

Planning and Rights of Way Committee

Tuesday, 05 July 2022 at 10:30

County Hall, West Bridgford, Nottingham, NG2 7QP

AGENDA

- 1 To note the appointment by Full Council on 12 May 2022 of Councillor Richard Butler as Chair and Councillor Jim Creamer as Vice Chair of the Committee for the 2022-23 municipal year.
- 2 Terms of Reference and Membership 3 - 6
- 3 Minutes of the meeting held on 24 May 2022 7 - 16
- 4 Apologies for Absence
- 5 Declarations of Interests by Members and Officers:- (see note below)
(a) Disclosable Pecuniary Interests
(b) Private Interests (pecuniary and non-pecuniary)
- 6 Declarations of lobbying
- 7 Annual Report of the Licensing Work carried out by the Trading Standards and Communities Service 17 - 22
- 8 To Register a Town or Village Green - Land at South Scarle 23 - 44
- 9 Three Applications for a Modification Order at Pleasley Vale, Mansfield Woodhouse 45 - 72
- 10 Creation of Fish Farming Pond, Land off North Scarle Road, Wigsley 73 - 132

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| 11 | Development Management Progress Report and End of Year Performance 2021 - 2022 | 133 - 148 |
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Notes

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

Customer Services Centre 0300 500 80 80

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

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

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

5 July 2022**Agenda Item: 2****REPORT OF THE SERVICE DIRECTOR, CUSTOMERS, GOVERNANCE AND
EMPLOYEES****TERMS OF REFERENCE AND MEMBERSHIP****Purpose of the Report**

1. To set out the membership and terms of reference of the Planning and Rights of Way Committee.

Information

2. The following Councillors have been appointed to the committee:

Chairman – Councillor Richard Butler (C)
Vice-Chairman – Councillor Jim Creamer (L)

Councillor Mike Adams (C)
Councillor Andre Camilleri (C)
Councillor Robert Corden (C)
Councillor Jim Creamer (L)
Councillor Sybil Fielding (L)
Councillor Paul Henshaw (L)
Councillor Andy Meakin (I)
Councillor Nigel Moxon (C)
Councillor Philip Owen (C)
Councillor Francis Purdue-Horan (I)
Councillor Sam Smith (C)
Councillor Daniel Williamson (I)

3. At its meeting on Thursday 12 May 2022, the Council agreed the terms of reference for the Planning and Rights of Way Committee, as set out below:

The exercise of the powers and functions set out below are delegated by the Full Council to the Committee in relation to planning and rights of way and are expressly excluded from the delegation of authority to the Executive:

- a. To carry out all County Council non-executive functions relating to town and country planning and development control as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended (the Functions Regulations)
 - b. To exercise the Council's non-executive functions relating to highways, public rights of way and commons and village greens as set out in Schedule 1 to the Functions Regulations
 - c. To carry out any other licensing and registration or regulatory functions of the Council not assigned to any other body, including any which are not to be executive functions as defined in the Local Government Act 2000, the Functions Regulations, the Local Government and Public Involvement in Health Act 2007 and associated regulations or other relevant legislation
 - d. Receiving reports on the exercise of powers delegated to officers in relation to functions for which this Committee is responsible
 - e. Approval of consultation responses relating to the Committee's functions (in liaison with the Cabinet Member Economic Development and Asset Management where appropriate), except for responses to day-to-day technical consultations which will be agreed with the Chairman and reported to the next available Committee following their submission
 - f. Within the remit of this Committee, approving all Councillor attendance at conferences, seminars and training events within the UK mainland for which a fee is payable including any expenditure incurred, and to receive quarterly reports from Corporate Directors on departmental officer travel outside the UK
- 4. The Committee will, from time to time, approve the criteria setting out the matters that must be referred to Committee for consideration and are excluded from delegations to Officers. Subject to the matters that must be referred to Committee, all the functions set out in a to c above are also delegated to the Corporate Director Place.
 - 5. The Committee is not responsible for the preparation, approval and adoption of Development Plans (under the Town and Country Planning Acts).

Other Options Considered

- 6. None.

Reason/s for Recommendation/s

- 7. To inform the committee of its membership and terms of reference.

Statutory and Policy Implications

8. 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, safeguarding of children and adults at risk, service users, smarter working, 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.

RECOMMENDATION

That the Committee membership and terms of reference are noted.

Marjorie Toward

Service Director, Customers, Governance and Employees

For any enquiries about this report please contact:

Pete Barker, Democratic Services Officer
Email: peter.barker@nottsc.gov.uk
Tel: 0115 977 4416

Constitutional Comments (RHC 14/06/2022)

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

Financial Comments (SES 14/06/2022)

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

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Report to full Council on 12 May 2022 (published)

Electoral Division(s) and Member(s) Affected

- All

Meeting **PLANNING AND RIGHTS OF WAY COMMITTEE**

Date **Tuesday 24 May 2022 (commencing at 10.30am)**

Membership**COUNCILLORS**

Richard Butler (Chair)
Jim Creamer (Vice-Chair)

| | |
|----------------------------|-------------------------------|
| Mike Adams | Nigel Moxon |
| Andre Camilleri | Philip Owen |
| Robert Corden | Francis Purdue-Horan |
| Sybil Fielding - Apologies | Sam Smith |
| Paul Henshaw | Daniel Williamson - Apologies |
| Andy Meakin | |

OTHER COUNTY COUNCILLORS IN ATTENDANCE

Matt Barney

SUSTITUTE MEMBERS

Pauline Allan substituted for Sybil Fielding.
Helen-Ann Smith substituted for Daniel Williamson.

OFFICERS IN ATTENDANCE

Pete Barker – Chief Executive's Department
Rachel Clack – Chief Executive's Department
Marion Clay – Children and Young People's Department
David Marsh – Place Department
Jonathan Smith – Place Department
Daniel Sullivan – Place Department (via Teams)
Tim Turner – Place Department

1. MINUTES OF PREVIOUS MEETING HELD ON 19 APRIL 2022

The minutes of the meeting held on 19 April, having been circulated to all Members, were taken as read and were confirmed, and were signed by the Chair.

2. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Fielding (Other reasons) and Councillor Williamson (Other reasons).

3. DECLARATIONS OF INTERESTS BY MEMBERS AND OFFICERS

There were no declarations of interest.

4. DECLARATIONS OF LOBBYING OF MEMBERS

Councillor Owen had received an email from a resident concerning the application for a new school in East Leake and Councillor Butler had received emails from two Rushcliffe Borough Councillors about the same application - which did not preclude Councillor Owen or Councillor Butler from speaking or voting on that item.

5. PROPOSED SOUTHERN EXTENSION, BANTYCOCK QUARRY

Mr Smith introduced the report which considered a planning application seeking permission for the extraction of approximately 5 million tonnes of gypsum from a southern extension to the quarry.

Mr Smith informed members that the key issues related to the blasting/vibration impact including impact on gas and oil pipeline infrastructure; the need to move a section of the oil pipeline to the south of Balderton Grange Farm; noise; dust; traffic; ecology, including impacts on the water environment; archaeological and heritage impacts; overall residential amenity impacts; and impacts on adjacent agricultural land holdings.

Following Mr Smith's introduction, Mr Jeremy Elvins, the applicant, was given the opportunity to speak and **a summary** of that speech is set out below:

- Gypsum quarrying in the Newark area has been continuous for 160 years. Bantymock Quarry is unique, it is the only source of high purity white gypsum in the UK.
- The quarry is a nationally important supplier of two types of gypsum – specialist industrial grade, for use at the adjacent Jericho factory, which is used in many essential applications such as the food industry, water treatment, agriculture, medical and dentistry and secondly, construction grade, for improving the quality of gypsum mined underground at our Barrow plaster and our East Leake plasterboard plants.
- The extension to the quarry is vital to continued operations at Newark, it will help Saint Gobain Formula & British Gypsum minimise the UK's reliance on imported gypsum. It will also help to secure the long-term future of the important plaster and plasterboard manufacturing in the East Midlands protecting UK manufacturing jobs, with UK sourced raw materials.

- The site is an important local employer with 60% of our employees living within 10 miles.
- It provides direct employment for around 165 members of staff. We make significant contributions to the local economy and have contracts with approximately 50 local suppliers for services. The company continues to make significant capital investments to modernise the manufacturing process.
- The extension would secure 5 million tonnes of gypsum extending the life of the quarry until at least 2040.
- Despite the challenges of the COVID restrictions we carried out a thorough public consultation exercise involving the distribution of a leaflet about the proposal to all local residents, and a dedicated interactive website, viewed over 400 times. We also held online meetings with local residents, other interested parties and our local quarry liaison group.
- The main concerns raised by local residents related to dust and the impact of blasting at their properties. These concerns were addressed at the meetings or through correspondence. We are proud of our relationship with the community and our track record of having very few complaints from local residents.
- Visitors to the quarry are surprised by the low intensity of our blasting operations, which are designed to break up the gypsum seam sufficiently to allow extraction by the excavators. Blasting is continuously monitored and we modify our blasting by reducing the amount of explosive per borehole as we approach sensitive receptors.
- We recognise the importance of restoration & biodiversity, we have worked hard with our landscape architect and ecologists to ensure that we have achieved significant biodiversity gains including substantially extending the aftercare period to ensure the delivery of high quality restoration and public access. The restoration scheme shows a significant increase in biodiversity units when measured using the new biodiversity net gain calculations.
- In the last 5 years as part of the progressive restoration of the site 29,000 native trees have been planted, a 25-acre wildflower meadow has been created and a further 50 acres is due to be restored later this year.
- Approval of this development will ensure a continued supply of this nationally important mineral. It will also help to protect 165 direct jobs and the long-term future of the manufacturing plants at Newark, Barrow and East Leake. We therefore respectfully ask that planning permission is granted in line with the officer recommendation.

Members then debated the item and questions were responded to as follows:

- There have been very few objections to this application.
- The recent Environment Act now requires applicants to deliver biodiversity net gain (BNG) with a metric calculation undertaken to show the extent of that gain. Any reduction to the restoration period is likely to decrease the size of this gain.
- A presentation by the County's ecologist on how ecological surveys are carried out will be organised for a future meeting of the Committee.

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

RESOLVED 2022/033

That planning permission be granted subject to the conditions set out in Appendix 1 of the report.

6. ERECTION OF PRIMARY SCHOOL, EAST LEAKE

Mr Marsh introduced the report that considered a planning application for the erection of a primary school for 1.5 forms of entry (315 places) with a 26-place nursery at 53 Evans Road, East Leake. Mr Marsh informed members that the key issues related to travel/traffic related impacts and impact on a public right of way.

Mr Marsh informed members that additional comments had been received from Rushcliffe Borough Council that broadly reflected the issues raised by East Leake Parish Council and provided the officer responses as below:

- A lack of parking for staff and visitors / The potential for traffic issues around the school at pick-up and drop-off times / Lack of provision for bus/coaches with consideration to be given to a dedicated vehicular drop-off/pick-up zone outside of the school - the school is smaller than previously approved in outline and it would have a proportionately larger car park, suitably sized for both staff and visitors. Adequate on-street parking would be available on Evans Road and the Persimmon Homes development in proximity to the school. Suitable provision would be available outside the school for a bus to park allowing children to safely alight.
- Provision for safe pedestrian and cycle routes from the adjacent housing developments and wider area. Consideration should be given to the provision of a dedicated gathering area for parents/guardians etc so as not to block the public footpath/ pavements/ cycle paths for other users at school start and end times and secure provision for children's scooters - the school would be accessed directly at school start/finish times from the footpath and cycle route. A dedicated parent assembly area is provided inside the perimeter fence. School cycle parking in a secured area can also accommodate scooters.

- Provision of vehicular access to the playing fields by emergency vehicles is questioned - a route will be available to the playing field from Sheepwash Way and may also be available along the path from Evans Road.
- The school cannot be expanded to accommodate future demand for pupil places - pupil place planning projections do not show a demand for pupil places for built and planned development above that which can be accommodated in the proposed 315 place school
- There is a need for a Traffic Regulation Order, for school zone safety measures all along Sheepwash Way and for a school crossing patrol to increase child safety - a TRO is proposed on both Evans Road and Sheepwash Way and a TRO is being introduced for the opening of the temporary school accessed from Sheepwash Way. The making of TROs is subject to a separate statutory process and if objections are raised and successful the residents would be the parties that would be adversely affected. The grants of planning permission for the residential developments both identified the provision and location of a school, and school related traffic and the need for a school safety zone could reasonably be anticipated.
- Hedgehog Highways – the provision of such highways in the perimeter fencing has already been incorporated into the design.
- There is a lack of solar panels - the applicant has set out the sustainable credentials of the building. Additional or alternative provision could be made, but the applicant states that the design is limited by budget, that the price of photovoltaics is reducing and their provision may become a more cost effective addition to be fitted retrospectively.

Mr Marsh informed Committee that since the publication of the papers, Councillor Thomas from Rushcliffe Borough Council had written in querying whether the additional capacity planned for the school would be enough to cater for the demand that would be generated as a result of the new houses already approved in East Leake. Mr Marsh stated that the applicant had used a DfE formula which was the accepted methodology for projecting the future number of school places required.

A further representation has also been received from Councillor Way of Rushcliffe Brough Council raising concerns about traffic and access and requesting a meeting with relevant parties to discuss the options before the building is completed. Mr Marsh informed members that Condition 34 requires the applicant to demonstrate that active engagement with the local community has taken place in the preparation of the Travel Plan. An additional Note to Applicant is recommended to encourage active engagement with the local Members at Rushcliffe Borough Council and with the Parish Council.

A local resident has also submitted a further representation after the publication of the papers drawing attention to the likely problem of parking by school-related traffic on shared drives. Mr Marsh stated that it should be noted that the Traffic Regulation Order proposed for Sheepwash Way and the indicative Traffic Regulation Order for Evans

Road both propose either double yellow lines or School Keep Clear markings across the entrance to the private drives, which may act as a deterrent. A Traffic Regulation Order can be imposed on land that is to become the future adopted highway and any measure introduced on shared private drives would not be able to be enforced. The drives are shared and anything which is done in terms of marking would need the collective agreement of the affected residents. The shared private drive is not within the red line of the planning application site, so planning conditions cannot be imposed in determining this application.

Mr Marsh informed Committee that the applicant has submitted updated landscape plans since the report was published. As a result the wording of Condition 3 needs to be amended to show reference to the following revised drawings related to the revised alterations to the site layout, finishes and landscape:

- Condition 3m) the approved drawing is Revision P06 received 23 May 2022
- Condition 3n) the approved drawing is Revision P05 received 23 May 2022
- Condition 3o) the approved drawing is Revision P06 received 23 May 2022
- Condition 3p) the approved drawing is Revision P05 received 23 May 2022
- Condition 3q) the approved drawing is Revision P06 received 23 May 2022
- Condition 3r) the approved drawing is Revision P05 received 23 May 2022
- Condition 3s) the approved drawing is Revision P05 received 23 May 2022
- Condition 3u) the approved drawing is Revision P06 received 23 May 2022
- The reference made to the Drawing approved by Condition 3m) in Condition 24 will need to be changed to Revision P06.
- In Condition 10, the numbering in roman numerals should begin with i), not h), and within the roman numeral vii) within that condition, that the words 'or hedges' should be added after the word 'trees' on the fourth line of text to give additional protection to both trees and hedges.

Following Mr Marsh's introduction the following points of clarification were made:

- There are private drives on Evans Road, but the road is wide enough to accommodate two-way traffic at the same time as cars stopping to drop off or pick up pupils.

- The design of the school does allow the retro fitting of photo voltaics
- It would be very difficult to impose a condition on the school to control the arrival and departure times of staff during the day as this would be unduly restrictive on how a school can operate. The size of the car park was based on the building of a school to accommodate 2 forms but the school now proposed is only for 1 ½ forms so the size of the car park should be adequate.
- With the agreement of residents it may be possible to introduce a TRO on private drives to prevent unwanted parking, but at the moment there are no residents in place to consult. It is an option to extend the length of double-yellow lines in future if required.

The applicant, Marion Clay on behalf of Nottinghamshire County Council, was then given the opportunity to speak and **a summary** of that speech is set out below:

- East Leake is a planning area which currently includes Brookside Primary Academy, Lantern Lane Community School and Costock C of E Primary School. As a result of house building, there is now a need for a new primary school. Projected demand would strongly suggest that the need can be met by the provision of a 315-place primary school on the Rempstone Road site.
- A presumption to identify the academy sponsor has already been undertaken and this new primary school will be operated by the Spencer Academy Trust. Due to site access constraints, a temporary school will be operating from September 2022 to meet local demand and it is expected that the permanent building will be completed for the academic year 2023/24. For this to happen, the contractors need to mobilise the site as quickly as possible, hence this application requires the approval of Members of this Committee.
- It is of note that the planning permission for the temporary village expires by September 2023. Without these school places, created in the temporary village for 2022 and the permanent site, for the 2023/24 academic year, it would not be possible to accommodate many East Leake children within the planning area.
- The design of Millside Spencer Academy seeks to balance initial capital costs against long term operating and maintenance costs. Consideration has been given to the conservation of energy. High levels of insulation and air tightness reduce heat loss, while ample natural light, energy efficient LED lighting, mechanical ventilation and heat recovery and natural ventilation aim to create a comfortable environment conducive to learning.
- The building is fully electric, making use of air-source heat pumps and providing EV charging. Providing PVs as part of the initial build was considered - however associated capital costs required balancing against other key priorities for the scheme. The design and structure allow for the

future installation of PV panels to further reduce reliance on the grid. Better value and efficiencies can be realised as the cost of PV panels reduce and the grid is decarbonised in the future.

- Thought has been given to sustainable travel including pedestrian and cycle connectivity; helping to reduce traffic and provide associated health and wellbeing benefits.
- Biodiversity has been a key driver seeking to support existing wildlife as well as encourage a biodiversity net-gain. The transitions between mature copse to trim trails and play areas helps to deliver a comprehensive and well-rounded project.
- We believe that projects such as this not only fulfil a specific purpose but provide learning opportunities for children, demonstrating how technology is used as part of the design process, the on-site activities of how buildings are constructed and put together, the understanding of waste recycling as well as considerations for dismantling and reuse.
- We look forward to seeking your support and help to make the project a success, delivering a much needed school as well as meeting wider environmental and sustainable objectives.

The local Member, Councillor Matt Barney, was then given the opportunity to speak and a **summary** of that speech is set out below:

- I have been involved since 2014 in trying to lessen the impact for parents that has been created by the numerous new developments in this area.
- The site is beautiful, set in woodland and over looking ridge and furrow fields. The plans are well considered and the design of the school means that the building will be a good fit for its environment.
- I thank NCC's officers for overcoming many obstacles in getting to this point and I'd like to thank also the local borough and parish councils for their constructive comments.
- The strip of land between the two sites, owned by a third party, is a problem. Can I make a plea to the landowner to donate the land as the school would be so much better without this issue. Also I do not believe there is any commercial value to this land and it would free the landowner from any ongoing liabilities.
- The new school is smaller than originally envisaged and despite this morning's assurances I am concerned about the size of any future demand.
- I would like clarification that the stockpiling of soil and minerals by David Wilson Homes will not create a problem for the school and can be removed at

no cost to the authority if this does not prove to be the case.

