



**FOR PUBLICATION**

**DERBYSHIRE COUNTY COUNCIL**

**REGULATORY - PLANNING COMMITTEE**

**5 December 2022**

**Report of the Executive Director of Place**

**Application under Section 73 of the Town and Country Planning Act 1990 to Not Comply with Conditions 3, 4, 6, 9, 10 and 18 of Planning Permission Code No. CW5/0218/89 in Order to Extend the Duration of the Permission for the Importation of Inert Waste on Land at Creswell Colliery Lagoons, Frithwood Lane, Creswell  
Applicant: Welbeck Estates Company Limited  
Code No: CW5/1121/24**

**5.5373.4**

## **1. Introductory Summary**

- 1.1 The applicant, Welbeck Estates Company Limited, is the owner and operator of the Creswell Lagoons site and is seeking to extend the duration of the temporary period for tipping of inert waste in the restoration of the former Creswell Colliery lagoons and settlement ponds to agriculture and nature conservation.
- 1.2 The existing planning permission (code no. CW5/0218/89) for the site anticipated a completion date of 31 July 2023. This application seeks a new permission that would not be subject to planning conditions 3, 4, 6, 9, 10 and 18 to that existing planning permission, to allow a further two years of tipping and restoration at the site. Amenity and landscape impacts have been considered and no significant adverse impacts are identified. Highway impacts are addressed to the satisfaction of the Highway Authority. The proposal is considered to comply with development plan policies in the Bolsover Local Plan and the Derby and

Derbyshire Waste Local Plan. The application is recommended for approval subject to planning conditions.

## **2. Divisions Affected**

2.1 Bolsover North.

## **3. Purpose**

3.1 To enable the application to be determined by the Regulatory Planning Committee.

## **4. Information and Analysis**

### **The Site**

- 4.1 The site of the development is 16.03 hectares (ha) in area and is situated between Frithwood Lane to the west and the A616 Mansfield Road to the east. It is located to the south of Creswell village and represents the smallest colliery spoil tip site associated with the former Creswell Colliery and the only one which remains unrestored. It is roughly rectangular in shape and slopes generally from north to south in a two-tier fashion of broadly 5 metres (m) falls. The highest point is stated as 100m Above Ordnance Datum (AOD) and falls to 90m AOD at the lowest point on the southern boundary. The northern edge of the tip slopes down towards the Model Village area of Creswell.
- 4.2 During the 1990s, nine water storage lagoons were created on the site and then used for the storage of mine water. Six of these have since been infilled by pushing the surrounding embankments into the voids. This created a northern plateau on an open area, featuring scattered vegetation and concrete structures which show the location of the former lagoons. The other three storage ponds remain in place on the lower plateau but, since pumping associated with the colliery mine(s) in the area has ceased, these are now predominantly dry basins.
- 4.3 Areas to the immediate south, south-east and east of the site contain other former tips now restored to pastoral fields with new hedgerows. A length of Frithwood Lane, which is included in the site as the means of access and egress, extends to the east over a railway bridge crossing the Robin Hood line, and further east beside areas of restored tip land containing solar panel development on either side of the lane, and a sewage treatment works. Frithwood Lane was historically a highway maintainable at public expense throughout its length, but this section was extinguished as a highway by legal order, to enable mineral development at other parts of the former colliery. A Section 106

agreement of 1996 in relation to development of other former colliery tips includes an obligation, which remains undischarged following their restoration, for completion of an agreement with the Council, as Highway Authority, under Section 25 of the Highways Act 1980, for formal re-dedication of this length of the lane as a bridleway. It now appears that such an agreement should include Network Rail because this section of lane traverses the Robin Hood line over a bridge in its ownership. However, works for the reinstatement of the lane as a bridleway were carried out in the early 2000s and it has since then been used freely by members of the public for walking, cycling and riding. Therefore, it is considered to have become re-established as a bridleway, without having been adopted as maintainable highway.

- 4.4 Bordering the site to the west is a former railway line which is now used as a cycle route. To the west and south-west lies agricultural land and the closest residential properties at Frithwood Farm. To the north is an area of reclaimed colliery land on which it is proposed to construct some 180 new dwellings, green space and employment land.
- 4.5 The Creswell Village and Model Village Conservation Area boundary is located approximately 250m to the north of the site boundary. New residential development is underway and proposed between the site and Creswell Village.
- 4.6 The closest part of the Creswell Crags Conservation Area is located approximately 750m to the north-east. The Creswell Crags Site of Special Scientific Interest (SSSI) is located approximately 1.2 kilometres (km) to the north-east. Creswell Crags is also a Scheduled Ancient Monument of interest for its Palaeolithic and later prehistoric remnants. Hollinhill and Markland Grips SSSIs are located approximately 1.7km to the north-west; the application site is located within the SSSI Impact Risk Zone (IRZ). The site is also fringed by two potential Local Wildlife Sites (LWS), 'Creswell Railway Line' to the west and 'Frithwood Farm Grassland Verge' to the south of the site.

### **Planning History**

- 4.7 As background history, Creswell Colliery was established prior to 1898. Spoil from the colliery was deposited on five tip areas, initially to the south of the colliery and, by 1955, spoil was being deposited to the east of the railway line. The application site was formerly part of tip areas 4 and 5. Creswell Colliery closed in 1991 and following its closure, a mine water pumping system was constructed on the site of tips 4 and 5, which involved the construction of six new water treatment lagoons and the re-use of three existing ones, to protect other collieries, then still operating in Nottinghamshire, from rising mine water. At the time, the

mine water pumping system was developed as permitted development under the provisions of Schedule 2, Part 20, Class E of the Town and Country Planning (General Permitted development) Order 1988, subject to the approval of the Mineral Planning Authority.

- 4.8 It is understood that mine water pumping ceased prior to 2012. In 2015, the pumping equipment was removed, the remaining surface buildings were demolished and regrading works to infill the six northerly lagoons were undertaken for health and safety reasons (also as permitted development). The land has reverted to Welbeck Estates Company Limited, together with any ongoing liability for the site.
- 4.9 An application for planning permission (code no. CW5/0218/89) for the restoration of the former colliery lagoons and settlement ponds to agriculture and nature conservation, through the importation of 231, 000 tonnes of inert waste, was approved at the 6 August 2018 Regulatory Planning Committee for a grant of permission subject to conditions (Minute No. 54/18 refers). The development authorised under this permission, commenced on site on 27 January 2020. The development was permitted for a temporary period, with works (including final soiling, landscaping and site clearance) required to be completed by 27 July 2023 in accordance with an approved work programme. The purpose of the development is to restore the site to a state which would enable beneficial uses of the land and, in so doing, address concerns regarding the health and safety implications of leaving the site in its current condition and address the unsightly landform.

### **The Proposal**

- 4.10 This application is submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and is seeking a new permission that would not be subject to conditions 3, 4, 6, 9, 10 and 18 to permission CW5/0218/89, to allow a further two years for infilling and restoration at the site and the use of the shorter direct access from the residential site being developed to the north for importation of inert wastes arising at the housing development.
- 4.11 The applicant is seeking further time to complete the development as works were suspended during the Covid-19 pandemic. The applicant does not now consider it to be realistic to be able to complete the development within the approved timescale.

