



5th July 2022

Agenda Item: 10

REPORT OF CORPORATE DIRECTOR – PLACE

NEWARK AND SHERWOOD DISTRICT REF. NO.: 3/21/02478/CMA

PROPOSAL: CREATION OF FISH FARMING POND SHOWN ON PLAN FP2 TO INVOLVE INCIDENTAL MINERAL EXTRACTION, PROCESSING AND EXPORT OF MINERALS, FORMING PRE PHASE OF THE WIDER DEVELOPMENT GRANTED UNDER APPEAL DECISION REF: 19/00551/FULM

LOCATION: FIELD REFERENCE 7600, OFF NORTH SCARLE ROAD, WIGSLEY, NOTTINGHAMSHIRE NG23 7EU

APPLICANT: MR D HUDSON (FLOAT FISH FARM)

Purpose of Report

1. To consider a planning application to make modifications to the depth of a fish rearing pond previously approved as part of a wider fish farm development on predominantly agricultural land near Wigsley village, Newark. The deepening of the pond would recover approximately 70,000 tonnes of sand and gravel and therefore this aspect of the development represents a minerals extraction scheme and hence is a County minerals matter.
2. The removal of the mineral from the site raises planning issues in terms of the need and justification for undertaking the work, how the development would be carried out alongside the wider fish farm construction project, compliance with minerals planning policy, and the environmental effects of the development, in particular the effects of transporting the minerals.
3. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1 of the report.

The Site and Surroundings

4. The planning application site is located within open countryside to the south-east of Wigsley village, a small rural settlement approximately 11 miles north of Newark town centre and 7 miles to the west of Lincoln town centre (see Plan 1). The site is close to the border of Lincolnshire County Council and North

Kesteven Borough Council. The River Trent is located approximately 2.5 miles to the west.

5. The site is located on the eastern side of the B1133 North Scarle Road. The application site is low lying and around 90% of the site falls within flood zone 2 (land with an annual probability of between 1:100 – 1:1000 risk of flooding). The area is also locally identified as being prone to surface water flooding.
6. The planning application site extends to approximately 7 hectares incorporating part of a larger arable agricultural field and some scrub land. The site historically was a former second world war airfield and incorporates areas of exposed hardstanding connected to this previous use.
7. The planning application site does not incorporate any designated ecological sites. A biological Local Wildlife Site (LWS) known as 'Wigsley Dismantled Airfield' lies to the south-west of the application site. The habitat is recognised as a mosaic of diverse habitats on an abandoned airfield. Spalford Warren Site of Special Scientific Interest (SSSI), a nationally important ecologically designated site is located approximately 2.8km from the application site to the east of the A1133 Newark-Gainsborough road midway between the minor roads to Girton and Spalford. The SSSI is recognised for its blown sand heath habitat.
8. The nearest settlement is Wigsley village, situated to the north-west of the planning application site. The nearest property outlying the edge of Wigsley village is located approximately 200m away.

Background and Planning history

9. The applicant operates a fish farm near Peterborough which started trading in 2007. The Peterborough facility comprises 8 lakes on a 21ha site which are used for both recreational angling and as a commercial fish farm. The applicant states that this business has outstripped the capacity of the site and a second site is needed in the East Midlands area to focus the core business (the fish farm) and allow the Peterborough site to focus on the company's leisure arm.
10. In June 2009 Newark and Sherwood District Council granted planning permission for a fish farm development incorporating the development of a lake, growing ponds and a utility building on a 9ha site at Wigsley Airfield. The planning permission was subsequently renewed in August 2012 but was never implemented.
11. In November 2019 planning permission was granted following a successful appeal against a refusal of planning permission by Newark and Sherwood District Council for a fish farming facility at Wigsley Airfield (see Plan 2). The key components of this approved development comprise:
 - The approved site extends to c26 hectares in area incorporating the current planning application site and additional land to the east and south.

- The fish farm would breed and rear freshwater species of fish to supply the ornamental and sport fishing market, capable of supplying around 11,500kg of live fish per year. No leisure or sport use is proposed.
 - The development would involve the excavation and clay lining of a range of engineered growing ponds, fish stock ponds/lakes and a reed bed filtration pond including four lakes (ranging from 9,251m² to 1.89ha) to depths of 1.5m and eleven fish growing ponds (ranging from 2,450m² to 484m²) in size with depths of between 0.9m and 1.5m (see Plan 2). The approved scheme did not provide consent for any minerals or waste material to be exported from the site but does allow scope for excess topsoil to be sold off-site.
 - Three single storey utility buildings towards to the site entrance would be developed.
 - The development would be constructed over a four-year period.
12. Since this planning application sought to re-engineer the site with excavated material being retained on site and used within site landscaping with the depths of excavation carefully managed to avoid any mineral extraction works the planning application was determined by Newark and Sherwood District Council rather than Nottinghamshire County Council acting in its capacity as Minerals Planning Authority. The planning permission has not been implemented.

Proposed Development

13. The applicant has confirmed that it his intention to implement the fish farming business development recently granted planning permission with the successful planning appeal.
14. As part of the fish farming planning permission there is a requirement under Condition 17 to obtain approval from Newark and Sherwood District Council of a scheme to manage surface water discharges to the surrounding drains and watercourses particularly in terms of sediment control during construction works. If this current planning application is approved the drainage arrangements and sediment control measures it proposes would be submitted to the District Council with a view to seeking formal approval under the requirements of Condition 17.
15. The current planning application seeks to make modifications to one of the originally approved fish rearing ponds known as Pond FP2 to enable it to function as a settlement pond during construction works and provide a deeper pond to 'grow on' and mature fish as part of the wider operation of the fish farm. Pond FP2 is located in the north-eastern corner of the wider fish farm development site adjacent to the road frontage with North Scarle Road.
16. Planning permission is sought to excavate Pond FP2 to a greater depth from the currently consented depth to enable it to operate as a settlement lagoon more successfully. The deepening of this pond would result in the excavation of the underlying sand and gravel which would be recovered, processed and exported

as an aggregate. These works represent a minerals extraction activity and therefore planning permission is required for this aspect of the development from Nottinghamshire County Council acting in its capacity as Minerals Planning Authority. The planning application also seeks to recover some of the indigenous clay which underlays the sand and gravel to line the ponds within the wider fish farm development.

17. The boundaries of the current planning application site have been drawn to incorporate all the operational areas associated with the extraction and processing of mineral from Pond FP2. In total the area of the application site extends to around 7 hectares comprising around 3.5 hectares underlying pond FP2 and around 3.5 hectares of ancillary operational land including the site haul road, soil and overburden storage areas and mineral processing area. The boundaries of the current planning application site are shown on Plan 3.
18. The development seeks to planning permission to excavate Pond FP2 to a depth of 6 metres (see Plan 4). The current approved depth of the pond is 1.5m. The deepening of pond FP2 would be undertaken as the first phase of the wider fish farm development so that it is available to manage suspended solids arising from the construction works of the larger project.
19. The pond would provide a facility into which heavily sedimented water flows arising from the wider construction project can be pumped. The additional depth of the pond FP2 would provide a large body of water within which sediments would settle prior to the clean waters being discharged to a receiving watercourse located to the north and east of the fish farm.
20. The deepening of pond FP2 would result in the extraction of 70,000 tonnes of sand and gravel over an anticipated 12-month period. The applicant proposes to excavate pond FP2 without any dewatering. Excavation works would utilise dozers and long arm excavators to scoop sand and gravel which would be increasingly saturated at depth as the works progress below the water table. During the excavation works associated with the construction of pond FP2 no sediment material would be discharged from the site as this would be retained either within the stockpiled material or retained within the water body being dug. Excavated material would be hauled by dump truck to a temporary storage area prior to processing within a mobile screen plant once the FP2 desilting lagoon is complete allowing materials to be processed under the desilting regime developed. A number of temporary staff welfare cabins would be installed in the storage compound area for the duration of the construction project.
21. The applicant states the deepening of pond FP2 would provide a number of water management benefits during the construction period in comparison to a shallower pond. Specifically, with a shallow pond the only natural hydraulic connection between the pond and the water table would be at the bottom of the pond, however the base of the pond would quickly become covered with sediment negating any drainage into the underlying groundwater and introducing a requirement to regularly remove silt and sediment to enable the pond to function satisfactorily. This silt removal process would result in the whole settlement pond being stirred up, stalling the settlement function of the

pond for an extended period of time. The applicant states the proposed deeper water body has the ability to leave much more debris, silt and settlement material on the bottom of the lagoon without disturbance from wind and wave action whilst providing a side wall batter of naturally occurring porous mineral to dissipate water from the lagoon. The greater storage capacity and retained porosity of the side walls of the deeper pond ensures that any necessary silt and sediment removal can be undertaken less frequently at a time when weather and site conditions are favourable for such operations.

