

Agenda Item No. 3.1

**DERBYSHIRE COUNTY COUNCIL
REGULATORY – PLANNING COMMITTEE**

12 April 2021

Report of the Director – Economy, Transport and Environment

- 1 APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 TO NOT COMPLY WITH CONDITIONS 1, 2, 17, AND 19 OF PLANNING PERMISSION CW2/1007/155 TO COMPLETE INFILLING OPERATION BY 31 MAY 2035 AND ALL RESTORATION TO BE COMPLETED WITHIN A FURTHER TWO YEARS, AT ERIN LANDFILL SITE, MARKHAM LANE, DUCKMANTON, DERBYSHIRE
APPLICANT: VIRIDOR WASTE MANAGEMENT LIMITED
CODE NO: CW2/1020/38**

2.117.37

Introductory Summary

Planning permission is sought by Viridor Waste Management Limited, under Section 73 of the Town and Country Planning Act 1990, to not comply with conditions 1, 2, 17 and 19, of the most recent planning permission (CW2/1007/155) for the landfill operation at Erin Landfill, Duckmanton.

The operation is currently carried out under the most recent planning permission. It allows the importation of approximately 7.5 million cubic metres (m³) of non-inert wastes, and infilling of a void with the wastes. It is estimated that currently approximately 5 million m³ of void remains.

As a result of waste prevention initiatives, increases in landfill tax, improving recycling rates and new landfill management technologies, infilling rates to the site have been steadily declining, meaning that the void is taking longer to fill. The operator therefore now seeks to vary the current planning permission to extend the duration of infilling, which currently expires 31 May 2021, until 31 May 2035, and restoration within a further two years (the most recent planning permission requires restoration to be complete within 12 months of the cessation of filling, i.e. by 31 May 2022).

The applicant proposes to update the approved schemes of surface water management, restoration and landscaping, and also proposes provision of a new waste reception pad.

The site is not within a sensitive locality with regard to landscape, heritage, or ecological designations, however, it is in close proximity to residential properties. The application is accompanied by an Environmental Statement as required under Environmental Impact Regulations 2017 and the impacts of the updated development as proposed, their magnitude and mitigation measures have been considered.

Waste operations at the site are also controlled through the existing Environmental Permit. Having regard to the Environmental Statement and related documents submitted and following consultations, I am satisfied that any potential impacts as a result of the proposal could be controlled through the imposition of planning conditions and the environmental permitting regime.

The proposal is considered to be in accordance with the development plan and national planning guidance, and the grant of a new permission, subject to conditions in accordance with the proposal, is therefore recommended for approval.

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

(2) **Information and Analysis**

Site and Surroundings

Since 1999, the operational landfill site has been within an area of approximately 53 hectares (ha), with a void area of approximately 41ha. The application site area in total is, however, a larger 61ha, as historically, previous planning permissions for the development have also included an area of the Markham rail sidings to the west of the M1. This is an area of former railway sidings and former mine workings, which does not form part of the operational landfill.

Prior to landfilling, the site was an opencast coal mine which operated between 1980 and 1989. The excavations from this activity resulted in a significant void space. The type of waste deposited includes largely commercial, industrial, household (kerbside collection waste), non-recyclable waste from Household Waste Recycling Centres (HWRCs) and construction/demolition waste, but also some stabilised non-reactive hazardous waste.

Once filled, the site will be restored and subject to aftercare to provide woodlands and fields.

Erin landfill site is located to the north of Duckmanton within the administrative boundary of Chesterfield Borough Council. To the north, the site is bounded by agricultural land, beyond which is the village of Poolsbrook, which is within

approximately 200 metres (m) of the site. The M1 Motorway and Erin Road lie to the east of the site. To the south is the settlement of Duckmanton, which is within approximately 100m of the site. Markham Vale services are also to the south of the site and Markham Vale Industrial Estate is located south and to the east of the M1. To the west is agricultural land, a solar farm and single wind turbine.

Access to the Erin landfill site is from Markham Lane to the east of the site, which passes under the motorway and over Erin Road. Markham Lane has direct access to the M1 Motorway at junction no. 29A. This access point currently serves the landfill operation traffic for the site and would be the main point of access for the proposed amendments to the restoration scheme, the construction and subsequent operation of the eventual restored land. Access to the wider transport network is facilitated via Markham Lane's connection with the M1 at junction 29A. Industrial units are located either side of Markham Lane.

