

Agenda Item No. 4.1

**DERBYSHIRE COUNTY COUNCIL**  
**REGULATORY – PLANNING COMMITTEE**

**8 October 2018**

Report of the Strategic Director – Economy, Transport and Environment

- 1 THE IMPORTATION OF 150,000 CUBIC METRES OF SOILS AND INERT ENGINEERING MATERIALS FOR THE REPROFILING AND RESTORATION OF THE FORMER OXCROFT COLLIERY TIP TO ACHIEVE BENEFICIAL RESTORATION, AT THE OXCROFT DISPOSAL POINT, MILL LANE, STANFREE**  
**APPLICANT: HARWORTH ESTATES INVESTMENTS LIMITED**  
**CODE NO: CW5/1117/69**

**5.396.17**

**Introductory Summary** The proposal is to import approximately 250,000 tonnes of soils and inert material into the former Oxcroft Disposal Point site over a two year period to enable the beneficial restoration of the remaining tip area.

In considering the proposals, I have had regard to concerns relating to landscape and visual amenity, ecology, land contamination and highways impacts and I am satisfied that the effects of the development can be managed and mitigated through an appropriate suite of conditions and a legally binding agreement. I consider that the benefits of the proposal to local communities through the restoration of the site would be likely to be substantial. The development is considered to be in accordance with the development plan and is therefore recommended for approval.

(1) **Purpose of Report** To enable the Committee to determine the application.

(2) **Information and Analysis**

**Site and Surroundings**

The site covers an area of approximately 12.5 hectares (ha) and lies to the west of the village of Stanfree, approximately 1.7 miles north of Bolsover and 1.2 miles south-west of Clowne. The M1 motorway lies approximately 350 metres (m) to the west. The site forms part of the former Oxcroft Disposal Point which served a number of surface coal mines in the locality. Land to the west (former coal stocking grounds) is now used as a solar farm.

The site access is to the south off Mill Lane. Within the site, most of the area is taken up by tips of waste material that rise up approximately 5m above ground level. The tips have partially naturally re-vegetated over time and mostly comprise nutrient poor grassland. The northern and eastern flanks of the tips have been colonised by trees and scrub, and there are remnant areas of concrete platforms to the south and west of the site adjacent to the vehicular access.

The closest sensitive receptors are two residential properties situated on the Mill Lane - B6418 junction, a children's play area and residential properties along the B6418, all to the east of the site. The site is visible to receptors further east in Stanfree and north along Bentinck Road. Romeley Hall Farm is a Grade II Listed Building situated approximately 350m to the north-east. There is an existing public right of way (PROW) which crosses and terminates within the site. The footpath is an extension of Public Footpath No. 56 (Bolsover) which runs to the south of the site and follows the Parish boundary. Oxcroft Colliery North Local Wildlife Site (LWS) lies to the south of the site across Mill Lane. A significant proportion of the site (10.25ha) has been identified by Derbyshire Wildlife Trust (DWT) as being a potential LWS, and the nearby Romeley Hall Meadows is also a potential LWS.

### **The Proposals**

The application is for the importation of circa 150,000 cubic metres (m<sup>3</sup>) (approximately 250,000 tonnes) of soils and inert material over a two year period to enable the beneficial restoration of the site. It is proposed that material imported to the site would be used to infill existing hollows and uneven areas, to improve gradient and slope stability, and to replace parts of the areas of hardstanding to enable the vegetation of the southern and western outer flanks of the existing tip area to be extended. The central area (top of the tip), northern and eastern flanks will be retained as existing and these areas are not included in the application. In addition to the importation of engineering fill, the application proposes to break up an area of concrete hardstanding at the foot of the tip.

The proposed development would be undertaken over four phases.

- Phase 1 would involve the crushing of the current areas of hardstanding. This will be undertaken on a campaign basis over approximately eight weeks. As part of Phase 1, a storm water storage lagoon would also be constructed adjacent to the existing settlement lagoons.
- Phase 2 would involve the infilling of the northern section of the site with working continuing in a southerly direction.
- Phase 3 would follow directly on from the completion of Phase 2 and continue infilling southwards towards Mill Lane.

- Phase 4 would constitute the final phase of infilling with work being undertaken from the closest point to the Old Schoolhouse on Mill Lane in a westerly direction towards the site compound/entrance.

The site would be progressively restored upon completion of each phase of infilling operations.

During the 24 months of operations, there would be a small portable office/welfare building on site and the site would be managed by a maximum of five employees (plus hauliers). If required, a pressure washer would be used to clean vehicles before exiting the site. The complement of plant on site would consist of a dozer for blading out the soils, which will be present at all times, a hydraulic pecker to break up the concrete road which runs along the southern and western boundary of the tip, in addition to a loading shovel and a small dump truck as and when required.

Heavy goods vehicles (HGVs) accessing the site would use the existing access onto Mill Lane with traffic routed to and from the west of the site via the B6419 and not via the village of Stanfree. Importation rates would fluctuate dependent upon supply of available material. However, it is predicted that the development would generate in the region of 33 HGV deliveries per day (3/4 per hour) over a two year period.

The proposed hours of working are between 0700 hours and 1900 hours Mondays to Fridays and 0700 hours to 1300 hours on Saturdays, with no operations on Sundays or Bank Holidays except in cases of emergency.

The proposed restoration of the site would offer landscape and visual enhancement whilst safeguarding the central/top part of the tip for its current ecological value. Upon completion of the engineering operations on the southern and western tip flanks, the habitats on the site considered to be of greatest value would be extended and re-established. In addition, areas of woodland and scrub planting are also proposed to increase the diversity of habitats on the site. Upon completion of the restoration works, the site would be managed and maintained under a 10 year aftercare plan secured under a Section 106 Agreement.

On completion of the infilling and restoration of the site, a new circular concessionary footpath would be established across the former tip linking to the existing/adopted PROW which currently terminates on the site. Pedestrian access is also proposed from the playground area to the east of the site.

### **Environmental Statement**

The application is accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The ES includes background

information, descriptions of the site and surrounding area and the proposed development, together with a summary of what the applicant considers to be the relevant local and national policies relating to the proposal.

The ES conclusions in relation to the potential environmental effects of the development can be summarised as follows.

#### *Landscape and Visual Impacts*

The proposed development would aid in assimilating the former tip into a feature more characteristic of the local landscape character. It states that, the proposed development would give rise to some landscape and visual impacts, but notes that these effects would be short term due to the temporary nature of the operations. These impacts would become negligible following the completion of infilling operations and establishment of the planting as part of the restoration, and in the long term, the development would provide visual and landscape benefits.

