



20 January 2015

Agenda Item:

**REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND
CORPORATE SERVICES**

ASHFIELD DISTRICT REF. NO.: 4/V/2014/0287

**PROPOSAL: USE OF DERELICT SANDSTONE CUTTING FOR THE DISPOSAL OF
INERT WASTE MATERIAL (INCLUDING SUBSEQUENT RESTORATION
SCHEME SECURING LANDSCAPE AND ECOLOGICAL BENEFITS)**

**LOCATION: LAND ADJACENT TO SHENTON LODGE, DERBY ROAD, KIRKBY-IN-
ASHFIELD**

APPLICANT: MR AND MRS J B CUTTS

Purpose of Report

1. To consider a planning application for the development of an inert waste disposal/landfill facility with ancillary on-site recycling on land adjacent to Shenton Lodge, Derby Road, Kirkby-in-Ashfield. The key issues relate to the need for the disposal facility and whether there are more sustainable methods for managing the waste stream in the context of national and local waste policies, particularly in terms of the choice of site given its greenfield location and Green Belt designation. The proposed development also raises key issues regarding ecological impacts and has been treated as a 'departure' to the Development Plan. The recommendation is to refuse planning permission for the reasons set out in Appendix 1 of this report.

The Site and Surroundings

2. The application site is situated on the south-eastern side of the A611 (Derby Road) to the east of the southern edge of Kirkby-in-Ashfield. Annesley is a short distance to the south of the site with Newstead beyond that, whilst Annesley Woodhouse and Nuncargate are to the southwest. (see Plan 1). To the northeast of the site is agricultural land with Hollinwell Golf Course to the east and land associated with the former Newstead Colliery to the southeast.
3. The site covers an area of 1.8 hectares and is made up of two distinct areas of land comprising a roughly rectangular shaped paddock of grassland to the northeast of Shenton Lodge and a narrow 'V' shaped valley to its east (see Plan 2). The grass paddock measures roughly 100 metres by 50 metres and

is predominantly flat in character. It is screened from the A611 by a hedgerow which is separated from the edge of the road by a grass verge. An existing field access, which provides vehicular access to the A611, is situated towards the northern corner of the paddock close to the junction of the A611 and Balls Lane (see Plan 2) and is the proposed point of access to serve the application site. A high voltage electricity cable crosses the southern part of the paddock in a line running roughly northwest to southeast.

4. The valley area is steeply sided and slopes down into a central valley which runs in a northeast to southwest direction. The application area is drawn to incorporate approximately 200 metres by 70 metres of this valley. The land is uncultivated and overgrown in character incorporating a mix of gorse, grass and trees and forms the northern edge of a larger ecologically important designated site known as Robin Hood Hills Local Wildlife Site (LWS) (see Plan 2). The LWS covers a total area of approximately 15 hectares and is described as 'a large area of acidic woodland, extensive bracken and notable heath communities on a south facing slope'. The site also lies immediately adjacent to an area of land that has been identified as part of both the 'Indicative Core Area' and 'Important Bird Area' in relation to the prospective Sherwood Special Protection Area (SPA). The aforementioned overhead electricity cable crosses the centre of that section of the valley which is within the application area.
5. The entire application site is located within land designated as Green Belt, as designated within the Ashfield Local Plan Review and the area in close proximity to the site which is outside the Green Belt is highlighted on Plan 2. There are a number of footpaths in close proximity to the site (see Plan 2) with Kirkby-in-Ashfield Footpath 44 being around 70 metres to the south of the application site at its closest point.
6. The nearest residential property is the applicants' house, Shenton Lodge, which adjoins the site boundary to the northeast whilst Beacon Poultry Farm is almost directly opposite on the western side of the A611. Winshaw Well, a building of local historic interest, is approximately 50 metres northwest of the proposed site access while Warren House Stables are situated approximately 270m to the southeast. All these properties are highlighted on Plan 2. Approximately 750 metres south of the proposal site is Annesley Colliery Conservation Area designated in 2000.

Planning History

7. Ashfield District Council refused planning permission for the 'controlled non-toxic filling of derelict cutting and return to agriculture at rear of Shenton Lodge' in October 1980 (reference 4/23/80/0773) for the following reasons:
 - (a) *The proposed development would, in the opinion of the Local Planning Authority, have a detrimental effect on the rural character of the area which constitutes an important informal recreation area for local residents. Moreover, the development would result in the loss of a footpath which is an important link in the footpath system in the locality.*

- (b) *The proposed development, if permitted, could set a precedent for future tipping in the adjacent sandstone cuttings which form part of 'The Warren'.*
 - (c) *It is considered by the Local Planning Authority that the creation of an additional access for slow moving vehicles at this point on the A611 would be detrimental to the highway safety of the area.*
 - (d) *In the opinion of the Local Planning Authority adequate areas to cater for the disposal of waste materials exist with the benefit of planning permission, within reasonable proximity of the site.*
8. Planning permission was refused by Nottinghamshire County Council (reference 4/V/2012/0127) for the development of an inert waste disposal/landfill facility with ancillary processing on land adjacent to Shenton Lodge in September 2012 for the following reasons:
- (a) *Landfill of Greenfield sites is inappropriate development in the context of Green Belt Policy and therefore contrary to Nottinghamshire and Nottingham Waste Local Plan (WLP) Policy W3.17 (Green Belt) and Ashfield Local Plan Review Policy EV1 (Green Belt).*
 - (b) *The disposal of waste on Greenfield sites is contrary to WLP Policy W10.3 (Greenfield Sites) and draft Nottinghamshire and Nottingham Waste Core Strategy (WCS) Policy WCS4 (Disposal sites for non-hazardous and inert waste) and represents the least favoured option for waste disposal under the sequential site selection criteria set out within WCS Policy WCS6 (General Site Criteria). WLP Policies W10.1 and W10.2 identify the important contribution that waste disposal can provide in reclaiming derelict and degraded land, the disposal of waste on Greenfield land at Shenton Lodge would not provide environmental benefits and therefore does not represent a sustainable use of the waste stream.*
 - (c) *The development would result in the loss of part of a Site of Importance for Nature Conservation (SINC) of heathland character as well as detrimental impacts to protected species. The 'mitigation hierarchy' as outlined in the National Planning Policy Framework directs development to locations where there is least ecological impact and therefore would not provide support for the location of the development. Any need for additional disposal capacity within Nottinghamshire is not critical and would not outweigh the environmental impact caused by the development. The development is therefore contrary to WLP Policies W3.20 (Heathlands), W3.22 (Biodiversity) and W3.23 (Nature Conservation (including geological) Sites and WCS Policy WCS12 (Protecting our Environment).*
9. Following the above refusal, a further planning application (reference 4/V/2013/0361) was submitted for the same development, albeit the application was accompanied by additional environmental information in order to address the previous reasons for refusal. This application also sought to complete the proposed landfilling operations within two years as opposed to the four years proposed in the previous application. This application was

again refused planning permission by the County Council in November 2013 for the following reasons:

- (a) *Landfill on greenfield sites is inappropriate development in the context of Green Belt Policy and therefore contrary to Nottinghamshire and Nottingham Waste Local Plan Policy W3.17 (Green Belt), Nottinghamshire and Nottingham Waste Core Strategy Policies WCS4 (Disposal sites for hazardous, non-hazardous and inert waste) & WCS6 (General Site Criteria) and Ashfield Local Plan Review Policy EV1 (Green Belt).*
- (b) *The disposal of waste on a greenfield site is contrary to Nottinghamshire and Nottingham Waste Local Plan Policy W10.3 (Greenfield Sites). There is not a critical need for additional inert waste disposal capacity within Nottinghamshire and the development represents the least sustainable method of waste disposal under the sequential site selection criteria contained within the Nottinghamshire and Nottingham Waste Core Strategy Policy WCS4 (Disposal sites for non-hazardous and inert waste).*
- (c) *The development would result in the loss of part of a Site of Importance for Nature Conservation (SINC) of heathland character. Whilst ecological off-setting and mitigation is proposed, there is no assurance that the measures would be successful. Since there is no over-riding need for the development the ecological interests of the habitat and protected species would be best served by avoidance of impact in accordance with the 'mitigation hierarchy' as outlined in the National Planning Policy Framework. The development would result in the destruction of the existing habitat and is contrary to Nottinghamshire and Nottingham Waste Local Plan Policy W3.20 (Heathlands), Policy W3.22 (Biodiversity) and Policy W3.23 (Nature Conservation (including geological) Sites. Due to these environmental impacts the development is contrary to Nottinghamshire and Nottingham Waste Core Strategy Policy WCS12 (Protecting our Environment).*
- (d) *The planning application does not incorporate sufficient information to enable the Waste Planning Authority to undertake a comprehensive 'risk based approach' assessment (as advocated by Natural England) to consider the magnitude of any environmental impacts to the prospective Sherwood SPA.*

Proposed Development

10. Planning permission is again sought for the disposal of inert waste at Shenton Lodge. The proposed scheme is similar to the two previous developments refused planning permission but, as with the previous application, the applicant has sought to provide additional environmental information to address previous reasons for refusal.

11. The proposal is seeking to import approximately 210,000 tonnes of inert waste (concrete, hardcore, demolition waste etc) into the site. The facility would be mainly used by Colson Transport Ltd which has stated that material entering the site on their HGVs would have been pre-treated and would only contain non-recyclable material to be tipped into the natural valley feature, which the applicant describes as a derelict void. However, the site would also be available to other haulage firms and the proposals include facilities to sort and process any recyclable material which would be removed from site once there is a sufficient amount. The application states that the site has a disposal capacity totalling 88,600 cubic metres and would be filled over a period of two years. Prior to any material entering the site, a number of preparatory operations would take place.
12. A number of ecological mitigation measures are being proposed. Areas of bare earth and rubble would be provided as suitable habitat for woodlark whilst there would also be a programme of translocation for reptiles (grass snake) which have been identified in the ecological survey. Areas to the east and west of the tipping area within the applicant's control would be used to create habitat suitable for translocation (see Plan 3) and would have habitat piles (log and timber piles) created, whilst the area to the west would also have a new pond and grassland area created. Some of this work has already been carried out and a pond has been created in both the eastern and western areas.
13. Once reptiles have been captured and translocated to the newly created habitats, it is proposed to erect reptile fencing around the proposed landfill area to prevent them from returning to the active working area. The fencing would remain in place for the duration of the proposed works.
14. Tipping works would also be preceded by the construction of the proposed vehicular access off the A611 and an internal haul road across the north eastern end of the paddock towards the landfill area (see Plan 3). The new access would create a T-junction and would also involve the construction of 15 metre kerb radii to allow HGVs to enter and exit the site without having to use the opposite carriageway. Soils stripped from the line of the internal haul route would be used to create screening bunds either side of it (see Plan 3) and the internal haul road would be hard surfaced. A wheel cleaning facility and security cabin would be provided in this area (see Plan 3).
15. Vegetation and soils would then be stripped from the proposed landfill area with the majority of the soils being removed and placed in three and four metre high bunds on the north eastern, north western and south western boundaries of the paddock (see Plan 3). The bunds would be sown with a low maintenance mix of native grass species. Some of the soil would be taken to the habitat creation area and stored in shallow bunds no more than one metre in height.
16. With all soils stripped from the tipping area, the land would be regraded to form internal haul roads to the bottom of the proposed landfill. The roads would be constructed of hardcore and have a maximum gradient of 1:10. The base of the landfill area would be lined with a combination of a geological clay

barrier and an engineered liner to a thickness of 0.5 metres. The base of the void area would also have an infiltration basin installed to provide effective drainage for surface and storm waters. An area in the north eastern corner of the landfill area would be regraded and surfaced with hardcore to create a level surface upon which plant and equipment associated with the proposed on-site recycling operation would be located (see Plan 3). The plant and equipment proposed to be used in this area are a crusher, a screener, a loading shovel and an excavator.