- I am disappointed that there is no drop off point provided. I do appreciate that the provision of car parking has increased since the outline planning stage, but I am concerned that this provision is still not sufficient.
- I do acknowledge and welcome the £13m expenditure by NCC but do think PV panels should be provided at the outset as this would align with NCC's environmental commitments.
- I welcome the consideration given to the presence of hedgehogs on site.
- I appreciate the concerns residents on Sheepwash Way have regarding parking but it is reassuring that only 27 pupils have applied to the temporary school this year. I acknowledge that yellow lines and signage are also designed to meet the parking concerns.
- I would like to thank all those who have worked so hard to get to this stage and ask that the Committee approves the application.

Members then debated the item and questions were responded to as follows:

- Parking problems around schools are well known but government policy and NCC's own policies discourage car use. Introducing measures which make it easier and more convenient for car users to access and drop off at schools encourages car usage and is contrary to national and local planning policy requirements, as well as the County Council's declaration of a Climate Emergency. The DoE has certain specifications and standards that govern the size of spaces, including that of car parks – NCC has to work with the constrictions imposed on it.
- NCC also has to work with the site it is given, in this case there is limited scope to increase the provision of car parking.
- Residents will be able to comment on the proposed TRO restrictions with parking restrictions a preferred option to the introduction of residents' parking permits.
- The introduction of more sustainable measures, such as heat pumps or rainwater harvesting, would be supported by the authority but the applicant is restricted by budget.
- Ducting has been installed to allow the future expansion of EV charging in the future.
- An advisory note detailing the Committee's concerns about car parking and the timing of those visiting and leaving the site can be sent to the Academy Trust.

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

RESOLVED 2022/034

That planning permission be granted subject to the changed conditions in Appendix 1 and the additional advisory note as set out above.

7. REPORT ON PLANNING MONITORING AND ENFORCEMENT WORK FOR 2020-21 AND 2021-22

Mr Turner introduced the report that updated Members on the monitoring and enforcement work carried out during the financial years 2020/2021 and 2021/2022 and provided updates regarding notices served.

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

RESOLVED 2022/035

That the contents of the report and the accompanying appendices be noted.

8. DEVELOPMENT MANAGEMENT PROGRESS REPORT

Mr Smith introduced the report and confirmed that this was the usual report brought regularly to committee detailing the applications received, determined and scheduled.

Training on Town and Village Greens would be organised for members before the next Committee meeting in July.

A site visit to Mansfield quarries would be organised for members.

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

RESOLVED 2021/036

That the contents of the report be noted.

The meeting closed at 1.06pm

CHAIR

5 July 2022

Agenda Item: 7

REPORT OF THE SERVICE DIRECTOR PLACE AND COMMUNITIES**ANNUAL REPORT TO THE PLANNING AND RIGHTS OF WAY COMMITTEE
OF THE LICENSING WORK CARRIED OUT BY THE TRADING STANDARDS
& COMMUNITIES SERVICE****Purpose of the Report**

1. To update the Committee on work carried out by the Trading Standards & Communities Service on behalf of the Committee.

Information

2. The Service has an involvement in a number of licensing and registration schemes designed to ensure the safety of our communities. In some cases, the authority is responsible for issuing licences and ensuring safety standards are met through inspections and other activity. Each of the licence types and associated activities carried out by the Service are covered in more detail below.
3. In the last year, Trading Standards has continued to strive and continually review working practices to minimise face to face contact between staff and members of the public and prevent the spread of coronavirus. The Service has adapted and risen to COVID-19 whilst still maintaining vital services to Nottinghamshire residents and businesses with limited resources as can be seen from the following results.
4. From the 1 April 2021 until 31 March 2022, the Service received a total of **£20,547.50** income from licences, registrations, and other related fees, broken down in the table below. This figure includes licences issued that cover more than one year.

| | |
|---------------------------|--------------------|
| Explosives | £ 8,475.00 |
| Petroleum | £ 10,505.00 |
| Petroleum Record Searches | £ 1,567.50 |
| | |
| Total | £ 20,547.50 |

Explosives storage

5. The Service has responsibility for issuing explosives licences for the storage of explosives such as fireworks, safety cartridges and airbag detonators, for quantities of up to 2000kg of

‘Net Mass.’ The Health & Safety Executive (HSE) are responsible for quantities above 2000kg.

6. There are currently two ‘bands’ of licences, determined by the Net Mass of explosives being stored. Since the Explosives Regulations 2014 came into force, both ‘bands’ are now known as an Explosives Licence. The bands are:-
 - 5kg to 250kg – Explosives Licence up to 250kg’s Net Mass
 - 251kg to 2000kg – Explosives Licence over 250kg’s Net Mass

Explosives Activity between 1 April 2021 and 31 March 2022

7. A total of 62 licences were issued in this period comprised of renewal and new applications.
8. In addition to the above, there are also ‘All Year Round’ licences for businesses that wish to supply fireworks all year round, or outside the restricted periods that correspond to specific Chinese New Year, Diwali, Bonfire Night and New Year. In this category, 1 licence was issued in between these dates.
9. In 2021, Officers undertook a programme of inspections in the run up to bonfire night regarding the storage and sale of fireworks. A total of 71 inspections, conducted by Trading Standards Officers, took place across the County, which included ‘high risk’ premises, ‘medium risk’ premises and new premises. Premises within all 7 different Districts or Borough Councils areas in Nottinghamshire were inspected.
10. The firework inspections we conduct look at different aspects of firework storage and sales, including ensuring the safe storage of them and checks / advice that no premises sell to under 18’s. Advice is given during the visit to businesses around Challenge 25 / 30, till prompts, a refusal register and staff training for example. Businesses are also asked about their system in place to prevent the overstocking of fireworks.
11. During inspections in 2021, approximately 870 packages of unsafe fireworks were removed from a shop premises in Nottinghamshire. The fireworks were described as “throwdowns” and were constructed of cardboard tubes and red phosphorus which is banned under the relevant safety standard due to the explosive volatility of the substance. The product posed a high risk of burns and also a risk of hearing damage as it exceeded the safe noise emission limit.
12. A common issue found during inspections is the proximity of combustible items with live fireworks. Two business premises were also found storing 1.3G fireworks, which are a more potent type of firework requiring greater separation distances. Officers provided advice in relation to any issues identified and observed corrective actions being taken to ensure that businesses were brought in to compliance before the end of their visit.

Explosives Activity for 2022

13. Trading Standards Officers will undertake a programme of visits to both existing high risk premises and new licence holders. Officers propose to use media coverage this year, to publicise the results of the inspections.

Petroleum Storage Certificates (previously known as petroleum licences)

14. The Service certifies any premises that store petrol in a tank or bowser for delivery into the fuel tank of a vehicle or other internal combustion engine. The most common premises covered are retail petrol stations that supply fuel to motorists.
15. There are three bandings of certificate which are as follows:
- Petroleum up to 2500 litres;
 - Exceeding 2500 litres but not exceeding 50,000 litres; and
 - Exceeding 50,000 litres.

Petroleum Activity for 1 April 2021 – 31 March 2022

16. The following is a breakdown of the types and numbers of each category:-

| Categories | Licences / Certificates issued 2021/22 |
|---------------------------------------|---|
| Petroleum under 2,500 litres | 4 |
| Petroleum 2500 litres - 50,000 litres | 15 |
| Petroleum exceeding 50,000 litres | 24 |

17. The Service also received approximately 27 enquiries from businesses, operators & contractors for advice on petroleum storage related issues. In order to reduce the burden of red tape on business, The Petroleum (Consolidation) Regulations 2014, provides that petroleum storage certificate (PSC) holders only have to make us aware of material changes, regarding the petrol stations that they operate.
18. As the Service holds detailed records of the petroleum storage facilities at new and historic sites, it also receives requests for historical and / or current environmental searches, particularly in respect of locating disused tanks. 11 such requests have been dealt with between 1 April 2021 and 31 March 2022. These searches are charged for and generate income for the Service.
19. During the period, some examples of enquiries dealt with related to electric vehicle charging installation, red diesel storage, a brand new petrol filling station and what is known as “knock down re-build” to renew pumps and pipework. Some less common enquiries have also been received regarding the storage of petrol at a domestic premises and a house for sale which has a petrol pump on the grounds.
20. The primary focus for the Service for its enforcement activity is on the smaller independent retailers. They generally don’t have the benefit of nationally agreed procedures, and are less likely to have benefited from investment in modern technology, such as double skinned storage tanks or third party wet stock monitoring to check for fuel leaks on petrol tanks.
21. Tanks at independent sites are often the older, single skin type, so it is very important that the operator is diligent in their manual dipping of the tanks, to check for unusual losses of

fuel that might indicate a leak. Trading Standards Officers also check that the site and equipment is properly maintained and that important control systems are in place. This would be demonstrated by documentation such as risk assessments, staff training records and equipment test certificates.

Performing Animals

22. The licensing function for Performing Animals has now been moved from the County Council to the function of the District/Borough Councils.

Licence Fees

23. The current fees are set out in the table below:-

| Explosives | £ |
|---|----------|
| New Licence up to 250kg for 1 year | 111.00 |
| for 2 years | 144.00 |
| for 3 years | 177.00 |
| for 4 years | 211.00 |
| for 5 years | 243.00 |
| Renewal Licence up to 250kg for 1 year | 55.00 |
| for 2 years | 88.00 |
| for 3 years | 123.00 |
| for 4 years | 155.00 |
| for 5 years | 189.00 |
| New licence up to 2000kg for 1 year | 189.00 |
| for 2 years | 248.00 |
| for 3 years | 311.00 |
| for 4 years | 382.00 |
| for 5 years | 432.00 |
| Renewal licence up to 2000kg for 1 year | 88.00 |
| for 2 years | 150.00 |
| for 3 years | 211.00 |
| for 4 years | 272.00 |
| for 5 years | 333.00 |
| All year round firework licence | 500.00 |
| Transfer or Replacement of licence | 37.00 |
| Petroleum | |
| Up to 2500 litres (per year for up to 10 years) | 45.00 |
| 2500 to 50,000 litres (per year for up to 10 years) | 61.00 |
| Exceeding 50,000 litres (per year for up to 10 years) | 128.00 |

24. The fees for petroleum and explosives licensing are set nationally via The Health and Safety and Nuclear (Fees) Regulations 2016, which state the fees that can be charged for a period

of 5 years from those regulations coming into force.

Statutory and Policy Implications

25. 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, safeguarding of children and adults at risk, service users, smarter working, 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.

Financial Implications

26. During the period 1st April 2021 – 31st March 2022, the Service received a total of £20,547.50 income from fees. This being £8,475 from explosives, £10,505 from petroleum and £1,567.50 from petroleum searches. This takes into account the licences covering more than one year.

RECOMMENDATION/S

- 1) That Members consider the updates and highlight any actions required.
- 2) That Members agree to the appropriate use of the media to highlight the results of the fireworks safety inspections programme for the coming licensing period (October/November 2022)
- 3) That Members agree to receive a further update report at the meeting of the Committee in July 2023.

Derek Highton
Service Director, Place and Communities

For any enquiries about this report please contact: Trish Hennessy, Acting Team Manager Trading Standards (0115 8040047) or Fiona Needham, Acting Head of Trading Standards (0115 9773046)

Constitutional Comments [KK 13/06/2022]

27. The proposals in this report are within the remit of the Planning and Licensing Committee.

Financial Comments [RWK 13/06/2022]

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

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

Electoral Division(s) and Member(s) Affected

- All



05 July 2022

Agenda Item: 8

REPORT OF CORPORATE DIRECTOR – PLACE

APPLICATION REF: 366NVG

PROPOSAL: TO REGISTER A TOWN OR VILLAGE GREEN

**LOCATION: LAND AT THE CORNER OF MAIN STREET AND SWINDERBY ROAD,
SOUTH SCARLE**

APPLICANT: THE SOUTH SCARLE PARISH MEETING

Purpose of Report

1. To consider an application made under Section 15, Commons Act 2006 seeking to register land as a town or village green. The Nottinghamshire County Council is the Registration Authority for Common Land and Town or Village Greens, and in order to come to a decision on this matter, the Authority must consider:
 - The contents of the application and any material accompanying it
 - Any objections
 - The applicant's representations in light of any objections
 - The findings made at any site Inspection (if one occurs)
2. Accordingly, the recommendation is to reject the application for the reasons set out in the report below.
3. The Registration Authority is required to either accept or reject the application solely on the facts. Any other issues, including those of desirability or community needs are not legally relevant and cannot be taken into consideration. Acceptance of the application means that the land will be formally registered as a Town or Village Green; such registration giving it the legal status of a Town or Village Green with the corresponding restrictions and protections.

The Site and Surroundings

4. The land which is the subject of the application is located at the junction of Main Street and Swinderby Road, South Scarle. It consists of an elongated grass verge which abuts Greenfield Cottage and Willow Tree Paddock to the West, and alongside an access track/public footpath to the East. A plan showing the application land and other points of interest is shown at Appendix A.

Site Visits

5. Officers undertook ad hoc site visits on 12th August 2021 and 4th November 2021. On each occasion walkers were observed using the adjacent public footpath. On the second visit, cars were observed accessing properties using the adjacent access track. While these are only two brief snapshots, no sporting activities or pastimes were witnessed being undertaken on the application land during either of the visits.

The Law

6. Section 15, Commons Act 2006, provides, insofar as is relevant, that:
 - (1) Any person may apply to the commons registration authority to register land ... as a town or village green in a case where subsection (2) ... applies
 - (2) This subsection applies where:
 - (a) A significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and
 - (b) they continue to do so at the time of the application"
 7. The above provisions have been the subject of much judicial comment. Accordingly, the key principles are as follows:
 8. "Significant Number"

This requirement is closely linked to the "locality" or "neighbourhood" criterion. A "significant number" does not necessarily mean a large number and is a subjective matter for the decision maker i.e. a bigger locality or neighbourhood might lead one to expect a greater number of users, while a smaller locality or neighbourhood, could satisfy the criterion with fewer users. In any event, something more than occasional trespass is required.
 9. "The inhabitants of any locality, or of any neighbourhood within a locality"
- It is settled law that "locality" means a legally recognised administrative area (such as a ward, parish, or district). "Neighbourhood" is a less precise concept but in

general terms means a self-contained area having some cohesive characteristics. The application shows that it is the locality of the parish of South Scarle that is being relied on.

10. "...have indulged as of right"

This means that use must not be by force, by stealth or by permission. 'Force' is not confined to physical force but could also include circumstances where use is contentious i.e. use in breach of prohibitive signage or repeated verbal requests to desist. Use must not be by stealth but must be 'in the open' and without any form of secrecy. Use cannot be by permission (either when expressly given or implied from the landowner's conduct).

11. "...in lawful sports and pastimes"

It is settled law that there is no specific requirement for organised games to have taken place, but lawful informal recreational activities such as general roaming, fruit picking, children playing, will suffice. Use that is strictly confined to defined routes will not satisfy the criteria, and in such circumstances the correct course of action would be to seek to register a right of way rather than a town or village green.

12. "...on the land"

It is not necessary for the land to look like a traditional village green or for all of the land to be in actual use. The Trap Grounds case, heard in the Court of Appeal, related to land which was approximately 25% accessible by the public (the remainder being covered by trees and scrub). The case was upheld on the basis that the whole of the land had been used for recreation.

13. "...for a period of at least 20 years"

The application must demonstrate use to have taken place, without interruption, for a full continuous period of twenty years.

14. "...and they continue to do so at the time of the application".

The application must demonstrate use up to the 2nd of November 2021 (this being the date the application was received by the Registration Authority).

The Application

15. A copy of the application is shown at Appendix B. The grounds stated for the application are set out in parts 7 and 11 of the application and may be summarised as follows:

(a) The land has no registered owner (i.e. title has not been registered with the Land Registry).

(b) It has been referred to locally as 'common land' although it is not.

- (c) Unrestricted access to properties and fields exists on the land.
 - (d) The Smithy [being adjacent] used the land for raising pigs up to 1956.
 - (e) Footpath No.9 runs adjacent to and is used in conjunction with the land.
 - (f) Sections of the land have previously been tended by the "South Scarle Nature Group" to plant indigenous flora. This has temporarily ceased.
 - (g) The justification for the application is to maintain free access all over this area of land for recreation, environmental improvement, and unrestricted access to property.
 - (h) The owner of the Blacksmith's Forge/Willow Tree Paddock asserts that the application land is in his ownership. He has objected to the nature group tending a small patch of this land (consisting of trees/bramble/wildflowers).
 - (i) The owner of the Blacksmith's Forge/Willow Tree Paddock has improved the application land including drainage works for his own benefit and without consultation with the Parish Meeting.
16. Nine letters from 12 local residents were submitted in support of the application. Aside from matters relating to private rights of access (which purely relate to private matters under other legislation), the following points were made:
- (a) The land has been used by walkers and horse riders.
 - (b) The South Scarle Nature Group used the land to plant flora (also referred to as a 'patch'), and to naturalise un-walked edges to provide a nature corridor.
 - (c) Private registration of title to the land at the Land Registry is opposed.
 - (d) Voicing a desire to implement future environmental initiatives on the land.
 - (e) Until 17 years ago (approximately) the land was 'rough' but has since been improved by a local resident.
 - (f) The need to protect the "pathway" by registering it as a village green.

Objections and Representations

17. The application was publicised by means of notices on site, on the village notice board, in a press notice, and by notifications sent to the nearest occupiers and other interested parties. In total, three objections were received, all coming from the abutting properties.

18. The objection from the occupiers of The Blacksmith's Forge/Willow Tree Paddock is summarised below:

- (a) They have been resident at the property since May 2002. At that time, the land fronting Willow Tree Paddock was subject to flooding. Enquiries (including with the Parish Meeting) led them to believe that any works would be a private matter. Drainage works (including the construction of holding chambers/laying of pipes) duly commenced in 2002 and were completed in 2006. The works were prolonged due to difficulties in locating/tracing old land drains.
- (b) During building works between 2003 and 2007, a large amount of fly-tipped material including rubble, scalplings and garden debris was removed from the application land. All rough vegetation was removed at that time. One local farmer is reported to have said that the rubble etc had been deposited to prevent travellers from camping on the lane.
- (c) In 2009 several loads of topsoil were laid and seeded with grass. Prior to renovating the area, it was impossible to use the land for lawful sports or pastimes.
- (d) It can be seen that the land has not had uninterrupted access for twenty years as stated in the application. The village nature group is a recent activity.
- (e) The letters in support of the application mainly refer to use of the public footpath for walking dogs. One letter refers to the area being 'rough' until it was mown.
- (f) When purchasing the old blacksmith's shop/forge in 2016 the vendors were unable to locate the title deeds for the property but stated that the application land formed part of the property when they purchased it in the 1960s. In April 2021 an application was submitted to H.M. Land Registry for the registration of the application land. That application is pending.
- (g) Two supporting statements were also attached to the objection being from workers associated with above-mentioned works, attesting to the nature of the works and timescales.

