



**24 November 2020**

**Agenda Item: 5**

## **REPORT OF CORPORATE DIRECTOR – PLACE**

**RUSHCLIFFE DISTRICT REF. NO.: 8/20/01279/CMA**

**PROPOSAL: RETROSPECTIVE SECTION 73 PLANNING APPLICATION SEEKING PERMISSION TO VARY THE APPROVED LAYOUT OF THE WASTE RECYCLING FACILITY AT BUNNY, NOTTS, TO PROVIDE ADDITIONAL INCINERATOR BOTTOM ASH STORAGE FACILITIES**

**LOCATION: BUNNY MATERIALS RECYCLING FACILITY, LOUGHBOROUGH ROAD, BUNNY, NG11 6QN**

**APPLICANT: JOHNSONS AGGREGATES & RECYCLING LTD**

### **Purpose of Report**

1. To consider a variation application which seeks retrospective planning permission to regularise alterations that have been made to the approved site layout and working arrangements at the waste recycling facility at Bunny Materials Recycling Facility (MRF), Loughborough Road, Bunny, to increase the storage facilities for processed incinerator bottom ash (IBA aggregates or IBAA).
2. The key issue relates to whether the proposed changes to the working practices would give rise to any unacceptable environmental and amenity impacts, particularly dust, odour and noise emissions on local residents and two nearby care homes (Greenwood Lodge and Hillside Farm).
3. The site lies within the Green Belt. Accordingly, the application has been treated as a 'departure' from the Development Plan. The recommendation is to approve this Section 73 application subject to the conditions set out in Appendix 1 of the report and the rolling forward of the legal agreement attached to extant planning consent 8/16/00059/CMA, dated 12<sup>th</sup> July 2017.

### **The Site and Surroundings**

4. The application site lies on the southern side of Nottingham approximately 10.2 kilometres from the city centre and approximately 11.5 kilometres to the north-

east of Loughborough. Situated within the Nottingham-Derby Green Belt, some 0.75 kilometres to the south of Bunny Village, it is located off the main A60 Loughborough Road to the south-west of its junction with Gotham Lane, just beyond the former Bunny Brickworks.

5. The nearest residential properties to the site are Woodside Farm, situated approximately 120 metres to the east of the site entrance, on the opposite side of the A60 (see Plan 1); and Chestnut Farm and Hillside Farm Care Home some 160 metres to the south-west. Broadly to the north of the site beyond the former Bunny Brickworks lies residential development fronting Gotham Lane including Greenwood Lodge Care Home which is the nearest sensitive receptor within Gotham Lane, at a distance of 220 metres from the site. More distant residential development is situated beyond Gotham Lane within Bunny Village on Main Street, approximately 750 metres to the north of the site.
6. Both to the south and west, the application site is bounded by open countryside (including a restored former landfill site), with a former brickworks adjoining the site's northern boundary, beyond which a wood and field separate the industrial works from residential development on Gotham Lane.
7. The application site comprises approximately 1.06 ha. of operational land and is an established recycling/recovery facility for the crushing and screening of inert construction and demolition waste, and non-hazardous commercial and industrial waste, comprising incinerator bottom ash (IBA). Vehicular access into the site is gained via the A60 Loughborough Road including a dedicated right turn lane for vehicles travelling from the north.
8. The site benefits from screening from mature vegetation, bunding including that along its south-eastern boundary, providing screening along Bunny Hill, and natural topography; and there are limited viewpoints into the operational parts of the application site.
9. The current alterations to the site layout mean that there is now a relatively extensive storage area located in the eastern sector of the operational site containing stockpiles of processed IBAA materials (presently exceeding the 6 metre permitted stocking height).
10. The new IBAA storage area partially abuts the eastern elevation of an existing storage bay dedicated to the receipt and storage of unprocessed 'raw' IBA on delivery into the site. The IBA storage bay now occupies a more central location within the southern sector of the operational site, with an overall footprint of 2,300sq.m. To the north-west of the storage bay is a trommel and beyond this, the existing IBA processing building located towards the northern boundary of the site. Any remaining area within the central part of the application site together with the western sector of the site is now dedicated to IBAA and aggregate material storage/screening and mixing, using mobile equipment (it is noted that the balance of these waste activities is highly dependent on customer requirements).

11. It is noted that under the altered site layout there is no longer a separate area for crushing and screening construction and demolition waste, with this having formerly occupied the western part of the waste processing site, nor are there now separate stocking areas for any resulting processed secondary aggregates and soils from this particular waste stream (although the stockpile height controls of up to 6 metres for manufactured aggregates would remain and continue to be controlled by existing extant planning conditions).
12. Abutting the eastern edge of the IBAA storage area is a strip of land, designated for overnight vehicle parking. Directly south of the IBA acceptance and storage bay and storage area lies a wheel-wash, a weighbridge, weighbridge office, main office and workshop which collectively occupy the south-eastern part of the site outside the operational area.
13. There is no fixed plant except in the waste transfer building which contains a feed hopper and conveyor belt system with mobile plant including a crusher, loading shovels, hydraulic grab, trommel and stockpile conveyors.
14. The site is substantially screened from view from the nearest receptors by the topography of the land, earth bunds, concrete fences, material stockpiles and mature, dense vegetation comprising tree belts, hedgerows and mature trees.
15. The nearest designated nature conservation sites are Bunny Works Grassland Local Wildlife Site (LWS) to the north of the site, and Bunny Old Wood LWS and Nature Reserve which lies approximately 400 metres to the south-east on the opposite (eastern) side of the A60 Loughborough Road.

### **Planning history and background**

16. The application relates to an established MRF which has operated under a number of planning permissions granted by the County Council as Waste Planning Authority over the years.
17. Planning permission (Plg. Ref. 8/94/00164/CMA) was originally granted in September 1994 to Safewaste (UK) Ltd, for a recycling centre on land adjacent to Bunny Brickworks, for the receipt and processing of a range of inert construction and demolition wastes. An annual operational throughput of 100,000 tonnes of inert waste material was established under this planning permission.
18. In December 1996, a further planning permission (Plg. Ref. 8/96/79/CMA) was granted for a change of use on buildings and land in the south-eastern part of the MRF site, to allow for the receipt and processing of non-hazardous commercial and industrial wastes.
19. Two further planning permissions (Plg. Ref. 8/00/976/CMA and 8/00/973/CMA) were granted in December 2001 and November 2002 respectively, for the storage of secondary recycled aggregates and storage of skips and wood associated with the recycling operations.

20. March 2013 saw retrospective planning permission (Plg. Ref. 8/12/01028/CMA) being granted for the erection of outdoor IBA storage bays, and a change of use on land to extend the commercial and industrial waste transfer/processing area to accommodate IBA storage.
21. Finally, two temporary retrospective planning permissions were granted in March 2014 (Plg. Ref. 8/13/01494/CMA) and June 2015 (Plg. Ref. 8/15/00050/CMA) to use land abutting the northern boundary of the MRF site for reclaimed aggregate storage, initially for twelve months and then for a further 6 month (time limiting the permission until 31<sup>st</sup> August 2015). The March 2014 permission also permitted a temporary relaxation of working hours to enable IBA to be processed until 8pm on weekdays, again time limited to 31<sup>st</sup> August 2015. A variation to conditions 7 and 9 of planning permissions 8/96/79/CMA and 8/94/00164/CMA respectively, allowed for these extended working hours.
22. Following on from the temporary permissions expiring, planning permissions 8/94/00164/CMA, 8/96/79/CMA and 8/12/01028/CMA were the three main planning permissions the MRF operated under until July 2017 when retrospective planning permission (Plg. Ref. 8/16/00059/CMA) was granted to allow a maximum of 12 heavy goods vehicles (pre-loaded) to leave the site from 6am. This is the extant planning permission and it is subject to a Section 106 lorry routing agreement.