### **Condition 3**

- 4.12 Condition 3 required the submission and approval of a Work Programme, which included dates for the starting and completion of each distinct part of the development and dates for further schemes to

be submitted. A Work Programme submitted under this condition was approved in March 2019. The programme was later revised through the approval of a non-material amendment application in October 2019; the approved programme of works is now set out in programme document 8D1. The applicant now wishes to substitute this programme with programme document 8F2, which amends the dates in the programme in line with the proposed two year extension to the duration of the permission.

#### **Condition 4**

- 4.13 Condition 4 relates to the duration of the permission and requires operations to cease no later than the date which is the third anniversary of the date of commencement with a further six months permitted to clear the site of all plant, machinery, equipment, waste, other stored materials, and other equipment associated with the operations. Waste operations are thereby currently required to cease on 27 January 2023, with the site cleared by 27 July 2023. The applicant is seeking to extend this duration by a further two years.

#### **Condition 6**

- 4.14 Condition 6 sets out the approved plans and documents that the development must be carried out in accordance with. A Section 73 permission in accordance with this application would need to be subject to a replacement for this condition that would incorporate the appropriate replacement, updated, or amended documents that have been submitted with the Section 73 application.

#### **Condition 9**

- 4.15 Condition 9 relates to site contamination and requires the submission of an investigation and risk assessment within timescales that would have been imposed through the existing approved working programme 8D1 and would require the submission of site characterisation and remediation (if necessary) reports in 2022. As a result of the works on the site being delayed, the updated Work Programme, for which approval is sought, requires submission of these reports in March and April 2025. The application is therefore seeking to amend the requirements of this condition.

#### **Condition 10**

- 4.16 Condition 10 also relates to the potential for land contamination and requires the submission of a remediation scheme, if necessary, within timescales that would have been imposed through the existing approved working programme 8D1. Similar to Condition 9 above, the application is seeking to amend the requirements of this condition to reflect the new proposed timescales.

### **Condition 18**

- 4.17 Condition 18 restricts vehicular access to the site to via the junction of Frithwood Lane within the A616 (Mansfield Road), except for some exceptional loads that were identified in the Construction Traffic Management Plan. The Gleeson Homes planning permission, granted by Bolsover District Council, for the adjacent housing development has been amended to allow waste soil material to be directly imported and placed on the lagoons site. Derbyshire County Council also granted a non-material amendment application in respect of the approved development (NMA/0620/71) in June 2020 which allowed 6000m<sup>3</sup> of excavated soils to be transferred directly from the housing site to the lagoons. This Section 73 application now seeks to amend the restrictions of Condition 18 to allow movements of material internally from the adjacent housing development site that avoids the use of the highway network as such times as material is available for the remaining duration of the development.

### **Environmental Statement**

- 4.18 The original application was accompanied by an Environmental Statement (ES). The applicant has submitted an addendum to the ES providing updated information in respect of ecology, highways, hydrology and drainage, landscape and visual, noise and air quality impacts from the proposed extension of the duration of the permission. The Addendum Environmental Statement (AES) concludes that there will continue to be no significant adverse impacts from the proposals, as revised, with positive beneficial impacts in the long term.

### **Consultations**

#### **Local Member**

- 4.19 Councillor Yates was consulted and has no objections.

#### **Bolsover District Council - Planning**

- 4.20 No objection.

#### **Bolsover District Council - Environmental Health Officer**

- 4.21 The Environmental Health Officer (EHO) was consulted and provided a “no comments” response.

#### **Elmton with Creswell Parish Council**

- 4.22 The Parish Council commented “*the Council have no comments to add to the request other than the sooner it is completed the better, and approve the application progress.*”

### **Highway Authority**

- 4.23 Derbyshire County Council, in its statutory role as Highway Authority, had no objections. It reviewed the proposals in reference to comments previously provided for the existing permission and raised minor queries in relation to the proposed changes to the condition controlling access to the site. These queries were subsequently clarified to the satisfaction of the Highway Authority subject to an informative note in relation to wheel washing facilities.

### **Public Rights of Way**

- 4.24 The Public Rights of Way Section has been consulted and advises that Elmton and Creswell Public Footpath No.10 runs close to the proposed development site but should not be affected. Elmton with Creswell Public Footpath No.5 and No.21 connect to the access road, Frithwood Lane. In addition, the Frithwood Trail runs along the western boundary of the site and is well used. The Section has no objection to the proposals as it appears that the routes will be ultimately unaffected by the proposed works. The Section request that the applicant is advised of the following:

- The paths must remain open, unobstructed and on their legal or current alignments, as applicable.
- There should be no disturbance to the path surfaces without prior authorisation from the Rights of Way Section.
- Consideration should be given to the safety of members of the public using the paths during the works, particularly where they emerge onto Frithwood Lane. A temporary closure of paths will be permitted on application to the Council where the path(s) remain unaffected on completion of the development.
- There should be no encroachment of the paths, and no fencing should be installed without consulting the Rights of Way Section.

### **Environment Agency**

- 4.25 The Environment Agency (EA) has been consulted and raised no objections to the application but provided a number of informative comments to be drawn to the applicant's attention, which are set out in the Informative section of the report.

### **Network Rail**

- 4.26 Network Rail (NR) was consulted but provided no response.

### **Natural England**

- 4.27 Natural England (NE) was consulted and raised no objection and commented *“Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.”*

**The Coal Authority**

- 4.28 The Coal Authority (CA) was consulted and considers that the response necessitates a “Material Consideration”. The CA goes on to say that the site does not fall within the defined Development High Risk Area and is located within the defined Development Low Risk Area. The CA recommends that, if granted planning permission, the CA’s Standing Advice is attached to the Decision Notice as an informative to the applicant in the interests of public health and safety.

**Derbyshire Wildlife Trust**

- 4.29 Derbyshire Wildlife Trust (DWT) provides the following comments: *“the application seeks to extend the duration of the permission for the importation of inert waste for a period of up to two years. Whilst this will delay the restoration of the site for agriculture and nature conservation it does not necessarily result in any additional impacts on biodiversity as far as we are aware. Section 5.22 of the addendum to the Environmental Statement therefore seems to be a reasonable assessment of the proposed variation on ecology. Provided the landscape and biodiversity enhancement scheme is fully implemented after the extension, the site should still be able to deliver the biodiversity benefits previously envisaged and agreed.”*

**Bolsover Countryside Partnership**

- 4.30 Bolsover Countryside Partnership (BCP) did not provide a response.

**Severn Trent Water Ltd**

- 4.31 Severn Trent Water Ltd (STW) Asset Strategy and Planning provided the following comments:

*“Planning Practice Guidance and Section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse available, as an alternative another sustainable method should be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to a public sewerage system is considered.*

*Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the*



*Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website ([www.stwater.co.uk](http://www.stwater.co.uk)) or by contacting our Developer Services Team (Tel: 0800 707 6600).*

- 4.32 STW provided a suggested informative note to the applicant which is detailed in the Informative section of this report.

### **Publicity**

- 4.33 The application has been advertised by site and press notice on 28 July 2022 on and near to the site and in the Derbyshire Times. Comments were requested by 28 August 2022.

- 4.34 One representation has been received raising the following matters:

- debris left on the road from lorries;
- most lorries do not have covers;
- noise at 07:30am from lorries “bouncing” on the two mini roundabouts and sleeping policemen;
- lorries carrying waste which use the B6042 as a short cut which has a 7.5 ton restriction on it; and
- *“In the winter months Frithwood Lane becomes a mud track and that mud is then deposited onto the A616 in the past I have had to contact Cawood to ask that a road sweeper is used to clear the mess, I shouldn't have to do this it should be done automatically and regularly.”*

- 4.35 The concerns, where they raise material planning considerations, are addressed throughout the report.