17. Tipping would commence in the south west corner of the site, which corresponds with the deepest point of the void. Material would enter the site, be checked for any inappropriate material, and then screened with any recyclable material separated and stored in the recycling area until there is a sufficient quantity which can be removed from site. All HGVs leaving the site would pass through the wheelwash facility. The traffic assessment has identified that the site would generate around 3,700 trips per year (7,400 movements). This equates to an average of approximately three HGV trips (six movements) per hour. Incoming HGVs would carry between ten and 19 tonnes of material at a time.
18. Non-recyclable material would be taken to the void area and tipped in 200mm thick layers with a dozer with large tracks and towing a roller compacting the material. Tipping would continue and gradually raise ground levels whilst at the same time extending the tipping area towards the north eastern corner of the site. The tipping level would vary across the site and would have a maximum depth of 13 metres.
19. Operating hours at the site are proposed between 8am and 6pm Mondays to Fridays and 8am to 1pm on Saturdays. The site would not operate on Sundays or Public and Bank Holidays.
20. Upon the completion of waste disposal operations the landfill area would be capped with a combination of a geological clay barrier and an engineered liner prior to the replacement of the original soils. The final restoration profile of the completed site would remove the 'V' shaped valley feature and provide a gentle sloping plateau area leading to a steep slope in the southeast corner of the site. The site would be seeded and planted with the objective of recreating the bracken habitat of the existing site including scattered trees and scrubs, herb rich acid grassland and wavy haired grassland. The paddock would be reseeded to create an additional area of heathland habitat including a wetland area within two ponds.
21. The application has been accompanied by a number of supporting documents which can be summarised as follows.

Statement of need

22. The application includes a letter addressed to the Team Manager of the County Council's Planning Policy Team which seeks to update the situation regarding disposal capacity in the county. The letter points to statements which have been provided by haulage contractors operating within the county

which are presently experiencing considerable difficulty in accessing sufficient authorised tipping facilities, which has the knock-on effect of impacting on the future viability of these companies. The letter also states that the lack of suitable disposal facilities has impacted upon the tram extension works in Nottingham, which it is claimed have on occasions been halted because haulage contractors have had nowhere to dispose of surplus material.

23. The applicant's letter considers that the County Council was acting under a misapprehension when the previous application was refused by considering that there was no requirement for additional tipping facilities within the county, a matter which needs to be reassessed.
24. With respect to the site's location in the Green Belt, the applicant's letter considers that the level of need that exists for the site outweighs the inappropriate nature of the proposed development and so very special circumstances apply.
25. The applicant's letter considers that this latest application differs from that previously submitted and refused, as evidence has been provided to demonstrate the actual situation of need, rather than simply justifying a general need for additional disposal capacity which the letter states the County Council did not dispute, but simply took the view that the need was not sufficiently critical to justify the release of the site for disposal. The application also differs from that previously submitted as it is proposed to fill the void in two years as opposed to four, a reflection of the need for the facility. The applicant considers that this shorter period of time would reduce the impact on the landscape, the heathland and protected species on site and bring about the restoration of the site more quickly.
26. A further change to the application is through the provision of an additional parcel of land to be used for the translocation of reptiles, given that the County Council's Nature Conservation Team raised concerns previously that the area of land being provided for this purpose was not sufficient in size. The applicant's letter considers that all necessary precautions have been undertaken to establish the likely presence of all protected species and to provide a comprehensive suite of mitigation, compensation and enhancement.
27. The applicant's letter also highlights that there were no landscape or highways objections and no objections were raised by local residents. Given all these factors, the letter considers that there is now an overriding need for the development.
28. On two separate occasions, the applicant has submitted information to support their arguments for the need for the site. A number of waste operators have provided correspondence, primarily waste transfer receipts, detailing the number of loads they are handling and where the material has been taken for disposal or recovery. To give an idea of the information provided, the second set of information, provided at the end of 2014, included a summary of the receipts provided and details the following:
 - Oakfield Construction handles around 20 loads per day (approximately 5,000 per annum) and would welcome a more local tipping facility;

- K J Tomlinson has made reference to 830 loads from various locations, although no timeframe is given for these, only a reference to recent jobs. Some of these jobs have been completed but others have yet to commence. Invoice details have been provided for 77 of these loads, with 73 being for loads sourced within Nottinghamshire. 48 loads were sent to Coneygre Farm at Hoveringham and 25 to Vale Road, Mansfield Woodhouse;
- Leedale states that it moves in the region of 500 loads a week, equating to around 26,000 loads per annum, and state that they are desperately in need of another tipping facility in the Nottinghamshire area;
- Colson Transport (which is the company supporting the application) makes reference to tipping 50 loads per day;
- Aggrecom has handled 1,649 loads over a recent four month period, of which 969 have been deposited at facilities outside the county. They state that they are finding the tipping situation very difficult around the Nottingham area due to the lack of local landfills and inert tipping facilities, and cannot stress enough the importance of future sites coming on line;
- Johnson Aggregates have provided details of 1,668 loads handled between July and October 2014, although only 434 of these sourced the inert waste from within Nottinghamshire.

Planning policy considerations

29. The application considers the site to be a derelict sandstone cutting and, as such, meets the requirements of Policy WCS5 and Policy WCS7 in the Waste Core Strategy (WCS) as it falls within the description of 'other voids'. The WCS recognises that, although safe disposal of waste is at the bottom of the waste hierarchy, it remains an essential component of the waste strategy as even the most optimistic assumptions on recycling and other more sustainable forms of waste management are going to leave large quantities of waste requiring disposal. The WCS estimates that 273,000 tonnes of construction and demolition waste will need to be disposed of per annum and that there is a requirement for disposal capacity of 3.2 million cubic metres in the plan period up to 2025.
30. Regarding the impact on the Green Belt, the application considers that the proposed restoration scheme, including landscape and ecological works along with new footpaths allowing public access, would be appropriate. Reference is also made to the limited life and size of the proposals and the fact that only one small building would be erected. The application considers that these impacts would be far outweighed by the ecological and recreational benefits along with the need for additional landfill capacity. It is also contested that the areas identified in the WCS for waste disposal, i.e. on the edge of the built up areas of Nottingham and Mansfield/Ashfield, lie mostly within the Green Belt.

31. Reference is made to Planning Policy Statement 10 (although this has been replaced by the National Planning Policy for Waste) and the need for sites not identified in a development plan to not undermine the waste planning strategy through prejudicing movement up the waste hierarchy. The applicant considers that this would not be the case as the site is located in an area of recognised need for inert disposal which is presently served by a single facility at Vale Road Quarry. The applicant contends that the application site would avoid the need for inert waste having to be sent to non-hazardous waste sites or to more remote sites, neither of which are considered to be sustainable or economically viable.

Transport assessment

32. The application includes a traffic survey which has been undertaken during the morning and evening peak hours on the A611. The morning peak (7.30am to 9.30am) counted 551 vehicles travelling north, of which 74 were HGVs, with 539 vehicles travelling south (53 HGVs). For the evening peak (4.30pm to 6.30pm), 539 vehicles were counted travelling north, of which 54 were HGVs, with 477 travelling south (51HGVs).
33. The applicant has calculated the number of HGVs entering and leaving the site on the basis that the site would be filled over a period of two years at a rate of 105,000 tonnes per annum. Based on information provided by the applicant, vehicles entering the site are likely to be able to carry between ten and 19 tonnes of material per load. Based on an average load of 14 tonnes per HGV, it would require 7,500 trips a year to bring 105,000 tonnes of material into the site. Based on the site operating hours, the applicant has calculated that there would be three HGV trips per hour into the site (six movements). The application anticipates two of these three HGVs entering and leaving the site from/to the south with one from/to the north. There would also be a small number of employees accessing the site in private cars at the beginning and end of each working day.
34. The transport assessment has also calculated the anticipated increased levels of traffic on the A611 in 2015 and assessed the impact of HGV traffic associated with the proposed development at that time. The assessment concludes by stating that the site access and surrounding highway network could satisfactorily accommodate the additional traffic generated by the proposed development. Personal injury accident data has also been studied for the most recent three year period and concludes that there would not be any safety concerns.

Updated ecological assessment

35. The ecological surveys carried out by the applicant confirm that the site includes areas of continuous bracken, heath communities and scattered broadleaved trees. Grass snakes and common lizard have been recorded as using the site which also provides suitable habitat for foraging bats, badgers, and breeding birds, including nightjar. The assessment makes a number of recommendations including keeping the working area to within the void; the

stripping, storage and re-use of soils on site; the temporary storage of any plant and machinery on the paddock as opposed to within the footprint of the local wildlife site; the protection of retained trees; the capture and translocation of reptiles to suitable habitat within the site boundary and the erection of reptile fencing around the working area; and the clearance of vegetation outside the bird breeding season.

36. Compensation and enhancement works are also proposed by the applicant including the creation of a mosaic of bracken, heathland, scattered trees and scrub, herb rich grassland, wavy-haired grassland, ponds and associated wetland habitat as part of the restoration works, resulting in a higher botanical diversity than the existing bracken dominated habitat; the creation of heathland on the existing paddock; the enhancement of areas outside the working area for reptiles; the creation of habitat piles and hibernacula; and the long term (15 years) management of the site specifically for wildlife.

Landscape and visual appraisal

37. The application site is located in the Kirkby Forest Wooded Farmlands policy zone which is described as being of 'moderate' landscape sensitivity. The applicant considers that the proposed development would result in a 'medium' magnitude of change to the character area resulting from disturbance to the landscape and the loss of heathland and scrub. There would be a 'slight/moderate' adverse landscape effect on the wider character area.
38. The assessment submitted considers that the restoration of the site would result in grassland establishing quickly and the site appearing mature in a short period of time, in keeping with the wider escarpment. The applicant is proposing a management plan which would secure the long term protection of the grassland and heathland. The applicant considers that the magnitude of landscape change could be 'low beneficial' leading to a slight improvement to landscape character.
39. The applicant considers that the impact of the proposed development on the site access area would be 'slight' during operations but notes there would be a slight beneficial' effect on the landscape.
40. The applicant considers that visual impacts would be restricted to footpath users, railway users and isolated properties. The magnitude of visual change on footpath users would be 'medium adverse' leading to a 'moderate adverse' overall visual effect, whilst it would be 'slight to moderate adverse' for rail users and nearby properties. The restored site would create a similar view resulting in a visual effect for all users of 'no change'.
41. The appraisal concludes that whilst there would be some short term landscape disruption, the restored site presents an opportunity to create a diverse new area of landscape and to secure its long term protection and management.

Dust impact assessment

42. A dust impact assessment has been submitted with the application and has reviewed local air quality conditions, local meteorology, wind speed and sensitive receptors which, within 200 metres of the application site, are restricted to the applicants' own home, Beacon Poultry Farm (134 metres west of the site), and Winshaw Well to the north west of the site. All the potential sources of dust generation resulting from the proposed development have been identified with the most significant considered to be from the stockpiling of construction materials and HGV movements, particularly within the site on unbound haul roads. The assessment considers that there are no identified receptors which have a combined risk due to distance from the site and wind direction.
43. Mitigation measures are proposed by the applicant to minimise dust generation include the use of the wheel wash; the hard surfacing of the first section of the access road; dust suppression units on the crushing and screening plant; speed limits for on-site vehicles; management of any stockpiles of materials awaiting transportation off site; HGVs being sheeted; and the dampening down of dusty activities.