#### Current operations

23. IBA recycling operations have now been carried out for approximately eight years at the Bunny MRF. HGVs (articulated tipper lorries) bring in raw material to the site where it is unloaded onto raw material stockpiles and left to mature. On receipt into the MRF, the raw IBA is unloaded into the open-air storage bay where it undergoes a cooling, crushing and weathering process. Outdoor operations involve the crushing of the raw IBA using a loading shovel to both feed the unprocessed IBA into a hopper and remove processed materials. Following the outside storage and partial processing of the raw IBA material, the matured IBA is fed into the 'in-feed' hopper by a front-end loader shovel and is then transferred to the waste transfer building where it is blended with other inert waste to make a secondary aggregate (IBAA aggregate).
24. The MRF also carries out aggregate and soils recycling operations. This involves construction and demolition waste including soils, stone and masonry products being brought to the site to be crushed, sorted and stored, prior to being dispatched to customers as secondary aggregates and graded soils.
25. The existing MRF site operates under a bespoke Environmental Permit issued by the Environment Agency for waste management purposes including the outdoor receipt and storage of IBA. The operator is required to control the on-site activities through an Environmental Management System (EMS) which takes account of the environmental risks posed by the activities on site, including those brought to the attention of the operator through complaints. The existing site layout is set out on Plan 2.

### Current context

26. The environmental and amenity issues raised by a number of local residents and the Parish Council during the consultation process have been subject to ongoing monitoring by the County Council's Monitoring and Enforcement Officer, and all issues are actively checked at regular site inspections by the WPA.
27. The current status of the operations and compliance with the extant planning conditions were reviewed on 23<sup>rd</sup> June 2020. A primary purpose of the site visit was also to examine the issues raised about the ongoing operations during the consultation process for the current planning application. The results of this are set out below:

### Dust

28. It is noted that dust is the main focus of a number of comments received. This issue has been raised in the past but following a review and discussions with the applicant, various changes were made and the issue has not been raised directly with the County Council over recent months.
29. The site has various dust management procedures in place to minimise the potential for fugitive dust to be generated, this includes the provision of a bowser, mist sprays, water cannons, sweeping hard surfaced areas, minimising vehicle speeds, minimising drop height, and controlling stockpile heights.
30. The site has a dust mitigation scheme in place as required under Condition 22 of extant planning permission 8/16/00059/CMA and whilst inspections of the site only give a 'snapshot' of the adequacy of dust control, dust control measures have been in operation whenever the site has been inspected. On this occasion, measures to control dust were in place and generally considered to be effective. No significant dust issues have been identified by the WPA, although on this occasion, which was a warm, dry day, a limited quantity of dust was seen being blown from the ends of conveyors on the mobile plant screening the IBA towards the front of the site and from the open working face of one of the IBA heaps in this area.
31. In order to address these issues, it has been advised that coverings are placed on the ends of the conveyors on the mobile plant to reduce the potential for dust from this part of the process. It is further advised that the working face of the IBA heap is kept to a minimum to retain the crust intact and minimise the potential for dust. The measures to control dust will continue to be kept under review by the County Council.
32. Dust was also seen being whipped off the surface of the land to the north of the site, some of which is now being used for unauthorised development associated with the site. The applicant has been advised to review activity on this area to ensure that this does not generate dust.

### Noise

33. Noise has also been raised by the consultee responses. At the time of the site visit, noise was noted to be minimal, however, some of the primary plant and processing equipment was not operating at the time. Extant planning permission 8/16/00059/CMA, Condition 17 limits site noise to 56 dB(A) LA eq 1 hour at Hillside Farm at any time and provides for the WPA to request a noise survey in the event that a justified complaint is received and there is the option to require further mitigation measures to be introduced if considered necessary. The applicant has been instructed to keep this aspect under review. In the event that the County Council receives more detail regarding noise issues, it will investigate this further and take matters up with the applicant. There is scope under the extant planning conditions to require a further noise survey including further mitigation measures to ensure compliance with the noise criteria. Any additional mitigation measures would be required to be maintained throughout the operational life of the site.

### Odour

34. Odour has been raised as an issue in the received consultee responses, which has been identified as the cement type of smell which comes off the IBA. Odour was not noted as an issue at the time of the site visit but was noticeable when stood immediately adjacent to open IBA stockpiles. Whilst odours are limited, there is always potential for odour to migrate from the site in specific climatic conditions and as such, the applicant has been advised to keep exposed working faces of IBA to a minimum (which will also contribute to dust control). Controls relating to odour would be contained within the Permit for the site, issued by the EA and these control measures should be followed by the applicant.

### Stockpile heights

35. Both the height of current stockpiles and the location of these stockpiles has been raised with the applicant by the County Council and has subsequently led to this application. The extant planning permission currently limits stockpile heights in three ways. Firstly, IBA in the IBA reception bay should be no higher than the retaining walls which are to a maximum height of 4.5 metres; raw material stockpiles and recycled material stockpiles should be no more than 7 metres and 6 metres high respectively.
36. At the time of the inspection, the IBA in the reception bay was below the height of the walls. The stockpile of IBAA at the front of the site had been reduced in height since the previous visit in March and it has been confirmed by the operator that stockpiles would be kept at a height where it is not easily visible from the A60. The stockpiles of material in the currently approved aggregate storage area were well in excess of 6m (or 7m for unprocessed material which given that the majority of material was IBA based, it is assumed it is processed). It is appreciated that the ground levels rise and that as such those materials

stocked to the south are on higher levels but those recently noted have been well in excess of this.

37. It is appreciated that the supply chain is currently disrupted due to the impact the coronavirus has had on business and that the site is storing more IBAA than would normally be the case. As restrictions are now being slowly lifted, it is expected that the mounds would gradually be reduced in height. The County Council will revisit this matter at subsequent visits and keep the situation under review, bearing in mind the circumstances at the time. In the meantime, the applicant has been instructed by the County Council that where possible, the heights of stocks should be reduced as soon as the situation allows.
38. Finally, the operations associated with the recycling have again extended onto the land to the north. This has been raised in the past and the use was ended. It was again pointed out that much of the material stored on the land (bagged, processed IBA product) is only stored there as the customer is currently on lockdown. It is appreciated the difficulties that the current situation gives rise to, but notwithstanding this, this use is unauthorised. Moving forward, the applicant stated that this material would be removed once the customer is back in business and that this ought to be within 3 or 4 months. On this basis, the County Council's Monitoring and Enforcement Officer confirmed that no further action would be taken if the bagged material was removed from this land in its entirety by 30 September 2020. The most recent follow-up site visit (14<sup>th</sup> October 2020) confirmed that the land to the north of the approved site is still in use for the storage of bagged, processed IBA product and that the unauthorised use is still extensive. A Planning Contravention Notice has now been served by the County Council on the operator regarding this breach in planning control.
39. The above issues are subject to ongoing monitoring by the County Council's Monitoring and Enforcement Officer and are actively checked at regular site inspections.

### **Proposed Development**

40. Retrospective planning permission is sought to regularise alterations that have been made to the operation of the waste processing facility at Bunny involving extending the storage facilities for manufactured IBAA and/or recycled aggregates. The extended storage area is located entirely within the established site boundary and approved operational area of the MRF and the proposed site layout is shown on Plan 3.
41. The planning application is a Section 73 variation application which seeks to vary a number of planning conditions on the current extant planning permission 8/16/00059/CMA to regularise the amendments to the site layout. The modifications are set out below.
42. Condition 1 of extant planning permission 8/16/00059/CMA defines the development permitted under the terms of the consent as being for the retention of existing incinerator bottom ash, aggregate and soil recycling operations and

changes to daily operating hours to allow up to 12 outbound heavy goods vehicles (pre-loaded, sheeted and pre-wheel washed) to leave the site daily between 6am and 7:30am Mondays to Saturdays. For purposes of clarity the designated parking area is shown on Plan titled 'IBA Processing and Early Start HGV Parking Areas' received by the Waste Planning Authority in March 2016.

