green Belt and is therefore harmful by reason of failing to preserve the openness of the Green Belt and by conflicting with the purposes of the Green Belt. The applicant has not demonstrated a need for the proposed additional moorings and there is no need for the mineral extraction aspect, as the MPA can demonstrate a sufficient landbank of sand and gravel resources. The identified harm to the Green Belt, along with other identified harm and deficiencies in relation to matters of biodiversity; landscape character; visual impacts; flood risk; archaeology and to HS2 clearly outweigh any identified benefit resulting from the proposal and as such very special circumstances necessary to permit inappropriate development do not exist. The proposed development is therefore contrary to the provisions of the National Planning Policy Framework.
- ii) The proposed development by virtue of its scale, numbers of moorings, associated infrastructure and overall engineered appearance would result in an adverse impact to visual amenity to what is currently an important area of open and distinctively undeveloped countryside, providing a contrast to surrounding infrastructure. The proposed development also fails to conserve and enhance the existing local landscape character, notwithstanding the provision of any mitigating planting. The proposed development therefore does not accord with Policy 16 of the Rushcliffe Local Plan Part 1: Core Strategy or policies 34 and 35 of the Rushcliffe Local Plan Part 2 – Land and Planning Policies-publication draft. There are no overriding reasons of public interest or demonstrated need for the proposed marina or prior mineral extraction to outweigh the identified harm to local landscape character, taking into account the proposed mitigation measures. The proposed development therefore does not accord with Policy M3.22 of the Nottinghamshire

Minerals Local Plan. The prior extraction of minerals would also likely lead to unacceptable adverse impacts to visual amenity, in particular to users of the local rights of way network, contrary to Policy M3.3 of the Nottinghamshire Minerals Local Plan.

- iii) The proposed development would conflict with the HS2 Phase 2b safeguarded route as published, emerging design developments and the Government's objective of delivering HS2, which is a project of national importance. The proposal is therefore contrary to Government Guidance contained in the National Planning Policy Framework (NPPF). The proposal does not conform with the provisions of the NPPF and it is considered that the applicant is unable to overcome such principle concerns.
- iv) Inadequate environmental information has been provided with respect to potential impacts to protected and notable species and/or habitats. Background surveys have not been provided which are essential to understand the biodiversity value of the site and whether the proposed development would conserve and enhance biodiversity and/or provide any necessary mitigation or compensatory measures as may be required. The application does not satisfy the requirements of policies M3.1 and M3.17 of the Nottinghamshire Minerals Local Plan; Policy 17 of the Rushcliffe Local Plan Part 1: Core Strategy; and paragraphs 170 and 175 of the National Planning Policy Framework.
- v) Inadequate environmental information has been provided with respect to potential impacts (direct and indirect) on nationally significant archaeology, the loss of which should be wholly exceptional. There is no demonstrated need for the proposed new marina or any other such need or demonstrable substantial public benefits to qualify such an exception to outweigh the great weight which is afforded to the conservation of the archaeology. The proposal does not accord with Policy M3.24 of the Nottinghamshire Minerals Local Plan or paragraphs 193 to 195 of the National Planning Policy Framework.
- vi) The site is located within the identified Flood Zone 3 and is at a high risk of flooding. The submitted Flood Risk Assessment does not comply with the requirements of Planning Practice Guidance to the National Planning Policy Framework and fails to provide adequate information to fully assess the flood risk arising to the proposed development or demonstrate it would not lead to increased flood risk to surrounding land or property or adversely affect existing flood defences. The proposal is thereby contrary to Policy M3.9 of the Nottinghamshire Minerals Local Plan and paragraphs 155, 160 and 163 of the National Planning Policy Framework and associated Planning Practice Guidance. The proposal also does not accord with Policy 17 of the Rushcliffe Local Plan Part 2 – Land and Planning Policies- publication draft.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 19/11/2018]

Planning & Licensing Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

Financial Comments [RWK 19/11/2018]

There are no specific financial implications arising directly from the report.

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

Leake and Ruddington- Councillors Andrew Brown and Reg Adair.

Report Author/Case Officer
Joel Marshall
0115 9932578

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

RED HILL
RATCLIFFE ON SOAR
LWS

LOCKINGTON
MARSHES
SSSI

ROMAN SITE
ON RED HILL
SAM

PARK
&
RIDE

RATCLIFFE
POWER
STATION

RIVER SOAR
LOUGHBOROUGH
MEADOWS
LWS

APPLICATION SITE

LEICESTERSHIRE

ROMAN VILLA & ENCLOSURE
NORTH OF RATCLIFFE LANE
SAM

A453

RAILWAY LINE



Application site



SAM - Scheduled Ancient Monument



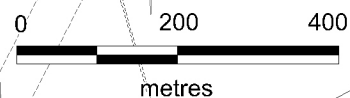
SSSI - Site of Special Scientific Interest

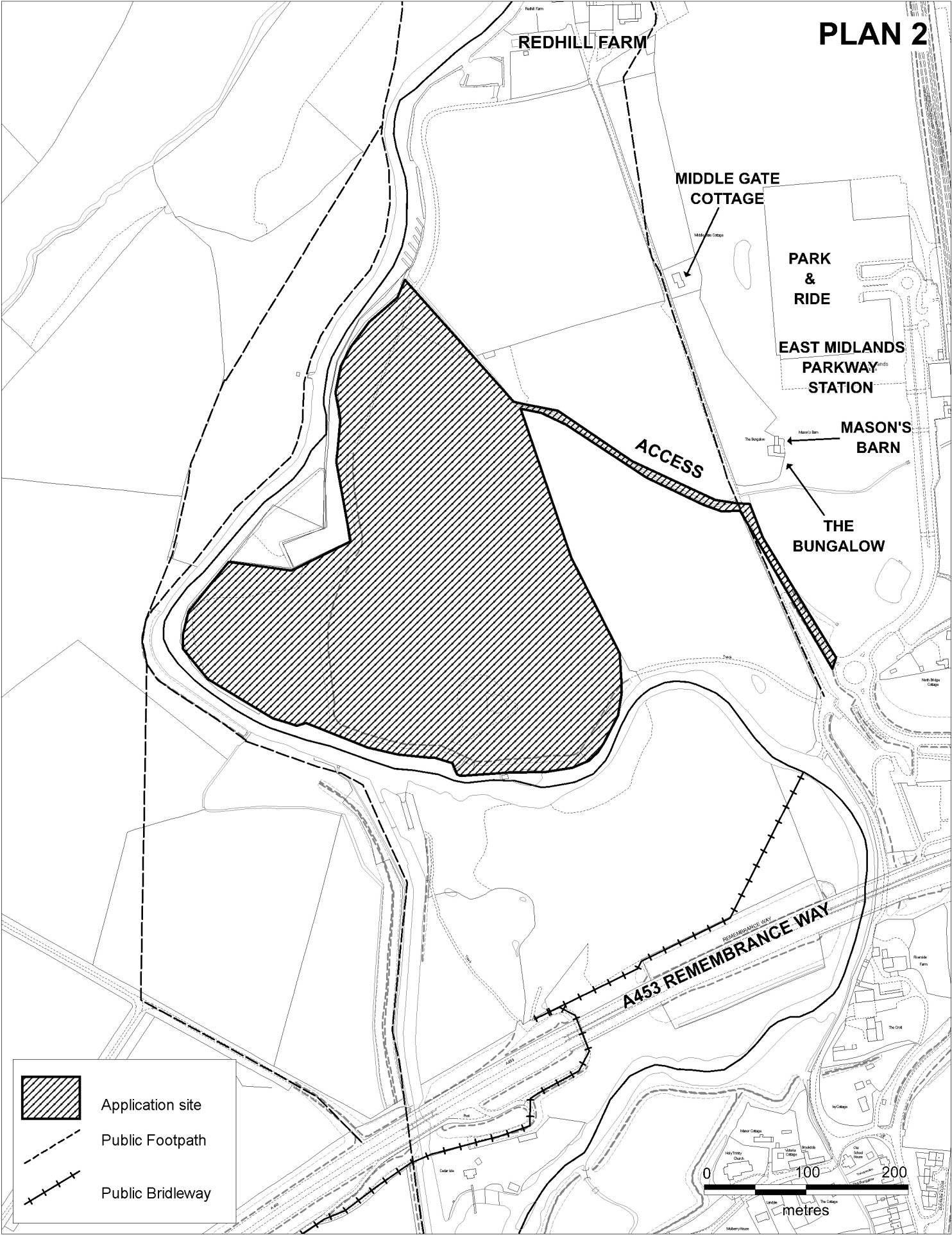


LWS - Local Wildlife Sites



County Boundary

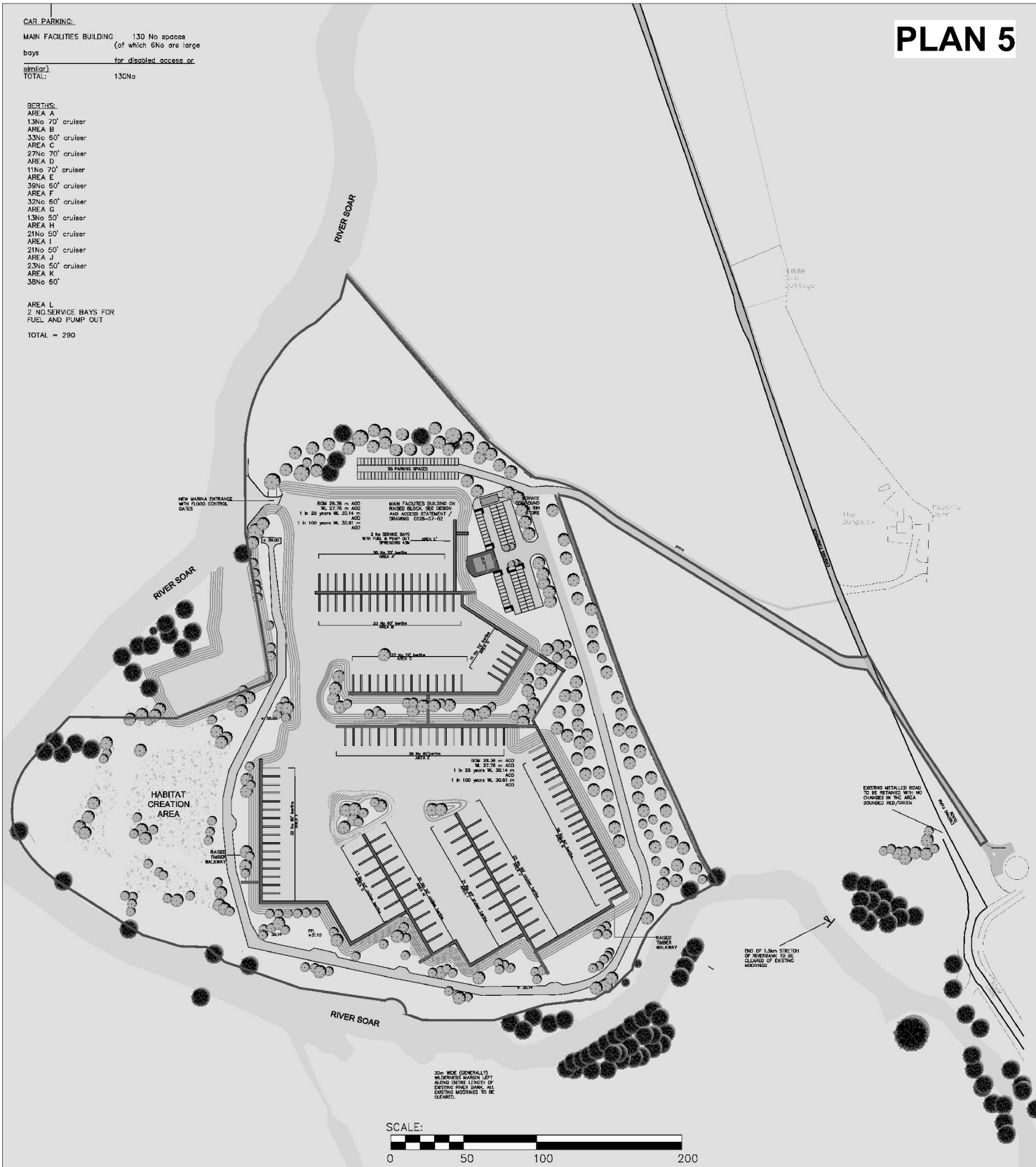




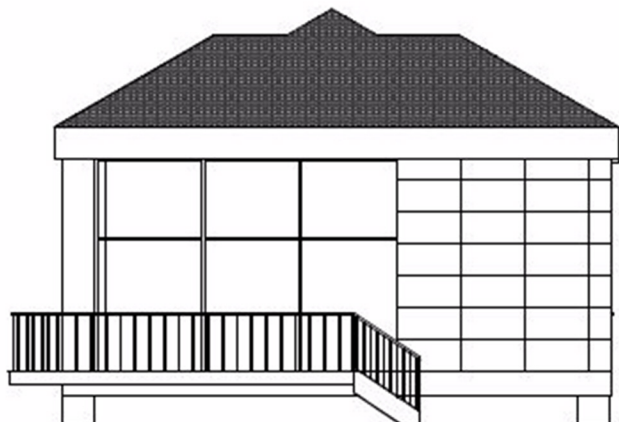


PLAN 5

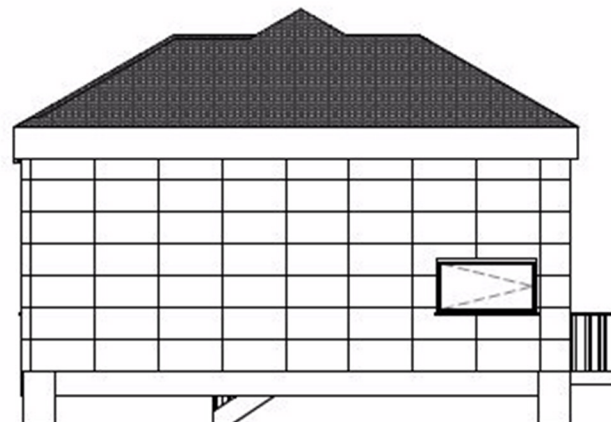
AREA L
2 NO.SERVICE BAYS FOR
FUEL AND PUMP OUT
TOTAL = 290



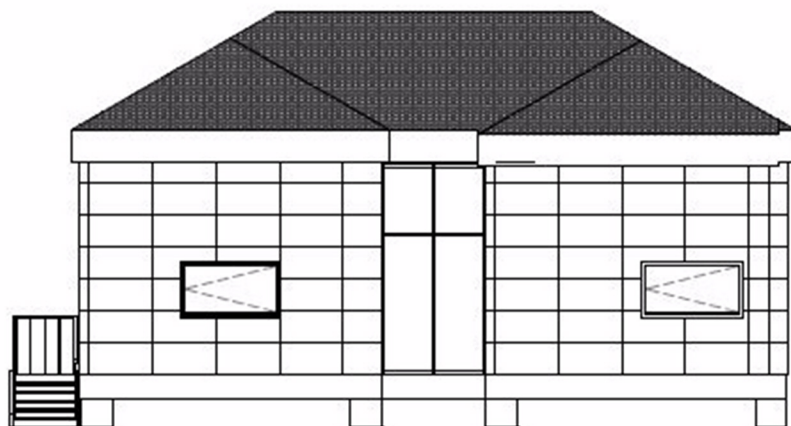
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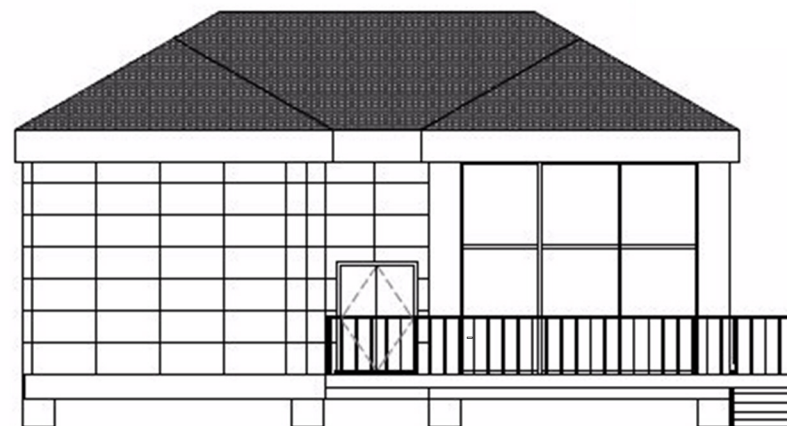
1 East
1 : 100



3 West
1 : 100



2 North
1 : 100



4 South
1 : 100

11 December 2018**Agenda Item: 9****REPORT OF CORPORATE DIRECTOR – PLACE****APPLICATION 1**

BASSETLAW DISTRICT REF. NO.: 2/2017/0525/NCC

PROPOSAL: VARIATION OF CONDITIONS 3 AND 4 OF PLANNING PERMISSION
REF: 1/13/01390/CDM TO ALLOW A FURTHER 5 YEARS FOR THE
PLACEMENT OF MATERIAL AND RESTORATION OF THE SITE

LOCATION: WELBECK COLLIERY, ELKESLEY ROAD, MEDEN VALE, NG20 9PS

APPLICANT: TETRON WELBECK LLP

APPLICATION 2

MANSFIELD DISTRICT REF. NO.: 1/18/00791/CDM

PROPOSAL: PROPOSED VARIATIONS TO THE SOIL MANAGEMENT AREAS, THE
INTERNAL LINKING ACCESS ROAD AND THE INSTALLATION OF
WELFARE AND OFFICE PORTACABINS AND TOILET BLOCK UNIT.

