

**NOTTINGHAMSHIRE COUNTY COUNCIL APPEAL
STATEMENT**

Appeal against non-determination - Resubmission of application for the construction of a leisure marina comprising a marina basin with 553 leisure moorings and ancillary buildings, associated vehicle parking, landscaping and infrastructure and the incidental excavation and removal of minerals on land at Red Hill Marina, Ratcliffe-on-Soar, Nottinghamshire, NG11 0EB

APPEAL REF: APP/L3055/A/13/2194755

MAY 2013

The Appeal Site and Surroundings

1. The appeal site is located within the Nottinghamshire borough of Rushcliffe, approximately 10km south-east of Nottingham centre. Long Eaton is approximately 1.8km to the north and 450m south of the site is the village of Ratcliffe-on-Soar. The site is rural in nature and within a wider setting characterised by open agricultural land.
2. The site is 20.14 hectares in size and comprises three fields separated by hedgerows with hedgerow trees. It includes a small existing marina on its western side and a small pond to the south. Trees sporadically line the western edge of the appeal site next to the River Soar and a track also runs along part of the western and northern boundary of the site. In terms of topography the site is relatively flat and within the Trent Valley Washlands.
3. The site is bordered by the River Soar which meanders around the western and southern sides of the site forming the site boundary. The River Soar joins the River Trent 870m to the north. Beyond the River Soar to the west and south, the land is predominately open agricultural fields. The river curves around the northern edge of the site and, as it flows northwards, there are existing river moorings for boats. There is also a congregation of buildings associated with Red Hill Farm and the existing Red Hill Marina operations.
4. Immediately to the east of the site is agricultural land, beyond which sits the East Midlands Parkway (EMP) railway station and a park and ride facility serving rail passengers. At its nearest point, the EMP car park is approximately 100m east of the appeal site. EMP serves the Midland Main Line (MML), which runs in a north/south direction. The access road of the appeal site crosses the rail line, although in terms of the proposed marina basin the MML is approximately 185m to the east at its nearest point. Beyond the MML is the Ratcliffe-on-Soar power station, a coal fired power station operated by E.ON. The power station is the most dominant feature in the wider landscape with eight cooling towers, and a chimney which reaches almost 200m in height.
5. With regard to land designations, the site is located within the Nottingham-Derby Green Belt. The whole site is within Flood Risk Zone 3. The Lockington Marshes Site of Special Scientific Interest (SSSI) is approximately 100m from the development to the north-east on the opposite side of the river. The length of the River Soar bordering the site is designated as a Site of Importance for Nature Conservation (SINC), described as a slow moving river with notable plant communities. Approximately 230m to the north of the appeal site is the Roman site on Red Hill, which is a Scheduled Ancient Monument (SAM). Also to the north is a packhorse bridge at Red Hill Lock which is Grade II Listed.
6. Access to the site and the existing marina is off the A453 to the south, which runs in a south-west to north east direction. The A453 continues to the A52 (the

Nottingham Ring Road) to the north-east and Junction 24 of the M1 to the south-west.

7. With regard to the nearest sensitive receptors there are a number of residential properties located on the existing marina access road that runs northwards from the A453, including Middle Gate Cottage, Mason's Barn and The Bungalow. Middle Gate Cottage is approximately 150m east of the application site, and Mason's Barn and The Bungalow are circa 50m to the east. To the north of the site Red Hill Farm is located approximately 60m from the application site. There is also North Bridge Cottage, adjacent to the access road roundabout off the A453. Notwithstanding the proximity of these properties it is reported in the Environmental Statement (ES) that Middle Gate Cottage, Mason's Barn and The Bungalow are derelict and owned by Network Rail (purchased as part of the EMP Compulsory Purchase Order); North Bridge Cottage is unoccupied and also owned by Network Rail; and Red Hill Farm is occupied by the appellant.
8. Particularly noteworthy is the recently announced initial preferred route for the High Speed 2 (HS2) rail line from the West Midlands to Leeds. The preferred route was announced on 28th January 2013 and runs centrally through the appeal site. A route map of the relevant section is attached as Appendix A.

Proposed Development

Background

9. A planning application for the construction of a marina basin and associated buildings and moorings together with relevant infrastructure, incorporating the excavation, processing and removal of minerals and top soil was submitted in December 2009 by Red Hill Marine Ltd. The application underwent discussions relating to who the appropriate authority would be to determine the application, and subsequent requests for necessary further information, and was not valid until May 2011.
10. The proposal sought planning permission for the extraction of a total of 860,000 tonnes of material (500,000 tonnes of which would be sand and gravel). The marina element of the scheme comprised a 632 berth marina for leisure moorings with a water area of 121,800m², a facilities block, workshop and boat repair building, toilet and shower block and car parking. This application was withdrawn in December 2011, following the consultation response from Rushcliffe Borough Council, which objected to the proposed development due to it being unjustified and inappropriate development in the Green Belt, without very special circumstances to justify the development.

Proposed Development

11. The application to which this appeal relates is a resubmission of the abovementioned application for the creation of a marina through minerals

extraction, albeit with reduced moorings (553). The proposed quantity of material to be extracted has not been altered from that detailed in the original application. The applicant voluntarily submitted an Environmental Statement (ES).

12. The appeal relates to two elements of development; the extraction of minerals and the development of a marina. These elements are described in turn.
13. The development involves the extraction of soil, clay, sand and gravel. The sand and gravel is proposed to be taken off site for processing and the clay and soil would be retained for use in the construction of the marina basin. The ES states that there would be a total of 860,000 tonnes of material excavated, broken down into the following quantities:
 - Soils and upper clay 188,000m³ (340,000 tonnes);
 - Sand and gravel 296,000m³ (500,000 tonnes);
 - Basal clay 10,800m³ (20,000 tonnes).
14. It is proposed that some of the clay extracted may be removed off site to be used in local engineering projects, the volumes of which are estimated to be 20,000 – 30,000m³ over the life of the extraction phase. The excavation stage of the development would take 3-4 years, depending on market conditions. The ES states that this would result in extraction rates of 150,000-200,000 tonnes per annum, although 860,000 tonnes of material over a 3-4 year period would actually translate to 215,000 - 287,000 tonnes per annum.
15. It is proposed that the marina basin would be engineered to have a level 'floor' that allows a minimum water depth of 1.4m, based on a minimum water level of 27.6m Above Ordnance Datum (AOD). The appellant states that over excavation into the basal clay would be required to achieve these levels, and the basal clay and upper clays and soils would be used during the engineering works to stabilise the banks of the marina between 1:3 and 1:5 on dry slopes and 1:2 on wet slopes. Recovered clays from extraction would be used to create islands and spits within the marina.
16. An eight phase approach (A to H) is proposed for the extraction process. Extraction would begin relatively centrally within the site, then moving northwards towards the Red Hill Farm (Phases A and B). Extraction would then move in a southerly direction (Phases C, E and F) with the exception of Phase D which is to the west. Phase G would be extracted in an easterly direction. Phase H is the footprint for the marina buildings and car park and would be extracted in parallel with Phase C.
17. When the proposed excavation starts in Phase A the soils and overburden would be placed on adjacent land. This storage would be temporary and this material would be replaced into the void to create marina features as the minerals are removed. This temporary storage would last for approximately 6 months before the material is placed in the Lagoon for construction purposes. The opening up of the excavation is predicted to last for 3-5 months, depending upon weather conditions. In this period a basal drainage system would be created to collect and channel

groundwater entering the void. The initial quantity of clay would be used to 'batter' the mineral face which would reduce the inflow of groundwater. As soils and clay are removed from the subsequent phases they would be placed within the void to create the islands and spits in a progressive manner allowing the marina to be built as the excavation proceeds southwards.