### **Planning Considerations**

- 4.36 Section 38(6) Planning and Compulsory Purchase Act 2004 states that determination must be made in accordance with 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) (2005) and the Bolsover Local Plan (BLP) (2020). Other material considerations include national policy, as set out in the 2021 National Planning Policy Framework (NPPF), and associated Planning Practice Guidance (PPG), the Waste Management Plan for England (WMPE) (2021) and the National Planning Policy for Waste (NPPW) (2014).

4.37 Whilst the original planning application (CW5/0218/89), granted in August 2018, pre-dated the adoption of the BLP, relevant planning policy documents largely remain as that which were considered under the previous planning permission. The NPPF was revised in 2019 and again in 2021 and the WMPE has also been updated, however, it is not considered that the content of these revisions are of particular relevance to this application.

### **The Development Plan**

4.38 Relevant planning policies in the DDWLP (2005) include:

W1b: Need for the Development.  
W2: Transport Principles.  
W4: Precautionary Principle.  
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 Impact.  
W11: The Need for Landfill.

4.39 Relevant policies in the BLP include:

SC8: Landscape Character.  
SC9: Biodiversity and Geodiversity.  
SC10: Trees, woodland and Hedgerows.  
SC11: Environmental Quality (Amenity).  
SC12: Air Quality.  
SC14: Contaminated and Unstable Land.  
ITCR2: The Multi-User Trails Network.  
ITCR3: Protection of Footpaths and Bridleways.

4.40 Relevant paragraphs in the NPPF include:

Chapter 2: Sustainable development.  
Chapter 6: Building a strong, competitive economy.  
Chapter 11: Making effective use of land.  
Chapter 12: Achieving well-designed places.

4.41 The relevant parts of the PPG include:

- Air Quality.
- Noise.

- Transport Assessments.
- Statements.

### **Need for and Principle of the Development**

- 4.42 Planning permission has previously been granted by this authority for infilling and restoration of this site using imported inert waste materials. The principle of the development is therefore established, having been assessed against the provisions of the development plan and Government guidance in force at the time. There has been an update to local plan policy and Government guidance since the determination of the original application as described above. The new policies of the BLP are noted and will be considered where relevant in the assessment of the proposal.
- 4.43 The need for the wider development has been previously assessed and has been accepted in consideration of the previous application. The key questions that need to be considered now are whether there is a need to increase the approved limited duration of the development by two years, together with the consequential proposed amendments to the conditions, and whether the impacts of these proposed changes significantly differ to what has previously been assessed.
- 4.44 The applicant has stated that the importation of waste material was affected by the Covid-19 pandemic and works were suspended on site soon after commencement, due to the pandemic. The applicant considers that this impact presented extenuating circumstances in which the ability to undertake the works has been severely impacted. The applicant states that it is evident that achieving all the required works within the original timescales, with importation completed by January 2023 and a further six months landscaping period as currently approved, is no longer realistic. There is also the requirement for material in the north-western corner of the site to be moved into the void, and much of this cannot take place since approved tree clearance for landscape screening could not take place before September 2022. Combined, these issues necessitate the extension of time request.
- 4.45 Whilst in principle these changes would appear acceptable and justified in order to complete the works, it is desirable that the site restoration is completed in order to bring the land into beneficial use, the potential environmental impacts which may occur, as a result of the changes, must be considered further and be assessed against relevant planning policy.
- 4.46 The original application was supported by an ES and the potential environmental and amenity impacts of the development were assessed,

mitigation measures were proposed and planning conditions imposed to reduce those identified impacts where required. The applicant has provided an AES providing updated environmental information in relation to the proposed amendments to the development.

- 4.47 Consideration of the potential impacts identified in the AES and any cumulative impacts from the development are considered further below.

### **Amenity and Environmental Impacts**

#### **4.48 Ecology**

The site has previously been assessed as being of some ecological interest and this has been impacted on by the development commenced on this site, which was accepted in the planning balance when the original application was approved. However, this impact is to be compensated for through the restoration scheme, which provides for ecological enhancement, and there is an approved Landscape and Ecological Management Plan (LEMP) which provides for its long term management and is secured through a planning condition.

- 4.49 The proposed extension of time would increase the period over which negative ecological impacts would be present, however, they would be temporary and would continue to be managed through the mitigation measures that are in place. As such, I do not consider that the extension of the duration of the development would significantly impact further upon the sites ecological interest which has already been negatively impacted upon.

- 4.50 The AES concludes that, upon completion of the development, it has been assessed that the development will have an overall 'positive' impact and any impacts seen during construction will be either reduced or neutralised.

- 4.51 The development will continue to deliver some ecological benefits after completion, the extended duration of the development does not present any significant ecological concerns. Furthermore, the LEMP that was required to be submitted under a planning condition attached to the original planning permission has now been approved and this will secure the beneficial long term management of site. I am satisfied that the development, as proposed to be amended, would accord with the NPPF, the NPPW, Policy W5 of the DDWLP and Policy SC9 of the BLP in respect of ecology.

### **Landscape and Visual Impacts**

- 4.52 Policy W7 of the DDWLP is concerned with landscape and visual impact.
- 4.53 Policy W7 of the DDWLP states *“Waste development will be permitted only if: the appearance of the development would not materially harm the local landscape or townscape and would respect the character and local distinctiveness of the area; and the development would be located and designed to be no larger than necessary and to minimise its visual impact on or to improve the appearance of the townscape or landscape.”*
- 4.54 The relevant sections of Paragraph 130 of the NPPF states, “Planning policies and decisions should ensure that developments:
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities) ...”
- 4.55 The potential for landscape and visual impacts associated with the development was previously assessed and found to be acceptable during the determination of planning application CW5/0218/89. Overall, I do not consider that the proposed extended duration of the restoration works would significantly alter that conclusion. The applicant has not proposed any amendments to the nature of the restoration scheme or the restoration landform and, in that respect, I am satisfied that the impacts would remain as previously assessed.
- 4.56 I am, however, aware that a number of the dwellings constructed under Bolsover District Planning Permission 18/00087/OUT have been completed and are now in occupation. The remainder of that scheme is still under construction. There is some potential for visual impacts to arise as a result of the proposed extension of time, particularly for the occupants of these new dwellings. Such impacts are likely to arise both from the development under consideration here, as well as in cumulation with the ongoing construction works. The AES indicates that, in the short term, extending the construction timescales would result in a slight increase in the duration of the adverse visual impacts, although this was considered temporary and unlikely to alter the long term overall visual impacts of the completed scheme which are ‘none’ and, in time, ‘slight beneficial’. I concur with this assessment of the likely impacts and am satisfied that the proposal would accord with the

requirements of Policy W7 of the DDWLP and the relevant section of the NPPF in terms of landscape and visual impacts.