#### *Ecology*

Ecological survey work undertaken at the site/study area by FPCR Environment and Design Ltd in 2004, 2015 and 2017, and by others prior to 2004 (including DWT in 2016), has shown that the site supports several notable habitats (primarily species-rich grassland, open flower-rich pioneer habitat and woodland and scrub edge) and supports several notable/protected species (primarily invertebrates, such as dingy skipper and breeding birds).

The assessment concludes that the improved habitat diversity and increased opportunities for species with specific needs, such as dingy skipper, as a result of micro-topography works and the improved connectivity to other areas of the site and the wider landscape as a result of woodland and scrub planting at the south and east of the site are likely to improve the site's biodiversity value when the site is restored. It considers that the phasing of the works would mean that ecological impacts would be reduced as habitats would be restored as soon as possible. Works would also be timed to avoid sensitive times of year for specific, species such as breeding birds and reptiles.

Although there are considered to be some unavoidable impacts in terms of habitat loss, fragmentation and disturbance during the importation/re-profiling works, these are considered to be largely temporary, and when taken into consideration with the recommended mitigation measures, planned retention of habitats to the east and north, and the planned ecological restoration and enhancement and habitat creation works, the assessment concludes that the long term impacts to biodiversity at the site would be negligible once habitat restoration was completed.

### *Transport*

The Transport Assessment carried out by Aecom noted that the former Oxcroft Disposal Point was a strategic coal disposal point for a number of surface mines operational in the vicinity, and is therefore well connected to the strategic highway network via Mill Lane and the B6419. The M1 lies approximately 350m west of the site and is accessed via the A619 at Mastin Moor. The assessment considers that the access onto Mill Lane provides good visibility due to the straight nature of the road at this point and states that, given the historic use as a strategic disposal point, and that substantial areas of hard-standing still remain, the necessary internal operations/vehicle movements can be accommodated within the site.

The assessment concludes that the additional HGV movements on the highway generated, as a result of the development, would only lead to an increase of vehicle movements along Mill Lane and Bolsover Road and would be distributed thereafter across the highway network. As such, the proposed importation of soil and inert fill is not expected to have a detrimental effect upon the highway network in terms of additional traffic movements.

### *Noise*

An assessment of the potential noise impacts associated with the proposed development has been undertaken by Vibrock Ltd. The assessment identifies the nearest residential properties surrounding the site and assesses the 'worst case scenario' predicted noise levels from the plant that would operate at the site against the observed existing background levels. The assessment concludes that the proposed scheme can be implemented whilst adhering to current noise standards.

The assessment sets out a range of measures intended to minimise noise emissions and concludes that there would be no unacceptable adverse impacts at noise-sensitive receptors in the vicinity of the proposed operations.

### *Dust*

An assessment of the potential dust impacts associated with the proposed development has been undertaken by Vibrock Ltd. The assessment identifies the nearest residential properties surrounding the site and assesses their vulnerability to a dust event generated by the site during the development. One site is classed as having a very frequent potential for dusty winds. The calculated potential magnitudes of dust effects, property by property range from moderate adverse to negligible.

A series of mitigation measures are set out as part of the assessment. These include limiting the items of plant working within 50m of the boundary, limiting drop heights of excavators, limiting vehicle speeds and damping down haul roads with water when necessary.

The assessment concludes that it is unlikely that any significant decrease in local air quality will occur due to the proposed restoration of the site. Any dust occurrence event will be limited and of short duration and will be minimised by implementation of the dust control recommendations. With regard to PM10 and PM2.5 dust levels from the site, analysis has been made of the air quality data and concludes that Air Quality Objectives will not be exceeded. Overall, the assessment concludes that, subject to the implementation of suitable dust mitigation measures, the effect on air quality of the development would not be significant.

#### *Public Rights of Way*

It is concluded that the proposal complies with the development plan policy objective to improve public access.

#### *Land Contamination*

The assessment concludes that the cumulative impact of the scheme is not adverse and is not sufficient to form a cumulative reason to object to the proposal.

#### *Hydrology and Hydrogeology*

An assessment by DAB Geotechnics Ltd concludes that, provided the settlement lagoons are constructed and water provided, appropriate water management measures are taken to manage and treat surface runoff during the placement of the fill material, there should be no adverse impact on surface water resources, and that the restoration scheme should reduce runoff volumes to the nearby watercourse in the long term.

#### *Cumulative Impact Assessment*

This section concludes that the site is not considered to propose a contamination risk to the local environment.

### **Consultations**

#### **Local Members**

Councillor Western has been informed of the details of the proposals.

#### **Bolsover District Council**

Bolsover District Council has no objections to the proposals provided that any adverse environmental impacts associated with the proposals can be reduced to an acceptable level. The Council remains concerned about the potential impacts on local communities during the 'construction phase' of the development. In particular, about the movement of HGVs on the local road network and the potential for noise, dust and disturbance.

**Bolsover District Council Environmental Protection Officer**

Subject to the imposition of a suite of conditions provided by the Officer in relation to noise, air quality/dust, potential contamination and the importation of soils, the Environmental Health Officer (EHO) has no objections to the proposals.

**Environment Agency**

The Environment Agency (Agency) has no objections in principle to the proposed development but did advise the applicant to contact the Agency regarding environmental permitting for the proposals.

**Natural England**

Natural England advised that, in view of the small size of the site, it had no comments to make on the proposals.

**Derbyshire Wildlife Trust**

DWT raise concerns regarding the loss of habitats during the development but also acknowledges that these would not be 'substantive' and that these habitats would be reestablished following restoration. It also acknowledges that, as a result, there would be no net loss of habitat as a result of the development. DWT also wishes to see a long term ecological management plan for the site but also acknowledges that this should be 'light touch' in nature.

**Local Highways Authority**

There are no Highways objections subject to a series of conditions relating to highways safety.

**Flood Risk Management Team**

The Council's Flood Risk Management Team advised that the proposed development would result in a decrease in impermeable area, and it is not anticipated that there would be an increase in surface water discharge.

The Flood Risk Management Team has no objection in principle to the proposed development, subject to a condition requiring a surface water management and maintenance plan.

**Old Bolsover Town Council**

Requested to respond by 5 February 2018.

**Publicity**

The application was advertised by site notices and a notice published in the Derbyshire Times with a request for observations by 8 February 2018.

A letter of broad support from The Friends of Oxcroft Screens and a letter from East Midlands Butterfly Conservation advising on suggested measures

for inclusion in the restoration strategy have been received by the Council in response to the publicity. No objections have been received.

## **Planning Considerations**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications must be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. In relation to this application, the relevant policies of the development plan are the saved policies contained within the Derby and Derbyshire Waste Local Plan (DDWLP) (adopted 2005), Derby and Derbyshire Minerals Local Plan (DDMLP) and the saved policies contained within the Bolsover District Local Plan (BDLP) (adopted 2000). The National Planning Policy Framework (NPPF) and associated Planning Practice Guidance (PPG), the National Waste Management Plan for England (NWMP) and with the National Planning Policy for Waste (NWPP) form the national guidance for the determination of planning applications.