18. The ES highlights that the phases are indicative and the boundaries are flexible, but the purpose is to demonstrate generally how excavation would progress.
19. It is proposed to excavate the site and recreate the spits and islands with the excavated clays in order to avoid sterilisation of the mineral resources below the islands, spits and central platform. The appellant has identified the fill capacity as follows:
 - Base reprofiling – 85,500m³;
 - Central platform – 36,000m³;
 - Islands/spits – 50,500m³;
 - Banks and reeds 39,880m³.
20. The above material totals 211,880m³. The ES reports that there is a greater capacity than there is material arising (23,880m³) which means that the basal reprofiling would result in the water depth being marginally deeper than 1.4m.
21. The proposal is for dry excavation which would require dewatering to take place. This would require a pump to be working on a 24 hour, seven day per week basis, to dewater the extraction area.
22. Excavation would be undertaken by hydraulic excavators which would then load dump trucks or lorries. Overlying materials would be removed separately over short concentrated periods, with the transport being done by articulated dump trucks, and then placed into the void and engineered to the proposed profiles by a bulldozer. The short periods of soil and clay removal would expose minerals which would then be extracted on a more consistent day-to-day basis. The sand and gravel would then be taken off site for processing.
23. The minerals would be taken off site by lorry. Based on an extraction rate of 200,000 tonnes per annum and a 250 day working year, there would be an extraction rate of 800 tonnes per day. Using lorries with a capacity of 20 tonnes, this would result in 40 HGVs trips (80 movements) per day.
24. Normal working hours would be 07:00 – 18:00 Monday to Friday and 07:00 – 13:00 on Saturday, with no working on Sundays and Bank Holidays. However, as mentioned above a dewatering pump would be working on a 24/7 basis.
25. Following extraction, construction of the marina would begin. This would include development of roads and parking areas, as well as the construction of floating moorings and installation of lock gates. Water would then be allowed to fill the void until the water level is at the same height as the river. The ES states that this phase

would take approximately 12 months and when the pontoons are in place the existing moorings on the river would be removed. Work would then commence on the construction of the facilities building.

26. The proposed marina would have a total water area of 87,600m². The marina would be tear-drop in shape, narrow to the north and wide in the south. The water body would measure approximately 620m in length (north-south) and between 30m (northern end) and 420m, (towards the south) in width. Within the marina there would be a number of spits extending into the water body and a total of six small islands.
27. Boats would be moored on linked floating timber pontoons that would be held in place by driven piles. Pontoons are distributed around the marina with some running parallel to the marina banks and others protruding out into the water, with some reaching out to the islands. This would provide for a total of 553 berths, a reduction of 79 (or 12.5%) from 632 proposed in the original application. It is noted that the scheme does not propose to include any residential moorings within the marina.
28. Access for boats would be from the River Soar approximately half way along the western side of the marina, 50m north of the existing small marina basin. The marina entrance would have flood control gates which have a similar arrangement to a standard lock gate. These gates would normally be open, but in the event of high water levels they could be closed to hold water from flowing back into the river to allow a controlled release.
29. Vehicular and pedestrian access to the pontoons would be provided by a new road that would run adjacent to the marina banks, curving around the whole of the marina basin. Parking for vehicles would be available at numerous points on the access road surrounding the basin. There would also be a main car park on the eastern side of the marina adjacent to the main buildings. In total it is proposed to provide parking for 244 vehicles for the marina and 131 for the facilities building, boat house and toilets. The access track would be surfaced with crushed stone to allow permeability and low level lighting would be provided by bollard lights and ground inset uplighters. The ES states that there would also be disabled access and secure cycle parking facilities.
30. Total building floor space proposed amounts to 1,524m². The following structures are proposed around the site:
 - Main facilities block (997m²);
 - Boat house (450m²);
 - Secondary south facilities building (77m²);
 - Service compound and bin store;
 - Recycling points around the site.

31. The main facilities block would be located on the eastern side of the marina, adjacent to the waters edge. The building is of a two storey hipped roof construction with dormer windows in the roof pitch on the second floor. The ground floor would have a glazed frontage and the roof would be clad in grey simulated slate. In addition to the two floors there would be an observation control room tower protruding centrally from the facilities block roof. The control tower would have a pyramid hipped roof in grey simulated slate. The building would be surrounded by raised decking. This building would provide management and business offices, chandlery, toilets, showers, laundry, café, staff accommodation and an observation control room. The ES states that the building would measure 48m by 14m and 15m in height. The building would be raised on piles with a floor level of 31.3m AOD, above the 100 year flood level of 30.61m AOD.
32. The boat house would be located on the eastern side of the marina, also adjacent to the waters edge, but to the north of the main facilities block. The building would be of a single storey pitched roof gable ended construction. There would be a combination of fair brick facing (flood resistant) walls to the lower level and natural timber cladding at upper levels, with grey profile steel roof covering with roof windows. The boat house would provide facilities for boat building and shed repair, toilets and showers. There would also be a slipway adjacent to the southern side of the boat house, and to the north there would be two service bays with fuel and pump out facilities. The building would measure 30m by 15m and 9.3m in height. The toilets and raised access would be set at the 100 year flood level, although the floor level of the workshop area (29.4m AOD) would be below it.
33. The secondary facilities building would be located adjacent to the marina edge in the south of the site. The building would be of a single storey hipped roof design, with lower level fair facing bricks and upper level natural timber cladding. The roof would be constructed of grey profile steel roof, with roof lights. The building would contain toilets and an equipment store and would measure 11m by 7m and 7.4m in height. The building would be set on piles with a floor level above the 100 year flood event level.
34. There would be a service compound and bin store locate between the main facilities building and the boat house, adjacent to the west side of the car park.
35. A 'habitat creation area' is proposed in the south-western corner of the site. This area would retain existing mature trees located along the river edge and provide an area for wildflower and wetland planting. Also, grassland would be retained between the marina and the river. Trees would be planted in and around the car parking areas and along the banks of the marina, and trees and shrubs would be planted on the islands.
36. Species rich grassland would be planted in-between car parks, paths and roads within the marina development and the banks of the non-operational areas of the marina would be sown with a species rich grassland mix.

37. A species diverse hedgerow would be planted along the eastern boundary of the new marina and the hedgerow would be double planted to create a wide hedgerow. It is proposed that a field margin would be maintained to the east of the new hedgerow boundary of the site and would be managed to maintain a longer sward during spring and summer months.
38. The floating pontoons would enable marginal habitat to establish between the pontoon and the banks, which would be allowed to colonise naturally. Banks subject to wave action from the boats would be pre-planted with coir rolls at the base of the banks and protected with wire mesh to prevent ducks and other water birds from damaging emerging vegetation. Marginal species would also be planted/sown in area to colonise the remaining banks. The corners of the marina would be created as shallows and be planted with reeds and marginal grasses.
39. The proposed marina would be accessed off the northern side of the A453, via an existing road that provides shared access to Red Hill Marina and East Midlands Parkway. After leaving the A453 vehicles would approach a roundabout and turn left taking the first exit, heading in a westerly direction and passing over the rail line. Vehicles would then approach a second roundabout where the first exit leads to the existing Red Hill Marina and the second to East Midlands Parkway. The road off the second roundabout runs for approximately 650m before reaching the Red Hill Farm buildings, and is also a recorded Public Right of Way (Ratcliffe-on-Soar Footpath No. 7). This road would form part of the south-east boundary of the marina and the access track that curves around the perimeter of the marina. An existing access track would form the northern boundary of the site and also connect to the existing Red Hill Marina access road. The existing Red Hill Marina access off the A453 is included within the application red-line.
40. The proposal would create 14 full time jobs, and the marina would be staffed by at least one staff member 24 hours a day, seven days a week.

Consultation

Consultees

41. **Rushcliffe Borough Council** – The marina would represent unjustified and inappropriate development in the Green Belt, having a significant impact on the openness of the Green Belt by virtue of the engineering operations, associated urbanising effect, size and appearance of the site, dominance of access roads, car parking areas and parked cars, buildings, increased activity and unjustified proliferation of an existing operation. There are not very special circumstances that outweigh the harm caused. The development is contrary to the provisions of the National Planning Policy Framework (NPPF) and Policies EN14 (Protecting the Green Belt) and EN19 (Impact on the Green Belt and Open Countryside) of the Rushcliffe Non-Statutory Replacement Local Plan. An **objection** is raised by Rushcliffe Borough Council.