LOCATION: WELBECK COLLIERY, ELKESLEY ROAD, MEDEN VALE, NG20 9PS

APPLICANT: TETRON WELBECK LLP

Purpose of Report

1. To consider two planning applications relating to the restoration of the spoil tip at Welbeck Colliery, Meden Vale:
 - a) The first application relates to the variation of conditions 3 and 4 attached to planning permission ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the spoil tip;
 - b) The second application seeks to make changes to the red line of the existing soil management area to allow for amended access arrangements and an additional 5 years to correspond with the life of the spoil tip restoration. Retrospective permission is also sought for welfare and office cabins and a toilet block.

2. The key issues relate to timescales to restore the former spoil tip, ecology and traffic. The recommendation is to grant planning permission for both applications.

The Site and Surroundings

3. The Welbeck Colliery site spans the Mansfield and Bassetlaw District boundaries, sitting approximately 9.5km north of the centre of Mansfield (see Plans 1 and 2). The colliery complex covers a total area of circa 127 hectares. The colliery was an active coal mine until May 2010, when mining operations ceased.
4. Immediately to the south of the colliery is the village of Meden Vale. Approximately 330m to the south-west is Church Warsop, beyond which is Market Warsop; and 900m to the north is the village of Cuckney.
5. The site is bordered to the north and west by a belt of trees which form plantations. These include the Warsop Hill Plantation, Presley's Plantation and the Hatfield Plantation. Along the eastern half of its southern boundary the site is bordered by Meden Vale, and to the western half of the colliery site's southern boundary agricultural fields border the site. To the east there are further agricultural fields.
6. The colliery site itself comprises three main sections: the un-restored northern half of the spoil tip, the restored southern half of the spoil tip and the former pit head area to the east.
7. The southern section of the spoil tip, which is restored, forms a large engineered hill with its toe at the northern edge of Meden Vale village. The tip slopes northwards rising from 65m Above Ordnance Datum (AOD) to about 123m AOD over approximately 470m. The restored tip section stretches for approximately 1.25km from east to west and is bordered by the Cuckney Hill Road (A60) to the west and the Meden Vale sports ground and football pitches to its east. The majority of the restored area comprises semi-improved grassland and is substantially covered by solar panels. There is a 50m wide belt of trees running along the eastern half of the southern boundary, providing screening for residential properties in Meden Vale. In addition, there are some small areas of tree planting to the north-west of the restored tip area that are yet to mature.
8. To the east of the spoil tip is the site of the former colliery works and pit head complex. Since closure the buildings have been progressively demolished and the area now predominantly comprises a large area of levelled hardstanding. The rail track and rail head remain.
9. The planning application boundary runs along the northern boundary of the colliery site, adjacent to the woodland plantations and curves back on itself to roughly follow the line of the already restored southern half of the spoil tip. The spoil tip area under restoration measures approximately 1.15km in length from the A60 in the west to the former pit head area in the east. In terms of width, the area under restoration measures between 320m to 400m from the northern boundary to the top of the tip where un-restored and restored areas meet.

10. The planning application boundary of Application 1 includes the northern half of the former spoil tip and two spurs off the eastern side of the colliery spoil tip area (see Plan 1). One of the spurs follows the length of the existing colliery access road that heads in a north-east direction and forms the northern boundary of the wider colliery site. The access road runs for approximately 1.1km and connects to the A616. The second spur follows the rail track from the spoil tip in an easterly direction for approximately 650m where the red-line boundary then opens into a wider area for storage purposes for the wastes and materials delivered via rail. In total the planning application area measures approximately 44 hectares.
11. The planning application boundary for Application 2 encompasses a Soil Management Area (SMA) adjacent to the eastern side of the soil tip (SMA(B)), with a spur which follows the access road to the A616 (see Plan 2). There is a secondary spur to the east which opens into a wider area adjacent to the rail head for waste storage and processing (SMA(A)). Parts of the Application 2 site overlap sections of the Application 1 area, however, changes have been made following the expansion of the soil management area operations and other development on the pit head area (an anaerobic digestion facility) which have affected the operational area available to the SMA.
12. There are two vehicular access roads into the wider colliery site. One of the accesses connects to the A616 to the north-east. The other colliery site access is off Elkesley Road at the southern boundary of the former pit head area. Elkesley Road passes through the residential area of Meden Vale where it connects to Netherfield Lane in the south. It is noted that only the A616 access is included within the planning application boundary and is the only access that vehicles use to access the waste operations.
13. In addition to the access roads, there is a rail line which heads into the eastern side of the site. The rail line curves around the eastern side of Meden Vale before heading in a southerly direction.
14. Due to the size of the site, the distances to residential sensitive receptors vary. To the west of the planning application site the nearest sensitive receptor is Metz Lodge which is located off the A60 approximately 100m west of the application boundary. In terms of residential receptors located within Meden Vale, the closest are between 350-400m from the southern application boundary of the unrestored tip area, although there are Meden Vale properties located approximately 130m to the south of the eastern part of the Application 2 site. In relation to the access road there is a single property, Sedan Lodge, which is circa 150m to the west off the A616.
15. The Cuckney Conservation Area is approximately 350m north of the application boundary at its closest point and circa 830m south of the application site is the Church Warsop Conservation Area. Within the Cuckney Conservation Area the most notable heritage assets are the Cuckney Motte and Bailey Castle (Scheduled Ancient Monument) and the Church of St Mary (Grade I Listed). Within the Church Warsop Conservation Area there is the Church of St Peter and St Paul (Grade I Listed) and the Bishops Lodgings (Grade II* Listed). Within

and around both of the conservation areas there are a number of other Grade II Listed Buildings.

16. The nearest ecological site is the Elkesley Hill Local Wildlife Site (LWS) Site of Importance for Nature Conservation (SINC). This is a small hill with a noteworthy mosaic of scrub and acidic grassland communities located immediately adjacent to the southern boundary of the eastern most section of the planning application area. Also of note is The Bottoms, also a LWS, which is a length of good riparian habitats along the River Meden. The Bottoms is, at its closest point, 500m south of the application site.
17. The nearest statutorily designated ecological sites are the Birklands and Bilhaugh Site of Special Scientific Interest (SSSI); the Birklands and Bilhaugh Special Area of Conservation (SAC), which is within the SSSI area; and the Welbeck Lake SSSI. The Birklands and Bilhaugh sites are located to the south-east of the application area, with the nearest part 1.8km distant and the Welbeck Lake SSSI is approximately 2km away to the north-east.
18. Whilst it is not a designated site, it is still important to note that approximately 1.5km south-east of the application area is the Natural England Indicative Core Area (ICA) and RSPB Important Bird Area (IBA) for breeding Nightjar and Woodlark. These are areas which may form the basis of a Special Protection Area (SPA) in the future for Nightjar and Woodlark. In addition, the site is within the 5km buffer zone of the IBA.
19. The site is not located within an area at risk of flooding. The nearest flood risk area is either side of the River Meden to the south of the site, with the nearest point approximately 500m distant.
20. The geology beneath the site (Sherwood Sandstone Group) is classified as a Principal Aquifer. The site lies within the Environment Agency's total catchment Groundwater Source Protection Zone.
21. The nearest rights of way include a bridleway located approximately 200m to the north-west of the application site, which runs from the A60 to Cuckney. In addition, there is an existing footpath that runs partially along the western side of the application site and then also along the length of the southern boundary of the restored spoil tip and along the northern edge of Meden Vale.

Planning History and Background

22. Planning permission was granted on 19 September 2012 (Ref: 2/2012/0072/NT and 1/60/12/00001) for the restoration of the northern half of the Welbeck Colliery spoil tip using suitable engineering fill, recovered aggregates and other suitable materials including wastes such as pulverised fuel ash (PFA), third party soils and stone. The development was granted a temporary planning permission with the placement of waste and fill material allowed until 21 May 2018 and restoration to be completed by 21 May 2019.
23. The planning permission was granted subject to planning conditions, one of which required a rail line to be in place and in good working order within 6

months of the importation of any fill material (Condition 28). Subsequently a planning permission was granted on 27 March 2014 (Ref: 1/13/01390/CDM) to allow an additional 12 months for the rail line to be in place. This is the permission that the site currently operates under and it retained the same waste deposit and restoration completion dates, within Conditions 3 and 4, as set out below:

“3. The placement of waste and other fill material hereby permitted shall cease no more later than 21 May 2018. Should placement cease prior to this date the WPA shall be notified within 14 days of cessation.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and Policy M4.5 of the Nottinghamshire Minerals Local Plan (MLP).”

4. The final restoration, as shown on Drawing 103186/P/004 Rev B titled ‘Proposed Block Plan – Restoration’ received by the WPA on 27 January 2012 and the amended landscaping plan to be submitted under Condition 28, shall be completed by 21 May 2019, or within 12 months of the cessation of waste and other fill material being placed, whichever is earlier.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the WLP and Policy M4.5 of the MLP.”

24. In addition to the above, there is a further planning permission which covers operations at the site. The original restoration permission included an area of land to be used for soil management operations, referred to as the Soil Management Area (SMA). The SMA was located adjacent to the rail line on the site of the former pit head. However, planning permission was granted in August 2014 to relocate the SMA to an area of land closer to the spoil tip (Ref: 2/2014/0272/NT), as planning permission was being sought for redevelopment of the pit head area. This permission was granted on a temporary basis until 21 May 2018 to reflect that of the spoil tip restoration permission, within Condition 3 of the SMA planning permission, as set out below:

“3. This planning permission is for a temporary period only, ceasing on 21 May 2018. Should use of the site cease prior to this date the WPA shall be notified within 14 days of cessation.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and Policy M4.5 of the Nottinghamshire Minerals Local Plan (MLP).”

25. The application highlights that since planning permission was granted there have been genuine and unforeseen material changes concerning the sourcing of a key element of the originally envisaged engineering fill material, namely

PFA (a by-product of coal fired power stations). Since spring 2014 there has been a significant reduction in energy generation from coal fired power stations, as a result of Government policy to move away from the use of coal as part of the energy mix and an intention to close all coal fired power stations by 2025. This has led to a significant reduction in available PFA which was originally intended to form a key part of the restoration scheme. The applicant states that the change in circumstances could not have been reasonably predicted by the applicant at the time of the submission of the original planning application.

26. The applicant highlights that the restoration works involve the residual import of fill, manufacture of aggregate and soil for planting and associated landscaping. The filling process is economically driven and with political and business outlook being uncertain there is a significant risk that the import decreases and the programme increases. As such, the applicant is seeking an addition 5 year period to undertake the restoration works. No changes to the restoration design are proposed.

Proposed Development

Application 1 – Ref: 2/2017/0525/NCC

27. In light of the loss of one of the key fill materials used for the restoration of the spoil tip (i.e. PFA) since the original planning application was approved, the applicant is seeking to extend the life of the restoration operation by five years, by varying Condition 3 and 4 of Planning Permission Ref: 1/13/01390/CDM.
28. Condition 3 is proposed to be varied as follows:

The placement of waste and other fill material hereby permitted shall cease no later than 21 May 2023. Should placement cease prior to this date the WPA shall be notified within 14 days of cessation.

29. Condition 4 is proposed to be varied as follows:

The final restoration, as shown on Drawing 2012-PL003 Rev A titled 'Detailed Restoration Scheme' received by the WPA on 11 April 2013 shall be completed by 21 May 2024, or within 12 months of the cessation of waste and other fill material being placed, whichever is earlier.

Application 2 – Ref: 1/18/00791/CDM

Extension of life

30. This is a partially retrospective planning application to regularise a number of matters associated with the Soil Management Area (SMA) operations, and also to extend the life of the SMA planning permission (Ref: 2/2014/0272/NT) for a further 5 years, to 2023. It has been submitted as an entirely new planning application, rather than a variation (Section 73), because of changes to the planning application area.

Change to the Planning Application Area

31. There are two main areas to the Soil Management Area (SMA) operations. SMA(A) is the original Soil Management Area adjacent to the rail head, and SMA(B) is the current, main SMA which is adjacent to the eastern end of the spoil tip (see Plan 2).
32. Changes to the red-line boundary of the original SMA planning permission are as a result of the construction of an Anaerobic Digestion plant (AD plant), which formed part of a hybrid planning application that also granted outline consent for the redevelopment of the pit-head area. This planning permission in part overlaps some of the site area associated with the SMA(B) and the internal access road serving SMA(B). The hybrid planning application which included the AD Plant was granted by Bassetlaw District Council (Ref: 14/01162/FUL).
33. The applicant has outlined that the former site compound for the AD plant was offered by the site owner to the applicant as compensation for the loss of part of SMA(B) to the AD plant. The former site compound is only used for the parking of vehicles associated with the approved site restoration works and the storage of non-waste materials. The area of the red-line extension is only used for the relocated access road between both SMAs and the consequential, compensatory movement of the boundary of SMA(B). The applicant states that there is no resulting intensification of the authorised use of the SMA(B) site and no net environmental impacts arising from its use.

Changes to the Stockpile Heights

34. Amendments to the allowed stockpile heights of at SMA(A) and SMA(B) are sought. A Construction Environment Management Plan (CEMP) was submitted under Condition 19 of the original planning permission and the CEMP restricted stockpile heights to 3m with gradients not exceeding 1:2. The applicant proposes revised maximum stockpile heights of 6m for SMA(A) (see Plan 3) and 12m for SMA(B) (see Plan 4), with gradients not exceeding 1:2. The applicant has submitted a revised CEMP as part of this application to reflect this.

Use of SMA(A)

35. Condition 6 of the SMA planning permission (Ref: 2/2014/0272/NT) restricted the use of the SMA(A) area (granted under planning permission 2/2012/0072/NT and 1/60/12/00001) so that it could only be used in connection with soil management for material imported by rail. This condition was attached to prevent the establishment of two soil management areas.
36. Whilst no materials or waste have ever been imported to the site by rail, the SMA(A) area has been used for the storage and processing of materials which have been imported by road for a number of years, despite the restrictions imposed by Condition 6.
37. This new, full planning application seeks retrospective planning permission for the use of SMA(A) for both rail and road importation of restoration of materials.

38. It is also proposed that the operations in SMA(A) include the reprocessing of material to be exported off-site for re-use by other commercial operators. Residual wastes and material that cannot be recycled would then be used and incorporated as additional fill for the restoration of the spoil tip. The applicant indicates that the ash material imported into SMA(A) is as an additional material, over and above those materials imported for the restoration of the former colliery spoil tip.
39. The layout of SMA(A) and SMA(B) are shown on Plans 3 and 4.
Welfare/Office Portacabins and Toilet Block
40. Retrospective planning permission is sought for a welfare and office unit, and a toilet block, which are located towards the northern side of the SMA(B) area. The welfare and office unit comprise two stacked portacabin units, with the welfare unit and ticket office at ground level and the office/briefing room at first floor level. External stairs are used to access the first floor. The building measures approximately 7m in length, 2.5m in width and 5m in height.
41. The toilet block is located to the east of the office and is a single storey portacabin style structure. The building measures approximately 5m in length, 2.5m in width and 2.5m in height.

Consultations

Application 1 – Spoil Tip Restoration (Ref: 2/2017/0525/NCC)

42. **Bassetlaw District Council** – *No objection.*
43. **Mansfield District Council** – *No objection.*
44. **NCC (Planning Policy)** – *No objection.*

Waste

45. *If the proposal does not have any unacceptable environmental impacts, there is policy support for the continuation of operations on previously developed land, in accordance with Nottinghamshire and Nottingham Waste Core Strategy (WCS) policy WCS7.*
46. *In seeking an extension to secure the completion of a restoration scheme the application seeks to enhance the local environment through the provision of landscape and habitat improvement, therefore according with policy WCS13.*
47. *Policy WCS12 states criteria under which the management of non-local waste would potentially be permitted and although it is stated in the application that material may come from a broader area from outside Nottinghamshire (within a 20 mile radius of the site, as stated on page 7 of the Operational Statement), the proposals comply with the policy by proposing economic, environmental and social sustainability benefits through the reclamation of the Welbeck Colliery site. In bringing material in from a wider area the number*

and distance of vehicle movements should be minimised in accordance with WCS11. Should transport of material by rail be possible, then it is preferable that this means of transport is prioritised over road in accordance with WCS11.