Noise assessment

44. The applicant has established the existing noise climate in the area through noise monitoring from Warren House Stables to the south of the site and Winshaw Well Farm to the north west, in addition to noise calculations being made based on the level of traffic on the A611. The assessment considers that the increase in noise levels along the A611 due to the increased number of HGVs associated with the site would be 0.2dB(A), a level which it is considered would not result in any additional annoyance or disturbance.
45. For operational activities on site, calculations have been made by the applicant taking into account the distance between mobile plant and sensitive receptors, any sound barriers such as soil bunds, the attenuation properties of soft ground, and the angle of view of the haul road on site. The applicant considers the calculations to be 'worst case' as they predict all plant and machinery to be operational at the same time at the closest locations to residential properties, in addition to when landfilling activities are at the final phase; i.e. at their highest and most audible. Predicted noise levels at the two noise sensitive locations have been assessed to be within the levels set out in the National Planning Policy Framework (55 dB L_{Aeq1hr} for normal operations and 70 dB L_{Aeq1hr} for temporary operations) and so the proposed development would not cause annoyance or disturbance to nearby residents.
46. Noise impacts on nightjar and woodlark have also been assessed by the applicant, given the identification of breeding and foraging sites for nightjar at Thieves Wood (2.7 kilometres north east of the site) and Coxmoor Golf Club (2.5 kilometres north east of the site) and for woodlark at Newstead Pit Tip (720 metres south east of the site). Noise levels from activities associated with the proposed development are not calculated to exceed 40 dB L_{Aeq1hr} which is widely accepted to be at the lower limit of the 40 to 50 dB(A) range which can potentially disturb birds during the breeding season.

Flood risk

47. A flood risk assessment has been carried out by the applicant due to the proposals comprising landfill, despite the site being located in flood zone 1 which has only a 1 in 1000 annual probability of river flooding. Measures to control surface water run-off have been considered and the applicant proposes to construct an infiltration basin just beyond the south west corner of the landfill footprint. Surface water run-off would be directed to the basin through a series of lateral pipes which would connect to a carrier pipe along the impermeable base of the landfill linking directly to the basin. The size of the pipes and the gradient of the land on which they would be laid have been calculated to carry 580 litres of water per second which compares to a requirement of 449 litres per second.
48. The infiltration basin would have a surface area of 290 square metres and would be 1.2 metres deep. The applicant has calculated that this would have sufficient capacity for a 1 in 30 year storm event. Upon the completion of the restoration of the site, land drainage is recommended by the applicant above the clay cap to allow surface water to continue to run-off into the proposed basin.

Land contamination

49. A site investigation has been carried out by the applicant to ascertain the risks to the geology and hydrogeology of the site. The assessment considers that appropriate engineering of the landfill cell can mitigate any risks associated with the proposed development which could impact on groundwater and the wider environment. Remedial measures should not be required as a result of any previous historical uses of the site. Based on the weathered sandstone that has been identified at shallow depths, an artificial geological barrier of at least 0.5 metres in depth is recommended, constructed of a combination of a geological barrier and a liner. This would be required on the base and on top of the landfill.

Consultations

50. ***Ashfield District Council** objects to the application as the site is located in the Green Belt where development is strictly controlled under Policy EV1 of the Ashfield Local Plan Review and the NPPF. The proposal is considered to be inappropriate development in the Green Belt as it does not meet the criteria in the policy or the NPPF. Whilst the applicant states that there is insufficient capacity within the county for the disposal of inert materials over the next ten years, there appears to be no justification as to why this site is the most suitable location. It is considered that there is insufficient evidence to support a case for 'very special circumstances'.*
51. *If the County Council considers that very special circumstances can be justified and the local wildlife issues can be overcome, the value of the site should be enhanced over the longer term through appropriate conditions or a Section 106 Agreement.*

52. **The Environment Agency (EA)** has no further comments to make in addition to those made on the previous application. The proposed development would be acceptable if a planning condition is included requiring drainage details to be submitted, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in a 100 year plus climate change critical storm would not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme should also include the utilisation of sustainable drainage techniques; the limitation of surface water run-off to equivalent greenfield rates; the ability to accommodate surface water run-off on-site up to the critical 1 in 100 year event plus an appropriate allowance for climate change (30%), based upon the submission of drainage calculations; a demonstration of adequate percolation tests if infiltration techniques are to be utilised; detailed drainage design for each earthwork phase of the development where required; and responsibility for the future maintenance of drainage features.
53. The EA notes that the Flood Risk Assessment (FRA) only recommends providing surface water management up to the 1 in 30 year storm event and not up to the 1 in 100 year plus climate change scenario. Given the lifetime of the development, the EA considers that analysis of the 1 in 100 year plus climate change event should be provided at detailed design and the drainage scheme designed accordingly, in line with the National Planning Policy Framework. Some analysis of the required drainage is provided in the 'Proposed Surface Water Drainage' section of the FRA and the EA recommends that this is included in the detailed design.
54. A further condition is recommended requiring only uncontaminated, inert material to be imported and deposited on site in order to protect groundwater quality in the area. Advice is provided regarding the environmental permit process.
55. **Network Rail** notes that the proposed tipping area is approximately 120 metres from the existing Nottingham and Mansfield Line and Kirkby Tunnel. The disused, and not Network Rail owned Annesley Tunnel lies between the site and Network Rail infrastructure. A condition requiring only inert material to be tipped is recommended to allow the continued safe operation of the railway and to maintain the integrity of the railway infrastructure.
56. **NCC (Planning Policy)** considers that any potential short-term benefits of the proposed development, primarily to the site operator, do not outweigh the environmental harm at the site or override policy presumption against development of greenfield land.
57. National policy, set out in the National Planning Policy for Waste (issued in October 2014), states that waste management should move waste up the waste hierarchy, with disposal being seen as a last resort, but nevertheless one which must be adequately catered for. Policies within the Nottinghamshire and Nottingham Waste Core Strategy (WCS) set out the approach towards future waste disposal facilities, including those for inert

waste and permits new disposal capacity where it can be shown that this is necessary to manage residual waste that cannot be economically recycled or recovered (Policy WCS3(c)). This also reflects the new National Planning Policy for Waste which requires waste to be driven up the waste hierarchy whilst making adequate provision for waste disposal. In this case it is accepted that the material to be disposed of is likely to be residual, especially given the recycling element of the proposal and there is not therefore a conflict with the waste hierarchy in principle.

58. *Nationally it is estimated that between 80% and 90% of construction and demolition waste is recycled or recovered in some way, with much of this waste now recovered on site and not therefore entering the waste stream. Local data on inert waste arisings is therefore limited but overall construction, demolition and excavation waste arisings within Nottinghamshire and Nottingham are estimated to be in the region of 2.7 million tonnes per annum depending on economic circumstances.*
59. *An indicative estimate of long term future inert waste disposal requirements, set out within the WCS, envisages a long term need for sufficient capacity to manage around 273,000 tonnes per annum (approximately 10% of anticipated future arisings). However, this figure will be reviewed on an ongoing basis to reflect the publication of more recent waste management data by the Environment Agency (EA).*
60. *The most recent published waste data for 2012 shows that 297,000 tonnes of inert waste was deposited at inert landfill sites in Nottinghamshire in 2012, 54,000 tonnes was used or deposited at non-hazardous landfill sites and 215,000 tonnes re-used for construction or restoration projects. In 2011 there were 217,000 tonnes deposited at inert landfill sites; 55,000 tonnes within non-hazardous sites and 98,000 tonnes re-used for construction or site restoration. These figures include waste imported from outside the county.*
61. *More detailed analysis of the EA's 'Waste Data Interrogator' for 2012 suggests that, taking account of the recorded imports and exports of inert waste, Nottinghamshire and Nottingham City produced approximately 350,000 tonnes of inert waste which was disposed to landfill and 171,000 tonnes which was used for construction or reclamation purposes, giving a total of 521,000 tonnes. This compares to 566,000 tonnes of inert waste which was deposited within the plan area in the same period and suggests that Nottinghamshire is presently a net importer of inert waste for disposal or re-use.*
62. *These figures do not include any material that is managed at exempt sites, although the EA has confirmed that the quantity of waste via exemptions has reduced significantly following changes to the regulatory system. The annual tonnage of inert waste re-used for reclamation and construction purposes under an exemption is not therefore considered by the EA to be significant and unlikely to affect assumptions on capacity.*
63. *In terms of the existing capacity to manage future inert waste arisings, EA data shows that at the end of 2012 there was an estimated 1.764 million cubic metres of permitted capacity remaining within the county. Taking away a further two years of inert disposal and recovery inputs, using the 2012 figure of*

566,000 tonnes per annum, would suggest that there was around 632,000 cubic metres of disposal capacity left at the end of 2014, based on a conversion factor of one tonne of inert waste per cubic metre as previously advised by the EA and used in the WCS estimates. This would suggest that there is little remaining inert disposal capacity in the county but it is important to consider significant additional inert disposal capacity that has recently been granted planning permission and subsequently implemented.

64. *In July 2011, planning permission was granted to import 495,000 cubic metres of inert waste material into the former Bentinck Colliery Tip near Kirkby-in-Ashfield. Works commenced around February 2014 and are due to be completed by February 2019.*
65. *In September 2012, planning permission was granted for works to restore the former Welbeck Colliery using approximately 1.6 million cubic metres of inert waste disposal. Works on site commenced in May 2013 and are due to be completed by May 2018.*
66. *Finally, planning permission was granted in December 2014 to extend the inert waste disposal facility at the former limestone Quarry at Vale Road, Mansfield Woodhouse, providing additional inert waste disposal capacity of 2.06 million cubic metres and extending the life of the facility until 2030.*
67. *These three planning permissions have therefore added a further 4.155 million cubic metres of inert disposal and recovery capacity in the county. When added to the 632,000 cubic metres anticipated to be remaining at the end of 2014, this would suggest that there is approximately 4.787 million cubic metres of remaining disposal and recovery capacity in the county at the present time.*
68. *Looking ahead, this remaining capacity provides sufficient disposal and recovery capacity for either around 8½ years (based on the 1:1 conversion factor used in the WCS), around 12½ years (based on a conversion factor of 1:1.5 suggested by the HMRC since the WCS was adopted), or just over 20 years based on the applicant's own conversion factor of 2.4 tonnes per cubic metre.*
69. *The WCS anticipates that there will be a need to identify additional inert disposal capacity towards the end of the plan period in order to maintain an appropriate level of provision and the recent additional capacity would support this stance. The WCS therefore identifies the broad areas and types of sites where future inert disposal capacity could be provided through Policies WCS5 and WCS7. Possible site allocations for inert waste disposal are currently being assessed through the preparation of a site specific document to support the WCS. In strictly numerical terms, there is therefore not considered to be a critical need for additional inert disposal capacity at the present time as there is sufficient capacity to manage current and anticipated arisings either via disposal or recovery/site reclamation options whilst the site specific document is being prepared. It is acknowledged that the majority of the county's existing, dedicated, inert disposal capacity is concentrated within a single large site at Mansfield Woodhouse and a much smaller site near Newark, but other options for disposal and recovery capacity have recently started accepting*

inert waste, including Bentinck Tip which is in close proximity to the application site. It is also considered that the proposal would only provide a temporary additional outlet for inert waste which would add up to less than a year's worth of overall disposal capacity and so would not therefore make a significant contribution. Whilst small windfall schemes are, in principle, supported under Policy WCS5, this is only where they enable appropriate site reclamation or restoration, a situation which does not apply in this instance (see later comments).