19. The objection from the occupier of Greenfield Cottage is summarised below:

- (a) They have been resident at Greenfield Cottage since November 1979 and therefore have observed the land over a significant period of time.
- (b) The application land comprises part of their paved driveway and the access to an agricultural field.

- (c) The land has not been used for 20 years by a significant number of inhabitants of the locality for lawful sports and pastimes (including dog walking).
- (d) The far [northern] end of the land was not accessible to anyone prior to 2009 other than by using the marked public footpath when my neighbour at Willow Tree Paddock, finished clearing the rubbish and overgrowth, and sowed grass to establish the current setting, which he maintains by regular mowing.
- (e) Drainage works were carried out on the land by the neighbour who also fills in craters in the track. All of this work has had a positive impact.
- (f) No confidence that South Scarle Village Meeting has the resources to carry out the level of maintenance as is currently maintained by my neighbour.
- (g) This maintenance has benefitted not only myself and the owners of Corner Field Cottage in terms of access to properties, but all the inhabitants of South Scarle who have had free access to it.

20. The objection from the occupiers of Corner Field Cottage is summarised below:

- (a) First resident in the village between 2000-2006, we recall the application land being blocked off with piles of rubble, overgrown and totally impassable. The nearby footpath petered out into nettles and brambles and was obviously not in regular use.
- (b) On moving to Corner Field Cottage in 2011 a transformation had taken place. The lane had been made good and resurfaced, rubbish and piles of bricks removed, and garden waste disposed of. The footpath was open, and all were using the footpath for dog walking.
- (c) During our time in the village no sporting activities have been played on the land as it was all blocked off in 2006.
- (d) For the last four years we have assisted the neighbour at Willow Tree Paddock to maintain the lane, sharing the costs of the work to benefit all who use the lane and footpath. Our neighbour mows the grassed area every week since he cleared the rubbish. He also top-soiled and rotovated the area.
- (e) The so-called wildflower experiment is a blot on the environment and may encourage fly-tipping.
- (f) Dog walkers stick to Footpath No.9 as marked by the yellow arrow sign-post.

21. Two residents, having already submitted a letter of support, emailed the Authority stating "We would like to support the application made by South Scarle Parish Meeting regarding the piece of land at Blacksmith Lane, South Scarle.

We feel strongly that it should be a village asset with free access for all and would envisage it being part of the existing South Scarle Village Nature Project”.

Applicant's Response to the objections

22. As is required, the applicant was given the opportunity to respond to the points raised in the above objections. The applicant's response is summarised below:
- (a) The owner of The Old Smithy verbally claimed to the Parish Clerk that he owned the land attached to it and a dispute arose over the use of part of the land by the village nature group.
 - (b) The Land Registry plan shows that no land is attached to the Old Smithy.
 - (c) Improvements made to the land are acknowledged but this was not done in consultation with the Parish Meeting.
 - (d) Given that the land is not registered, it was felt that the land should be protected for the public. There is no intention to impinge on the rights of adjacent property.
 - (e) It was never claimed that the land was used for sports, but it is used for recreational activities/pastimes.
 - (f) Overall, the justification for the application is to maintain free access to this area of land for recreation, environmental improvement, and unrestricted property access.
 - (g) The village has a playground/sports field at the edge of the village and a grassed village green in the village centre for social gatherings etc. There is no desire or need to use the new application area for purposes other than stated [free access for recreation, environmental improvement, and unrestricted property access].

Conclusion

23. In order to satisfy the grounds for registration, the application must meet each one of the tests as set out in paragraphs 8 to 14 in this report.
24. Accordingly, consideration is given to whether use has been by a significant number of inhabitants. It is noted that South Scarle is rural in nature and is remote to some degree. Although the current population of the parish amounts to approximately 195, only twelve residents submitted letters in support of the application. This amounts to approximately 6% of the locality. If the land in question were used by residents of the locality i.e. the parish, it would be reasonable to expect a greater number of witnesses to have come forward. It is also worth noting that the testimony in the letters, while supportive of the application, provides little evidence of direct first-hand use. In summary, use has

only been demonstrated on an occasional basis by a limited number of persons and therefore does not meet the “significant number” criterion.

25. The locality from which the claimed users are drawn is identified as being the South Scarle Parish and as such meets the requirement of “any locality” for the purposes of the legislation.
26. Although the evidence submitted is limited (i.e. use by the Nature Group), there is nothing in the application, nor in any objection to suggest that this was not ‘as of right’ i.e. there is no evidence of any signs or notices prohibiting use, no evidence that use was undertaken in secret, and no evidence of any pre-existing right or permission to use the land. The application does contain reference to a possible verbal challenge stating that the owner of Willow Tree Paddock had previously objected to the nature group from tending a “small patch” on the application land. Further clarification on this point i.e. to establish whether use has been “as of right” would be necessary if Committee were minded to accept the application.
27. The applicant readily states that no sporting activities have been carried out on the land, but instead is relying on lawful ‘pastimes’ having taken place. This is stated to be evidenced through the Nature Group’s planting of indigenous flora within a small thicket. This appears to be the primary activity alleged to have taken place on the land. It is unclear whether this amounts to a ‘recreational activity’ within any meaning established by case law or instead relates to essentially private work only undertaken through membership of a voluntary group. Other activities which might usually be expected, such as picking berries, children playing, picnics etc are notable by their absence. Accordingly, it is considered by officers, that on balance, the “lawful sports and pastimes” criterion is not met.
28. Whilst the applicant refers to part of the land being tended by the “South Scarle Nature Group”, the only visible evidence of this during the site visits was the small thicket which amounts to approximately 4% of the application land. While, per paragraph 11 above, use of a quarter of the land may be considered to fulfil this criterion, such a very limited area would not appear sufficient to satisfy the criterion for use “on the land” (as defined in the application plan).
29. It is noted that the applicant does not dispute the objector’s account of certain works on the land which appears to have been partly covered with brambles and piles of rubble during the early 2000’s; indeed, one of the statements submitted with the application corroborates this. Furthermore, the objector’s references to works between 2002 and 2009 suggests that the land has only subsisted in its present state for about 11 years prior to the application and that use by the Nature Group only commenced once the land had been cleared by the resident. According to the South Scarle Parish Meeting web site, the Nature Project was formally set up in 2017 (a point which is also made by one of the objectors). Accordingly, use on the land does not appear to have taken place “for a period of at least 20 years” and therefore the criterion is not met.

30. The application states that the work of the Nature Group had temporarily ceased prior to the lodging of the application. Given that no other qualifying activities have been identified, it appears that use did not continue “at the time of the application” and therefore the relevant criterion is not met.

Other Options Considered

31. Should Committee consider that the facts of the application require further investigation, it may call for a local public inquiry to be held (chaired by an independent inspector). Following the Inquiry, the inspector would prepare a report for consideration by Committee. The costs of the inspector/inquiry would be borne by the Registration Authority.

Statutory and Policy Implications

32. 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.

Human Rights Implications

33. Implementation of proposals within this report might be considered to have a minimal impact on human rights (such as the right to respect for private and family life, and the right to peaceful enjoyment of property, for example). The Authority is, however, entitled to affect these rights where it is in accordance with the law and is both necessary and proportionate to do so, including in order to protect the rights and freedoms of others. The proposals within this report are considered to be within the scope of such legitimate aims.

RECOMMENDATIONS

34. Given that the application has not met all of the required criteria for registration of the land as a Town or Village Green, it is RECOMMENDED that the application be rejected for the reasons set out in the report.

ADRIAN SMITH

Corporate Director – Place

Constitutional & Legal Comments (SJE – 24/01/2022)

35. This decision is a quasi-judicial decision falling within the Terms of Reference of the Planning & Rights of Way Committee to whom responsibility for the exercise of the Authority's functions relating to common land and town or village greens has been delegated.

The law requires that Committee consider all relevant evidence to form a view as to the balance and strength of the evidence for and against registration of the land as a Town or Village Green, per the legal tests set out at paragraphs 8-14 above. As a quasi-judicial decision, the decision must be made based solely on the facts and the law applied to those facts. For the avoidance of doubt, other matters such as policy, social or other considerations are not legally relevant and must be disregarded.

Should Committee be minded not to accept the Officer's recommendation / wish for additional information before determining the application, they may resolve to defer consideration of the matter, requiring the bringing back of a further report or the appointment of an independent inspector to report back to the Authority, per paragraph 31 above.

Financial Comments (RWK 20/01/2022)

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

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

Collingham Division Councillor Debbie Darby

Report Author/Case Officer

Eddie Brennan
0115 977 4709

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



Title

APPENDIX A
Application to Register a Town or Village Green
at South Scarle

KEY: Existing Public
 Footpaths

Scale 1:1250 at A4



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Ordnance Survey 100019713



Application land
cross hatched

Thicket Area
shown shaded

Willow Tree
Paddock

Corner Field Cottage

Greenfield Cottage

Yew Tree Cottage

Corner Farmhouse

Dovecote

Fairhaven

Beeches

Swinderby Road

Main Street

Corner
Farm
Barn

The Old
Threshing
Barn

The Old
Stackyard

The
Granary

The Old
Barn

Commons Act 2006: Section 15**Application for the registration of land as a Town or Village Green**

Official stamp of registration authority
indicating valid date of receipt:

COMMONS REGISTRATION ACT, 1965
NOTTINGHAMSHIRE COUNTY COUNCIL
REGISTRATION AUTHORITY

- 2 NOV 2020

Application number:

366 NVG

Register unit No(s):

VG number allocated at registration:

(CRA to complete only if application is successful)

Applicants are advised to read the 'Guidance Notes for the completion of an Application for the Registration of land as a Town or Village Green' and to note the following:

- All applicants should complete questions 1–6 and 10–11.
- Applicants applying for registration under section 15(1) of the 2006 Act should, in addition, complete questions 7–8. Section 15(1) enables any person to apply to register land as a green where the criteria for registration in section 15(2), (3) or (4) apply.
- Applicants applying for voluntary registration under section 15(8) should, in addition, complete question 9.

1. Registration Authority

To the

NOTTINGHAMSHIRE COUNTY COUNCIL

Note 1

Insert name of
registration
authority.

Note 2

If there is more than one applicant, list all names. Please use a separate sheet if necessary. State the full title of the organisation if a body corporate or unincorporate.

If question 3 is not completed all correspondence and notices will be sent to the first named applicant.

Note 3

This question should be completed if a solicitor is instructed for the purposes of the application. If so all correspondence and notices will be sent to the person or firm named here.

2. Name and address of the applicant

Name: SOUTH SCARLE PARISH MEETING

Full postal address:

c/o PARISH CLERK ;
JAYDEE , MAIN STREET , SOUTH SCARLE ,
NEWARK , NOTTS

Postcode NG23 7JH

Telephone number:
(incl. national dialling code)Fax number:
(incl. national dialling code)

N/A

E-mail address:

drdparishclerk-sscarle@outlook.com

3. Name and address of solicitor, if any

Name: N/A

Firm:

Full postal address:

Post code

Telephone number:
(incl. national dialling code)Fax number:
(incl. national dialling code)

E-mail address:

Note 4

For further advice on the criteria and qualifying dates for registration please see section 4 of the Guidance Notes.

** Section 15(6) enables any period of statutory closure where access to the land is denied to be disregarded in determining the 20 year period.*

4. Basis of application for registration and qualifying criteria

If you are the landowner and are seeking voluntarily to register your land please tick this box and move to question 5.

Application made under **section 15(8)**: ☐

If the application is made under **section 15(1)** of the Act, please **tick one** of the following boxes to indicate which particular subsection and qualifying criterion applies to the case.

Section 15(2) applies: ☒

Section 15(3) applies: ☐

Section 15(4) applies: ☐

If **section 15(3) or (4)** applies please indicate the date on which you consider that use as of right ended.

If **section 15(6)*** applies please indicate the period of statutory closure (if any) which needs to be disregarded.

Note 5

The accompanying map must be at a scale of at least 1:2,500 and show the land by distinctive colouring to enable it to be clearly identified.

* Only complete if the land is already registered as common land.

Note 6

It may be possible to indicate the locality of the green by reference to an administrative area, such as a parish or electoral ward, or other area sufficiently defined by name (such as a village or street). If this is not possible a map should be provided on which a locality or neighbourhood is marked clearly.

5. Description and particulars of the area of land in respect of which application for registration is made

Name by which usually known:

UNPAVED EXTENSION OF MAIN STREET (N923 7JH)
AT NORTH END. HISTORICALLY KNOWN AS
BLACKSMITHS LANE

Location:

LAND EXTENDS FROM JUNCTION OF MAIN STREET + SWINDERBY
ROAD IN A NORTHERLY DIRECTION TO THE WEST OF
PUBLIC FOOTPATH N°9. COLOURED PINK ON MAPS
ATTACHED

Shown in colour on the map which is marked and attached to the statutory declaration.

Common land register unit number (if relevant) *

6. Locality or neighbourhood within a locality in respect of which the application is made

Please show the locality or neighbourhood within the locality to which the claimed green relates, either by writing the administrative area or geographical area by name below, or by attaching a map on which the area is clearly marked:

THE LAND IS WITHIN SOUTH SCARLE PARISH
MEETING

Tick here if map attached: ☒

7. Justification for application to register the land as a town or village green

Note 7

Applicants should provide a summary of the case for registration here and enclose a separate full statement and all other evidence including any witness statements in support of the application.

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

THIS SECTION OF LAND IS UNTITLED, SEE ATTACHED SIM 1 SIMR. IT HAS BEEN REFERRED TO LOCALLY AS "COMMON LAND" ALTHOUGH IT IS NOT. THERE HAS ALWAYS BEEN UNRESTRICTED ACCESS TO THE PROPERTIES ABUTTING THIS SECTION OF LAND AND FOR FARM VEHICLES TO ACCESS FIELDS AT THE NORTH END OF THIS LAND. THE SMITHY USED THE LAND TO RAISE PIGS UP TO 1956. THE FIELD (SEE NT 426720) HAS STABLES, HORSES AND A MONTAGE, IT ABUTS THIS LAND.

THE AREA HAS PUBLIC FOOTPATH NO 9 RUNNING ADJACENT ON THE EAST SIDE. IT IS USED IN CONJUNCTION WITH THE LAND (SHOWN IN PINK) AS A BRIDGEWAY, FOOTPATH FOR VILLAGERS, DOG WALKERS & RAMBLERS. IN ADDITION IT IS AN ACCESS FOR FARM MACHINERY TO FIELDS AT THE NORTH END.

SECTIONS OF THIS LAND HAS BEEN TENDED BY "SOUTH SCARLE NATURE GROUP" TO PLANT INDIGINOUS FLOWERS / FAUNA. THIS HAS TEMPORARILY CEASED. SEE SECTION 11.

OVERALL THE JUSTIFICATION IS TO MAINTAIN FREE ACCESS TO AND OVER THIS AREA OF LAND FOR RECREATION, ENVIRONMENTAL IMPROVEMENT AND UNRESTRICTED PROPERTY ACCESS.

Note 8

Please use a separate sheet if necessary.

Where relevant include reference to title numbers in the register of title held by the Land Registry.

If no one has been identified in this section you should write "none"

This information is not needed if a landowner is applying to register the land as a green under section 15(8).

8. Name and address of every person whom the applicant believes to be an owner, lessee, tenant or occupier of any part of the land claimed to be a town or village green

NONE

9. Voluntary registration – declarations of consent from 'relevant leaseholder', and of the proprietor of any 'relevant charge' over the land

Note 9

List all such declarations that accompany the application. If none is required, write "none".

This information is not needed if an application is being made to register the land as a green under section 15(1).

10. Supporting documentation

Note 10

List all supporting documents and maps accompanying the application. If none, write "none"

Please use a separate sheet if necessary.

SSPM SIM RE UNTITLED LAND + SIMR RESPONSE 30.07.2020
 REF 082/853YPMB.
 LR TITLE N° NT516163 BLACKSMITHS FORGE
 LR TITLE N° NT416524 GREENFIELD COTTAGE
 LR TITLE N° NT319759 WILLOW TREE Paddock
 LR TITLE N° NT426720 Paddock, STABLES, MONTAGE
 LR TITLE N° NT485063 CORNER FIELD COTTAGE
 LR TITLE N° NT486745 NORTHEND OF LAND NOMINATED
 FOR REGISTRY AS VILLAGE GREEN
 E-MAIL FROM VIA INCC HIGHWAYS CONFIRMING EXISTENCE
 OF FOOTPATH N° 9
 9x LETTERS FROM RESIDENTS

Note 11

If there are any other matters which should be brought to the attention of the registration authority (in particular if a person interested in the land is expected to challenge the application for registration). Full details should be given here or on a separate sheet if necessary.

Note 12

The application must be signed by each individual applicant, or by the authorised officer of an applicant which is a body corporate or unincorporate.

11. Any other information relating to the application

MR LEO SMALLEY OWNER OF THE BLACKSMITHS FORGE, SEE NT 516163 & OWNER OF WILLOW TREE Paddock, SEE NT 319759 BELIEVES THE LAND SHOWN ON MAPS IN PINK, TO BE "ATTACHED" TO THE BLACKSMITHS FORGE AND THEREFORE, HIS LAND. HE HAS SUGGESTED TO PEOPLE THAT HE MAY RESTRICT ACCESS ACROSS THIS LAND. HE HAS OBJECTED TO "SOUTH SCARLE NATURE GROUP" FROM TENDING A SMALL PATCH OF THIS LAND WITH TREES & BRAMBLE ETC, AND PLANTING INDIGENOUS WILD FLOWERS. HE HAS STATED THAT HE WISHES TO REMOVE TREES & CLEAR THIS WILD PATCH. IT IS NOTED THAT MR. SMALLEY HAS IMPROVED THIS AREA, INCLUDING DRAINAGE. THIS HOWEVER, IS IN SELF INTEREST AND NOT AT THE BEHEST OF ANY OFFICIAL BODY, NOR WAS THERE ANY PRIOR CONSULTATION WITH THE SS. PARISH MEETING.

Date:

27 OCTOBER 2020

Signatures:

SSPM - CLERK

REMINDER TO APPLICANT

You are advised to keep a copy of the application and all associated documentation. Applicants should be aware that signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence. The making of a false statement for the purposes of this application may render the maker liable to prosecution.

Data Protection Act 1998

The application and any representations made cannot be treated as confidential. To determine the application it will be necessary for the registration authority to disclose information received from you to others, which may include other local authorities, Government Departments, public bodies, other organisations and members of the public.