The most relevant development plan policies for this proposal are:

### **Saved Policies of the Derby and Derbyshire Waste Local Plan**

W1b: Need for the Development.

W2: Transport Principles.

W5: Identified Interests of Environmental Importance.

W6: Pollution and Related Nuisances.

W7: Landscape and Other Visual Impacts.

W8: Impact of the Transport of Waste.

W9: Protection of Other Interests.

W10: Cumulative Impacts.

W13: Sorting of Waste Before Disposal.

### **Derby and Derbyshire Minerals Local Plan**

MP10: Reclamation and After-Use.

### **Bolsover District Local Plan**

GEN1: Minimum Requirements for Development.

GEN2: Impact of Development on the Environment.

### **National Planning Policy Framework**

A revised NPPF was published in July 2018. The NPPF provides guidance on material considerations in the context of determining planning applications. It states that the purpose of the planning system is to help deliver sustainable development and adds that there should be a presumption in favour of sustainable development. The term sustainable development is not defined as such, but is said to have interrelated economic, social and environmental aspects. The economic aspect is to provide sufficient land for the right type of development, in the right place at the right time. The social role is to support



strong and vibrant communities by providing for the needs of the community whilst fulfilling the environmental role of protecting and enhancing the natural, built and historic environment.

### **National Waste Management Plan for England**

This guidance was published in 2013, however, the most relevant statements of Government waste policy on the issues raised by this proposal are contained within the NPPW.

### **National Planning Policy for Waste**

The NPPW, published in October 2014, sets out the most recent Government policy requirements for the determination of planning applications for waste related developments. It reinforces established Government waste policy of driving the management of waste up the Waste Hierarchy whilst stating that local planning authorities need to ensure there are sufficient opportunities to meet the identified needs of the area. Appendix B of the NPPW sets out the locational criteria for consideration of the likely impacts of a proposed development on the local environment and amenity.

Due to the location and nature of the proposed development (as set out above), I am satisfied that amongst the criteria set out in Appendix B the potential impacts in relation to: *“land instability; conserving the historic environment; odours; vermin and birds; litter; and potential land use conflict,”* are negligible and therefore not so significant as to warrant detailed discussion in this report. I will, however, discuss the remaining relevant criteria of: *“protection of water quality and resources and flood risk management; landscape and visual impacts; nature conservation; traffic and access; air emissions, including dust; and noise, light and vibration,”* in the considerations set out below.

### **Hydrology, Hydrogeology and Flood Risk**

Policy GEN 2 of the BDLP sets out criteria based policies relating to the impact of a development on the environment. Within these criteria it sets out requirements for the assessment of the impacts of surface water runoff on drainage systems and local water courses.

Paragraphs 155 - 165 of the NPPF set out that it is the Government's policy that inappropriate development in areas at risk of flooding should be avoided. The accompanying PPG sets out a checklist for a Site-Specific Flood Risk Assessment that should be applied in relation to flood risk when considering new proposals.

The applicant has carried out an assessment to consider the impact of the proposals on surface and groundwater. A study of the local water environment produced a baseline description of the surface and subsurface water regimes, and the inter-relationship between them. The assessment concludes that the

proposed working and restoration would have no noticeable effect upon groundwater-supported features, including available water resources, existing abstractions, surface water flow and water related habitats.

A Flood Risk Assessment (FRA) concluded that although thought unlikely, the possibility of intercepting karstic conduit inflows in excess of the natural percolation capacity of the quarry floor cannot be dismissed. A gravity drainage scheme is proposed to be implemented as a contingency in the event of such an occurrence.

Apart from the area that contains the existing storm lagoons adjacent to the water course on the northern boundary, which is partially in Flood Zone 3, the site, including all of the area to be used for infilling, lies within Flood Zone 1. Taking into account the analysis set out in the FRA, I consider that the risk of flooding associated with the proposal is very low and that the proposed mitigation measures, should a flood event happen, are appropriate. Therefore, I consider the proposal does not conflict with the requirements of Policy GEN 2 of the BDLP.

### **Land Contamination**

DDWLP Policy W6: Pollution and related nuisances states that waste development will be permitted only if the development would not result in material harm caused by contamination, pollution or other adverse environmental or health effects to people or communities, the site of the development, nearby land uses or the wider environment.

Although the applicant has included a hydrological and hydrogeological assessment that has considered land contamination, the EHO did not consider this to constitute a Phase 1 contaminated land report as it lacked a conceptual model and a comprehensive risk assessment. However, the EHO considered this could be adequately dealt with via a condition requiring the submission and approval of a scheme prior to the commencement of the development operations. I support this approach and recommend appropriate conditions below.

I consider that the risks associated with land contamination in relation to the proposal are limited and that these risks can be properly addressed through conditions requiring an appropriate assessment, together with a detailed remediation scheme. Therefore, I consider the proposal does not conflict with the requirements of Policy W6 of the DDWLP in respect of land contamination issues.

### **Landscape and Visual Impacts**

DDWLP Policy W7: Landscape and other visual impacts, provides that waste development will only be permitted if the appearance of the development would not materially harm the local landscape or townscape, and would

respect the local distinctiveness of the area; and the development would be located and designed to be no larger than necessary and to minimise the visual impact on or improve the appearance of the townscape or landscape.

Policy GEN 2 of the BDLP sets out criteria based policies relating to the impact of a development on the environment. Within these criteria it sets out a requirement for the assessment of; *“the extent of any adverse effect on the natural beauty and amenity of the land”*.

The NPPF recognises the importance of creating a high quality built environment, and the protection and enhancement of our natural environment, recognising the intrinsic character and beauty of the countryside.

The Landscape and Visual Impact Assessment (LVIA) undertaken by the applicant is considered to be a fair assessment, with the significant effects of the development predicted to be short term and experienced in locations close to the site where site activities would be clearly visible. In my opinion, following restoration, the site would ‘green up’ within a short timescale and any adverse effects would significantly reduce. The restoration scheme, as well as proposing a more sympathetic landform, proposes to recreate further grassland and woodland habitat to link to existing habitat and woodland that is proposed for retention as part of this work. I would consider this to be an appropriate design response and, in the fullness of time, would help to achieve the landscape objectives of more woodland creation and connection of existing woodland and hedgerows. In many views, the current scene would remain largely unaltered during the works and post restoration.

I consider the development is likely to have a positive effect on the local landscape and would therefore be in accordance with Policy W7 of the DDWLP and Policy GEN 2 of the BDLP.