70. *The WCS does therefore acknowledge a probable longer term need for additional inert disposal capacity and seeks to encourage a better distribution of sites to improve coverage and reduce transport distances. However this has to be balanced against the site specific impacts of any proposal.*
71. *Where there is a proven need for additional inert disposal capacity, Policy WCS5 gives priority to sites within the main shortfall areas around Nottingham and Mansfield/Ashfield and the application site falls within this broad area. However, the policy also sets out a sequential approach to the development of sites which prioritise the extension of existing sites; followed by the restoration of old colliery tips, mineral workings, other man-made voids and derelict land where this would have environmental benefits; ahead of disposal on undeveloped greenfield sites. Sites within the Green Belt would need to demonstrate 'very special circumstances' in accordance with the NPPF.*
72. *The application site includes a steep-sided valley feature described by the applicant as a derelict sandstone cutting, although this is queried. Even if there was evidence that the site had been worked historically, national policy within the NPPF is clear that where land has since regenerated to the point that it is perceived as natural it must be treated as undeveloped for planning purposes. As such the proposal is not supported by Policy WCS5 as greenfield sites can only be considered where there is no more sustainable alternative. It is considered that there are other more sustainable options available.*
73. *As the proposal falls within the Green Belt very special circumstances would therefore need to be demonstrated as set out within the NPPF, Policy WCS5 and its supporting text (paragraph 7.26) and Policy WCS7. This could for example include the restoration of a former mineral working or derelict site but, as this proposal is for a greenfield site, it is not considered that very special circumstances can be demonstrated in this case.*
74. *Part of the site is also designated as a Local Wildlife Site and development would therefore be contrary to Policy WCS13, in respect of nature conservation, and saved Waste Local Plan (WLP) Policy W3.23(c) unless the importance of the development could be judged to outweigh the local value of the site. Given that there are other existing and former mineral workings in need of restoration there is not an overriding need to develop this particular site at this time. Subject to detailed landscape comments, the proposal is also likely to be contrary to Policy WCS13 in terms of landscape impact as disposal operations would lead to the permanent loss of a natural valley feature. In terms of the proposed aggregates recycling use, this would be supported in*

principle, for the duration of any disposal operation but would not be acceptable as a stand-alone use at this location (Policy WCS7 and paragraph 7.38).

75. *Policy WCS11 seeks to encourage sustainable transport options, promoting alternatives to road transport where viable, and looks to make the best use of the existing transport network and minimise overall transport distances. Depending on the source of the waste the proposal may reduce haulage distances in some cases. Subject to detailed highways comments, saved Policies W3.14 and W3.15 from the WLP would restrict development where the vehicle movements likely to be generated cannot be satisfactorily accommodated by the highway network or would cause unacceptable disturbance, and secure appropriate conditions and highway improvements where necessary. Saved Policies W3.9 – W3.11 of the WLP would also be relevant in terms of appropriate controls over possible sources of noise, dust and mud.*
76. *The applicant points to a lack of currently operational sites within their supporting statement but this does not demonstrate any consideration of other possible sites for this development. It is understood that this site is available to the applicant, and therefore convenient for their operation, but it does not necessarily follow in planning terms that this is the only or most suitable site for inert disposal. Preparatory work for the waste site specific document has identified four existing/former quarries in the Mansfield area that have been put forward for possible restoration using inert waste and five other potential sites across the rest of the plan area. These comprise unrestored quarries, former colliery tips and existing quarries along with proposed future mineral workings that are currently being assessed as part of the review of the Minerals Local Plan. A planning application to extend the time allowed for completion of the existing inert disposal site at Vale Road has recently been approved. In addition, the premature closure of two of the county's remaining non-hazardous landfill sites at Carlton Forest, Worksop, and Dorket Head, Arnold, has recently been announced, both of which are likely to require importation of additional inert materials to achieve a satisfactory restoration scheme.*
77. *Whilst it may be necessary to consider the development of a greenfield site as a last resort, if there are no other more sustainable options available, in policy terms it would be inappropriate to allow development of this site when there are other alternative sites in need of restoration and that are supported by Policy WCS5.*
78. *In conclusion, the WCS acknowledges a longer term need for additional inert disposal capacity and seeks to encourage a better distribution of sites to improve coverage and reduce overall transport distances. This is being addressed through the site-specific document, which will assess all of the sites put forward for inert disposal, and is not therefore considered to be critical at the present time. Even if there were a more urgent case of need this would still have to be weighed against the environmental impacts of the proposed development at this location. Policy WCS5 sets a clear preference for the use of inert waste for restoration purposes with the development of greenfield sites*

only as a last resort if all other reasonable options have been exhausted. This would therefore be the least sustainable option and contrary to national and local Green Belt policy. In policy terms, any potential short term benefits, primarily to the site operator, do not outweigh the environmental harm at this location or override policy presumption against development of greenfield land.

79. **NCC (Highways)** has no objection to the application and considers that the proposed new junction out of the site onto the A611 would be able to cope with HGVs entering and leaving the site at the same time. Also, the junction geometry would allow HGVs to enter and leave the site without crossing onto the opposite side of the road. No objection is raised regarding the access subject to a condition requiring further details of the site access to be submitted for approval.
80. Conditions are also recommended requiring the number of HGVs entering and leaving the site to be monitored with details being made available to the County Council on request; the surfacing of the first 20 metres of the access road with a bound material; the construction of the access road in a manner which prevents the unregulated discharge of surface water onto the public highway; and the provision of wheel washing facilities.
81. Further advice is also provided to the applicant regarding the deposit of mud on the public highway; the need to enter into an agreement under the Highways Act 1980 to provide for off-site works; and the need to contact the Highways Authority to gain technical approval for necessary works.
82. **NCC (Nature Conservation)** considers the application's repeated description of the site as a 'derelict sandstone cutting' to be a mistake with no evidence presented in support of that claim. The site is considered to be a natural valley and can be clearly discerned on Sanderson's Map of 1835 (and on the Ordnance Survey 6 Inch Series map covering this area), and the Robin Hood Hills, of which the site is a part, feature a number of deep, narrow valleys which are natural geological features, rather than having arisen through quarrying. The site is considered to be greenfield, well vegetated and not in need of any restoration or remediation works, which use of the word 'derelict' misleadingly implies. This erroneous assumption is used to justify the development, with regards to Policies WCS5 and WCS7 of the Waste Core Strategy, which refer to the restoration of derelict land (where this would have associated environmental benefits). Given that the site is not derelict, it therefore follows that the sections of these policies cited do not apply in this case.
83. The majority of the site in question is locally designated as the Robin Hood Hills Local Wildlife Site (LWS) and is therefore of at least county-level importance for its wildlife. Kirkby Grives Site of Special Scientific Interest is approximately 1km to the west and the site makes up part of an important cluster of large and connected nature conservation sites in the Newstead area and, as such, is a key component of the local ecological network. The site also lies immediately adjacent to an area of land that has been identified

as part of both the 'Indicative Core Area' and 'Important Bird Area', in relation to the prospective Sherwood Special Protection Area (SPA).

84. *Due consideration has to be given in the decision making process to the 'mitigation hierarchy', as outlined in the National Planning Policy Framework which requires that significant impacts should first be avoided, then mitigated against, and finally compensated for. Whilst a range of mitigation measures are proposed, it first needs to be established that the impacts cannot be avoided, for example by locating the development elsewhere, on a less ecologically sensitive site.*
85. *The Updated Ecological Assessment identifies the main potential impacts arising from the proposed development as loss of part of the LWS, loss of reptile habitat and potential harm to reptiles during the works, and that there would be a reduction in habitat available for nesting birds and foraging bats. No other protected or notable species were encountered during the site surveys. The site consists predominantly of continuous bracken, with areas of scrub and trees and patches of acid grassland and is assessed as being of high ('County') value.*
86. *Notable numbers of grass snakes and common lizards were discovered during surveys and the site is considered to be of 'high (County) value' for reptiles, supporting a 'large' population of grass snakes and a 'medium' population of common lizards. A range of mitigation measures are proposed, focussing on a trapping and translocation programme, which is considered broadly suitable, and enhancements to adjacent habitat. In order to increase the carrying capacity of retained habitat into which trapped reptiles would be released, it is proposed to create habitat piles, two ponds, and a grassland area with a pond to the west of site in advance of reptile translocation works.*
87. *In order to further raise the carrying capacity of the retained land to support the translocated reptiles, additional enhancements including the creation of grassy 'glades' and small areas of bare ground within the dense bracken are recommended on land in the applicant's control. Confirmation that this is acceptable is requested.*
88. *The breeding bird surveys carried out in 2012 did not follow standard guidelines, with two (rather than three) morning surveys carried out (one at the end of June and one at the start of July). Normally, surveys are spaced out regularly during April, May and June, to account for the fact that evidence of breeding becomes harder to establish later in the season. The site is considered to provide a 'valuable habitat for breeding birds', with Red and Amber listed Birds of Conservation Concern recorded, including song thrush, whitethroat, willow warbler, linnet, bullfinch and yellowhammer. The proposed development would involve the temporary loss of breeding habitat, and there would be increased levels of disturbance in surrounding areas due to noise and dust, and as a result of visual disturbance. The application states that habitat creation would replace lost habitat once the site has been restored (with no reduction in nesting habitat in the long term) and that the*

location of the works within the valley would limit disturbance, although this screening effect would reduce as the level of the tipping rises.

89. *No evidence of woodlark was found at the site, although the timing of the 2012 survey was too late to be effective for detecting this species but, irrespective of this, the habitat is considered unsuitable as it does not provide the vegetation structure required. An assessment of potentially suitable habitat in the vicinity of the site was carried out in May 2014, concentrating on Hollinwell Golf Course to the east and concluded that the habitat at the golf course is now unsuitable for this species although potential breeding habitat was identified in an area of clearfell conifer approximately 220 metres east of the proposed development site.*
90. *Whilst no nightjars were encountered during survey work, the site was considered to provide suitable foraging, and potentially breeding, habitat for this species. It should be noted that there are no existing records of breeding nightjar in the vicinity of the site, the nearest occurring around 2.7km to the northeast. The proposed development would involve the temporary loss of potential foraging habitat for nightjars, and increased levels of disturbance due to noise and visual impact. It is stated that the corridor formed by the Robin Hood Hills LWS, although narrowed, would be retained, that significant areas of additional habitat would remain in the area, and that new habitat of potentially greater suitability for nightjar (and woodlark) would be created following site restoration. As for other birds, it is stated that the potential increase in disturbance is not considered likely to be significant due to the local topography which would provide screening, and that the potential increase in disturbance is not likely to be significant and that the area is not used frequently by foraging nightjar.*
91. *Initial concerns regarding potential indirect impacts from noise on nightjar and woodlark have been satisfactorily addressed.*
92. *If planning permission is granted, conditions should be attached to:*
 - (a) *Protect retained areas of habitat/vegetation outwith the area of tipping;*
 - (b) *Limit the works to a two-year period;*
 - (c) *Provide for a methodology for the stripping and storage of soils, to ensure that existing soils can be reused during restoration;*
 - (d) *Ensure that vegetation clearance takes place outside the bird nesting season (March to August inclusive), to avoid impacts on nesting birds and also to help avoid disturbance to woodlark and nightjar;*
 - (e) *Resurvey the site if works cease for more than two weeks during the period of March to July to confirm that woodlark have not colonised the site;*
 - (f) *Require an experienced ornithologist to visit the site early in the breeding season (i.e. early March) each year, to assess the site for its potential to support breeding woodlark and make recommendations;*

- (g) *Prohibit artificial lighting on site;*
 - (h) *Prepare a detailed methodology for the trapping and translocation of reptiles at the site;*
 - (i) *Prepare a detailed Advanced Habitat Creation Plan, to include details of advanced habitat enhancement and creation measures to benefit reptiles and other species.*
93. *The proposed restoration of bracken, grassland, heathland and scrub habitats, along with ponds and a wetland area are appropriate to the location, but a detailed habitat restoration plan and working methods would need to be secured through a condition. This should include details of topography, ground preparation, species mixes, establishment methods and maintenance regimes. It is not clear how habitat creation would proceed on the area to be used for soil storage and it is suggested that topsoil is stripped to expose the low nutrient, sandy substrate. It is also recommended that, in addition to reusing existing soils present on the site, clean mineral sand should also be excavated to be used in the restoration. This would ensure that at least some areas of the restored site are free from bracken rhizomes, and hence can develop into open acid grassland habitat. Alternatively, a proportion of the soils could be screened before replacement to remove bracken rhizomes. The proposed 15 year management period, supported by a management plan to be updated on a 5-yearly basis, should be secured through a legal agreement.*
94. **Nottinghamshire Wildlife Trust (NWT)** *objects to the application, noting that the application site is within a local wildlife site (LWS) and forms part of a larger complex of closely located and linked wildlife sites. The site is not considered to be derelict and appears to be a landform that is compatible with other valley features in the area and is very well vegetated. NWT highlights the National Land Use Database which defines derelict land as either “land so damaged by previous industrial or other development that it is incapable of beneficial use without treatment, where treatment includes any of the following: demolition, clearing of fixed structures or foundations and levelling” or “abandoned and unoccupied buildings in an advanced state of disrepair i.e. with unsound roof(s)”. NWT highlights that the definition also excludes “land damaged by development which has been or is being restored for agriculture, forestry, woodland or other open countryside use” and “land damaged by a previous development where the remains of any structure or activity have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings), and where there is a clear reason that could outweigh the re-use of the site, such as its contribution to nature conservation, or it has subsequently been put to an amenity use and cannot be regarded as requiring redevelopment.”*
95. *NWT is satisfied that woodlark is not breeding on Hollinwell Golf Course due to a lack of suitable habitat and so would not be affected by noise and disturbance from the proposed development. The breeding bird survey has shown the site to have a valuable assemblage of breeding birds and whilst no overwintering bird survey has been carried out, the application has confirmed*

that there is likely to be a comparable population of overwintering birds. No breeding nightjar were found on the site despite there being suitable habitat but the application acknowledges that the site is known to be used for foraging nightjar, for which there is also suitable habitat. Whilst the applicant has increased the area of proposed habitat creation, there would be a time lag of at least five to ten years before suitable habitat would be available again and NWT considers this to be a major adverse impact. The reduction in foraging nightjar habitat would have an as yet unknown scale of impact.

