



23rd April 2019

Agenda Item:6

REPORT OF CORPORATE DIRECTOR – PLACE

RUSHCLIFFE DISTRICT REF. NO.: 8/19/00378/CMA

PROPOSAL: VARY CONDITION 20 OF PLANNING PERMISSION 8/14/01550/CMA TO ALLOW AN INCREASE IN THE MAXIMUM DAILY HGV MOVEMENTS PERMITTED TO ACCESS THE SITE FROM 18 HGV MOVEMENTS TO 40 HGV MOVEMENTS MON-FRI AND FROM 8 HGV MOVEMENTS TO 20 HGV MOVEMENTS ON SATURDAYS, WHILST CAPPING HGV LEVELS TO COINCIDE WITH EXISTING EQUIVALENT APPROVED LEVELS WITHIN ANY FOUR WEEK PERIOD BEING 392 MOVEMENTS (196 IN AND 196 OUT).

LOCATION: CANALSIDE INDUSTRIAL PARK, KINOULTON ROAD, CROPWELL BISHOP NG12 3BE

APPLICANT: CHRIS ALLSOP PROPERTIES

Purpose of Report

1. To consider a Section 73 (variation of planning condition) application to vary Condition 20 of Planning Permission 8/14/01550/CMA to permit an increase in the maximum daily numbers of heavy goods vehicles (HGVs) accessing the site.
2. The key issues relate to the protection of highway safety and significance of impacts to local amenity and balancing these matters against NPPF policy which requires the planning system to proactively support the business community.
3. The recommendation is to grant planning permission subject to the conditions set out in Appendix 1.

The Site and Surroundings

4. Canalside Industrial Park is located approximately 500 metres south of the village of Cropwell Bishop. The industrial park incorporates a number of buildings originally developed in association with historical gypsum extraction and processing activities, but now used for commercial purposes, together with some more modern industrial units (see Plan 1).
5. The application site is located to the immediate rear (east) of the Canalside Industrial Park. Access is obtained from the existing industrial estate road (see Plan 2).

6. The application site covers an area of around 1.9 hectares. The site was previously part of a larger area of land associated with former gypsum workings. The site previously regenerated to provide a rough grass ecological habitat which is designated as the Cropwell Bishop Gypsum Spoil Local Wildlife Site (LWS) (described as 'gypsum spoil colonised by a variety of notable native and alien plant species'). The site is bordered by hedgerows on its northern, southern and eastern boundaries with the industrial park to the west. The application site and the surrounding area lie within the Green Belt.
7. Vehicle access to the site is obtained from Kinoulton Road to the north, this road connects to Nottingham Road at a 'T' junction at the south western edge of Cropwell Bishop village. Heading west from this junction for around 1.5 kilometres, Nottingham Road links with the A46.
8. The local road network is regulated by a series of weight restrictions which prohibit vehicles over 7.5 tonnes travelling any further south beyond the Canalside Industrial Park entrance road on Kinoulton Road. A weight restriction also prohibits HGVs travelling through Cropwell Bishop village on Nottingham Road east of its junction with Kinoulton Road (see Plan 2).
9. The area around the village settlements and the application site is predominately agricultural, although large areas of land to the west of Kinoulton Road and north of Nottingham Road to the west of Cropwell Bishop have been subject to opencast gypsum extraction, the land having been restored.
10. The nearest residential properties are located approximately 300 metres to the south of the site and 500m to the north of the site on Kinoulton Road (see Plan 4).