### **Ecology and Nature Conservation**

DDWLP Policy W5: Identified interests of environmental importance, provides that waste development will be permitted only if it would not materially harm identified interests of environmental interest.

Policy GEN 2 of the BDLP sets out criteria based policies relating to the impact of a development on the environment. Within these criteria it sets out a requirement for the assessment of; *“the extent of any adverse effect upon the nature conservation interests of the area”*, and *“the extent of any damage to or removal of existing trees on or near the site”*.

The Conservation of Habitats and Species Regulations 2010 provide that a competent authority, including a planning authority must, in the exercise of any of their functions, have regard to the requirements of the Habitats

Directive. These requirements in relation to European Protected Species (EPS) are transposed into the Regulations.

The NPPF sets out in Paragraph 175 (d) that: *“development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”*

The Ecology Section of the ES is based upon a detailed Ecological Impact Assessment, which draws upon relevant botanical and habitat surveys, as well as surveys for great crested newts, reptiles, invertebrates, butterflies and water voles. I am satisfied with the approach taken to the ecological appraisal, the breadth of surveys undertaken and the methodologies employed, which all are considered appropriate.

The initial effect of the development would be the complete loss of habitats from within the application area as the existing vegetated tip slopes are reconfigured using imported materials. The site would then be restored and new vegetation established through reseedling and replanting. These works would directly affect habitats across 4ha -5ha of the site. It is important to note, however, that following the re-profiling works, the application area would be restored, and the ‘Conceptual Final Restoration’ plans show this area revegetated with a mixture of broadleaved woodland and woodland edge habitats with species rich low fertility grassland, as well as a new water body and other habitats. If this is thoughtfully planned and carefully implemented, it would offer a significant opportunity to establish habitats of ecological value within the site, and to offset the ecological damage caused at the implementation stage.

It must also be recognised that a significant proportion of the wider site – outside of the application area but across the tip site – would be retained throughout the works and beyond. This has not happened by accident, but as a result of an iterative process in which more invasive and ecologically damaging proposals were considered and rejected, and which has led to the current scheme. This is important because not only does it demonstrate a considered approach to the avoidance of ecological impacts, it would also enable the retention of the larger and more significant part of the ecological interest. As well as being valuable in its own right, this would provide a refuge for more mobile species, and provide a source of plants and animals to recolonise the restored site. On that basis, despite the initial harm caused within the application area, both the botanical and invertebrate interest can be expected to persist across the wider site for the duration of the works, and should re-establish across the whole site in the fullness of time.

Initially, the proposals would have a significant adverse effect upon the habitats and species (especially invertebrate species) within the application area, and I am aware that those assets form part of the resource across the wider site which is of at least county-level ecological significance for open mosaic habitats, dingy skipper and invertebrates more generally. However, I am satisfied that the retained habitats should ensure that a substantial part of the LWS qualifying features will remain throughout the works and beyond, and that the net ecological impact in the medium to long term should be negligible to slightly positive, if the restoration is appropriately designed and implemented as proposed.

I consider the ecological assessment to be appropriate and am satisfied that the impacts of the proposed development on the existing flora and fauna found in the site and surrounding area could be adequately mitigated by suitable conditions and a legally binding requirement for the submission of and compliance with an Ecological Management and Monitoring Plan. There are no sites with ecological statutory designations within 5 kilometres of the site and it is not considered that any further assessment under the Habitat Regulations is required.

Subject to the recommended conditions and legal agreement, I consider the development is likely to have a positive effect on the ecology and biodiversity of the area and is therefore in accordance with Policy W5 of the DDWLP and Policy GEN 2 of the BDLP.

### **Traffic and Access**

DDWLP Policy W8: Impact of the transport of waste, states that waste development will be permitted if the proposed access arrangements and the impact of traffic generated will not be detrimental to road safety.

Policy GEN 2 of the BDLP sets out criteria based policies relating to the impact of a development on the environment. Within these criteria it sets out a requirement for the assessment of; *“the amount of road traffic generated by the proposal; the type and frequency of that traffic in relation to the quality and character of the proposed access and highway system, and the extent and impact of parking facilities for that traffic”*.

The highways assessment considers that the site access route off Mill Lane has a good safety record and that the geometric layout is suitable to accommodate the HGV traffic accessing the site.

The local road network was reviewed and was found to be acceptable in terms of its safety record and also found to retain significant levels of reserve capacity, including during the peak hours of the day. It was also found that the traffic generated by the development would represent only a small part of the overall traffic and HGV volumes currently travelling along the road network.

There are no Highway objections to the proposals subject to conditions for the provision and maintenance of sight lines at the access onto Mill Lane, the location of any gates at the site entrance, and the provision of a site compound. A further requirement for HGV routeing is more appropriately dealt with via a legally binding agreement (Section 106).

Bolsover Public Footpath No.55 has a cul-de-sac within the site and would have to be temporarily closed during site operations. The applicant recognises the aspiration to link this section into the wider footpath networks following completion of the development. There are also proposals for permissive paths within the site which could also link to the wider network. There is an indicative route for a greenway adjacent to the site. Connecting the footpath, permissive paths and the proposed greenway cannot be achieved through this proposal, however, I am satisfied that it would make a significant step towards making this possible. The restoration plan includes a 'horse hop' at the access point of Footpath No. 55 onto Mill Lane, however, the Rights of Way Officer has stated that this cannot be constructed unless and until a demonstrable need for such a structure has been established. This provision can be dealt with by an appropriate condition.

Subject to the recommended conditions, I am satisfied that the effects of the proposals on the highways network would accord with the requirements of DDWLP policies WP2 and WP8 and Policy GEN 2 of the BDLP.

### **Emissions to Air, including Dust**

DDWLP Policy W6: Pollution and related nuisances states that waste development will be permitted only if the development would not result in material harm caused by contamination, pollution or other adverse environmental or health effects to people or communities, the site of the development, nearby land uses or the wider environment. The associated guidance note advises that developers should seek to demonstrate that; *"the development would not produce dust or other harmful emissions"*, and *"emit odours having an adverse impact on the health or environment of local people or communities"*, and that; *"development should not emit gases in quantities which would harm the health of people, livestock or wildlife, pollute areas of watercourses, have harmful visual impact, contribute to global warming or materially reduce the quality of life of local communities."*

Policy GEN 2 of the BDLP sets out criteria based policies relating to the impact of a development on the environment. Within these criteria it sets out a requirement for the assessment of; *"the extent of the generation of noise, vibration, smells, fumes, smoke, soot, ash, dust or grit"*.

The Dust Assessment included in the ES considers the potential air quality impacts of the development, specifically the potential of the development

proposals, to generate dust and the potential impact of this dust on sensitive residential receptors and the environment.