96. *NWT considers that there is the potential for birds breeding on the adjacent land to be detrimentally affected by noise from the proposed development, yet no proper assessment has been undertaken. An assessment of the potential impacts of noise on known woodlark and nightjar breeding sites has been undertaken and concluded that there would be no significant noise effects (>40dBA), a conclusion that NWT concurs with. However, with regard to other bird species, the noise modelling shows a predicted level of 60dB Leq at Winshaw Well Farmhouse, during soil stripping and restoration operations which would presumably equate to much higher noise levels in the LWS habitat where birds currently breed as that is much closer than the farmhouse.*
97. *No noise contour map has been provided and whilst the application states that operations would mainly be within the valley which would ameliorate noise, this does not take account of soil stripping and restoration operations, or the impact of HGVs travelling up inclines out of the valley. NWT therefore considers that it is not possible to determine the impact of noise on breeding and overwintering birds but considers that noise levels could be considerable and would cause birds to move from the area and have an adverse effect.*
98. *The populations of lizards and grass snakes are considered to be of county importance and meet the criterion for local wildlife site (LWS) designation. NWT considers that if there is an over-riding need for the development which outweighs the need to avoid such irreparable damage, then a substantive programme of mitigation and compensation is required. Given the scale of loss of habitat (approximately 25% of the LWS) and the period of time before similar habitat could be restored, combined with the reduced micro-habitats that would be present on the restored site due to loss of the variable aspect and topography of the valley feature, the residual effect in the short-medium term should be considered as major adverse. The loss of the valley topography of this site is likely to affect not only reptiles but also invertebrates which would have different assemblages based on the variation in flora, temperature, moisture, and light conditions associated with slopes of different aspects.*
99. *NWT considers the proposed reptile translocation methodology to be satisfactory, subject to the establishment of good quality habitat in the receptor areas at least 12 months in advance of any translocation programme to ensure that the habitats are properly established and functioning. This would require a commitment from the applicant to an extensive programme of trapping for at least 70 days to achieve a successful translocation that would ensure that reptiles were not harmed by the proposed works and would have*

to include the infill area and the HGV access routes, as well as the proposed infill area.

100. *No bat roosts are present at the site but the area contains suitable foraging habitat, although no survey work has been undertaken to confirm this. The restored site would not provide suitable conditions for foraging bats for some years.*
101. *Whilst the reduced timeframe of the proposals would reduce the likely indirect impacts on habitats and species from issues such as noise and dust, it would not alter the direct impact on the loss of LWS habitat. The proposed development would result in the loss of nearly 25% of the LWS and would largely break the link with another LWS, contrary to advice in the National Planning Policy Framework. Whilst the site would be restored sooner, it would still be several years before the loss of the LWS would meaningfully be compensated. It is also questioned whether the site would in reality be completed within the stated two year timeframe. The application also needs to be considered against a number of policies in the Nottinghamshire Waste Local Plan.*
102. *Whilst the restoration proposes similar types of habitat to that which would be lost, the application acknowledges that this would not replace the complexity of the faunal assemblages and the loss of the slope and aspect of the valley would also reduce the micro-habitats that could be achieved in the long term. The establishment of habitat suitable for woodlark could be beneficial but could also be achieved without the proposed development. Further details are required on the establishment methodologies for all the proposed habitats. The proposed 15 year aftercare period would need to be secured by condition and accompanied by a significant restoration bond.*
103. *In summary, NWT objects to the application as the impact of the proposed development on the site cannot be properly mitigated or compensated.*
104. **NCC (Landscape)** *has reiterated previous comments on the earlier applications and considers that the proposed development would result in some short term landscape disruption but these would be limited due to the character of the local landscape and the valley feature which would screen tipping operations. Overall, NCC (Landscape) supports the application and considers that it provides an opportunity to create a diverse new area of landscape upon restoration, subject to the use of appropriate native planting. Planning conditions also provide an opportunity to secure the long term protection and management of the site.*
105. **NCC (Reclamation)** *considers that the site shows no sign of industrial or commercial activity and inspection of historic maps indicate the site to be undeveloped and marked as open ground. The site overlies the principal aquifer, presumed to be the Lenton Sandstone Aquifer, and as such is identified as a potential receptor.*
106. *Regarding the comment in the application that the lack of inert landfill space has led to delays in major infrastructure projects, the matter has been discussed with the Highways Authority and no support for this assertion can*

be found. The proposed recycling facility would need to include dust and surface water run-off controls as well as the bunded storage of any fuel storage tanks on site. The proposal to reload HGVs should materials be found to be inappropriate could prove impractical if chemical analysis of the material is called for.

107. *The application has identified contamination pathways and suitable mitigation should be in place to bar access to it. Inert waste can contain asbestos and so the applicant is right to propose the inspection of loads and the reloading of HGVs if inappropriate material is found. There could also be significant quantities of cement-based products which are alkaline. Any seepage of these materials from the landfill could impact upon any acid grassland restoration.*
108. *In summary, there are concerns relating to the control and receipt of waste which could contain asbestos or other deleterious materials; and the potential for groundwater contamination, either directly or via the proposed drainage system. The proposed development would require an environmental permit and would be regulated and inspected by the Environment Agency. Whilst the applicant's arguments for the need for a waste disposal facility are recognised, the protection of the environment and inspection/control/regulation of the disposal process remains an issue.*
109. **NCC (Noise Engineer)** *has reiterated previous comments and considers that noise levels are predicted to be equal or less than the permitted levels allowed in the National Planning Policy Framework at nearby sensitive receptors, i.e. less than or equal to 55dB L_{Aeq, 1 hour} for normal operations and less than 70 dB L_{Aeq, 1 hour} for temporary operations. It is noted that Shenton Lodge has not been included in the assessment as the applicant owns and resides at the property.*
110. *Should planning permission be granted, conditions are recommended regarding the hours of operation; limiting the amount of material entering the site to 105,000 tonnes per annum; limiting the number of HGV trips to three per hour or 30 a day; restricting the plant and machinery used on site to that listed in the noise assessment; the fitting of noise abatement measures to all plant and machinery with silencers maintained in accordance with the manufacturers' recommendations; the use of white noise reversing alarms; and the carrying out of a noise survey in the event of a justifiable complaint being received.*
111. **NCC (Countryside Access)** *has no objection to the application so long as the availability of Kirkby-in-Ashfield Footpath Number 44 is not affected or obstructed by the proposed development unless subject to appropriate diversion or closure orders. Consultation should be carried out for any surfacing or gating issues and the developers should be aware that any potential footpath users should not be impeded or endangered in any way.*
112. **NCC (Built Heritage)** *has not responded on the application but has previously raised no objection to the previous applications given that, although the active stage of the development would have a slight harmful impact on the setting of Winshaw Well and the Annesley Colliery Conservation Area, the long-term*

impacts would be negligible and not contrary to any local or national policies regarding built heritage.

113. **NCC (Archaeology)** has not responded but has previously raised no objection to the application.
114. **Severn Trent Water Limited, Western Power Distribution, National Grid (Gas) and National Grid Company PLC** have not responded and have not responded on previous applications either. Any responses shall be orally reported.

Publicity

115. The application has been publicised by means of a site notice and a press notice in the Ashfield Chad. Neighbour notification letters have been sent to the three nearest properties to the site – Winshaw Well, Beacon Poultry Farm and Warren House – in accordance with the County Council’s adopted Statement of Community Involvement. Furthermore, a resident of Church Street, Kirkby-in-Ashfield and County Councillor Gail Turner, Member for Selston, have been notified having made representations against the previous application.
116. Councillor Rachel Madden, the local County Council Member for Kirkby-in-Ashfield South, has been notified of the application.
117. Councillor Gail Turner, the local County Council Member for Selston, objected to the previous application and has asked that those objections be rolled forward to this application. Councillor Turner objects on the following grounds:
 - (a) The need for this application is questioned on the basis that it is a greenfield site. The land is a natural depression and its infilling would bring no environmental benefits to this natural area;
 - (b) The natural ecology of the site should not be interfered with as there is no overriding need to infill. The snakes and other reptiles do not need to be moved as translocation has many risks and these risks do not outweigh benefits as there are no environmental benefits brought by this application;
 - (c) Not only would this application bring no benefits but it would bring harm to a natural area in its natural condition that has no need for infill or restoration of any kind;
 - (d) As there is only so much inert infill material available this needs to be directed to sites that are in great need of restoration and which would bring huge benefits to communities.
118. Seven letters of objection have been received from residents in Kirkby-in-Ashfield. Six of these objectors have raised concerns regarding the traffic impacts of the proposed development whilst issues have also been raised regarding the impact of the proposals on the countryside and the Green Belt,

the availability of alternative brownfield sites, odour, vermin, ground pollution, wildlife, noise, dust, and the impact on house prices.

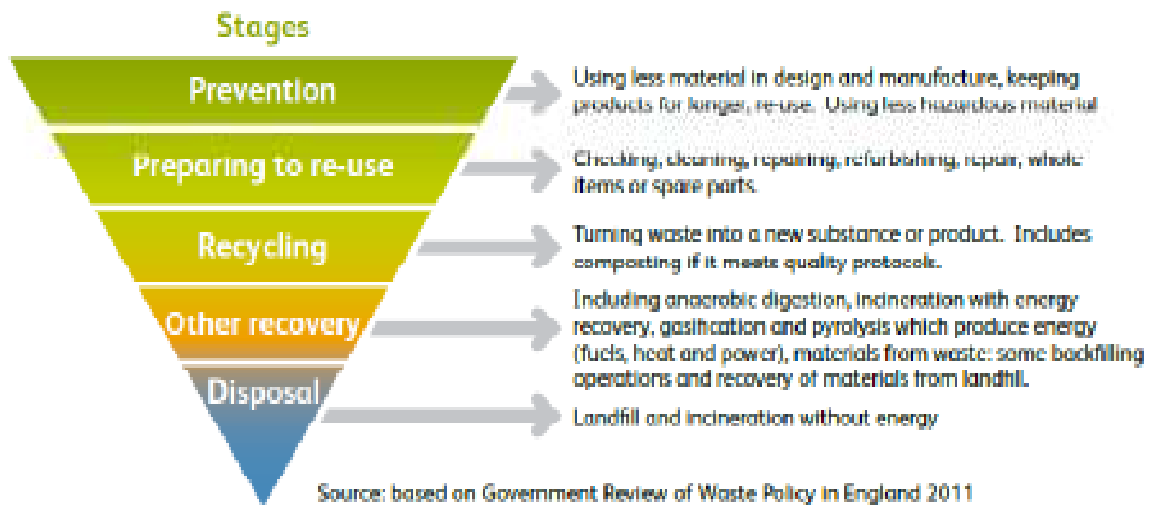
119. The issues raised are considered in the Observations Section of this report.