48. *Under Nottinghamshire and Nottingham Waste Local Plan saved policy W4.2 there is a requirement for satisfactory evidence to be provided to show that sufficient waste material is likely to be available to achieve reclamation within the proposed timescale. The applicant recognises that the application for an extension of time is due to reduction in the supply of PFA. While potential sources of (predominantly soil) material are stated and a region across which it could be supplied defined, further detail is not provided. Soil production arising as a result of construction projects across a wider region may vary according to a variety of factors and the proposal of an extended 6 year period (as opposed to 4 year) is a pragmatic proposal which may assist the scheme's completion within the proposed time period.*
49. *National Planning Policy for Waste 2014 (section 7) states that applicants should only be expected to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date local plan. If this development does not have any unacceptable environmental impacts (and therefore complies with the local plan) no demonstration of quantitative/market need is required.*
50. *The inert waste used in the restoration should be material that requires disposal and cannot be economically recycled in accordance with policy WCS3. It is noted that in the 2015-2016 Annual Monitoring Report for the Nottinghamshire and Nottingham Waste Local Plan it was stated that there is a shortage of operational inert landfill sites in northern parts of Nottinghamshire.*

Minerals

51. *The proposed location of the development would not be within a Minerals Safeguard Area/Minerals Consultation Area. There are no nearby active or permitted minerals facilities.*
52. *Nottinghamshire Minerals Local Plan (adopted December 2005) Policy M4.5 states clearly that schemes relying on the long term importation of waste for reclamation must include satisfactory evidence that the waste will be available in the categories and quantities assumed and that this is waste that cannot be practically re-used or recycled. As previously stated, in estimating soils production over a period there is a degree of fluctuation in waste arising over time, with the pragmatic approach to proposed timescales for completion of the scheme being welcome.*
53. **EA (Waste)** – *Permanent deposits of waste require an Environmental Permit. To date the Environment Agency's records do not show an Environmental Permit for the deposit of waste at the given location.*

54. **NCC (Highways) Bassetlaw** – *The Highways Authority has no objection to an extension of time for the placement of material and final restoration on the understanding that lorry movements will not exceed permitted levels.*
55. **Via (Countryside Access)** – *As this application relates to an extension of time for the operational works in the existing area, the nearby Public Rights of Way would remain unaffected. As such there are no objection to the proposed request. Nevertheless, the applicant is reminded that the public footpath that borders the southern and western boundaries of the site should remain free from obstruction and available for public use at all times.*
56. **NCC (Nature Conservation)** – *The delay in achieving the restoration of acid grassland, heathland and associated habitats is disappointing, however, the reasons for this is understood and it is hoped that the restoration will be achieved before the end of the 5 year extension period. An ecological statement has been supplied with the application which indicates that the site is being restored in accordance with the relevant details. There is no objection to the proposed extension of time.*
57. **Nottinghamshire Wildlife Trust** – *The application cannot be supported until certain matters are resolved.*
58. *A delay of 5 years means that there would be a substantial opportunity cost for when habitats should have been completed and contributing to the local ecological network of acid grassland and heathland sites. Thus the result would be a further 5 years when this site acts as a gap in the ecological network. To mitigate for this, other measures should be sought that would help to bring forward connectivity between habitats on this site and surrounding habitats and which could be implemented soon, such as habitat corridors, buffer strips or stepping stones. If this is not possible, then extended aftercare will be required to recompense for the opportunity cost at the end of the scheme.*
59. *NWT can see no reason why the installation of bird and bat boxes should be delayed. It seems unlikely that there are no suitable locations on the current site.*
60. *NWT raises concerns about the lack of PFA availability (which is not likely to be available again), and how this might result in changes to the mix of fill. It is highlighted that the correct conditions for the establishment of acid grassland and heathland habitats are created. In this regard, the pH of imported material is particularly important, and the applicant is reminded about the potential sources of local plant material. Assurances that these standards for restoration are met is sought.*
61. **Natural England** – *No objection.*
62. *Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on the Birklands and Billhaugh Special Area of Conservation.*
63. *With regard to the Birklands and Billhaugh Site of Special Scientific Interest (SSSI) and Thoresby Lake SSSI, Natural England considers that the proposed*

development will not damage or destroy the interest features for which the sites have been notified.

- 64. *Natural England notes that the variation in conditions is to delay the completion of the restoration plan for 5 years, due to an unavoidable reduction in the rate of import of inert fill. However, as there is no additional alteration Natural England has no objection to the proposal while the details of the agreed restoration plan are followed.*
- 65. **NCC (Reclamation)** – *Providing the existing environmental controls and procedures are maintained there is no objection to the proposed extension to the existing restoration works.*
- 66. **NCC (Noise Engineer)** – *No objection to the proposed extension of time.*
- 67. **NCC (Landscape)** – *No comments.*
- 68. **Anglian Water Services Limited** - *No comments.*
- 69. **NCC (Flood Risk) Statutory** – *No comments.*
- 70. No consultation responses has been received from **Cuckney & Norton Parish Council, Warsop Parish Council** and **Severn Trent Water Limited**. Any responses received will be orally reported.

Application 2 – Soil Management Area (Ref: 1/18/00791/CDM)

- 71. **Bassetlaw District Council** – *No objection.*
- 72. **NCC (Planning Policy)** – *No objection.*
- 73. *The comments made in relation to the spoil tip restoration application (Ref: 2/2017/0525/NCC), as set out above, also apply to this application.*
- 74. **NCC (Highways) Bassetlaw** – *It is understood that there would be no net increase in the importation of materials associated with this proposal.*
- 75. *The proposed office and welfare facilities are likely to be largely ancillary to the current restoration project and therefore would not materially impact on traffic conditions.*
- 76. *The Highway Authority has previously approved alterations to the existing internal spine road as part of the pit head restoration application (Bassetlaw planning Ref: 15/01037/FUL).*
- 77. *No objection on highway grounds provided existing restrictions in terms of vehicle movements and lorry routeing remain unchanged.*
- 78. **Via (Countryside Access)** – *Warsop Public Footpaths numbers 5 and 39 border the proposed development site but will not be affected by the development.*

79. *The County Council is in receipt of a claim for footpath rights that cross the site access [see Plan 1]. Should it be determined that footpath rights have either been acquired through public usage, or that public rights can be reasonably alleged to exist, then the route will be added to the Definitive Map. The claimed route is external to the operational part of the proposed development site but does cross the access road from the A616. The applicant should be made aware that there is the possibility that a footpath may cross the access road. If the route is added to the Definitive Map then signage will be installed at the crossing point to clearly indicate the route to footpath users and the drivers of vehicles using the access road.*
80. **Via (Noise Engineer)** – *No objections.*
81. *The proposals appear to seek to regularise matters relating to the SMAs (primarily stockpile heights), the installation of welfare and office portacabins and toilet block, and the variation to the internal linking road between the two SMAs.*
82. *The proposals do not appear to significantly alter the noise impacts of the ongoing restoration works and the CEMP with respect to noise remains valid.*
83. **Via (Landscape)** – *No objection.*
84. *The works are minor in nature and the proposed areas are contained within the existing colliery area. Views of these adjustments are screened from adjacent residential areas by existing spoil mounds or noise bunds. The proposed works would not lead to any changes in the approved final restoration scheme.*
85. **NCC (Flood Risk) Statutory** – *No comments.*
86. **Nottinghamshire Wildlife Trust** – *The proposed changes appear not to impact the areas set aside for restoration, but the applicant has not specifically stated this. Assurances from the applicant that this is the case would be welcomed.*
87. **Natural England** – *No objection. The development will not have likely significant effects on the Birklands and Bilhaugh SAC and will not damage or destroy the interest features of the Birklands and Bilhaugh SSSI and Thoresby Lake SSSI.*
88. **NCC (Nature Conservation)** – *No objection.*
89. **Via (Reclamation)** – *No objection. The submission does not change what is taking place on site. Providing the existing environmental controls and procedures are maintained there is no objection.*
90. *No consultation responses has been received from **Cuckney & Norton Parish Council, Warsop Parish Council, Severn Trent Water Limited, the Environment Agency and Anglian Water Services Limited.** Any responses received will be orally reported.*

Publicity

91. The applications have been publicised by means of site notices and press notice in accordance with the County Council's adopted Statement of Community Involvement.
92. No representations from members of the public have been received in relation to the planning applications. However, the site has been the subject of a recent complaint received in November 2018. The complaint raises concerns about HGVs accessing the site through Cuckney along the A616, contrary to the routeing detailed in the current permissions, and also the number, weight and speed of HGVs and the impact that this is having on safety and the road condition. The complaint raises the time that HGVs are using this stretch of road, noting that they have been seen and heard as early as 5am on weekdays.
93. Whilst not an objection directly relating to the applications under consideration, this matter is considered in the Observations section below.
94. Councillors Kevin Greaves and Andy Wetton have been notified of the applications.

Observations

95. Two planning applications have been submitted in relation to ongoing restoration development at Welbeck Colliery. The first application is seeking an additional 5 years to complete the ongoing restoration works to the spoil tip. The second application seeks an additional 5 years for soil and waste management activities that supply restoration fill material to the spoil tip. The second application is also partially retrospective, seeking to address a number of operational matters that require regularisation.

Policy

National Planning Policy Framework (Published July 2018)

96. Paragraph 205 e) of the NPPF states that when dealing with planning applications minerals planning authorities should provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions.

National Planning Policy for Waste - NPPW (Published October 2014)

97. Paragraph 7 seeks to ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.

Nottinghamshire and Nottingham Waste Local Plan (adopted January 2002)

98. Policy W4.2 (Availability and timescales) – Proposals for waste disposal will only be permitted where satisfactory evidence has been provided to show that

sufficient waste material is likely to be available to achieve reclamation of the site within an acceptable timescale.

*Nottinghamshire and Nottingham Replacement Waste Local Plan – Part 1
Waste Core Strategy – WCS (adopted December 2013)*

99. Policy WCS3 (Future waste management provision) – Proposals will be assessed as follows:
- a) Priority will be given to the development of new or extended waste recycling, composting and anaerobic digestion facilities;
 - b) New or extended energy recovery facilities will be permitted only where it can be shown that this would divert waste that would otherwise need to be disposed of and the heat and/or power generated can be used locally or fed into the national grid;
 - c) New or extended disposal capacity will be permitted only where it can be shown that this is necessary to manage residual waste that cannot economically be recycled or recovered.
100. Policy WCS5 (Disposal sites for hazardous, non-hazardous and inert waste) – Where it is shown that additional inert landfill capacity is needed, the policy gives priority to sites within the main shortfall areas around Nottingham and Mansfield. In addition, preference will be given to the development of disposal sites for inert waste in the following order:
- a) the extension of existing sites;
 - b) the restoration and/or re-working of old colliery tips;
 - c) disposal on greenfield sites.
101. Policy WCS7 (General Site Criteria) – Sets out the general locations that waste management facilities will be supported, subject to there being no unacceptable environmental impacts. This policy identifies that disposal is generally acceptable at derelict land/other previously restored land, such as un-restored or poorly restored colliery land in need of restoration.
102. Policy WCS12 (Managing Non-Local Waste) – Waste management proposals which are likely to dispose of waste from areas outside Nottinghamshire and Nottingham will be permitted where they demonstrate that:
- a) the envisaged facility makes a significant contribution to the movement of waste up the waste hierarchy, or
 - b) there are no facilities or potential sites in more sustainable locations in relation to the anticipated source of the identified waste stream, or
 - c) there are wider social, economic or environmental sustainability benefits which clearly support the proposal.

103. Policy WCS13 (Protecting and enhancing our environment) – New or extended waste disposal facilities will only be supported where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in an unacceptable cumulative impact. All waste proposals should seek to maximise opportunities to enhance the local environment through the provision of landscape, habitat or community facilities.

Nottinghamshire Minerals Local Plan (adopted December 2005)

104. Policy M4.5 (Reclamation with fill – long term schemes) – Mineral extraction proposals which rely on the long term importation of waste for reclamation, must include satisfactory evidence that the waste will be available in the categories and quantities assumed, and that it is not practical to re-use or recycle the waste.

Bassetlaw Core Strategy & Development Management Policies DPD (Adopted December 2011)

105. There are no policies within the Bassetlaw Core Strategy which relate to waste or minerals development. Policy DM1 relates to economic development in the countryside (e.g. tourist attractions, equine enterprises, rural businesses and farm diversification) and Policy DM3 relates to general development in the Countryside (replacement of buildings, re-use of previously developed land in rural areas and agricultural/forestry buildings and domestic equine facilities). These policies are not written with waste and minerals development in mind and, therefore, are of limited applicability and no further consideration is given to them.

Mansfield District Local Plan (adopted November 1998)

106. Policy DWM1 states that planning permission will be granted for developments to reclaim sites and bring them into appropriate beneficial use, on land that may be derelict, despoiled or contaminated, provided that they would meet all of the following criteria:

- a) Have regard to ground conditions and where appropriate recommendations for remedial treatment;
- b) Undertake any necessary remedial treatment prior to construction or occupation;
- c) Not cause, or lead to an increased, pollution threat to any nearby land or watercourses;
- d) Have regard to any wildlife and/or geological issues relative to the site.

Mansfield District Local Plan 2013 – 2033 – Publication Draft September 2018

107. Policy S5 (Development in the Countryside) – The policy does not make any reference to sites for waste management, but does support proposals for the redevelopment of previously developed land, and recreation and tourism. As the

site will be restored to habitat and will incorporate public access, the proposed development is in accordance with this policy.

Nottinghamshire Minerals Local Plan – Draft Plan Consultation (27th July 2018 – 28th September 2018)

108. Given the early stage of the plan only limited weight is given to it at this stage.

Planning Practice Guidance (PPG)

109. The PPG states that the WPA should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community's wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant. Engagement with the local communities affected by previous waste disposal decisions will help in these considerations (Paragraph: 047 Reference ID: 28-047-20141016).
110. The PPG also states that WPAs should be aware that the continued provision and availability of waste disposal sites, such as landfill, remain an important part of the network of facilities needed to manage England's waste. In addition, the continued movement of waste up the Waste Hierarchy may mean that landfill sites take longer to reach their full capacity, meaning an extension of time to exercise the planning permission may be needed in some circumstances, provided this is in accordance with the Local Plan and having taken into account all material considerations (Paragraph: 048 Reference ID: 28-048-20141016).

Policy Consideration

111. Based on the above policy and guidance there is general support for the use of waste to restore former colliery sites, provided there is satisfactory waste available in the quantities available, in Policy M4.5 of the Nottinghamshire Minerals Local Plan; Policy DM12 of the emerging Nottinghamshire Minerals Local Plan; and Policies WCS5 and WCS7 of the Nottinghamshire and Nottingham Waste Core Strategy (WCS). In addition, Policy DWM1 of the Mansfield District Local Plan supports development which reclaims derelict, despoiled or contaminated land and brings it back into a beneficial use.
112. Planning permission was originally granted in September 2012 for the restoration of the spoil tip through the importation of 1.9 million cubic metres of fill material, including waste. At the time of the original application a large proportion of the anticipated material to be imported was Pulverised Fuel Ash (PFA), a by-product from coal fired power stations. Since spring 2014 there has been a significant reduction in energy generation from coal fired power stations and an intention to close them all by 2025. This has correspondingly led to a significant reduction in PFA available for use at the site. During 2013-2014 the rate of import to the site was over 500,000 m³ per annum. However, the applicant states that current data shows that import rates are now approximately 170,000m³ per annum.

113. Based on the topographical survey undertaken in January 2017, approximately 1,300,000m³ has been imported to the site since it commenced in May 2013 and a void of 600,000m³ remains. The applicant states that current data shows that import rates are now approximately 170,000m³ per annum. As such, the estimated timescales for completion are set out in the table below:

Cumulative Residual Void Space

Year	Rate of Import (m³ per year)	Residual Void Space (m³)
May 2017	170,000	600,000
May 2018	170,000	430,000
May 2019	170,000	260,000
May 2020	170,000	90,000
May 2021	90,000	0
May 2022	0	0
May 2023	0	0

114. The applicant has indicated that they expect importation of materials would be completed within 4 operational years. However, due to economic uncertainty, the applicant is seeking a contingency period, up to 2023.
115. Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan; Paragraph 205 of the NPPF; and Paragraph 7 of the NPPW seek restoration and aftercare of mineral sites at the earliest opportunity available. The WPA understands that since the submission of the original application there have been unforeseen circumstances which have affected the quantity of material available. As such, to ensure the high environmental standards that are to be achieved through the approved restoration scheme, there is justification for extending the life of the site.
116. Materials enter the Soil Management Area, prior to use in the restoration of the spoil tip, so that they can be sorted for recycling and/or reuse where possible. This process is supported by Policy WCS3 of the Nottinghamshire and Nottingham Waste Core Strategy, by showing that disposal at the site is only for residual waste which cannot be economically recycled. Whilst recycling and reusing material delays the restoration of the site the Planning Practice Guidance (PPG) acknowledges that the speed at which the site is to be restored should not come at the expense of moving waste up the Waste Hierarchy and as a result landfill sites may take longer to reach their capacity.
117. The applicant has not set out within the planning application whether the development would accept waste from areas outside of Nottinghamshire. However, the WPA is aware that the site has as part of its current operations. This, coupled with the fact that there has been a reduction in the applicant's anticipated fill material, the WPA considers it highly likely that waste will come from outside of Nottinghamshire. The use of the SMA ensures that only material which can be disposed of will be used in the restoration of the spoil tip. In addition, the restoration has wider social, economic and environmental sustainability benefits in that it will provide a restored site, open to the public and with ecological habitat provision. In addition, it will provide a more attractive area and potentially encourage investment in the adjacent pit head, which has planning permission for restoration. As such, the development meets the requirements of Policy WCS12 of the WCS.

Environmental Permit

118. In consulting the Environment Agency on the planning application, their response to the planning application states:

“Permanent deposits of waste require an Environmental Permit. To date the Environment Agency’s records do not show an Environmental Permit for the deposit of waste at the given location”.

119. As a result of the above statement, the WPA drew the applicant’s attention to the comments from the Environment Agency and sought further information from them as to what permit(s) and/or exemption(s) the spoil tip restoration and SMA activities are operating under. The applicant responded with the following:

“The Environment Agency comment is noted and as the organisation’s officers are aware, all imported materials are treated under an Environmental Permit to generate a site product in accordance with the agreed project specification”.

120. In undertaking a search of the Environment Agency’s permit database, the WPA has established that the site is registered on the Waste Exemptions Registration for England (EPR/AE5645EE/A001 – Tetron Welbeck LLP). It has the following exemptions: S2 (Storing waste in a secure place); T4 (Preparatory treatments – bailing, sorting, shredding etc); T5 (Screening and blending waste); T6 (Treating waste wood and waste plant matter by chipping, shredding, cutting or pulverising); and U1 (Use of waste in construction). It is noteworthy that the expiry date for each of these exemptions is 10th December 2018.

121. The site is also registered on the Environmental Permitting Regulations – Waste Operations for England (LB3933RK/V005 – Tetron Welbeck LLP and Waste Management Licence No. 104834). Under this permit the site type is registered as A16: Physical Treatment Facility.