43. Under these proposals, Condition 1 seeks to amend the definition of the development to reflect the increased IBAA and recycled aggregate storage areas; the more flexible use of the western and central part of the operational area for both IBAA and aggregate materials storage, screening and mixing, and the minor modification to the designated lorry parking area.
44. Condition 3 of planning permission 8/16/00059/CMA is a standard extant condition which sets out a schedule of the approved documents and plans under which the permitted development has been carried out. This planning permission seeks retrospective permission for a revised site layout plan incorporating the following alterations:
45. The positioning of a relatively extensive storage area on the eastern sector of the operational site designated for the stockpiling of manufactured, processed IBAA (recycled). It is understood that there would be a limited amount of secondary processing of the IBA aggregates, using a mobile screening plant, which would effectively allow further processing of this material in order to recover any residual valuable metals, both ferrous and non-ferrous, from the aggregate material. This final phase of secondary processing improves the quality of the finished recycled aggregates. The County Council's understanding is that no processing would take place on the additional storage area and this is confirmed on the revised site layout plan.
46. The amended site layout plan also confirms the storage of IBAA in the western and central parts of the site, in an area currently authorised for the storage, screening and mixing of aggregate material and soils from construction and demolition waste. This allows the main operational 'pad' to be used more flexibly, for both IBAA and aggregate material storage/screening and mixing (using mobile plant) rather than having segregated and separate operational areas for each of the two waste streams, as has historically been the case.
47. A minor revision to the parking arrangements, involving an extension to the designated parking bay (for pre-loaded, early morning start HGVs), resulting in its footprint being extended northwards by approximately 25 metres.
48. Condition 8 of extant planning permission 8/16/00059/CMA places controls over the receipt of raw incinerator bottom ash into the site and its external storage and initial processing. Under Condition 8, these activities are confined to an authorised storage bay with a closed water system in the south-eastern part of the MRF site shown on Drawing No. MS231-2B received by the WPA in November 2012. The only modification to this extant condition would be to update the site layout plan with the revised drawing.



49. Condition 20 of extant planning permission 8/16/00059/CMA defines the HGV parking area and places controls over the vehicles themselves stating that the lorries are to be pre-loaded, sheeted and pre-wheel-washed the previous day, parked overnight in accordance with the authorised site layout plan in a forward gear ready for a 6am start the next day. The lorries would be ready to leave the site the next morning with minimal noise and disturbance to the nearest sensitive receptors. The only modification to this extant condition would be to update the site layout plan with the revised drawing showing the minor variation to the designated parking area.
50. Plans are attached for the purposes of this report showing the approved operational plan and the proposed plan for which planning consent is currently being sought (see Plans 2 and 3). The revised drawing seeks an increased area within the operational boundary for IBAA storage. The proposals also provide scope to use the extended area, which has increased incrementally over time, for either IBAA storage or inert aggregates and soils from construction and demolition waste, depending on levels of throughput of each waste stream, thereby providing a level of flexibility to allow the operator to alternate between the two waste streams depending on customer demand.
51. It is stated that the additional IBAA storage land is permitted by the EA and is surfaced and drained such that surface water is capable of being managed appropriately. The existing dust management arrangements would be carried over to the extension area although further details have been sought regarding dust controls and mitigation. It is stated that operations continue to be screened by existing bunds, vegetation and natural topography.
52. The applicant has stated that the part of the proposed area to be used for additional IBAA storage was previously underused land set aside for lorry parking. Under these proposals, sufficient land would continue to be available for the parking up of early morning outbound HGVs.
53. The supporting statement has confirmed that there are no proposals to increase the amount of IBA waste processed at the site over and above the current limit established under previous extant planning consents and environmental permit conditions covering the waste operations. Nor would there be any increase in HGV movements associated with the site.
54. No other changes are being proposed and the waste operations would continue to be controlled by the re-imposition of extant planning conditions to any new planning consent.
55. In terms of the authorised site, the layout does not accord with the various approved plans, but the current planning application seeks to regularise this. The layout of the site has evolved over the years and if granted the current application will approve a single layout plan that will be clearer for all concerned. Through the application, the applicant is seeking a site layout which allows some fluidity in terms of where material can be stored and processed to allow the business to adjust operations to meet demand, whether this be focussed on IBA or inert construction and demolition waste. From a site monitoring

perspective, the County Council's Monitoring and Enforcement Officer has confirmed that there are no significant issues regarding this approach subject to suitable environmental controls being in place to ensure dust and noise emissions are controlled and that stockpile heights across the site are restricted to minimise visual impact.

## **Consultations**

56. **Rushcliffe Borough Council (RBC)** *No objection subject to the application not being approved by the County Council until receipt of satisfactory additional information in relation to vehicle movements and dust management is received. The site shall thereafter only be operated in accordance with any vehicle movement and dust management plans which have been subsequently approved by the County Council, in the interests of local residents and in accordance with Policy 1 of the Rushcliffe Local Plan Part 2: Land Use and Planning Policies.*
57. *As part of this consultation response, comment was sought by RBC from their Environmental Health Officer (EHO) who stated that provided the applicant complies with the conditions within the Environmental Permit, as issued by the EA, then there are no objections to this application nor are there any further conditions to recommend.*
58. **Bunny Parish Council** *Objection on the following grounds:*
59. *Existing concerns have not been addressed, and still awaiting a report concerning dust and noise due before this planning application was made.*
60. *Planning creep with attention being drawn to the fact that previous applications have been temporary for twelve months, but work continues at the site to levels of the 'temporary' application that seem to have expired years ago.*
61. *An increase in levels of IBAA will result in increased traffic through the village. An extra 15 lorries would imply 30 extra movements per day. There are concerns over the safety of villagers and alleged speed infringements of the lorries.*
62. *There are environmental issues and concerns that the dampening down of the waste could lead to run-off down Bunny Hill into the populated parts of the village.*
63. *Attention is drawn to the fact that residents are complaining of noise and dust.*
64. **The Environment Agency (EA)** *No objection.*
65. *The applicant's attention is drawn to the fact that the permit for the site may need to be varied. An informative to this effect would be attached to any decision notice.*
66. **NCC (Nature Conservation)** *No objection.*

67. *The application would not give rise to any significant ecological impacts, given that the works would take place within the approved operational area, and that there would be no increase in the amount of IBA processed at the site.*
68. **NCC (Highways)** *No objection.*
69. *It is noted that there are no plans to increase the amount of IBA waste processed at the site over and above the limit previously set by planning and environmental permit conditions nor increase the number of HGV movements associated with the site. Furthermore, the additional IBAA and IBA storage is proposed on an area of land previously underused and set aside for the parking of HGVs that are pre-loaded on an afternoon and leave the site the following morning. Notwithstanding this, a reduced area of HGV parking is retained under these proposals. There are therefore no Highway Authority objections to the proposal.*
70. **Cadent Gas Limited, Severn Trent Water Limited, Via Safer Highways and Western Power Distribution** have made no response. Any comments received will be reported orally to Committee.

## **Publicity**

71. The application has been publicised as a departure application by means of site notices, and a press notice. Twenty-two neighbour notification letters have been sent to the nearest occupiers on Gotham Lane, Bunny Hill, Bunny Hill Top, Moor Lane, Moor View and Loughborough Road, Bunny; including Hillside Farm Care Home, Greenwood Lodge Care Home, and Woodside Farm; and also to Fleming Gardens, Clifton and Burton Walk, East Leake, in accordance with the County Council's adopted Statement of Community Involvement.
72. Three letters of representation objecting to the proposed development have been received by the County Council from three separate households, on Gotham Lane, Loughborough Road and Moor View, Bunny.
73. The grounds of objection can be summarised as follows:

### Odour impacts

- a) cumulative odour impacts as residents are already subjected to bad smells;

### Traffic impacts and access

- b) Increasing numbers of vehicles have been passing through the village since the company started storing the product (mistakenly identified as de-sulphurised gypsum DSG);

### Cumulative impacts

- c) additional incinerator bottom ash storage facilities should be refused because at this present time with the facilities Johnson Aggregates already have, local residents are subjected to bad smells and a very high volume of dust, which covers cars and windows, and gets inside the house, so to add extra storage would be detrimental to the surrounding area;

#### Health issues

- d) concerns over public health, as no figures for emissions and public health risks are provided; when was the last time that emissions from this site were independently surveyed;
- e) the increased capacity would seem to raise a public health risk due to increased ash falling on a residential area;
- f) we dread to think what local residents are breathing in;
- g) is this dust going to cause a health hazard to local residents in years to come;

#### Air and dust pollution

- h) the continuous accumulation of dust/fine particles omitted from the site, has been endured throughout the ten years of residing in the area and has been the 'bain of our lives' with all surfaces within the property having to be physically wiped on a daily basis with a damp cloth to remove the dirty residue which can only be attributed to the recycling centre. Vehicles also have to be cleaned more regularly than would be expected and then the dust is back within the hour;
- i) particularly in the warmer weather there is a reluctance to have doors and windows open because of the dust;
- j) Dust can be seen coming from the increasing numbers of vehicles passing through the village, even though they are covered over;
- k) Surely it is in the best interests of everyone to carry out tests to check the existing emissions before considering any more from the planning application, to reassure villagers that there is no detriment to health and well-being;

#### Other considerations

- l) The retrospective nature of the planning application is concerning as it seems that changes have taken place without proper consultation with the local community during a time of pandemic;

- m) Have previously tried to discuss dust with one of Johnson Aggregate's directors only to be informed that he was not aware of any issues at the plant, but would look into it;
  - n) Vehicles are not obeying the 30mph speed limit through the village.
74. Councillor Reg Adair and Councillor Andrew Brown have been notified of the application.
75. The issues raised are considered in the Observations Section of this report.