22. Topsoil and subsoil from the FP2 pond area would be stripped and stored in accordance with Defra guidelines to preserve their quality and integrity. Most soils stored on site would be re-used on site with the exception of soils allowed to be exported in accordance with the extant planning permission granted on appeal.
23. On completion of all works across the wider fish farm development, settlement pond FP2 would be excavated of silt. This silt would be utilised for general landscaping owing to it being naturally rich in nutrients. Pond FP2 would thereafter be retained and would be similar in appearance to the pond approved under the Newark and Sherwood District Council planning permission albeit constructed to a greater depth and not incorporating the island features originally proposed because of this greater depth.
24. The supporting transport statement provides consideration of the highway implications associated with the transportation of 70,000 tonnes of recovered mineral from the application site. This mineral is proposed to be removed over a one year period which would necessitate an average of 270 tonnes or 15 HGV loads per day. The transport statement acknowledges that there is potential for some fluctuation between quieter and busy days with a maximum of up to 30 loads (60 movements) per day on a busy day. All traffic would be routed to the south via Wiglsey Road, Hives Lane, Besthorpe Road and Sand Lane to Besthorpe where it would join the A1133 and in turn the A46 to the south or A57 to the north (see Plan 5).
25. Construction works and associated transport of recovered minerals would be limited to between 08:00 – 18:00 Monday to Friday. On Saturdays only plant and site maintenance works are proposed between 08.00 – 13.00. There would be no operations on Sundays or Public and Bank Holidays.
26. The planning application submission is supported by a noise assessment which sets out the existing background noise levels and the effect the noise emissions associated with the construction works would have on the surrounding area.
27. The current planning application submission also references a number of the original reports that were submitted to inform the wider Fish Farm development planning permission. These reports give consideration to ecology, flood risk and agricultural land classification.
28. During the course of processing the planning application supplementary information and clarification has been provided by the applicant to address and

overcome concerns raised by the case officer and planning consultees as set out below:

29. Alternatives: The applicant was requested to consider potentially alternative less-intensive designs for managing water quality. In response the applicant states they have taken further advice from their consulting engineers who advise that the deepened FP2 pond design represents the preferred solution for providing water quality management during the construction phase of the wider fish farm development. Specifically, the applicant advises that the current development provides a cost-effective solution which is generally consistent with the approved landform for the wider fish farm development and does not necessitate major re-construction works at the end of the development programme. The deeper design of the settlement lagoon would also require less ongoing silt management control during its operational life in comparison to a network of shallower settlement lagoons.
30. Clay lining the lagoon: The applicant has amended the original design of pond FP2, no longer proposing to clay line the lake, acknowledging that this would be counter-productive insofar that any clay lining would remove the interconnection between the lake and the natural water table and restrict beneficial drainage flows into and out of the pond by seepage. It is still proposed to clay line other ponds in the wider development.
31. Wider benefits of deepening pond FP2: The applicant has been requested to identify whether there are any wider benefits in terms of deepening pond FP2 in addition to water management control. The applicant has acknowledged the following benefits:
 - The estimated 70,000 tonnes of sand and gravel yielded from the deepening of the pond is likely to contribute around £150,000 to the wider fish farm development project ensuring the financial stability and sustainability of the project going forward.
 - The development will benefit local businesses and create additional employment opportunities in the local area.
 - The incidental mineral extraction will assist in addressing wider mineral shortages in the local and regional area.
 - The deepened pond will benefit the future operation of the fish farm, enabling the business to rear fish beyond the second season growth and sell the fish for more money. In the case of carp, these reach 2 to 3lb in weight at year two but the fish will continue to grow in the deepened pond to 15 to 18lb. Prices for a 2nd year carp at between 2lb and 3lb in weight average around £4.50 per pound in weight whereas the heavier five-year carp will fetch £20 - £24 per lb.
 - The approved ponds are all designed to be 1.25 metres to 1.5 metres deep and clay or heavy soil lined. This means these ponds are sealed from the water table and will not fluctuate up and down with the water table. Although these water depths are viable, during summer months there will be a lot of water evaporation. The enlarged FP2 pond would

provide a source of water to top these ponds up, guaranteeing the business a supply of top-up water during drought periods when other local water sources may dry out. The top up water would also be beneficial in terms of improving the oxygen content of the ponds.

- The water within pond FP2 would be clean and free from potentially contaminated run-off from agricultural land or industrial uses which could kill fish stocks.

32. Mitigation of potential adverse impacts from changes in groundwater levels within Spalford Warren SSSI: To address questions raised by Natural England regarding potential changes to groundwater levels within Spalford Warren SSSI as a result of proposed dewatering associated with the extraction of sand and gravel within pond FP2, the applicant has amended their proposed working methodology to excavate pond FP2 'wet' utilising long reach excavators and therefore avoid the necessity to dewater the site, thus ensuring there would be no change to groundwater levels within Spalford Warren SSSI.
33. Design modifications to restored lake: The original planning submission stated that pond FP2 would be created exactly as the original drawings with island reed beds and edging to suit its original intended designation. Following questions raised by the case officer the submitted drawings have been amended by the applicant to show the additional depth of the pond and omit the originally proposed island features in the lake design which are no longer proposed to be incorporated in this deeper lake.
34. Connection to the wider land drainage network: The submitted drawings have been annotated to show the drainage connection to the wider drainage network along the northern boundary of the site and also to provide confirmation that the necessary discharge consent will be obtained from the Environment Agency at the appropriate time.
35. Noise Assessment: The applicant has confirmed that the extraction of 'wet' sand and gravel would utilise the same plant and machinery as that originally proposed for the dewatered extraction methodology and the change in the extraction methodology would not change the predicted level of noise emissions from the development. The applicant acknowledges that there is a new residential property being constructed locally at a distance of 700m from the development site and concludes that the magnitude of maximum predicted noise impacts from the development will not be increased on the basis that these predictions have been calculated on the basis of a 250m noise source to receptor separation.
36. Bore hole samples: Bore hole samples have been provided to confirm the geological depths of the mineral reserve at the site and the level of the water table.

Consultations

37. **Newark and Sherwood District Council:** *Raise a holding objection.*

38. *The District Council acknowledge that the site has the benefit of a conditional planning permission for the development of a fish farm. NSDC have previously been contacted by the applicant with a view to agreeing a surface water management scheme through a submission to discharge planning condition 17.*
39. *The submission to NSDC under Condition 17 proposed the excavation of pond FP2 to a depth of 4.25m to allow it to function as a settlement lagoon. The planning condition was not discharged by the District on the basis that the proposed scheme involved significant development works which required planning permission in their own right. The District wishes to draw attention to the differences in depth of excavation between the scheme submitted to them and the current planning application to excavate to 6m in depth and question whether there is any clear or convincing justification for the proposal currently submitted to NCC.*
40. *The District Council is concerned this proposal would fundamentally alter the scheme that has been granted approval, meaning this could not be carried out in complete accordance with the approved plans, specifically its depth and question how the works within Pond FP2 would be phased with the wider development of the site, questioning how the 'pre-phase' works to construct pond FP2 are compatible with the wider approved development.*
41. *NSDC state the submitted plans include details of additional elements, including additional temporary buildings, soil bunds, processing and storage areas and a water distribution dyke that do not form part of the approved development which would be present on site for the duration of the wider development and, therefore, require due consideration by the NSDC. The District question the mechanism that would be used to regulate these matters.*
42. *Based on the above, NSDC advise that it would not be possible to implement planning permission 19/00551/FULM, as the originally proposed 'Phase 1' and part of 'Phase 3' would be superseded by the proposed 'Phase 1 plus dewatering' currently under consideration and pond FP2 would be retained at a depth of 6.0 metres once project construction is completed.*
43. *Planning permission 19/00551/FULM is due to expire on 31st October 2022, however, if Nottinghamshire County Council were minded to approve the proposed scheme, it is the District Council's view that the wider fish farm development would be sterilized as it could not be implemented as approved. Consequently, NSDC consider the applicant has two options to resolve this matter:*
- *Option A - Add the remaining phases, i.e. 2-4, to the proposed scheme as ancillary elements to the 'Phase 1 plus dewatering' proposal currently under consideration;*
 - *Option B – Re-apply to the District Council for a revised scheme, excluding 'Phase 1 / Phase 1 plus dewatering' as this is now a County matter.*