### **Hydrology and Drainage**

- 4.57 The potential impacts to hydrology and flooding from surface water associated with the development was previously assessed and found to be acceptable during the determination of planning application CW5/0218/89.
- 4.58 The applicant has provided an update to that assessment in the AES which acknowledges there is a potential risk of flooding in adjacent areas to the site from the development and the extension of the duration of the development would extend the period within which these adverse impacts may occur. Mitigation measures implemented throughout this stage, however, reduce the potential impact to 'negligible' during works. The assessment concludes that the impact upon completion would be 'positive'. The increase in the timeframe is not considered to alter the overall long-term benefits and 'positive' impact of the development.
- 4.59 Overall, I do not consider that the proposed extended duration of the works would significantly alter that conclusion. The applicant has not proposed any amendments to the drainage scheme or the restoration landform and, in that respect, I am satisfied that the impacts would remain as previously assessed. I am satisfied that the proposal would accord with the NPPF, the NPPW, Policy W6 of the DDWLP and Policy SC11 of the BLP in this regard.

### **Noise**

- 4.60 Appendix B of the NPPW is concerned with general environmental impacts from waste development, which require consideration of noise impacts. Policy W6 of the DDWLP and Policy SC11 of the BLP are similarly concerned with the potential impacts from noise.
- 4.61 The AES states that noise impact has been assessed from two perspectives, from operations on-site during construction and from the road traffic generated by delivery of materials. The impacts from on-site operations were experienced at receptors to the south-west of the site, resulting in a 'negligible' impact that is not considered by the applicant to be significant. There is no predicted increase in the noise generated by vehicle movements. The extension of the duration of the development would temporarily increase the time in which there is an impact from increased noise on-site. The applicant's assessment concludes that this is temporary and, overall, the associated noise impact is considered to remain 'negligible'.

- 4.62 I would agree with the applicant's conclusion that whilst the impacts of noise would be experienced over a longer duration, any impacts would be of the same nature to what was previously assessed, which were found to be acceptable. Construction has commenced on the new housing development to the north of Colliery Road in Creswell since the original application was approved, however, the closest residential receptors remain those properties off Frithwood Lane. Movements of waste arisings directly to the site from the housing development to the north may cause some noise disturbance to the residents of the already occupied new dwellings, however, movements of waste would need to occur regardless and this would likely be by road transport. Moving directly may therefore have a positive impact.
- 4.63 There is an approved Noise Management Plan (NMP) for the site, subject to a condition requiring on going compliance with the agreed NMP. I am satisfied that the proposal would accord with the NPPF, the NPPW, Policy W6 of the DDWLP and Policy SC11 of the BLP in this regard. No significant noise impacts are likely to result as a consequence of the extension of duration the development.

#### **Air Quality and Dust**

- 4.64 Appendix B of the NPPW, Policy W6 of the DDWLP and Policy SC11 of the BLP are also relevant to the consideration of air quality and dust.
- 4.65 The AES provides as assessment of the potential impact on air quality as a result of the proposed amendments to the scheme. It concludes that any impact on air quality would only take place throughout the construction period and therefore the extension of the duration would extend the timeframe that the impacts are experienced. Nonetheless, these impacts are assessed as 'negligible' and not significant.
- 4.66 Air quality and dust impacts were taken into consideration during the processing of the original planning application and conditions were imposed in respect of dust management. A Dust Management Plan (DMP) has been approved under a condition of the previous permission.
- 4.67 The EHO and the EA were consulted on this application and raised no objections or concerns in respect of air quality and dust.
- 4.68 I am satisfied that the proposed change to the development would be unlikely to result in any unacceptable and significant impacts in regard to air quality and dust emissions. The development is therefore considered to be in accordance with the NPPF, the NPPW, Policy W6 of the DDWLP and Policy SC11 of the BLP. A condition is recommended

to require compliance with the approved DMP for the remainder of the development.

### **Transport of Waste and Highway Impacts**

- 4.69 Policy W8: Impact of the Transport of Waste in the DDWLP (2005) and Policy ITCR3: Protection of Footpaths and Bridleways of the BLP (2020) seek to ensure that development proposals can demonstrate adequate access, do not generate unacceptable levels of traffic on the local highway network and ensure road safety is maintained, as well as protecting footpaths and bridleways for public use.
- 4.70 The AES provides an assessment of the impact of the transport of waste on the highway from the development as proposed to be amended by this application. It is concluded that the development, as amended, would continue to have an overall 'Negligible' impact. The proposed amendment to Condition 18, to allow internal movements of material from the adjacent housing scheme, avoids the highway network and is not considered to create additional adverse environmental effects. These internal movements that avoid the highway network would be a more sustainable option.
- 4.71 The potential for highway impacts associated with the development was previously assessed and found to be acceptable during the determination of planning application CW5/0218/89. Overall, I do not consider that the proposed extended duration of the restoration works or permitting movements of material from the adjacent housing site would significantly alter that conclusion.
- 4.72 The representation made does refer to highway matters. These relate to debris left on the road by lorries using the site, lorries being unsheeted, road traffic noise in early morning, using the B6042 as a short cut which has a 7.5 ton restriction on it and mud being dragged out from the site onto the A616.
- 4.73 The proposed development would take place using the existing site access which is suitable for HGV movements apart from exceptional loads and inert waste directly from housing development sites to the north of the lagoons site. The proposal would not result in any increase of HGV movements to/from the site which can be accommodated on the local highway network and is not considered to give rise to any adverse impacts upon road safety. The Highway Authority has not received any formal complaints regarding the causes of concern expressed in the representation. The applicant has confirmed that a road sweeper is available daily and regularly cleans the A616 near the site entrance at



Frithwood Lane. Monitoring reports have not identified any issues regarding noise, mud on road and sheeting of vehicles, nor is the planning authority aware of any breaches in the route taken by hauliers or from users of the public footpath network.

- 4.74 The Highway Authority, is satisfied that the proposed development is acceptable, subject to an informative, and raises no objection.
- 4.75 I am satisfied that any transport impacts are capable of being mitigated by the existing environmental and transport conditions in place. As such, it is recommended that these conditions are repeated as part of a new permission. Subject to the recommended conditions, the development is considered to be in accordance with policies W8: Impact of the Transport of Waste in the DDWLP (2005) and ITCR3: Protection of Footpaths and Bridleways of the BLP (2020).

### **Conditions**

- 4.76 Since the grant of the existing planning permission, details required to be approved, as part of a planning condition, have been complied with. Where this has happened, the condition requirements can be updated under any grant new permission by Section 73, so that they refer to the current approval and compliance details. This is reflected in the draft conditions recommended below.

### **Conclusion**

- 4.77 The application has been fully considered and assessed for need, environmental and amenity impact, as well as highway and transport impacts. The situation giving rise to the need for the amendments to the conditions is considered to be grounded in delays that were experienced as a result of the Covid-19 pandemic.
- 4.78 The policies W1b: Need for the Development, W6: Pollution and Related Nuisances, W7: Landscape and Other Visual Impacts and W8: Impact of the Transport of Waste of the DDWLP are supportive, since it is not considered that there would be any unacceptable environmental impacts associated with a grant of permission subject to conditions as recommended below. Similarly, it is considered that policies SC11: Environmental Quality (Amenity), SC14: Contaminated and Unstable Land and ITCR3: Protection of Footpaths and Bridleways of the BLP are also supportive.
- 4.79 The issues raised in the representation received has been considered and the Highway Authority raises no objections subject to an informative to the applicant regarding the requirements of the Highways Act 1980. I am satisfied that both amenity and highway safety impacts are capable

of control via planning conditions and through the Highways Act, if necessary. No consultees have raised any objections to the application.