The residential area nearest to the landfill site is in Duckmanton along East Crescent, North Grove and Poolsbrook Road, the closest properties there are within approximately 100m south from the site boundary. There are also residential properties along Cottage Close in Poolsbrook, with the closest property there being approximately 200m from the northern site boundary.

There are no statutory ecological designations, or heritage assets within close proximity of the site.

The site is located within a 'Development High Risk' Coal Authority designated area and within an area of low flood risk (Flood Zone 1).

Site Planning Application History

The site application history includes:

- CW2/997/59 - Planning permission granted by the Council, 2 December 1998, for reclamation of the Erin Void near Duckmanton and Poolsbrook, Derbyshire by land filling and restoration to woodlands and agricultural land, with construction of site support area at Markham Sidings including proposed new access, refurbished rail sidings, materials recycling/recovery facility, waste composting area, landfill gas electricity generating plant and other site facilities. The permission allowed the importation of approximately 7.5 million cubic metres (m³) of non-inert wastes including commercial, industrial, household and construction and demolition wastes. The waste material would be deposited in eight purpose built cells constructed from significant amounts of existing overburden which was generated by the previous opencast operations.

- CW2/0504/39 - Planning permission granted by the Council, 7 September 2004, which overcame a Condition 4 to which planning permission CW2/997/59 was subject, and thereby enabled the approval of a new location for the gas control and electricity compound.
- CW2/504/40 - Planning permission granted by the Council, 7 September 2004, which overcame Condition 16 to which planning permission CW2/997/59 was subject, to allow for the operation of the landfill gas plant and machinery on a 24 hour basis.
- CW2/1007/155 - Planning permission granted by the Council, 9 April 2008, which overcame Condition 3 to which planning permission CW2/0504/39 was subject, and provided the extended period for completing infilling operations, up to 31 May 2021 with restoration to be completed within a further 12 months.
- CW2/1107/158 - Planning permission granted by the Council, 12 May 2008, for a new building and adjoining open storage area to be used as a waste reception, transfer, recycling and pre-treatment facility adjacent to the sites compound area. (The building approved under this permission has not been developed).
- CW2/0211/168 - An application to extend the period by which planning permission CW2/1107/158 could be implemented was approved 29 July 2011.
- A number of applications for items of operational infrastructure have been approved by the Council as the site has developed over time, including security fencing, office cabins, and leachate storage infrastructure.
- CHE/0502/0312 - Outline Planning permission for Commercial (not major retail) office, industrial and warehouse development, new and altered roads (including a new motorway junction), land reclamation, ground re-modelling, drainage, landscaping and re-use of railheads on 360ha of land in Bolsover, Staveley and Sutton-cum-Duckmanton on both sides of the M1 in the vicinity of the former Markham Colliery, A632 (Chesterfield Road) Erin Road, Lowgates, Eckington Road, Hall Lane and the A619 south of Staveley, was approved by Chesterfield Borough Council 16 May 2005.
- Two industrial buildings are located within the application area to the east of the M1 (outside the operational landfill area and inside the Markham Vale Employment Area). They have been subject to full planning approval from Chesterfield Borough Council following the above grant of outline planning permission.

The Proposals

The application supporting documents state that, as a result of waste prevention initiatives, increases in landfill tax, improving recycling rates and new management technologies, landfill rates have dropped. A direct consequence of this is that many landfill sites are not being restored within originally intended timeframes. Reduced input rates at the Erin landfill site have resulted and the required restoration profile will not be reached within the

timeframe previously required (ending 31 May 2021) nor will all restoration required under planning permission CW2/1007/155 be achieved within the subsequent 12 months.

The operator, Viridor Waste Management Limited, is therefore seeking to make a series of modifications in respect of the conditions to which the most recent planning permission, CW2/1007/155, is subject. The application is made under Section 73 of the Town and Country Planning Act 1990 and seeks permission not to comply with conditions 1, 2, 17 and 19. It proposes variation in respect of those conditions to allow for completion of the infilling operation up to 31 May 2035 and for all other restoration to be completed within a further two years.

Condition 1 relates to the duration for filling and restoration which is sought to be extended. Condition 2 is sought to be varied as it requires that the development be carried out in accordance with the details submitted with the previous application CW2/1007/155. Condition 17 requires that the site shall be restored and landscaped in accordance with the scheme approved 24 July 2006, and is sought to be varied as details of the restoration and landscaping scheme are proposed now to change. Similarly, the aftercare scheme, also approved 24 July 2006, is now proposed to change and, as such, Condition 19 which requires the development be carried out in accordance with the agreed details, is sought to be varied.