## **Observations**

76. The planning application seeks retrospective planning permission to regularise alterations that have been made to the approved site layout and its working arrangements. These have evolved incrementally over time but have been heightened under the current economic conditions. A number of objections have been raised by Bunny Parish Council and local residents relating to the potential for environmental impact from the proposed changes and alleged breaches of existing environmental controls.
77. The applicant's supporting statement sets out that the proposal seeks to extend the area of the site used to store IBA (Incinerator Bottom Ash) and IBAA (recycled aggregates). The applicant states that over the last year there has been an upturn in the amount of waste being disposed of and demand for these types of recycling facilities is high. As a result of the Covid-19 pandemic, the volume of IBAA material requiring to be stored on site has also been increased as there is less demand for manufactured IBAA due to the recent and on-going slow-down in economic activity. It is stated that there is a need for increased flexibility in the use of the storage space within the site, and the better use of the available space to reflect the changing waste streams which the MRF might be dealing with at any given time. The supporting statement stresses that there is no proposal to increase the amount of material being processed or the number of HGV movements associated with the site.
78. The principle of using the site for non-hazardous waste recycling operations (construction and demolition waste, and more recently Incinerator Bottom Ash) has been established under a number of previous extant planning consents, with the suitability of the site having been assessed against relevant policy criteria at the time, with this including the physical and environmental constraints on the development; existing neighbouring land uses; and any significant adverse impacts on the quality of the local environment. Therefore, in terms of assessing the planning merits of the modification being sought, it is not considered proportionate to review this principle aspect again.
79. The key issue however with the determination of this planning application is whether the proposed changes to the operational/working practices for which planning permission is being sought, would have acceptable environmental effects.

80. Reference is now made to those material considerations relevant to the determination of this planning application.

Compliance with waste planning policy

81. Section 38(6) of the Planning and Compulsory Purchase Act 2004 directs that planning decisions are to be made in accordance with the Development Plan unless material considerations indicate otherwise.
82. For the purposes of this application, the Development Plan consists of the Nottinghamshire and Nottingham Waste Core Strategy 2013 (WCS); the saved environmental protection policies of the Nottingham and Nottinghamshire Waste Local Plan 2002 (WLP) and the Rushcliffe Local Plan Part 1: Core Strategy (2014) (LPP1) and the Local Plan Part 2: Land and Planning Policies (October 2019) (LPP2).
83. The relevant national policy considerations material for this proposal are those contained within the National Planning Policy Framework (NPPF) (February 2019) and the National Planning Policy for Waste (NPPW) (October 2014). The proposal should be considered within the context of a presumption in favour of sustainable development as a core principle of these core policy documents. Also relevant is the overarching policy direction set out in the NPPW with a presumption in favour of sustainable development, resource efficiency, and supporting activities which drive waste up the waste hierarchy.
84. The waste hierarchy set out in Appendix A of the NPPW and Figure 2.1 of the WCS identifies that recycling and preparing for reuse of waste material is preferential to disposal, with this being reflected in WCS Policy WCS3 which prioritises the development of new or extended recycling facilities. Aspirational in terms of its objectives, WCS Policy WCS3 seeks to achieve levels of 70% recycling (and/or composting) of all waste streams by 2025, hence the need to prioritise new or extended waste recycling over both energy recovery proposals and finally, disposal. There is a requirement to expand both waste management capacity and levels of recycling and reduce disposal requirements. The Bunny MRF as an inert waste recycling facility is positioned higher up the waste hierarchy. The changes in the site layout, including the provision of extra storage capacity on the site would enhance the facility's capacity to beneficially manage inert IBA waste. As such, the development would accord with WCS Policy WCS3 and the NPPW, delivering on the key objectives of maximising the recycling rates of an inert waste stream and assisting in the process of driving waste up the waste hierarchy. This would facilitate the local recycling of more waste material subject to there being no unacceptable environmental impacts.
85. Also of relevance is WCS Policy WCS8 which seeks to promote the extension or improvement of existing waste management facilities where there would be an increase in capacity or an improvement in existing waste management methods.

86. Whilst the proposal does not technically involve an extension to the site in terms of increasing its overall size or throughput of waste material, the proposed increase in storage area for IBA aggregates on what is understood to be an underused part of the site, would allow for significant improvements in terms of the internal operation of the site. The additional storage capacity would build in more flexibility across the site and allow for the beneficial secondary processing of the material in order to enhance the recovery of valuable metals from the IBAA material. The enhanced processing improves the overall quality of the finished recycled aggregates. The proposed additional storage capacity would also enable the operator to assist other incineration facilities currently dealing with increased household waste disposal, but with limited on-site storage capacity for IBAA material, allowing the Bunny MRF to receive this aggregate. As such, it is considered that the proposal would accord with WCS Policy WCS8 in terms of facilitating the handling of additional IBAA material and improving existing waste management methods on the site, thereby meeting the policy objectives.
87. The proposal seeks to support and enhance a sustainable system of waste management already in place on the MRF site, contributing towards working practices which promote an increase in the levels of IBAA materials being effectively recycled, treated and/or recovered to produce a quality finished recycled aggregate.
88. It is therefore concluded that the local development plan is supportive of the principle of this proposal subject to the development meeting the requirements of WCS Policy WCS13 (Protecting and enhancing our environment) and the saved environmental protection policies in the WLP which require the modifications to the site layout to demonstrate acceptable environmental impacts.

#### Unauthorised operational development

89. This planning application has been submitted as a direct result of discrepancies identified through the site monitoring visit undertaken by the County Council's Monitoring and Enforcement Officers in March of this year. The operator had not notified the County Council of the substantive changes that had been made to the approved site layout, particularly with regards to the outside storage area on the eastern side of the MRF site. The County Council only became aware of the full extent of these changes following its routine monitoring of the site.
90. Once the inconsistencies had been identified between the approved site layout plan and the current operations on the ground, the County Council requested that a planning application be submitted to regularise the unauthorised layout of the site.
91. The decision taken by the County Council's Monitoring and Enforcement Officers is entirely consistent with the direction of national policy. The Planning Practice Guidance (PPG) and paragraph 58 of the NPPF state that enforcement action should be both discretionary and proportionate when responding to

suspected breaches of planning control. In deciding the most appropriate way forward, it is advised that formal enforcement action should be avoided where development is acceptable on its planning merits and where formal enforcement action would solely be being used to regularise the development. PPG paragraph 012 advises that a local planning authority can seek a retrospective application where it is considered that an application is the appropriate way forward to regularise identified unauthorised works. The County Council's adopted Local Enforcement Plan (May 2015) reflects this approach; identifying that retrospective planning applications are an appropriate method in terms of dealing with breaches of planning control in order to regularise any identified unauthorised works.

92. Submission by the applicant of a retrospective planning application seeking to regularise unauthorised development does not guarantee that planning permission will be forthcoming. Such an application must follow the same procedures as any regular planning application and be considered in terms of its own planning merits.

#### Assessment of environmental effects resulting from the amendments

93. The policy support for the development provided by WCS Policies WCS3 and WCS8 is conditional upon the operation of the site resulting in no unacceptable environmental and amenity impacts. These impacts are considered below.
94. Of relevance is WCS Policy WCS13 which supports extended waste treatment facilities where it can be demonstrated that there would be no unacceptable impact on any element of environmental quality or the quality of life of those living or working nearby and where this would not result in unacceptable environmental impacts.