122. The consultation response from the Environment Agency does not object to the proposed development. However, in drawing attention to the absence of a waste disposal permit, but not referencing any of the other permits/exemptions that the site benefits from, it suggests that the Environment Agency consider that the site may require a waste disposal permit. Whilst this may be the case, the site has been operational since 21st May 2013 and the Environment Agency has not taken enforcement action, which is an indication that a waste disposal permit is not necessary for the ongoing operations. Paragraph 183 of the NPPF states:

“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.”

123. Ultimately, the ongoing processing and placement of waste at the site is subject to a separate pollution control regime, through the Environment Agency and their Environmental Permit and/or waste exemption regulatory system. The

WPA should focus on whether this is a suitable use of land, rather than the control of the process, in line with NPPF.

Traffic and Transportation

124. The applicant sets out that, historically, Welbeck Colliery was likely to have generated in the region of 750-850 vehicle movements per day (including employee journeys).
125. Condition 29 of the spoil tip planning permission (Ref: 1/13/01390/CDM) and Condition 17 of the SMA planning permission (Ref: 2/2014/0272/NT) restrict HGV movements associated with the restoration development. Both Conditions state:
- “The number of HGV movements associated with the site shall not exceed 300 per weekday (150 in, 150 out) and 150 (75 in, 75 out) on a Saturday. There shall be no HGV deliveries to the site on Sundays, Public or Bank Holidays. A record shall be kept by the operator of the number of HGV movements into and out of the site on a daily basis. These records shall be made available to the WPA within seven days of a written request from the WPA. All such records shall be kept for at least 12 months.”*
126. The site access is to the north, off the A616. There is a routeing condition which prevents HGVs from passing through Cuckney (see vehicle routeing strategy on Plan 5). This means that HGVs would only turn left into/right out of the site. The routeing is secured by Conditions 28 and 16 of the two existing planning permissions (Ref: 1/13/01390/CDM and 2/2014/0272/NT respectively), which both state:
- “All Heavy Goods Vehicle (HGV) movements and construction workforce traffic shall only use the routes shown on Figure 9.1 of the Environmental Statement - Volume 2 titled ‘Vehicle Routing Strategy’ received by the WPA on 27 January 2012. Vehicles shall only use the existing access / egress off the A616 when travelling to and from the site from all directions.”*
127. Since planning permission was granted for the soil tip restoration and the SMA, Bassetlaw District Council has granted planning permission for an Anaerobic Digestion (AD) facility (Ref: 14/01162/FUL). Condition 6 of the AD facility planning permission restricts vehicle movements to 378 per day. The applicant highlights that cumulatively, traffic movements associated with the restoration operations and the AD facility remain below those of the site’s former use as a colliery.
128. The Highways Authority has commented on both the spoil tip restoration and SMA planning applications and state that there are no objections provided that vehicle movements and lorry routeing remain unchanged. There have been no public comments on the planning application.

129. There are implications that have arisen from the spoil tip restoration and SMA operations having become decoupled from a planning perspective, and now being subject to two separate planning permissions. Both permissions allow for up to 300 movements per day each, which could in theory allow the operation to result in 600 movements per day. This is not the intended situation and therefore it is recommended that any new permissions granted allows a total of 300 HGV movements across the two permissions. This will require the conditions in the respective planning permissions to cross reference one another.
130. The recent complaint relating to the HGVs have been investigated by the Monitoring and Enforcement Team and there is evidence that HGVs associated with the spoil tip restoration works have breached the existing conditions that relate to routeing and possibly hours. The MPA has reminded the operator of the conditions that control their operations and the requirement for these to be adhered to. It was also noted during a site visit that a sign directing drivers to the approved route had been removed, and that this would need to be reinstated. The MPA will continue to monitor the situation and further action can be taken if necessary. However, in relation to the two planning applications currently being determined, the MPA recommends that the opportunity is taken to redraft the conditions relating to HGV routeing (condition 28 in Appendix 1 and Condition 14 in Appendix 2) to add a level of clarity to the operator's requirements to issue routing instructions to drivers and maintain signage at the site entrance.
131. Notwithstanding the above, HGV traffic associated with the Anaerobic Digestion facility, granted planning permission by Bassetlaw District Council, uses the same former colliery access off the A616 and there are no restrictions on these HGVs in terms of routeing or hours of operation. As such, HGVs associated with the Anaerobic Digestion facility, which can number up to 378 per day, are allowed to travel along the stretch of road to and from Cuckney 24 hours a day. Therefore, it is important to highlight that HGVs will always travel along this stretch of road.
132. The proposed development would effectively be a continuation of existing activities and would not have an adverse impact on the capacity or safety of the surrounding highways network. Therefore, the development is in accordance with Policy W3.14 (Vehicular Movements) of the Nottinghamshire and Nottingham Waste Local Plan; Policy WCS13 (Protecting and Enhancing our Environment) of the Nottinghamshire and Nottingham Replacement Waste Local Plan; Policy M3.13 (Vehicular Movements) of the Nottinghamshire Minerals Local Plan; Policy IN9 of the Mansfield District Local Plan 2013-2033 Publication Draft; and the NPPF.

Ecology

133. NCC Ecology expresses disappointment that extending the life of the operations will delay the habitats associated with the restoration scheme (acid grassland, heathland and associated habitats). However, the reason the extension is being sought is accepted. NCC Ecology welcome the provision of an ecological

statement which outlines the restoration progress of the site to date. NCC Ecology has no comments to make in relation to the SMA application.

134. Natural England has considered both applications and have raised no objections. They have considered the applications in relation to the Birklands and Billhaugh SAC, SSSI and Thorseby Lane SSSI.
135. Nottinghamshire Wildlife Trust note the reasons for the delay but highlight that as a result there will be an 'opportunity cost' in the time from which those habitats would have been completed and contributing to the local ecological network of acid grassland and heathland. As such, NWT suggest to compensate for the 'opportunity cost', other measures should be brought forward such as habitat corridors, buffer strips or stepping stones. If this is not possible, NWT recommend extended aftercare to recompense for the opportunity cost at the end of the scheme.
136. This suggestion has been put to the applicant and they highlight that the restoration plan was, in part, developed to ensure habitat was generated in a progressive manner working from the south-west where it connects with the grasslands of the former restored slopes, progressing eastwards. In addition, tree planting has been occurring progressively on the northern edge in line with the landscape proposals. They state that there are no isolated habitats being generated and within a few years the scheme will be complete. As such, they do not consider that any further mitigation is required on an interim or permanent basis. The WPA is of the view that, whilst additional mitigation for the delay in the scheme would be of benefit, it is not necessary to make the development acceptable in planning terms.
137. NWT also suggest the installation of bat and bird boxes at this point in time, stating that there is no reason to delay their installation.
138. This suggestion has been made to the applicant. The applicant has stated that they will construct an artificial Sand Martin bank as replacement nesting habitat. The bank would be installed with nests by early spring 2019 and these would be located in the restored western section of the project to ensure disturbance is minimised during the residual restoration period. The Sand Martin bank is already required as part of the restoration scheme. However, the applicant has not addressed the query about the installation of bat and bird boxes. The WPA notes that the applicant intends to install these on existing trees. As such, the WPA agrees that there is no reason why these cannot be installed at this stage and recommends a condition requiring this.
139. Concern has also been raised by NWT that the changes to the mix of infill (as a result of the lack of PFA) mean that the correct conditions for the establishment of acid grassland and heathland habitats may no longer be achievable. As such, NWT seek assurances that the standards for restoration are being met.
140. The applicant has clarified that PFA is actually alkaline with pH typically ranging between 10 and 11. As such, it was never the intention of the operator to use the material in the upper restored soils, with it intended to be used as bulk fill. The acidic habitat is manufactured from low nutrient soils with a high proportion of naturally occurring sand which has a pH of around 6 or below. As such, the

WPA is satisfied that the reduction in PFA as a fill material will not impact on the type of habitats that can be created in the restoration scheme.

141. Given that there will be no adverse impact on any European, national or locally designated ecological sites the proposed development is in accordance with Policy M3.18 (Special Areas of Conservation) and Policy M3.19 (Sites of Special Scientific Interest) of the Nottinghamshire Minerals Local Plan; Policy W3.23 (Nature Conservation and Geological Sites) of the Nottinghamshire and Nottingham Waste Local Plan; Policy NE12 of the Mansfield Local Plan; Policy NE2 (Biodiversity and Geodiversity) of the emerging Mansfield District Local Plan – Publication Draft; and DM9 (Green Infrastructure; Biodiversity & Geodiversity; Landscape; Open Space and Sports Facilities) of the Bassetlaw District Local Development Framework – Core Strategy & Development Management Policies DPD.
142. The currently approved restoration scheme (see Plan 6) resulted in an increase in biodiversity habitat, including priority Biodiversity Action Plan (BAP) habitat, over the original restoration scheme. Proposed habitats include ponds, ditches, wetland, woodland, and acid grassland.
143. This application does not change the approved restoration scheme and it is accepted that the creation of habitats will now be delayed. However, in allowing an extension of life for the proposed development it will ultimately enable the biodiversity habitat to be created. As such, the proposed development is in accordance with Policy M3.17 (Biodiversity) of the Nottinghamshire Minerals Local Plan; Policy W3.22 (Biodiversity) of the Nottinghamshire and Nottingham Waste Local Plan; Policy NE15 of the Mansfield Local Plan; Policy NE2 (Biodiversity and Geodiversity) of the emerging Mansfield District Local Plan – Publication Draft; and DM9 of the Bassetlaw Core Strategy.

Restoration

144. As set out above, a hybrid planning permission was granted by Bassetlaw District Council for the redevelopment of the former pit head area and an Anaerobic Digestion plant (Ref: 15/01037/FUL). This includes internal access roads; a car parking area for use in connection with the restored spoil tip; and open storage (Use Class B8), Offices (Use Class B1a); Employment Uses (B1b/c, B2 and B8); Residential Development (Use Class C3) and ancillary food and drink uses (Use Class A1 and A3). The mixed-use scheme is in the process of being developed and the AD plant is operational.
145. The mixed-use scheme does not intrude upon the approved restoration of the spoil tip. However, it does overlap much of the SMA. This means that long term land use of the SMA, once the temporary permission ceases, is either covered by the mixed-use development of the pit-head, or the restoration of the former spoil tip. There is no need for a stand-alone restoration condition for the SMA and it is recommended that this condition is removed from the extant planning permission.

Other Issues

146. Phasing plans were submitted with the original application. Over the course of the development it has transpired that the site has progressed slightly differently. New phasing plans have been submitted with the spoil tip application and it is recommended that these are referenced in the new planning permission.
147. With regard to the application to extend the life for restoration of the spoil tip, conditions relating to hours of working; dust; noise; ecology; landscaping; traffic and transportation; contamination and stability; rights of way; soil placement; aftercare; and alternative restoration remain unchanged.
148. The extant planning permission included a number of conditions which required further information to be submitted prior to commencement or other stages of the development, including drainage, ecology, landscaping and aftercare. Where this information has been submitted, the conditions have been updated in Appendix 1 to reference the approved reports/plans.
149. Due to changes in the site area of the Soil Management Area, it is being dealt with as a full planning application rather than a variation. However, the conditions relating to hours of working; dust; noise; ecology; contamination remain unchanged. The extant planning permission included another condition relating to a soil management scheme, which required further information to be provided prior to the commencement of the development. As this information has been provided the condition in Appendix 2 has been updated to reflect the approved information.
150. Overall, the development will not have an unacceptable impact on the amenity of those living and working nearby, or on the environment, as has been confirmed in consultation responses. As such, the development is in accordance with Policy WCS13 of the Waste Core Strategy.

Other Options Considered

151. 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

152. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Crime and Disorder Implications

153. The site has previously suffered from trespassing, vandalism, and metal theft particularly in relation to elements of the rail head. The continuation of the restoration of the site would provide an active presence which would, to a certain degree, deter trespass.

Data Protection and Information Governance

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

Human Rights Implications

155. 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

156. This application seeks permission to delay the restoration of the spoil tip and, as such, completion of restoration will take longer with the associated continuation of vehicular movements and a delay in establishing habitats. Conversely, the application would enable the full restoration of the spoil tip, which otherwise would remain part finished, with large parts of the restored habitats absent.

Financial, Human Resources, Public Sector Equality Duty, Safeguarding of Children and Adults at Risk and Service Users Implications

157. No implications.

Statement of Positive and Proactive Engagement

158. 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 and the Planning Practice 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 traffic and ecology and have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

Recommendation 1 (2/2017/0525/NCC) – Variation of Conditions 3 and 4 of Planning Permission Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site

159. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

Recommendation 2 (1/18/00791/CDM) – Proposed variations to the Soil Management Areas

160. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 2. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 29/11/2018]

Planning & Licensing committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

Financial Comments [RWK 29/11/2018]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

Worksop South	Councillor Kevin Greaves
Warsop	Councillor Andy Wetton

Report Author/Case Officer

Oliver Meek

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



PLANNING & LICENSING COMMITTEE

Tuesday 11th December 2018 commencing at 10.30am

Meeting at County Hall, West Bridgford, Nottingham.

I refer to the Agenda you will have already received for the above mentioned meeting and enclose an addendum to the following item:

9. Welbeck Colliery, Elkesley Road, Meden Vale

The Recommendations of the above report have been amended and now read as follows:

Recommendation 1 (2/2017/0525/NCC) – Variation of Conditions 3 and 4 of Planning Permissions Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site

It is RECOMMENDED that the Corporate Director – Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a designated route for all HGVs using the site.

It is further recommended that subject to the completion of the legal agreement before the 11 March 2019 or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of this report. In the event that the legal agreement is not signed before the 11 March 2019, or within any subsequent extension of decision time agreed with the Waste Planning Authority, it is Recommended that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time. Members need to consider the issues set out in the report and resolve accordingly.

Recommendation 2 (1/18/00791/CDM) – Proposed variations to the Soil Management Areas

It is RECOMMENDED that the Corporate Director – Place be instructed to enter into a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure a designated route for all HGVs using the site.

It is further recommended that subject to the completion of the legal agreement before the 11 March 2019 or another date which may be agreed by the Team Manager Development Management in consultation with the Chairman and the Vice Chairman, the Corporate Director – Place be authorised to grant planning permission for the above development subject to the conditions set out in Appendix 1 of this report. In the event that the legal agreement is not signed before the 11 March 2019,

or within any subsequent extension of decision time agreed with the Waste Planning Authority, it is Recommended that the Corporate Director – Place be authorised to refuse planning permission on the grounds that the development fails to provide for the measures identified in the Heads of Terms of the Section 106 legal agreement within a reasonable period of time. Members need to consider the issues set out in the report and resolve accordingly.

RECOMMENDED PLANNING CONDITIONS – VARIATION OF CONDITIONS 3 AND 4 OF PLANNING PERMISSION REF: 1/13/01390/CDM TO ALLOW A FURTHER 5 YEARS FOR THE PLACEMENT OF MATERIAL AND RESTORATION OF THE SITE (2/2017/0525/NCC)

Extent of Planning Permission

1. This permission relates to the continuation of the placement of material and restoration of the former Welbeck Colliery spoil tip within the red line on Drawing No. 103186/P/001 Rev A titled 'Site Location Plan' dated February 2012 – received by the Waste Planning Authority (WPA) on 8 February 2012.

Reason: To define the extent of the planning permission

Commencement and Duration of the Development

2. The placement of waste and other fill material hereby permitted shall cease no later than 21 May 2023. Should it cease prior to this date the WPA shall be notified within 14 days of cessation.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and Policy M4.5 of the Nottinghamshire Minerals Local Plan (MLP).

3. The final restoration, as shown on Drawing No. 2012-PL003 Rev A titled 'Detailed Restoration Scheme' shall be completed by 21 May 2024, or within 12 months of the cessation of waste and other fill material being placed, whichever is earlier.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the WLP and Policy M4.5 of the MLP.

Phasing

4. The deposit of waste and material shall take place in accordance with the phasing details shown on Drawing 163033/PL/D/004 titled 'Phasing Plan' – received by the WPA on 10 August 2017.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the WLP and Policy M4.5 of the MLP.

5. A topographical survey of the site shall be submitted to the WPA by 31 December each year, until the cessation of waste and material placement. The topographical survey shall identify all complete and incomplete areas.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the WLP and Policy M4.5 of the MLP.

Approved Details and Plans

6. The development hereby permitted shall only be carried out in accordance with the following documents, unless amendments are made pursuant to other Conditions:
- a) Drawing No. 103186/P/001 Rev A titled 'Site Location Plan' dated February 2012 – received by the WPA on 8 February 2012.
 - b) Drawing No. 103186/P/004 Rev B titled 'Proposed Block Plan – Restoration' – received by the WPA on 27 January 2012.
 - c) Drawing No. 103186/P/005a titled 'Cross Section Location Plan' – received by the WPA on 27 January 2012.
 - d) Drawing No. 103186/P/005b titled 'Cross Sections Section A and B' – received by the WPA on 27 January 2012.
 - e) Drawing No. 103186/P/005c titled 'Cross Sections Section C' – received by the WPA on 27 January 2012.
 - f) Drawing No. 103186/P/007 titled 'Picnic and Viewing Area – Sketch Layout' – received by the WPA on 27 January 2012.
 - g) Planning Application Forms – received by the WPA on 27 January 2012.
 - h) Statement in Support of Planning Application Incorporating Design and Access Statement and Planning Policy Appraisal – received by the WPA on 27 January 2012.
 - i) Appendices to Statement in Support of Planning Application Incorporating Design and Access Statement and Planning Policy Appraisal – received by the WPA on 27 January 2012.
 - j) Transport Assessment (i-Transport Ref: MG/BT/ITB6187-001E R) – received by the WPA on 27 January 2012.
 - k) Site Waste Management Plan – received by the WPA on 27 January 2012.
 - l) Welbeck Colliery Environmental Statement Volume 1 – Main Text and Embedded Figures – received by the WPA on 27 January 2012.