4.80 Having considered the comments raised by consultees and the representation in the course of the application process, I am satisfied that the application should be granted, subject to planning conditions. The application is therefore recommended for approval, subject to conditions and provision of informative notes as set out in the recommendation below.

## **5. Implications**

5.1 Appendix 1 sets out the relevant implications considered in the preparation of the report.

## **6. Background Papers** File No. 5.5373.4

6.1 Application documents received from Planning & Design Group, acting as agent for Welbeck Estates Company Limited.

### **6.2 Documents**

- Application form and certificates.
- Planning Statement.
- Cross-Sections and Ground Levels (Existing and Proposed) Statement.
- Decision Notice.

### **6.3 Plans**

- Drawing entitled Site Location Plan undated;
- Drawing 1068 001 Rev C entitled Landscape Strategy undated;
- Drawing PSS-170-006-023.1 entitled Revised Option C Design dated 9 May 2022;
- Drawing PSS-170-006-023.2 entitled Revised Option C Southern Design dated 9 May 2022;
- Drawing PSS-170-006-024.1 entitled Topographic Survey (Northern Tip Area) dated 5 July 2022;
- Drawing PSS-170-006-024.2 entitled Topographic Survey (Southern Tip Area) dated 5 July 2022

### **6.4 Correspondence from:**

- Elmtun and Creswell Parish Council (email) dated 28 October 2022.
- Bolsover District Council (Planning and Environmental Health) (email) dated 20 July 2022.

- The Environment Agency (letter) dated 28 July 2022.
- Network Rail (email) dated 8 August 2022.
- Severn Trent Water Ltd (email) dated 8 August 2022.
- The Coal Authority (email) dated 27 July 2022.
- Derbyshire Wildlife Trust (email) dated 15 September 2022.
- Councillor Mick Yates (Bolsover North) (email) dated 20 July 2022.
- County Highway Authority (emails) dated 8 August 2022, 26 October 2022 and 14 November 2022.
- County Conservation, Heritage and Design (emails) dated 2 August 2022 and 25 July 2022.
- Public Rights of Way (email) dated 5 August 2022.
- Agent (email) dated 15 July 2022.

## 9. Appendices

9.1 Appendix 1 - Implications.

9.2 Appendix 2 – Site Plan.

## 10. Recommendation

10.1 That the Committee resolves to **grant** planning permission, subject to conditions substantially to the effect of the following draft conditions:

### Conditions

#### Duration of Permission

1) Waste operations (including the importation of inert waste) under this permission, shall cease no later than the 31 January 2025 and the site shall be cleared of all plant, machinery, equipment, waste, other stored materials, and other equipment associated with the operations hereby permitted by no later than six months from that cessation of waste operations date.

**Reason:** To minimise the impact on local amenity and in order that the site is restored in the timescales detailed in the application in the interests of local amenity.

2) A copy of this permission shall be kept available for inspection at the site offices during the prescribed working hours for the duration of the development.

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

### **Programme of Working**

- 3) The programme of working shall be in accordance with the details submitted in working programme 8F2, submitted under application code no. CW5/1121/24.

The programme of working 8F2 provides for the latest dates for the starting and completing of each distinct part of the development which together comprise the development to which this permission relates (including restoration), and a date by which each scheme or set of further details which is to be required to be submitted by other conditions of this permission shall be submitted, subject to any alteration of a time limit specified by a date set out in that programme which the Waste Planning Authority, at its discretion, approves in writing upon consideration of any reasoned request for such an alteration that it might receive in writing and in advance of that date from the developer.

Each distinct part or phase of the development which is specified in the approved programme of working 8F2 shall be commenced and completed in accordance with the relevant time limit(s) for that part or phase in the working programme.

**Reason:** To ensure that site is developed and restored in accordance with the timescale in the application, in the interest of local amenity.

### **Permitted Development Rights**

- 4) Notwithstanding the provisions of Part 7, Class L of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order), except for those identified in the planning application, no new or replacement buildings, plant structures, screening and crushing equipment, shall be brought to site without the prior written approval of the Waste Planning Authority.

**Reason:** To enable the Waste Planning Authority to adequately control, monitor and minimise the impacts on the amenities of the local area.

### **Plans and Documents**

- 5) The development shall be carried out in accordance with the following plans and documents:

#### **Documents**

- 1 App form and certificate dated 22 June 2022.
- Planning Supporting Statement incorporating Addendum Environmental Statement dated May 2022.

- Letters dated 8 February 2018 and 27 May 2022.
- Environmental Statement and appendices dated November 2016, as amended.
- Revised Non-Technical Summary (NTS) dated November 2017.
- Appendix A – addendum dated November 2017.
- Explanatory Statement dated November 2017.
- South Tip Restoration.
- Proposals (Supplementary Report V4) dated November 2017.
- Creswell Interpretative Report Final dated October 2016.
- Creswell Revised boundary DTS dated November 2015.
- Creswell Supporting Statement dated November 2016 and Supporting Planning Statement dated May 2022
- Arboricultural report (BS4142) dated November 2016.
- Tonnage report for planners dated 15 July 2022.
- Revised Working Programme 8F2 received 18 November 2022.

### **Plans**

- Appendix 1 to Supporting Statement - Location Plan – undated.
- PSS-170-006-007.1 - Existing Site 23-08-2017 - A1 - November 2017.
- PSS-170-006-009.1 - Cross Section Location Plan – A1 - November 2017.
- 001\_Passing Bay Locations ALL A01 .pdf from 1A to 1F - January 2016.
- Appendix 4 to supporting statement - MAGIC.
- PSS-170-006-23.1- Revised Option C Design dated 9 May 2022.
- PSS-170-006-23.2- Revised Option C Southern Design dated 9 May 2022.
- PSS-170-006-24.1- Survey Southern Tip dated 5 July 2022.
- PSS-170-006-24.2- Survey Northern Tip dated 5 July 2022.

Except so far as any contents of the documents and plans listed above are incompatible with the requirements of the conditions specified below.

**Reason:** To ensure that the development is carried out in accordance with the details in the submitted planning application.

### **Railway Bridge Protection**

- 6) The railway bridge protection measures implemented in accordance with Scheme SW3501 Railway Bridge Protection Measures Scheme (approved 26 June 2019) shall be maintained in accordance with the details approved for the duration of the development. The approved details are:

- Frithwood lane Bridge, Creswell, Assessment report January 2016.
- Frithwood lane Bridge no. PSE/62, Method statement for Proposed Remedial Works, March 2019.
- Bridge capacity Clarification statement, 1 April 2019.

Maintenance of these measures shall be undertaken following the completion of each importation season.

**Reason:** In order that the safety of railway users, development operatives and the public are adequately addressed throughout the course of development.

### **Hours of Operation and Vehicle Entry**

- 7) With the exception of necessary works arising from emergency situations:
- (i) No operations in the site (including movement of waste, recyclable materials, and processed materials, inert waste and equipment and deliveries from vehicles) shall take place other than between the following hours:  
0800 hours – 1800 hours Mondays – Fridays;  
0800 hours – 1300 hours on Saturdays, and  
not at any time on Sundays and Bank/public holidays.
  - (ii) No vehicles shall enter or leave the site at any time on Sundays and Bank/public holidays or at any time before 0730 hours on Mondays to Saturdays; and
  - (iii) The engine of any vehicles entering the site between 0730 hours and 0800 hours must be turned off immediately following entry to the site and no tipping activities or deliveries from any vehicle shall start before 0800 hours.