42. **North West Leicestershire District Council** – No objection.
43. **Kegworth Parish Council** – No objection, although concern is raised in relation to traffic movements. It is requested that vehicular traffic, particularly HGVs, do not pass through Ratcliffe-on-Trent and Kegworth. Financial contributions for road improvements are also sought.
44. **NCC Planning Policy Team** – From a minerals perspective the development is a departure from the Nottinghamshire Minerals Local Plan (MLP). The development could be viewed as a windfall in terms of sand and gravel extraction, although one which would have limited impact (an additional 9 weeks supply) upon Nottinghamshire’s sand and gravel landbank. If the development is otherwise environmentally acceptable and Rushcliffe Borough Council support the proposal, it would be reasonable to grant permission.
45. In terms of the marina element of the proposal it is recognised that tourism development of this type requires such a location. However, there are concerns as to how the marina would be accessed other than by private car, and the potential negative impact of the buildings associated with the marina on the surrounding area and openness of the Green Belt. Overall an **objection** is raised due to the potential impact on the surrounding area and the openness of the Green Belt.
46. **Environment Agency** – Information to address the concerns of the groundwater team has not been provided, particularly in relation to dewatering. The Environment Agency **object** because the applicant has not supplied adequate information to demonstrate that the risks posed to groundwater can be satisfactorily managed. Notwithstanding the objection, a list of necessary conditions has been provided should planning permission be granted.
47. **Trent Valley Internal Drainage Board** – The proposed development is outside of the Board’s district.
48. **Canal and River Trust (formerly British Waterways)** – There is no objection to the proposal subject to a number of conditions. It is considered that there are sufficient water resources available to meet the additional demands in relation to the scheme, although this assessment is on the basis that the existing river moorings move into the new marina.
49. **Severn Trent Water** – No objection.
50. **Natural England** – The proposal is in close proximity to Lockington Marshes Site of Special Scientific Interest (SSSI) and the application, as submitted, may damage or destroy the features of interest for which the SSSI has been notified. Natural England (NE) **object** on this basis.
51. The survey report provided by the applicant indicates that there is suitable habitat for Great Crested Newts (GCN) and roosting bats. Insufficient information has been provided and NE also **objects** on this basis.

52. **NCC Ecology** – Natural England’s view should be sought on the proposal’s impact on Lockington Marshes SSSI, which at its closes point is 50m from the development.
53. Not all parts of the site were accessible for the Phase 1 habitat survey, and there is no reference to badgers. A number of species surveys were undertaken in relation to the original application (amphibians, reptiles, bats, water vole, otter and wintering and breeding birds) most of which dated from 2008 (2007 in the case of amphibians). These surveys are considered out of date.
54. It is noted that there would be a loss of SINC in order to provide access from the river to the marina. However, this loss would likely be offset by the removal of boats currently moored along the river bank, although some intervention would be required for a positive impact.
55. Details on proposed habitats are scarce. Prior to determination details of phasing of mitigation, compensation and enhancement measures should be provided. Thought should also be given to the long term management of the scheme given that the marina is effectively mineral restoration, possibly through a Section 106 Agreement.
56. It appears that parts of the Bird Management Plan (in relation to bird strikes at East Midlands Airport) are missing. The document needs to be submitted in its entirety.
57. The above matters need to be addressed before the application can be determined, as such, the NCC Ecology comments are considered to be an **objection**.
58. **Nottinghamshire Wildlife Trust** – There are significant concerns with the completeness of surveys undertaken, that some are out of date and the accuracy of the impact assessment. These concerns relate to the Phase 1, overwintering and breeding bird surveys. There are also concerns about the lack of survey/assessment for otters (recorded within 50m of the site), badgers, water voles, bats and the impact of the development on spined loach.
59. There are concerns about the restoration/creation of the marina and fact there would be a substantial loss of Biodiversity Action Plan (BAP) habitat. It is also considered there is insufficient detail in the habitat creation proposed.
60. Overall it is considered that the development is not compliant with the NPPF and there is not comprehensive up to date ecological information, the impact assessment and the mitigation measures are inadequate. Nottinghamshire Wildlife Trust **objects** to the development.
61. **NCC Landscape** – There is insufficient information on the mineral extraction activities and heights and location of top soil, sub soil and overburden mounds. The direct impacts of the landscape should be quantified, arising from both the mineral extraction works and the construction of the marina. There has been no visual impact assessment of the proposed lighting arising from the development. The visual impact to key residential properties should be set out if they are not covered

by one of the identified view points. The submission of photomontages and detailed landscaping are requested.

62. **English Heritage** – A copy of the field evaluation report by Birmingham Archaeology was requested in relation to the original planning application. The evaluation report has not been submitted with this application and in its absence English Heritage have a **holding objection**. The field evaluation is a requirement in line with Paragraph 128 of the NPPF.
63. **NCC Archaeology** – The ES is lacking archaeological reports which form the background to the overview of the cultural heritage issues contained in the Cultural Heritage and Archaeological Statement. A number of the conclusions of the report are not agreed with. Overall the site has a high potential to contain undiscovered archaeological remains, potentially of high significance. Due to the high likelihood of the site containing undiscovered archaeology of more than local significance there is no option but to **object**.
64. **NCC Heritage** – No built heritage assets are directly affected although there are several within the vicinity. Ratcliffe-on-Soar has a number of listed buildings, including a Grade I listed church, although there would be little impact due to separation by the A453. To the north of the proposal is the Redhill Lock and Overbridge, although the impact on this is considered neutral.
65. To the east and north there are non-designated heritage assets. There would be a minor impact from the loss of pastoral agricultural land which forms a contextual setting to the significance of the non-designated heritage assets. These should be assessed in line with Paragraph 135 of the NPPF.
66. **NCC Noise** – No objection subject to a number of conditions.
67. **NCC Rights of Way** – No objection in principle, although Footpath No.7 would be affected and further details are sought on gradients and how the footway would link into the existing track/footpath to ensure it meets standards.
68. **The Ramblers' Association** – It is requested that if any length of Soar Lane is affected, that it is also given a pavement with a kerb. If Soar Lane is affected and no pavement is in place before works commence it is requested that these comments are considered as an objection.
69. **NCC Highways** – Vehicular access for sand and gravel extraction would share the East Midlands Parkway access, although details of how the marina would be accessed have not been provided. The East Midlands Parkway access road and bridge are owned by Network Rail; the applicant would need their consent. It appears that there would be access onto Soar Lane which would impact on the Authority's road network. NCC Highways **objects** until a number of issues have been resolved relating to: HGV routeing; access arrangements; road design; Integrated Transport Contributions through a Section 106 Agreement; visibility; tracking analysis; parking; and a travel plan. In addition, consideration should be

given to the transport of gravel by river in order to reduce traffic on the A453, which is heavily trafficked.

70. **Highways Agency** – No objection.
71. **Leicestershire County Council (Highways)** – The proposed marina would have little impact upon Leicestershire roads, although it is requested that should permission be granted the Authority has sight of any routeing agreement.
72. Notwithstanding the above, it is highlighted that the site has issues with sustainability being away from any settlements and the need to travel to the site by car.
73. **Network Rail** – There is no objection to the principle of the development, although concerns are raised in relation to the development having an impact on the safe operation of the railway/integrity of the railway infrastructure. Conditions are recommended should planning permission be granted.
74. **Western Power Distribution** – No objection.
75. **NATS** – No objection.
76. **East Midlands Airport** – The site is less than 5km from the aerodrome, significantly within the 13km bird hazard safeguarding zone. The information submitted with the application is insufficient and it is considered that the proposal would have a negative impact on air safety. East Midlands Airport (EMA) **objects** to the development as currently presented. Should permission be granted without a resolution from EMA the application should be referred to the Civil Aviation Authority.
77. **High Speed Two (HS2) Limited** – The site is currently shown as falling on land that, at this stage, is an initial preferred route of Phase Two of High Speed 2. As a result the site may in the future be required by High Speed 2 Ltd to construct and/or operate the railway. Consultation on the Phase Two route will begin in 2013, following which the Secretary of State will make an announcement of the preferred route in 2014. As a result the preferred route may be subject to some change as a result of detailed consultation. In determining the planning application the Inspector should have regard to the announcement of the Government's initial preference for Phase Two and the Government's commitment in January 2012 to delivering Phase Two as material considerations.

Public and Business Comments

78. There have been a total of 48 comments from individuals and businesses in relation to the proposed development, 28 of which were made directly to NCC and 20 were made to Rushcliffe Borough Council, which then passed the comments on. The comments were made through a combination of letters and e-mails.