Background and Planning History

11. In 2011 it was brought to the County Council's attention that clay material had been excavated from the site without planning permission. The unauthorised removal of the clay resulted in the creation of an excavated void within the site.
12. Planning permission was subsequently sought to regularise the extraction of the clay and import approximately 60,000 tonnes of inert waste material over a three-year period to bring the levels within the site back to those present prior to the clay extraction taking place.
13. This planning application was reported to the County Council's Planning and Licensing Committee in September 2015 where a decision was made against officer advice to refuse planning permission for the development. Three reasons were identified for this refusal of planning permission, with concerns raised regarding the inappropriateness of the development in the context of Green Belt policy, a lack of need for additional inert disposal capacity within Nottinghamshire, and the impact the development would have on the environment.
14. A subsequent appeal against the Council's decision was allowed by the Planning Inspectorate in November 2016. In balancing the planning merits of the development and deciding to grant planning permission, the Inspector acknowledged that the development was inappropriate within the Green Belt, but

he did not find any other harm from the proposals and considered the development would provide substantial potential benefits by enabling the restoration of the site, enhancing the availability of local waste disposal capacity and concluded the development was environmentally acceptable with no significant adverse impacts to biodiversity, highway safety, noise and dust.

15. The appeal decision was issued on a conditional basis. 28 planning conditions sought to regulate the development and restrict the duration of the waste imports to 3 years, the location of tipping within the site, restrictions over the routing, number and hours of HGV delivery vehicles, a junction improvement at the site entrance, controls to limit mud on the highway, ecological controls, dust and noise controls, floodlighting, working hours, site restoration and aftercare.
16. The development has not been implemented.

Proposed Development

17. Planning permission is sought under a Section 73 submission (variation of planning condition) to vary Condition 20 of Planning Permission 8/14/01550/CMA. Condition 20 states:

Condition 20

There shall be no more than 18 HGV movements to and from the site (9 in, 9 out) in any one working day between Monday and Friday and no more than 8 HGV movements to and from the site (4 in, 4 out) on Saturdays. Written records shall be maintained of all HGV movements into and out of the site and copies of those records shall be made available to the Waste Planning Authority within 7 days of a written request being made.

18. The applicant seeks planning permission to allow an increase in the maximum daily HGV movements permitted to access the site from 18 HGV movements (9 in and 9 out) to 40 HGV movement (20 in and 20 out) Monday to Friday and from 8 HGV movements (4 in and 4 out) to 20 HGV movements (10 in and 10 out) on Saturdays. No deliveries would be undertaken on Sundays, but as part of the proposed modification to Condition 20 the applicant is agreeable to a cap being imposed to limit the maximum number of vehicles within any four-week period to coincide with the existing equivalent approved level which equates to 392 HGV movements (196 in and 196 out). The following amended planning condition is suggested by the applicant.

Requested amended Condition 20

There shall be no more than 40 HGV movements to and from the site (20 in, 20 out) in any one working day between Monday and Friday and no more than 20 HGV movements to and from the site (10 in, 10 out) on Saturdays – limited to a maximum number of vehicles within any four week period to coincide with existing approved levels, that is 392 HGV movements (196 in and 196 out). Written records shall be maintained of all HGV movements into and out of the

site and copies of those records shall be made available to the Waste Planning Authority within 7 days of a written request being made.

19. In a supporting statement the applicant explains that the alteration to the maximum daily number of delivery vehicles is sought to reflect the nature of the build programme on construction sites. Groundworks on these sites are typically undertaken on a campaign basis with a need to remove soils in more intensive muck shifts rather than at a constant steady rate. The outcome of this in the context of the Canalside facility is there is likely to be a marginal intensification of vehicle movements on some days and a lull in activities on other days but the total number of vehicle movements over the duration of the project would not be increased and neither would the volume of materials imported to the site.
20. The applicant states that the industrial estate has no restrictions on either the number of vehicle movements nor the hours of operation. The applicant therefore considers the proposals will not have a significant impact on the road network or the safety and amenity of the nearby residents. No changes are requested to any of the other planning conditions that have been imposed.