44. *Both options would involve changes to the existing and proposed red line boundaries of the NSDC planning permission. Depending on when the applicant plans to start, they may also wish to submit additional information to support any such revised application to avoid pre-commencement conditions, such as those relating to planning permission 19/00551/FULM, from being imposed.*
45. *Newark and Sherwood District Council therefore wish to raise a holding objection and would welcome further opportunity to comment on any revisions that may be put forward.*
46. **North Kesteven District Council:** *No objection.*
47. **Wigsley Parish Council:** *Object to the planning application.*
48. *The primary reason for the Parish's objection to this application is due to concerns relating to the level of noise and potential disturbances resulting from the gravel extraction and associated lorry movements, particularly noting the proximity of the development to the village.*
49. *The Parish Council consider the application should be described as mineral extraction with incidental fish farming pond. The Parish feel the applicant has misrepresented Newark and Sherwood District Council in terms of the amount of spoil to be removed from the site which was previously agreed to be limited to only 2 lorry movements per day. However, the developer has subsequently sought to modify this agreement through a submission under the planning conditions and increase the HGV movements to 60 movements per day.*
50. *Policy DM13 of the Nottinghamshire Minerals Local Plan requires that applications for incidental mineral extraction are refused where there are unacceptable environmental or other impacts resulting from the development which the Parish consider is the case in this instance.*
51. *The Parish Council's concerns are that:*
 - *The nearest dwelling is only 200 metres from the site boundary with the heart of the village being 400 metres from the site boundary.*
 - *The working hours are long at 10 hours per day on Mondays to Fridays and 5 hours on a Saturday.*
 - *60 lorry movements per day are projected which equates to 330 per week acknowledging shorter working hours on Saturdays, this represents a 3,000% increase in the number of lorries from the originally approved limit of 2 lorries.*
 - *Minerals extracted are not only to be dug out on site using large, noisy earth moving machinery but are to be processed on site, adding to the noise and disturbance for village residents. The Noise Assessment only takes account of gravel extraction machinery not increased lorry movements and the Parish have little confidence that the findings of the noise assessment can be relied on.*

- *The Parish report that the area surrounding Wigsley is quiet and noise travels significant distances.*
 - *The Parish is concerned that the applicant may seek to submit successive applications for 'incidental gravel extraction' for many years to come, which across 26.2 hectares would equate to the extraction of 260,000 tonnes over an 8 year plus time period.*
 - *The application form states that the operations will be completed within a year, which is not consistent with statements made elsewhere in the submission which indicate the development would take 2 years to complete.*
 - *The application is accompanied by an outdated Ecological Scoping Survey dating back to 2017 and no species-specific site surveys so cannot be relied upon to give a proper assessment of the ecological impact.*
52. *The Parish Council has been reconsulted in connection with the submission of supplementary information. The Parish continue to maintain an objection to the planning application, considering the supplementary information does not address the concerns raised by the planning officer and the Parish continue to have concerns regarding the amenity impacts of the development and associated traffic, inaccurate measurement of distances from properties, the duration of the works for two years, the use of water pumps 24 hours a day, the financial benefits of the development to the applicant should not be used to override amenity protection for residents, alternative less intensive water management solutions should be utilised, and the noise assessment has not been updated. Because the development has adverse impacts the Parish Council submit that the development is contrary to Policy DM13 of the Nottinghamshire Minerals Local Plan relating to incidental mineral extraction. The Parish consider there is not a need for the development some 50 miles from the applicant's existing business.*
53. **Environment Agency:** *No objection.*
54. *The Environment Agency request a planning condition should be imposed requiring a detailed scheme to treat and remove suspended solids from surface water run-off during construction works to be agreed prior to commencement.*
55. **Natural England:** *No objection.*
56. *Natural England originally raised an objection to the planning application on the basis that ground dewatering originally proposed as part of the extraction of pond FP2 could result in potential significant effects on the hydrology of Spalford Warren Site of Special Scientific Interest (SSSI).*
57. *Natural England have subsequently withdrawn their objection following the receipt of the supplementary information, specifically the revisions to extraction methodology incorporating arrangements to excavate the site wet rather than dewatered.*

58. **NCC (Archaeology):** *No objection.*
59. *The change to the depth of excavations within Pond FP2 does not raise any archaeological concerns.*
60. **NCC (Flood Risk):** *No objection.*
61. *The development will not increase surface water run off nor will it alter existing run off to an extent that it would have a detrimental impact on the area.*
62. **NCC (Highways):** *No objection.*
63. *The access to the site for the proposal would be via the approved access for the wider fish farm development onto Wigsley Road comprising a formal bellmouth junction with a 15m radius and a 7.3m road width. If this application was to be approved, the access should be conditioned to be constructed to the Highway Authority's specification with adequate visibility splays before any works commence on site to enable safe access to the highway network.*
64. *The forecast traffic generation associated with this "pre-phase" proposal associated with the removal of 70,000 tonnes of material off the site over a 12-month period is 15 HGV loads (30 movements i.e., 15 in and 15 out) per day. For robustness, the submitted report considers a peak daily flow of twice this number i.e., 30 loads (60 movements i.e., 30 in and 30 out). The proposed routeing would be south of the site from Wigsley Road to the A1133, which would avoid lorry routeing through the local villages. The Highway Authority has considered these transport arrangements and concluded there would be no highway objections to the proposal.*
65. *To control the amount of HGVs, the Highway Authority would request a condition to ensure that the site would not generate a weekly average traffic level which exceeds the daily average to allow the site to operate over average daily HGV movements on some days (where there is need for it) but would limit the HGVs on other working days (170 HGVs per week or 85 in and 85 out).*
66. *The applicant has considered on-site wheel cleaning supplemented by the use of a road sweeper in order to prevent mud or dirt entering the public highway from site.*
67. **NCC (Nature Conservation):** *No objection.*
68. *It is acknowledged that the site benefits from planning permission granted on appeal to extract pond FP2 in the same location and that this planning application will not change the level of ecological impact over and above that which has been previously assessed. Ecological issues including the need for further/follow-up surveys and various mitigation measures are covered by conditions attached to the appeal decision.*
69. *On this basis it is requested that if granted planning permission this application should proceed in accordance with the conditions imposed on the appeal decision permission with specific ecological information provided in terms of*

lighting during construction, potential to retain habitats in the application site area and ensuring soil stockpiles do not adversely impact any designated habitat.

70. **Via (Noise Engineer):** *No objection.*
71. *The Noise Impact Assessment which supports the planning application utilises two background noise surveys taken at two different locations and are considered to provide a fair representation of the nearest Noise-Sensitive Receptors. This noise data has been used to generate a series of noise contour plans to consider the level of noise emissions in the wider local area.*
72. *The excavation of pond FP2 to a greater depth would utilise similar plant and machinery to the previously approved development but introduces additional machinery to process the excavated sand and gravel and HGV haulage to transport the processed mineral. The noise emissions of all these activities have been calculated within the revised noise assessment.*
73. *The noise assessment shows that whilst the threshold of LA90 + 10 dB(A) would be exceeded at the closest property within Wigsley village to the north of the development site, the actual level of noise would be 7dB(A) below the upper limit of 55 dB(A) permitted for mineral working schemes set out within the Government's Planning Practice Guidance. The results of the worst-case hour assessment for each phase therefore indicates that the noise from the proposed development would not be significant at the nearest receptors assessed.*
74. *No objections are therefore raised to the planning application, subject to the imposition of planning conditions to regulate the maximum level of noise emissions at noise sensitive receptors and the development of a noise complaints procedure in the event that a complaint is received.*
75. **Via (Reclamation):** *No objection.*
76. *Contamination could be present at the site and the proposed development has the potential to change or introduce new sources, pathways or receptors.*
77. *The submitted documents do not include a geo-environmental desk study for the site. This would be required to determine whether there are any unacceptable contamination risks associated with the proposal and whether any identified risks can be adequately mitigated or controlled, but these matters can be regulated through planning condition.*
78. *The Construction Environmental Management Plan (CEMP) submitted with the application appears to be an outline plan which will need to be developed as the project progresses towards the construction stage. A materials management plan is also likely to be required, regulated through planning condition.*
79. **Upper Witham Internal Drainage Board:** *No objection, but request:*
- *an access strip of at least 6m is left adjacent to Wigsley Pump Drain (Board maintained watercourse),*

- *any discharges will be limited to the greenfield rate,*
- *Board Byelaw consent will be required for any proposed temporary or permanent works or structures in, under, over or within the byelaw distance (6m – soon to be 9m) of the top of the bank of a Board maintained watercourse (Wigsley Pump Drain).*