The Assessment provides an analysis of the potential dust emissions arising from the development and sets out a range of measures that could be implemented to ensure effective day to day dust management during site operations. The proposed mitigation measures include on site speed limits, damping down of haul roads during dry weather conditions and keeping handling operations and drop heights to a minimum.

I am satisfied that the ES has sufficiently identified all likely sources of dust emissions and acknowledge that the current and proposed mitigation measures are considered best practice, and that they would be able to control impacts associated with dust satisfactorily. In considering the proximity of sensitive ecological sites and residential properties to the site, I am satisfied that dust emissions to air would be relatively low and would not adversely affect the amenity of the area. The provision through a condition of a Dust Management Plan, as advised by the EHO, would ensure the suitable management and mitigation of dust generating activities at the site. I do not anticipate any other impacts on air quality or emissions to air that would be associated with the proposed development and am satisfied that any such emissions would be controlled by the Agency through the Environmental Permit for the site.

Taking these factors into account, I am satisfied that the proposals would be in accordance with the guidance set out in the NPPF and the NPPG, and would therefore not conflict with the requirements of Policy W6 of the DDWLP.

### **Noise and Vibration**

Policy W6: Pollution and related nuisances of the DDWLP states that; *“waste development will be permitted only if the development would not result in material harm caused by contamination, pollution or other adverse environmental or health effects to people or communities; the site of the development; nearby land uses; or the wider environment”*. The associated guidance note advises that developers should seek to demonstrate that; *“the development would not emit noise or vibration with an adverse impact on the quality of life or health of local communities and that the proposed hours of operation or other mitigation measures would minimise any impact”*.

Policy GEN 2 of the BDLP sets out criteria based policies relating to the impact of a development on the environment. Within these criteria it sets out a requirement for the assessment of; *“the extent of the generation of noise, vibration, smells, fumes, smoke, soot, ash, dust or grit”*.

Paragraph 180 of the NPPF states that planning application decisions should ensure that new development is appropriate for its location, taking into

account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, they should seek to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.

The noise impact assessment carried out on behalf of the applicant consisted of two day time noise surveys at the nearest noise sensitive receptors around the quarry at The Old Schoolhouse, Mill Lane, 6 Clowne Road, Brook Moor and Bank House Farm. These were then used to establish the current ambient noise levels in the area, and to formulate a prediction of noise from the proposed activities on site using noise prediction software. The assessment was undertaken with regard to established standards and guidelines to determine the impact of the proposed activities on the noise environment of the site, with a particular significance placed upon the potential for noise disturbance at noise sensitive receptors in the locality. A noise prediction model was formulated using worst-case total activity noise levels for each proposed phase of the operations and associated vehicle movements.

Contrary to the advice of both DCC Planning Services and the Bolsover EHO, the noise consultant's report includes assessment of observed noise levels using national guidance specifically tailored to mineral sites. Whilst Oxcroft is a former mineral site, there are no outstanding mineral planning requirements in relation to the site and the proposed operations clearly constitute waste development.

The assessment concludes that the maximum predicted noise levels at the nearest noise sensitive receptors, as a result of the proposed activities, would be in accordance with the noise standards set for mineral development under the national guidance. The assessment also includes an analysis of the second year restoration operations, which were considered to be the noisiest operations to be undertaken, against the criteria for temporary operations at a minerals site. The assessment predicted a maximum noise level at Clowne Road of 55 dB(A) for a short period whilst the most easterly area of the site was being restored.

As set out in the table below, the predicted noise levels at the identified sensitive receptors are less than 10 dB(A) above the background levels which is the criterion advocated by the national guidance for development generally applied by PPG. It is also notable that the recorded background noise levels are relatively high for a rural location, this is primarily due to noise from traffic on the M1 which runs west of the site.



Location	Highest observed background sound level	Highest predicted sound Level as a result of the development
Old Schoolhouse	49 dB(A)	52 dB(A)
6 Clowne Road	49 dB(A)	55 dB(A)
Brook Moor	49 dB(A)	49 dB(A)
Bank House Farm	62 dB(A)	45 dB(A)

The relevant national policy is that noise levels from a development should be managed, mitigated as much as is reasonably possible and should not, other than in exceptional circumstances, exceed 10 dB(A) above background levels. I am satisfied that the noise assessment has demonstrated that this can be achieved.

I am satisfied that the ES has provided a competent assessment of the noise that would be generated by the proposed development and that the proposed mitigation measures are considered best practice. In considering the proximity of sensitive noise receptors and residential properties to the site, I am satisfied that the noise generated at the site would not adversely affect the amenity of the area.

Whilst the main infilling operations are unlikely to incur any notable vibration, the breaking up of the concrete pads will result in some vibration from the use of peckers and breaking equipment. However, this would be for a short period of time and take place well within the site boundary, therefore, I do not consider the effects of vibration would be significant beyond the site boundary. The noise effects of the breaking of the concrete pads would be controlled under the noise condition for all operations.

In accordance with the advice of the EHO, I consider a condition setting maximum noise levels at identified sensitive locations would ensure that noise and vibration levels at the site would remain within acceptable parameters. Taking the above factors into account, I am satisfied that the ES demonstrates that the noise impact of the development would be within the guidance limits set out in the PPG and in accordance with the advice contained in the NPPF, and would not conflict with the provisions of Policy W6 of the DDWLP.

### **Light Emissions**

Policy GEN 2 of the BDLP sets out criteria based policies relating to the impact of a development on the environment. Within these criteria it sets out a requirement for the assessment of; *“the extent of glare and light spillage from proposed external lighting schemes on nearby residential, countryside or nature conservation areas”*.

Paragraph 180 of the NPPF states that planning application decisions should ensure that new development is appropriate for its location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should seek to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

The proposals do not include any details of lighting to be used during the development, and there may not be a need for lighting other than that fitted to plant and vehicles used in the operations. However, given the policy requirements and the potential amenity impacts associated with external artificial lighting, I consider it appropriate to impose a condition requiring the submission of a scheme should the operator wish to install lights. With this requirement, I consider the proposal would not conflict with the requirements of Policy GEN 2 of the BDLP in relation to the effects of lighting associated with the development.

### **Public Benefits of the Development**

Policy 1b; Need for the Development of the DDWLP states that; *“waste development will be permitted if the development would help to cater for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management”*. The contextual advice for the policy covers a wider range of waste development types and acknowledges that there will be *‘unique, new or unusual initiatives’* where *‘there is not a need in terms of the criteria set out above’*, and that there will also be *‘other needs’*. The current proposal is, in many ways, a unique project.

The NPPW directs that when determining waste planning applications, waste planning authorities should (*inter alia*) only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need. It also requires that waste planning authorities ensure that land raising or landfill sites are restored to beneficial after-uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.