- m) Welbeck Colliery Environmental Statement Volume 2 – Figures and Appendices – received by the WPA on 27 January 2012.
- n) Welbeck Colliery Environmental Statement Non-Technical Summary – received by the WPA on 27 January 2012.
- o) Statement in Response to Regulation 22 Request for Further Information – received by the WPA on 15 June 2012.

Reason: For the avoidance of doubt.

- 7. From the commencement of the development to its completion, a copy of this permission, including all plans and documents hereby approved and any other plans and documents subsequently approved in accordance with this permission and its conditions shall always be available at the site offices for inspection by the WPA during normal working hours.

Reason: To enable the WPA to monitor compliance with the conditions of the planning permission.

Hours of Working

- 8. Except in the case of emergency when life, limb or property are in danger (such instances which are to be notified in writing to the WPA within 48 hours of their occurrence, or with the prior agreement of the WPA) the development hereby permitted shall only take place within the following hours:

Activity	Day	Hours
HGV arrival and departure	Monday to Friday	08:00 – 18:00
	Saturday	08:00 – 13:00
	Sundays, Public or Bank Holidays	These activities shall not occur
Waste and fill material transfer around the site and placement	Monday to Saturday	07:00 – 19:00
	Sundays, Public or Bank Holidays	These activities shall not occur
Train arrival, unloading and departure	7 Days a Week	24 Hours a Day

Reason: In the interest of amenity and in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

Dust

- 10. Notwithstanding the details in the Construction Environmental Management Plan (CEMP) received by the WPA on 14 November 2012 and approved in writing by the WPA on 7 December 2012, measures shall be taken to minimise the generation of dust from operations at the site. These shall include, but not necessarily be limited to, any or all of the following steps as appropriate:
 - a) The use of water bowsters to dampen haul roads, inert waste and construction fill material stockpiles, and other operational areas of the site;

- b) Internal roadways, storage areas and hard surfaces shall be regularly swept to keep them free of mud and debris likely to give rise to dust;
- c) The regular re-grading of internal haul roads;
- d) Bulk loads arriving at or leaving the site shall be carried in enclosed or sheeted containers;
- e) The fitting of all mobile plant with exhaust systems which cannot be emitted in a downward direction;
- f) Soil storage mounds which are not to be used within 3 months shall be graded and seeded;
- g) The minimisation of exposed surfaces on the soil mound, both the working area and the area being restored;
- h) Upon the request of the WPA, the temporary suspension of waste and construction fill material movement or placement in periods of unfavourably dry or windy weather conditions.

Reason: In the interests of the amenity of nearby occupiers and to accord with Policy W3.10 of the WLP and Policy M3.7 of the MLP.

11. Dust monitoring shall be carried out on-site in accordance with the 'dust and air quality' section of the Environmental Management Plan and subsequent e-mail dated 18th June 2013.

Reason: In the interests of the amenity of nearby occupiers and to accord with Policy W3.10 of the WLP and Policy M3.7 of the MLP.

Drainage

12. The sustainable drainage system for the site shall be installed and maintained in accordance with the documents titled 'Surface Water Drainage Assessment, Drainage Strategy Layout and Greenfield Runoff Calculations' received by the WPA on 23rd September 2016 and the 'SUDS Management and Maintenance Scheme' received by the WPA on 3rd November 2016.

Reason: To ensure the development does not have an unacceptable impact upon surface water in accordance with Policy W3.5 of the WLP; M3.8 of the MLP; and Policy DM12 of the Bassetlaw Core Strategy (BCS).

Noise

13. All mobile plant on site shall be fitted with effective silencers in accordance with the manufacturers' recommendations and maintained in accordance with the manufacturers' specifications.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

14. All mobile plant on-site shall be fitted with smart audible alarms adjusted to background noise levels at all times.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

15. All conveyor systems used to transfer waste and construction material around the site shall be fully enclosed.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

16. In the event that the WPA consider that operational noise emissions from activity at the site is likely to generate complaints the operator shall undertake a noise survey within 2 weeks of a written request from the WPA. The noise survey shall be undertaken in accordance with BS4142:1997 and shall be carried out under the supervision of the WPA. The results of the noise survey shall be provided to the WPA for its written approval within 1 month of the survey being undertaken. Should the results of the noise survey suggest that further mitigation measures are necessary these shall be identified within the report and implemented within 1 month following their approval by the WPA, unless otherwise agreed in writing by the WPA.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

17. Prior to any operations being undertaken within 100m of the sensitive noise receptor Metz Lodge, a noise assessment undertaken in accordance with BS 4142: 1997 shall be submitted to, and approved by the WPA. Should the results of the noise survey suggest that further mitigation measures are necessary these shall be identified within the report and implemented before works begin in accordance with the approved details.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

Ecology

18. Within six months of the implementation of this permission, bat and bird boxes shall be installed in accordance with Drawing No. 163033/PL/D/005 titled 'Ecological Update Plan' received by the WPA on 7 August 2017.

Reason: To contribute to and enhance the natural environment by improving biodiversity at the earliest opportunity, in accordance with the NPPF.

19. Development shall be undertaken in accordance with the Construction Environmental Management Plan (CEMP) received by the WPA on 14 November 2012 and approved in writing by the WPA on 7 December 2012.

Reason: To protect wildlife and established habitat in accordance with Policy W3.22 of the WLP and Policy M3.17 of the MLP.

20. The translocation of acid grassland shall be retained and maintained in accordance with the following documents:

- a) Method Statement Revision A – received by the WPA on 11 April 2013;
- b) Landscape Specifications for Establishment Methods and Maintenance Regimes (years 0-5) – received by the WPA on 11 April 2013; and
- c) Drawing No. 2012-PL003 Rev A titled ‘Detailed Restoration Scheme’ – received by the WPA on 11 April 2013.

Reason: To safeguard established Biodiversity Action Plan (BAP) habitat in accordance with Policy W3.22 of the WLP and Policy M3.17 of the MLP.

21. The fencing to protect the habitat along the railway sidings shall be undertaken, and maintained for the duration of the development, in line with Drawing Ref: 103186/fencing titled ‘Temporary Fencing Plan – received by the WPA on 17 October 2012.

Reason: To protect established habitat in accordance with Policy W3.22 of the WLP and Policy M3.17 of the MLP.

22. Clearance works shall be undertaken in accordance with the Method Statement relating to reptiles provided in Appendix B of Appendix 2 of the ‘Statement in Response to Regulation 22 Request for Further Information’.

Reason: To safeguard protected species and to accord with Policy W3.22 of the WLP, Policy M3.17 of the MLP and Policy NE12 of the Mansfield District Local Plan (MDLP).

23. Clearance works shall be undertaken in accordance with the Method Statement relating to nesting birds provided in Appendix C of Appendix 2 of the ‘Statement in Response to Regulation 22 Request for Further Information’. A minimum buffer zone of 10m radius around bird nests (20m radius in the case of little ringed plover) shall be clearly marked out on the ground using suitable fencing to safeguard the area and minimise disturbance.

Reason: To avoid disturbance to breeding birds.

24. The development shall be undertaken in accordance with the approved Ecological Management Plan (Job No. 103186) – received by the WPA on 15 January 2015.

Reason: To ensure the ongoing management and aftercare of the restored site in accordance with Policy W4.9 of the WLP and Policy M4.9 of the MLP.

25. Should any protected species be found on-site during the course of the development hereby permitted, operations shall immediately cease until a

suitable mitigation scheme has been implemented in full accordance with details previously submitted to and approved in writing by the MPA.

Reason: To safeguard protected species and to accord with Policy W3.22 of the WLP, Policy M3.17 of the MLP and Policy NE12 of the Mansfield District Local Plan (MDLP).

Landscaping

26. The restoration of the site shall take place in accordance with the 'Landscape Specification for Establishment Methods and Maintenance Regimes (years 0-5)' and Drawing No. 2012-PL003 Rev A titled 'Detailed Restoration Scheme' received by the WPA on 11 April 2013.

Reason: To safeguard and establish wildlife and habitat including Biodiversity Action Plan (BAP) habitat in accordance with Policy W3.22 of the WLP and Policy M3.17 of the MLP.

Traffic and Transport

27. The rail line shall be maintained in good working order for the duration of the development hereby permitted.

Reason: To minimise traffic impact on the surrounding residential areas and in accordance with Policy W3.15 of the MLP, Policy WCS11 of the Nottinghamshire and Nottingham Waste Local Plan: Part 1 Waste Core Strategy (WCS) and to provide a sustainable transport solution in accordance with the National Planning Policy Framework.

28. All Heavy Goods Vehicle (HGV) movements and construction workforce traffic shall only use the routes shown on Figure 9.1 of the Environmental Statement - Volume 2 titled 'Vehicle Routing Strategy' received by the WPA on 27 January 2012. Vehicles shall only use the existing access / egress off the A616 when travelling to and from the site from all directions. The approved vehicle route shall be issued to all HGV drivers visiting the site and a sign at the site entrance instructing HGV drivers to only turn right out of the site, and left into the site, shall be installed and maintained for the life of the development.

Reason: To minimise traffic impact on the surrounding residential areas and in accordance with Policy W3.15 of the WLP and Policies M3.13 and M3.14 of the MLP.

29. In combination with Planning Permission Ref: 1/18/00791/CDM the number of HGV movements associated with the site shall not exceed 300 per weekday (150 in, 150 out) and 150 (75 in, 75 out) on a Saturday. There shall be no HGV deliveries to the site on Sundays, Public or Bank Holidays. A record shall be kept by the operator of the number of HGV movements into and out of the site on a daily basis. These records shall be made available to the WPA within seven days of a written request from the WPA. All such records shall be kept for at least 12 months.

Reason: To minimise traffic impact on the surrounding residential areas and in accordance with Policy W3.14 of the WLP and Policies M3.13 and M3.14 of the MLP.

30. The wheel wash shall be retained and maintained in accordance with the approved details received by the WPA on 11 March 2014.

Reason: To prevent deleterious material from contaminating the public highway in accordance with Policy W3.11 of the WLP and Policy M3.12 of the MLP.

Contamination and Stability

31. Development shall be undertaken in accordance with the 'Phase 2 Environmental Risk Assessment' (Job No. 103186) received by the WPA on 25 October 2012 and the 'Window Sampling and Trial Pit Investigation' received by the WPA on 23 April 2013.

Reason: To protect users of the site and ground and surface water from pollution in accordance with Policy W3.5 and W3.6 of the WLP; Policy M3.8 of the MLP; and Policies NE17 and DWM1 of the MDLP.

32. Development shall be carried out in accordance with the approved Materials Management Plan for Bulk Filling Works to Spoil Heap at Welbeck Colliery Meden Vale (Job No. 121142 Rev F) dated 18 January 2016 – received by the WPA on 17 February 2016.

Reason: To protect users of the site and ground and surface water from pollution in accordance with Policy W3.5 and W3.6 of the WLP; Policy M3.8 of the MLP; and Policies NE17 and DWM1 of the MDLP.

33. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of the aggregate storage capacity of all storage containers. All filling points, vents and site glasses must be located within the bund. There must be no drain through the bund floor or wall.

Reason: To protect ground and surface water from pollution in accordance with Policy W3.5 and W3.6 of the WLP, and Policy M3.8 of the MLP.

Pedestrian Access and Rights of Way

34. No recorded rights of way shall be restricted or obstructed in any way. No new structures shall be installed on any recorded rights of way. The widths of all existing recorded rights of way shall be maintained.

Reason: To ensure the continued availability for use of all existing rights of way in accordance with Policy DM13 of the BCS.

35. Prior to their implementation, construction details (including width and depth, and materials where relevant) of all paths, cycleways and bridleways shown on planning application Drawing No. 2012-PL001 Rev B shall be submitted to, and approved in writing, by the WPA. Construction shall thereafter take place in accordance with the approved details.

Reason: To ensure the site is suitable for amenity after-use in accordance with Policy DM13 of the BCS.

36. All proposed circular cycleway/bridleway and proposed woodland/grassland mown walks shown on Drawing No. 103186/P/004 Rev B titled 'Proposed Block Plan – Restoration' – received on 27 January 2012, shall be completed by 21 May 2024, or within 12 months of the cessation of waste and other fill material being placed, as notified under Condition 3, whichever is earlier.

Reason: To ensure linkages are provided with the surrounding footpath network and that the site is suitable for amenity after-use in accordance with Policy DM13 of the BCS.

37. Prior to their implementation, details of the proposed pedestrian access points (including any 'furniture' to be used) shown on Drawing No. 103186/P/004 Rev B titled 'Proposed Block Plan – Restoration' – received on 27 January 2012 shall be submitted to, and approved in writing by, the WPA. Construction shall take place in accordance with the approved details.

Reason: To ensure suitable access to the site in line with its amenity after use, in accordance with Policy DM13 of the BCS.

Soil Placement

38. The WPA shall be notified in writing at least 5 working days before each of the following, where applicable:
- a) Overburden has been prepared ready for soil replacement to allow inspection of the area before further restoration of this part is carried out;
 - b) When subsoil has been prepared ready for topsoil replacement to allow an inspection of the area before further restoration of this part is carried out; and
 - c) On completion of topsoil placement to allow an opportunity to inspect the completed works before the commencement of any cultivation and seeding operations.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the MLP and Policy W4.5 of the WLP.

39. Soils and overburden shall only be placed when they and the ground on which they are to be placed are in a dry and friable condition and no movements, re-spreading, levelling, ripping or loosening of overburden or soils shall occur.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the MLP and Policy W4.5 of the WLP.

40. Plant and vehicles shall not cross any area of placed and loosened ground or replaced soils except where essential and unavoidable for purposes of carrying out soil placement, ripping and stone picking or beneficially treating such areas. Only low ground pressure machines shall work on prepared ground.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the MLP and Policy W4.5 of the WLP.

41. Prior to the placement of soils and any overburden, the final profile of the site shall be ripped using overlapping parallel passes:

- a) To provide loosening to a minimum depth of 450mm with tine spacing no wider than 0.6m; and
- b) Any rock, boulder or larger stone greater than 100mm in any dimension shall be removed from the loosened surface before further soil is laid. Materials that are removed shall be disposed of off-site or buried at a depth of not less than 2 metres below the final contours.

Decompaction shall be carried out in accordance with the MAFF Good Practice Guide for Handling Soils Sheet 19: Soil Decompaction by Bulldozer Drawn Tines.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the MLP and Policy W4.5 of the WLP.

42. Only low ground pressure machinery shall work on re-laid soils to place and level soils.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the MLP and Policy W4.5 of the WLP.

Aftercare

43. Following restoration the site shall undergo aftercare management for a 5 year period.

Reason: To provide for aftercare of the restored site, in accordance with Policy M4.9 of the MLP and W4.9 of the WLP.

44. Prior to any area being entered into aftercare the extent of the area and its date of entry into aftercare shall be approved in writing with the WPA. The 5 year aftercare period shall run from the approved date.

Reason: To provide for aftercare of the restored site, in accordance with Policy M4.9 of the MLP and W4.9 of the WLP.

45. Aftercare shall be undertaken in accordance with the 'Welbeck Colliery Restoration Landscape Specification for Establishment Methods and Maintenance Regimes (years 0-5) job no. 103186 – received by the WPA on 15 January 2015.

Reason: To provide for aftercare of the restored site, in accordance with Policy M4.9 of the MLP and W4.9 of the WLP.

46. Whilst the site is in aftercare, site management meetings shall be held with the WPA each year to assess and review the detailed annual programmes of aftercare operations referred in Condition 45 above, having regard to the conditions of the land; progress in its rehabilitation and necessary maintenance.

Reason: To provide for aftercare of the restored site, in accordance with Policy M4.9 of the MLP and W4.9 of the WLP.

Alternative Restoration

47. Should for any reason, placement of waste and/or construction fill material cease for a period in excess of 3 months, then, within 3 months of the receipt of a written request from the WPA, a revised scheme for the restoration of the site shall be submitted to the WPA for its approval in writing. Such a scheme shall include details of the final contours, provision of soiling, sowing of grass, planting of trees and shrubs, drainage and fencing in a similar manner to that submitted with the application and modified by these Conditions and also provide details of the aftercare proposals and Ecological Management Plan in a similar manner to Condition 45 above. The revised restoration proposals shall be implemented within 12 months of their approval by the WPA and thereafter managed for a period of 5 years in accordance with the approved aftercare details.

Reason: To secure the proper restoration of the site within an acceptable timescale.

RECOMMENDED PLANNING CONDITIONS - PROPOSED VARIATIONS TO THE SOIL MANAGEMENT AREAS, THE INTERNAL LINKING ACCESS ROAD AND THE INSTALLATION OF WELFARE AND OFFICE PORTACABINS AND TOILET BLOCK UNIT (1/18/00791/CDM)

1. This permission relates to the continuation of the use of land for the management of soils and waste within the red line on Drawing No. 163033/PL/SMA/D/005 titled 'Planning Application & Existing Restoration Boundary' – received by the WPA on 24 May 2018.

Revised: To define the extent of the planning permission.

Commencement and Duration of Development

2. This planning permission is for a temporary period only, ceasing on 21 May 2023. Upon cessation of the development all material, waste, plant, machinery and buildings shall be removed. Should use of the site cease prior to this date the WPA shall be notified within 14 days of cessation.

Reason: To secure the proper restoration of the site within an acceptable timescale and in accordance with Policy W4.2 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and Policy M4.5 of the Nottinghamshire Minerals Local Plan (MLP).