Observations

Planning policy considerations

- The National Planning Policy for Waste
120. Government guidance on waste can now be found in the National Planning Policy for Waste (NPPW), which was published in October 2014. The NPPW largely streamlines previous guidance in Planning Policy Statement 10: Planning for Sustainable Waste Management (PPS10) whilst giving special protection to the Green Belt by stating that local plans should first look for suitable sites and areas outside the Green Belt for waste management facilities that, if located in the Green Belt, would be inappropriate development, whilst also recognising the particular locational needs of some types of waste management facilities.
121. When determining planning applications, the NPPW states that waste planning authorities should only expect applicants to demonstrate the quantitative or market need for new waste management facilities where proposals are not consistent with an up to date local plan and, in such instances, take account of the capacity of existing operational facilities to satisfy any identified need. For disposal applications not in line with the local plan, applicants need to demonstrate that the proposals do not undermine the objectives of the local plan through prejudicing the movement of waste up the waste hierarchy. Impacts to the local environment and amenity should be considered but it is not necessary to carry out detailed assessments of epidemiological and other health studies on the basis that these controls would be provided through the pollution control regime. Landfill or land raise sites should be restored to beneficial afteruses at the earliest opportunity and to high environmental standards.
122. Appendix A of the NPPW sets out the waste hierarchy with prevention being the most preferred option and disposal the least desirable. Appendix B identifies a number of locational criteria for testing the suitability of sites and areas for new waste development. These include the consideration of water quality and flood risk; land instability; landscape and visual impacts; nature conservation; conserving the historic environment; traffic and access; air emissions including dust; odours; vermin and birds; noise, light and vibration; litter; and potential land use conflict.
- The Waste Core Strategy and the waste hierarchy

123. The waste hierarchy referred to above is also one of the key principles in the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (WCS), adopted in December 2013 and is set out in the diagram below.



124. It can clearly be seen that the disposal of waste is at the bottom of the waste hierarchy and this is reflected in Policy WCS3 of the WCS which prioritises new or extended recycling, composting and anaerobic digestion facilities and only allows for new or extended energy recovery facilities where it can be shown that this would divert waste that would otherwise need to be disposed of. The policy only supports new or extended disposal capacity where it can be shown that this is necessary to manage waste that cannot be economically recycled or recovered. The application puts forward arguments (as summarised in paragraphs 22 – 28 above) as to why the facility is required and it is accepted that not all waste can be re-used or recycled and there continues to be a need for disposal facilities, as acknowledged by the NPPW, although Policy WCS3 clearly sets out a sequential test with disposal being the least favourable option.
125. In order to ensure that any recyclable inert material is recovered prior to disposal, the applicant is proposing an on-site recycling facility which would allow for any loads entering the site to be sorted into recyclable or non-recyclable waste. The applicant has confirmed that this would only apply to HGVs entering the site which are not associated with Colson Transport Ltd which is the main waste management company involved in the application. HGVs associated with Colson would access the site carrying inert waste already screened and sorted at their facility at Basford and so would need no further sorting on site. Colson has indicated that the majority of HGVs accessing the site would be their own and so only a small percentage would be from other waste operators. These other loads would be sorted and any recyclable material placed to one side in the recycling area until there is a sufficient amount to allow a full load to be taken back off site. Colson has indicated that this material would be removed off site by a HGV which had entered the site with a full load in order to minimise the number of HGVs

accessing the site. In any event, the applicant has indicated that the number of HGVs leaving the site with recyclable material would only be around one per week.

126. Appropriate controls could be secured through planning conditions to ensure that all waste destined for the landfill has been pre-treated either off-site or on-site and, with such controls in place, it is considered that the proposed development would accord with this element of the NPPW and Policy WCS3 and would not prejudice recycling operations further up the waste hierarchy.
- The need for the site
127. Policy WCS3 states that the aim of the WCS is to provide sufficient waste management capacity for the county's needs. Regarding construction and demolition waste, the WCS states that estimated arisings are anticipated to be around 2.725 million tonnes per annum throughout the plan period and only plans for 10% of this not being recoverable and therefore requiring disposal. The WCS also states that existing permanent aggregate recycling sites in the county provide enough capacity to recycle up to one million tonnes of concrete, rubble and spoil per annum. Whilst this would appear to suggest a significant shortfall in recycling capacity, the WCS does highlight the fact that temporary facilities at quarries and landfill sites, in addition to the recycling of construction and demolition waste on the sites where they are generated, provides adequate recycling capacity.
128. The WCS accepts that disposal capacity in terms of the number of sites is very limited in the county with the vast majority of disposal taking place at Vale Road, Mansfield Woodhouse, with some disposal capacity also available at Coneygre Farm at Hoveringham. Of the almost 300,000 tonnes of inert waste deposited in the county in 2012, over 85% was deposited at Vale Road. It is therefore accepted that the provision of further disposal sites would be beneficial in terms of managing this waste stream effectively.
129. In terms of planning for future waste management provision in the county, the WCS considers that the amount of construction and demolition waste subject to disposal will amount to 273,000 tonnes per annum, i.e. 10% of the total generated. Given that the WCS states that there was 2.1 million cubic metres of inert disposal capacity in 2010, it is considered that capacity to dispose of a further 3.2 million cubic metres is required during the plan period up to 2030, based on a density conversion ratio of 1:1. More recent data from the EA suggests that the remaining inert disposal capacity in the county had fallen to 1.764 million cubic metres by the end of 2012, although the situation in the county has changed significantly since then, as discussed in greater detail below.
130. In order to provide sufficient future disposal capacity for construction and demolition waste, the County Council has put out 'a call for sites' as part of the preparation of the Site Allocations Document for the Waste Development Plan Documents. A total of 13 sites have been put forward for allocation which have a potential capacity of over 14 million cubic metres. Although the identity of these sites is presently considered confidential, given the

early stages at which this process is at, it can be confirmed that they include the application site along with some former colliery sites and former mineral workings.

131. It can also be confirmed that the sites are in a variety of locations across the county which is an important consideration when assessing the application against Policy WCS5 as it states that, where it is shown that additional landfill capacity is necessary, priority will be given to sites within the main shortfall areas around Nottingham and Mansfield/Ashfield. It can be confirmed that seven of the 13 sites put forward for allocation, including the application site, are within the Nottingham and Mansfield/Ashfield priority area and have a combined potential void capacity of over 11 million cubic metres (including Vale Road which has been subsequently approved planning permission). It is therefore considered that the application site accords with this element of Policy WCS5 as it is located in this main shortfall area.
132. Policy WCS5 then further states that, in addition to prioritising sites in the main shortfall area, preference will be given to the development of sites in the following order:
 - (a) The extension of existing sites;
 - (b) The restoration and/or reworking of old colliery tips and the reclamation of mineral workings, other man-made voids and derelict land where this would have associated environmental benefits;
 - (c) Disposal on greenfield sites will be considered only where there are no other more sustainable alternatives.
133. An initial assessment of the seven sites within the main shortfall area suggests that four of them are either former colliery tips or mineral workings and so would fall into criterion (b) above, i.e. the second most preferable option, with the other two, including Shenton Lodge, falling into criterion (c). It can be confirmed that only one of the sites put forward, Vale Road, falls into criterion (a) as an extension to an existing site.
134. The application site is considered to be a greenfield site despite the applicant arguing that it is a 'derelict sandstone cutting'. The valley landform can be clearly identified on Sanderson's Map of 1835 and is considered to be a natural feature given that it is in keeping with the surrounding Robin Hood Hills which feature similar deep, narrow valleys. An internet search describes the Robin Hood Hills as "a steep sided range of sandstone hills forming a natural amphitheatre surrounding the villages of Annesley and Newstead". In addition to this, the site is not considered derelict in character and is in fact a well vegetated and ecologically important habitat not in need of any restoration or remediation works.
135. The National Planning Policy Framework (NPPF) incorporates a glossary of terms which defines previously developed land but excludes, amongst other things, "land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the

landscape in the process of time". Even if the site was previously quarried, as the applicant suggests, it is considered that any remains of that quarrying have now blended back into the landscape. It is also worth highlighting the consultation response from Nottinghamshire Wildlife Trust (NWT) which has quoted the National Land Use Database's definition of derelict land which is "land so damaged by previous industrial or other development that it is incapable of beneficial use without treatment, where treatment includes any of the following: demolition, clearing of fixed structures or foundations and levelling". NWT also highlights that the definition excludes "land damaged by development which has been or is being restored for agriculture, forestry, woodland or other open countryside use" and, reflecting the NPPF, "land damaged by a previous development where the remains of any structure or activity have blended into the landscape in the process of time (to the extent that it can reasonably be considered as part of the natural surroundings), and where there is a clear reason that could outweigh the re-use of the site, such as its contribution to nature conservation, or it has subsequently been put to an amenity use and cannot be regarded as requiring redevelopment".

136. Given these definitions and the lack of evidence from the applicant to support their argument, despite further requests, it is considered most appropriate to consider the application on the basis that it is a disposal facility on a greenfield site and so is the least favourable option in Policy WCS5. Consideration therefore needs to be given as to whether there are more sustainable alternative sites. The 'call for sites' recently carried out suggests that, subject to there being no significant environmental constraints, there are a number of options in the Nottingham and Mansfield/Ashfield priority area which could be considered to be preferable to Shenton Lodge when considered against Policy WCS5 as they would fall within criterion (b) of that policy. It is therefore considered that there is merit in allowing the preparation of the Site Allocations Document to proceed to adoption in order to identify the most suitable sites, particularly if it can be demonstrated that there is sufficient inert disposal capacity in the short-term whilst the document is being prepared.
137. The applicant contends that there is a need for further sites immediately and considers that Shenton Lodge should be granted as a short-term solution. The applicant has put forward evidence including waste transfer receipts from some other waste management companies operating in the county which detail the amounts of inert material being managed and what is purported to be the increasing difficulty in finding suitable disposal sites for this material (see paragraph 28 above). However, what the more detailed information does show is that outlets for this inert waste are being found and whilst these are sometimes outside the county, or involve the material being taken a considerable distance (for example from sites in St Ann's and Keyworth to Welbeck), it is considered that granting planning permission at Shenton Lodge would not necessarily alter the disposal destination for many of these waste arisings. For example, there have been significant amounts of inert waste generated in East Leake in recent months and the company managing this waste has taken it to either a facility at Lockington, Leicestershire which is approximately ten kilometres away, or to Donington Racetrack which is approximately 15 kilometres away. Given that Shenton Lodge is

approximately 35 kilometres from East Leake, it is not considered that the availability of an inert disposal site at Shenton Lodge would be a viable option for waste generated in East Leake.