#### Traffic, Access and Parking

95. WLP Policy W3.14 states that planning permission will not be granted for activities associated with a waste management facility where the vehicular movements likely to be generated cannot be satisfactorily accommodated by the local highway network or would cause unacceptable disturbance to local communities. WLP Policy W3.15 encourages the imposition of planning conditions to regulate the routing of lorries associated with the operation of waste transfer facilities. NPPF paragraph 109 states that development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
96. Bunny Parish Council and local residents have raised objections that the development would increase traffic through Bunny Village, with the Parish Council putting a figure of 15 extra lorries forward. Concerns over safety have also been raised.



97. The County Council does not recognise the figure of an extra 15 lorries, and currently has no evidence to support an alleged increase in lorry movements. The applicant has recently provided two-way lorry movements for the months of August, September and October 2020 and these have all been compliant with the controls set out in extant planning condition 34. The extra IBAA being imported into the site from other incinerator operators remains within the permitted threshold of 100,000 tonnes per annum, and the applicant is committed to working to this.
98. This planning application does not alter the level of traffic associated with the operation of the site from the levels previously agreed in 2013. At that time, the County Council's Highways Authority was able to support proposals to use land adjacent to the authorised site for temporary storage of reclaimed aggregates (Plg. Ref. 8/13/01494/CMA) on an understanding that total lorry movements were limited to 100 two-way movements per day over a five day working week. It was considered reasonable to control lorry movements in line with the actual recorded figures, which reflected the levels at which the MRF had historically worked. Extant planning condition 34 was attached placing controls over the number of HGVs entering or leaving the site for the purposes of depositing or collecting waste material and/or reclaimed aggregates to an average of 100 such movements per day, subject to a maximum of 550 such vehicle movements in any week.
99. It was considered that this would be a reasonable compromise given that it did not exceed the then current peak but did allow for some growth when compared to the average over the previous year. Based on the figures supplied by the applicant of HGV records over the year preceding the 2013 planning application, there was an average figure of around 69 movements per day with a current daily peak of 98 movements recorded in September 2013.
100. It is considered that provided these levels of traffic movements are adhered to, there are no highways implications, and the proposals being dealt with under this retrospective application do not include any increase in lorry movements.
101. Subject to the re-imposition of extant planning condition 34, the development accords with WLP Saved Policy W3.14, given that there would be no extra lorry movements, above and beyond those already permitted.
102. The legal agreement placing restrictions on early morning lorry routing along Gotham Lane would remain in place, prohibiting HGVs from travelling along Gotham Lane before 7:30am; and under these proposals, the designated lorry parking for early morning dispatch of HGVs before 7:30am would continue to operate, with the exception of a minor adjustment to its location (see Plan 2 and Plan 3).
103. Overall, the material impact of the proposal in terms of traffic impacts is neutral. The development therefore complies with WLP Policies W3.14 and W3.15, the NPPF paragraph 109 and the objectives of Policy WCS13 of the WCS.

## Noise

104. WLP Policy W3.9 seeks to ensure that when planning permission is granted for waste management facilities conditions should be imposed to reduce potential noise impacts. Such conditions may include the enclosure of noise generating uses; stand-off distances between operations and noise sensitive locations; restrictions over operating hours; using alternatives to reversing beepers and setting maximum noise levels.
105. A representation has been received from Bunny Parish Council highlighting the fact that complaints have been received from residents regarding noise and that existing concerns are still outstanding including waiting on a report regarding noise and dust due before the current planning application was submitted. As detailed earlier in this report, the County Council's Monitoring and Enforcement Officer has not been able to verify or uphold complaints regarding noise. On recent visits to the site, noise was noted to be minimal, although it is noted that parts of the primary plant and processing equipment was not operational at the time, which is a general reflection of site operations. Also, despite enquiries being made, the case officer for this application has not been able to make any headway in tracking down the outstanding report and none of the parties involved are able to shed any further light on this matter.
106. The previous original planning applications covering all site operations including IBA processing; extended IBAA storage when carried out to the north of the MRF's authorised site for two temporary periods of time; and a relaxation of early operating hours to allow 12 HGVs to leave the site early have all been informed by a noise assessment including background noise modelling, which took into account a worst-case scenario in the case of the nearest sensitive receptors to the recycling facility, at Greenwood Lodge Care Home, Hillside Farm Care Home and Woodside Farm. Calculations were carried out to determine the highest likely noise contribution from the waste processing and associated activities at the nearest façade or elevation to the identified sensitive properties. This consistently demonstrated that subject to the extant planning conditions at no times would operations exceed the County Council's criterion of 10dB above background levels for this type of facility, in line with BS4142 assessment. The noise readings were well within acceptable limits and the likelihood of complaints has consistently been considered to be of no higher than of 'marginal significance' (and probably significantly lower).
107. With regards to this proposal which seeks to regularise incremental changes to the site layout, including an extended storage area on the eastern part of the operational site, the County Council's Monitoring and Enforcement Officer is satisfied that there are no fundamental changes to site operations, since stockpiling of recycled aggregates, particularly in more recent times IBA aggregates, is an established part of the waste management activities. There is no increased throughput of IBA material, with this remaining within its established limit of 100,000 tonnes per annum, nor is there any evidence to support the alleged increase in lorry movements. No plant would be operating on the wider site, and waste activities on the eastern part of the site would only involve IBAA storage with no additional significant noise implications.

108. Historically there has always been flexible storage in this area, including storage skips. The extended area is in the existing operational site, which is covered by both waste planning controls and an environmental permit, with a range of pollution control measures including controls over noise. Therefore, it is considered that there are no additional substantive noise implications, and there has been no requirement placed on the operator to provide further assessments for noise in support of what is a retrospective planning application. The Pollution Control authorities (RBC's EHO and the EA) have not raised any concerns to this effect or made any representations to this approach.
109. The noise levels generated by the activities associated with the outdoor storage of aggregates on the extended storage area would be similar to those generated by existing operational activities. This Authority is satisfied that the development would not give rise to any unacceptable change to levels of operational noise, to the nearest sensitive residential receptors.
110. The extension to the HGV parking area would not result in any additional noise impact. Having reviewed the revised parking arrangement, the County Council's Noise Consultant has confirmed that the amendment to the extent of the parking area is less than significant. As such, it would not make any material difference to noise levels, especially as the extended parking area is situated adjacent to the traffic route out of the site, and HGVs leaving the existing parking area would all travel past the area as they leave the site. No additional HGVs would be allowed to leave the site between 6am and 7:30am Mondays to Saturdays, above and beyond the currently permitted 12 lorries. This control continues to be secured under extant planning conditions 1 and 10, which would be re-imposed for the purposes of any new planning consent, if the current application is approved.
111. The increased activities would be covered by extant planning conditions and Condition 3.4.1 of the waste permit, and it is considered that these controls are sufficient to ensure that noise, and vibration in the case of the permit, are acceptably controlled at appropriate levels. Indeed, this suite of provisions set out under these particular conditions seek to ensure that activities are free from noise and vibration at levels likely to cause residual impact to the surrounding area and nearest residential properties. Should any pollution nuisance arise, both authorities have the capability through these conditions to require the applicant to implement an approved noise management plan, and in the case of the EA, a vibration management plan, to redress the situation.
112. Subject to the re-imposition of extant planning conditions, it is concluded that noise from the operation of the site would be satisfactorily controlled to ensure it is not intrusive at the nearest sensitive receptors, in accordance with the objectives of WLP Saved Policy W3.9 and in compliance with WCS Policy WCS13.