Consultations

21. **Rushcliffe Borough Council:** *No response has been received. Any response received will be orally reported.*
22. **Cropwell Bishop Parish Council:** *Formally object to the planning application.*
23. *The original planning permission was granted at appeal. In the body of this decision notice several points regarding highway safety and vehicle movements were made by the Planning Inspectorate. The Parish Council feels that these comments and conditions should be adhered to for the reasons of road safety, child safety, dust and noise pollution and the unacceptable level of impact to the local environment. The Parish identifies a number of paragraphs within the Inspector's decision notices which are relevant to this decision and these are set out below:*
 - *Paragraph 28: In the context of the Nottingham Road/Kinoulton Road junction, the Inspector states that this is constrained in terms of the width of both roads meaning that large vehicles have to use both sides of the road when turning. The visibility to the west of the junction is also restricted. However, in the critical eastern direction the visibility for drivers emerging from Kinoulton Road is good. He notes that the Highway Authority has no objection to the proposal subject to the improvement to the industrial park access and on the basis that the volume of HGV traffic to and from the facility would be limited.*
 - *Paragraph 29: The Inspector states that he understands that there have been road traffic accidents in the area but there is no evidence before him to indicate that there is an existing severe highway safety hazard or that the development would result in such a hazard. He saw that there is a bus stop opposite the Nottingham Road/Kinoulton Road junction and he noted that the school children use this bus stop and that they regularly walk along*

Nottingham Road to the village hall and adjoining play area. There are footpaths along the road and through the village and there is no evidence that the limited number of HGVs would prejudice pedestrian safety. However, taking a precautionary approach the appellant has agreed to limit the times when HGVs travel to and from the site to avoid peak times at the beginning and end of the school day. This can be secured through a condition.

- *Paragraph 31: Potential sources of noise would arise from the excavator and bulldozer to be used on the site and from lorries travelling to and from the site. The haul route would pass only a small number of dwellings on the western side of the village and the volume of traffic would be limited.*
 - *In paragraph 47 the Inspector states that he has imposed planning conditions as suggested by the Council and agreed by the Council. In Paragraph 51 he states that the planning conditions would limit the maximum number of HGVs movements and the times of those movements are also necessary in the interest of highway safety having regard to the configuration of Kinoulton Road/Nottingham Road junction and the proximity of the bus stop and village hall/play area.*
24. *The Parish Council requests that other conditions imposed on the planning permission are met and adhered to, in particular Condition 1 which requires commencement within 3 years of the date of decision (i.e. 21st November 2019). The applicant has already put large HGV lorry containers on site and the Parish ask whether this is a meaningful commencement of the development?*
25. *In conclusion the Parish Council states that the planning variation would have a adverse effect on road safety, child safety, diesel pollution and noise levels in Cropwell Bishop and would result in an unacceptable impact on the local environment. In the original planning application, the application was for 30 HGV movements per day (15 in and 15 out) which the Parish Council objected to, The Planning Inspectorate as clearly stated above and in the attached copy document was not prepared to pass the application with 30 HGV movements (15 in and 15 out) and reduced it to 18 movements a day (9 in and 9 out) and 8 on Saturday (4 in and 4 out). This variation is a 222% increase to the level of HGVs allowed to condition 20 laid down by the Planning Inspectorate. The applicant is not only asking for an increase on the Planning Inspectorate's decision but an increase over and above the original application.*
26. **Environment Agency:** *Has no comments on the application, noting that Condition 20 was not imposed on the Agency's request.*
27. **NCC (Highways) Rushcliffe:** *Raise no objection to the proposed variation on highway safety grounds.*
28. *Although the development results in a potential doubling of daily HGV movements from the levels currently consented, the total hourly movements associated with proposal is still relatively modest at circa 4 movements per hour. This level of traffic is not considered severe when reviewing the development from a traffic generation/network capacity standpoint. Furthermore, the proposed variation does not seek to increase the total number of traffic movements associated with*

the extant permission, or maximum number of movements permitted within any four-week period.