**Reason:** To protect the amenity of the area.

### **Land Contamination**

#### **Site Characterisation**

- 8) By no later than the relevant submission date, specified as 27 March 2025, in the approved programme of working referred to in Condition 3 of this permission, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site. The contents of the scheme are subject to the approval in writing of the Waste Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The

written report is subject to the approval in writing 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;
  - groundwaters and surface waters;
  - ecological systems; and
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

**Reason:** To identify, remediate and control any contaminated land, or pollution of controlled waters and to minimise the risk to site workers, the public, end users and ecological receptors.

#### **Submission of Remediation Scheme**

- 9) 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 must be prepared and submitted for the approval in writing of the Waste Planning Authority by no later than the relevant submission date, specified as 16 April 2025, in the approved programme of working referred to in Condition 3 of this permission. 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 an agricultural and amenity use of the land after remediation.

**Reason:** To identify, remediate and control any contaminated land, or pollution of controlled waters and to minimise the risk to site workers, the public, end users and ecological receptors.

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

- 10) The approved remediation scheme must be carried out in accordance with its terms and conditions, 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:** To remediate and control any contaminated land, or pollution of controlled waters and to minimise the risk to site workers, the public, end users and ecological receptors.

### **Reporting of Unexpected Contamination**

- 11) In the event that any contamination source that might be a factor in an assessment of any part of the site for potentially qualifying as contaminated land under Part 2A of the Environmental Protection Act 1990, in relation to a pastoral agricultural and amenity use of the land, 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 9 and, where remediation is necessary, a remediation scheme must be prepared in accordance with the requirements of Condition 10, 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 10.

**Reason:** To identify, remediate and control any contaminated land, or pollution of controlled waters and to minimise the risk to site workers, the public, end users and ecological receptors.

### **Importation of Soil**

- 12) Prior to the importation of soils onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical Testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be made available to the Waste Planning Authority upon request.

**Reason:** In order that appropriate soil material for restoration is brought onto the site.



### **Scope of Development**

- 13) No waste or recyclable materials, other than soils and inert construction and demolition waste, shall be imported to the site.

**Reason:** To define the scope of the development in the interests of safeguarding the amenity of neighbouring occupiers/residents and for monitoring purposes.

- 14) The site layout shall be fully implemented and maintained for the duration of the development in accordance with the drawings submitted under scheme submission reference SW3293, as approved on 14 February 2020. The approved details are:

- Operations Management Plan, revision D, dated 27 January 2020.
- Site Layout, Drawing No Figure 3.

**Reason:** In the interests of safeguarding the amenity of occupiers of neighbouring properties.

### **Import Limit**

- 15) The total quantity of waste and soil material imported and handled at the site during each annual period of the development, starting and finishing on the date which corresponds to the day on which the development commences, shall not exceed 100,000 tonnes.

**Reason:** In the interests of safeguarding the amenity of neighbouring occupiers/residents, ecology in the area, highway safety and for the avoidance of any unacceptable impacts on the highway network.

- 16) The operator shall keep accurate records of the amount of inert waste and soils arriving at the site, and this record shall be submitted to the Waste Planning Authority every four months and made available for inspection by the Waste Planning Authority upon request.

**Reason:** In order to monitor compliance with the authorised waste input tonnage.

### **Access, Traffic and Highway Protection**

- 17) No vehicles shall enter or exit the site other than via the junction of Frithwood Lane with the A616 (Mansfield Road), except for temporary inert waste/soil imports from the housing development sites directly to the north of this site, and vehicles carrying such exceptional loads as specified and approved in the Construction Traffic Management Plan under Condition 18 below.

**Reason:** In the interests of the safety of the users of the highway and to protect the amenity of the area.

- 18) The storage of plant and materials, site accommodation, loading, unloading of goods vehicles, parking of site operatives' and visitors' vehicles, routes for construction traffic, hours of operation, method of prevention of debris being carried onto highway and any proposed temporary traffic signing or restrictions shall be carried out in accordance with the Construction Traffic Management Plan (CTMP) Revision D, dated 22 January 2020 submitted under scheme reference SW329 as approved on 14 February 2020 and the approved traffic routing under non-material amendment application code no. NMA/0620/71, approved 12 August 2020. The approved details provide for:

- An amendment to the approved traffic routeing to allow approximately 6000m<sup>3</sup> of approved soils to be transferred from an adjacent residential development site to the approved soil processing avoiding use of Frithwood Lane and public road (for a temporary period) in accordance with Creswell Lagoons Proposed Soil Location and Route, Drawing No.18 119/02 dated June 2020.

The approved CTMP shall be fully complied with during the course of the development.

**Reason:** In the interests of the safety of the users of the highway and to protect the amenity of the area.

- 19) The work for the inter-visibility improvement of the junction between the site entrance/exit and the A616 Mansfield Road at Frithwood Lane shall be maintained in accordance with Drawing No.CIV13711-100 WIE/DCC/00/001, including visibility sightlines of 2.4m x 134m in the southerly direction and 2.4m x 142m to the north, taken from a distance of 2.4m back from the A616 carriageway edge (measured along the centre line of Frithwood Lane), extending to a point 134m to the south and 142m to the north, measured 1m into the carriageway from the A616 nearside carriageway edge. Thereafter, for the remainder of the development, the area forward of the sightlines shall be kept clear of any vegetation or other potential obstruction to visibility exceeding 600mm in height relative to the ground level of the nearside carriageway edge.

**Reason:** In the interests of the safety of the users of the highway and to protect the amenity of the area.

- 20) The six passing places on Frithwood Lane constructed in accordance with Drawing nos. CIV17311 – CIV/NOTT’M/06 001A, 001B, 001C revA01, 001D, 001E revA01 and 001F, shall be maintained throughout the life of the development free of any impediment to their designated use.

**Reason:** In the interests of the safety and amenity of users of Frithwood Lane and to protect the amenity of the area.

- 21) Throughout the carrying out of the development, the condition of Frithwood Lane shall be maintained so as to provide a surface to an acceptable standard for both bridleway users and the traffic associated with the development.

**Reason:** In the interests of the safety and amenity of users of Frithwood Lane and to protect the amenity of the area.

- 22) The Travel Safety Plan submitted under scheme reference SW3295, as approved 14 January 2020 providing instruction for all drivers of lorries travelling over Frithwood Lane, shall be fully complied with throughout the remainder of the development.

**Reason:** In the interests of the safety and amenity of users of Frithwood Lane and to protect the amenity of the area.

- 23) The reconstruction of Frithwood Lane during the restoration stage shall be completed in accordance with the details submitted under scheme reference SW3459, as approved 2 September 2020. The approved drawings/details are:

- Application Form dated 1 June 2020;
- Creswell Lagoons Proposed Construction Details, Drawing No. 18.11901d; and
- Creswell Lagoons French Drain Details, Drawing No. 18.119/03

The scheme shall be fully complied with and implemented as part of the restoration of the site.

**Reason:** In the interests of the safety and amenity of users of Frithwood Lane and to protect the amenity of the area.

## **Noise**

- 24) Noise levels for the development shall not exceed 55dB (A) LAeq 1hr (free field) measured at or calculated to a position representing the boundary of the nearest noise sensitive dwelling.