## Air Quality/Dust

113. Waste operations have the potential to cause a dust nuisance to any sensitive receptors to the site. Saved WLP Policy W3.10 identifies that dust emissions from waste processing facilities are capable of being managed and reduced by implementing appropriate dust mitigation practices. Measures include the siting of facilities remote from sensitive receptors, the enclosure of dust generating operations within buildings and enclosed areas, and the use of water to dampen down stockpiles, and processing plant.
114. Concerns relating to dust emissions and the deterioration in air quality in relation to dust pollution is a major issue of concern raised in representations received from the Parish Council and a number of local residents. As detailed earlier in the report, the County Council's Monitoring and Enforcement Officer has not been able to corroborate this during routine monitoring of the site. On the contrary, dust control measures have been seen to be in operation whenever the site has been inspected, which have proven to be generally effective, and no significant dust issues have been identified by the County Council. Notwithstanding this, it is recognised that any change in waste operations has the potential to cause a residual dust nuisance to any identified sensitive receptors to the site. It is also recognised that local microclimatic conditions can give rise to localised, albeit usually limited dust emissions, as witnessed during the site inspection when limited amounts of dust were visible at the open working face of the IBA heaps, and also being blown from the mobile screening plant, under what were identified as being warm, dry working conditions.
115. The proposed changes in working practices, which have involved increasing rates of secondary processing of IBA aggregates with extended storage of stockpiled IBA aggregates on the eastern part of the operational site, has the potential to be a source of dust, particularly under dry and windy conditions, and local concerns have been raised over the potential for fugitive dust leaving the site from increased operations. This is set against a background of alleged problems with dust from existing IBA recycling operations, to various residential properties within the vicinity.
116. The changes to the site operations have intensified the use of the western part of the operational site as previously this part of the site was used for the processing of construction and demolition waste only, and as the site has concentrated on IBA recycling operations over the past 8 years, this part of the site was previously underutilised. Under these proposals, the central and western part of the site would be used flexibly and more intensively for the storage, screening, and mixing of IBA aggregates. Non-IBA aggregates, from the crushing and screening of construction and demolition waste materials, could potentially come into the mix of waste streams again, depending on customer requirements. There would be no changes to the arrangements for receipt and storage of raw IBA material which would continue to be stored in the concrete storage bay. The lorry parking area would be extended further some 25 metres northwards, but would not involve any increase in HGV numbers leaving the site between 6am and 7.30am, which would remain fixed at a maximum of twelve vehicles.

117. The approved Dust Management Plan (DMP) has been reviewed (September 2020) by the operator in light of these operational changes. It is identified that without a range of control measures the site has the potential for dust and particulates to be generated. It is considered that the predominant source of dust is from the tracking of vehicles over haul and internal roads. The potential for dust to be generated from the storage of the IBA is minimal whilst the material is stored but the potential for dust generation exists when the material is disturbed, including agitating the aggregates during operations and aggregate infeed operations. A combination of measures has been identified as being effective, including using grey water dust suppression, full sheeting of all loaded vehicles arriving and leaving the site (all vehicles would go through a wheel-wash); and dust extraction systems incorporating filter bags which would be deployed to minimise emissions from potential sources prior to deposition. If dust is experienced at any time during the loading process, the operation would be suspended whilst the feed-pile is dampened down. Loading would then be closely monitored to ensure adequate dampening has been applied. If not, then the process would be repeated.
118. The stockpiled IBA and IBA Aggregates may create dust when the material is being loaded and transferred within the site during processing. The potential for air emissions from IBA and IBA aggregate storage and processing is mitigated using water-based control methods, and no other dedicated abatement systems are considered necessary. In summary, it is stated that the IBA material is unlikely to generate dust other than during the loading procedure prior to transfer and during the transfer process, the water-based dust suppression systems are in place, including dust dampening which takes place at the dust source and not at the site boundary. The water system uses harvested rainwater and mains water.
119. During drier weather a bowser fitted with a spray nozzle system would be in operation to dampen the incoming IBA, the existing yard, the stockpiles, the haul roads and hard-standing surfaces as and when required. The processing building infrastructure is designed to prevent dust and particulate emissions, and water-based dust suppression systems are in place including dust dampening down which takes place at source. A speed limit of 10 kilometres per hour is enforced where vehicles are operating around the site. All sealed road surfaces outside the site are swept as and when required. The storage area is managed so that potentially dusty materials would not be handled on days where wind may cause issues, with wind direction, strength and gusts all being considered before disturbing IBA or IBA aggregates.
120. Minimisation of waste storage heights and volumes of material on site are considered critical. It is stated that the aim is to minimise the height at which waste is handled to reduce the distance over which debris, dust and particulates could be blown and dispersed by winds, also reducing storage volumes which should reduce the surface area over which particulates can be mobilised. Storage volumes are monitored and recorded, with pile size being limited to an absolute maximum of 10,000 tonnes. Drop heights are also minimised. Reducing the amount of activity on site, including no tipping or screening of higher risk loads during windy weather as well as associated traffic movements

should result in reduced emissions and re-suspension of dust and particulates from site. Operations would be suspended when extreme weather conditions dictate. Mobilisation of potential dust and particulates is likely to be greater during periods of strong winds and hence ceasing operation at these times may reduce the potential for any 'peak' pollution events.

121. The revised DMP seeks to demonstrate that an appropriate dust attenuation scheme is capable of being implemented throughout all the working areas on site, including on the extended storage area. Rushcliffe Borough Council's EHO has been reconsulted on the revised DMP and has confirmed that this document covers all the proposed operations on the site and that the dust management is considered to be both acceptable and achievable.
122. The operation of the facility is regulated by the EA through an environmental permit, and taking into account national waste policy advice contained in the NPPF, the WPA must assume that the pollution control regime would continue to operate effectively including placing controls over activities, to ensure the release of dust is kept to the lowest practicable level, to meet standards that guard against impacts to the environment and human health, and minimise the potential for dust pollution, and nuisance to the nearest sensitive receptors.
123. Investigations by the County Council's Monitoring and Enforcement Officer into the complaints received around dust in relation to both this planning application and historically has indicated that there are suitable controls in place, provided that the dust mitigation measures are both adequately used and correctly implemented; and also kept under review, and added to where necessary. As part of these measures, it is important that stockpile heights are controlled and are brought back to the maximum limits as soon as is practicable, these being seven metres in height above ground level for unprocessed material, and six metres for recycled materials. On balance, and subject to the re-imposition of extant planning conditions 21, 22 and 27, it is considered that the extended operations are capable of being adequately controlled to prevent residual dust effects off site, in compliance with the objectives of WLP Saved Policy W3.10. As such, it is considered that the proposal would not cause any cumulative impact to the nearest sensitive receptors to the site. Finally, given that the MRF is operated under an environmental permit, the WPA can be satisfied that, in this instance, its operation would be appropriately regulated to ensure that it meets air quality, dust pollution and health controls.

#### Odour

124. WLP Saved Policy W3.7 seeks to minimise odour emissions from waste management facilities by imposing controls over operations, including sheeting of lorries, restrictions on temporary storage of waste, enclosure of waste reception and storage areas, and the use of contingency measures such as odour masking agents, or removal of malodorous material.
125. The site has the benefit of extant planning permission as a waste management facility, and the proposed modifications to the operation of the site being sought

by this retrospective planning application would not alter the operational characteristics of the MRF in terms of the inert waste streams currently being managed by the facility or the existing odour management controls, which are regulated and enforced by the EA through the waste permit.

126. Odour has been raised as an issue in the neighbour representations, with concerns that the proposal would add cumulatively to the odour impacts already being experienced by local residents. There is clearly a concern that increased storage of IBA aggregate material at this location would further increase the risk of residual odours emanating from the site towards sensitive receptors.
127. Any increase in waste management activities associated with this proposal must ensure that any potential odour continues to be controlled at acceptable levels. Essentially this means that waste operations involving the stockpiling of IBA aggregates on the eastern part of the MRF site and any limited processing associated with this activity, must be kept free from odour at levels which are likely to cause residual odour pollution outside the site. Relevant controls are in place through the EA's permitting regime and, in the event that odour incidents are identified, the Agency can require the operator to implement an approved odour management plan with any identified measures considered necessary to mitigate any effects off site. Any such measures would seek to prevent, or where that is not practicable, to minimise odour. It is therefore considered that there are adequate measures in place to ensure that any increase in aggregate storage and limited secondary processing to extract residual metals, is capable of being suitably controlled, in accordance with WLP Saved Policy W3.7.
128. The odour has been identified as a cement type of smell which comes off the IBA, and has been detected on occasion during the County Council's monitoring of the site. It is acknowledged that when stood adjacent to the IBA stockpiles there is a detectable odour, although this is not strong. In the past, when odour has been detected outside the site, it has been intermittent and directly attributable to the volume of unprocessed IBA on the site, and the excessive stockpile heights. Extant planning conditions controlling stockpile heights would be re-imposed on any new permission. Also, in terms of the amended site layout plan, the County Council would continue to impose controls on the unprocessed IBA waste as it comes into the site, as it is potentially malodourous at this stage. Whilst extant planning condition 8 (Plg. Ref. 8/16/00059/CMA) seeks to be varied to reflect the amended site layout plan, the County Council will seek to ensure that any updated planning condition controls the receipt and storage of the primary raw material, with its continued outdoor placement in the existing concrete storage bays only.
129. Whilst odours are limited, it is acknowledged that there is potential for residual odour emissions to migrate from the site under certain climatic conditions, and it is important that the applicant follows the County Council's Monitoring and Enforcement Officer's advice to keep the IBA's exposed working faces to an absolute minimum, and to rigorously implement the permitting regime's control measures relating to odour.