Statutory Declaration In Support

To be made by the applicant, or by one of the applicants, or by his or their solicitor, or, if the applicant is a body corporate or unincorporate, by its solicitor, or by the person who signed the application.

¹ Insert full name (and address if not given in the application form).

I, DAVID ROBIN DUFFIELD,¹ solemnly and sincerely declare as follows:—

² Delete and adapt as necessary.

1.² I am ((the person (one of the persons) who (has) (have) signed the foregoing application)) ((the solicitor to (the applicant) (³ one of the applicants))). on behalf of South Scarle as clerk to South Scarle Parish Meeting

³ Insert name if Applicable

2. The facts set out in the application form are to the best of my knowledge and belief fully and truly stated and I am not aware of any other fact which should be brought to the attention of the registration authority as likely to affect its decision on this application, nor of any document relating to the matter other than those (if any) mentioned in parts 10 and 11 of the application.

3. The map^s now produced as part of this declaration ^{are} ~~is~~ the map~~s~~ referred to in part 5 of the application.

⁴ Complete only in the case of voluntary registration (strike through if this is not relevant)

4.⁴ I hereby apply under section 15(8) of the Commons Act 2006 to register as a green the land indicated on the map and that is in my ownership. I have provided the following necessary declarations of consent:

- (i) a declaration of ownership of the land;
- (ii) a declaration that all necessary consents from the relevant leaseholder or proprietor of any relevant charge over the land have

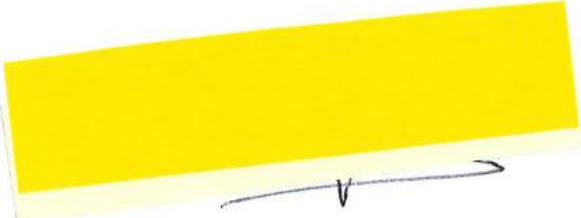
Cont/

⁴ Continued

been received and are exhibited with this declaration; or
(iii) where no such consents are required, a declaration to that effect.

And I make this solemn declaration, conscientiously believing the
same to be true, and by virtue of the Statutory Declarations Act 1835.

Declared by the said DAVID ROBIN DUFFIELD)
TALLENTS)
SOLICITORS)
at 3 MIDDLEGATE)
NEWARK, NOTTS)
NG24 1AQ)
this 27th day of OCTOBER 2020)


Signature of Declarant

Before me * Hargit Saran

Signature 

Address:

TALLENTS
SOLICITORS
3 MIDDLEGATE
NEWARK, NOTTS
NG24 1AQ

Qualification:

Solicitor (SRA 501877)

* The statutory declaration must be made before a justice of the peace, practising solicitor, commissioner for oaths or notary public.

Signature of the statutory declaration is a sworn statement of truth in presenting the application and accompanying evidence.

REMINDER TO OFFICER TAKING DECLARATION:

Please initial all alterations and mark any map as an exhibit

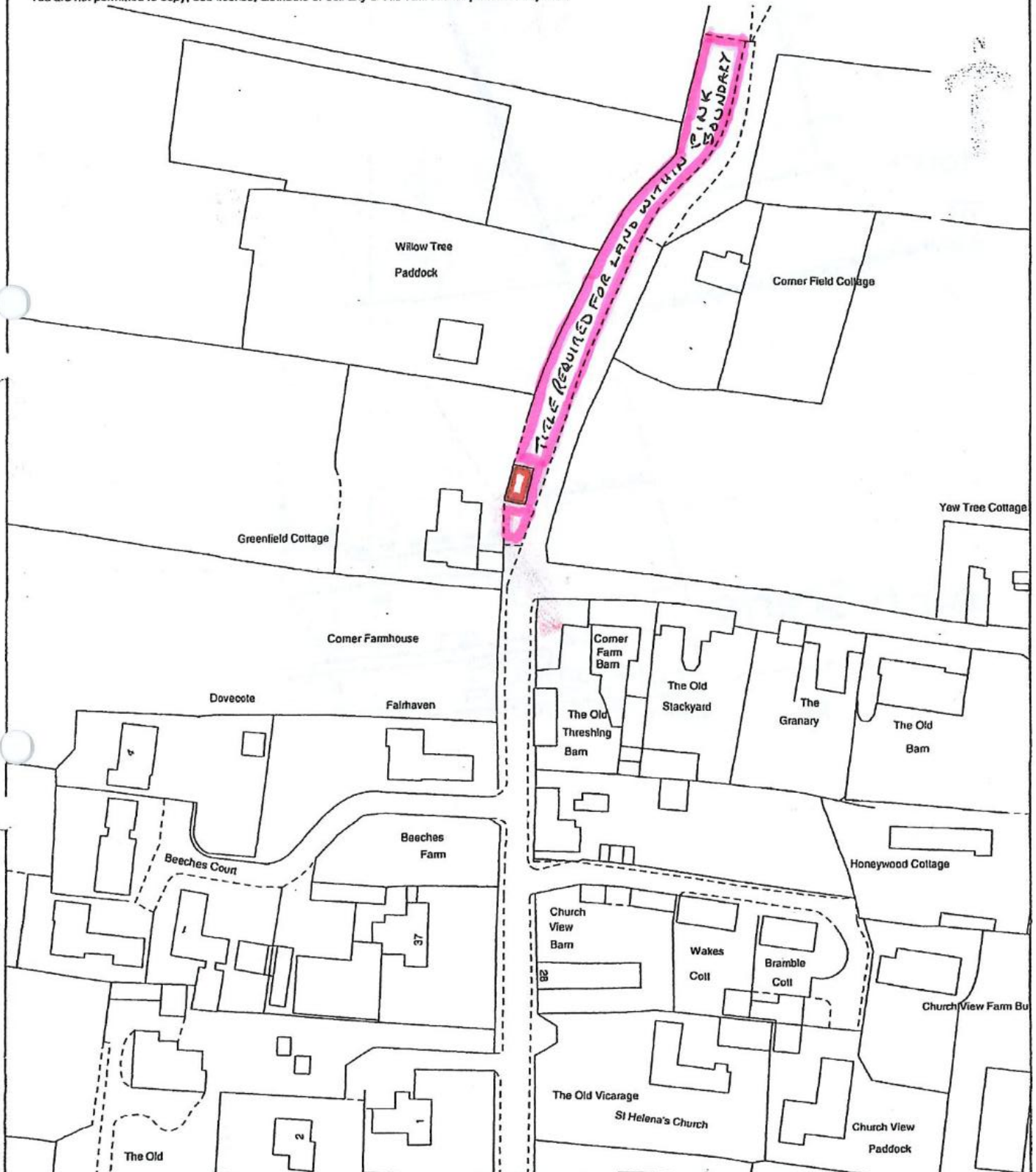
EXHIBIT TO THE STATUTORY DECLARATION IN SUPPORT
OF THE APPLICATION

NEW 10 - 1

Land Registry
Official copy of
title plan

Title number NT516163
Ordnance Survey map reference
Scale 1:1250 enlarged from 1:2500
Administrative area Nottinghamshire: Newark and
Sherwood

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This official copy issued on 23 March 2016 shows the state of this title plan on 23 March 2016 at 15:04:48. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).

This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by Land Registry, Nottingham Office.

5 July 2022**Agenda Item: 9****REPORT OF CORPORATE DIRECTOR-PLACE****PROPOSAL: THREE APPLICATIONS FOR A MODIFICATION ORDER****LOCATION: PLEASLEY VALE, MANSFIELD WOODHOUSE****APPLICANT: STEVEN PARKHOUSE****Purpose of the Report**

1. To consider three applications for a Modification Orders made by Steven Parkhouse of the Ramblers Association to add bridleways and to upgrade a footpath to a bridleway in the parish of Mansfield Woodhouse. A map of the surrounding area is shown as Plan A and the routes under consideration are shown on plan B.
2. The effect of the application would be to record a bridleway from the end of the adopted section of Common Lane, Mansfield Woodhouse to join an existing bridleway at the Nottinghamshire Derbyshire County Boundary; to record a bridleway from Common Lane to St Chads Chapel and on to the Nottinghamshire Derbyshire County boundary at the bridge over the River Meden and the continuation through Northfield Plantation to the junction with Littlewood Lane and to record a bridleway from the end of the bridleway at Littlewood Lane to meet an existing bridleway at the Nottinghamshire Derbyshire county boundary, again at a bridge over the River Meden.

Summary and effect of the Recommendation

3. The recommendation set out at the end of the report is to make a Modification Order for a bridleway for the west, east and middle routes and to turn down the short deadended spur section of path.
4. The effect of accepting the recommendation is to allow officers to move to the next stage of the process of making a Modification Order. This allows for anyone to make an objection to the Order when it is published and if the objections are made and not withdrawn then the case will be referred the Planning Inspectorate. Once referred, an Independent Inspector would either ask for a written exchange of correspondence or ask for a public hearing or inquiry into the Order to be arranged where objectors and supporters would be able to present their

evidence in detail to the Inspector. The Inspector would then make a decision on the case based on all the evidence.

Legal Background

5. The application is made under the provisions of the Wildlife and Countryside Act 1981 (WCA81). Section 53(3)(b) of WCA81 requires the Surveying Authority (Nottinghamshire County Council) to modify the Definitive Map and Statement following “the expiration in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path”.
6. In addition, under Section 53(2)(b) of WCA81 the surveying authority has a duty to keep the Definitive Map and Statement under continuous review and to make such modifications to the Definitive Map and Statement that appear to be requisite in consequence of the occurrence of events described in Section 53(3)(c)(i); namely “the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows: that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates”.
7. Section 31 of the Highways Act 1980 (HA80) raises a presumption that a right of way has been dedicated as a highway if the route has been used by the public ‘as of right’ (without force, without secrecy, or without permission) and without interruption for a period of 20 years unless there is sufficient evidence that there was no intention during that period to dedicate it. The 20-year period is to be calculated retrospectively from the date when the right of the public to use the way is first brought into question.
8. If it is accepted that dedication may be presumed at law, consideration must also be given to the category of highway that is believed to exist i.e., footpath, bridleway, restricted byway or a byway open to all traffic. This point should be based on an evaluation of the information contained in any documentary and/or user evidence.
9. Should the test under Section 31 fail, then it may be appropriate to consider whether the way has been dedicated at common law. Dedication at common law requires consideration of three issues: whether any current or previous owners of the land in question had the capacity to dedicate a highway, whether there was express or implied dedication by the landowners and whether there is acceptance of the highway by the public. Evidence of the use of a path by the public ‘as of right’ may support an inference of dedication and may also show acceptance by the public.

The applications

10. Three applications were made to Nottinghamshire County Council in October 2012 as well as applications to Derbyshire County Council for the connecting paths in Derbyshire. The applicant made an appeal to the Secretary of State who then directed Nottinghamshire County Council to make a decision on the applications. For ease of reference the applications will be referred to as the western, the middle and the spur and the eastern route and will be dealt with individually in the report. Some of the area in Pleasley Vale over which the applications run

was owned by Coates Viyella until 1987. The land was then bought by Bolsover District Council in 1992.

The Western Route

11. This application is to 'add a bridleway in the parish of Mansfield Woodhouse running from the end of the public road Common Lane to Outgang Lane, Pleasley at the County Boundary.' The western route is highlighted by the bold green dashed line on **Plan B**. This application starts at the point where the Pleasley Trail leaves Common Road at point 11 on **Plan B** and as shown in **Photograph 1**. However, at this point the road is already adopted and therefore has public rights on it. The route continues along a tarmac road past the end of the adoption at point 8, as shown in **Photograph 2** and has a sign with the wording 'private road' as well as a 20 miles per hour restriction and a slippery road warning sign. At this point the tarmaced road is in the ownership of Mansfield District Council and follows the left-hand fork of the road at point 1 to continue to a bridge over the river at point 9 where the ownership changes to Bolsover District Council. The route then continues to the Nottinghamshire Derbyshire County Boundary at point 10 as shown in **Photograph 3**. At this point it joins Pleasley Bridleway No. 18 which was upgraded from a footpath following the making and confirmation of a Modification Order. This Derbyshire bridleway continues through Pleasley Mills along Outgang Lane to meet Common Lane, Pleasley.
12. **Map evidence.** Although the Sanderson plan of 1833, Mansfield Woodhouse Inclosure Map of 1851, and the Mansfield Woodhouse Tithe Map of 1854 show part of this, route no information is given as to if it has a public status. Ordnance Survey plans from 1890 onwards also show this route but again make no comment on its status nor do the 1910 Finance Act plans.
13. **Parish Schedule.** As part of the preparation for compiling the Definitive Map and Statement schedules were compiled of parish and urban areas setting out paths which were believed to be public. For the Mansfield Woodhouse area this was completed by a number of councillors all of whom lived in Mansfield Woodhouse. Part of the western route was claimed in 1952 as part of a route that went from the Nottinghamshire Derbyshire County boundary at point 10, to the road junction at point 1 and then eastwards to the junction with Mansfield Woodhouse Bridleway No. 7 at point 6. It was claimed as a public footpath on the grounds of many years of uninterrupted use by members of the public. There was also a comment made in the schedule that it was a public footpath over a private road and that there were no obstructions.
14. However, following from the Parish Schedule, the Draft and Provisional maps were produced and none of these maps showed any part of the western route. Therefore, when the Definitive Map was published in 1960, none of the western route was shown. There are no surviving records that show why this happened, but it is possible that there was an assumption that the tarmac road already had public rights on it and there was no need to show this on the Definitive Map. However, the Definitive Statement, which is a written record of the public rights shown on the Definitive Map, still describes what was shown in the Parish Schedule and records the western end of Mansfield Woodhouse Footpath No. 8 as finishing at the Nottinghamshire Derbyshire County Boundary at point 10 on the plan. When the Definitive Map and Statement for the Mansfield District was updated in 2001 it showed the same information as the one published in 1960.

15. **Date of Challenge.** None of the claimants have stated that their use of the western route has ever been challenged. The wording on the private road sign at point 8 on the plan is not sufficiently clear that it was challenging people using the route on foot, pedal cycle or horseback and would probably have been taken by users to refer to use of the route with vehicles. Even if it was supposed to be a challenge to all members of the public, the sign would only be visible if going in one direction and would not be immediately visible if coming from the Pleasley Mills direction. There is a barrier across the continuation of this path in Derbyshire at Pleasley Mills but there is a gap at the side with a sign directing pedestrians and cyclists. Therefore, in the absence of any challenge from any of the landowners, the challenge date would be counted back from the date when the application was submitted to the County Council in 2012. The relevant 20-year period under consideration would be 1992 to 2012.
16. **Evidence of use.** User evidence forms were submitted by the applicant as part of the application. Sixty-four user evidence forms were submitted in support of the western route and a table summarising the evidence is shown as **Table 1**. Of those who had stated that they had used this western route, 59 of them had used it on foot, 38 of them had used it on a pedal cycle, and 5 of them had used on horseback. The user evidence forms state that 54 have used it for at least 20 years on foot, 28 used by pedal cycle for 20 years and with 4 members of the public whose use was on horseback. However, quite a lot of the claimants state that their use goes back many years before 1992, with some of them having used it continuously from the 1950's and 1960's. Forty of the claimants have stated that their use was at least once a week, with some of them using it once a day.
17. **Supporting Documents.** The applicant did provide some supporting documentation in the form of pedal cycle and trail published routes which did include the western route indicating that the path has been widely used by members of the public to such an extent that it has been publicised.
18. **Consultations.** A consultation was carried out in 2020 with the owners, statutory undertakers, user groups, District and County Councils as well as with the Pleasley Vale Residents Association as well as a consultation in 2021 with the newly elected members of Nottinghamshire County Council. Neither Bolsover District Council nor Mansfield District Council objected to the proposal. The Pleasley Vale Residents Association responded that they had no issues regarding this western route.
19. **Status.** The application that was submitted for this section was for a bridleway but as well as use by walkers and horse riders there was also use by pedal cyclists. The Highways Act 1980 section 31 was amended by section 68 of the Natural Environment and Rural Communities Act 2006 provides that use of a non-mechanically propelled vehicles (such as pedal cycles) can give rise to a restricted byway. Restricted byway rights include a right of way on foot, on horseback and also included non-mechanically propelled vehicles which included pedal cycles and horse drawn vehicles. In the 2010 Whitworth judgement, it was accepted that whilst use by pedal cyclists might be consistent with dedication as a restricted byway it was also consistent with a dedication as a bridleway and that it was reasonable to infer the dedication least burdensome to the owner, i.e., a bridleway. In the case of the western route, since this connects with a bridleway at the Nottinghamshire Derbyshire boundary it would be reasonable to conclude that this also should have the status of a bridleway rather than a restricted byway.
20. **Conclusion.** After consideration of the evidence of use that has been submitted as well as there being no clear challenge to the use of the route by members of the public, the relevant

legal tests have been satisfied to make a Modification Order to add the western route to the Definitive Map as a public bridleway.

The Eastern Route

21. This application is to 'add a bridleway running from the Railway bridge on Littlewood Lane to the bridge over the River Meden (County Boundary)'. This application is shown on **Plan B** by the bold dashed red line. However, as shown on **Plan B**, there is a short section of Mansfield Woodhouse Footpath No. 8 that runs along Littlewood Lane from the end of Mansfield Woodhouse Bridleway No. 7 at point 6 for a distance of 80 metres to point 5 which would need to be upgraded from a footpath to a bridleway. The remaining section of Littlewood Lane from point 5 to the Nottinghamshire Derbyshire boundary at point 7 would be the addition of a bridleway. The route connects to a bridleway on the Derbyshire side that was recently upgraded from a footpath as a confirmed modification order.
22. The application route runs along a surfaced track from the end of Mansfield Woodhouse Bridleway No. 7 and underneath a railway bridge where there is a vehicular barrier and a gap at the side as shown in **Photograph No. 4**. The route continues along a well-defined route to the Nottinghamshire Derbyshire County boundary as shown in **Photograph No 5** where the eastern end of the middle route can be seen joining. All of the route goes over land that has no registered owner.
23. **Map evidence.** Although the Sanderson plan of 1833, Mansfield Woodhouse Inclosure Map of 1851, and the Mansfield Woodhouse Tithe Map of 1854 show part of this route no information is given as to its public status. Ordnance Survey plans from 1890 onwards also show this route but again make no comment on its status nor does the 1910 Finance Act plans.
24. **Parish Schedule.** The plan for the parish schedule shows this route as being a continuation of what is now Mansfield Woodhouse Bridleway No. 7 all the way to the Nottinghamshire Derbyshire County boundary at point 7. The written description in the schedule also confirms this stating that the path finishes at the UDC (Urban District Council) boundary and that the path runs in a north westerly direction passing under the railway bridge to the River Meden, the Urban District Boundary on the north. The path was claimed as a 'Cart Road Footpath'.
25. Following on from the Parish Schedule, the Draft and Provisional maps were produced which preceded the Definitive Map. All of these maps did not show the route going to the District Boundary but instead showed a Cart Road Footpath stopping at the eastern side of the railway bridge at point No.6. This route was reclassified as a public bridleway and is shown on the Definitive Map as Mansfield Woodhouse Bridleway No. 7. Mansfield Woodhouse Footpath No. 8 was shown starting slightly further south than was claimed in the Parish Schedule and instead of running from Littlewood Lane it runs for 80 metres along Littlewood Lane to join with the Mansfield Woodhouse bridleway No. 7 at the eastern side of the railway bridge at point 6.
26. **Date of Challenge.** None of the claimants ever say that their use of the eastern section of the application route was ever challenged. The gate that is on the western side of the railway bridge when pulled closed does have a gap at the side sufficiently wide enough for walkers, pedal cyclists and equestrians to get through. However, most of the claimants do not mention this gate and those that have, stated that it was open and pushed back. Therefore, in the

absence of any information concerning challenges, the date of challenge would be taken to be the date of the application in 2012 making the relevant 20-year period running from 1992 to 2012.