**Reason:** In the interest of the aural amenity of nearby dwellings and businesses.

- 25) Noise emissions from site activities shall be controlled and mitigated in accordance with the Scheme reference SW3296 Noise Management Plan, approved on 14 February 2020, including the following details/drawings:

- Noise Management Plan, January 2020; and
- Site Layout, Drawing No. Figure 3.

The Scheme shall be implemented and complied with throughout the lifetime of the development.

**Reason:** To control the noise generated by the development in the interests of the amenity of the area.

- 26) All vehicles, plant and machinery operated on the site shall be maintained in accordance with the manufacturers' specifications at all times and shall be fitted with and use effective silencers.

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

- 27) All reversing warning systems used on plant and vehicles on the site shall either be non-audible, ambient related or low tone devices.

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

#### **Dust**

- 28) Dust emissions from site activities shall be controlled and mitigated in accordance with the Dust Management Plan submitted under scheme reference SW3297, as approved on 14 February 2020. The approved details/drawings are:

- Noise Management Plan, January 2020; and
- Site Layout, Drawing No. Figure 3.

The Scheme shall be implemented and complied with throughout the lifetime of the development.

**Reason:** To reduce the impacts of dust disturbance from the site on the local environment.

- 29) All laden vehicles entering or leaving the site shall be fully sheeted.

**Reason:** To minimise dust and other debris from falling from the vehicles using the site.

### **Lighting**

- 30) No external lighting shall be installed except in accordance with a scheme that has been submitted to and approved in writing by the Waste Planning Authority. The scheme shall include precise details of the lighting proposals, including lux levels. The scheme shall then be implemented as approved.

**Reason:** To minimise the nuisance and disturbance to neighbours, the surrounding area and the ecology of the area.

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

### **Waste**

- 31) Non-conforming wastes shall be stored in a sealed container or skip and removed from site within seven days.

**Reason:** In the interests of amenity and management of waste not authorised to be received or processed at the site.

- 32) The maximum height of any stockpiles shall not exceed 5m in height.

**Reason:** In the interests of visual amenity.

- 33) There shall be no burning of waste or any other materials on site.

**Reason:** To enable the Waste Planning Authority to control the emission to air from the development in the interests of amenity of the area.

### **Water Protection and Pollution Prevention**

- 34) Management and maintenance of surface water drainage for the site for the restored landscape shall be carried out in accordance with the submitted drainage scheme reference SW3298, as approved on 14 January 2020. The approved details/drawings are:

- Water Protection and pollution Prevention, Maintenance and Management Plan, November 2019.

The scheme shall be implemented in accordance with the approved detailed design prior to restoration works commencing.

**Reason:** To ensure mitigation of flood risk.

- 35) The installation of sustainable drainage at the site shall be in accordance with the details submitted under scheme reference SW3299 Water Protection and Pollution Prevention, as approved on 14 January 2020. The approved details/drawings are:

- Water Protection and pollution Prevention, Maintenance and Management Plan, November 2019.

The scheme shall be implemented in accordance with the approved details.

**Reason:** To 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 over the site (including the part of Frithwood Lane in the site) is provided to the Waste Planning Authority.

- 36) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there are multiple tanks, the compound should be at least equivalent to the capacity of the largest tank, or the combined capacity of the interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land, or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be directed to discharge downwards into the bund.

**Reason:** To prevent pollution of the water environment.

#### **Soil Handling and Storage**

- 37) All available topsoil (and subsoil) stripped, or to be stripped, from the site shall be stored in accordance with the Soil Handling and Storage Management Plan submitted under scheme reference SW3300, as approved on 14 February 2020.

The scheme shall be implemented in accordance with the approved details.

**Reason:** To prevent unnecessary trafficking over soil by heavy equipment and vehicles that may damage the soil in the interests of the successful restoration of the site.

- 38) All topsoil, subsoil and soil forming material derived from the site shall be retained on the site for use in its subsequent restoration.

**Reason:** To ensure that remaining soil resources are retained in the interests of the successful restoration of the site.

- 39) Movements of plant and site vehicles shall be confined to clearly defined haul routes, or to the overburden surface, and shall not cross areas of topsoil and subsoil.

**Reason:** To prevent unnecessary trafficking over soil by heavy equipment and vehicles that may damage the soil in the interests of the successful restoration of the site.

#### **Restoration and Aftercare Landscape and Ecology**

- 40) The Landscape and Ecology Management Plan (LEMP) Revision H dated October 2022 and accompanying drawings Conceptual Phasing Plan Phase 1 Drawing No 1022 101 G, Conceptual Phasing Plan Phase 2 Drawing No 1022 102 G, Conceptual Phasing Plan Phase 3 Drawing No 1022 103 G and Landscape Softworks Drawing No 1022 200 F submitted by Planning & Design Group, dated 11 November 2022 submitted under scheme reference SW3683, as approved on 17 November 2022, shall be fully implemented in accordance with the approved details.

**Reason:** To ensure the re-establishment of landscape features and habitats within the site, in the interests of nature conservation, landscape character and visual amenity, and as required to bring the site up to the appropriate standard for use for agriculture and amenity.

- 41) In the event that importation of waste under the development ceases without the approved full tonnage of waste under this permission having been imported, a written scheme for the revised reclamation and restoration and aftercare of the site according to the actual imported tonnage shall be submitted to the Waste Planning Authority for its approval within six months of the cessation of the importation.

**Reason:** In the interest of the amenity of the area and of the environment.

- 42) Immediately after the depositing of waste under this permission has ceased the site shall be restored within six months by the use of topsoil and sub-soil or soil-making material in accordance with a detailed restoration scheme, in conformity with the relevant dates referred to in the programme of work referred to in Condition 3, which shall be approved by the Waste Planning Authority, and a draft of which shall be submitted for its approval no more than two years after the date of this permission. (For the avoidance of doubt the site shall be considered to be restored upon completion of the landform in accordance with the approved drawings). The approved scheme shall be fully implemented prior to aftercare.

**Reason:** To ensure the restoration of the site, in the interests of nature conservation, landscape character and visual amenity.

#### **Liaison Committee**

- 43) Liaison committees shall take place in accordance with details submitted under scheme reference SW3302, as approved 14 January 2020. The approved scheme shall be fully implemented throughout the duration of the approved development.

**Reason:** To ensure that there is a forum for engaging with the local community, to ensure that it is fully informed with regard to activities associated with the approved development, and to encourage positive relations between the community and the operator in the interests of local amenity.

#### **Informatives**

1. The development approved under planning permission code no. CW5/0218/89 commenced on 27 January 2020. Written notification of commencement of development on 27 January 2020 was submitted by the Planning and Design Group on 28 January 2020.
2. Pursuant to sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps 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.