Approved Details and Plans

3. The development hereby permitted shall only be carried out in accordance with the following documents, unless amendments are made pursuant to other Conditions:
 - a) Drawing No. 163033/PL/SMA/D/002 titled 'Soil Management Area B Block Plan' – received by the WPA on 24 May 2018;
 - b) Drawing No. 163033/PL/SMA/D/003 titled 'Soil Management Area A Block Plan' – received by the WPA on 24 May 2018;
 - c) Drawing No. 163033/PL/SMA/D/004 titled 'Ancillary Building Section Plan' – received by the WPA on 24 May 2018;
 - d) Planning Application Forms – received by the WPA on 24 May 2018;
 - e) Planning Statement covering letter – received by the WPA on 24 May 2018;
 - f) Design and Access Statement – received by the WPA on 24 May 2018;

g) Flood Risk Statement – received by the WPA on 24 May 2018;

Reason: For the avoidance of doubt.

4. From the commencement of the development to its completion, a copy of this permission, including all plans and documents hereby approved and any other plans and documents subsequently approved in accordance with this permission and its conditions shall always be available at the site offices for inspection by the WPA during normal working hours.

Reason: To enable the WPA to monitor compliance with the conditions of the planning permission.

Soil Management

5. Development shall be carried out in accordance with the approved Materials Management Plan for Bulk Filling Works to Spoil Heap at Welbeck Colliery Meden Vale (Job No. 121142 Rev F) dated 18 January 2016 – received by the WPA on 17 February 2016.

Reason: To protect users of the site and ground and surface water from pollution in accordance with Policy W3.5 and W3.6 of the WLP; Policy M3.8 of the MLP; and Policies NE17 and DWM1 of the MDLP.

Hours of Working

6. Except in the case of emergency when life, limb or property are in danger (such instances which are to be notified in writing to the WPA within 48 hours of their occurrence, or with the prior agreement of the WPA) the development hereby permitted shall only take place within the following hours:

Activity	Day	Hours
HGV arrival and departure	Monday to Friday	08:00 – 18:00
	Saturday	08:00 – 13:00
	Sundays, Public or Bank Holidays	These activities shall not occur
Waste and fill material transfer around the site and placement	Monday to Saturday	07:00 – 19:00
	Sundays, Public or Bank Holidays	These activities shall not occur
Train arrival, unloading and departure	7 Days a Week	24 Hours a Day

Reason: In the interest of amenity and in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

Dust

7. Measures shall be taken to minimise the generation of dust from operations at the site. These shall include, but not necessarily be limited to, any or all of the following steps as appropriate:
- i) The use of water bowzers to dampen haul roads, inert waste and construction fill material stockpiles, and other operational areas of the site;
 - j) Internal roadways, storage areas and hard surfaces shall be regularly swept to keep them free of mud and debris likely to give rise to dust;
 - k) The regular re-grading of internal haul roads;
 - l) Bulk loads arriving at or leaving the site shall be carried in enclosed or sheeted containers;
 - m) The fitting of all mobile plant with exhaust systems which cannot be emitted in a downward direction;
 - n) Soil storage mounds which are not to be used within 3 months shall be graded and seeded;
 - o) The minimisation of exposed surfaces on the soil mound, both the working area and the area being restored;
 - p) Upon the request of the WPA, the temporary suspension of waste and construction fill material movement or placement in periods of unfavourably dry or windy weather conditions.

Reason: In the interests of the amenity of nearby occupiers and to accord with Policy W3.10 of the WLP and Policy M3.7 of the MLP.

Noise

8. All mobile plant on site shall be fitted with effective silencers in accordance with the manufacturers' recommendations and maintained in accordance with the manufacturers' specifications.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

9. All mobile plant on-site shall be fitted with smart audible alarms adjusted to background noise levels at all times.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

10. All conveyor systems used to transfer waste and construction material around the site shall be fully enclosed.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

11. The noise bunds around the southern side of SMA(A) shall be retained and maintained for the life of the development in accordance with Drawing No. 163033/PL/SMA/D/003 titled 'Soil Management Area A Block Plan' – received by the WPA on 24 May 2018.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

12. In the event that the WPA consider that operational noise emissions from activity at the site is likely to generate complaints the operator shall undertake a noise survey within 2 weeks of a written request from the WPA. The noise survey shall be undertaken in accordance with BS4142:1997 and shall be carried out under the supervision of the WPA. The results of the noise survey shall be provided to the WPA for its written approval within 1 month of the survey being undertaken. Should the results of the noise survey suggest that further mitigation measures are necessary these shall be identified within the report and implemented within 1 month following their approval by the WPA, unless otherwise agreed in writing by the WPA.

Reason: To mitigate noise impact in accordance with Policy W3.9 of the WLP and Policy M3.5 of the MLP.

Ecology

13. Should any protected species be found on-site during the course of the development hereby permitted, operations shall immediately cease until a suitable mitigation scheme has been implemented in full accordance with details previously submitted to and approved in writing by the WPA.

Reason: To safeguard protected species and to accord with Policy W3.22 of the WLP, Policy M3.17 of the MLP and Policy NE12 of the Mansfield District Local Plan (MDLP).

Traffic and Transport

14. All Heavy Goods Vehicle (HGV) movements and construction workforce traffic shall only use the routes shown on Figure 9.1 of the Environmental Statement - Volume 2 titled 'Vehicle Routing Strategy' received by the WPA on 27 January 2012. Vehicles shall only use the existing access / egress off the A616 when travelling to and from the site from all directions. The approved vehicle route shall be issued to all HGV drivers visiting the site and a sign at the site entrance instructing HGV drivers to only turn right out of the site, and left into the site, shall be installed and maintained for the life of the development.

Reason: To minimise traffic impact on the surrounding residential areas and in accordance with Policy W3.15 of the WLP and Policies M3.13 and M3.14 of the MLP.

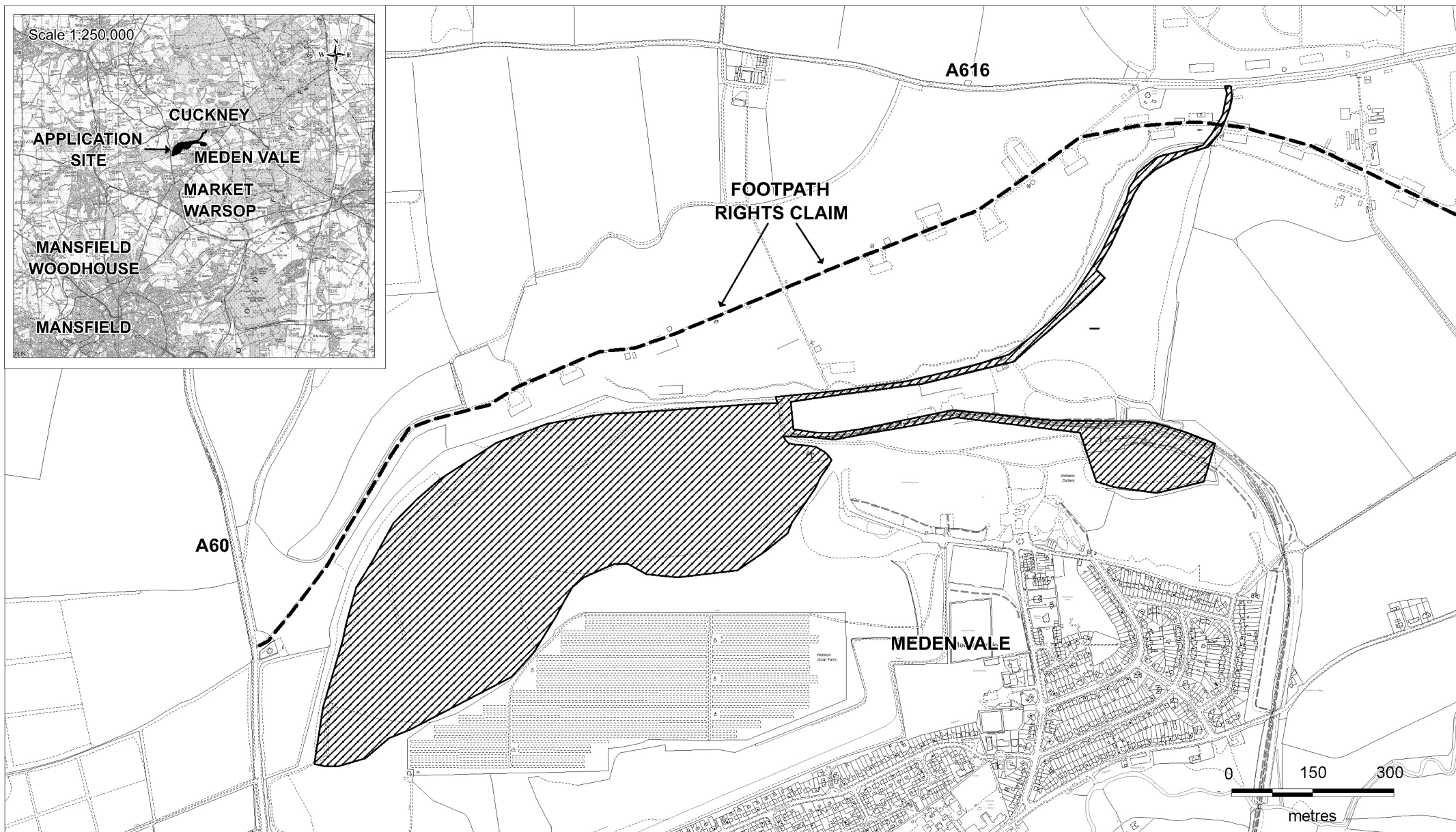
15. In combination with Planning Permission Ref: 2/2017/0525/NCC the number of HGV movements associated with the site shall not exceed 300 per weekday (150 in, 150 out) and 150 (75 in, 75 out) on a Saturday. There shall be no HGV deliveries to the site on Sundays, Public or Bank Holidays. A record shall be kept by the operator of the number of HGV movements into and out of the site on a daily basis. These records shall be made available to the WPA within seven days of a written request from the WPA. All such records shall be kept for at least 12 months.

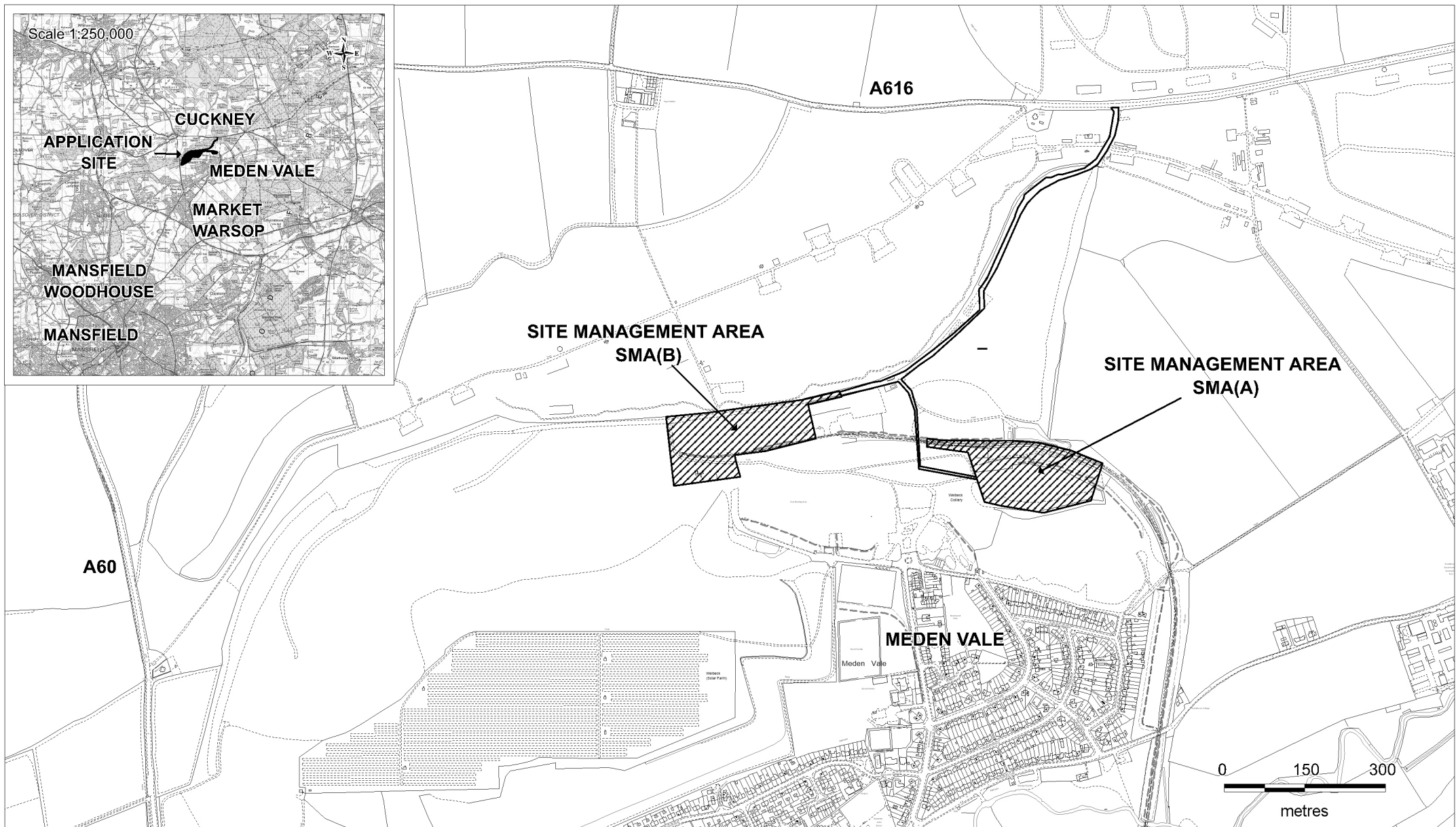
Reason: To minimise traffic impact on the surrounding residential areas and in accordance with Policy W3.14 of the WLP and Policies M3.13 and M3.14 of the MLP.

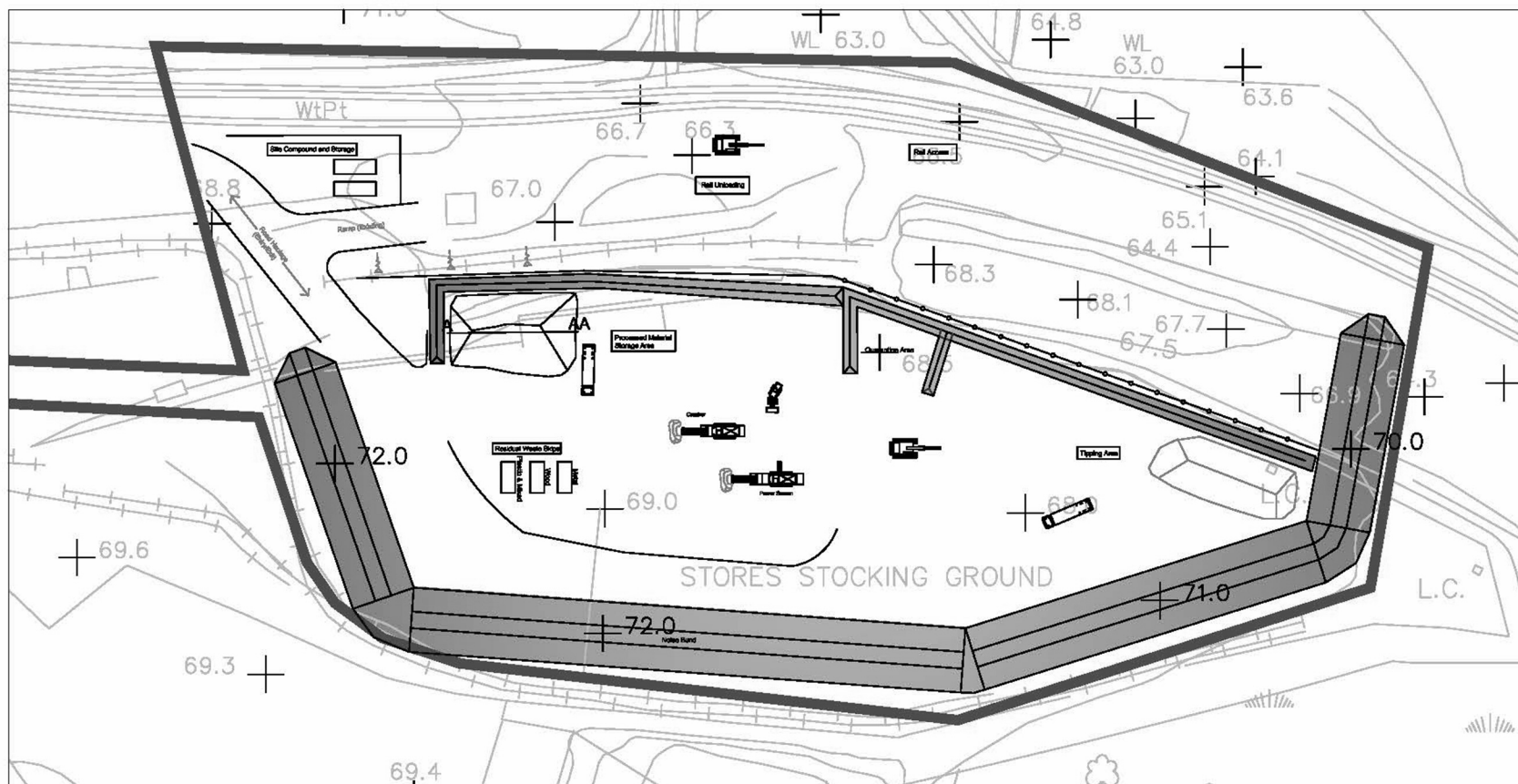
Contamination

16. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The size of the bunded compound shall be at least equivalent to the capacity of the tank plus 10% or, if there is more than one container within the system, of not less than 110% of the largest container's storage capacity or 25% of the aggregate storage capacity of all storage containers. All filling points, vents and site glasses must be located within the bund. There must be no drain through the bund floor or wall.