79. There have been 5 representations objecting to the development, 36 supporting the development and 7 making comments. Below is a summary of the reasons for support that have been raised in the representations received:

- (a) The development would enhance the wider area and the existing marina, providing new and additional leisure facilities. This is important as there is a need for investment, organisation and improved facilities at Red Hill Marina;
- (b) The development would not interfere with any residential or industrial site. There would be little noise or traffic impact upon the village of Ratcliffe-on-Soar, and the A453 duelling will also help with this;
- (c) The site is an ideal location for a new marina, with easy access by road, rail and air. It will also provide a stopping point for people using the A453;
- (d) It would provide a destination for people to explore and access the local history and heritage;
- (e) The marina would increase tourism, providing revenue and an economic boost for the surrounding area. In addition, it would increase jobs and industry helping to reduce unemployment;
- (f) The development would help with flood control;
- (g) The value of the Green Belt in this location is reduced by the Power Station, rail line and East Midlands Parkway. These developments have set a precedent and harm to the Green Belt should not be a reason for refusal;
- (h) The development would result in a reduction of moorings on the River Soar, this would make navigation easier and also improve the rural aspect of the river from certain locations;
- (i) The development would enhance the site as an environmental resource, creating a still water refuge for fish stock and bird populations. There would also be tree planting and wetland areas improving the landscape and benefiting the area visually;
- (j) There is a shortage of existing storage land for boat restoration;
- (k) There is a shortage of live aboard facilities for canal boats, and boat habitation is becoming more popular with the economic downturn. The location would also allow residents to commute.

80. Below is a summary of the objections, issues and concerns that have been raised in the representations received:

- (a) The development would have a cumulative, unnatural urbanising effect. Comparisons have been drawn to the scale of a new village and it has been

referred to as urban sprawl. The development would have a negative impact on the openness of the Green Belt, particularly the car park, buildings, access road(s) and several hundred cars. The development is contrary to Rushcliffe Local Plan Policies on the Green Belt, specifically Policies EN14 and EN19;

- (b) The benefits are not justified and do not outweigh the departure from the policies. The tourism and recreation that the development would create does not outweigh the harm to openness and visual amenity. There are not very special circumstances for the proposal;
- (c) The figures relating to need for leisure moorings are inaccurate, particularly in the 'need and alternative site analysis', and other local marinas are reporting that moorings are difficult to fill;
- (d) The assumption that 'on-line' berths would relocate to the marina is an inaccurate assumption to make;
- (e) The development is not in accordance with the County Plan (Minerals Local Plan). It has been highlighted that the minerals extraction aspect of the application has been played down and there is uncertainty as to whether that is the real objective of the application. There is worry that the marina would not be completed;
- (f) There is no proof of need for the sand and gravel extraction or the marina for residents. In addition, there is little connection between the marina business and users, and it would do little to enhance Ratcliffe-on-Soar community life;
- (g) The local area is a site of very significant archaeological importance, with potential archaeology lost if the area is excavated. It is considered that the cultural heritage and archaeological statement is inadequate and that during excavations archaeology would be lost as it would not be possible to sift and record all finds;
- (h) The site has no provision for main sewage or gas;
- (i) The development could result in an increase in traffic through Ratcliffe-on-Soar, particularly on the narrow Soar Lane which has no pedestrian pavements. It is noted that through traffic has been reduced due to an access road now being gated, but it is highlighted that this could be opened. There is also concern that the weight of construction vehicles on this road could cause a collapse as a retaining wall has severely eroded. It has also been highlighted that the introduction of these gates has on occasion prevented ambulances accessing the Red Hill Marina site, and they had to be re-routed, causing delays;

- (j) Ratcliffe-on-Soar and Red Hill have the same post code which is awkward for postal deliveries and satellite navigation. The proposed development would make the situation worse;
 - (k) There is run-off from local highways discharging into local brooks causing pollution and maintenance issues.
81. Below is a summary list of the comments and suggestions that have been raised in the representations received:
- (a) Stretches of the River Soar, particularly withy beds, should be cleaned up as a condition of planning permission being granted. In addition, Mason's Barn should be demolished as it is used as a dumping ground and is an eyesore;
 - (b) Should permission be granted all archaeological findings should be published;
 - (c) If approval is given, there should be measures put in place to ensure the development is not left as a quarry. This could include securing a bond or sequestration of profits to be held in escrow.

Publicity

82. The planning application subject to this appeal was received by Nottinghamshire County Council on 19th April 2012. Following submission, there were a number of issues that had to be resolved before the application could be validated, including how the fee was calculated; amendments to documents to remove references to protected species; tree survey clarification; submission of a red-line plan; how the development takes the A453 duelling into account; itemisation of changes from the previous application; details of costs for Environmental Statement, Non-Technical Summary and Application CD should a request be made; the supply of hard copies of the application and ES; and the submission of completed minerals application form. The application was validated on 14th May 2012. Site notices and consultation letters (including statutory consultees and neighbour notification letters) were posted on the 18th May 2012. The press notice was published in the Nottingham Evening Post on the 23rd May 2012.
83. In addition to the requested information and clarification outlined above, site sections of the completed marina and an isopach plan of mineral and overlying material across the site were also requested. This request was made before the application was validated. However, it was agreed to proceed with the application prior to the submission of these details, and at the time of the plans being provided the submission of new environmental information would be advertised accordingly.
84. The requested sections and isopach plans to accompany the Environmental Statement were advertised in accordance with Regulation 22 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Site

notices and consultation letters (including statutory consultees and neighbour notification letters) were posted on the 10th July 2012. The press notice was published in the Nottingham Evening Post on the 13th July 2012.

Observations

85. The appeal has been made on the grounds of non-determination. The application has not been determined because the County Council considers there is insufficient information to make a full and balanced determination on the merits of the proposal.
86. Throughout the planning application process a wide range of statutory and non-statutory bodies and internal technical specialists have been consulted on the proposed development. Many of those consulted have objected to the proposal until such a time that further information is provided. This information has been requested by the consultees to allow them to fully assess and comment on the proposed development in relation to their respective area of expertise. Many consultees seeking further information have objected to the proposal until the information requested is provided, at which point they will provide a full response on whether they consider the application acceptable, including the Environment Agency, Natural England, NCC Ecology, Nottinghamshire Wildlife Trust, English Heritage, NCC Archaeology, NCC Highways, and East Midlands Airport. The above consultation section of this Appeal Statement provides a summary of the responses, and the full responses have been provided with the Appeal Questionnaire.
87. The receipt of consultation responses was largely concentrated in the months May to August 2012 following the validation of the planning application and the submission and consultation on the sections and isopach plans. However, some responses from key consultees pertinent to the determination of the planning application were received later, including the Environment Agency (October 2012) and as highlighted in Paragraph 1.7 of the Appellant's statement, Rushcliffe Borough Council took the application to their planning committee in January 2013 and their objection was received on 5th February 2013. In addition, comments from NCC Archaeology and Landscape have been received following submission of the appeal. Furthermore, whilst objecting on the grounds of insufficient information, the Environment Agency has recommended a number of conditions in the event that the appeal is allowed and the development is granted planning permission.
88. Consultation responses received prior to the appeal were passed on to the applicant. As such, the applicant was clearly aware of the numerous holding objections which needed to be addressed through the submission of further information. Indeed, one example is highlighted within the appellant's own statement at Paragraph 1.6, recognising the need for an updated Great Crested Newt (GCN) survey, as requested in the consultation response from Natural England, although such a survey is seasonally dependant and could not be

undertaken until Spring 2013. No GCN survey has been submitted to NCC and the Authority is unaware as to whether one has been undertaken.

89. It is interesting to note that the appellant recognises and accepts Natural England's requirement for a GCN survey in their appeal statement, but fails to address, or even mention, the request for further information from Natural England to demonstrate that there would be no adverse effects on the Lockington Marshes SSSI as a result of the development - a request that was made in the same letter as that requesting updated GCN surveys. This is a single example and the objections based on insufficient information are set out above.
90. The appellant has been made fully aware of the need for additional information. In spite of this, the only consultation response that has drawn a response from the appellant is the objection from Rushcliffe Borough Council. This prompted a letter from the applicant seeking to address the reasons for refusal in Rushcliffe Borough Council's objection, which related to Green Belt matters.
91. The need for additional information was highlighted by consultees as early as May 2012 (East Midlands Airport), and the need for seasonally dependent GCN surveys identified in Natural England's letter was dated 27th June 2012. As soon as NCC was aware that additional information was required the intention was to make a formal request for the necessary information under Regulation 22 of the EIA Regulations, when all of the necessary consultees responses had been received. As highlighted above, some of the comments from consultees on the application have only recently been received.
92. NCC took the view that a single consolidated Regulation 22 request covering all the requests for additional information would be the most practical approach enabling the applicant to address the relevant information in a single Regulation 22 response. This approach was also deemed to be advantageous for consultees and the public, because each formal request for additional information would trigger the need for new site notices, a press notice and letters of notification to consultees and neighbours and those that had commented on the application, which could easily have led to confusion and information fatigue. Furthermore, it was established, and accepted by the appellant early on in the application process, that an updated GCN survey was required and that this could not be undertaken until Spring 2013. Therefore, NCC did not consider that a consolidated Regulation 22 request approach would unduly delay the application. The fact that NCC had forwarded consultation responses nevertheless afforded the opportunity for the appellant to prepare responses. NCC will clearly now not be making a Regulation 22 request given the applicant's decision to proceed to appeal for non-determination.
93. In light of the above, the only reasonable determination that NCC could have made is one of refusal for insufficient information. The Authority was reluctant to refuse this application for insufficient information, instead seeking to give the applicant generous opportunity to provide the necessary information so that a full and proper decision could be made based on the development's relative merits, accordance

with policy and any other material considerations. This approach is in line with the requirement to work positively and proactively with applicants, as set out in the NPPF.