27. **Evidence of use.** User evidence forms were submitted by Steve Parkhouse as part of the application. Sixty user evidence forms were submitted in support of the eastern route and a table summarising the evidence is shown as **Table 2**. Of those users, 55 of them had used it on foot, 36 of them had used it on a pedal cycle, and 5 of them had used on horseback. Of those submitting evidence 51 have stated that they have used it for at least 20 years on foot, with 27 people saying that their use was by pedal cycle and 4 users on horseback. However, quite a lot of the claimants state that their use goes back many years before 1992 with some of them having used it continuously from the 1950's and 1960's. Thirty-six of the claimants have stated that their use was at least once a week, with some of them using it once a day.
28. **Supporting Documents.** The applicant did provide some supporting documentation in the form of pedal cycle and trail published routes which did include the eastern route indicating that the path has been widely used by members of the public to such an extent that it has been publicised.
29. **Consultation.** The land over which this claimed path runs is unregistered. When the applicant erected notices in May 2021 as part of the applicant procedure no one came forward to claim ownership of the unregistered section. In the 2020 consultation for this section of path Bowrings Transport sent in a letter objecting to the application but they did not submit any evidence of any challenges that they had issued. No objections were submitted from Mansfield District Council nor Bolsover District Council and the Pleasley Vale Residents Association responded that they had no issues regarding this eastern route.
30. **Status.** The application made for this eastern section would record a bridleway along the section. As mentioned above for the western section, use by pedal cycles would be consistent with dedication of not only a bridleway but also a byway. However, since this route connects to a bridleway at both ends it is reasonable to infer that the least burdensome status to a landowner would be bridleway.
31. **Conclusion.** After consideration of the evidence of use that has been submitted as well as there being no clear challenge to the use of the route by members of the public, the relevant legal tests have been satisfied to make a Modification Order to add the eastern route to the Definitive Map as a public bridleway.

The Middle Route

32. The application submitted for the middle section is for 'adding a bridleway situated in the parish of Mansfield Woodhouse and running from Common Lane opposite Top Row, Pleasley Vale' 'and through the former sewage works site to Mansfield Woodhouse Footpath 8' and 'upgrading Mansfield Woodhouse Footpath No. 8 to a bridleway running from the former sewage site to Littlewood Lane. The middle section shown is shown on **Plan B** by the bold dashed blue line.
33. This route starts at point 1 on Common Lane, shown on **Plan B** and runs along a tarmaced road to St Chads Church at point 2. There are two metal signs at the start of this route, one with the wording 'St Chad's Church' and another with the wording, 'No Through Road' as

shown on **Photograph No. 6**. Outside of St Chads at point 2 there is a pull in area with the route continuing through a kissing gate with a public footpath signpost next to it. Next to the kissing gate is a locked field gate with a stone wall next to this, as can be seen in **Photograph No. 7**. The route continues along an unsurfaced path with a laurel hedge on the north side of the path which marks the boundary of the old sewage works. The path goes through a gap in a stone wall at point 4 and then the unsurfaced path continues through Northfield Plantation until it meets Littlewood Lane at point 5 as shown on **Photograph No. 5**.

34. **Documentary evidence.** This route is not shown on the Sanderson, Tithe and Inclosure plans. The Ordnance Survey plans from 1890 onwards show the section from point 1 to 2 but not all of the remaining section of the route.
35. **Parish Schedule.** The Parish Schedule was completed in 1952. The section from the junction with Common Lane to St Chads Church is marked on the Parish Schedule map as is the section from St Chads Church to Littlewood Lane but with the route going very close to the south bank of the River Meden and not on its current walked line. The written description described this route as 'public footpath over private road'.
36. However, when the Definitive Map was compiled in 1960, no path was shown on the section from Common Lane at point 1 to the St Chads at point 2. On the remaining section, the line was drawn on the plan which showed the start of the footpath from a point by the bridge near point 12 and then running to Littlewood Lane to join the bridleway at point 6. However, the Definitive Statement still gave a description for this path as 'F.P. over a private road'. A new Definitive Map at a larger scale for the Mansfield area was published in 2000 which showed the same route of Mansfield Woodhouse Footpath No. 8 as shown on the 1960 Definitive Map and the details from the Definitive Statement were the same as well.
37. **Application to Delete.** In 2002, Nottinghamshire County Council received an application from Bolsover District Council to delete the western end of Mansfield Woodhouse Footpath No.8 between points 2 and 4. The District Council believed that the path never existed and was recorded on the Definitive Map in error. Nottinghamshire County Council assessed the application and concluded that there was insufficient evidence to delete the path and turned the application down. In March 2005 Bolsover District Council appealed this decision to the Planning Inspectorate who did conclude that due to the anomalies between that Parish Schedule and the Definitive Map and Statement it cast doubt on the line shown on the Definitive Map. The Planning Inspectorate directed Nottinghamshire County Council to make an Order to delete that section of path shown on the Definitive Map between points 2 and 4. Discussions then took place with Bolsover District Council who agreed to dedicate a footpath on the current used line of the path between points 2 and 4. This deletion order was made and confirmed without objections and Bolsover District Council made a Landowner Statement in January 2022 dedicating the walked line of the path as a public footpath.
38. **Kissing gate.** One of the important points concerning the middle route is at the location of the current kissing gate located at point 2 which was first erected in 2002. The presence of a kissing gate would have been no obstruction for those people using this route on foot as this is a normal item of path furniture on a public footpath. However, consideration must be given to the circumstances when this kissing gate was erected and by whom and if this was a challenge to the public using the route by pedal cycles and on horses. Consideration must also be given to what existed before the kissing gate was erected.

39. An interview was carried out with Tony Barton in 2011 who was a long-standing member of the Old Mansfield Woodhouse Society who was able to provide useful information concerning what was in place prior to the kissing gate being erected. He stated that there was originally a wooden field gate where the metal one currently is, that had a counterbalance so that when it opened it always fell back into place. Once the gate fell into disrepair it was replaced with the current metal one but leaving a gap at the side of the gate. The field gate was then locked to prevent use of the route by horse riders and motorbikes. As part of the application to delete the path evidence was submitted from 3 witnesses that suggested that the field gate was locked and there was no public access along the path.
40. In July 2001 Nottinghamshire County Council received a complaint from the Ramblers Association that the field gate was locked and was blocking access. It would seem that at this point there was no gap at the side of the gate which would have still enabled access. Bolsover District Council, who were owners of the land, were contacted to get them to remove the lock and allow access or to arrange for the installation of an alternative gate.
41. In January 2002 the County Council was informed that the field gate was now open but secured to a secondary post so that the gap was no more than 50cm. In June 2002 an area next to the field gate was cleared and a kissing gate was erected in its current location. The kissing gate was erected with the authority of the owners, Bolsover District Council.
42. This kissing gate structure has stayed in place since 2002 with the adjacent field gate remaining locked. At some stage, after it was first erected, the gate of the kissing gate was stolen and then replaced and then stolen again. **Photograph No. 8** taken in 2007 shows one occasion when the gate was missing and bars had been welded to the opening allowing pedestrians to step through. **Photograph No. 9** taken in 2009, shows at this stage the gate of the kissing gate was missing. Currently the gate of the kissing gate is in place as can be seen in **Photograph No. 7**.
43. With the erection of the kissing gate, this would have prevented use by pedal cycles unless the bike was lifted over the kissing gate or field gate or stone wall adjacent to the field gate. In the supporting information for the application, Steve Parkhouse states that some members of the public seem unwilling to accept the presence of the kissing gate and that when it was installed in 2002 it had been repeatedly removed/stolen allowing for easy access for cyclists instead of wheeling their bikes vertically through the gate or lifting them over. It is the County Council's view that the erection of the kissing gate would have prevented use as of right for cyclists. Although it would have been possible to lift a bike over when the kissing gate was in place and somewhat easier when the gate of the kissing gate was stolen but it would still have required the bike to be lifted over rather than ridden through.
44. The presence of a kissing gate prevented the use of the path by equestrians. This was confirmed by 2 of the equestrians one who stated that for many years the gate was not shut but when it was there was a gap at the side that she rode through. It was when the kissing gate was put in that she could no longer use it with her horse. The applicant Steve Parkhouse does provide a photograph taken in 2009 of a horse rider with a pack of hounds jumping the wall to the north of the kissing gate saying that this demonstrates that horses still traverse the route. However, this would be considered as someone using the route by force in the same way as a walker climbing over a fence. In any case, the location of wall is not on the route of the application.

45. **Date of Challenge.** The County Council believes that the date of challenge for this middle section of path is 2002 when the kissing gate was erected that would have allowed pedestrians through but would have prevented both cyclists and equestrians. Therefore, the relevant 20-year period for the middle route is considered to run from 1982 to 2002.
46. **Evidence of use.** User evidence forms were submitted by the applicant as part of the application. Sixty-one user evidence forms were submitted in support of the middle route and a table summarising the evidence is shown as **Table 3**. Of those users, 58 of them had used it on foot, 31 of them had used it on a pedal cycle, and 5 of them had used on horseback although some of this use has been after the date of challenge of 2002. Of those submitting evidence 51 have stated that they have used for at least 20 years on foot, and their use of the path was never challenged by the presence of a kissing gate. The use of this route on horseback for the period of 1982 to 2002 shows that one rider has used it continually for this period but that 3 others have used it for substantial periods during the 20 years. There are more claimants who have stated that their use was during the relevant period with pedal cycles with 16 claimants stating that they used it for the whole 20-year period. However, quite a lot of the claimants state that their use goes back many years before 1982 with some of them having used it continuously from the 1950's and 1960's. Thirty-seven of the claimants have stated that their use was at least one a week, with some of them using it once a day.
47. **Supporting documents.** The applicant did provide some supporting documentation in the form of pedal cycle and trail published routes which did include the middle route indicating that the path has been used by members of the public to such an extent that it has been publicised. However, in the case of the middle route the use was on foot.
48. **Consultation.** Mansfield District Council who own the tarmac road section from point 1 to point 2 have raised no objection to the application. Bolsover District Council who own the section from point 2 to point 4 which includes the kissing gate have also raised no objection to the application. Bowrings who own section from point 4 to point 5 have raised an objection but have not provided any evidence to say that they have challenged members of the public using the route. The Pleasley Vale Residents Association have objected to the middle section of the application and set out the information concerning the locking of the gate and the erection of the kissing gate in 2002. They confirm that the locking of the field gate was due to the use of the route by motorbikes and horse riders and that the kissing gate was erected with consent from the local authority. They also confirmed that since installation of the gate the Association has subsequently undertaken regular repair work as a result of vandalism. The Residents Association are also concerned about parking issues in front of St Chads Church and the impact on the wooded section between the church and Littlewood Lane.
49. **Status.** This application would record a bridleway along the middle route and the application is part addition and part upgrade. Again, it is reasonable to infer the least burdensome to a landowner would be bridleway.
50. **Conclusion.** After consideration of the evidence of use that has been submitted and taking into account the challenge in 2002, the relevant legal tests have been satisfied to make a Modification Order to add the middle route to the Definitive Map as a public bridleway.

The Spur

51. This is a very short application of 20 metres to add a bridleway from the middle route and runs from opposite St. Chads Church at point 2 to the bridge at the Nottinghamshire Derbyshire County boundary at point 12. The route is surfaced as shown by **Photograph 10** and is an access for a couple of residential properties. Once over the bridge at point 12 on the Derbyshire side there are footpaths on either side of the river.
52. **Evidence.** Although this spur exists as a physical feature on some plans no status is given to the route and it was not claimed in the 1952 Mansfield Woodhouse Parish Schedule. The user evidence forms that were submitted in support of the application do not mention this spur and so there is no user evidence to support this part of the application. None of the supporting documents submitted by the applicant gives any more details about this route. The applicant was contacted concerning the absence of evidence who then responded saying to leave this section out from the applications.
53. **Conclusion.** After consideration that no evidence of use was submitted of the route by members of the public, the relevant legal tests have not been met to make a Modification Order.

Statutory and Policy Implications

54. 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, safeguarding of children and adults at risk, service users, smarter working, 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.

RECOMMENDATION

There is one recommendation that relates to the western, eastern, middle and spur routes which have been separated below for ease of reference:

- To make a Modification Order for the western route to record a bridleway from the end of the adopted road at point 8 to the Nottinghamshire Derbyshire County boundary at point 10.
- To make a Modification Order for the eastern route to record a bridleway from the end of Mansfield Woodhouse Bridleway No. 7 at point 6 to the Nottinghamshire Derbyshire County boundary at point 7.
- To make a Modification Order for the middle route to record a bridleway from the western route on Common Lane at point 1 to the junction with the eastern route on Littlewood Lane at point 5.

- To turn down that part of the application that runs from the junction with the middle route by St. Chads Church at point 2 to the Nottinghamshire Derbyshire County boundary at point 12.

Constitutional Comments [RHC 22/06/2022]

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

Financial Comments (SES 14/06/2022)

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

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- The Application file.

Electoral Division(s) and Member(s) Affected

- **Mansfield North Ward**
Ben Bradley MP
Anne Callaghan BEM

Report Author/ Case Officer

Angus Trundle, Commons and Green and Definitive Map Officer.
0115 9774961

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



**Nottinghamshire
County Council**

Plan A

Outline of the application area



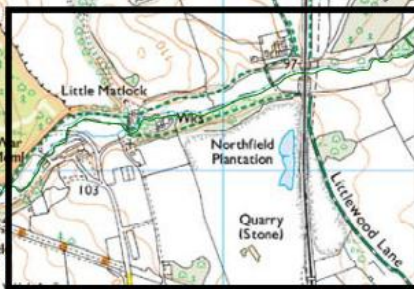
Scale 1:25 000
Date 13/06/2022

NOT DEFINITIVE

Queries about path alignment should be made
to the Definitive Map Team on 0115 9773708.

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Area shown by plan B





Nottinghamshire County Council

Plan B

Applications for a Modification Order Pleasley Vale



Scale 1:5,000

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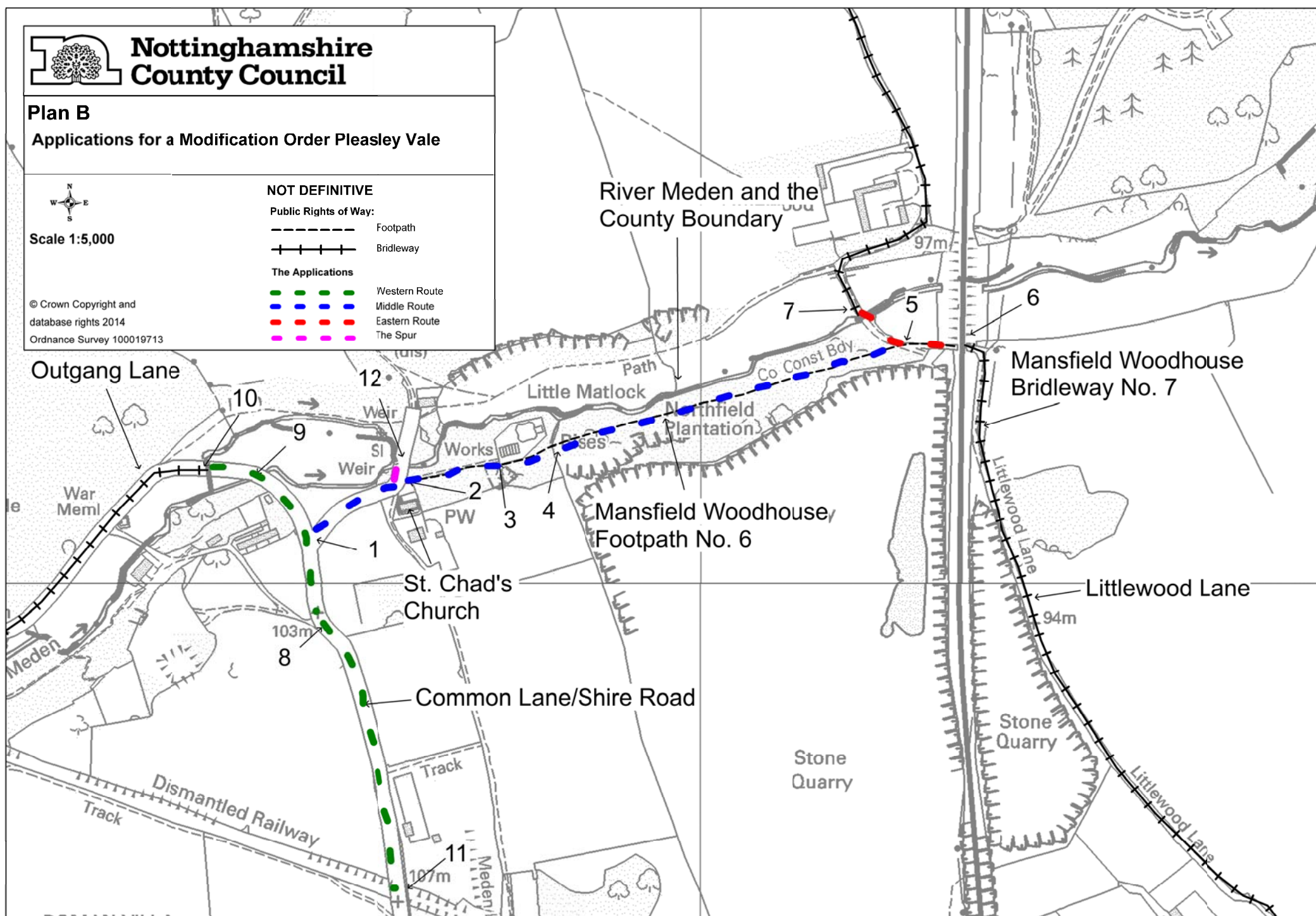
NOT DEFINITIVE

Public Rights of Way:

- Footpath
- + + + + + Bridleway

The Applications

- Western Route
- Middle Route
- Eastern Route
- The Spur



Pleasley Vale Applications photographs



Photo 1, point 11. Looking north from the junction with the Pleasley Trail



Photo 2, point 8. Looking north from the end of the adopted section of road.