130. With regards to the extended stocking area, it is not anticipated that the storage of reclaimed aggregate, (IBAA and potentially construction and demolition waste) would be particularly malodorous, being an inert, relatively stable product at this stage. It is considered that this is the least odorous element of the operational development. However, in terms of cumulative impacts, any increase in IBA processing activities could potentially generate odour. However, this has to be balanced against the controls that are in place across the site under the permitting regime.
131. It is noted that the pollution and nuisance control authorities and agencies (RBC's EHO and the EA) raise no objections over potential odour emissions.
132. It is considered to date that any odours associated with IBA processing are not sufficient to cause an odour nuisance. However, should the County Council determine that there is an identifiable problem, any findings would be brought to the EA's attention, with a request that the Agency takes appropriate action.
133. On balance, there are sufficiently robust controls in place covering waste operations put in place by an appropriate pollution control authority. It would appear reasonable to assume that any odour emissions associated with the proposal would be occasional and intermittent, but in the event that an odour nuisance is detected there is appropriate mitigation in place to ensure that it can be suitably controlled.
134. Attention is drawn to the fact that a waste permit covering on-site waste operations would be the primary regulator with regards to odour management control.
135. Both the NPPF at paragraph 183 and the NPPW reference the fact that it is the pollution control organisation's responsibility to control processes or emissions, and that local planning authorities should assume that these regimes would operate effectively. There is clear direction that these controls should not be duplicated by the planning authority. In line with this, controls over site operations including odour control would continue to be imposed and monitored by the EA through the permitting regime, to ensure local amenity is protected. The intention of the WPA is not to duplicate these controls.
136. Overall, it is concluded that odour emissions from the waste management operations would not be significant and subject to the re-imposition of appropriate conditions, would not cause nuisance to surrounding residents thus satisfying the requirements of WLP Saved Policy W3.7.

#### Ground and Surface Water/Flood Risk

137. WLP Policies W3.5 and W3.6 seek to avoid pollution of ground and surface water through implementing engineered solutions including impermeable surfacing to operational areas, use of appropriate drainage systems and control over waste types.



138. Bunny Parish Council has raised concerns regarding environmental issues and concerns that the dampening down of the waste could lead to run-off down Bunny Hill into the populated parts of the village.
139. Both Policy WCS13 of the WCS and WLP Policy W3.5 seek to protect the environment and local communities from pollution and other impacts associated with surface water. The proposed extended storage area, along with the wider site, is permitted by the EA, and is understood to benefit from an impermeable base, with drainage being managed as part of the wider site surface water management scheme. It is stated in the supporting information that alterations to the surfacing have been approved through the permitting process and in this case any necessary changes to the drainage would be approved by the EA under the permitting regime. Run-off from the extended storage area is therefore not anticipated.
140. The development is therefore considered to be compliant with WLP Policies W3.5 and W3.6 since the design of the site satisfactorily safeguards against water pollution; and in accordance with the objectives of Policy WCS13 of the WCS.

#### Landscape and Visual Impact

141. Saved WLP Policies W3.3 and W3.4 seek to limit the visual appearance of waste management facilities and associated activities. All plant, buildings and storage areas should be located so to minimise impact to adjacent land and kept as low as practicable. Screening and landscaping should retain, enhance, protect and manage existing screening features.
142. The proposal seeks to utilise part of the materials recycling area within the Bunny MRF. This is a relatively extensive area of open ground with impermeable hardcore surfacing (including that previously used for lorry parking) that is screened by surrounding mature vegetation, bunding and the topography of the land. There are no open views into the site from any public vantage points or residential property, which are relatively distant to the MRF site. The submitted plan shows a more flexible site layout to better reflect the current waste management processes and extended aggregate storage area. The aggregate stockpiles on the newly extended area would be screened within the established waste management/recycling site. The alterations to the approved site layout would remain entirely in character with the use of the land as an established recycling waste facility for inert IBA and/or inert construction and demolition waste streams. Subject to extant planning conditions which would be re-imposed to ensure that the stockpiles remain at acceptable heights, the proposal would continue to meet the objectives of WLP Policies W3.3 and W3.4.

#### Ecological Impact

143. Significant ecological impacts are not anticipated as a result of this development, given that the operational development would take place within the approved operational area and there is no associated increase in the amount of IBA being processed at the site. The MRF site itself is not designated for its nature conservation interest. It is generally hard-surfaced with limited vegetation offering negligible habitat for notable or protected species.

#### Health impacts

144. Whilst the neighbour representations have raised issues regarding health impacts associated with operations at the Bunny MRF, there is nothing to indicate that there are any health impacts associated with the treatment of IBA. It is a non-hazardous, inert waste stream, and the site is subject to the EA's waste permitting regime, placing pollution controls over the site. The proposals involve the extended storage of IBA aggregates, which is a very stable manufactured end-product. The pollution control authorities (in this case, RBC Environmental Health Team and the EA) have not raised any concerns relating to impacts on public health associated with these waste operations. The indications are that the proposed development would have a neutral impact on the health of the local population.

#### Economic benefits

145. Paragraph 80 of the NPPF places a requirement on the planning system to create the conditions in which businesses can 'invest, expand and adapt'. It states that significant weight should be placed on the need to support economic growth and productivity. In this context, the economic and business arguments put forward by the applicant in support of this retrospective planning application are therefore a material consideration in support of the proposal. However, this does need to be balanced against the other material considerations relating to environmental and amenity impacts set out in this report.

#### Green Belt considerations

146. In terms of location, the Rushcliffe Local Plan Adopted Policies Map (2019) identifies the existing site as being within the Green Belt. Policy 21 of Part 2 of the Rushcliffe Local Plan states that applications for development in the Green Belt will be determined in accordance with the NPPF (Policy 13 (Protecting Green Belt Land)). The fundamental aim of national Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of Green Belt being their openness and their permanence (Paragraph 133).
147. There is a general presumption against inappropriate development within the Green Belt and in this respect 'very special circumstances' would need to be demonstrated to justify the granting of planning permission.