Paragraph 170 of the NPPF sets out the key objectives that planning decisions should contribute to in conserving and enhancing the natural environment. These include remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate, and minimising impacts on and providing net gains for biodiversity, including by establishing

coherent ecological networks that are more resilient to current and future pressures.

Policy MP10 of the DDMLP is intended to secure the appropriate reclamation and after-use of newly proposed mineral sites. However, the supporting text to the policy stated that reclamation provides opportunities to achieve a high level of wider public and environmental benefits including landscape enhancement, the creation of a greater diversity of wildlife habitats and the provision of new opportunities for recreation and public access.

The issue of need in this instance is not related to determining the proposed development's suitability in relation to the needs of the local area for a particular waste management facility, but rather whether there is a need for any benefits that would be achieved as a result of the proposed development, whether those benefits would outweigh any adverse impacts associated with the development, and whether the use of waste is necessary to achieve those benefits.

I consider the proposals would clearly meet the objectives as set out in the NPPF. The development is designed to remediate a despoiled, degraded and derelict site and, through the restoration scheme, would integrate with and enhance the ecology of the wider site. The proposal is supported by this policy requirement and there would be clear environmental, landscape and amenity benefits that would result from the proposal. There would be some short to medium terms loss of habitat and biodiversity as a result of the initial infilling operations. However, I am satisfied that the design and phasing of the proposals would ensure that these would be kept to a minimum and that any adverse impacts would clearly be outweighed by the environmental, landscape and amenity benefits.

The way these benefits would be achieved would be by wrapping the steep, visually obtrusive slopes of the tip with inert wastes and soils graded out to change the form and appearance of the tip, whilst at the same time leaving the body of the tip, and the flora and fauna that exist upon it, undisturbed. This approach addresses the site owner's safety concerns together with environmental concerns relating to ecology, contamination, visual impacts and amenity. The proposal is therefore considered to be well designed and I am satisfied that the restoration of the site can only reasonably be achieved through such a design. Furthermore, I am satisfied that the use of waste materials in achieving the restoration is appropriate and would replace the use of non-waste materials (if such materials were available). Consequently, I am satisfied that this development would constitute a recovery operation both in terms of the recovery of waste materials used in the restoration and in the recovery of a previously derelict site, and that this is in accordance with the policy goals of moving waste up The Waste Hierarchy and ensuring a beneficial after-use as set out in the NPPW.

## Conclusion

I consider the design of the proposal would provide benefits and enhancements to the quality of the local landscape, ecology, and public amenity, and would facilitate the provision and enhancement of public open space. I do not consider that the proposed development would have any significant environmental or amenity impacts, or that there would be any significant effect on the environment in relation to an accumulation of the potential environmental impacts discussed above.

I am satisfied that the development would be in accordance with the NPPF, NPPW, DDWLP, and BDLP. The development would also have benefits in terms of the role it would play in helping the recovery of enabling inert waste for a useful purpose, in accordance with the objectives of the waste hierarchy and so would contribute towards sustainable waste management objectives. In conclusion, subject to the recommended conditions, I am satisfied that the proposal would not conflict with national or local planning policies and it is therefore recommended for approval.

(3) **Financial Considerations** The correct fee of £9,360 has been received.

(4) **Legal Considerations** This is an application submitted under Part III of the Town and Country Planning Act 1990, which falls to this Authority to determine as the Waste Planning Authority.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

## Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(6) **Background Papers** File No. 5.396.17  
 Application documents received from Heaton Planning on behalf of Harworth Estates Investments Limited dated 23 November 2017. Correspondence dated from November 2017 to October 2018.  
 Email from the Footpaths Officer dated 9 January 2018.  
 Email from the Friends of Oxcroft Screens dated 19 January 2018.  
 Letter from the Environment Agency dated 2 February 2018.

Email from the County Landscape Architect dated 6 February 2018.  
Email from the Flood Risk Management Team dated 12 February 2018.  
Letter from Bolsover District Council dated 18 February 2018.  
Emails from the Bolsover District Council Environmental Protection Officer dated 19 February and 5 July 2018.  
Email from Derbyshire Wildlife Trust dated 20 February 2018.  
Letter from East midlands Butterfly Conservation dated 14 March 2018.  
Email from Natural England dated 20 March 2018.  
Email from the Highways Officer dated 3 April 2018.  
Email from the County Ecologist dated 10 April 2018.

(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that, subject to:

**7.1** The prior completion of a legal agreement, to include obligations under Section 106 of the Town and Country Planning Act 1990, as amended to cover the following in association with planning application CW5/1117/69:

- Traffic routeing as set out in the application documents.
- The submission and approval of an Aftercare Management Plan setting out a landscape and ecological restoration and management plan shall be submitted to, and be approved in writing, by the local planning authority prior to the commencement of the development. The content of the Aftercare Management Plan shall include the following:
  - a) Details of the restoration methods to be used.
  - b) Details including map/s of the landform to be created.
  - c) Description and evaluation of features to be created within re-profiled landform.
  - d) Aims and objectives of management.
  - e) Appropriate management options for achieving aims and objectives.
  - f) Prescriptions for management actions.
  - g) Preparation of a management implementation schedule.
  - h) Ongoing monitoring and remedial measures, including monitoring visits and targets.
  - i) Locations of bat boxes, bird boxes and habitat piles (include specifications/installation instructions.
  - j) details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery.

- 7.2** Planning permission be **granted** for application CW5/1117/69, subject to conditions based substantially on the draft conditions set out below:

**Commencement and Duration**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Written notification of the following dates shall be sent to the Waste Planning Authority within seven days of such commencement or completion.
  - i. implementation of this permission;
  - ii. commencement of site clearance and soil stripping operations;
  - iii. commencement of the importation of inert waste;
  - iv. completion of importation of inert waste;
  - v. commencement of the restoration works; and
  - vi. completion of the final restoration (excluding aftercare).

**Reason:** The Condition is imposed in accordance with Section 91 of the Town and Country Planning Act 1990.

**Approved Details**

- 2) Except as may be required by the other conditions to this permission, the development shall take place in accordance with the details set out in the application for planning permission and the accompanying documentation registered as valid on 2 January 2018. The key application documents are set out below:
  - Application form dated 23 November 2017.
  - Drawing number O8\_LAN\_025 Site Plan.
  - Drawing number O8\_LAN\_027 Phasing Plan.
  - Drawing Number O8\_LAN\_026 Restoration Plan
  - Planning and Environment Statement & Technical Appendices November 2017.
  - Noise Assessment for Restoration of Colliery Tip at Oxcroft, Bolsover, Derbyshire R18.9255/1/4/JS dated 24 May 2018.

**Reason:** To ensure conformity with the details of the application that is approved and to clarify its scope.

- 3) A copy of these conditions, including all documents referred to in them, and any further submissions to, and approvals by the Waste Planning Authority under these conditions, shall be available for inspection at the works site office during working hours, and the terms and conditions of the permission shall be made known to any person(s) given responsibility for the management and control of operations.