29. *Whilst it is acknowledged that the geometry of some of the local junctions is less than ideal, their suitability and safety must be viewed in the context of existing traffic movements. Traffic data suggests that current permitted uses on the business park already generate a significant number of HGV movements on Kinoulton Road. Nonetheless, a review of accident data held by the County Council shows no record of any accidents at the Main Road/Kinoulton Road junction. Existing Traffic Regulation Orders which ban HGV access south of the development access would ensure vehicles do not access via the Lime Kiln crossroads.*
30. *Given that the safety of local junctions does not appear to have been adversely affected by existing HGV movements in any definable way, it is difficult to argue that that the relatively modest increase number of hourly movements associated with the application will change this. Hence, the highway authority is unable to conclude the proposal represents a significant additional risk to highway safety.*
31. **Via (Noise Engineer):** *Raise no objection to the proposed variation on noise grounds.*
32. *A calculation has been undertaken to consider the level of noise increase from existing traffic flow information recorded on Kinoulton Road, between 14/01/15 and 20/01/15. The average recorded weekday 18hour traffic flow (06:00-24:00hrs) was 1225 with 180 (14.7%) HGV movements. The proposed increase to 40 HGV movements (two-way) when added to the pre-development traffic flows, results in an approximate increase of 0.5dB L10,18hr according to the Calculation of Road Traffic Noise. When assessed against the Magnitude of Impact criterion in the Design Manual for Roads and Bridges (DMRB), this results in a 'negligible' noise impact.*

Publicity

33. The application has been publicised by means of site notices, press notice and 56 neighbour notification letters which have been posted to the surrounding business and residential properties including those along the roads that delivery vehicles would travel to the A46, in accordance with the County Council's adopted Statement of Community Involvement.
34. 16 letters of representation have been received raising objections on the following grounds:
 - a. 40 HGV movements a day is excessive given the size of the vehicles. Permission was originally sought for 30 HGV movements per day, but this was reduced to 22 in the appeal decision.
 - b. The additional lorries would result in a 220% increase in vehicle movements above the levels agreed by the Planning Inspectorate. The original conditions should be adhered to and the Inspector makes it clear in several sections of his decision that the limits have been imposed in the

interests of road safety, child safety and detrimental effect on the environment. Incremental extensions should not be allowed.

- c. The Nottingham Road/Kinoulton Road junction is very narrow and difficult for HGVs to negotiate, HGVs therefore use the entire width of the two roads to undertake their manoeuvre. The junction also has limited visibility.
 - d. The additional lorries will increase the risk of accidents, in particular risks to children due to the location of the village's children's play facility which is in close proximity to the Nottingham Road/Kinoulton Road junction. Safety concerns are also raised about HGV conflicts with cyclist, horse riders and runners using the canal path.
 - e. The local roads are already in a poor state of repair and the extra HGVs will add to this problem
 - f. The lorries will be excessively noisy, causing disturbance and stress to local residents.
 - g. The lorries will cause pollution from emissions and dust.
 - h. Concern is expressed about the hours of delivery and potential impacts/congestion on commuter traffic flows. Other developments within the village will compound the traffic problem.
 - i. This application is a prelude to an application for a waste distribution plant.
 - j. Cropwell Bishop Creamery has raised concerns regarding the potential effect to their business. The production of Blue Stilton is undertaken approximately 600 metres from the proposed site, the company also own two industrial units at Canalside Industrial Park, approximately 30 metres from the site, which are used for the storage of food grade packaging. The project will create dust and other airbourne contamination which will be carried to the creamery and impact on food welfare standards. Concern is also expressed about dust, noise, hazard and nuisance on local roads which would potentially double the activity on any day. The company are also concerned about site security, monitoring of waste being tipped and arrangements to prevent unauthorised tipping.
35. Cllr Neil Clarke objects to the planning application on the grounds that it will increase HGV movements and result in an unacceptable impact on the residents of Cropwell Bishop, raising the following concerns.
- a. The appeal decision made it clear that the number of movements should be limited to 18 during the week and 8 on Saturday, because the Inspector recognised, and wanted to limit, the noise nuisance of the lorries and the potential increase in safety hazard. The proposed increase will therefore represent a considerable increase in this noise nuisance.
 - b. The junction where Kinoulton Road meets Nottingham Road in the village is a very tight T junction with restricted visibility, especially for eastbound traffic and for vehicles wishing to exit Kinoulton Road and checking for traffic coming from the A46 direction (eastbound). The proposal therefore represents an unacceptable increase in safety hazard, both for road users and pedestrians.