3. Pursuant to the Highways Act 1980, no works may commence within the limits of the public highway without the formal written Agreement of the County Council, as Highway Authority. Advice regarding the technical, legal, administrative and financial processes involved may be obtained from the Economy, Transport and Environment Department at County Hall, Matlock. The applicant is advised to allow at least 12 weeks in any programme of works to obtain an Agreement.
4. The applicant is advised to contact the Traffic and Safety Team in the Place Department at County Hall, Matlock for advice regarding any temporary traffic management measures required at any time during the period of construction.
5. The application site is affected by a number of Public Rights of Way. The routes must remain unobstructed and on their 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 information can be obtained from the Rights of Way Duty Officer in the Place Department at County Hall, Matlock.
  - The granting of planning permission is not consent to divert or obstruct a Public Rights of Way.
  - If it is necessary to temporarily obstruct a right of way to undertake development works, then a temporary closure is obtainable from DCC. Please contact 01629 533190 for further information and an application form.
  - Any development, insofar as it will permanently affect a Public Rights of Way must not commence until a Diversion Order (obtainable from the Planning Authority) has been confirmed. A temporary closure of the Public Rights of Way to facilitate public safety during the works may then be granted by the County Council.
6. The applicant is advised of the need to enter into an appropriate agreement with Network Rail property for a licence regarding its bridge affected by the development.
7. The Coal Authority Standing Advice applies in the interests of public health and safety.
8. If waste is to be used on site, the applicant will need to ensure they can comply with the exclusion from the Waste Framework Directive (article 2(1) (c)) for the use of, 'uncontaminated soil and other naturally occurring material excavated in the course of construction activities, etc...' (Meeting these criteria mean the material is not waste and permitting requirements do not apply).

9. Where the applicant cannot meet the criteria, they will be required to obtain/maintain the appropriate waste permit or exemption from the Environment Agency.
10. A deposit of waste to land will either be a disposal or a recovery activity. The legal test for recovery is set out in Article 3(15) WFD as:
  - Any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.
  - We have produced guidance on the recovery test which can be viewed as (insert <https://www.gov.uk/guidance/waste-recovery-plans-and-permits#waste-recovery-activities>)
11. You can find more information on the waste framework directive here: <https://www.gov.uk/government/publications/environmental-permitting-guidance-the-waste-framework-directive>
12. More information on the definition of waste can be found here: <https://www.gov.uk/government/publications/legal-definition-of-waste-guidance>
13. More information on the use of waste in exempt activities can be found here: <https://www.gov.uk/government/collections/waste-exemptions-using-waste>
14. Non-waste activities are not regulated by us (i.e. activities carried out under the CL:ARE CoP), however, you will need to decide if materials meet End of Waste or By-products criteria (as defined by the Waste Framework Directive). The 'Is it waste' tool, allows you to make an assessment and can be found here: <https://www.gov.uk/government/publications/isitwaste-tool-for-advice-on-the-by-products-and-end-of-waste-tests>
15. If you require any local advice or guidance, please contact your local Environment Agency office: Trentside Offices, Scarrington Road, West Bridgford, NG2 5FA Tel: 03708 506 506
16. In accordance with the Planning Practice Guidance (Reference ID: 7-043-20140306), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.”

17. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Secern Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

**Statement of Compliance with Article 35 of the Town and Country (Development Management Procedure) (England) 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. The applicant had engaged in pre-application discussions with the Authority prior to the submission of its submission for the development of the site. The applicant was given clear advice as to what information would be required.

In addition, the applicant was given further advice concerning the coverage of the documentation submitted with the planning application resulting in revisions and additions to its original proposals which were incorporated into this application.

**Chris Henning**  
**Executive Director - Place**

**Implications**

**Financial**

1.1 The correct fee of £234 has been received.

**Legal**

2.1 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 report.

**Human Resources**

3.1 None.

**Information Technology**

4.1 None.

**Equalities Impact**

5.1 I do not consider that there are any significant equalities impacts associated with this application.

**Corporate objectives and priorities for change**

6.1 None.

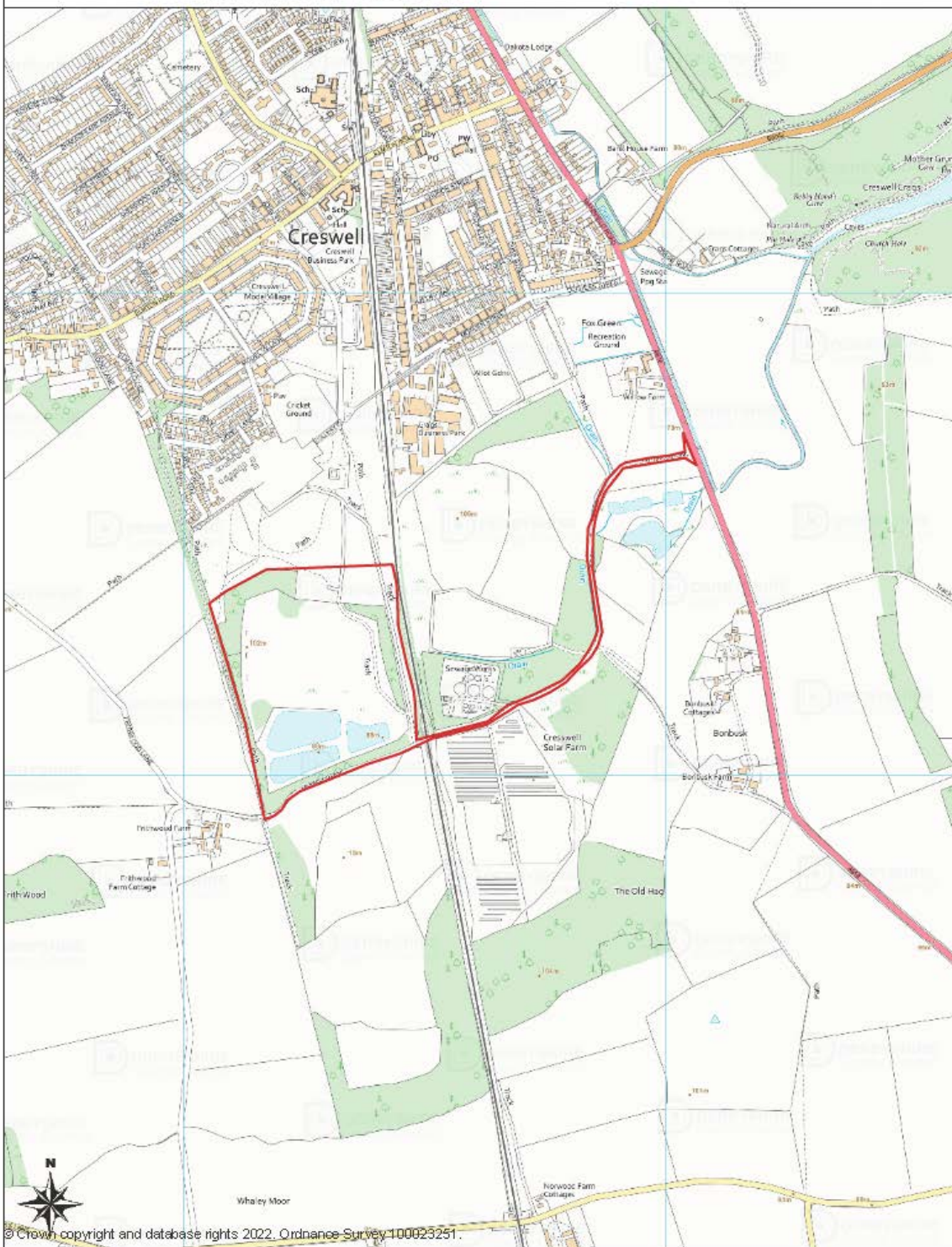
**Other (for example, Health and Safety, Environmental Sustainability, Property and Asset Management, Risk Management and Safeguarding)**

7.1 None.

Site Plan

**Appendix 2**

Committee Plan CW5/1121/24



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200 m

21-Nov-2022

Scale = 1:10000