138. Whilst some operators might be keen to see another disposal facility open at the application site, and it is accepted that this might be the most convenient site for some inert waste arisings, granting planning permission for such facilities cannot be allowed simply out of convenience but instead needs to be acceptable in planning terms. To this end, what the information provided has not considered is the strategic requirements for future inert waste management in the county and it is considered that the evidence put forward falls somewhat short of demonstrating the quantitative or market need for a new facility, as required by the NPPW.
139. As already highlighted, construction and demolition disposal capacity is largely concentrated at a single site (Vale Road), with Coneygre Farm in Hoveringham also providing additional capacity. The remaining capacity in the county had fallen to 1.764 million cubic metres at the end of 2012. Based on the 273,000 tonnes of inert waste that the WCS estimates to require disposal per annum during the plan period, it can be assumed that, by the end of 2014, this remaining capacity would have fallen to around 1.218 million cubic metres, based on the WCS's conversion factor of one tonne of inert waste per cubic metre. However, Members will recall that additional disposal capacity at Vale Road was granted planning permission in December 2014, adding a further 2.06 million cubic metres of disposal capacity. Therefore, if added to the assumed remaining capacity at the end of 2014, this would provide a total disposal capacity of 3.278 million cubic metres.
140. How long this remaining capacity would last differs depending on the density factor used. The density ratio of 1:1 used in the WCS is based on advice from the Environment Agency and this would provide sufficient capacity for around 12 years from the end of 2014. However, since the WCS was adopted, HMRC has published a conversion factor for inert waste of 1.5 tonnes per cubic metre which would result in the remaining capacity being sufficient for around 18 years from the end of 2014. What can also be considered is the applicant's conversion factor of 2.4 tonnes per cubic metre used in the application which, if used, would result in there being sufficient capacity for almost 29 years from the end of 2014.
141. Although there are a limited number of inert landfill sites in the county, there are, and historically have been, other outlets for non-recyclable construction and demolition waste, such as large reclamation schemes and non-hazardous landfill sites which use inert material for engineering purposes and as daily cover. In 2012, around 267,000 tonnes of inert material was used in this way at sites across the county, including the restoration of the former Bentinck Colliery tip site which is only around three kilometres from the application site. In particular, the reclamation schemes at Bentinck Tip and Welbeck Colliery have a combined requirement for 2.095 million cubic metres of inert waste material. Both sites are now operational with their respective permissions providing for five years of disposal until 2018 for Welbeck and 2019 for Bentinck and would therefore provide an additional 479,000 cubic

metres of inert disposal capacity per annum until this time. In tonnes, this could equate to 718,500 tonnes per annum if using the 1:1.5 conversion ratio published by HMRC, or 1,149,600 tonnes per annum if using the 1:2.4 conversion ratio used by the applicant.

142. The disposal *and* recovery of inert waste has been considered in the consultation response from the County Council's Planning Policy Team which states that 566,000 tonnes of inert waste was deposited or recovered in the county in 2012, either deposited as inert landfill (297,000 tonnes), recovered in construction or restoration schemes (215,000 tonnes), or deposited at non-hazardous landfill sites (54,000 tonnes), probably as daily cover material. However, adding in the additional disposal capacity at Vale Road *and* the additional recovery capacity at Welbeck and Bentinck, which together total 4.155 million cubic metres, to the 1.764 million cubic metres of remaining inert disposal capacity at the end of 2012, minus two years of inert disposal *and* recovery at 566,000 tonnes per annum (1.132 million tonnes), leaves approximately 4.787 million cubic metres of remaining disposal *and* recovery capacity in the county as of the end of 2014, based on a ratio of one tonne of waste per cubic metre. The County Council's Planning Policy Team has confirmed that this remaining capacity would provide sufficient disposal *and* recovery capacity for around 8½ years using a density ratio of 1:1, around 12½ years using the 1:1.5 density ratio, or just over 20 years using the 1:2.4 density ratio used by the applicant.
143. Whether looking solely at inert landfill capacity or when also taking into account additional recovery capacity, it is considered that there is sufficient existing capacity available in the county at the present time and in the short to medium term to manage arisings of inert waste which cannot be recycled, be that at inert landfill sites or major restoration sites. This should allow sufficient time for the Site Allocations Document to be progressed to adoption (anticipated 2016) which would allow a thorough assessment to be made of all the sites that have been put forward for allocation and the most sustainable options to be allocated. It is therefore considered premature to grant planning permission for Shenton Lodge which, based on information gathered so far, would appear to be one of the least favourable sites when assessed against Policy WCS5.
- Waste disposal in the Green Belt
144. The final part of Policy WCS5 states that, where disposal sites proposed in the Green Belt constitute inappropriate development, very special circumstances would need to be demonstrated in line with national guidance. This is reflected in Policy WCS7 which indicates that derelict or previously developed land, or old quarries could be acceptable Green Belt locations for landfill but that all proposals will be subject to Green Belt policies and need to demonstrate very special circumstances. Policy WCS7 does not support land raise in the Green Belt and, given the lack of evidence to support the applicant's view that the site is a former quarry, it is considered that the proposed development, despite proposing to fill a natural valley feature, would constitute land raise and so is contrary to Policy WCS7. This policy also

states that aggregate recycling facilities are not suitable in the Green Belt, although it is accepted that this element of the proposed development is relatively minor when compared to the disposal element of the proposals.

145. Guidance on Green Belts also remains in Policy W3.17 of the Waste Local Plan (WLP) which only allows for waste disposal in the Green Belt where it represents the best option for reclaiming mineral voids or other derelict voids. Again, it is considered that the site is not a mineral void or other derelict void and so is contrary to this policy.
146. Regarding Green Belt policy in the NPPW, this acknowledges that Green Belts have special protection in respect to development and, in preparing local plans, waste planning authorities should first look for suitable sites and areas outside the Green Belt for waste management facilities that, if located in the Green Belt, would be inappropriate development, whilst also recognising the particular locational needs of some types of waste management facilities.
147. In considering what is and is not 'inappropriate development' in the Green Belt, paragraphs 89 to 92 of the NPPF define the types of development that can be considered not to be inappropriate. Paragraphs 89 (buildings), and 91 and 92 (renewable energy projects) are not relevant to this application and while paragraph 90 relates to other forms of development, including mineral extraction and engineering operations, it does not include waste disposal. The application site is therefore considered to be an inappropriate Green Belt location for waste disposal and so very special circumstances need to be demonstrated in support of the application.
148. Paragraph 88 of the NPPF states that "when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations". As the proposed development is considered to be inappropriate, it is necessary for the applicant to demonstrate 'very special circumstances' to outweigh the inappropriateness, a stance reflected in Policy WCS5.
149. As previously highlighted, the applicant has tried to demonstrate these 'very special circumstances' by providing correspondence from other waste operators which suggests that they are having difficulties finding suitable facilities to dispose of inert waste, although most of the correspondence is somewhat vague in terms of clarifying the amount of non-recyclable inert waste being generated and requiring suitable disposal facilities. In addition to this, Bentinck Tip, which is in very close proximity to the application site, along with the facility at Welbeck Colliery, are both now available and provide additional inert disposal capacity until around 2018, whilst additional disposal capacity has recently been granted at Vale Road. Given these factors, it is not considered that there are 'very special circumstances' in support of the proposed development and so a departure from Green Belt policy is not considered justified.

150. Furthermore, in response to the request for inert waste disposal sites in the emerging Site Allocations Document, of the 13 sites put forward for allocation, four are in the Green Belt, including the application site and, of the remaining nine which are outside the Green Belt, three are in the Nottingham and Mansfield/Ashfield priority area and have a combined capacity of 6.6 million cubic metres. It would therefore appear that there is substantial inert waste disposal capacity available for allocation which is within the Nottingham and Mansfield/Ashfield priority area but which is outside the Green Belt, contrary to the applicant's assertion that the Green Belt is a significant constraint to identifying suitable sites in the priority area. There would therefore appear to be more suitable alternatives to the Shenton Lodge site.
151. Finally, it is also considered worthwhile assessing Green Belt policy in the Ashfield Local Plan Review which, despite being adopted in 2002, is consistent with the NPPF. Policy EV1 does not allow for inappropriate development in the Green Belt except in very special circumstances. The policy defines appropriate development as including "engineering, mining or other operations and uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it". As already stated, the development is not considered to be an engineering or mining operation and so, if it is to be considered as another operation or use of land, it needs to preserve the openness of the Green Belt and not conflict with the purposes of including land within the Green Belt. It is considered that the proposal does encroach on the Green Belt and would negatively affect its openness and cannot be considered as an appropriate 'other operation' within the Green Belt under the terms of this policy.

Ecology

152. The application site lies entirely within the Robin Hood Hills Local Wildlife Site and is also adjacent to an area that has been identified as part of the Indicative Core Area and Important Bird Area in relation to the prospective Sherwood Special Protection Area (SPA). There are a number of policies in the WLP which are relevant in this respect. Policy W3.20 (Heathlands) seeks to protect areas defined as heathland unless their value is outweighed by the need for the facility and, where planning permission is granted, requires the effects on habitats and species to be minimised, the provision of suitable habitat for species either within or outside the site, and the provision of appropriate ameliorative measures.
153. Similarly, Policy W3.22 (Biodiversity) seeks to protect species or habitats of county importance unless the need for the development outweighs the local conservation interest of the site. Again, where planning permission is granted, the policy requires the provision of suitable alternative habitats either on site or elsewhere.
154. Policy W3.23 (Nature Conservation Sites) protects sites of local importance where the importance of the development outweighs the local value of the site, taking account of any scope for mitigation and/or compensatory measures to replace the loss.

155. Significant ecological surveys have been undertaken as part of the application which have identified the presence of grass snakes and common lizards on the site. The application proposes to create replacement habitat outside the area subject to proposed landfilling with some of the required work having already been carried out. The County Council's Nature Conservation Officer has highlighted the tests set out in the NPPF which, at paragraph 118 states:

If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

156. The NPPF is clearly setting out a sequence of tests against which the application needs to be assessed, in that order. With respect to the first test (avoiding significant harm through locating the development on an alternative site), the planning policy observations above have clearly identified that, for the short to medium term during which the proposed development would be operational if granted planning permission (two years), there is sufficient inert disposal capacity available in the county to meet existing rates of disposal. It is also anticipated that, during this time, the Site Allocation Document to accompany the WCS would have proceeded to adoption, a process which would allocate any additional inert landfill sites required to meet the county's needs over the plan period (up to 2031). This allocation of sites might or might not allocate the application site at Shenton Lodge but, from the sites that have been put forward for consideration, it is considered likely that more sustainable options are available, subject to more detailed assessment.
157. It is therefore considered that the proposed development does not accord with the NPPF as there are alternative inert landfill sites available at the present time, all of which have been assessed through the planning application process and deemed to be acceptable. In addition to this, there are potentially other alternative sites that could be allocated in the future which would provide sufficient inert landfill capacity without causing the ecological harm that the proposed development would cause. Therefore, irrespective of any mitigation measures being put forward, the significant harm that the proposed development would cause to a designated Local Wildlife Site can be avoided.
158. Given this, it is also considered that the proposed development is contrary to Policies W3.20, W3.22 and W3.23 of the WLP as all these policies protect species or habitats unless their value is outweighed by the need for the facility. The landfill area of the application site falls within a Local Wildlife Site and whilst this is only a local wildlife designation, it has been demonstrated that the local (county) inert landfill needs are presently being met and are in the process of being assessed for the longer term. There is therefore no justification for damaging this site, irrespective of the mitigation measures being put forward in terms of reptile translocation areas and the proposed restoration of the site.
159. In addition to the direct ecological impacts of the proposed development, the application also has the potential to impact on breeding and foraging nightjar and woodlark as the application site falls within the five kilometre buffer zone

for the prospective Sherwood SPA. A lack of information in this respect was one of the reasons for the refusal of the previous application as it was considered that the WPA could not undertake a comprehensive risk based approach assessment as recommended by Natural England.

160. Additional information regarding the potential noise impacts of the proposed development on these species has been provided by the applicant in light of concerns raised by the County Council's Nature Conservation Officer. Potential habitat for woodlark has been identified on Hollinwell Golf Course, which is around 220 metres from the application site. The applicant has responded on this matter by stating that the existing noise climate in the potential habitat area is already quite loud due to traffic on the A611 Derby Road and above the recognised noise disturbance threshold for breeding woodlark. This has been accepted by the County Council's Nature Conservation Officer and so it is considered that the proposed development would not have an adverse impact on nightjar and woodlark. However, this does not take away the fundamental objection to the application in terms of the need for the site not being sufficient enough to outweigh the ecological impacts, even taking into account the proposed mitigation measures.