- c. There is a children's play area and meeting hall facility directly opposite Kinoulton Road, meaning there can be numerous children frequenting this facility, access being obtained along the pavement or even crossing the road. A dramatic increase in HGV traffic will only serve to heighten the safety hazard for pedestrians.
 - d. This substantial increase in HGV traffic will also substantially increase the pollution emission levels experienced by local residents, especially for children frequenting the play area described above.
 - e. It has been stated these hazards will "only" be experienced by a small number of dwellings in the village. For these residents the impact will be very real for them. For all 12 dwellings directly affected, they will experience the HGVs noise of maximum acceleration in both directions; for HGVs approaching the site it will mean maximum acceleration up Kinoulton Road away from Nottingham Road; for vehicles leaving the site it will mean acceleration up Nottingham Road from Kinoulton Road towards the A46. It is likely that the bouncing/rattling echo of an empty HGV could constitute a greater noise than a fully loaded one.
 - f. There is potential for dust to fly from the vehicles causing a health and safety issue, and for additional mud to be deposited on the highway surface, especially from HGVs exiting the site, potentially promoting a skidding hazard at the entrance to Canalside Park and at the Kinoulton Road/Nottingham Road junction, especially in damp or wet weather.
36. In conclusion, Cllr Neil Clarke wishes it to be noted that the original application was for 30 movements, reduced by the Appeal Inspector to 18, yet this current proposal seeks 40 movements, far in excess of both the original and appeal permission.
37. The issues raised are considered in the Observations Section of this report.

Observations

Scope of issues to be considered.

38. This planning application has been made under Section 73 of the Town and Country Planning Act to vary the obligations imposed under Condition 20 of Planning Permission 8/14/01550/CMA and allow an increase in the number of delivery vehicles permitted to access the site each day. The scope of this Section 73 planning application does not allow the County Council to reassess the wider merits of the original planning application or the obligations imposed through the other conditions attached to the planning permission and therefore only the planning merits associated with the proposed change in HGV numbers accessing the site is assessed within this report.
39. Condition 20 of planning permission 8/14/01550/CMA restricts the number of delivery vehicles to 18 HGV movements Monday to Friday and 8 HGV movements Saturdays. Representations received from the community state that as part of the appeal decision the HGV numbers were reduced from 30 to 18 each day due to highway constraints. This is not understood to be the case. An inspection of the original planning application file in connection with application

8/14/01550/CMA confirms that there is a reference to 30 HGV deliveries serving the site within the supporting statement, but the lower 18 HGV weekday limit on HGV movements appears to derive from the traffic figures set out within the original Highway Impact Statement. The highway comments confirm that NCC Highways provided advice based on weekday maximum 18 HGV movements and this level was considered by members at the 22nd September 2015 planning committee. The officer recommendation within this report was to grant planning permission subject to a planning condition which limited the maximum weekday HGV movements to 18 and there was no discussion within the appeal process in respect of a higher level of HGV activity.