Pleasley Vale Applications photographs



Photo 3, point 10. Nottinghamshire Derbyshire County Boundary looking east.



Photo 4, point 6. Looking west just after the railway bridge.

Pleasley Vale Applications photographs



Photo 5, point 5. Looking north to the Nottinghamshire Derbyshire County Boundary.



Photo 6, point 1. Looking east towards St Chads Church.

Pleasley Vale Applications photographs



Photo 7, point 2. Looking east to the kissing gate by St Chads Church.



Photo 8, point 2. Looking east at the kissing gate in 2007

Pleasley Vale Applications photographs



Photo 9, point 2. Looking east at the kissing gate in 2009



Photo 10, point 2. Looking north towards the bridge over the River Meden.

Table 1. Claimed use of the Western Route

Claimed use on Foot and Cycle

[illegible]

Claimed use on Horse

[illegible]

The light bars show the use on foot

The dark bars show use on cycle in the top table and on horse in bottom table

Claimed use on Foot and Cycle

Claimed use on Horse

The light bars show the use on foot

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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 has 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:
- a. *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.*
 - b. *The local roads are narrow and twisting and not suitable for the proposed traffic levels.*
 - c. *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:
- a. *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.*
 - b. *The site boundary is less than 200m from the nearest property (The Oaks bungalow) and is approximately 400m from the centre of Wigsley village.*
 - c. *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.*
 - d. *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 | LAmix |
|---|------------------------|--------|------|-------|
| 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.

LAmix – 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

Collingham

Councillor Debbie Darby

Report Author/Case Officer

Mike Hankin

0115 9932582

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

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RECOMMENDED PLANNING CONDITIONS

Commencement

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

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

2. No part of the development hereby permitted shall be implemented until such time that:

- a. The developer has formally agreed modifications to the wider fish farm development originally consented under Planning Permission 19/00551/FULM with Newark and Sherwood District Council to ensure that this wider development project is fully consistent with scheme hereby granted planning permission by the MPA for the deepening of Pond FP2 and associated works, and;
- b. A lawful commencement of operational development has been made of the revised wider fish farm development consented by Newark and Sherwood District Council, and;
- c. The MPA have provided confirmation in writing that they are satisfied that the deepening of Pond FP2 is fully consistent with any revised wider fish farm development scheme consented by Newark and Sherwood District Council.

Reason: To ensure that the deepening of Pond FP2 is undertaken as part of the wider fish farm development at Wigsley.

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

- a. the commencement of the development hereby permitted.
- b. the commencement of mineral extraction.

Reason: To assist with the monitoring of the conditions attached to the planning permission and for the avoidance of doubt.

Schedule of Approved Documents

4. Except where amendments are made pursuant to the other conditions in this planning permission, the development hereby permitted shall only be carried out in accordance with the following plans and documents:

- a. Drawing No. DH/400/18: Location Plan dated 23/08/2021 and received by the MPA on 12/10/2021
- b. Drawing No. DH/408/17.2: Float Fish Farm, Wigsley dated 30/03/2022 and received by the MPA on 31/03/2022.
- c. Drawing No. DH/409: Finished Lake Design, Float Fish Farm, Wigsley dated 30/03/2022 and received by the MPA on 31/03/2022.
- d. Drawing No. DH/410/10: Float Fish Farm, Wigsley dated 30/03/2022 and received by the MPA on 31/03/2022.
- e. Drawing No. FFF/01/A Rev. 1: Desilting Lagoon Plan and Section dated 14/03/2022 and received by the MPA on 31/03/2022.
- f. Drawing: Typical Inlet and Outlet Detail received by the MPA on 31/03/2022.

Reason: For the avoidance of doubt as to the development that is permitted.

Scope of Development

- 5. The deepened Pond FP2 shall only be used as a settlement lagoon to serve the wider fish farm construction project at Wigsley and upon completion of these construction works the pond shall be used as a fish breeding/growing pond ancillary to the use of the wider fish farming business. The pond shall not be used for recreational or competitive angling purposes.

Reason: To define the scope and use of the development hereby approved.

- 6. The maximum depth of excavations within Pond FP2 shall be 6m measured from existing ground levels, and the works shall be carried out in accordance with the specification shown on Drawing No. FFF/01/A Rev. 1: Desilting Lagoon Plan and Section dated 14/03/2022 and received by the MPA on 31/03/2022.

Reason: To define the scope and use of the development hereby approved.

Duration of Construction Works

- 7. The excavation of mineral from Pond FP2 shall be completed no later than 12 months following the commencement of mineral extraction, as notified under the requirements of Condition 3a. Thereafter, the stockpiling, processing and haulage of these materials shall be completed no later than 24 months following the commencement of mineral extraction, as notified under the requirements of Condition 3a.

Reason: To ensure the development is carried out within an appropriate timescale in accordance with the Nottinghamshire Minerals Local Plan Policy DM12.

Contractors Plant and Buildings

8. Prior to the commencement of the mineral extraction, details of the number, size, height and location of any temporary buildings, cabins, wheelwash and processing plant/equipment required in connection with the excavation of pond FP2 shall have been submitted to and approved in writing by the MPA. The facilities shall be installed in strict accordance with the approved details and retained for a temporary period not exceeding two years following the commencement of planning permission as notified under Condition 3b. All structures, plant and equipment shall have been removed from the site by the expiry of this two-year temporary period.

Reason: To minimise the magnitude and duration of visual impacts resulting from the plant and buildings which are to be installed to facilitate the construction project in accordance with the requirements of Nottinghamshire and Nottingham Minerals Local Plan Policy DM1. These details are required prior to the commencement of the development to ensure that the construction works which are carried out from the start of the development are undertaken in accordance with an approved scheme.

Construction Environmental Management Plan

9. Prior to the commencement of the development hereby permitted a Construction Environmental Management Plan (CEMP) shall have been submitted to and approved in writing by the MPA. The CEMP shall include but not be limited to:
 - a. Contractors' access arrangements for vehicles, plant and personnel, and facilities for parking of contractors' vehicles;
 - b. Segregation of pedestrian and vehicular movements on the site;
 - c. Contractors' site storage area/compound;
 - d. Temporary means of enclosure and demarcation of the site operational boundaries, to be erected prior to the commencement of construction operations in any part of the site and maintained for the duration of construction operations;
 - e. Arrangements for the management of oil and chemical storage;
 - f. Aquifer protection measures during the construction work;
 - g. Measures to ensure the risks to groundworkers arising from potential ground contamination are minimised;
 - h. A method statement for minimising the amount of construction waste resulting from the development to include details of the extent to which waste materials arising from the site clearance and construction activities will be reused on site and demonstrating that as far as reasonably

practicable, maximum use is being made of these materials. If such reuse on site is not practicable, then details shall be given of the extent to which the waste material will be removed from the site for reuse, recycling, composting or disposal;

- i. Site contact details and management arrangements for handling any environmental complaints regarding the operation of the site.

The CEMP shall be implemented as approved throughout the construction and commissioning of the development.

Reason: In the interests of visual and highways amenity and to ensure that the development is in compliance with Policy DM1 of the Nottinghamshire Minerals Local Plan. These details are required prior to the commencement of the development to ensure that the construction works which are carried out from the start of the development are undertaken in accordance with an approved scheme.

Ground Remediation

- 10. No development approved by this planning permission shall be commenced until:

- a. a site investigation and risk assessment recommended in the submitted Phase 1 Contaminated Land Assessment received by the MPA on 31st March 2022 has been completed and approved by the MPA, including consideration of:
 - i. risks related to the historical airfield, such as unexploded ammunitions and radium;
 - ii. the potential for the permanent deep excavation to create new pathways for contaminants to migrate to sensitive receptors.

and (if contamination is identified);

- b. a Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters and on the proposed land use, using the information obtained from the site investigation, has been submitted to the MPA and approved in writing by the MPA prior to that remediation being carried out on the site.

The approved remediation works shall be completed in accordance with the Method Statement approved in compliance with 10 b) to the satisfaction of the MPA.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of soil and/or water pollution in line with paragraph 174 of the

National Planning Policy Framework. These details are required prior to the commencement of the development to ensure that the construction works which are carried out from the start of the development are undertaken in accordance with an approved scheme.

11. A validation report including evidence of post remediation sampling and monitoring results, to demonstrate that the required remediation has been fully met shall be submitted to and approved in writing by the MPA prior to pond FP2 entering use as a settlement lagoon.

Reason: To ensure that the development does not contribute to; and is not put at unacceptable risk from or adversely affected by, unacceptable levels of soil and/or water pollution in line with paragraph 174 of the National Planning Policy Framework.

12. Following satisfactory completion of all required remediation works and validation reporting, a watching brief to deal with previously unidentified contamination which may be encountered shall be submitted to and approved in writing by the MPA. Development shall be carried out in accordance with the approved details. If during development, contamination not previously identified is found to be present, no further development shall be carried out, unless first agreed in writing by the MPA, until a remediation strategy to deal with unsuspected contamination (including validation that contamination has been satisfactorily remediated) has been submitted to and approved in writing by the MPA. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to; and is not put at unacceptable risk from or adversely affected by, unacceptable levels of soil and/or water pollution in line with paragraph 174 of the National Planning Policy Framework.

Visual Impact

13. Minerals excavated from pond FP2 shall only be stored within the areas shaded red (extraction area) and green (processing area) on Drawing No. DH/408/17.2 received by the MPA on 31st March 2022 and not in any other locations within the wider fish farm development site. Stockpile heights shall not exceed 8m. No excavated materials shall be stored on site for a period of more than 12 months.

Reason: To minimise the magnitude of visual impacts resulting from material storage in accordance with the requirements of Nottinghamshire and Nottingham Minerals Local Plan Policy DM1.

14. The soil bunds proposed along the northern and western boundary of the development site, identified with red shading on Drawing No. DH/408/17.2 received by the MPA on 31st March 2022 shall be constructed to their full height of

4m prior to the commencement of mineral extraction within the pond FP2 area. Following their construction, the soil bunds shall be grass seeded in the first available seeding season. If, in the opinion of the MPA, the soil bunds fail to establish satisfactory grass coverage, the bunds shall be further reseeded following a written request from the MPA.

Reason: In the interest of visual amenity, noise and dust control and to ensure compliance with Nottinghamshire and Nottingham Minerals Local Plan Policy DM1.

Highway Safety

15. No part of the development hereby permitted shall be commenced until the access as shown on the indicative drawing ref. drawing no. 22240- 01. Titled: Wigsley, dated July 2020 and received by the MPA on 12th October 2021 is constructed in bound material for a minimum distance of 15m from the carriageway edge. The access should be suitably drained to prevent surface water from the site from entering the highway and shall be maintained to the satisfaction of the MPA for the life of the development.

Reason: To protect the structural integrity of the highway, allow for future maintenance, in the interest of highway safety and to ensure compliance with Nottinghamshire Minerals Local Plan Policy DM9. These details are required prior to the commencement of the development to ensure that the satisfactory access is provided to serve the construction project.

16. No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing no. 22240-01. Titled: Wigsley, dated July 2020 and received by the MPA on 12th October 2021 are provided. The area within the visibility splays shall thereafter be kept free of all obstructions, structures or erections exceeding 0.6 metres in height.

Reason: In the interest of highway safety and to ensure compliance with Nottinghamshire Minerals Local Plan Policy DM9. These details are required prior to the commencement of the development to ensure that satisfactory access is provided to serve the construction project.

17. No development hereby permitted shall commence until wheel washing facilities have been installed on the site. The wheel washing facilities shall be maintained in working order at all times and shall be used by any vehicle carrying mud, dirt or other debris on its wheels before leaving the site so that no mud, dirt or other debris is discharged or carried on to a public road. In the event that the wheel washing facilities do not satisfactorily control mud, clay or other deleterious materials being deposited upon the public highway, then within one month of the written request from the MPA details of additional steps or measures to be taken in order to prevent the deposit of materials upon the

public highway shall be submitted in writing to the MPA. The revised steps and measures shall be implemented within one month of their approval by the MPA and thereafter maintained for the life of the site.

Reason: To prevent mud and other deleterious material contaminating the highway in accordance with Nottinghamshire Minerals Local Plan Policy DM9. The submission is required prior to the commencement of the development to ensure the public highway is protected from contamination at all stages of the development project.

18. All vehicles transporting processed material from the site shall be fully covered by sheeting prior to leaving site.

Reason: To prevent mud and other deleterious material contaminating the highway in accordance with Nottinghamshire Minerals Local Plan Policy DM9.

19. All lorries associated with the haulage of mineral and other materials from the development site shall ingress and egress the site from the south via Wiglsey Road, Hives Lane, Besthorpe Road and Sand Lane leading to access to the A1133 and the wider highway network. Haulage vehicles shall not be permitted to utilise other alternative local routing options to surrounding major roads. The operator shall ensure that signage is erected and retained for the duration of haulage operations at the site entrance to clearly identify the approved lorry routeing and delivery instructions shall be issued to drivers to ensure they are notified of the approved haulage route.

Reason: In the interests of highway safety and environmental protection and to ensure compliance with Nottinghamshire Minerals Local Plan Policy DM9.

Protection of Water Resources

20. The development hereby permitted shall not be commenced until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by, the MPA. The scheme shall be implemented as approved.

Reason: To prevent silty water from entering the water environment and to protect water quality and biodiversity and to ensure compliance with Nottinghamshire Minerals Local Plan Policy DM2. These details are required prior to the commencement of the development to ensure that the construction works which are carried out from the start of the development are undertaken in accordance with an approved scheme.

Hours of Operation

21. Except in the case of an emergency when life, limb or property are in danger and with such instances notified in writing to the WPA within 48 hours of their occurrence, mineral extraction, soil and overburden stripping/replacement, mineral processing and haulage movements shall only take place between 08:00 – 18:00 Monday to Friday. There shall be no activity on the site or haulage operations outside of these hours during the weekday, on Saturdays, Sundays and on Bank and other Public Holidays.

Reason: To minimise noise and wider environment impacts arising from the operation of the site, and to protect the amenity of nearby residential properties in accordance with Nottinghamshire Minerals Local Plan Policy DM1.

Noise

22. The maximum free-field noise levels (LAeq,1hr) resulting from all site operations shall not exceed the noise level of 47.3 dB at Receptor 1 located near the Camper UK Leisure Park and 48.1 dB at Receptor 2 located at properties north of the proposed development in Wigsley village.

Reason: To control noise levels arising from the operation of the site and ensure the protection of the amenity of nearby occupiers of land and property, in accordance with Nottinghamshire Minerals Local Plan Policy DM1.

23. In the event of a justifiable noise complaint received and following a written request being made by the MPA, the operator shall conduct a noise survey to demonstrate whether the site is operating in compliance with Condition 22 above. The results of the noise survey shall be submitted to the MPA in writing within 21 days of the written request for approval in writing, and in the event that the approved noise levels are being exceeded the report shall incorporate a scheme to provide additional noise mitigation to ensure compliance with the approved noise limits. Following approval, the operator shall implement the supplementary noise management controls at the earliest practical opportunity and no later than 30 days following approval. The operator shall thereafter undertake a further noise assessment within 14 days to confirm noise levels comply with the noise limits set out within Condition 22. The additional noise mitigation measures shall thereafter be retained for the life of the development.

Reason: To control noise levels arising from the operation of the site and ensure the protection of the amenity of nearby occupiers of land and property, in accordance with Nottinghamshire Minerals Local Plan Policy DM1.

24. Vehicles and mobile plant under the operator's control shall be fitted with broadband type (white noise) reversing alarms.

Reason: To minimise noise impacts arising from the operation of the site, in accordance with Nottinghamshire Minerals Local Plan Policy DM1.

Dust

25. Fugitive dust emissions from the development shall be controlled and minimised as far as practicably possible to ensure dust does not leave the boundary of the site. Measures to control the release of dust shall include but not be limited to:

- i. The use (as appropriate) of a dust suppression system within areas likely to give rise to fugitive dust emissions;
- ii. The use as appropriate of water bowzers and/or spray systems to dampen haul roads, vehicle circulation and manoeuvring areas;
- iii. All vehicles transporting materials from the site shall be fully enclosed/sheeted prior to entering the public highway.

In the event that these controls do not satisfactorily control the release of fugitive dust emissions from the site, then upon the written request of the MPA, the operator shall submit a scheme to provide supplementary dust control for the site within 14 days of a written request being made. The supplementary dust control measures shall thereafter be implemented immediately following approval in writing by the MPA and retained throughout the operational life of the site.

Reason: To minimise potential dust disturbance at the development, in accordance with Nottinghamshire Minerals Local Plan Policy DM1.

Ecology

26. There shall be no pruning, removal of hedgerows, vegetation or trees during the bird breeding season (March to September inclusive) until an ecological survey has first been submitted to and approved in writing by the MPA, which should clearly demonstrate that the vegetation to be cleared is not utilised for bird nesting. Should the ecological survey identify the presence of any nesting birds, then no clearance of any vegetation shall take place during the bird nesting season until a methodology for protecting nest sites during the course of the development has been submitted to and approved in writing by the MPA. Nest site protection shall thereafter be provided in accordance with the approved methodology.

Reason: To minimise potential adverse ecological impacts to protected species in accordance with the requirements of Nottingham Minerals Local Plan Policy DM4.

27. Prior to the removal of vegetation on any part of the site, an ecological survey shall be undertaken of the area to be cleared in the 14 day period prior to clearance works being undertaken to identify the presence or otherwise of reptiles, great crested newts, badgers or any other protected species. The results of the ecological survey shall be submitted to the MPA as part of a report for approval in writing. In the event that the survey identifies the presence of reptiles, great crested newts, badger or other protected species, the report shall identify a mitigation strategy to avoid adverse impacts to the species. Vegetation clearance shall only be undertaken following the MPA's written approval to confirm the works can progressed, and shall be carried out in compliance with any agreed mitigation measures.

Reason: To minimise potential adverse ecological impacts to protected species in accordance with the requirements of Nottingham Minerals Local Plan Policy DM4.

28. The excavation of pond FP2 shall be undertaken 'wet' and the construction project shall not involve any ground dewatering to artificially lower the natural groundwater levels as part of the project. No dewatering pumps shall be operated within the planning application site.

Reason: To minimise potential adverse ecological impacts from changes in groundwater levels at Spalford Warren Site of Special Scientific Interest in accordance with the requirements of Nottingham Minerals Local Plan Policy DM4 and to minimise potential adverse noise impacts from the operation of pumps on the site in accordance with the requirements of Nottinghamshire Minerals Local Plan Policy DM1.