Reason: To protect ground and surface water from pollution in accordance with Policy W3.5 and W3.6 of the WLP, and Policy M3.8 of the MLP.

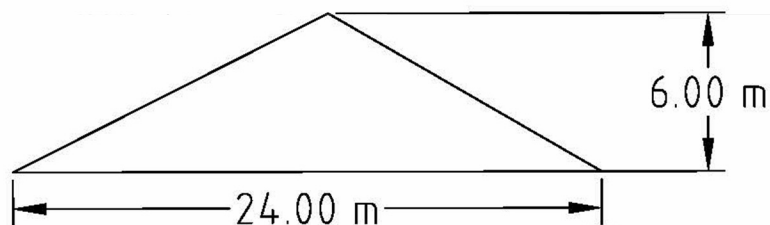






KEY	
	Site Boundary

SMA A Stockpile



RECEIVED
By NCC at 1:01 pm, May 24, 2018

SMA(A)

Rev.	Details	Drawn Chkd.	Date
Project 163033 Welbeck Restoration			
Title Soil Management Area A Block Plan			



**Nottinghamshire
County Council**

Variation of Conditions 3 and 4 of Planning Permission Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site.

Proposed variations to the soil management areas, the internal linking access road and the installation of welfare and office portacabins and toilet block unit.

[Page 263 of 292](#)

Welbeck Colliery, Elkesley Road, Meden Vale, Nottinghamshire.

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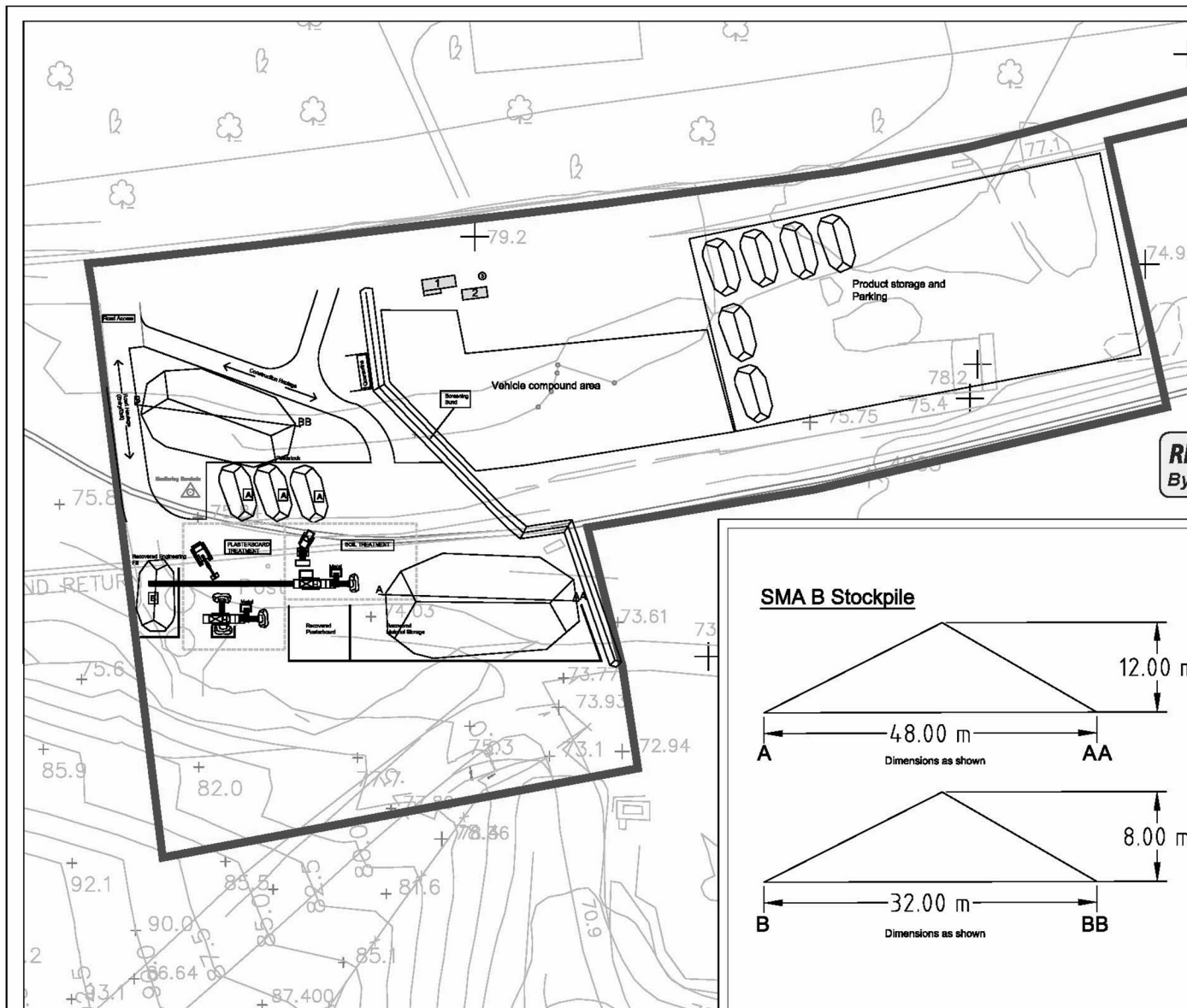


Not to Scale
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Produced by: JW

Date: DECEMBER 2018

PLAN 3



KEY

- Site Boundary
- 1 Two stacked portacabins
- 2 Toilet block
- 3 Septic tank

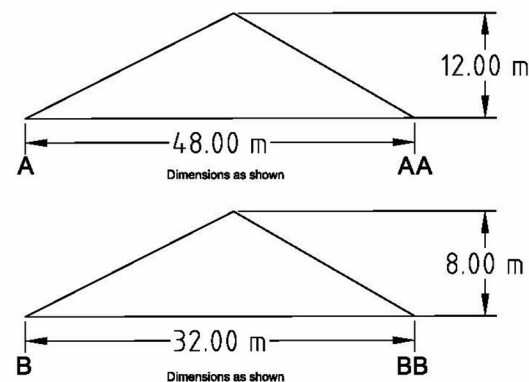
Notes:


- For further detail of feature 1 and 2, refer to drawing 163033/PL/SMA/D/004.

RECEIVED
By NCC at 1:01 pm, May 24, 2018

SMA(B)

SMA B Stockpile



Rev.	Details	Drawn	Date
		Chd.	
Project 163033 Welbeck Restoration			
Title Soil Management Area B Block Plan			
 AAe Environmental Consultants AA Environmental Ltd Units 6-8 Chiswell Court Shippam Aikington Oxon OX13 9JG T: (01295) 696042 F: (01295) 623444 info@aae-tp.com www.aae-tp.com			
Scale	Date	Drw. No.	Rev.
1:1000 @ A3	Mar '18	163033/PL/SMA/D/002	
Drawn	Chd.		
EB	ML		



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(for illustration only)

Produced by: JW

Date: DECEMBER 2018

PLANT SCHEDULE

TREES	Size	No.
<i>Betula pendula</i>	2.1-2.4m ht feathered cont. grown	24
<i>Quercus robur</i>	2.1-2.4m ht feathered cont. grown	14

All trees to receive rabbit guards & watering pipes and shall be secured according to the Landscape Specification.

MANAGED GRASS AREAS

To be Lowland Dry Acid Grassland as specified below, but to be cut as necessary to ensure ease of pedestrian movement along the path routes and around the picnic areas.

WET GRASSLAND

The species suitable for the grass seed mix are of the NVC MG4 mesotrophic grassland habitat type and should be supplied by one of the suppliers listed on the Flora Locale website, and broadcast at their recommended rates.

LOWLAND DRY ACID GRASSLAND

Lowland Dry Acid Grassland shall be created by broadcasting 80% of grasses and 20% of herbs of species listed in the specification. Obtain the seed mix from recognised suppliers as listed on the Flora Locale website, and broadcast at their recommended rates.

It is the intention to create pockets of heathland (comprising *Calluna vulgaris* and *Erica cinerea* only) within the areas of acid grassland. This will be achieved by heather brashing/overseeding in certain areas using brash collected from Nottinghamshire to ensure local genetic provenance. The preference will be to use material obtained from the Sherwood Forest Trust, but if this is not readily available a suitable alternative supplier can only be authorised by the Landscape Architect.

DAK-BIRCH WOODLAND

To be planted at 1.5m centres in random groups of 25-50m, by species, except only where it is to be planted in groups of three and each group is to be at least 15m apart. Planting shall consist of the following percentages:

	Size (cm)	Area1	Area2	Area3	Area4	Area5	Totals
<i>Betula pendula</i>	40%	1+1 80-100 BR	9107	914	826	2241	13120
<i>Quercus robur</i>	35%	1+1 80-100 BR	7070	709	752	1980	11481
<i>Crataegus monogyna</i>	10%	1+1 80-100 BR	2277	228	215	560	3280
<i>Corylus avellana</i>	5%	1+1 80-100 BR	1138	114	107	280	1840
<i>Ilex aquifolium</i>	5%	1+1 80-100 BR	1138	114	107	280	1840
<i>Sorbus aucuparia</i>	5%	1+1 80-100 BR	1138	114	107	280	1840
			22,771	2,283	2,148	6,801	32,901

All white and transparent to have clear plastic spiral rabbit guards, secured into ground with bamboo canes.

All white and transparent supplied to site shall be of local provenance. A certificate proving such shall be provided to the Landscape Architect prior to delivery to site. Subsoil in areas for planting shall be ripped to a minimum depth of 300mm prior to application of topsoil.

Roots of all bare-root stock shall be treated with Mycorrhizae Wrap Dip to manufacturer's instruction. Supplier: Burrow Nursery on 01436 662982.

All woodland planting areas to be underseeded with *Ermopogon Seeds EGM* (grass mixture for heathland and woodland) and spread at their recommended rates.

NOTES

All works shall be in accordance with the Landscape Specification and comply with current Health & Safety and CDM Regulations. No trees shall be planted within 5m of drains or services without the installation of a root barrier. The Landscape Contractor shall be responsible for acquiring 'as-built' drain and service plans before commencing work on site. Where existing grass is disturbed it shall be reinstated to match surrounding levels and made good.

Where plants, now, or areas are shown on a schedule, these are for assistance.

KEY

- Planning red-line site boundary
- Existing contours at 2.5-metre centres
- Proposed contours for yet unrestored north area
- Proposed mown paths
- Proposed cycleway/bridleway, surfaced in crushed stone
- Existing fence retained
- Proposed trees (x38)
- Existing woodland/ plantations
- Proposed Oak- Birch woodland
- Proposed drainage ditch
- Proposed attenuation pond
- Existing pond
- Proposed managed grass areas
- Proposed lowland dry acid grassland
- Proposed wet grassland
- Proposed Picnic Areas & Viewpoints (mown grass)
- Temporary receptor site for substrate translocated from the existing acid grassland
- Location of replacement sand martin nesting bank (if it cannot be retained in current position)

REVISION

A Acid grassland areas increased & grass spp. amended JFB 08-04-13

CLIENT

TETRON POINT LP & UK COAL

JB Landscape Associates
What Centre Studio, Warrick, CV34 6LB 01226 217 990

Working in conjunction with
AA ENVIRONMENTAL LLP

PROJECT
WELBECK COLLIERY
RESTORATION

DRAWING
DETAILED RESTORATION
SCHEME

Based on UK Coal survey drawing no. W604191 dated Aug 2010

DRAWN	CHECKED	APPROVED
TRACER	SCALE 1:2000	DATE 01/04/13
DRAWING No.		REV

2012 - PL 003



**Nottinghamshire
County Council**

Variation of Conditions 3 and 4 of Planning Permission Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site.

Proposed variations to the soil management areas, the internal linking access road and the installation of welfare and office portacabins and toilet block unit.

Page 269 of 292

Welbeck Colliery, Elkesley Road, Meden Vale, Nottinghamshire.

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Produced by: JW

Date: DECEMBER 2018

PLAN 6

11th December 2018**Agenda Item:10****REPORT OF CORPORATE DIRECTOR – PLACE****RESPONSE TO THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL
GOVERNMENT ON COMPULSORY COMMUNITY CONSULTATION FOR
SHALE GAS DEVELOPMENT****Purpose of Report**

1. To seek Members' approval of the response to the Government's consultation on "Compulsory community pre-application for shale gas development" as set out in the appendix to this report.

Background information

2. The Ministry of Housing, Communities and Local Government (MHCLG) are consulting on whether applicants should be required to conduct pre-application consultation prior to undertaking shale gas development. The intention to consult on this matter was announced in the joint Written Ministerial Statements made on 17th May 2018. This consultation, which will last for 10 weeks, was published on 31st October 2018. A response to MHCLG will be required by 9th January 2019.
3. This consultation follows on from the two previous government consultations on shale gas development relating to permitted development and the Nationally Significant Infrastructure Projects regime, the Council's response to which were reported to this Committee in September and October. These consultations are now closed and a response from the Government on these matters is expected in due course.
4. In this latest consultation the Government acknowledges that sufficiently early engagement with communities at the pre-application stage may give local people an earlier say in the process and make developers aware of issues of importance to the community that may need to be resolved through the planning process. The National Planning Policy Framework and Planning Practice Guidance make it clear that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. It is currently not a statutory requirement for applicants to undertake pre-application consultation prior to submitting a planning application for every type of proposed development.

Existing consultation requirements for shale gas development

5. Currently under planning law, where a planning application has been submitted for shale gas development the minerals planning authority undertakes a period of publicity and consultation with the public and a range of different groups, including statutory and non-statutory consultees. The consultation period normally lasts for 21 days. Minerals planning authorities sometimes consider it necessary to re-consult as a result of any changes that may have been submitted by the applicant to address issues that may have been raised. Once all consultation and publicity has concluded the minerals planning authority will consider the representations and proceed to determine the application.
6. The Government is committed to ensuring that all planning applications are dealt with as quickly as possible and meet the statutory timeframes for the determination of applications, currently 13 weeks for major applications and 16 weeks for applications requiring an Environmental Impact Assessment. Early engagement is seen as key to achieving this. The Government welcomes the shale gas industry's existing commitment, through their Community Engagement Charter, to ensure open and transparent communications between industry, stakeholder groups and communities in which they operate. However, **requiring** applicants to conduct pre-application consultation with the community prior to undertaking shale gas development could strengthen the role local people play in the planning process.

Existing processes for compulsory community pre-application consultation

7. At present there are only two categories of development that require community consultation at the pre-application stage, these are a) for development that would fall within the scope of the Nationally Significant Infrastructure Project regime, and b) for more significant onshore wind development. The requirement to undertake pre-application consultation is the responsibility of the prospective applicant. The two processes for these are different and it is suggested that any process for shale gas proposals could follow one of these processes or a different process altogether.

Onshore wind development consultation process

8. The Localism Act 2011 introduced a new statutory requirement for compulsory consultation with local communities for certain types of application at the pre-application stage. The Government brought forward legislation in November 2013 for pre-application consultation. The statutory requirement for applicants to consult with local communities (prior to undertaking onshore wind development involving more than 2 turbines, or where the hub height of the turbine exceeded 15 metres) is linked to the threshold at which onshore wind development requires screening to determine whether there is a likelihood of significant effects under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Where the proposed onshore wind development meets this criteria the legislation requires the prospective applicants to:
 - Publicise the proposed application in such a manner that is likely to bring it to the attention of a majority of the persons who live at, or occupy,

premises in the vicinity of the land. In doing so setting out information on how the applicant may be contacted, and the proposed timetable for consultation (ensuring sufficient time for people to comment);

- Have regard to advice (if any) given by the local planning authority about local good practice;
 - Where proposing to go ahead with making an application for planning permission, have regard to any responses to the consultation:
 - Where an application for planning permission is made, it must be accompanied by particulars of how the applicant complied with the publicising and consultation requirements, the responses received by the applicant, and how the applicant has taken account of the responses.
9. The Consultation paper suggests that, as with onshore wind development, it could be appropriate that shale gas development that is likely to have significant impacts on the environment (requiring an Environmental Impact Assessment) could be subject to the requirement to undertake community pre-application consultation, and this could follow the above process. It is worth noting however that such a proposal would include shale gas developments that did not require an EIA but still potentially had significant impacts on an area and had considerable interest from the local community.

Nationally Significant Infrastructure Projects regime

10. The other process by which applicants are required to undertake pre-application consultation prior to undertaking development is through the Nationally Significant Infrastructure regime. These relate to significant infrastructure projects in the following areas of development including energy, water, waste water, road and rail transport, and hazardous waste development. The Planning Act 2008 sets out the thresholds above which certain types of development are considered nationally important and therefore require development consent under the NSIP regime. The previous Government Consultation paper considered whether to include shale gas development within this regime, the outcome of which is still awaited.
11. Under this regime applicants are required to:
- Produce a Statement of Community Consultation, in consultation with the relevant local planning authority, which describes how the applicant proposes to consult with the local community about their project and then carry out consultation in accordance with that statement;
 - Make the Statement of Community Consultation available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land where the development is proposed;
 - Set a deadline for consultation responses of not less than 28 days from the day after receipt/last publication;

- Have regard to relevant responses to publicity and consultation; and
 - Prepare a consultation report and submit it to the Secretary of State.
12. The Consultation paper states that as with Nationally Significant Infrastructure Projects it could be appropriate that shale gas development that fulfils specific criteria or thresholds is subject to a requirement to undertake community pre-application consultation prior to submitting a planning application, and this could follow the process set out above. Of course, if the Planning Act 2008 was to be amended, so as to bring shale gas into that regime then the statutory pre-application consultation outlined above would be required for such development.