40. The Inspector's decision controls HGV numbers to the level sought planning permission. This does not necessary mean that these traffic levels reflect the maximum design capacity of the local highway infrastructure. Whilst the concerns raised by the local community in respect of the applicant seeking to change agreed levels can be understood, the applicant has followed a lawful process to request this change through a Section 73 submission and the obligation of the County Council is to consider this application on its planning merits.
41. The original traffic calculations assumed the site would be operational for about six months in any year, this assumption was taken on the basis that suitable material to fill the void is not expected to be available on a constant basis. The current planning application to increase the maximum daily number of HGV movements permitted to access the site from 18 to 40 movements on a weekday (9 to 20 deliveries a day) represents a 222% increase in the maximum daily lorry movements. The applicant states that the change has been requested to reflect the operational characteristics of construction sites which generate fill materials (sub-soils from foundation digs) on a campaign basis where it is normally necessary to move materials quickly off a site. The applicant states the consented limits on daily vehicle movements would restrict the company's ability to tender for these projects. The applicant requests a limit be maintained within a revised planning condition which would limit the maximum number of HGVs permitted to access the site within any four-week period to coincide with the existing equivalent approved level which equates to 392 HGV movements (196 in and 196 out) and thus ensure the overall total number of HGV deliveries that would be required to infill the site over its three-year operational life would be no greater than presently permitted. The proposed modification to HGV movements therefore has potential to increase the transport movements on some days but also result in an increased number of 'non-active' days when little or no HGVs would enter the site during the three-year consented tipping period.
42. Paragraph 80 of the NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity and take account of local business needs. The business case put forward by the developer is a material consideration in the determination of this application which should be given significant weight in this decision.
43. The main concerns that this planning application raises relate to road safety and highway amenity matters resulting from the proposed increase in HGVs accessing the site.

44. The key planning policies for considering the highway impacts of the development are Policy W3.14 of the Nottinghamshire and Nottingham Waste Local Plan (WLP) and paragraph 109 of the National Planning Policy Framework Development (February 2019) (NPPF). These are set out below.

Policy W3.14: Road Traffic

Planning permission will not be granted for a waste management facility where the vehicle movements likely to be generated cannot be satisfactorily accommodated by the highway network or would cause unacceptable disturbance to local communities.

NPPF Paragraph 109

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

45. Both these policies seek to protect highway safety and avoid adverse impacts to local communities but acknowledge that planning permission should only be refused on highways grounds where impacts from vehicle movements are assessed as being severe.
46. Concerns about HGV delivery traffic, its impact on the local road network and the local community were the principle concern raised in response to the public consultation undertaken with the original planning application. Concerns over transport impacts formed part of the Council's refusal of planning permission as part of reason 3 which opposed the development on the basis that it would have an unacceptable environmental impact, including highway impacts.
47. This reason for refusal was examined by the Planning Inspector within the informal hearing and is discussed within the Inspector's decision notice, specifically paragraphs 26-30 of the decision notice which are repeated below:

Highway Safety

26. The appellant envisages that the supply of inert waste would not be constant and there would be significant periods of inactivity. The maximum number of daily trips to the site by HGVs would be nine on the basis that the site would be operational for 6 months each year. There are weight restrictions in place on the southern part of Kinoulton Road and on Nottingham Road through Cropwell Bishop and those restrictions limit the route that can be taken by HGVs which would be to and from the A46 via Nottingham Road and Kinoulton Road.

27. The existing access to the industrial park has limited visibility particularly to the south along Kinoulton Road where there are bends and a dip in the

road. The appellant would carry out improvements to that junction to improve visibility and those improvements can be secured by condition.

28. The Nottingham Road/Kinoulton Road junction is constrained in terms of the width of both roads meaning that large vehicles have to use both sides of each road when turning. The visibility to the west of the junction is also restricted. However, in the critical eastern direction the visibility for drivers emerging from Kinoulton Road is good. The Highway Authority has no objection to the proposal subject to the improvements to the industrial park access and on the basis that the volume of HGV traffic to and from the facility would be limited.

29. I understand that there have been road traffic accidents in the area but there is no evidence before me to indicate that there is an existing severe highway safety hazard or that the development would result in such a hazard. I saw that there is a bus stop opposite the Nottingham Road/Kinoulton Road junction and I note that school children use that bus stop and that they regularly walk along Nottingham Road to the village hall and the adjoining play area. There are footpaths along the road and through the village and there is no evidence that the limited number of HGVs would prejudice pedestrian safety. However, taking a precautionary approach the appellant has agreed to limit the times when HGVs travel to and from the site to avoid peak times at the beginning and end of the school day. This can be secured through a condition.