**Reason:** To ensure that the site operators are fully aware of the requirements of these conditions throughout the period of the development.

#### **Duration of Works**

- 4) All operations for the importation and deposit of waste materials and the restoration and landscaping of the site (excluding aftercare), shall be completed no later than 30 months from the date of the commencement of the development.

**Reason:** To limit the impact of the site on local amenity, to ensure restoration within the timescales set out in the application.

#### **Removal of Plant and Equipment**

- 5) No later than six weeks following from the date of completion of the importation of wastes and regrading works (the date of which shall be confirmed in writing to the Waste Planning Authority as required by Condition 1 above), all buildings, machinery, plant and equipment, site compounds, security fencing, access roads and hard standings used in connection with the approved works shall be removed from the site.

**Reason:** To ensure the land is restored to a high standard.

#### **Further Schemes to be submitted**

##### **Surface Water Drainage**

- 6) No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with:
- a) The Oxcroft Colliery Tip Hydrological and Hydrogeological Assessment as Technical Appendix F of the Technical Appendices of the Planning and Environmental Statement; and
  - b) DEFRA Non-statutory technical standards for sustainable drainage systems (March 2015);

has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall then be implemented as approved.

**Reason:** To ensure that the proposed development does not increase onsite or offsite flood risk, ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Waste Planning Authority in advance of implementation of the development.

It is considered that compliance with these requirements would only be effective if the surface water drainage scheme is found to be acceptable and approved as such, prior to the commencement of the development.

### **Construction Environmental Management Plan**

- 7) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Waste Planning Authority. The CEMP (Biodiversity) shall include the following:
- a) Risk assessment of potentially damaging construction activities.
  - b) Identification of “biodiversity protection zones”.
  - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of precautionary method statements and should include reptiles).
  - d) The location and timing of sensitive works to avoid harm to biodiversity features.
  - e) The times during construction when specialist ecologists need to be present on site to oversee works (where necessary).
  - f) Responsible persons and lines of communication.
  - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person (as required).
  - h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

**Reason:** In the interests of protecting site ecology.

It is considered that compliance with these requirements would only be effective if the CEMP is found to be acceptable and approved as such, prior to the commencement of the development.

### **Site Compound**

- 8) No other development shall take place until a site compound has been established. The compound shall provide for the storage of plant and materials, site accommodation, loading, unloading of goods’ vehicles, parking of site operatives’ and visitors’ vehicles and method of prevention of debris being carried onto highway, laid out in accordance with a scheme first submitted to and approved in writing by the Waste Planning Authority. The compound shall be maintained in accordance with the approved scheme throughout the period of works.

**Reason:** In the interests of local amenity and the environment.



### **Dust Management Plan**

- 9) No development shall take place (including demolition, ground works, vegetation clearance) until a dust management plan to minimise the spread of airborne dust from the site, including any trackout, throughout all stages of the proposed development, has been submitted to and approved in writing by the Waste Planning Authority. The development shall be undertaken in accordance with the approved scheme.

**Reason:** In the interests of local amenity and the environment.

To be fully effective, a plan for the management of dust throughout the development must be found to be acceptable and approved as such, prior to the commencement of the development.

### **Environmental Protection**

#### **Site Characterisation**

- 10) No groundworks shall take place until an investigation and risk assessment (in addition to any assessment provided with the planning application) has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme shall be subject to the approval in writing of the Waste Planning Authority. The investigation and risk assessment must be undertaken in accordance with the scheme as approved by competent persons and a written report of the findings must be submitted for the approval of the Waste Planning Authority.

The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed), including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - ground waters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the waste planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the waste planning authority. The remediation strategy shall be implemented as approved.

**Reason:** In the interests of local amenity and the environment.

It is considered that compliance with these requirements would only be effective if the assessment of the potential contamination of the site has been carried out, found to be acceptable and approved as such, prior to the commencement of the development.

### **Contamination Remediation Scheme**

- 11) In the event of the discovery of contamination on the development site, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, shall be submitted for the approval in writing of the Waste Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**Reason:** In the interests of local amenity and the environment.

### **Implementation of Approved Remediation Scheme**

- 12) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Waste Planning Authority. The Waste Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Waste Planning Authority.

**Reason:** In the interests of local amenity and the environment.

It is considered that compliance with these requirements would only be effective if the remediation scheme for the site, if triggered by Condition 11, has been found to be acceptable and approved as such, prior to the commencement of the development.

### Reporting of Unexpected Contamination

- 13) In the event that contamination is found at any time, when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Waste Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 10, and where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of Condition 11, which is subject to the approval in writing of the Waste Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Waste Planning Authority in accordance with Condition 12.

**Reason:** In the interests of local amenity and the environment.

### Importation of Soil

- 14) *NB at the time of writing, it is uncertain whether it is necessary to include the 'inert materials' element of this draft condition as indicated by the words shown in it in italics. If a grant of permission subject to conditions is authorised, this issue will be resolved as part of the finalising of the wording for the conditions under the decision notice.*

No importation to the site of *inert materials* or soils for infilling or landforming shall take place until a scheme for assuring the physical and chemical suitability (including freedom from potential land contaminants) of all soils *and materials* to be imported, and which shall include measures for:

- taking of representative samples at source
- analysis of samples in a laboratory accredited under the MCERTS Chemical Testing of Soil Scheme,
- identification of relevant parameters (including parameters regarding phosphate and potassium composition and pH values *for soils*)
- avoiding importations to the site of *inert materials* or soils which are not from suitable sources

has been submitted to the Waste Planning Authority and such a scheme has been approved by the Waste Planning Authority

The scheme as approved in accordance with the condition shall be adhered to respect to all *inert material and* soil importation associated with the development hereby approved.

**Reason:** In the interests of local amenity and the environment.

### Environmental Protection

- 15) All rubbish, scrap and waste material either found or generated on the site shall be stored in clearly marked areas or containers until such time as it can be removed to a facility which holds an appropriate Environmental Permit.

**Reason:** In the interests of protecting the environment and the amenity of the surrounding area.

- 16) There shall be no burning of waste at the site.

**Reason:** In the interests of protecting the environment and the amenity of the surrounding area.

- 17) No external lighting shall be installed unless details have been submitted to and approved in writing by the Waste Planning Authority. The scheme shall then be implemented as approved.