80. **National Air Traffic Services Ltd, Nottinghamshire Wildlife Trust, Cadent Gas Limited, Severn Trent Water Limited, Western Power Distribution:** *No representations received. Any responses received will be orally reported.*

Publicity

81. The application has been publicised by means of site notices, press notices and notification letters posted to occupiers of nearby residential properties and adjacent agricultural land in accordance with the County Council's adopted Statement of Community Involvement.
82. Two letters of representation have been received from residents of Wigsley which raise the following concerns:
- The site is in too close proximity to the village of Wigsley, and even closer to the former airfield Control Tower that is now being converted to a residential dwelling. The lorry movements and all-day extraction and processing of sand and gravel will be incredibly disturbing to the life of our residents of the village which is small and quiet in character.*
 - The local roads are narrow and twisting and not suitable for the proposed traffic levels.*
 - The proposal for an average 15 lorries a day is significantly greater than the previously approved level in the NSDC planning permission which equated to 2 loads a day.*
83. The Council has reconsulted local residents in connection with the submission of the supplementary information and received a further two letters of representation which re-iterate many of the concerns previously raised and the following additional matters:
- The proposed large-scale opencast mining scheme (with incidental fish farm) is in too close proximity to residential properties in the village of Wigsley and will affect owners' rights to the peaceful enjoyment of their property.*
 - The site boundary is less than 200m from the nearest property (The Oaks bungalow) and is approximately 400m from the centre of Wigsley village.*
 - Noise disturbance from sand and gravel extraction and processing will disrupt the peaceful nature of the village. Due to the open, flat nature of topography, bunding is likely to have little effect in mitigating noise levels.*
 - Wigsley is a peaceful rural community with low background noise levels. The proposed development would involve the use of water pumps 24 hours per day. Constant noise from these pumps would have an adverse*

environmental impact, with a particularly negative effect on nearby village residents, causing unnecessary distress and disturbance. The noise assessments submitted by the applicant do not contain noise contour plans so their models representing 'worst case scenarios' are not transparent and do not cater for the impact of water pumps running 24 hours a day.

- e. The increase in articulated lorries travelling to and from the site is completely unacceptable and will be detrimental to cyclists and pedestrians who use these roads. The haulage vehicles will damage the public highway.*
- f. Concerns are raised that the HGV traffic may choose to use Wigsley as a shortcut to and from the A57. Such movements would significantly increase noise, vibration and disturbance to village residents. It would also present a serious danger to walkers (as there are limited footpaths) and children playing in the village, where many driveways lead directly onto the main road.*
- g. It appears that what was represented as a relatively harmless fish farming pond proposal has morphed into something more significant. The extraction of soils and minerals does not appear to be 'truly incidental', there is no proof of any 'biodiversity net gain' associated with the development or any economic benefit for the village as claimed by the applicant. The scale and duration of the proposed development would bring no benefits to the village of Wigsley and would have negative environmental impacts in contravention of Policy DM13 of the adopted Nottinghamshire Minerals Local Plan.*

84. Councillor Debbie Darby has been notified of the application.

Observations

Introduction

- 85. The scope of this current planning application is limited to the excavation of one of the previously approved fish breeding ponds (pond FP2) to increase its depth from 1.25m to 6m and to allow the excavated sand and gravel from this deeper excavation to be processed and sold as a mineral resource. The deepened pond would be used as an operational settlement lagoon during the construction of the wider fish farm development and thereafter as a fish growing pond as part of the wider fish farm business.
- 86. The planning permission for the wider fish farm development was originally refused planning permission by Newark and Sherwood District Council contrary to planning officers' advice for the following reason:

'In the opinion of the Local Planning Authority the application has failed to demonstrate credibility and enforceability regarding the amount of material to be removed from the site during the construction period, the

consequences of which could give rise to significant impacts on the environment including the associated vehicle movements which may not be properly mitigated. The application has given rise to uncertainty regarding the impact of the sports fishing taking place on site (and whether this did indeed form part of the final proposal or not) and whether proper regard had been had in terms of the cumulative assessment of traffic and disturbance impacts associated with this element. The application also failed to demonstrate that the scheme could be appropriately phased, or its implementation be guaranteed in order to avoid a part completed development and avoid visual harm to the landscape. The application also fails to demonstrate how the scheme passes the sequential flood risk test. Taking all matters into account, it is concluded that the development has failed to demonstrate its acceptability in terms of the following policies of the Development Plan. These are from the adopted Newark and Sherwood Core Strategy; Spatial Policies 3 (Rural Areas) & 7 (Sustainable Transport), Core Policies 9 (Sustainable Design), 10 (Climate Change) 12 (Biodiversity and Green Infrastructure) and 13 (Landscape Character) and from the adopted Allocations & Development Management DPD; Policies DM5 (Design), DM7 (Biodiversity and Green Infrastructure), DM8 (Development in the Open Countryside) and DM12 (Presumption in Favour of Sustainable Development) as well as the National Planning Policy Framework 2019 and its associated Planning Practice Guidance. There were no material considerations that outweighed the failure to demonstrate the above matters.'

87. This decision was successfully appealed in November 2019 (Consent Ref: APP/B3030/W/19/3232873) with planning permission being granted. The key matters which were taken into consideration by the Planning Inspectorate are summarised below:
- a. Newark and Sherwood Allocations & Development Management Development Plan Document (N&S A&DMD) Policy DM8: Development in the Open Countryside is supportive of rural diversification of existing businesses which contribute to the local economy. Whilst the previous planning decision acknowledged that the fish farm development is an entirely new use of rural land and not a diversification of an existing business (to which Policy DM8 directly relates to) it was concluded that Policy DM8 and NPPF policy is supportive of the development on the basis that it is a land-based rural businesses in the countryside.
 - b. The loss of c26ha of Grade 3a (best and most versatile) agricultural land was assessed as a negative factor in the overall planning balance, but the benefits provided by the development were assessed as outweighing the level of harm resulting from the loss of the agricultural land.
 - c. The removal of surplus soils from the site (average of 1 HGV tipper load per week) was considered acceptable in road safety and amenity terms and the overall volume of traffic was considered to be low.
 - d. The scheme was considered to be supported by Newark and Sherwood Amended Core Strategy Development Plan Document (N&S CS) Policy

Core Policy 9: Sustainable Design and N&S A&DMD Policy DM5: Design on the basis that the construction and operation of the fish farming facility would not adversely impact amenity and provide existing residents acceptable living conditions.

- e. In terms of landscape and visual impacts, the excavation of the ponds and the use of the spoil material to create comparatively low-lying mounds was considered to have an acceptable visual and landscape impact and the works would readily assimilate into the wider setting. It was therefore concluded the development was compliant with the visual impact and landscape protection policies of the development plan.
 - f. The impact of the tree and vegetation loss was considered to be low with mitigation provided through the planting of native species as part of the wider landscaping of the site. The ecological effects of the development were also found to be acceptable and the scheme would deliver ecological enhancements following its completion and thus the development is compliant with N&S CS Core Policy 9: Sustainable Design and N&S A&DMD Policy DM7 – Biodiversity and Green Infrastructure.
 - g. The development is considered to be a water compatible use and therefore suitable for a location within flood zone 2.
88. The boundaries of the current planning application site have been drawn around a 7-hectare parcel of land incorporating Pond FP2, an associated working area and the proposed site access. This site sits within the larger 26-hectare parcel of land granted planning permission for the wider fish farm development.
89. The two planning applications are clearly connected to each other with the primary planning permission for the fish farm development being the NSDC planning consent and the current application submitted to the County Council for the deepening of pond FP2 required to support this wider development.
90. In terms of assessing the merits of the current planning application it is not necessary to re-examine the original planning merits of the wider fish farm development. This report therefore focuses on the planning issues associated with the deepening of pond FP2 which is a significant construction project in its own right, resulting in the recovery of approximately 70,000 tonnes of sand and gravel which would be sold to industry as a mineral resource.

Planning policy relating to recovering minerals as part of a wider development

91. Planning policy in relation to the recovery of minerals as an incidental element of another development project is set out within Nottinghamshire Minerals Local Plan (MLP) Policy DM13. The supporting text to this policy acknowledges that in principle the recovery of minerals as an incidental element of another development proposal promotes sustainable development by helping to conserve mineral resources that might otherwise be lost. The policy is set out

below:

Policy DM13: Incidental Mineral Extraction

1. Planning applications for the extraction of minerals as a necessary element of other development proposals on the same site will be supported where it can be demonstrated that the scale and duration of the mineral extraction does not result in adverse environmental impacts and that it brings environmental and other benefits to the development it is incidental to.
2. Where planning permission is granted, conditions will be imposed to ensure that the site can be adequately restored to a satisfactory after-use should the main development be delayed or not implemented.