30. I have taken into account all other points made in this respect including the use of the canal footpath which crosses Kinoulton Road in close proximity to the industrial park access. The Framework states that development should only be refused on transport grounds where the residual cumulative impacts are severe. For the reasons given I find that the proposal would not result in any severe impact on highway safety.

48. In terms of the current proposals, the increased number of HGVs would continue to utilise Kinoulton Road and Nottingham Road to obtain access to the site. It is acknowledged that these roads have a limited width. This constraint means that large vehicles have to use both sides of each road when turning at the Kinoulton Road/Nottingham Road junction. It is also noted the visibility to the west of the junction is restricted, although in the critical eastern direction the visibility for drivers emerging from Kinoulton Road is good. Notwithstanding these constraints, the roads provide the only lawful access to the Canalside Industrial Park due to the presence of the weight restrictions and are used daily by industrial traffic. This is evidenced by automated traffic counts which show the average number of two-way HGV movements each day on Kinoulton Road is around 180 per day (90 in each direction). The accident data shows no recorded accidents involving HGVs at this junction which confirms that existing HGV movements are currently safely obtaining access to the Canalside industrial area within the constraints of the existing highway infrastructure.
49. Planning permission is already in place to allow an additional 18 HGV movements each weekday to utilise this junction associated with the consented landfill scheme at Canalside. The addition of a further 22 HGV movements would further increase HGV traffic using the roads and junction. However, the level of

additional vehicles represents a comparatively small increase in overall traffic flows and averages out at just over two additional HGV movements an hour. This increase in HGV traffic would not create any significant capacity issues at the junction and would not result in any severe road safety impacts. It is therefore concluded that the vehicle movements generated by the development can be accommodated on the highway network, and therefore the development does not conflict with WLP Policy W3.14. Since the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, it is concluded that a refusal of planning permission on road safety grounds cannot be justified in this instance.

50. The development would not change the overall number of HGVs accessing the site to import the consented 60,000 tonnes of fill material over the three-year duration of the development and therefore would not result in any greater impact to the condition of the public highway over and above the consented scheme.
51. As well as highway safety and capacity considerations, WLP Policy W3.14 requires consideration of the level of disturbance to local communities from vehicles movements associated with waste management facilities. Representations from the local community have identified a series of environment issues in connection with this development including concerns relating to noise, dust, effect on village amenities, particularly the children's play area and village meeting hall, pollution, and mud on the highway.
52. The methodology incorporated within the Design Manual for Roads and Bridges (DMRB) has been used to calculate the level of road traffic noise using traffic flow information recorded on Kinoulton Road, between 14/01/15 and 20/01/15. The DMRB is published by Highways England and provides guidance on the assessment of impact from changes in road traffic noise. Advice has been taken from VIA's Noise Engineer to consider the magnitude of change in noise using methodology incorporated in the DMRB to calculate the predicted increased traffic noise that an additional 40 HGVs accessing the site would generate, calculated over an 18-hour period. The average recorded weekday 18hour traffic flow (06:00-24:00hrs) was 1225 with 180 (14.7%) HGV movements. The proposed increase to 40 HGV movements (two-way) when added to the pre-development traffic flows results in an approximate increase of 0.5dB L10 over the 18-hour period. This level of change is assessed as having 'Negligible' noise impact on the local noise environment.
53. The existing planning conditions control the hours HGVs are permitted to access the site, limiting them to an 11-hour period each day between 7am and 6pm Monday to Friday and 5 hours on a Saturday between 7:30am to 12:30pm rather than 18-hour period which the DMRB calculation uses. This difference in the assessment period however is not considered to significantly affect the conclusion reached from the DMRB calculation. This is because the HGV flows on the existing highway network also occur predominantly over an 11-hour period. Since the DMRB methodology for calculating impact utilises a comparison between existing and proposed additional traffic, in comparative terms the level of predicted increase would be of a similar magnitude.
54. The 18-hour average period within DMRB should not be confused with the actual noise level which would be experienced when a HGV passes an individual

location. This short term level of noise would be a much higher level than the 0.5dB predicted through the DMRB calculation. However, residents living along the Canalside Industrial Park transport corridor already experience traffic and HGV noise as part of the existing noise environment and in practice would observe the passage of additional HGVs associated with this development in the context of this existing baseline flow rather than an isolated incident.