**Reason:** In the interests of protecting the environment and the amenity of the surrounding area.

- 18) Any oil, fuel, lubricant and other potential pollutants shall be handled on the site in such a manner as to prevent pollution of any watercourse or aquifer. For any liquid other than water, this shall include storage in suitable tanks. All facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of each bunded compound shall be at least equivalent to the capacity of the tank and associated pipework plus 10%. If there is multiple tankage within a bund, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels and associated pipework plus 10%. All filling and emptying points, associated valves, vents, tank overflow outlets, pipework, gauges and sight glasses shall be located within the bund or have separate secondary containment. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund. There shall be no drain through any bund floor or walls. The drainage system of each bund shall be sealed with no discharge to any watercourse, land or underground strata.

**Reason:** To ensure that the development does not have an adverse impact on local amenity.

### Hours of Working

19) No work at the site shall take place outside the following hours:

- (i) 0800 hours to 1800 hours Mondays to Fridays.
- (ii) 0800 hours to 1300 hours on Saturdays.

No work at the site shall take place on Sundays or Public Holidays except by agreement with the Waste Planning Authority.

Any equipment which needs to be operated outside the hours specified above shall be acoustically screened.

**Reason:** In the interests of local amenity and the environment.

### Noise

20) Sound levels emitted from the site shall not exceed the 'Predicted Worst Case Site Noise Levels' (dB LAEQ 1hr) (free field), as set out in the table below when measured at or calculated to the boundary of the noise sensitive receptors set out below.

Location	Maximum Noise Level
Old Schoolhouse	52 dB(A)
6 Clowne Road	55 dB(A)
Brook Moor	49 dB(A)
Bank House Farm	45 dB(A)

**Reason:** In the interests of local amenity and the environment.

21) During the construction period, best practical means, as defined in Section 72 of the Control of Pollution Act 1974, shall be employed at all times to reduce noise (including vibration) to a minimum. All recommendations and good practice, as detailed in British Standard BS5228-1: 2009 Code of Practice, for noise and vibration control on building sites shall be implemented and complied with.

**Reason:** In the interests of local amenity and the environment.

22) Efficient silencers shall be fitted to, used and maintained in accordance with manufacturers' instructions, on all vehicles, plant and machinery used on the site. Except for the purposes of maintenance, no machinery shall be operated with covers open/removed.

**Reason:** To control the impact of noise generated by the development in the interests of local and residential amenity.

- 23) The reversing warning system on all vehicles on the site, and visiting the site, shall not emit a noise that would have an adverse impact on local or residential amenity. Reversing warning devices shall be non-audible, ambient related or low tone devices.

**Reason:** To control the impact of noise generated by the development in the interests of local and residential amenity.

### **Ecology - Protected Species**

- 24) No site clearance or construction work shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a careful, detailed assessment of the site for active birds' nests immediately before work is commenced and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. The written confirmation shall be submitted to the Waste Planning Authority within seven days of the assessment.

**Reason:** To protect nesting birds.

- 25) Throughout the development and when clearing vegetation from around the site, reasonable care shall be taken to ensure that any reptiles present are not injured or killed. If at any time during the development any reptile is found within the area of development, a suitably qualified ecologist shall supervise the protection and removal of reptiles. No further works to the area of the site where the reptile was discovered may be undertaken unless supervised by a suitably qualified ecologist.

**Reason:** To protect any reptiles that may be present within the site.

### **Highways Safety**

- 26) Prior to any other works commencing, the access onto Mill Lane shall be provided with visibility sightlines of 2.4 metres x 215 metres. The area forward of the sightlines shall be cleared, and maintained throughout the life of the development clear, of any obstruction exceeding 600mm in height relative to the nearside carriageway edge.

**Reason:** In the interests of highway safety.

- 27) Any gates shall be set back at least 10 metres into the site from the highway boundary and open inwards only.

**Reason:** In the interests of highway safety.

- 28) The 'Horse Hop' detailed on Drawing Number O8\_LAN\_026 Restoration Plan shall not be installed until such time as the Council's Rights of Way Officer may notify in writing to the developer.

**Reason:** In the interests of highway safety.

- 29) No mud, debris or other dirt shall be carried from the site on to the public highway.

**Reason:** In the interests of highway safety.

### **Restoration Plan**

- 30) The site shall be restored in accordance with the submitted Restoration Plan reference OB\_LAN\_026.

**Reason:** To ensure the restoration of the site and successful establishment of landscaping and ecological enhancements.

### **Premature Cessation of Site Works**

- 31) In the event of the development hereby approved being discontinued, within three months of receiving written notification from this Authority, a scheme for the restoration and treatment of the site as so left and all other operational areas associated with the site shall be submitted to the Waste Planning Authority. The scheme, as approved by the Waste Planning Authority, shall be commenced within three months of the date of notification of determination of the scheme and shall be fully implemented within a further period of six months or such period as may be approved in writing by the Waste Planning Authority.

**Reason:** To secure the full restoration of the site in the event of the development ceasing prematurely.

### **Statement of Compliance with Article 35 of the Town and Country Development Management Procedure Order 2015**

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant engaged in pre-application and post application discussions and meetings with relevant officers in the Authority, prior to the submission of the application.

In accordance with Section 100ZA of the Town and Country Planning Act 1990, as amended and the Town and Country Planning (Pre-Commencement Conditions) Regulations 2018 ('the Regulations'), the applicant has been provided with a draft schedule of the conditions attached to this report. The schedule includes pre-commencement conditions, requiring the submission of detailed schemes relating to surface water drainage, dust management,

potential contamination and a remediation strategy prior to the development commencing. In accordance with regulation 3(a) of the Regulations, the applicant has provided a substantive response to the effect that they agree with the imposition of this pre-commencement condition.

### **Footnotes**

- 1) Pursuant to sections 149 and 151 of the Highways Act 1980, steps shall be taken to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.
- 2) The application site is affected by a PRow (Public Footpath No. 55 in the Parish of Bolsover, as shown on the Derbyshire Definitive Map). The route must remain unobstructed and on its legal alignment at all times and the safety of the public using it must not be prejudiced either during or after development works take place. Further advice can be obtained by calling 01629 533190.
  - Please note that the granting of planning permission is not consent to divert or obstruct a PRow.
  - If it is necessary to temporarily obstruct a right of way to undertake development works then a temporary closure is obtainable from the County Council. Please contact 01629 533190 for further information and an application form.
  - If a right of way is required to be permanently diverted then the Council that determines the planning application (The Planning Authority) has the necessary powers to make a Diversion Order.
  - Any development insofar as it will permanently affect a PRow must not commence until a diversion order (obtainable from the planning authority) has been confirmed. A temporary closure of the PRow to facilitate public safety during the works may then be granted by the County Council.
  - To avoid delays, where there is reasonable expectation that planning permission will be forthcoming, the proposals for any permanent stopping up or diversion of a public right of way can be considered concurrently with the application for proposed development rather than await the granting of permission.

**Mike Ashworth**  
**Strategic Director – Economy, Transport and Environment**



## Location Plan