Through the application, the operator also seeks to be subject, in carrying out the development, to a set of conditions modified from those that apply to the most recent planning permission that would also achieve:

- an extended and updated programme of works and phasing;
- an updated scheme of surface waste management;
- changes to the approved scheme of restoration landscaping; and
- provision of a small waste reception pad.

At the time of the submission of the application, based on average inputs of waste received on site over recent years, the operator estimates that the remaining landfill void would take approximately a further 15 years (up to the end of May 2035) to fill to the approved levels. A period of two years to complete the final restoration (instead of one year as under the conditions to the most recent permission) is also proposed. The application seeks to confirm the updated phasing of operations on site working from west to east, and an updated plan submitted provides clarity on the stages of restoration.

Changes proposed to surface water drainage include ditches to be constructed on the restored flanks, to allow surface water running from the capped and restored areas to be diverted to a settlement/attenuation lagoon in the north-west corner, for discharge to the local river via the permitted

discharge location noted within the site's Environmental Permit. Existing ditches would be re-graded and cleaned of debris, to ensure full flow capacity, and for the management of surface water, the existing attenuation lagoons would be expanded to provide the required attenuation volume to control suspended solids, and restrict the discharge rate in accordance with the Environmental Permit. The drainage proposal now involves having two larger finished lagoons, and a new small surface water lagoon to the south of the plant compound, rather than the smaller lagoons that currently exist in the site.

The approved restoration scheme is based on eight-phases of landfill operations. The timescale for this phased restoration is based on rates of infill and waste settlement at the site that have not been achieved. Full restoration can only be established across completed cell areas, and would be seeded with a temporary grass cover until waste settlement is completed. Final planting on top of the landfill cells would be undertaken approximately three years after completion of each cell, when active settlement is reduced.

The proposed updated restoration planting scheme would increase the area of agricultural and unimproved fields from that previously approved. The woodland planting proposed would be reduced in area, although hedge planting would be increased from that previously approved. The table below indicates the size of area and restoration types to be changed.

Habitat	Revised Scheme	Consented Scheme
Agricultural Grassland	17ha	9.5ha
Unimproved Grassland	11.4ha	6.4ha
Native Hedgerow and Hedge Trees	4,620 linear/m	2,310 linear/m
Permissive Footpaths, with wildflower fringes	2,800 linear/m	same
Native Woodland	10.53ha	28.9ha
Native Woodland Scrub Grass Areas	11.57ha	5.6ha
Existing woodland and scrub areas	1.9ha	1.9ha

The submitted plans indicate that the post - settlement contours of the site would not alter from that previously approved.

The applicant also proposes a new reception pad to be located to the immediate south-west of the site. The pad would be constructed using reinforced concrete and measure 19m by 52m long. Currently, road legal HGVs drive onto site to the active cell where the waste material is tipped. The applicant considers that by restricting incoming HGVs to the reception pad and transporting bulked waste to the cell by site vehicles would significantly improve operations.

The proposed hours of operation are unchanged from those prescribed by condition under the most recent planning permission, which are 0700 hours to 1900 hours Monday to Friday and 0800 hours to 1300 hours on Saturday.

The most recent planning permission by condition restricts visits to a maximum of 185 visits (370 vehicle movements) each working day. This application does not propose to vary this restriction.

An Environmental Statement (ES) as required under Environmental Impact Regulations 2017 has been submitted, to consider the potential impacts of the proposal and mitigation measures.

Consultations

Local Member

The Local Member, Councillor Bingham (Staveley North and Whittingham), has been consulted and no comments have been received.

Mr Toby Perkins, Member of Parliament for Chesterfield

Mr Toby Perkins MP has been consulted, however, no response has been received at the time of writing.

Chesterfield Borough Councillor, Mick Bagshaw for Hollingwood and Inkersall Ward

Objects to the proposal and makes the following comment:

“Staveley Area has suffered from landfill sites for over 60 years, I therefore object to the extension of Erin void landfill. In particular, I object to further domestic or other waste being deposited at this site if it is to continue to cause unpleasant odours and other concerning issues to the surrounding communities.”