92. In terms of the benefits the deepening of pond FP2 brings to the wider fish farm development, the planning application sets out that the primary need for development is to provide sediment control for the management of surface water discharges from the development of the wider fish farm development. The approved 1.25m depth of pond FP2 is comparatively shallow and would compromise the ability of the pond to function as a sediment lagoon. Specifically, the shallow water depth would mean that any suspended solids which disperse to the base of the pond would be vulnerable to disturbance from wave and wind action meaning that silt would be disturbed within the wider water body, reducing the ability of the pond to function properly as a settlement lagoon. The shallow depth would also increase the frequency that settled silt would need to be removed from the base of the pond, increasing maintenance liabilities as well as rendering the settlement lagoon unusable for the duration of the maintenance works. The deepening of pond FP2 to 6m would provide a body of water of much greater depth to function more satisfactory as a sediment lagoon and assist in sediment control within the wider fish farm construction project.
93. The excavation of pond FP2 represents a significant development project and alternative design solutions have been explored which would be less intensive to develop and avoid the need to excavate, process and transport off-site the 70,000 tonnes of sand and gravel. Whilst it is acknowledged that there are alternative design solutions which are likely to achieve a similar level of benefit in terms of sediment control, the applicant remains keen to excavate pond FP2 to a greater depth because of the wider benefits the scheme brings to the proposed fish farm development.
94. The applicant identifies that the deepening of pond FP2 would provide benefits to the future operation of the fish farm as set out within paragraph 30 of the report. In summary the benefits relate to the long-term viability of the fish breeding business in terms of enabling fish to be grown larger, benefits in water quality and the economic benefits derived from the sale of 70,000 tonnes of mineral.

95. Chapter 6 of the NPPF incorporates planning policy in relation to the socio-economic effects of development. Specifically, NPPF paragraph 81 states that:

'Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development'.

96. NPPF paragraph 7 confirms that achieving sustainable development is the primary objective of the planning system, with NPPF paragraph 8 confirming the importance that the economic role of development has in delivering sustainable development.
97. The benefits to the fish farming business from deepening pond FP2 are supported by the economic policies of the NPPF. The NPPF advises that significant weight should be given to these economic benefits and their contribution to delivering sustainable development. The benefits to the wider fish farm business also means the development is supported by MLP Policy DM13, subject to there being no unacceptable environmental impacts.

Connection between current planning application and the consented wider fish farm development

98. If planning permission was granted for the deepening of pond FP2 under this current planning submission, the land at Wigsley would benefit from two separate and independent planning permissions. This provides scope for pond FP2 to be excavated under the terms of this current planning submission whilst not implementing any of the wider fish farm development. If this was to occur it would undermine much of the justification and benefits that have been identified in the previous section for deepening pond FP2 from its current consented depth. It is therefore important to ensure as far as possible the two developments proceed as a joined-up project.
99. The observations of Newark and Sherwood District Council are noted in terms of the consistency between the current submission and the development project approved under planning permission 19/00551/FULM for the wider fish farm development. Officers agree with NSDC's conclusion that the modifications proposed within the current planning submission effectively renders the approved NSDC planning permission 19/00551/FULM un-implementable in its current format and acknowledge NSDC's suggested methods for resolving this matter to ensure both planning permissions are consistent with each other.
100. It is evident that if the current planning application was approved the applicant would need to agree a revised scheme with NSDC as part of a further planning application submission to incorporate the modifications into the wider fish farm project. Any link between the current scheme and the wider fish farm project therefore should acknowledge this scenario. It should not be assumed that approval for a modified scheme from NSDC will be automatically forthcoming,

however Officers consider it is helpful to the wider fish farm project that a decision is made in connection with the deepening of pond FP2 at this stage so that the applicant has a level of certainty that this scheme is acceptable in any subsequent re-submission to NSDC.

101. Officers consider the most appropriate way to provide a link between the two planning permissions is to impose a Grampian style planning condition as part any planning permission issued by NCC. The planning condition would be worded to ensure the NCC planning permission could not be implemented until such time that there is a further planning permission in place with NSDC which is consistent with the modified scheme. This approach is consistent with option 'B' of NSDC's consultation response.
102. The recommended approach acknowledges the existing planning permission will need to be varied and re-issued to ensure consistency between the two schemes. It is also recommended the wording of the Grampian condition references the need to have an implemented planning permission in place for the wider fish farm development prior to implementation of the NCC planning permission to ensure that any development rights consented by the NSDC planning permission do not lapse before works associated with deepening pond FP2 are complete.
103. Whilst a Grampian planning condition would ensure that there continues to be lawful planning permission for the wider fish farm project throughout the pond FP2 excavation works, the planning condition does not go as far as to require that once commenced the wider development has to be constructed in full. Such a condition would not be lawful and could not be enforced.

Assessment of Environment Effects

104. The policy support from MLP Policy DM13 for incidental minerals extraction requires that the scale and duration of the minerals extraction does not result in adverse environmental impact. This policy compliments Policy DM1: Protecting Local Amenity which confirms that proposals for minerals development will be supported where it can be demonstrated that any adverse impacts on amenity are avoided or adequately mitigated to an acceptable level.
105. The context of the assessment of the environmental effects associated with the deepening of pond FP2 has regard to the existing consented NSDC development for the wider fish farm. This planning permission establishes a number of environmental baselines, providing a development consent for a very similarly sized and designed pond FP2, all be it of a shallower depth. It confirms the acceptability of the wider fish farm development in this location and site-specific environmental sensitivities in terms of site clearance and construction works.
106. The assessment of this planning application therefore references the previous conclusions reached by NSDC/The Planning Inspectorate regarding the environmental effects of the wider fish farm development, re-examining the

validity of these conclusions in light of modified environment impacts associated with the deepening of pond FP2.

107. Whilst acknowledging the close links between this planning application and the wider fish farm development across the larger 26ha site, development works associated with deepening pond FP2 (if approved) within the 7ha development site would be undertaken and regulated under a NCC minerals planning consent. It is therefore important that the schedule of planning conditions for this current planning application regulates all environment aspects of the development insofar that they are relevant to the pond FP2 development site.
108. These matters are considered in the following section of the report.

Highway Considerations

109. The NSDC wider fish farm development involved limited HGV movements associated with the removal of soils averaging one HGV load a day. The extraction, processing and sale of minerals associated with the deepening of pond FP2 would significantly increase the volume of HGV traffic associated with the construction works and is one of the main areas of concern expressed by Wigsley Parish Meeting and local residents.
110. The key policy for assessing the highway implications of the development is MLP Policy DM9: Highways Safety and Vehicle Movements / Routeing. The policy is set out below:

Policy DM9: Highways Safety and Vehicle Movements / Routeing

Proposals for minerals development will be supported where it can be demonstrated that:

- a) The highway network including any necessary improvements can satisfactorily and safely accommodate the vehicle movements, including peaks in vehicle movements, likely to be generated;
- b) The vehicle movements likely to be generated would not cause an unacceptable impact on the environment and/or disturbance to local amenity;
- c) Where appropriate, adequate vehicle routeing schemes have been put in place to minimise the impact of traffic on local communities;
- d) Measures have been put in place to prevent material such as mud contaminating public highways.

111. N&S A&DMD Spatial Policy 7: Sustainable Transport requires that new development should be appropriate for the highway network in terms of the

volume and nature of traffic generated, and ensure that the safety, convenience and free flow of traffic using the highway are not adversely affected.