29. Within 12 months of the commencement of planning permission, as notified under the requirements of Condition 3, an aftercare management/ecological enhancement strategy for the site shall be submitted to and approved in writing by MPA. The aftercare management/ecological enhancement strategy shall include but is not limited to:

- a. A hard and soft landscape scheme for the site.
- b. Creation of vegetated shallows within the ponds where invertebrates and amphibians may be safe from fish predation.
- c. Light management of areas of the Site to create a mosaic of rough grassland and scrub.
- d. Seeding and management of areas at the periphery of the site for wildflowers.
- e. Selection of native species for all landscape plants to include the proposed species, their numbers, density, disposition and establishment measures.

- f. Erection of bird and bat boxes on retained trees and/or ancillary buildings. Boxes should include a range of shapes made from long lasting materials (i.e. Woodcrete or Stonecrete).
- g. Detail the treatment of site boundaries and/or buffers around water bodies.
- h. A timetable for undertaking these works and management arrangements for a period of five years.

The development shall be carried out in accordance with the approved scheme and the timings for implementation. Any planting which, within a period of five years of being planted dies, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species

Reason: To ensure satisfactory mitigation of potential adverse ecological effects from the development in accordance with the requirements of Nottinghamshire Minerals Local Plan Policy DM1 and to ensure the site is appropriately re-landscaped and planted following the completion of the construction project.

Soil Handling

- 30. At least 7 days' notice in writing shall be given to the MPA prior to the commencement of topsoil stripping or the replacement of soils on any part of the site.

Reason To ensure satisfactory management of soils in accordance with Policy DM3 of the Nottinghamshire Minerals Local Plan.

- 31. All soils shall be stripped, handled, stored and replaced in accordance with the following methodology:
 - a. Soil stripping shall not commence until any vegetation has been cut and removed.
 - b. Topsoil and subsoil shall only be stripped and replaced when they are in a dry and friable condition and movements of soils shall only occur:
 - when all soil above a depth of 300mm is in a suitable condition that it is not subject to smearing;
 - when topsoil is sufficiently dry that it can be separated from subsoil without difficulty.
 - when it is raining;
 - when there are pools of water on the surface of the soils storage mound or receiving area.

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

Reason To ensure appropriate management of soils in accordance with Policy DM3 of the Nottinghamshire Minerals Local Plan.

32. Only low ground pressure machines shall work on re-laid topsoil or subsoil to replace and level topsoil. Topsoil shall be lifted onto subsoil by equipment that is not standing on either re-laid topsoil or subsoil. The re-spread topsoil shall be rendered suitable for agricultural cultivation by loosening and ripping:

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

Reason To ensure satisfactory restoration of the site in accordance with Policy DM12 of the Nottinghamshire Minerals Local Plan.

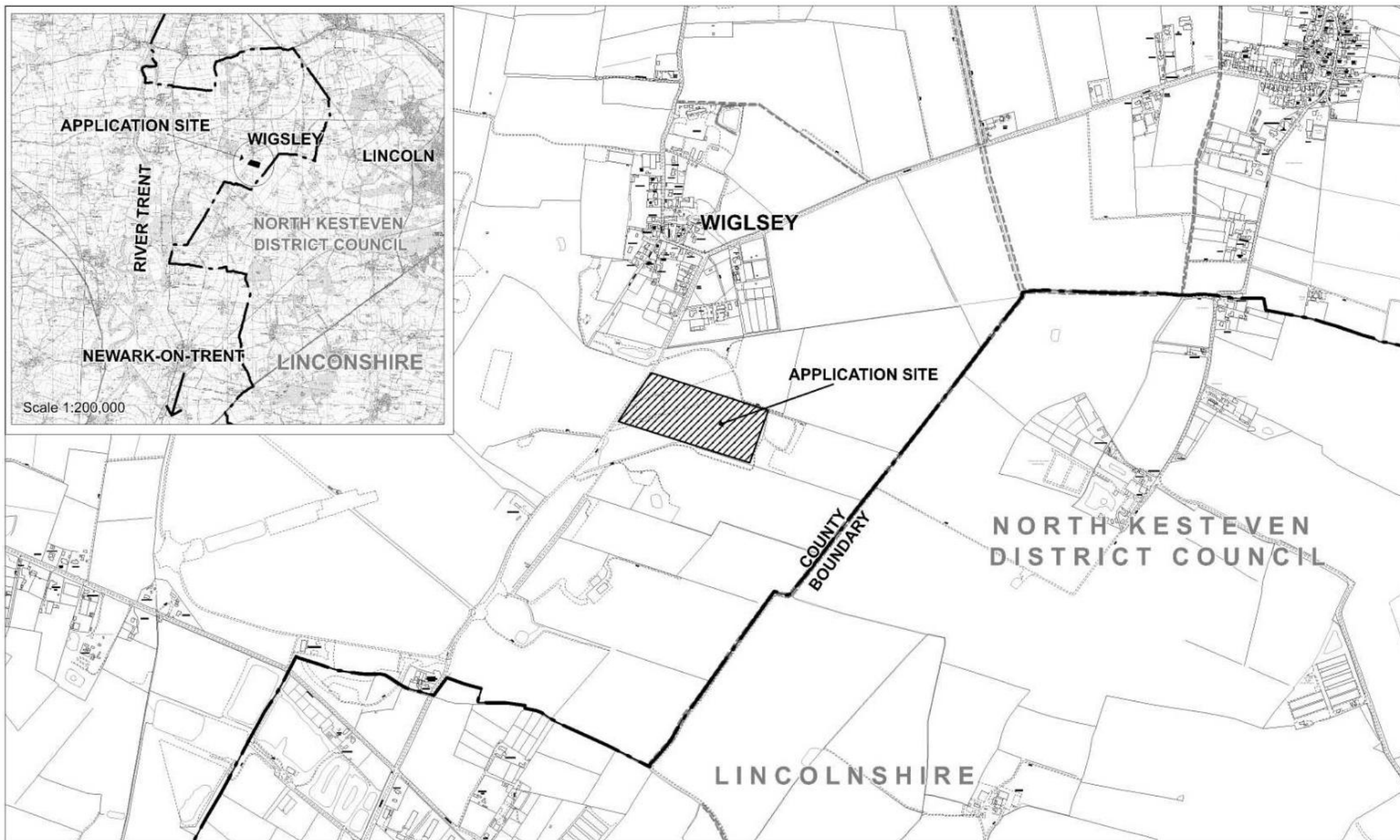
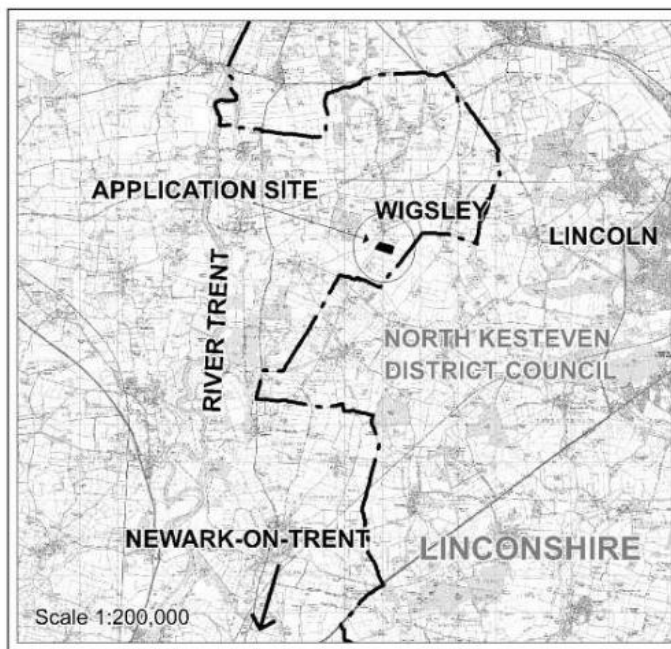
Partial extraction of development project

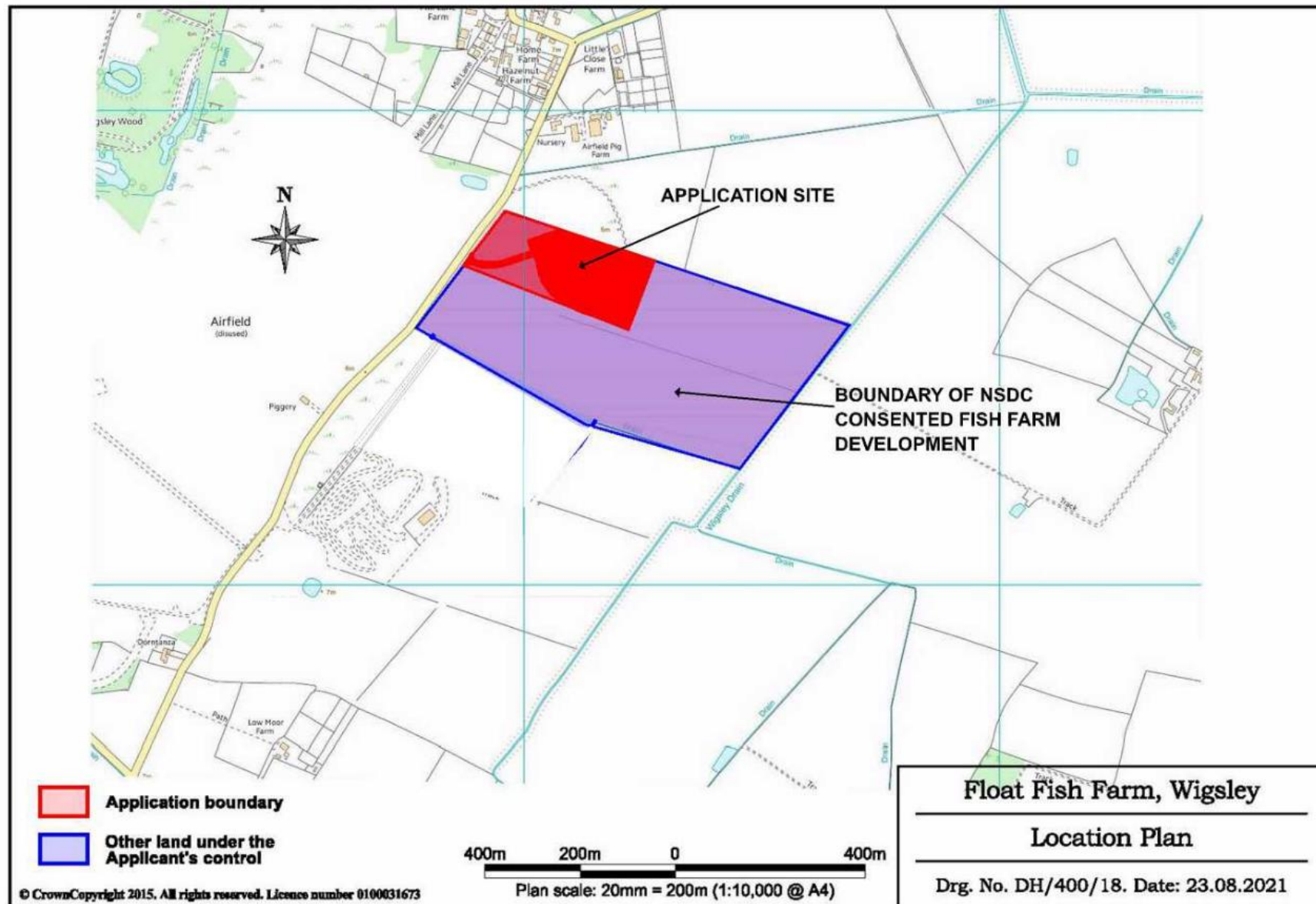
33. Should, for any reason, mineral extraction not be completed in compliance with the depths and specification of working identified on Drawing No. FFF/01/A Rev. 1: Desilting Lagoon Plan and Section dated 14/03/2022 and received by the MPA on 31/03/2022, a revised scheme for the developing pond FP2 shall be submitted to the MPA for approval in writing. The revised scheme shall include a schedule of timings, final contours, provision of soiling, sowing of grass, planting of trees and shrubs, drainage and fencing with consideration given to modifying the contours and enhancing the ecological features of the pond if it was not to be used for fish rearing. The revised restoration scheme shall be implemented within 12 months of its approval by the MPA, and shall be subject to the ecological enhancement works in accordance with the details set out above.

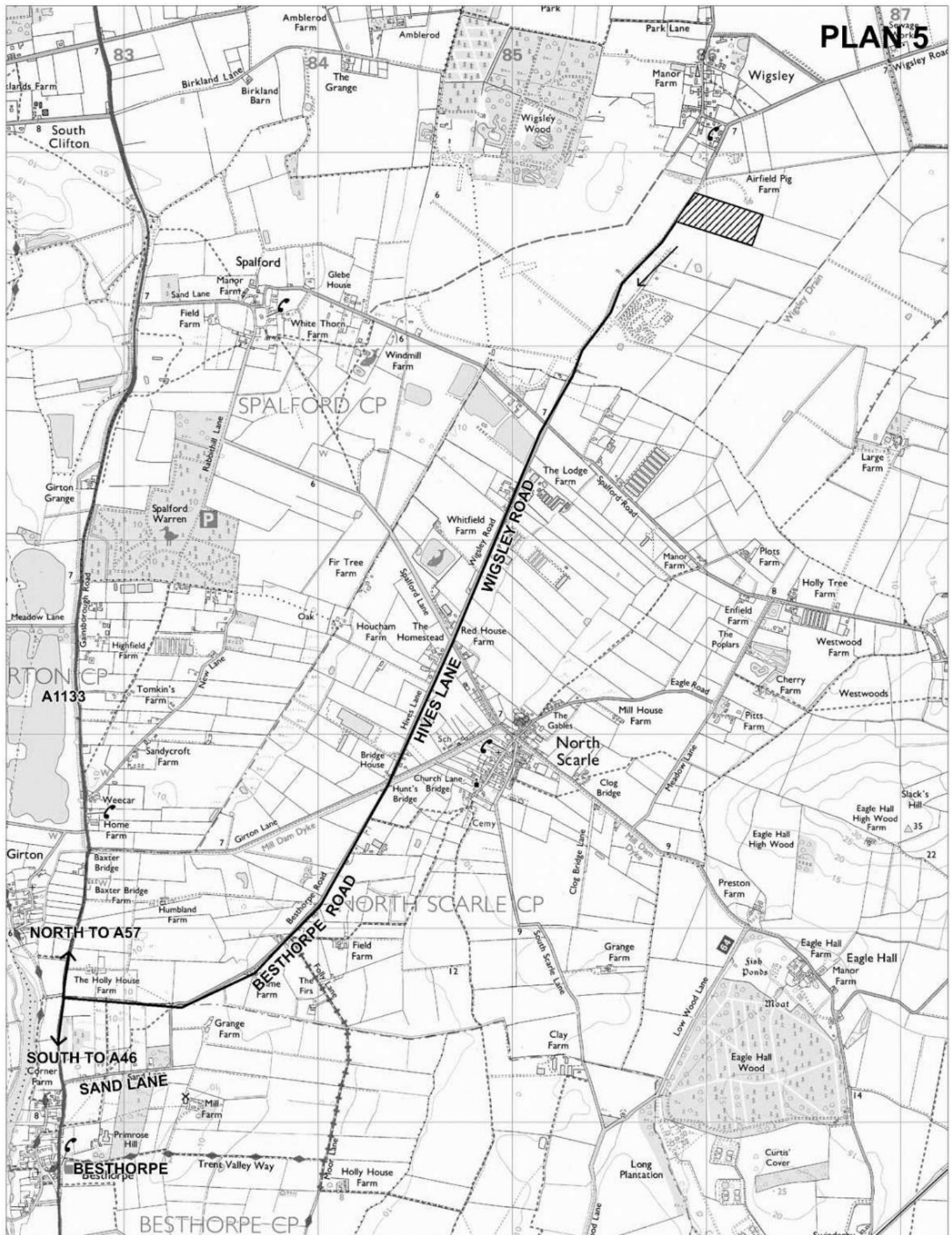
Reason: To ensure satisfactory restoration of the site in accordance with Policy DM12 of the Nottinghamshire Minerals Local Plan.

Informatives/notes to applicants

1. The consent of Severn Trent Water will be required for either a direct or indirect connection to the public sewerage system under the provisions of Section 106 of the Water Industries Act 1991. Current guidance notes and an application form can be found at www.stwater.co.uk or by contacting Severn Trent Water New Connections Team (01332 683369).
2. Although statutory sewer records do not show any public sewers within the site there may be sewers which have recently been adopted under the Transfer of Sewer Regulations. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and it is advised that Severn Trent Water should be contacted (0247 771 6843).









REPORT OF CORPORATE DIRECTOR - PLACE

DEVELOPMENT MANAGEMENT PROGRESS REPORT AND END OF YEAR PERFORMANCE

Purpose of Report

1. To report on planning applications received and determined (including the decision made) by the Development Management Team between 11th May 2022 and 17th June 2022. This report also details the end of year performance of the Development Management Team for the financial year 2021/22.

Background

2. Appendix A highlights applications received between 11th May 2022 and 17th June 2022, and those determined in the same period. Appendix B sets out the Committee's work programme for forthcoming meetings of the Planning and Rights of Way Committee.

End of year performance

'County Matter' planning applications

3. County Matter applications relate to proposals for Minerals or Waste development. In the 12 months up to 31st March 2022, a total of 43 valid County Matter applications were received. This compares with 29 received in the same period 2020/2021. Four further applications were received which are still currently invalid, and three applications were also received which were never validated and subsequently returned. In the period 2021/2022, no applications were accompanied by environmental statements, compared with two received in 2020/2021. At 1st April 2021, 20 applications were outstanding. This gave a total of 63 applications to be processed in the 2021/2022 period, compared to 44 in 2020/2021.
4. A total of 37 County Matter applications were determined throughout the year, compared with 22 in the previous year. Table 1 (overleaf) shows the performance over the year, indicating the time taken to determine applications. In addition to the 37 applications determined, two were withdrawn. As at 1st April 2022, 24 applications were in hand.

5. During the timeframe 1st April 2021 – 31st March 2022, committee resolved to grant planning permission for the following application, subject to the signing of a S106 Legal Agreement:

Harworth Colliery, an application accompanied by an Environmental Statement, for the importation of 3.6 Million cubic metres of restoration materials (reduction from 6.2 Million cubic metres) to complete the restoration of No 2 spoil heap.

6. The S106 Agreement has yet to be signed and so the planning permission has not yet been issued.
7. Since 2013 the Government has been monitoring local planning authority performance on the speed and quality of decisions on planning applications for major development. The target to determine major development applications within the statutory period of 13 weeks (or an extended period agreed with the applicant) has gradually increased since being introduced and presently stands at 60%. The target for determining non-major development applications within the statutory period of 8 weeks (or an extended period agreed with the applicant) was originally set at 65%, increasing to 70% in 2018. The Government has now introduced another time frame for the determination of County Council Developments which fall into the major infrastructure project category. These applications should be determined within 10 weeks (or an extended period agreed with the applicant), however there is not a percentage target to work towards. Instead the Government guidelines state the following:

'In order for the government to monitor the progress of these important developments the Secretary of State intends to issue a direction under article 34(8) of DMPO 2015 to require local planning authorities to notify the Secretary of State when they receive a planning application for "public service infrastructure development" as defined in this Order, and provide information on the timing of the decision'.