Chesterfield Borough Council (Planning)

Raises no objections. The need for the continued use of the site, and its sub-regional importance as a landfill facility, is clearly defined in the submitted ES. This is acknowledged along with the noted unrealistic date approved for completion which it is stated cannot be met due to the reduced rates of fill. However, the extension of time proposed is significant and it is clear from public comments that the use results in adverse impacts to local residents.

The Borough Council states that *“all mitigating measures possible are taken to seek to minimise the impact of the extended use should it be the view of your Authority that the extension of time requested is acceptable.”*

It is noted that part of the application site is within the Markham Vale Growth Area, defined by Policy SS4 and detailed in Policy CLP6 of the Chesterfield Borough Adopted Local Plan 2020.

Chesterfield Borough Council (Environmental Health Officer)

The Environmental Health Officer (EHO) raises no objections but has made the following comments *“Environmental Health have received complaints alleging that the site gives rise to odour and flies. As the site is operated under an Environmental Permit issued by the Environment Agency (EA) all residents have been informed to contact the EA as they have a statutory responsibility to investigate those complaints.”*

Town/Parish Councils

Staveley Town Council, Old Bolsover Town Council, Sutton cum Duckmanton Parish Council, and Brimington Parish Council have each been consulted and no comments have been received.

The Environment Agency

The Environment Agency (EA) raised no objection and made the following comments:

“Full control over the environmental aspects of the site (e.g. gas and leachate generation) can only be achieved if all phases of the site are completed as planned.

The current Environmental Permit gives regulatory control over the materials and application of materials used. For these reasons we have no objection to the proposed time extension.

It is our understanding that no fundamental changes to the operations on site will be undertaken and the current Environment Permit – issued by the Environment Agency is still valid. A time extension would not change this.”

The Coal Authority

No response received from the Coal Authority (TCA).

Lead Local Flood Authority

The Lead Local Flood Authority (LLFA) has no objection in principle to the alterations to the surface water management regime proposed.

However, the LLFA would recommend that a suitable risk assessment should be undertaken for surface water ditches that are to be dug out and regraded to a 1 in 1 gradient, as this may result in increased silt migration, slope instability and difficulties in future maintenance, the LLFA would advise that shallower gradients would be preferable. The LLFA would also note that culverting of ditches may require ordinary watercourse land drainage consent applications

to be applied for to the LLFA. The LLFA would also recommend a risk assessment is undertaken in relation to the significant depths of the lagoons given the industrial setting.

Highway Authority

Raise no objections, subject to vehicle movement thresholds being maintained.

Natural England

Raise no objections.

Derbyshire Wildlife Trust

The Derbyshire Wildlife Trust (DWT) raised no objections and make the following comments:

“The proposed variation in conditions (1, 2, 17 and 19) would significantly delay the restoration of the site. At the moment, the plan is to restore the site to agriculture and woodland including grasslands and wetlands of nature conservation value. Clearly any delay in the restoration will have a knock-on impact on the recovery of nature in this part of the County. However, the ongoing use of the site for landfill is unlikely to have any additional impacts on features of high nature conservation value.

In relation to indirect impacts on the environment, the extension would result in continued vehicle movements and operational works within the site. These are likely to have some adverse impacts more generally and we would wish to see these assessed to ensure that appropriate measures to avoid, minimise and/or mitigate for these can be put in place as required.

If a delay of this length were to be approved, we would like to see the restoration plan reviewed to ensure that it fully reflects and takes account of the changing needs of nature conservation and biodiversity within this part of Derbyshire and that it fully links to the emerging Nature Recovery Network for this area. There may well be new opportunities to restore and enhance the landscape for the benefit of wildlife and these should be fully explored where possible.”

Publicity

The application was advertised by site notices 26 November 2020, and a notice published in the Derbyshire Times 26 November 2020.

Also on 26 November 2020, 495 residents and 21 businesses were notified in writing of the application.

A total of 66 individual representations have been received raising concerns or objections to the proposals.