112. The planning application is supported by a transport statement which provides a quantified assessment of the anticipated average and maximum levels of operational traffic associated with the development and the capacity of the surrounding road network to accommodate the projected traffic levels, taking into account issues of safety and general site accessibility.
113. Access to the site would be via the access junction onto Wigsley Road previously approved under the NSDC planning permission for the wider fish farm development. The proposed access design incorporates a formal bell mouth junction with a 15m radii and 7.3m road width.
114. The transport statement calculates the number of trips that would be generated by the development based on the haulage of 70,000 tonnes of material over a 12-month period, forecasting the traffic generation averaging 15 loads (30 movements) per day, but with potential peak daily flows of 30 loads (60 movements).
115. Haulage traffic would be routed to the south of the site from Wigsley Road to the A1133 via Hives Lane, Besthorpe Road and Sand Lane and thus would avoid lorry routeing through the local villages including Wigsley. The traffic flow survey on Wigsley Road identifies that the existing level of vehicles using this road is 774 vehicles per day which includes 33 HGV movements. The average of 15 HGV loads (30 movements per day) would almost double the level of HGV traffic on Wigsley Road for a 12-month period but would only increase overall traffic levels by 3.8%. On Sand Lane the traffic flow is 1,290 vehicles per day which includes 128 HGV movements. The average of 15 HGV loads (30 movements per day) would increase the level of HGV traffic on Sand Lane by around 23% for a 12-month period but would only increase overall traffic levels by 2.3%. The accident record along these roads has been assessed and demonstrates that there are no existing road safety issues which need to be addressed.
116. The County Highway Authority has reviewed the transport assessment and does not raise any road safety or capacity objections to the development proposals but request a series of planning conditions to regulate the highway implications of the development.
117. Firstly, the Highway Authority requests the access road into the site and visibility splays are fully constructed with a bound surface and appropriately drained, in accordance with a specification to be agreed in writing.
118. To control the number of HGVs to an appropriate level along the proposed lorry route, the Highway Authority requests a planning condition to regulate the maximum number of HGVs over a weekly period. Taking the average HGV number of 30 per day (15 in and 15 out), the suggested limit is 170 HGVs per week (85 in and 85 out). This approach allows the site to operate over average

daily HGV movements on some days (where there is need for it) but would limit the HGVs on other working days.

119. The Highways Authority is satisfied the proposed measures to prevent mud and other detritus contaminating the public highway are appropriate and should be regulated by planning condition.
120. A planning condition is also recommended to regulate lorry routeing and to require all HGV traffic to access the site from the south via Wigsley Road, Hives Lane, Besthorpe Road and Sand Lane to the A1133. The controls in relation to lorry routeing would be achieved through the display of signage on the site and the issuing of instructions to lorry drivers.
121. Operating hours for the haulage of materials would be between Monday to Friday 08.00–18.00 with no operations on Saturdays, Sundays Bank or Public Holidays. It is recommended that these delivery hours are regulated by planning condition to ensure the amenity of surrounding properties are not adversely impacted by HGV movements at unsociable hours.
122. Overall, it is concluded the development would not result in a significant uplift in overall vehicle movements along Wigsley Road and Sand Lane or the wider highway network, even though there would be significant increases in HGV movements on Wigsley Road and Sand Lane for the 12-month period when mineral is being transported from the site. Despite this, significant adverse highway impacts are not anticipated as a result of the development proposal, and it is concluded that the vehicle movements generated can be safely accommodated on the highway network without cause for unacceptable disturbance to local communities. The development is therefore considered to be compliant with MLP Policy DM9 and N&S A&DMD Spatial Policy 7.

Noise

123. The NSDC planning permission examined the level of noise emissions associated with the construction and operation of the wider fish farm development. The excavation of pond FP2 to a greater depth would utilise similar plant and machinery to the previously approved development but introduces additional machinery to process the excavated sand and gravel and HGV haulage to transport the processed mineral and the noise emissions of all these activities have been calculated within a revised noise assessment.
124. A revised noise assessment has been prepared under the relevant guidance of the Government's Planning Practice Guidance and 'BS 5228:2009+A1:201: Code of practice for noise and vibration control on construction and open sites' to assess the noise emissions from these activities. The noise calculation takes account of the presence of bunding proposed to be constructed around the northern and western site boundaries and calculates the level of noise emissions from the extraction, processing and haulage plant and machinery to be used to calculate the level of this noise at the nearby receptors.

125. The background noise measurements recorded within Wigsley village and a leisure facility to the east over the daytime period are set out in the table below. The noise monitoring confirms that the local noise environment is generally quiet with only bird song, breeze and distant traffic noise contributing to the background noise.

Location	Time Period	LAeq,T	LA90	LAm _{ax}
1: Camper UK Leisure Park	Daytime - 08:00 -18:00	45.4	37.3	70.4
2: Properties North of proposed Development	Daytime - 08:00 -18:00	48.3	37.0	78.1

LAeq, T – the equivalent continuous A-weighted sound pressure level in dB determined over time period T.

LA90 – the sound level exceeded for 90% of the time.

LAm_{ax} – the maximum sound level.

126. The Government's Planning Practice Guidance sets out national policy guidance in respect of minerals development. Paragraph 21 of this document provides specific guidance in relation to noise emissions from mineral workings, advising that mineral planning authorities should aim to establish a noise limit, through a planning condition, at noise-sensitive properties that does not exceed the background noise level (LA90,1h) by more than 10dB(A) during normal working hours (0700-1900). However, the guidance acknowledges that where existing background noise levels are very low it may be difficult to carry out mineral extraction within a 10dB(A) threshold above background noise without imposing unreasonable burdens on the mineral operator. In these locations the guidance states that the noise limit should be set as near the 10dB(A) level as practicable, and to not exceed 55dB(A) LAeq, 1h (free field during the daytime period).
127. The results assessment of the noise emissions from the proposed development calculates that the level of noise emissions from the excavation of pond FP2 and processing of mineral would result in a noise level of 47.5dB LAeq,1h at the nearest residential property (The Oaks). This represents an increase of 10.5dB above the existing background level at this location, indicating that noise emissions from site activities would be audible at this location. However, the noise level is 7.5dB lower than the 55dB limit identified in the Government's Planning Guidance above which noise emissions are considered intrusive. In comparison, noise emissions from the construction of phase II of the previously approved wider fish farm development comprising of excavations of ponds to the rear (east) of pond FP2 are predicted to generate higher noise emissions at The Oaks of 48.1dB LAeq,1h. These higher noise emissions are attributable to the fact that there is no requirement to install noise attenuation bunding on the boundary of this part of the site. The level of noise emissions at the leisure facility to the east is calculated to be 40.1dB LAeq,1h, which is an increase of 2.8dB above the existing background level.

128. Based on the results of the noise assessment it is concluded that noise emissions from the development would not exceed the limits set out within the Government's Planning Practice Guidance leading to the conclusion that the development is unlikely to result in justified adverse noise impact. It is acknowledged that the magnitude of the predicted noise emissions from excavating pond FP2 to a greater depth and associated works are slightly lower than the levels previously considered as being acceptable in the previous NSDC planning decision.
129. Wigsley Parish Meeting have raised concerns that the noise assessment does not take account of the increased lorry movements. This is not the case, table 5-1 of the noise assessment sets out the machinery measured within the noise model and includes emissions from both HGV and car movements. The Parish Meeting also raise concerns that the noise monitoring position used within the noise assessment is located within the centre of the village at a distance of 400m from the site and therefore question whether it is representative of noise emissions at the closest residential properties located to the south of the village at a distance of 200m from the site. To address these concerns the applicant has provided a noise contour plan which identifies the calculated level of noise emissions at the nearest residential property, The Oaks. The noise data provided within this report sets out the levels of noise at this nearest residential property. Via's Noise Engineer accepts these findings. The applicant has also confirmed that groundwater dewatering pumps will not be used within the development and a planning condition is recommended to regulate this matter.
130. It is therefore concluded that the development is compliant with MLP Policy DM1: Protecting Local Amenity which is supportive of minerals development where it is demonstrated that any adverse impacts on amenity from noise are avoided or adequately mitigated to an acceptable level and N&S A&DMD Policy DM5 which requires development proposals to have regard to the impact on the amenity or operation of surrounding land uses and where necessary mitigate for any detrimental impact.
131. To ensure appropriate control and regulation is provided to control the level of noise emissions from the development and to minimise potential adverse impacts, planning conditions are recommended to limit the level of noise emissions from the site so that they do not exceed the levels set out within the noise assessment, controls relating to the hours of operation to ensure consistency with the wider NSDC planning permission (08:00 and 18:00 Mondays to Fridays), for the mobile plant to utilise broadband type (white noise) reversing alarms, and the development a Construction Environmental Management Plan (CEMP) to regulate noise emissions. It is also recommended that a noise complaints procedure is established.

Landscape and Visual Impact

132. The original appraisal of landscape and visual impacts undertaken to inform the NSDC planning decision concluded that the regrading and levelling works of the wider fish farm development would be imperceptible across such a large site

and would readily assimilate into the wider setting. It was also considered the areas of woodland and habitat created by the development would positively contribute to the landscape character of the area and would have an acceptable visual impact.