Consultation paper questions

13. The consultation paper poses the following questions;

Question 1- Should community pre-application consultation be compulsory prior to applying for planning permission for shale gas development?

Yes/No/Not sure

Question 2 - By what process (if any) should prospective applicants be required to conduct community pre-application consultation prior to applying for planning permission for shale gas development?

Onshore wind development/ Nationally Significant Infrastructure Projects/Other (please specify)

Question 3 - What (if any) shale gas developments should be subject to compulsory community pre-application consultation?

All shale gas development requiring a planning application/ Where an Environmental Impact Assessment is required/Other criteria or threshold (please specify)

Question 4 – Do you have any view on the potential impact of the matters raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

14. The proposed responses to the above questions are set out in the appendix to this report. The timing of this consultation has meant that the outcome of the two previous consultation papers is still unknown and therefore proposals set out in those papers may influence some of the matters proposed by this consultation. For instance, if some or all shale gas developments were included within the NSIP regime then pre-application requirements would be set by that regime. The response has been prepared on the basis of the present situation.

Statutory and Policy Implications

15. 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.

Human Rights Implications

16. 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.

RECOMMENDATIONS

It is recommended that Members approve the response to the Ministry of Housing, Communities and Local Government as the formal comments of the County Council on their consultation paper entitled “Compulsory community pre-application consultation for shale gas development” as set out in the appendix to this report.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 19/11/2018]

Planning & Licensing Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

Financial Comments [RWK 15/11/2018]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

The Government’s consultation paper entitled ‘Compulsory community pre-application consultation for shale gas development – October 2018’ is available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Divisions and Members Affected

All

Report Author

Jane Marsden-Dale

0115 9932576

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

The questions and responses to the Consultation paper “Compulsory community pre-application consultation for shale gas development”

None of the answers provided below, alter the response that Nottinghamshire County Council provided in relation to the consultations on “Permitted development for shale gas exploration” and the “Inclusion of shale gas production in the nationally significant infrastructure project regime” undertaken in July to October 2018.

Question 1

Should community pre-application consultation be compulsory prior to applying for planning permission for shale gas development?

Yes/No/Not sure

Nottinghamshire County Council has determined two planning applications for shale gas exploration. In both cases the applicant positively and proactively engaged with the public and other interested parties prior to the submission of their applications by:

- Setting up and facilitating a Community Liaison Group to serve as a forum between the developer and the community;
- Distributing letters to the nearest residents;
- Creating dedicated websites;
- Undertaking public exhibitions prior to the submission of the applications;
- Liaising with the relevant parish councils and attending meetings to discuss the proposal;
- Corresponding with the local Member of Parliament, Member of European Parliament and County Councillor.
- Meeting with and/or presenting to local interest groups and businesses;
- Undertaking pre-application discussions with Nottinghamshire County Council and Bassetlaw District Council;
- Partaking in discussions with relevant statutory and non-statutory consultees;

Paragraph 40 of the National Planning Policy Framework (NPPF) states that local planning authorities “should also, where they think it would be beneficial, encourage any applicants who are not already required to do so by law to engage with the community and, where relevant, with statutory and non-statutory consultees, before submitting their applications”.

Nottinghamshire County Council’s adopted Statement of Community Involvement sets out four principles central to its planning functions. These are:

- Front loading
- Continuous involvement
- Transparency
- Providing feedback

The requirement for pre-application engagement would positively align with these principles as well as with the aims of the County Council's Sustainable Community Strategy which amongst other objectives wishes to see local people influencing decisions which affect their lives and their communities.

Nottinghamshire County Council recognises the considerable public concern associated with shale gas development and, as a result, considers that early engagement (including pre-application consultation) will always be beneficial. This is to ensure that the community is given the opportunity to understand the development proposed and provide feedback that will allow the developer to understand and address locally specific issues and enable a better scheme to come forward when an application is submitted. Whilst the County Council's previous experience of pre-application engagement for shale gas development is positive, making it compulsory will ensure that this will always remain the case. As such, Nottinghamshire County Council supports compulsory pre-application consultation for shale gas development.

Question 2

By what process (if any) should prospective applicants be required to conduct community pre-application consultation prior to applying for planning permission for shale gas development?

Onshore wind development/ Nationally Significant Infrastructure Projects /Other (please specify)

The County Council is of the view that requirements for pre-application public consultation which currently apply to onshore wind development (set out in Section 61W of the Town and Country Planning Act 1990) would be a suitable mechanism to apply to shale gas development. It would ensure that the public are aware of a proposed application and require an applicant to demonstrate how the public's comments had been taken into account within the submitted planning application.

The County Council considers the pre-application requirements associated with the Nationally Significant Infrastructure Projects regime to be thorough and comprehensive. However, the rigidity of the process and the requirement to submit a report to Government would be disproportionate in relation to the scale and nature of applications for individual well-sites and should be retained for truly nationally significant development.

Question 3

What (if any) shale gas development should be subject to compulsory community pre-application consultation?

All shale gas development requiring a planning application/ Where an Environmental Impact Assessment is required/Other criteria or threshold (please specify)

Paragraph 209 b) of the National Planning Policy Framework explains that when planning for onshore oil and gas development Minerals Planning Authorities should clearly

distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production).

Developers can apply for exploration, appraisal and production individually; or for a combination of these phases. The County Council considers that pre-application consultation should be compulsory for all these phases, whether applied for individually or together.

The County Council is also of the view that exploration is the most important of all the phases with regard to pre-application consultation. As the first phase of shale gas development, it will be the first time that a community will become aware of where and what is being proposed. It will also be the point at which the community can have the greatest input into the design and working of development. The level of input that a community can have in relation to the appraisal and production phases will be less, given that these will relate to already established sites.

The County Council does not consider that compulsory community pre-application consultation should be limited to that where an Environment Impact Assessment (EIA) is required, but should apply to all full applications for exploration, appraisal and/or production. This reflects the County Council's view that pre-application consultation is most important at the exploration phase, which does not always require an EIA.

Whilst it is good practice for developers to keep the community informed through mechanisms such as Community Liaison Groups, the MPA does not consider it necessary for pre-application consultation to be compulsory for applications relating to variations (Section 73) or non-material amendments to development which already has the benefit of a full planning permission. This could serve to dilute the importance given by the public to consultations undertaken for the main phases.

The County Council repeats its position that shale gas exploration should not be permitted development. However, if Government decides to make shale gas exploration permitted development, it should be subject to prior community consultation. As highlighted above, this is the most important phase of shale gas development from a community consultation perspective.

Question 4

Do you have any views on the potential impact of the matters raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?

No comments.



REPORT OF CORPORATE DIRECTOR - PLACE

DEVELOPMENT MANAGEMENT PROGRESS REPORT

Purpose of the report

1. To report on planning applications received by the Development Management Team between 10th October and 19th November 2018, to confirm the decisions made on planning applications since the last report to Members on 18th September 2018, and to detail applications likely to come before Committee in the coming months.

Background

2. Appendix A highlights applications received since the last Committee meeting, and those determined in the same period. Appendix B sets out the Committee's work programme for forthcoming meetings of Planning and Licensing Committee.

Statutory and Policy Implications

3. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.
4. The relevant issues arising out of consideration of the Human Rights Act have been assessed in accordance with the Council's adopted protocol. Rights under Article 8 and Article 1 of the First Protocol are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

RECOMMENDATIONS

5. That Committee considers whether there are any actions they require in relation to the contents of the report.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments - [RHC 21/11/2018]

Planning and Licensing Committee is the appropriate body to consider the contents of this report

Comments of the Service Director - Finance [RWK 21/11/2018]

There are no specific financial implications arising directly from the report.

Background Papers Available for Inspection

None

Electoral Division(s) and Member(s) Affected

All

For any enquiries about this report please contact:

Report Author / Case Officer
Ruth Kinsey
0115 9932584

Planning Applications Received and Determined
From 9th October to 19th November 2018

Division	Member	Received	Determined
BASSETLAW			
Misterton	Cllr Tracey Taylor		Sand and gravel extraction, backfill with imported silt and restoration to agriculture and biodiversity. Including construction of a new access road. Land at College Farm, Great North Road, Barnby Moor, Retford. Withdrawn 18/10/2018
Misterton Retford West	Cllr Tracey Taylor Cllr Mike Quigley	Sand and Gravel extraction. Backfill with imported silt and restoration to agriculture and biodiversity, including the construction of a temporary road access. Land to the south of College Farm, East of Great North Road, Barnby Moor, Retford. Received 22/10/2018	
Blyth & Harworth	Cllr Sheila Place	Restoration of Quarry by means of infilling with inert waste, Planning Application to vary conditions 7,12,13,14 and 16 of Planning Permission 1/66/02/00015. Styrrup Quarry, Main Street, Styrrup. Received 14/11/2018	
Worksop South	Cllr Kevin Greaves		Erection of a training building. Nether Langwith Quarry, Wood Lane. Returned 19/11/2018

Division	Member	Received	Determined
Worksop South	Cllr Kevin Greaves	Re-submission - Erection of training building, workshop building, car parking and materials loading area associated with quarrying operations. Nether Langwith Quarry, Wood Lane, Nether Langwith. Received 19/11/2018	
MANSFIELD			
Mansfield East	Cllr Vaughan Hopewell Cllr Martin Wright		Infilling of an existing underpass to provide a water storage area to alleviate flood issues in the local area. Installation of a new uncontrolled ground level pedestrian crossing and footway onto Bellamy Road. Existing underpass, Bellamy Road, Mansfield. Granted 12/11/2018
NEWARK & SHERWOOD			

Division	Member	Received	Determined
Newark East	Cllr Keith Girling	Demolition of Day Centre building. Construction of Orchard School (two phase development) and replacement Day Service both with external lighting and CCTV, ancillary outdoor facilities including drop-off, entrance and Early Years canopies, car parking (including 4m lighting columns), lit service areas, 2.4m high perimeter fencing and internal fencing not exceeding 2.4m. Demolition of an existing school building and former caretaker's house, and subsequent provision of outdoor play spaces including new tarmac surface multi-use games area (enclosed by 3.0m fencing), timber shed, resurfacing of existing play surface for the new school, sprinkler tank with 3.7m timber fence enclosure and associated landscape works. Newark Orchard School and Day Service, London Road, Balderton. Received 16/10/2018	
Blidworth	Cllr Yvonne Woodhead	To resurface Astroturf footpath with Tarmac on the same footprint and to retain soft play area and canopy which was temporarily permitted under planning permission 3/18/1599/CMA. Lake View Primary and Nursery School, Rainworth Water Road, Rainworth. Received 14/11/2018	

Division	Member	Received	Determined
Southwell	Cllr Roger Jackson		Variation of condition 4 of planning permission 3/08/00505/CMW to allow the continued use of the weighbridge for waste management facilities until 1st June 2024. Coneygre Farm, Hoveringham. Granted 15/11/2018
ASHFIELD - None			
Ashfields	Cllr Jason Zadrozny		Installation of a Gas Metering Kiosk Building. Electricity Generating Station Sutton Landfill Site, (Maycroft Gardens) Huthwaite Road, Sutton In Ashfield. Granted 17/10/2018
Ashfields	Cllr Jason Zadrozny		To vary conditions 1 and 3 of planning permission 4/12/GR/0452 to extend the landfill gas operation for a limited period only expiring on 31 December 2050, by which time all buildings, equipment and enclosure shall be removed and the site reinstated and to allow the use of natural gas to supplement landfill gas in the generators. Sutton Landfill Site, (Maycroft Gardens) Huthwaite Road, Sutton-in-Ashfield. Granted 17/10/2018

Division	Member	Received	Determined
Kirkby North	Cllr John Knight		Proposed amendment of planning permission reference 4/V/2016/0665 to amend existing conditions 3, 18, 26, 27 and 31 and facilitate the proposed development of bays for the external storage and associated bulking of glass. It is proposed to delete reference to the external storage of baled RDF and instead replace this with reference to external glass storage. Veolia ES (UK) Ltd, Former Summit Colliery Site, Welshcroft Close, Kirkby In Ashfield. Granted 08/11/2018 (Committee)
Kirkby North	Cllr John Knight		Proposed construction and operation of external glass storage bays with associated bulking. Veolia ES (UK) Ltd, Former Summit Colliery Site, Welshcroft Close, Kirkby In Ashfield. Granted 08/11/2018 (Committee)
BROXTOWE			
Eastwood	Cllr Tony Harper		Installation of a forest school shelter on the edge of the playing field and construction of access path. Lawrence View Primary School and Nursery, Walker Street, Eastwood. Granted 15/10/2018

Division	Member	Received	Determined
GEDLING			
Arnold North	Cllr Pauline Allan Cllr Michael Payne	Construction of new path/widening of existing paths to create cycle paths and shared-use footways. Erection of lighting. Arno Vale Link - Cycle path and shared use footway. Land between Mapperley Plains and Gedling Road, Arnold. Received 10/10/2018	
Arnold South	Cllr John Clarke Cllr Muriel Weisz	Variation of conditions 8 and 9 of planning permission 7/2011/0268NCC to increase the number of pupils. Carlton Digby School, Digby Avenue, Mapperley. Received 05/11/2018	
RUSHCLIFFE			
Bingham East Bingham West	Cllr Francis Purdu-Horan Cllr Neil Clarke	Proposed waste transfer station for the import, sorting and forwarding for recycling of non-ferrous metals. The Stables, Brunts Lane, East Bridgford. Received 24/10/2018	

Schedule of future planning applications to be reported to Planning and Licensing Committee

(Please note: The committee dates identified are for guidance only. A final decision regarding the committee date is not made until shortly before the agenda is published).

29 th January 2019	2/2018/0561/NCC	Cast Quarry, Vale Road, Mansfield Woodhouse, NG19 8DP	Variation of condition 2 of planning permission 2/2013/0345/NT. Continuation of crushing and screening plant to recycle building material for a further 5 years.
29 th January 2019	2/2018/0676/NCC	Midland Landfill Ltd Cast Quarry Vale Road Mansfield Woodhouse, NG19 2DR	To vary conditions 5 (a to f) & 6 of application 2/2014/0518/NT in order to meet new operational needs to ensure that the tipping faces are kept at manageable heights to prevent any slippages of the working faces and to ensure that the current final contours of the site are achieved in the best operational method available. There will be no changes to the agreed final contours of the site.
29 th January 2019	7/2018/1007NCC	Arno Vale Link - Cycle path and shared use footway. Land between Mapperley Plains and Gedling Road, Arnold, Nottingham	Construction of new path/widening of existing paths to create cycle paths and shared-use footways. Erection of lighting
29 th January 2019	7/201/1075NCC	Carlton Digby School, Digby Avenue, Mapperley, NG3 6DS	Variation of conditions 8 and 9 of planning permission 7/2011/0268NCC to increase the number of pupils.
29 th January 2019	3/18/01723/CM	Bantycok Quarry, Staple Lane, Balderton, Newark on Trent	Variation of conditions 2, 7, 12, 50 and 51 of planning permission 3/15/01880/CMA to amend the working and restoration scheme to allow extraction of gypsum within an area previously granted permission, but not shown in the Review of Mineral Permission
12 th March 2019	2/2018/0040/NCC	Ratcher Hill Quarry, Southwell Road West, Rainworth, Mansfield, NG21 0HW	Retrospective permission for silica sand extraction and associated revised site restoration proposals.
12 th March 2019	1/18/00628/CDM	C.W. Waste Services Limited, Sandy Lane Industrial Estate, Worksop,	To operate a waste transfer station, asbestos/clinical and inert waste facility

		S80 1TN	
12 th March 2019	FR3/3917	Newark Orchard School and Day Service, London Road, Balderton, Newark, NG24 3AL	Demolition of Day Centre building. Construction of Orchard School (two phase development) and replacement Day Service both with external lighting and CCTV, ancillary outdoor facilities including drop-off, entrance and Early Years canopies, car parking (including 4m lighting columns), lit service areas, 2.4m high perimeter fencing and internal fencing not exceeding 2.4m. Demolition of an existing school building and former caretaker's house, and subsequent provision of outdoor play spaces including new tarmac surface multi-use games area (enclosed by 3.0m fencing), timber shed, resurfacing of existing play surface for the new school, sprinkler tank with 3.7m timber fence enclosure and associated landscape works

Planning Applications currently being processed by the County Council which are not currently targeted to a specific meeting of the Planning and Licensing Committee.

Planning Application: 1/18/014570043/CDM
Location: Land to the south of College Farm, East of Great North Road, Barnby Moor, Retford
Proposal: Sand and gravel extraction, backfill with imported silt and restoration to agriculture and bio-diversity, including construction of a temporary road access road.

Planning Application: 1/17/01035/CDM
Location: Serlby Quarry, Snape Lane, Serlby, DN10 6BB
Proposal: Variation of condition 3 of planning permission 1/66/04/00004 to extend the timescale for inert waste disposal to cease by 22 August 2027, with enhanced restoration for a biodiverse nature conservation afteruse.

Planning Application: 3/18/00756/CMA
Location: Land at Rufford Hills Farm, Off Rufford Lane, Rufford, NG22 9DQ
Proposal: Drill and test a borehole including flaring, erect containerised units and associated plant and equipment, new access track, extract mine gas, generate electricity and ancillary operations.

Planning Application: 8/17/02096/CMA
Location: Land off Green Street, Mill Hill and land at Barton Fabis, off Chestnut Lane
Proposal: The extraction and processing of sand and gravel, including the construction of a new site access road, landscaping and screening bunds. Mineral washing plant and other associated infrastructure with restoration to agriculture and nature conservation areas.

Planning Application: 1/18/00920/CDM
Location: Plots A5 and A6, Lords Wood Road, Harworth, DN11 8NE
Proposal: Proposed New 20MWE Waste to Energy Power Generation Facility and associated Plant and external Works.