55. The existing planning permission incorporates controls to prevent the trafficking of mud onto the public highway. These controls can be carried forward and would ensure that the potential additional daily peaks in HGV traffic would not create any significantly greater quantity of mud or dust emissions.
56. Planning conditions on the existing planning permission can be carried forward to control the hours HGVs are permitted to travel to the site, restricting these movements to between 7am and 6pm Monday to Friday and 7:30am to 12:30pm on Saturdays. This control on operating hours would protect local residents from disturbance caused by HGV movements at unsociable hours of the day. Additional controls are also in place in connection with the movement of HGVs during school term time when the local highway network experiences some higher traffic flows at the start and end of the school day. Although the HGV route does not pass near the primary school, which is located at the eastern edge of the village, it is acknowledged that school children travelling to and from school, either by foot or by car, do so from properties throughout the village and surrounding areas including locations along the lorry route. The existing planning condition therefore imposes a further restriction on delivery traffic accessing the site, restricting access between 8.30am to 9am and from 3.30pm to 4.30pm during term time. It is recommended these controls be brought forward as part of this planning decision. The controls would provide a level of protection to users of the village's children's play park.
57. No significant additional air pollution is anticipated because of the proposed change in daily HGV deliveries.
58. Impacts to Cropwell Bishop Creamery were considered as part of the original planning decision and at the subsequent planning appeal. Whilst the concerns raised by the business in terms of this development are noted, the issues raised generally relate to the principle of the development and its proximity to their business which would not be affected by this expansion in daily delivery vehicle numbers. Specific concerns raised by the creamery regarding increased noise, nuisance on local roads, dust and air pollution are addressed in earlier paragraphs within this report.

Other Options Considered

59. 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

60. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Data Protection and Information Governance

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

Human Rights Implications

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

Public Sector Equality Duty Implications

63. The recommendation complies with the Public Sector Equality Duty.

Safeguarding of Children and Adults at Risk Implications

64. The recommended planning conditions restrict the delivery hours of HGVs associated with the development to ensure they do not coincide with school opening and closing times.

Implications for Sustainability and the Environment

65. These have been considered in the Observations section above.
66. There are no crime and disorder, financial, human resource or service user implications.

Conclusion

67. The scope of this Section 73 planning application does not allow the County Council to reassess the merits of the original planning permission and therefore only the planning issues associated with the proposed change in HGV numbers should be assessed within this decision.

68. The applicant now acknowledges that the limits imposed on the planning application are overly restrictive and would constrain the ability of the company to successfully tender for contracts. Paragraph 80 of the NPPF requires planning decisions to attach significant weight on the need to support economic growth and productivity, and this factor is material in the assessment of this planning application.
69. Both NPPF Paragraph 109 and Nottinghamshire and Nottingham Waste Local Plan Policy W3.14 acknowledge that planning permission should only be refused on highways grounds where impacts from vehicle movements are assessed as being severe. The requested additional 22 daily HGV movements would enable the applicant to more successfully tender for work, whilst maintaining controls which ensure the level of traffic flows averaged over any four-week period would not be increased. Since the impact on road safety and highway amenity from this proposed increase is not considered significant, planning policy in this instance supports a grant of planning permission.

Statement of Positive and Proactive Engagement

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

RECOMMENDATIONS

71. It is RECOMMENDED that planning permission be granted subject to the conditions set out in Appendix 1. Members need to consider the issues set out in the report and resolve accordingly.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments: [RHC 14/03/2019]

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

Financial Comments: [RWK 14/03/2019]

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

Background Papers Available for Inspection

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

Electoral Division(s) and Member(s) Affected

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