133. The current planning application does not seek to change the size of pond FP2 from the scheme consented under the NSDC planning permission, but does make modifications to the depth of the pond and no longer incorporates an island. The change to the depth of the pond would not be visually perceptible once backfilled with water and the omission of the original island would not result in any significant visual or landscape effects. The development therefore is considered to comply with MLP Policy DM5: Landscape Character which is supportive of minerals development where it is demonstrated that they will not adversely impact on the character and distinctiveness of the landscape and that landscaping, planting and restoration proposals take account of the relevant landscape character policy area as set out in the Landscape Character Assessments covering Nottinghamshire.
134. The current planning application introduces new aspects to the development project including temporary mineral stockpiling and processing and the extension of the temporary bunding around the site. These aspects of the development would have a minor visual effect, but they would be temporary for the duration of the construction period and thus would not have long term visual or landscaping effects.
135. Planning conditions are recommended to require the grass seeding of the outward facing slope of the soil bunds, controls over stockpile heights to limit them to a maximum 5m height and the removal of the stockpiles, processing equipment and bunds after two years. These measures would minimise the visual impact of these aspects of the development and ensure that these impacts are temporary in nature.

Ecology

136. The planning decision for the wider development of the fish farm was informed by an ecological impact assessment which confirmed that the wider development site is predominantly in arable agricultural use and of low ecological value, but acknowledged that parts of the site incorporate some areas of more diverse scrub, grassland, trees and hedgerow which have potential to provide a more valuable habitat quality. The NSDC planning permission provides consent for the clearance and redevelopment of this land, subject to ecological mitigation measures regulated through planning conditions.
137. The ecological features of the current development site are consistent with the wider planning application site being predominantly arable agricultural land but also incorporating an area of scrub. The ecological condition of the site has not changed since the NSDC planning permission and the deepening of pond FP2 will not change the level of ecological impact over and above that which has been previously assessed.

138. Ecological matters, including the need for further/follow-up surveys and various mitigation measures are covered by planning conditions within the NSDC planning permission. Since the application under consideration in this report would not change the character or magnitude of ecological impact, it is recommended that the controls within the NSDC planning permission are replicated within any grant of planning permission for this application, insofar as they are relevant to this application. The matters covered by the planning conditions are set out below:
- The removal of vegetation outside the bird breeding season to avoid disturbance of nesting birds is necessary and should be regulated within any grant of planning permission for this application.
 - The replacement and enhancement of habitats within the site will require regulation within any grant of planning permission for this application. It is recommended that this is delivered in a similar manner to the NSDC planning permission which requires by planning condition the submission of a landscape and management plan which should be drafted with an ecological focus.
 - Although the wider site has potential Great Crested Newt and Reptile habitat, the NCC development area is not considered to provide suitable habitat for these species and therefore adverse impacts are not anticipated. Nevertheless, it is acknowledged that habitats can evolve over time and therefore it is recommended that further surveys are undertaken prior to the clearance of vegetation as a requirement of a planning condition to ensure the ecological baseline has not changed.
 - The development does not affect any watercourse and therefore no impacts or mitigation to water voles and badgers is required within any grant of planning permission for this application.
 - Although the NCC development area did not contain any badger setts at the time of the original survey, these species are transient in nature and may have formed new habitats since this time. It is therefore recommended that prior to works in the NCC land a fresh survey should be undertaken for active badger setts with appropriate mitigation if necessary, regulated through planning condition.
 - The trees/scrub on site have low potential for bat habitat and no further mitigation is required.
139. One specific potential ecological impact directly linked to the deepening of pond FP2 has been identified in Natural England's consultation response in connection with ground dewatering to artificially lower the water table in the vicinity of pond FP2 during the extraction works (ground dewatering) to enable the underlying sand and gravel to be worked dry. Natural England has raised concerns that this dewatering would lower groundwater levels on adjoining land, specifically raising concerns of potential changes to groundwater levels in Spalford Warren Site of Special Scientific Interest (SSSI) and impacts on plants

in this habitat. The SSSI is located around 2.8km south west of the application site. In response the applicant has sought to address the concern by amending their working methodology for the site, no longer proposing to utilise ground dewatering for the extraction of pond FP2. Instead the site would be extracted 'wet' using long arm excavators and thus ensure there would be no changes to groundwater levels as a result of the development. This modification has addressed Natural England's original concerns regarding potential impacts at Spalford Warren SSSI, enabling them to withdraw their holding objection to the planning application. A planning condition is recommended to ensure that no groundwater dewatering is undertaken within the pond FP2 application site area to ensure appropriate regulation of this matter.

140. Subject to the above planning conditions, it is concluded that satisfactory mitigation and compensation measures are provided for any impacts to habitats and species resulting from site clearance works and following the re-landscaping of the site the development should result in a net gain to biodiversity and therefore the development is assessed as being compliant with MLP Policy DM4: Protection and Enhancement of Biodiversity and Geodiversity, N&S CS Core Policy 12: Biodiversity and Green Infrastructure and N&S A&DMD Policy DM7: Biodiversity and Green Infrastructure.

Dust

141. MLP Policy DM1: Protecting Local Amenity states that proposals for minerals development will be supported where it can be demonstrated that any adverse impacts on amenity from dust emissions are avoided or adequately mitigated to an acceptable level.
142. The outline Construction Environment Management Plan (CEMP) submitted in support of the planning application acknowledges that the excavation of pond FP2 and associated mineral stockpiling, processing and haulage has potential to generate dust, particularly in dry conditions and therefore identifies the following dust suppression measures to mitigate these impacts:
- Daily weather checks including wind direction;
 - Limiting the speed of vehicles on site, with variable speed limits to suit site conditions;
 - Regular damping down of haul roads;
 - Sheeting vehicles transporting materials;
 - Road sweeping where required.
143. Whilst these arrangements would provide some level of dust control, they could be further supplemented to regulate matters such as minimisation of drop heights of materials, dampening down of stockpiles and the seeding of soil storage mounds to provide more robust dust control. These matters can be regulated by planning condition with this approach satisfying MLP Policy DM1.

Flood Risk

144. N&S CS Core Policy 10: Climate Change and N&S A&DMD Policy DM5 (9): Flood Risk and Water Management along with the revised NPPF set out a sequential approach to flood risk. MLP Policy DM2: Water Resources and Flood Risk seeks to ensure minerals development do not have unacceptable impacts in terms of flood risks.
145. Matters in relation to flood risk were assessed as part of the original NSDC planning appraisal. This appraisal identified that the development site is designated as flood zone 2 and flood zone 3 (land with the highest probability of flooding) according to the Environment Agency's flood maps. As part of their decision process NSDC undertook a 'sequential appraisal' of the development consistent with NPPF policy and the supporting planning practice guide, concluding that the proposed fish farm business was compatible with this flood zone category. NSDC were also satisfied that the development would not increase flood risk to surrounding land.
146. The proposed deepening of pond FP2 would not alter the original conclusion in terms of the flood zone compatibility of the development. The Environment Agency have confirmed they do not raise an objection to the current planning application in the context of flood risk and potential for increased flood risks to surrounding land. It is therefore concluded that the proposed deepening of pond FP2 is acceptable in terms of potential flood risks and is compliant with the planning policy tests set out above.

Surface Water Management

147. N&S CS Core Policy 10: Climate Change and N&S A&DMD Policy DM5 (9): Flood Risk and Water Management seek to ensure that new development positively manages its surface water run-off to ensure that there is no unacceptable impact in run-off into surrounding areas or the existing drainage regime. MLP Policy DM2: Water Resources and Flood Risk states that proposals for minerals development will be supported where it can be demonstrated that there are no unacceptable impacts on surface water quality and flows or groundwater quality and levels at or in the vicinity of the site.
148. It has previously been acknowledged in this report that the deepening of pond FP2 would provide a body of water of much greater depth to function more satisfactory as a sediment lagoon and assist in the management of suspended solids as part of the wider fish farm construction project. The pond is designed and will be constructed to provide a hydraulic connection to the water table as well as a surface water drainage connection to the Wigsley Drain via the existing drainage ditch located along the northern boundary of phase 2 of the wider fish farm development. The Upper Witham Internal Drainage Board have confirmed they raise no objections to these drainage arrangements and the Council's Flood Risk Management Team is satisfied with the arrangements, confirming that the development will not increase surface water run off or alter existing run off to an extent that it would have a detrimental impact on the wider

area. The discharges from the site into the wider water environment would be regulated by a discharge consent issued by the Environment Agency which would control both the rate of flow and the level of silt in the flow to an appropriate level.

149. Based on the above conclusions, it is concluded that the development would not result in any unacceptable flood risk or land drainage issues, and therefore the development is compliant with the planning policy tests set out above.