94. The planning application was validated on 14th May 2012 and, as an application supported by EIA, the target determination date was 3rd September 2012. As set out in paragraph 1.5 of the '*Procedural Guidance Planning Appeals and Called in Planning Applications*' appeals for non-determination can be submitted up to six months after the expiry of the period the local planning authority had for dealing with an application. In this case the six month period expired on 3rd March 2013. It is of note that the appellant submitted their appeal on 14th March 2013. The Authority recognises that the Secretary of State has a degree of discretion to extend the six month period, and there is no desire from the Authority to obstruct the appellant and the appeal process. However, it is considered important to highlight that in a non-determination appeal, the appellant has not operated in line with the stipulated deadline.
95. As highlighted in Section 4.0 of the appeal statement, the appellant intends to include a Section 106 Agreement. The appellant states "*The predominant Heads of Terms for the proposed agreement will be based on advertising all jobs locally and restricting the number of overnight stays within the marina basin*". This statement suggests that an executed and certified copy of a Section 106 Agreement has not been submitted to the Planning Inspectorate. It is noted that the Planning Inspectorate Good Practice Advice Note 16 states that in written representation cases, if an appellant wants to be certain that a planning obligation will be taken into account by the Inspector in reaching a final decision, an executed and certified copy should be submitted to the Planning Inspectorate's Case Officer no later than 9 weeks from the start date (16th May 2013).
96. The appellant states in Paragraph 1.7 of the appeal statement that the Rushcliffe Borough Council considered that the level of ecological information was sufficient, and was an area of the application that needed no further consideration. It is then suggested, in Paragraph 1.8, that Rushcliffe's response should be considered a priority judgment on this matter, and that the ecological information submitted must be sufficient. This is incorrect, as Rushcliffe in their consultation response have simply considered Green Belt issues. This view is further enhanced when the Rushcliffe Committee Report is taken into account, which at Paragraph 37, highlights Nottinghamshire County Council as the Authority responsible in relation to European protected species and in Paragraph 38 that the County Council must be satisfied that there are no appropriate alternative sites and that suitable mitigation can cater for impacts on the species at the site or that are likely to be affected off site. Furthermore this view from the appellant makes no acknowledgement of the objections raised by Natural England, NCC Ecology and Nottinghamshire Wildlife Trust. Finally, it is questioned how the appellant can take the view that ecological information is satisfactory when earlier in their statement it is recognised that updated GCN Surveys are necessary.

Conclusions

97. In summary, there was insufficient information for any determination other than refusal. Full information from the applicant was being sought in order to enable a full and measured decision based on the accordance of the development with the development plan and taking consultation responses, representations and any material considerations into account.
98. The appellant raises the issue that no decision date deadline was confirmed during the application process. However, the appellant was, at a very early stage, aware of the need for further information, including the need for a seasonally dependant updated GCN survey which could not be undertaken until Spring 2013. In light of this, the timescales within which a determination could be made rested largely with the appellant and their approach to the submission of necessary additional environmental information.
99. The County Council's Development Management Team do not have delegated powers to inform the Planning Inspector as to what the Authority's decision on the application would have been had a decision been made prior to the appeal being lodged.
100. In order to notify the Inspector of what the Authority's decision on the application would have been, a report will have to be taken to the Planning and Licensing Committee for Members to decide.
101. The next Planning and Licensing Committee is on 23rd May 2013, which is after the date by which this statement must be submitted to the Planning Inspectorate. However, it is noted there is the opportunity to submit final comments by the 30th May.
102. In light of the above, a report will be taken to the Planning and Licensing Committee on 23rd May 2013. The report will inform Members that had the application been presented to Committee before the appeal was lodged and, based on the existing level of information, the application would have been recommended for refusal due to insufficient information. Therefore NCC seeks the dismissal of the appeal. The report will seek a resolution from Committee Members to support this recommendation. The outcome of the Committee Meeting will be reported in the final comments made to the Planning Inspectorate and submitted before the 30th May 2013.
103. In light of the view that there is insufficient information, it is considered that a full and proper assessment of the application cannot be made. However, should the Planning Inspectorate make a request under Regulation 22 for additional information, and subsequently receive the requested information, the Authority respectfully requests the opportunity to comment.
104. The appeal notification letter from the Planning Inspectorate, dated 28th March 2013, highlights that the Authority's appeal statement should include a list of any

conditions or limitations that the Authority would agree to if the appeal were to be allowed. Given that it is the County Council's view that there is a significant deficit of information, coming to a view on necessary conditions is a difficult task. Nevertheless, a list of recommended conditions, and topics to be covered by condition, is attached as Appendix B.

105. It is of note that some of the conditions/topics request the submission and approval of information that has been identified as outstanding by consultees, information that would normally be submitted and considered prior to a decision being made. This approach has been taken because some of the information is considered so important that even if a determination is made in its absence, the information is necessary to guide construction and working methods, for example in relation to protected species. Where this is the case it has been highlighted as part of the condition. It should also be noted that where condition(s) have been recommended by a specific party this has also been highlighted.

APPENDIX A – HIGH SPEED 2 PREFERRED ROUTE

RECOMMENDED PLANNING CONDITIONS AND CONDITION TOPICS

Commencement and Duration of the Development

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

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

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

Extent of Planning Permission and Approved Details and Plans

3. The development hereby permitted shall only be carried out in accordance with the following documents, unless amendments are made pursuant to other Conditions:

a) ...

NCC recommends that a condition is attached to identify the relevant plans and documents that the planning permission relates to.

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

Phasing

4. Before the extraction of any material an updated phasing plan shall be submitted to, and approved in writing by, the MPA. The phasing plan shall be based on the Environmental Statement Illustrative Construction Plan (Figure 1.2) and shall include timescales for each phase and show the sequential order of extraction for the life of the development.

Reason: To secure the proper working and restoration of the site within an acceptable timescale and in accordance with Policy M4.2 of the Nottinghamshire Minerals Local Plan.

5. A topographical survey of the site shall be submitted to the MPA by 31 December each year, following the commencement of the planning permission as notified

under Condition 2 above, until the cessation of mineral extraction. The topographical survey shall identify all complete and incomplete areas.

Reason: To secure the proper working and restoration of the site within an acceptable timescale and in accordance with Policy M4.5 of the Nottinghamshire Minerals Local Plan.

Dust

6. Notwithstanding the production of a Construction Environmental Management Plan (CEMP), measures shall be taken to minimise the generation of dust from operations at the site. These shall include, but not necessarily be limited to, any or all of the following steps as appropriate:

- a) The use of water bowsers to dampen haul roads, material stockpiles, and other operational areas of the site;
- b) Internal roadways, storage areas and hard surfaces shall be regularly swept to keep them free of mud and debris likely to give rise to dust;
- c) The regular re-grading of internal haul roads;
- d) Bulk loads arriving at or leaving the site shall be carried in enclosed or sheeted containers;
- e) The fitting of all mobile plant with exhaust systems which cannot be emitted in a downward direction;
- f) Soil storage mounds which are not to be used within 3 months shall be graded and seeded;
- g) The minimisation of exposed surfaces on soil mounds, both the working area and the area being restored;
- h) Upon the request of the MPA, the temporary suspension of material movement or placement in periods of excessively dry or windy weather conditions.