Landscape and visual impact

161. Policy W3.3 of the WLP requires plant, buildings and storage areas to be located in areas which minimise their impact on adjacent land, grouped together, kept as low as practicable, appropriately coloured and clad, and satisfactorily maintained. Policy W3.4 seeks to reduce visual impact through screening and landscaping using existing landscape features, additional planting, or man-made features such as soil bunds, and by phasing operations to cause the least visual intrusion.
162. The findings of the landscape and visual impact appraisal submitted with the application considers that the proposed development would result in a 'medium' magnitude of change to the Kirkby Forest Wooded Farmlands landscape policy zone, resulting in a 'slight to moderate' adverse landscape effect. This would be as a result of the removal of existing vegetation and soils and temporary operations including soil storage, temporary buildings and the use of plant and machinery on site. The restoration of the site would result in a 'low beneficial' magnitude of change to the landscape and a slight improvement to landscape character.
163. The County Council's Landscape Officer has assessed the submitted appraisal and the conclusions reached are generally accepted. There would be little built development on site and it is proposed to screen views into the site from the A611 with soil bunds created by soils stripped from operational areas. A condition could be attached to any planning permission granted setting a maximum height for stockpiles of recyclable inert material. A height of four metres is considered appropriate to match the height of the soil bunds on the perimeter of the site.
164. With the above controls in place, it is considered that the proposed development accords with Policies W3.3 and W3.4 of the WLP.

Highways

165. Policy W3.14 of the WLP requires proposals to demonstrate that the vehicle movements generated can be satisfactorily accommodated on the highway network without causing unacceptable disturbance to local communities. Policy W3.11 seeks to prevent the trafficking of mud and other deleterious material onto the public highway. Whilst the A611 is an already busy road, it is an 'A' road and is therefore designed to carry significant volumes of traffic. The proposed development would generate three HGV trips into the site per hour (six movements) and the Highways Authority has raised no objection to this level of traffic, subject to a condition to control levels to this number. A query has been raised with the applicant regarding the amount of additional traffic that would be generated by separated recyclable material being removed from the site but the applicant has confirmed that this would amount to around a single HGV per week and would utilise a HGV accessing the site with a load of inert material.
166. No objection has been raised by the Highways Authority regarding the site access subject to it being constructed in accordance with further details which reflect those already submitted. Such an access would ensure that HGVs can enter and leave the site without having to manoeuvre into the centre of the road. Conditions are recommended regarding the control of surface water discharge onto the public highway, the surfacing of the access road, the provision of a wheel wash, and preventing the deposit of mud onto the public highway. With these controls in place, it is considered that the proposed development is acceptable in terms of its highways impact and accords with Policy W3.11 and W3.14 of the WLP.

Noise

167. Policy W3.9 of the WLP specifies measures to be taken to reduce the noise impacts of waste management facilities. The Technical Guidance accompanying the NPPF provides guidance with regarding to noise and minerals development and this guidance is considered appropriate in the assessment of waste management facilities.
168. Background noise levels in and around the application site are generally quite high due to the busy adjacent A611 Derby Road and the County Council's Noise Engineer considers that the proposed development would generate levels of noise that would be equal to or less than the levels allowed in the NPPF, i.e. less than or equal to 55dB $L_{Aeq, 1 \text{ hour}}$ for normal operations and less than 70 dB $L_{Aeq, 1 \text{ hour}}$ for temporary operations. Conditions have been recommended to ensure that noise levels do not exceed those anticipated in the noise assessment submitted with the application and with these conditions in place, such as controlling the hours of operation, the amount of material entering the site, and the number of HGVs entering the site, it is considered that the proposed development would accord with Policy W3.9 of the WLP and the NPPF.

Surface water management and pollution control

169. Policy W3.5 of the WLP seeks to prevent any unacceptable risk of pollution to groundwater or surface water and Policy W3.6 sets out measures to be implemented to ensure surface and groundwaters are protected. Policy W3.10 seeks to suppress dust emissions through a variety of measures.
170. The base of the proposed landfill area would be lined by a combination of a geological clay barrier and an engineered liner to a thickness of 0.5 metres. This would be replicated once landfilling operations had been completed and prior to the restoration of the site.
171. The Environment Agency (EA) has raised no objection to the application subject to a condition regarding the drainage of the site, which would need to incorporate sustainable drainage techniques, limit the amount of surface water run-off to equivalent greenfield rates, and be able to deal with run-off rates during a 1:100 flooding event, taking into account climate change. The EA has also recommended a condition requiring only inert waste to be deposited on the site (a condition also recommended by Network Rail), while the County Council's Reclamation Officer has identified the need for appropriate storage of fuel on site. With these measures in place, it is considered that the proposed development would accord with Policies W3.5 and W3.6 of the WLP.
172. As highlighted by the County Council's Reclamation Officer, measures to suppress dust emissions would need to be secured through any planning permission granted. The dust impact assessment submitted with the planning application has identified a number of measures that would be implemented on site, including the use of the wheel wash; the hard surfacing of the first section of the access road; dust suppression units on the crushing and screening plant; speed limits for on-site vehicles; management of any stockpiles of materials awaiting transportation off site; HGVs being sheeted; and the dampening down of dusty activities. All these matters could be secured by condition to ensure compliance with Policy W3.10.

Historic environment

173. Policy W3.28 of the WLP does not allow for waste development which would harm the character, appearance, condition or setting of a conservation area, listed building, or historic park and garden. The NPPF also provides protection for non-designated heritage assets and the access into the site is around 50 metres from Winshaw Well which is a non-designated local heritage asset. Annesley Colliery Conservation Area is also around 750 metres south of the site.
174. The County Council's Historic Buildings and Conservation Officer has raised no objection to the application (confirmed in correspondence on the previous application) and does not consider that the proposed development would have significant adverse impacts on the historic environment. It is therefore considered that the proposed development is in accordance with Policy W3.28 of the WLP and the NPPF in this respect.

Other matters

175. Ashfield District Council's consultation response makes reference to a Section 106 agreement being required to enhance the ecological value of the site, should planning permission be granted. Should Members resolve to grant planning permission, they should be aware that all reasonable legal costs incurred by the County Council in the negotiation, preparation and execution of this legal agreement would be met by the applicant, as is the case with all legal agreements that the County Council is a party to.

Conclusions

176. This is the third planning application submitted by the applicant to deposit inert waste material at the application site, with the previous two having been refused permission. As part of this latest application, the applicant has sought to address previous concerns which led to the refusals, particularly regarding the ecological impact of the proposed development. However, it is considered that fundamental issues remain regarding the acceptability of the site in planning terms.
177. The proposed development would provide a disposal site for inert waste and so would represent the least desirable and least sustainable solution in terms of waste management, as identified in the National Planning Policy for Waste (NPPW) and the Nottinghamshire and Nottingham Replacement Waste Local Plan: Waste Core Strategy (WCS). Whilst the NPPW and WCS seek to drive waste management up the waste hierarchy, it is also recognised that adequate provision must be made for waste disposal. However, it is considered that existing inert landfill sites in the county, in addition to major reclamation schemes in the county which require significant amounts of inert waste (one which is in close proximity to the application site) provide adequate disposal capacity for non-recyclable inert waste for the short to medium term. With regards to long-term inert disposal provision, the Waste Planning Authority is in the process of identifying waste management sites, including inert disposal sites, to meet the county's waste management requirements until 2031. A number of sites have been put forward for inert disposal and initial assessments suggest that at least some of these are more sustainable options than the application site, in light of the fact that it is a greenfield site and is located in the Green Belt.
178. Given these factors, it is considered that there is no need to grant planning permission for a greenfield disposal site for non-recyclable inert waste in the Green Belt at the present time and to do so would be contrary to Policy WCS3, WCS4 and WCS5 of the WCS. In addition to this, the proposed development is considered to be a land raise scheme, not a landfill, and such a development in the Green Belt is not supported by Policy WCS7 of the WCS.
179. Whilst a number of measures have been put forward to mitigate the ecological impacts of the proposed development on an area which is not only designated as a Local Wildlife Site but is also identified by the applicant as being heathland habitat, it is considered that the lack of need for the site to be

developed as an inert disposal site results in it being contrary to Policies W3.20, W3.22 and W3.23 of the WLP.

180. As a result of the above clear policy objections, it is considered that the application should be refused planning permission.

Other Options Considered

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

Statutory and Policy Implications

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

Human Rights Implications

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

Implications for Sustainability and the Environment

184. These are considered in the Observations Section of this report.
185. There are no service user, financial, equalities, crime and disorder, safeguarding of children, or human resource implications.

Statement of Positive and Proactive Engagement

186. In determining this application the Waste Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussion, assessing the proposals against relevant Development Plan policies; all material considerations; consultation responses and any valid representations that may have been received. Issues of concern have been brought to the applicant's attention in a timely manner, including prior to the application's submission, affording the opportunity to consider whether such matters can be suitably resolved. This approach has been in accordance with the requirement set out in the National Planning Policy Framework. In this

instance, however, it has not been possible to resolve the issues of concern and the policy objections to the proposals as set out in the reasons for refusal.

RECOMMENDATIONS

187. It is RECOMMENDED that planning permission be refused for the reasons set out below. Members need to consider the issues, including the Human Rights Act issues, set out in the report, and resolve accordingly.

JAYNE FRANCIS-WARD

Corporate Director Policy, Planning and Corporate Services

Constitutional Comments [SLB 09/01/15]

“Committee have power to decide the recommendations.”

Comments of the Service Director - Finance [SEM 02/01/15]

“The financial implications are set out in the report.”

Background Papers Available for Inspection

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

Electoral Division and Member Affected

Kirkby-in-Ashfield South

Councillor Rachel Madden

Report Author/Case Officer

Jonathan Smith

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RECOMMENDED REASONS FOR REFUSAL

1. The site lies within a Green Belt location but, as it is not a mineral working or other derelict void, the disposal of waste is contrary to Policy W3.17 (Green Belt) in the Nottinghamshire and Nottingham Waste Local Plan.
2. It is not considered that there are very special circumstances regarding the need for the site sufficient to outweigh the harm that this inappropriate development would have on the Green Belt and so it is considered contrary to the National Planning Policy Framework, Policy WCS4 (Broad Locations for Waste Treatment Facilities) and Policy WCS5 (Disposal Site for Hazardous, Non-Hazardous and Inert Waste) of the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy.
3. It is considered that there is sufficient capacity at existing inert landfill sites and major reclamation schemes in the county to manage existing arisings of non-recyclable construction and demolition waste in the short to medium term whilst the Nottinghamshire and Nottingham Replacement Waste Local Plan Site Allocations Document is being prepared and, therefore, in addition to being the least preferable option for inert waste disposal, the proposed development is considered contrary to Policy WCS5 (Disposal Site for Hazardous, Non-Hazardous and Inert Waste) of the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy.
4. Proposals for land raise are not supported by Policy WCS7 of the Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy and so the proposed development is considered contrary to this policy.
5. Given that it is considered that there is sufficient capacity at existing inert landfill sites and major reclamation schemes in the county to manage existing arisings of non-recyclable construction and demolition waste in the short to medium term whilst the Nottinghamshire and Nottingham Replacement Waste Local Plan Site Allocations Document is being prepared, it is considered that the importance of the proposed development does not outweigh the nature conservation value of the designated Robin Hood Hills Local Wildlife Site, despite the mitigation measures proposed, and is therefore contrary to Policy W3.23 of the Nottinghamshire and Nottingham Waste Local Plan.
6. The proposed development would result in the loss of habitat of county importance and it is considered that the need for the proposed development does not outweigh the local conservation interest of the site and so is contrary to Policy W3.22 of the Nottinghamshire and Nottingham Waste Local Plan.
7. The proposed development would destroy an area defined as heathland and it is considered that the need for the proposed development does not outweigh the value of the heathland and so is contrary to Policy W3.20 of the Nottinghamshire and Nottingham Waste Local Plan.