Potential for Ground Remediation

150. The site is currently in use predominantly as agricultural land but historically was used as an RAF airfield. Remnants of the former airfield use including the concrete runway and some structures are still evident on-site which would be disturbed during the proposed development.
151. The NPPF strongly supports the re-use of land that has been previously developed, identifying that when re-development proposals come forward for previously developed land, opportunities should be taken to remediate and mitigate the despoiled, degraded, derelict condition of the land and address any contamination issues. N&S A&DMD Policy DM10: Pollution and Hazardous Materials is consistent with NPPF policy.
152. An inspection of the NSDC committee report and subsequent planning appeal decision identifies that it does not discuss the potential for ground contamination from the historical use of the site as an airfield and there is no obligation or requirement within the planning conditions for the developer to undertake any ground contamination investigation or remediation works as part of the wider fish farm development.
153. Advice has been taken from VIA's Reclamation Officer who advises that the site may incorporate contamination which the proposed development has the potential to disturb, introducing new potential pollution pathways and pollution exposure to receptors. The submitted planning application does not include any information to assess the level of risk associated with the proposal and whether any identified risks can be adequately mitigated or controlled.
154. The historical use of the site is not considered to present a significant pollution hazard or risk. To ensure that any residual risks are minimised and managed appropriately it is recommended that a planning condition is imposed as part of any grant of planning permission to require an appropriate programme of site investigation and monitoring works prior to commencing the development with a specific focus on the areas of most potential pollution risk including the abandoned structures and demolition rubble, an investigation of radioactive contaminants based on the historical use of radium paint in flight instruments at the time that the airfield was in use, and consideration of the potential to encounter discarded ammunition. This approach would be consistent with N&S A&DMD Policy DM10 and NPPF policy.

Archaeology

155. A&S A&DMD Policy DM9: Protecting and Enhancing the Historical Environment requires development proposals to take account of their effect on sites of potential archaeological interest. MLP Policy DM6: Historic Environment requires development proposals for minerals development on a site of archaeological importance to incorporate satisfactory mitigation measures which may include preservation in situ or the excavation and recording of any affected archaeological remains.
156. The planning application site is not designated or of local interest for its archaeological features and the Council's Historic Environment Record does not incorporate any records of archaeological features within the site.
157. An inspection of the NSDC committee report and subsequent planning appeal decision identifies that it does not discuss the potential archaeological implications of the development and there is no obligation or requirement within the planning conditions for the developer to undertake any archaeological recording or mitigation works as part of this development.
158. Advice has been taken from NCC's Archaeological Officer who acknowledges that the development site is unlikely to incorporate significant archaeological features but notes that the absence of an archaeological designation or archaeological records for the site does not rule out the potential that the extraction works may encounter archaeological features. However, the Archaeological Officer acknowledges that the planning application site benefits from planning permission for the wider fish farm development which permits the extraction of pond FP2 to a shallower depth. Since the modifications sought within the current planning application relate to increasing the depth of this previously consented pond and therefore would not further impact any archaeology features of the site due to their presence near the surface of the site, the archaeology officer does not wish to raise any comments or recommendations in respect of the current planning application.

Duration of works and scope for further minerals extraction

159. Wigsley Parish Meeting have expressed concerns regarding the duration of the works associated with the deepening of pond FP2. The planning submission confirms the construction project associated with the deepening of pond FP2 would be for two years with excavation works taking one year and haulage of minerals and replacement of soils within the second year. A planning condition is recommended to regulate these matters.
160. Wigsley Parish Meeting have also raised concerns that the applicant may subsequently seek to deepen the wider network of ponds if this planning application was successful. This question has been raised with the applicant who has stated that this is not proposed. Since this planning application is clear in terms that it only seeks planning permission to deepen pond FP2, no development consent would be provided for any wider excavation project as

part of this planning approval and the Council can only consider the scheme which is in front of it for determination.

Other Options Considered

161. The report relates to the determination of a planning application. The County Council is under a duty to consider the planning application as submitted but the report does identify there are alternative solutions to construct a settlement lagoon which would be less significant to construct, but would not provide the wider benefits when compared to the deepening of pond FP2, specifically in terms of supporting the operational fish farm to grow fish to a larger size and the economic benefits this brings to the viability of the business.

Statutory and Policy Implications

162. 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

163. The development would utilise mobile plant and machinery which would be secured at night-time and weekends when not in use.

Data Protection and Information Governance

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

Financial Implications

165. None arising.

Human Resources Implications

166. None arising

Human Rights Implications

167. 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

168. None arising.

Safeguarding of Children and Adults at Risk Implications

169. None arising.

Implications for Service Users

170. None arising.

Implications for Sustainability and the Environment

171. These have been considered in the Observations section above.

Conclusion

172. In terms of assessing the merits of the current planning application it is not necessary to re-examine the original planning merits of the wider fish farm development and therefore the focus of the planning assessment is in respect of the planning issues associated with the deepening of pond FP2 and the recovery of approximately 70,000 tonnes of sand and gravel.
173. The deepening of pond FP2 is considered to provide benefits to the wider fish farm in terms of silt management during the construction phase and to the productivity/viability of the fish farm business once operational and therefore the development is supported by Nottinghamshire Minerals Local Plan (MLP) Policy DM13: Incidental Mineral Extraction, subject to there being no unacceptable environmental impacts. The economic benefits of the development to the wider business are also positively supported by paragraph 81 of the NPPF which requires significant weight to be given to the economic benefits in planning decisions.
174. The excavation of pond FP2 to a greater depth of 6m and the recovery of the underlying mineral represents a significant development project. Careful consideration has been given to the potential significance of the environmental effects of these works as required by MLP Policies DM13 and DM1: Protecting Local Amenity.

175. The NSDC wider fish farm development involved limited HGV movements associated with the removal of soils averaging one HGV load a day. The extraction, processing and sale of minerals associated with the deepening of pond FP2 significantly increased the volume of HGV traffic associated with the construction works but would not result in a significant uplift in vehicle movements along Wigsley Road, Hives Lane, Besthorpe Road and Sand Lane or the wider highway network. Significant adverse highway impacts are not anticipated as a result of the proposed development and it is concluded that the vehicle movements likely to be generated can be safely accommodated on the highway network without unacceptable disturbance to local communities. The development is therefore considered to be compliant with MLP Policy DM9 and N&S A&DMD Spatial Policy 7.
176. In terms of noise emissions, the deepening of pond FP2 would have a negligible/low noise impact and be unlikely to result in adverse noise impact to the surrounding area. Planning conditions are proposed to regulate noise emissions and ensure compliance with MLP Policy DM1: Protecting Local Amenity and N&S A&DMD Policy DM5.
177. The development does not change the size of pond FP2 from the scheme consented under the NSDC planning permission. Modifications to the depth of the pond would not be visually perceptible once backfilled with water and the omission of the original island would not result in any significant visual or landscape effects. Visual effects from the stockpiling and processing of sand and gravel are temporary and mitigated by the presence of screen bunding.
178. In terms of ecology, significant impacts to habitats and species as a result of site clearance works are not anticipated and following the re-landscaping of the site, which would be required to have an ecological focus, the development should result in a net gain to biodiversity and therefore the development is assessed as being compliant with MLP Policy DM4: Protection and Enhancement of Biodiversity and Geodiversity, N&S CS Core Policy 12: Biodiversity and Green Infrastructure and N&S A&DMD Policy DM7: Biodiversity and Green Infrastructure.
179. Environment impacts and emissions in terms of dust release and control, flood risk and drainage, potential contamination from the former airfield use of the site and archaeology have been reviewed and appropriate mitigation and controls have been identified where necessary within the schedule of planning conditions to ensure there would be no significant harmful impacts.
180. Overall, it is concluded that the deepening of pond FP2 would be beneficial to the wider fish farm development both during the construction and operational periods and would not result in any significant harmful impacts. The planning application is therefore supported by MLP Policy DM13 and the wider policies of the development plan.

Statement of Positive and Proactive Engagement

181. In determining this application the Mineral Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions; scoping of the application; assessing the proposals against relevant Development Plan policies; the National Planning Policy Framework, including the accompanying technical guidance. The Mineral 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, and have been addressed through negotiation and acceptable amendments to the proposals. The applicant has been given advance sight of the draft planning conditions and the Mineral Planning Authority. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

RECOMMENDATIONS

182. 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

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

[RHC 06/06/2022]

Financial Comments

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

(SES 27/05/2022)

Background Papers Available for Inspection

The application file is available for public inspection by virtue of the Local Government (Access to Information) Act 1985 and you can view them at: www.nottinghamshire.gov.uk/planningsearch/plandisp.aspx?AppNo=F/4338

Electoral Division(s) and Member(s) Affected

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