Reason: In the interests of the amenity of nearby occupiers and to accord with Policy M3.7 of the Nottinghamshire Minerals Local Plan.

7. Dust monitoring shall be carried out on-site in accordance with a dust monitoring scheme which shall have been submitted to and approved in writing by the MPA within one month of the date of commencement of the development. The dust monitoring scheme shall include:

- a) Details of the method of dust monitoring;
- b) The location of the dust monitoring points;

- c) The frequency of the dust monitoring inspections;
- d) The method of analysis;
- e) The logging of dust monitoring results;
- f) The submission of dust monitoring results to the MPA; and
- g) Procedures for implementing corrective actions.

Reason: In the interests of the amenity of nearby occupiers and to accord with Policy M3.7 of the Nottinghamshire Minerals Local Plan.

Flood Risk and Surface Water Drainage

8. The storage of excavated materials shall be limited to the areas described on Drawing 0523/CP/1 (Appendix A of the Flood Risk Assessment) as Bund 3 and Bund 4. – **Condition recommended by the Environment Agency. It should be noted that NCC do not appear to have a record of the Drawing referenced in the suggested condition. In this case, it is suggested that a similar condition is used requiring the submission of excavated material storage details.**

Reason: To prevent the obstruction of flood flows and an associated increase in flood risk to local communities.

9. The finished floor level of the office illustrated on Drawing 0523/CP/1 (Appendix A of the Flood Risk Assessment) shall be set above the 1 in 100 year flood level unless otherwise agreed in writing by the MPA. - **Condition recommended by the Environment Agency. As highlighted above, NCC does not appear to have a record of the Drawing referenced in the Condition. It is suggested that a similar condition is used to require the submission of finished floor levels.**

Reason: To protect property against the risks associated with flooding.

10. There shall be no removal of material within 8 metres of the toe of the flood bank unless otherwise agreed in writing by the MPA. Measures to protect the form of the flood bank shall be incorporated at the intersection with the internal road. - **As recommended by the Environment Agency.**

Reason: To protect the functioning floodplain, thereby reducing an increase in flood risk.

11. Unless otherwise agreed by the MPA, mineral extraction shall be limited to those areas marked A through to G on Drawing 0523/CP/1 (Appendix A of the Flood Risk Assessment). - **Condition recommended by the Environment Agency. As highlighted above, NCC does not appear to have a record of the Drawing referenced in the Condition. It is suggested that a similar condition is used to require the submission of an extraction plan.**

Reason: To prevent the inappropriate extraction of material in close proximity to the River Soar, which might otherwise lead to river bank failure with an associated increase in flood risk and damage to habitat.

12. Upon completion of the earthworks and prior to occupancy of the marina basin, a ground level survey shall be submitted to the MPA. The survey shall confirm that the earthworks have been undertaken in accordance with Appendix D (“Flood Storage Volume Calculations”) of the Flood Risk Assessment submitted in Volume 2 Chapter 7 of the Environmental Statement. - **As recommended by the Environment Agency. Also Network Rail recommends that the proposal should not reduce the existing capacity of the flood plain. It should be noted that the Flood Risk Assessment is Chapter 4 of the Environmental Statement, not Volume 2 of Chapter 7.**

Reason: To prevent a loss of floodplain storage and an associated increase in flood risk. – (NB The flood calculations referred in this condition were supported in pre-application discussions by a drawing to illustrate the proposed ground levels. The Environment Agency cannot see this drawing in the Environmental Statement. The EA recommend that this drawing be requested from the applicant and written into the aforementioned planning condition as a reference drawing for proposed ground levels).

13. A safe route of access and egress shall be afforded to all moorings and the Central Services Building in accordance with paragraphs 7.2 and 7.3 of the Flood Risk Assessment. The pontoons shall be of a rise-and-fall type and shall enable the pedestrian walkways to rise to an elevation at or above the 1 in 100 year (climate change) flood level. - **As recommended by the Environment Agency.**

Reason: To reduce the risks of flooding to users of the site.

14. Details of the proposed works to the existing flood bank around the perimeter of the marina shall be submitted to and approved in writing by the MPA prior to commencement of development. Unless otherwise agreed in writing by the MPA, the perimeter access track shall be set at the general existing top of bank elevation and shall be of a construction which prevents the ingress of water through the flood bank. - **As recommended by the Environment Agency.**

Reason: To maintain the function and stability of the flood defence bank to reduce the risk of flooding.

15. The finished floor level of the central services building shall be set at least 600mm above the 1 in 100 year flood level, or at least 300mm above the 1 in 100 year flood level with a scheme for flood resilience which shall be agreed in writing by the MPA. - **As recommended by the Environment Agency.**

Reason: To reduce the risk of flooding and provide a refuge for users of the site in the event of a flood.

16. The boathouse shall be designed as a floodable structure, incorporating openings in at least two sides of a length no less than 20% of each side and extending from

ground level to the 1 in 100 year (climate change) flood level. - **Condition recommended by the Environment Agency. NCC notes that there would have to be amendments to the details of the boathouse to comply with this condition.**

Reason: To prevent a reduction of the storage capacity of the floodplain.

17. Occupancy of the marina shall not exceed 60 residential boats until such time as all moorings and associated facilities on the bank of the River Soar have been removed, and the river bank reinstated to a natural form. - **Condition recommended by the Environment Agency. Removal of all river moorings is an essential part of the scheme, without which the Environment Agency would likely object to the development. The limit of 60 represents the number of existing river moorings, to prevent any temporary lack of mooring for established residents.**

NCC note that this condition would be at odds with the statement at Paragraph 5.11 of the application Supporting Statement which states that the application does not propose to include any residential moorings.

Reason: To prevent an unacceptable increase in flood risk. –

18. Details of the river entrance to the marina shall be submitted to and approved in writing by the MPA prior to commencement of the development. The entrance shall be afforded sufficient erosion protection and unless otherwise agreed in writing by the MPA, gates shall be installed at the entrance to a specification agreed in writing by the MPA. - **As recommended by the Environment Agency.**

Reason: To provide sufficient stability to exposed areas of river bank in the vicinity of the marina entrance to preserve the effective functioning of the floodplain.

19. Prior to occupation of the marina a flood management plan shall be submitted to and approved in writing by the MPA. The plan shall detail measures to ensure the safety of users of the site during flood conditions. - **As recommended by the Environment Agency.**

Reason: To protect users of the site against risks associated with flooding.

Surface and Groundwater Pollution Control

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

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

Noise

21. Mineral extraction and associated activities shall occur only between 07:00 to 18:00 hours Mondays to Fridays and 07:00 – 13:00 hours on Saturdays. There shall be no working on Sundays, Public or Bank Holidays. - **As recommended by the NCC Noise Team.**

Reason: To prevent undue noise impact in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

22. The development hereby approved shall not involve any percussive piling. - **As recommended by the NCC Noise Team.**

Reason: To prevent undue noise impact in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

23. Only silenced dewatering pumps shall be employed on the site. If pumps are to be used within 100m of any property, details of noise mitigation to be employed to be submitted to, and approved in writing by, the MPA. - **As recommended by the NCC Noise Team.**

Reason: To prevent undue noise impact in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

24. Noise from operation of the refuelling and pump out station shall not exceed 45 dBL_{aeq}, 1hour at any surrounding residential property. - **As recommended by the NCC Noise Team.**

Reason: To prevent undue noise impact in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

25. Noise from construction and mineral extraction activities shall not exceed 55 dBL_{aeq}, 1 hour at any surrounding noise sensitive receptor. - **As recommended by the NCC Noise Team.**

Reason: To prevent undue noise impact in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

26. Should Mason's Barn or the Bungalow become occupied during the mineral extraction phase of the development, the earth bund proposed towards the eastern site boundary (Bund 1 indicated on DK Sykes Plan 0523/CP/1) shall be extended northwards alongside the access track by 100m. - **Condition recommended by the NCC Noise Team. As highlighted earlier there is no record of the Plan referenced in this Condition. It is suggested that a similar condition requesting details relating to noise mitigation methods is used.**

Reason: To prevent undue noise impact in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

27. During the minerals excavation phase of the development hereby permitted, there shall be no more than 80 HGV movements (40 in and 40 out) per day. - **As recommended by the NCC Noise Team.**

Reason: To prevent undue noise impact in accordance with Policy M3.5 of the Nottinghamshire Minerals Local Plan.