148. 'Inappropriate development' is deemed by definition as being harmful to the Green Belt. The NPPW indicates that waste development in the Green Belt in most cases is 'inappropriate development' and should be assessed on this basis.
149. Where waste management development proposals in the Green Belt would result in 'inappropriate development' in terms of the NPPF, any wider benefits of the scheme may contribute to the 'very special circumstances' required by the Framework for the proposal to be granted planning permission. Therefore, it is necessary to determine whether or not this consideration provides Green Belt policy support for this proposal.
150. Under the NPPF's definition of inappropriate development in the Green Belt (Paragraphs 145 and 146), it is silent in relation to operational development such as that contained in the current planning application. The proposals are therefore considered to be inappropriate development in the Green Belt and so the proposed development needs to meet the 'very special circumstances' test set out in Paragraph 144 of the NPPF, such that:
- "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."*
151. In this respect, the proposed development needs to be considered in a proportionate manner given the nature of what is being proposed. The proposals relate to minor material changes to operational development which is ancillary to an established waste management facility. The use of the site has already been established in principle, and the proposal does not involve extending the site, changing its use or constructing any new buildings. This application seeks permission for a revised layout within the boundary of an existing and EA permitted waste management site, which has involved extending the storage capacity for IBA within the authorised site. To this end, the various environmental impacts detailed above, such as noise, dust, landscape and visual impacts, and traffic impacts, are all considered to result in levels of impact which would not cause adverse impacts to the environment or amenity. This is an important matter in light of the NPPF's requirement to consider 'any other harm resulting from the proposal' when balancing impacts on the Green Belt.
152. It is recognised that there are currently certain economic and business constraints on the site's waste recycling operations that have necessitated the need for extra storage-space, as manufactured product has increasingly been held up on site with delays in the market supply side of the business as a result of the pandemic. It is recognised that operating conditions are presenting the applicant with challenges in terms of running the IBA recycling operations at the present time. Using more of the land within the authorised site for open storage and stockpiling of recycled IBA aggregates is in keeping with the established

use on the site and ancillary to the waste recycling operations; and the revised layout of the site is beneficial in terms of supporting the MRF's current IBA recycling operations. In this respect, and as stated previously, the proposal would be compliant with the NPPF at paragraph 80, in terms of meeting the economic objectives of the NPPF and also accords with WCS Policy WCS3 and the NPPW by maximising the recycling rates of an inert waste stream and assisting in the process of driving waste up the waste hierarchy. There are therefore on balance a number of criteria that officers consider meet the 'very special circumstances' test.

153. As already stated above, Paragraph 133 of the NPPF confirms that 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. A consideration of the impacts of the proposals on the openness of the Green Belt is therefore appropriate in terms of assessing the application against Green Belt policy.
154. The application seeks to vary the approved layout to reflect relatively substantial changes in the quantities of IBAA material currently stockpiled on site. As previously described, the proposal site is relatively well screened and already forms part of the recycling facility, with the proposed storage area being viewed against the existing activity on site.
155. The extended storage area is part of an established materials recycling facility and land is set back from the public highway (A60 Loughborough Road), at a relative distance from the nearest residential development. Any attendant visual impacts would mainly be confined to more distant users of the surrounding land, most notably those using Bunny Old Wood. However, views towards the site from any public vantage points would be substantially mitigated by existing vegetation, the topography of the land, and the industrial character of the wider recycling operations.
156. The development's proximity to existing recycling operations, including a large waste transfer building and associated ancillary development, including mobile/fixed plant, means that the additional stockpiles of reclaimed IBA aggregates would be viewed in the context of being part of an existing operational site. It would appear visually integrated into its setting, when viewed against the backdrop of the existing MRF. It is noted that the stockpiles of reclaimed aggregates would comprise relatively low-level development when compared to the waste transfer building, thereby minimising visual impact.
157. The proposal would not constitute built development as it is for temporary stockpiling of material and does not involve any additional hard-standing or built structures. The temporary nature of the stockpiles and absence of any built development means that there is unlikely to be any additional impact upon the openness of the Green Belt.
158. The proposed reclaimed aggregate stockpiles would be no higher than existing landscape features, which predominantly consist of mature hedgerows and hedgerow trees, and blocks of woodland. It is considered that, subject to

restrictions on the height of the stockpiles, and given the adequate screening from bunding and existing vegetation, and the industrial backdrop, the development would not add any additional harm to the open character of the Green Belt. The re-imposition of extant planning conditions would ensure that storage heights are limited to 6m in height, thus ensuring that these activities do not become visually intrusive.

159. Overall, when set in the context of the existing works, associated plant and storage mounds, and filtered by vegetation, any views from medium and longer distances would not be significantly impacted upon. The development would therefore have a neutral impact on the openness of the Green Belt, given the transient nature of the proposals, the limited impact on the landscape and the absence of any built development.
160. It is also considered appropriate to consider the proposed development in the context of the purposes of including land in the Green Belt, as set out in Paragraph 134, namely:
- *to check the unrestricted sprawl of large built-up areas;*
  - *to prevent neighbouring towns merging into one another;*
  - *to 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.*
161. As the proposed changes to the site layout would remain within the existing planning unit, it is considered that they would not result in any unrestricted sprawl, nor any merging of neighbouring towns, or any encroachment into the countryside. Although the Bunny Conservation Area, along with a number of designated and non-designated heritage assets, are located to the north of the site, these are sufficiently distant (around 470 metres to the southern edge of the conservation area) so as not to be impacted by the proposed development. Finally, the continued operation of the site would help ensure the continued use of land associated with the former landfill site.
162. In conclusion, it is considered that there are 'very special circumstances' which support the application: namely the support the proposals would provide to the economic growth and productivity of the business, to which the NPPF attaches significant weight, in addition to the benefits the site provides in terms of driving waste up the waste hierarchy. It is considered that these benefits clearly outweigh the limited harm to the Green Belt and any other harms, which have all been assessed and are not considered to be adverse. The proposed development therefore accords with Green Belt policy.

#### Other Material Considerations

163. Substantive environmental controls covering the waste management operations would continue to be dealt with under a bespoke environmental permit authorised by the EA and enforced by them. Whilst the planning process is concerned about the acceptable use of the land, the permit would deal with any pollution impacts in addition to impacts on human health, as raised in representations on the application. In relation to this planning application, the EA has advised that the permit for the site may need to be varied which would allow them to review any pollution and health impacts relating to the site. An informative to this effect would be attached to any planning permission.

#### Legal Agreement

164. The extant planning permission (Ref. 8/16/01028/CMA) was issued on 12<sup>th</sup> July 2017 subject to a Section 106 legal agreement. The agreement relates only to the routing of early morning lorries ensuring that articulated lorries and/or heavy goods vehicles, owned or controlled by the operator, do not travel along Gotham Lane between 6am and 7:30am but follow a prescribed route out of Bunny Village, via the A60 Loughborough Road.
165. The agreement has been drafted so that it applies to all variations of the planning permission going forward. As such, no change to the agreement is required should planning permission be granted for this application.

#### Other Issues

166. The issue of speeding traffic is not a material planning consideration.
167. Whilst this issue has been raised by local residents during the consultation process, the County Council has no evidence to support these claims and it is noted that this would be a matter for the police under the Road Traffic Act. However, notwithstanding this, the applicant has been informed of the complaint and is advised to review this matter with its drivers. It is understood that as part of their contract, all drivers employed at the Bunny MRF should adhere to the speed limits in the area.

#### **Other Options Considered**

168. 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**

169. 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

170. The existing MRF site including the increased storage area benefits from perimeter security fencing to restrict unauthorised access. Furthermore, existing bunding and mature vegetation offers a degree of protection to the MRF site, effectively screening the site from the A60 Loughborough Road.

#### Data Protection and Information Governance

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

#### Human Rights Implications

172. 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 and may be affected. The proposals have the potential to introduce impacts such as noise and dust impacts arising from increased stockpiling of IBA aggregates including IBAA being brought into the Bunny MRF from other incineration sites upon the residential amenity of the nearest residential occupiers. However, these potential impacts need to be balanced against the wider benefits the proposals would provide such as supporting the economic viability of the recyclable waste operations at the Bunny MRF and facilitating the enhanced processing of the IBA aggregate in accordance with the waste hierarchy. Members need to consider whether the benefits outweigh the potential impacts and reference should be made to the Observations section above in this consideration.

#### Public Sector Equality Duty Implications

173. The report and its consideration of the planning application has been undertaken in compliance with the Public Sector Equality duty. Potential direct, indirect and cumulative impacts from the proposal have been considered equally to all nearby receptors and resulting from this there are no identified impacts to persons with a protected characteristic.

#### Implications for Sustainability and the Environment

174. These have been considered in the Observations section above, including the merits of improving site operations to enhance the recycling of IBA in accordance with the waste hierarchy. The waste operations would continue to operate in accordance with a bespoke Environmental Permit covering pollution control measures.
175. There are no financial, human resource, or children/adults at risk safeguarding implications. There are no implications for County Council service users.

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

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

### **RECOMMENDATIONS**

177. 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.

**ADRIAN SMITH**

**Corporate Director – Place**

### **Constitutional Comments [RHC 11/11/2020]**

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

### **Financial Comments [SES 11/11/2020]**

There are no specific financial implications arising directly from this 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**

Leake & Ruddington

Councillor Reg Adair, Councillor Andrew Brown

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