8. This amendment to the Development Management Procedure Order (DMPO) has now been made and officers are now notifying the Government as required.
9. This is the seventh year the performance report will reflect the Government's introduction of targets for measuring the County Council's performance for determining planning applications. All county matter applications are classed as major applications and therefore should be determined within either a 13 week period or a 16 week period for applications accompanied by an Environmental Statement. If the Authority considers that an application is not going to be determined within these timescales, it is allowed to ask applicants for a time extension. If the time extension is agreed, and the application is determined within the agreed time extension, the Authority will meet the required performance criteria. Reasons for seeking time extensions can range from the need to undertake further consultations, the timing of committee cycles, negotiating S106 legal agreements, or competing workload pressures.

10. The figure for county matter applications dealt within 13 weeks for the period 2021/2022 was 16% (see Table 1 below), compared to 53% for 2017/2018 (the last time this end-of-year report was issued). However, with the inclusion of applications dealt within an agreed time extension the figure rises to 97%. This compares to the present Government target of 60% of applications to be dealt within 13 weeks or an agreed time extension. Only one application was not dealt with within 13 weeks or an agreed time extension.

Table 1 Annual Performance for County Matter applications

| No. of County Matter applications determined | Within 13 weeks | | Within agreed time extension | | Over 13 weeks, no time extension | | Total | |
|--|-----------------|-----------|------------------------------|-----------|----------------------------------|----------|-------|------------|
| | no | % | no | % | no | % | no | % |
| April 2021 to March 2022 | 6 | 16 | 30 | 81 | 1 | 3 | 37 | 100 |

11. In terms of how County Matter applications were determined, this can be summarised below:

| | |
|---|-----------|
| County Matter applications determined under delegated powers | 27 |
| County Matter applications determined by Committee | 10 |
| County Matter EIA applications determined by Committee | 1 |
| County Matter – Active Mineral Review application - determined by Committee | 1 |
| County Matter applications withdrawn | 2 |
| County Matter applications returned | 4 |
| Total | 44 |

10. The Development Management Team has continued to determine other matters related to county matter permissions granted by the County Council during the past year. These include applications for Non-Material Amendments (seven received within the year) and the discharging of details required by conditions (33 received and 18 determined within the year). The team has also provided two (compared to four in 2020/2021), 'screening opinions' upon receipt of a specific 'screening requests' under the Environmental Impact Assessment (EIA) Regulations, in addition to screening all planning applications received to assess whether they trigger the need for EIA. The Team has not issued any 'scoping opinions' (compared to three 2020/2021), for EIA development. Scoping opinions set out what environmental issues the EIA should assess.
11. The team offers formal pre-application advice, for which a fee applies. In 2021/22, seven requests for pre-application advice were received for county matter development, compared to two in 2020/2021. Advice in respect of permitted development rights is also provided where officers determine whether

proposals can be carried out without the need for formal planning permission. One such enquiry was received for county matter development in 2021/2022, the same number as in 2020/2021. Consultations are also received from other statutory bodies, for example the Environment Agency, which consults the team on waste management licences and environmental permits.

12. Similarly, the district/borough councils consult the County Council on planning applications which may affect mineral or waste sites, for example a wind turbine on a sewage treatment works. Views are also sought on significant proposals outside but close to the county boundary. These matters are dealt with by the Council's Planning Policy Team.

County Council Development

13. The County Council determines applications for its own development under the procedures laid down in the Town and Country Planning General Regulations 1992 (usually Regulation 3). This is a privileged position afforded to local authorities and it is essential that applications for the County Council's own developments are subject to the same level of scrutiny as that for other applications.
14. In the 12 months up to 31 March 2022, a total of 35 valid County Council development applications had been received. Seven of these applications were accompanied by an Environmental Statement. This compares with 29 valid applications received in total in the same period last year, none of which were accompanied by an Environmental Statement. A further two applications were returned to the applicant for being incomplete and another application was returned as the proposal was determined to be permitted development.
15. Five applications were outstanding as of 1 April 2021 giving a total of 40 to be processed during last year.
16. During 2021/2022 a total of 28 County Council applications were determined, of which two were refused permission and 1 further application was withdrawn. As of 1 April 2022, 13 applications were in hand.

Table 2 Annual Performance for County Council applications

| No. of County Council Developments applications determined | Within 8 weeks | | Agreed Time Extension | | Over 8 weeks, No Time Extension | | Total | |
|--|----------------|----|-----------------------|----|---------------------------------|---|-------|-----|
| | no | % | no | % | no | % | no | % |
| April 2021 to March 2022 | 11 | 39 | 17 | 61 | 0 | 0 | 28 | 100 |

17. In terms of how County Matter applications were determined, this can be summarised below.

| | |
|---|-----------|
| County Council Development applications determined under delegated powers | 22 |
| County Council Development applications determined by Committee | 6 |
| County Council Development applications withdrawn | 1 |
| County Council Development applications returned | 3 |
| Total | 32 |

18. The Development Management Team has dealt with other matters relating to the County Council's own development during the year. These include five applications for Non-Material Amendments (three received and determined within the year, and two determined from the preceding year); the discharge of conditions on applications that have been granted planning permission (42 received during the year, and 17 determined during the year); and 19 permitted development proposals.

Outstanding applications

19. At the start of this new financial year 1st April 2022, a total of 25 County Matter applications and 13 County Council development applications are outstanding.

Monitoring and Enforcement

20. The determination of planning applications goes hand in hand with the monitoring and enforcement of development. A separate report on Monitoring and Enforcement work over 2017-2018 was presented to Committee in May.

Appeals

21. The County Council has not been involved any appeals for the year 2021/2022.

Ombudsman investigations

22. No complaints have been referred to the Local Government Ombudsman (LGO) in the reporting period.

Development Plan progress

Minerals Local Plan

23. The current Nottinghamshire Minerals Local Plan was adopted in March 2021 following Public Examination in October 2020. This Plan will cover the County area (the City's minerals policies are included in its draft Part 2 Local Plan). The

Adopted Nottinghamshire Minerals Local Plan will run until 2036.

Waste Local Plan

24. The County and City Councils agreed in 2017 to prepare a single Joint Waste Local Plan to replace the Nottingham and Nottinghamshire Waste Core Strategy (2013) and the saved policies within the Nottingham and Nottinghamshire Local Plan (2002). The proposed Plan will provide updated strategic planning policies for the development of future waste management facilities, set out detailed development management policies and where necessary, identify specific sites appropriate for waste treatment and disposal. The timetable for the new Local Plan is set out in the County Council's Local Development Scheme (February 2021) and will also be reflected in the City Council's Local Development Scheme. Consultation on Issues and Options ended in May 2020 and a further consultation on a Draft Plan concluded in April 2022. The next stage of the Nottinghamshire and Nottingham Waste Local Plan will be to prepare a Publication (Reg 19) Document and following consultation, Submission Document in early 2023, followed by Public Examination and Adoption.

Other Issues

25. The Government published an updated National Planning Policy Framework (NPPF) in July 2021. This latest version is the relevant one for the consideration of all planning matters including development management and plan making. The Housing Secretary has announced that a further updated NPPF will be published in July.
26. In November 2021, the Environment Act came into force. One of the key pieces of the Act which relates to the County Council's planning function is the requirement for most development to deliver biodiversity net gains (BNG). This is going to become mandatory in November 2023 but some applications submitted to the County Council for determination already include BNG submissions.
27. The Government introduced the Levelling Up and Regeneration Bill on 11th May 2022 and it will now progress through the various legislative stages. Once enacted the changes that are set out in legislation will be accompanied by updates to regulations and policies. The proposals set out within and alongside the Bill will have wide ranging and significant impact on the planning system. Some of the key measures which relate to development management work include the proposal to include National development management policies within new local plans, an increase in planning fees for all applications including a doubling of fees for retrospective applications, as well as the introduction of new digital engagement tools for consultations on planning applications. Members will be kept informed of these changes when relevant to do so.
28. Following a review of the previous Validation document and a period of consultation the County Council approved its latest Validation Guidance at the

Planning and Rights of Way Committee in March this year. This forms the basis on which the Council validates all incoming planning applications. This document is on the County website and is expected to be reviewed in two years' time in accordance with Government requirements.

Statutory and Policy Implications

29. 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.

RECOMMENDATIONS

That Committee considers whether there are any actions they require in relation to the contents of the report.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments [RHC 14/06/2022]

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

Financial Comments [RWK 13/06/2022]

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

Planning Applications Received and Determined
From 11th May 2022 – 17th June 2022

| Division | Member | Received | Determined |
|------------------|--------------------|---|--|
| BASSETLAW | | | |
| Misterton | Cllr Tracey Taylor | Proposed western extension to existing Misson Grey Sand Quarry incorporating modifications to previously approved restoration schemes referenced 1/15/01574/CDM and 1/32/11/00020; at Misson Quarry. Validated on 16/06/2022. | |
| Misterton | Cllr Tracey Taylor | The application seeks approval to amend the approved restoration scheme that relates to approval 1/15/01574/CDM. The amended scheme will allow the implementation of the proposed western extension; at Misson Quarry. Validated on 16/06/2022. | |
| Misterton | Cllr Tracey Taylor | The application seeks approval to amend the approved restoration scheme that relates to approval 1/32/11/00020. The amended scheme will allow the implementation of the proposed western extension; at Misson Quarry. Validated on 16/06/2022. | |
| Tuxford | Cllr John Ogle | | Erection of 1.9m High Bow top fencing and gate to East Markham Primary School; at East Markham County Primary School and Land, Askham Road. GRANTED on 30/05/2022. |

| Division | Member | Received | Determined |
|------------------------------|---|----------|--|
| MANSFIELD - NONE | | | |
| NEWARK & SHERWOOD | | | |
| Balderton | Cllr Johnno Lee (formerly/when application originally received, Cllr Keith Walker) | | Proposed southern extension to Bantymock Quarry, extension to the time limit for mineral operations until 31st December 2044 and amendments to the restoration scheme; at Bantymock Quarry. GRANTED on 24/05/2022. |
| Southwell | Cllr Roger Jackson | | Variation of Conditions 4 and 5 of Planning Consent 3/16/00081/CMA to allow for the continuation of recycling and landscaping operations on land at Conegre Farm for a further five years; at Conegre Farm, Hoveringham. GRANTED on 10/06/2022. |
| Southwell | Cllr Roger Jackson | | Landscaping of an additional lake area at Conegre Farm, Hoveringham utilising inert material imported via an existing access off Thurgarton Lane (and utilising internal haul roads and ancillary facilities) to extend and improve the existing angling area; at Conegre Lakes; at Conegre Farm, Hoveringham Lane. GRANTED on 10/06/2022. |
| ASHFIELD – NONE | | | |

| Division | Member | Received | Determined |
|------------------------|--|--|--|
| BROXTOWE – NONE | | | |
| GEDLING | | | |
| Arnold North | Cllr Michael Payne and Cllr Pauline Allan | Retrospective application for the retention of 2 leachate storage tanks which have been moved from within the site to near the site entrance; at Dorket Head Landfill Site. Validated on 27/05/2022. | |
| RUSHCLIFFE | | | |
| Keyworth | Cllr John Cottee | Southern extension to the waste wood and green waste storage yard (part retrospective); at John Brookes Sawmill, off the A46, Nr Widmerpool. Validated on 21/06/2022. | |
| Leake and Ruddington | Cllr Matt Barney and Cllr Reg Adair | | Erection of a Primary School for 1.5 Forms of Entry, plus 26 place Nursery with associated car parking. Associated areas of soft play, hard play, grass playing field with landscaping works. Erection of 2.4m high security fencing and gates to perimeter and sprinkler tank. Provision of bound surface and lit cycle and footpath on route of public footpath East Leake FP5; at 53 Evans Road, East Leake. GRANTED on 24/05/2022. |

| Division | Member | Received | Determined |
|-----------------|------------------|-----------------|---|
| Keyworth | Cllr John Cottee | | Application to allow for the installation and retention of six groundwater monitoring boreholes; at Remptone B Well site, Loughborough Road. GRANTED on 13/06/2022. |
| Keyworth | Cllr John Cottee | | Application to allow for the installation and retention of six groundwater monitoring boreholes; at Rempstone A Well site, Wymeswold Road. GRANTED on 13/06/2022. |

Schedule of future planning applications to be reported to Planning and Rights of Way Committee

(Please note: The committee dates identified are for guidance only. A final decision regarding the committee date is not made until shortly before the agenda is published).

| Target Committee | Planning App No. | Location | Development | Current Progress |
|------------------|------------------|---|---|--|
| September 2022 | 7/2022/0050NCC | Top Wighay Farm, Land east of A611, near Hucknall | Construction of an office building (use class E (g)(i)) with car parking, landscaping and associated works. Access and drainage infrastructure including new highway from A611 signalised junction. | Consultation responses received and matters arising in respect of highway/public transport access being taken up with the applicant. |
| September 2022 | 3/22/00584/CMA | Ollerton roundabout, Intersection of A614, A616, A6075 and Newark Road, Ollerton, NG22 9DY | Reconfiguration and enlargement of the roundabout with associated landscaping works and improvements to pedestrian crossing facilities. | Objection raised by Natural England and other ecological impact concerns which require further work including bat surveys. |
| September 2022 | 3/22/00587/CMA | Intersection of A614 and Mickledale Lane, Bilsthorpe, Nottinghamshire | Construction of two roundabout junctions and a new link road connecting the new roundabout on the A614 (Old Rufford Road) to Mickledale Lane | Revised plans submitted with change to business access and re-consultations pending |
| September 2022 | 3/22/00589/CMA | White Post roundabout- Intersection of A614 and Mansfield Road, Farnsfield, Nottinghamshire, NG22 8HU | Highway improvements to roundabout | To be reported alongside other junction improvement schemes |
| September 2022 | 3/22/00588/CMA | Intersection of A614/A6097 (Warren Hill), Farnsfield, Notts NG22 8EW | Geometric improvements and alterations to the gyratory junction | To be reported alongside other junction improvement schemes |

| | | | | |
|----------------|----------------|--|--|---|
| September 2022 | 3/22/00586/CMA | Lowdham roundabout, Intersection of the A6097, A612 and Southwell Road, Lowdham | Enlargement of roundabout with associated landscaping and improvements to pedestrian crossing facilities. Change of use of land adjacent to no.15 Nottingham Road from public highway (footpath) to residential curtilage | Local access issues still being considered |
| September 2022 | 8/22/00559/CTY | Kirk Hill junction, Intersection of Kirk Hill/A6097, East Bridgford, Nottinghamshire | Enlargement of junction with associated ancillary landscaping and improvements to pedestrian and equestrian crossing facilities | Revised plans submitted with change to bridle path and re-consultations pending |
| September 2022 | 3/22/00336/CMA | Land to the north of the existing Cromwell Quarry, The Great North Road, Cromwell, Nottinghamshire, NG23 6JE | Proposed relocation of the existing mineral processing plant, mineral stockpiling areas, weighbridge, weighbridge office, canteen, changing rooms and associated infrastructure. The land is proposed to be restored to benefit wildlife and biodiversity enhancement. | Further ecological survey work is currently being undertaken of the development site. Subject to a timely submission and the surveys not identifying any significant ecological constraints it is hoped to report to September committee for a decision. |
| September 2022 | 3/22/00059/CMM | Land south of Church Street, Southwell, Nottinghamshire, NG25 0HG | Flood alleviation works including construction of an earth bund, flow control structure, and related ground works, landscape planting, boundary works including fencing, and ancillary operations. | Revisions to scheme in relation to preparation and submission of additional flood risk work, maintaining pedestrian access over the flood defences, and further advice being sought on detailed heritage considerations, with further re-consultation needed once received. |

| | | | | |
|-------------|-------------------|--|--|--|
| Autumn 2022 | 3/20/01244/FULR3N | British Sugar Corporation Ltd Sports Ground, Great North Road, Newark On Trent, NG24 1DL | Change of use from former sports field to land to be used for conditioning (drying by windrowing) of topsoil material recovered from sugar beet delivered and excavated from soil settlement lagoons onsite, and engineering works to construct an internal access route to serve the soil conditioning area and excavate a flood storage compensation area. | The applicant has submitted a revised flood risk assessment, however the document has not addressed the Environment Agency's previously stated concerns regarding the effect this development would have on floodwater within the River Trent's floodplain. The applicant is currently reviewing the Environment Agency's concerns and considering their position. |
|-------------|-------------------|--|--|--|

Planning Applications currently being processed by the County Council which are not currently targeted to a specific meeting of the Planning and Rights of Way Committee.

Planning Application: 3/19/00100/CMM
Location: Cromwell North Quarry, Land Between Carlton on Trent and Cromwell, Newark
Proposal: Proposed extraction of 1.8 million tonnes of sand and gravel together with the erection of mineral processing plant and associated ancillary infrastructure. the provision of a new access, and the progressive restoration of the site to nature conservation over a period of 9 years.

Current Progress: A request for the submission of supplementary environmental information was made under Reg. 25 of the EIA Regs in May 2019. This request for information covered air quality, transport, access, quarry dewatering, floodlighting, landscaping, ecology, noise, protection of River Trent, contaminated land and archaeology. The planning application raises key planning issues in respect of need and mineral supply within Nottingham. The applicant initially delayed their response to the Reg 25 request to allow decisions to be made regarding site allocations as part of the review/examination of the Replacement Minerals Local Plan. The Cromwell North site has not been allocated as part of this process. The applicant now wishes to keep this application live for the next few months whilst they consider the implications to minerals supply within Nottinghamshire stemming from the decision to withdraw the planning application submission for a new quarry at Barton in Fabis.

Planning Application: 1/20/00544/CDM
Location: Daneshill Landfill Site, Daneshill Road, Lound, DN22 8RB
Proposal: Temporary operations for 10 years for Soil Treatment Facility including Asbestos Picking Operations
Current Progress: The applicant is preparing an Environmental Impact Assessment to support the planning application. The applicant is however awaiting a 4on a separate Permit from the Environment Agency, the outcome of which will inform the Environmental Impact Assessment

Planning Application: V/4383
Location: Calverton (Burntstump) Quarry, Ollerton Road, Arnold, NG5 8PR
Proposal: Variation of conditions 7, 8 and 50 of permission 7/2005/0263 so to extend the time to work the remaining mineral reserves until 7 Jan 2042 with restoration by 7 Jan 2043
Current Progress: Planning application recently validated and consultations sent out.

Planning Application: V/4384
Location: Calverton (Burntstump) Quarry, Ollerton Road, Arnold, NG5 8PR
Proposal: Variation of condition 2 of permission 7/2003/1323 to retain the weighbridge, associated buildings and soil mound for the proposed duration of mineral extraction operations to 7 Jan 2042
Current Progress: Planning application recently validated and consultations sent out.