Ecology

28. Before any development commences an impact assessment on the nearby Lockington Marsh Site of Special Scientific Interest (SSSI) shall be submitted to, and approved in writing by, the MPA. The assessment shall include recommendations to minimise the impact on the SSSI. The development shall thereafter be undertaken in accordance with the approved recommendations. – **To address the outstanding information in relation to the nearby Lockington Marsh SSSI, as highlighted in the response from Natural England.**

Reason: To protect Lockington Marsh SSSI in the interests of nature conservation.

29. Before any development commences up to date species specific ecology surveys relating to protected species, amphibians, reptiles, bats, water vole, otter, wintering and breeding birds shall be submitted to the MPA for approval in writing with recommendations for any necessary protection measures. Development shall thereafter only progress in accordance with recommendations contained within the approved reports. – **To ensure that up to date ecological information is submitted to establish whether there are protected species on/near the site and to inform construction and working methods to help minimise impacts. The need for this information was highlighted in consultation responses from Natural England, NCC Ecology and Nottinghamshire Wildlife Trust and in NCC's view needs to be assessed prior to determination.**

Reason: To prevent unacceptable impacts on protected species.

30. Before any development commences a Construction Environment Management Plan (CEMP) shall be submitted to, and approved in writing by, the MPA. – **As recommended by NCC Ecology.**

Reason: To minimise the impact that construction has on the environment.

31. Before the marina is brought into use a detailed landscaping scheme shall be submitted to, and approved in writing by, the MPA. The development shall thereafter be carried out in accordance with the approved scheme. – **NCC Ecology recommend that the detailed landscaping scheme incorporates the compensatory and enhancement measures outlined in Section 5.7 of the ecology chapter of the Environmental Statement which was submitted with the 2011 application and should include species mixes, details of the genetic origin of stock, establishment methods, the methodology for the creation of features such as ponds, and the details of artificial features such as bat and bird boxes. NCC Landscape has also identified the need for a detailed landscaping plan.**

Reason: To safeguard and establish wildlife and habitat in accordance with Policy M3.17 of the Nottinghamshire Minerals Local Plan.

32. Before the marina is brought into use a habitat restoration plan for the length of the River Soar where the moorings are to be removed shall be submitted to, and

approved in writing by, the MPA. The development shall thereafter be carried out in accordance with the approved scheme. - **As recommended by NCC Ecology.**

Reason: To provide suitable compensatory habitat.

33. Before the marina is brought into use a landscaping and habitat management plan shall be submitted to, and approved in writing by, the MPA. The plan shall include monitoring and reporting procedures. The site shall be managed in accordance with the approved plan. - **As recommended by NCC Ecology and NCC Landscape.**

Reason: To ensure the ongoing management and aftercare of the restored site in accordance with Policy M4.9 of the Nottinghamshire Minerals Local Plan.

34. Before any buildings are constructed details of bird and bat boxes to be affixed to, or incorporated within the fabric of the marina buildings, shall be submitted to, and approved in writing by, the MPA. The bat and bird boxes shall thereafter be installed as approved. - **As recommended by NCC Ecology.**

Reason: To provide suitable habitat for birds and bats.

35. Before any built development commences a detailed light plan shall be submitted to, and approved in writing by, the MPA. The lighting plan shall ensure the use of low level lighting through the marina and the retention of a dark zone along the riparian areas. The lighting plan shall thereafter be installed and operated in accordance with the approved plan. - **As recommended by NCC Ecology.**

Reason: To minimise light impact on species habitat.

36. Any site clearance operations that involve the destruction or removal of vegetation including any felling, clearing or removal of trees, shrubs or hedgerows on site, shall not be undertaken during the months of March to August inclusive unless otherwise first agreed in writing by the MPA.

Reason: To avoid disturbance to breeding birds.

Landscaping

37. Before any development commences detail of the location, extent and height of top soil, sub soil and overburden mounds shall be submitted to, and approved in writing by, the MPA. The development shall thereafter be undertaken in accordance with the approved details. – **The need for this information has been identified in the consultation response from NCC Landscape.**

Reason: To ensure control over stockpile locations and heights and minimise visual impact on the openness of the Green Belt in accordance with Policy EN14 and EN19 of the Rushcliffe Non-Statutory Replacement Local Plan.

Archaeology

38. Before development commences a field evaluation shall be submitted to, and approved in writing by, the MPA. – **English Heritage highlight that the Environmental Statement includes a Chapter on cultural heritage and archaeology, although the evidence on which the recommendations in the chapter are made is absent. In the absence of this information English Heritage object to the proposal.**

Reason: In line with the requirements of the NPPF, paragraph 128.

39. Before development commences a Written Scheme of Investigation (WSI) shall be submitted to, and approved in writing by, the MPA. The WSI shall include a methodology; programme; health and safety risk assessment; and reporting and archive proposals including named specialists. The WSI shall also incorporate the recommendations and mitigation measures outlined in Section 8.0 of Chapter 4.0 'Cultural Heritage and Archaeological Statement' of the Environmental Statement.

Reason: To ensure suitable identification and recording of heritage assets with archaeological interest, in accordance with the NPPF.

Traffic and Transportation

40. Before the marina aspect of the development commences details of how the south east access road physically connects to the farm track shall be submitted to, and approved in writing by, the MPA. The development shall thereafter be undertaken in accordance with the approved details. - **Suggested by NCC Highways as necessary information.**

Reason: To ensure suitable access and manoeuvrability for vehicles around the site.

41. Before the marina aspect of the development commences details of widening of the existing farm track shall be submitted to, and approved in writing, by the MPA. The development shall thereafter be undertaken in accordance with the approved details. - **Suggested by NCC Highways as necessary information.**

Reason: To ensure that the access is wide enough for vehicles to pass each other.

42. Access to Soar Lane shall be permanently gated to vehicular traffic. The gate shall remain unlocked to allow pedestrians, cyclists, horse riders and emergency vehicles to pass through. - **Suggested by NCC Highways as a necessary restriction.**

Reason: To minimise traffic impact upon Ratcliffe-on-Soar whilst maintaining access for emergency vehicles and other non-vehicular users.

43. Before the marina element of the development begins, details of the internal access roads shall be submitted to, and approved in writing by, the MPA. Internal roads should be sufficiently wide to allow vehicles to pass each other and there should be

turning facilities at the end of each road. The development shall be carried out in accordance with the approved details. - **Suggested by NCC Highways as necessary information.**

Reason: To ensure suitable access and manoeuvrability for vehicles around the site.

44. All parking shall be designed in accordance with the Nottinghamshire County Council Highways Design Guide – the 6 Cs Design Guide. - **Suggested by NCC Highways as a necessary restriction.**

Reason: To ensure that suitable parking is provided.

45. Before the marina element of the development begins details of the visibility and manoeuvrability shall be provided of the point at which the existing farm track splits with one fork leading to the access roundabout and the other towards Soar Lane. - **Suggested by NCC Highways as there is an obscure bend and a significant difference in levels between the two roads which could cause vehicular conflict.**

Reason: In the interests of vehicular safety.

46. Before the marina development is brought into use a Travel Plan shall be submitted to, and approved in writing by, the MPA. The Travel Plan shall set out proposals (including targets, a timetable and enforcement mechanism) to promote travel by sustainable modes. The Travel Plan shall also include arrangements for monitoring of progress of the proposals. The measures identified within the approved Travel Plan shall be implemented in accordance with the timetable set out in the plan. - **Suggested by NCC Highways as necessary.**

Reason: To promote sustainable travel.

Pedestrian Access and Rights of Way

47. Before the marina element of the development commences, details of the footpath along the existing farm track (Footpath No. 7) shall be submitted to and approved in writing by the MPA. The details shall include how the footpath links into the existing access track and the gradient at both ends. The development shall thereafter be undertaken in accordance with the approved details. – **as recommended by NCC Countryside Access.**

Reason: In the interest of pedestrian safety and to ensure that appropriate standards are met.

48. Before commencement of development details of signs warning farm track users shall be submitted to, and approved in writing by, the MPA. Details shall include location, size, height and text on the signs. The signs shall be implemented as approved and thereafter retained for the life of the mineral extraction.

Reason: In the interest of pedestrian safety.

Rail Line Protection

49. All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times both during and after the development. – **As recommended by Network Rail.**

Reason: To ensure the safe operation of the railway and integrity of railway infrastructure.

50. The access bridge over the railway shall not be used for vehicles in excess of 40 tonnes GLW (Gross Laden Weight). – **As recommended by Network Rail.**

Reason: To ensure the safe operation of the railway and integrity of railway infrastructure.

51. The applicant must give prior notice to Network Rail and the Train Operating Company of any proposed abnormal load movements. Where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant and/or developer will incur full liability. – **As recommended by Network Rail.**

Reason: To maintain access to the railway in case of emergency and prevent damage and/or delays to the rail network.

52. There must be no reduction in the effectiveness of any drain or watercourse belonging to Network Rail. Furthermore, there must be no interference to any existing drainage rights that Network Rail enjoys. – **As recommended by Network Rail.**

Reason: To ensure the safe operation of the railway and integrity of railway infrastructure or land.

53. Without the prior approval of Network Rail, the works shall not generate an increase in the existing flow rates into any culvert that passes beneath the railway. – **As recommended by Network Rail.**

Reason: To ensure the safe operation of the railway and integrity of railway infrastructure or land.

54. Storm or surface water must not be discharged onto or towards Network Rail property. Suitable drainage or other works must be provided and maintained by the developer to prevent surface flows or run-off affecting the railway. – **As recommended by Network Rail.**

Reason: To ensure the safe operation of the railway and integrity of railway infrastructure or land.

55. Cranes and jibbed machines, used in connection with the works, must be so positioned that the jib or any suspended load does not swing over railway

infrastructure or within 3 metres of the nearest rail if the boundary is closer than 3 metres. – **As recommended by Network Rail.**

Reason: To maintain the safety of railway operations.

56. All crane, machinery and constructional plant must be so positioned and used to prevent the accidental entry onto railway property of such plant, or loads attached thereto, in the event of failure. – **As recommended by Network Rail.**

Reason: To maintain the safety of railway operations

57. The development is to provide and maintain a suitable trespass-proof fence adjacent to the existing railway boundary. – **As recommended by Network Rail.**

Reason: To prevent public access to railway property.

58. Trees planted close to the railway should be located at a distance in excess of their mature height from railway property. – **As recommended by Network Rail.**

Reason: In the interests of railway safety.

Airport Safeguarding

59. Before any development commences an updated Bird Management Plan shall be submitted to, and approved in writing by, the MPA. The approved Bird Management Plan shall be implemented for the life of the development. – **East Midlands Airport considers the existing bird management plan unacceptable and that the development would have a negative impact on air safety. NCC Ecology also highlight that part of the management plan is missing and that this is necessary to fully assess the impact of the plan on birds.**

Reason: To safeguard the operation of East Midlands Airport.

Soil Placement

60. The MPA shall be notified in writing at least 5 working days before each of the following, where applicable:
- a) Overburden has been prepared ready for soil replacement to allow inspection of the area before further restoration of this part is carried out;
 - b) When subsoil has been prepared ready for topsoil replacement to allow an inspection of the area before further restoration of this part is carried out; and
 - c) On completion of topsoil placement to allow an opportunity to inspect the completed works before the commencement of any cultivation and seeding operations.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

61. Soils and overburden shall only be placed when they and the ground on which they are to be placed are in a dry and friable condition and no movements, re-spreading, levelling, ripping or loosening of overburden or soils shall occur.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

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

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

63. Prior to the placement of soils and any overburden, the final profile of the site shall be ripped using overlapping parallel passes:

- a) To provide loosening to a minimum depth of 450mm with tine spacing no wider than 0.6m; and
- b) Any rock, boulder or larger stone greater than 100mm in any dimension shall be removed from the loosened surface before further soil is laid. Materials that are removed shall be disposed of off-site or buried at a depth of not less than 2 metres below the final contours.

Decompaction shall be carried out in accordance with the MAFF Good Practice Guide for Handling Soils Sheet 19: Soil Decompaction by Bulldozer Drawn Tines.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

64. Only low ground pressure machinery shall work on re-laid soils to place and level soils.

Reason: To ensure the conservation of soil resources and the satisfactory restoration of the site in accordance with Policy M4.3 of the Nottinghamshire Minerals Local Plan.

Aftercare

65. Following restoration the site shall undergo aftercare management for a 5 year period.

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

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

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

67. Within six months of the date of commencement of the development hereby permitted, as notified under Condition 2 above, an aftercare scheme and strategy including long-term design objectives, management responsibilities and maintenance schedules shall be submitted to the MPA for its approval in writing. The strategy shall include an Ecological Management Plan and shall cover, but not be restricted to, the following details:

- a) Cultivations;
- b) Weed control;
- c) Sowing of seed mixtures;
- d) Soil analysis;
- e) Keeping of records and an annual review of performance and proposed operations for the coming year, to be submitted to the WPA between 31 March and 31 May each year;
- f) Drainage amendments;
- g) Sub-soiling and under-drainage proposals;
- h) Management practices such as cutting vegetation;
- i) Tree protection;
- j) Remedial treatments;
- k) Irrigation; and
- l) Fencing

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

68. Whilst the site is in aftercare, site management meetings shall be held with the MPA each year to assess and review the detailed annual programmes of aftercare operations referred in Condition 68(e) above, having regard to the conditions of the land; progress in its rehabilitation and necessary maintenance.

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

Alternative Restoration

69. Should for any reason minerals extraction cease for a period in excess of 3 months, then, within 3 months of the receipt of a written request from the MPA, a revised scheme for the restoration of the site shall be submitted to the MPA for its approval in writing. Such a scheme shall include details of the final contours, provision of soiling, sowing of grass, planting of trees and shrubs, drainage and fencing. The scheme shall also provide details of the aftercare proposals and Ecological Management Plan in a similar manner to Condition 68 above. The revised restoration proposals shall be implemented within 12 months of their approval by the MPA and thereafter managed for a period of 5 years in accordance with the approved aftercare details.

Reason: To secure the proper restoration of the site within an acceptable timescale.

INFORMATIVES

1. Dewatering operations must not compromise railway operations or damage railway infrastructure. Prior to the commencement of any dewatering operations Network Rail requires the installation of piezometers to monitor the effect of the operations on water pressures in ground adjacent to or on railway property. All costs for such work must be met by the developer. – **As recommended by Network Rail.**

Reason: To ensure the safety of the railway is not compromised.

2. Where alterations to existing ground levels are proposed within 10 metres of the boundary of railway land (including the raising of the farm track and construction of storage mounds) detailed plans of the development, including cross sections, should be forwarded to Network Rail for assessment and comment before development commences. – **As recommended by Network Rail.**

Reason: To ensure that railway operations and infrastructure will not be affected adversely during and following the development.

3. The development should ensure that the lighting scheme at the site does not present a dazzle hazard to train crew, and al that any coloured lighting does not conflict with the railway signalling system. The lighting scheme for the site must be submitted to Network Rail for prior approval. – **As recommended by Network Rail.**

Reason: To ensure that the safety of the railway signalling system is not compromised.

4. It would be preferable for deciduous trees and pines not to be planted close to the operational railway. – **As recommended by Network Rail.**

Reason: Shedding of foliage can present operational difficulties.

5. Network Rail shall be notified of any significant alterations to the characteristics of the work or site, for example changes in the depth of working, limited of extraction and transport arrangements. – **As recommended by Network Rail.**

Reason: For safety, Network Rail needs to be aware of all development adjacent to its property.

SECTION 106

In addition to the list of suggested conditions, and topics to be covered by condition, as outlined above, there are a number of issues that would more appropriately be addressed by a Section 106 Agreement. These topics are briefly listed below:

1. Integrated Transport Contribution which should be based on trip generation rather than an area basis, as suggested by NCC Highways. Kegworth Parish Council has also requested financial contribution towards any mitigation that will make roads safer and improve the road junctions at Kegworth.
2. A lorry routeing agreement to ensure that HGVs do not have an unacceptable impact upon Ratcliffe-on-Soar, or any other sensitive roads in the vicinity.
3. The proposal includes the removal of existing on-river moorings, which would then be accommodated within the proposed marina. The removal of these moorings would need to be secured by a Section 106 Agreement and is recommended by the Environment Agency and the Canal and Rivers Trust (formerly British Waterways).
4. Given that the proposal is for mineral extraction with restoration to a marina it is suggested by NCC Ecology that long term ecological management of the site would be appropriate and that this could possibly be secured through a Section 106 Agreement. If this were to be agreed there would need to be amendments to the conditions that relate to aftercare.