A petition with 258 signatures stating “*Signatories’ of this petition feel strongly that the Erin Landfill Site should close as per the previous planning date agreed of May 2021*” has been received with a supporting statement entitled “*Objections and Information from the Local Community.*”

The following are a summary of concerns raised by individual objectors:

- Deprived of the right to enjoy home and garden due to odours, noise, flies, rodents, seagulls and landscape impact.
- Cannot open windows because of flies. When Environmental Health are contacted, things improve for a short period then problem returns. Cars are covered in dust and furniture if windows are left open.
- A local restaurant owner receives complaints from customers about flies in their restaurant, which they believe are a result of the landfill operation.
- Noise/explosions from bird scarers.
- Bird droppings.
- Negative impact on local environment and economy.
- Traffic impacts.
- Light pollution.
- Health concerns - school right next to landfill. Effects on asthma. Chronic Obstructive Pulmonary Disease is prevalent in Poolsbrook and Duckmanton, also psychological stress. One objector has two children with birth defects and this objector believes that the landfill operation contributed to this. The amount of chemicals used for various processes is a concern.
- The landfill does not contribute to the community like other closed colliery sites which have been developed into natural areas. A general feeling of unfairness to the villagers of Duckmanton.
- The landfill site is too close to residential properties and would be better sited away from a residential area.
- The site should be closed 2021 as per the existing planning permission. The operator was well aware of the deadline and should have programmed for completion.
- An objector believes the company has exceeded contracted landfill levels and is revising contouring.
- Disturbance-occasional fires, night time run of lorries, heavy machinery noise.
- Can see no improvement locally of offset compensation from landfill tax, area should be compensated.
- Concerns with regard to contamination of groundwater from leachate.
- Some waste going to landfill still has a value, including some green waste which is being put into household normal collections rather than to recycling as green waste, particularly where councils are charging for green waste collection.
- The planting of trees for restoration would block views.

- Should consider waste to energy plants rather than landfill.

Most of the concerns raised by individuals above were also raised in the *“Objections and Information from the Local Community”* document submitted with the petition received. Additional concerns in this document in summary are:

- Under the Human Rights Act, the local community wish objections to be taken into account and the application should be refused.
- Reason given for the extension of time is not valid and could potentially allow landfill at the site for five decades or more, contrary to local plan policies to protect the environment and people.
- Why is Duckmanton singled out for landfill when other former mining areas have been restored?
- Poor Air Quality.
- A child's birthday party was affected, could not play outdoor games and food was spoiled by flies. Pests such as flies and birds are not addressed appropriately in the Environmental Assessment/Application.
- Emissions from HGVs and heavy plant and dust from tipping. Air Emissions risk assessment required to consider wind speed and direction.
- An appropriate assessment is required.
- Waste is blown in the air as it is tipped.
- Residents complain daily to the EA.
- The lifespan of the landfill has already dramatically increased. This is considered contrary to Recommendation 16 of the DEFRA (Department of the Environment, Food and Rural Affairs) Landfill Aftercare Scoping Study which calls for a review of research of the physical, chemical and biochemical understanding of landfill conditions.
- The monitoring of leachate, gases and subsidence requirements are estimated to take up to 30 years post closure. The impacts of the landfill could exist therefore up until 2067. Pumping of leachate and groundwater can take up to 30 years post closure.
- Two years proposed for restoration is untrue. The EA recommends up to 50 years or more for leachate monitoring after landfilling has ceased.
- Erin has been used as a test environment for establishing if leakage occurs during lake storage of waste and plans another leachate lagoon to be built. Quantities of leachate released into the local river will increase.
- Water management is insufficient, with insufficient maintenance of existing ditches. Likely increase in discharge to local river if ditches are blocked. There is a rising water table on the Erin site and a new leachate lagoon proposed. Long term degradation and management of leachate system. Has risk assessment recommended by LLFA been completed? Concerns of flooding and leachate management.
- Many houses have a clear view of the landfill site, the Landscape and Visual Impact Assessment (LVIA)/supporting material does not reflect this.

- A survey was undertaken to accompany the statement of objection. The statement does not clarify how many people were surveyed, however, but states that:
 - 100% surveyed want the site to close immediately; are affected by smell, are concerned about health risks, are affected by noise, insects rodents; and do not want planning permission granted.
 - 72% surveyed were not informed in advance of the work starting or given an opportunity to object.
 - 50% surveyed have officially complained about the landfill operation.
- 276 members of the local community have joined a social media page to campaign to close the landfill site.

East Midlands Butterfly Conservation

The East Midlands Butterfly Conservation (EMBC) was not consulted on the application, but did, however, make the following representation (in summary):

EMBC have no objections and “*note the emphasis on ecological restoration of the land and the intention to produce species-rich grassland and we would be in general support and applaud these plans, given that the site could support good populations of many butterfly species.*”

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) and the Chesterfield Borough Local Plan (CBLP) 2020. The application site is within Staveley Parish and is not covered by an adopted Neighbourhood Development Plan.

Other material considerations include national policy, as set out in the National Planning Policy Framework (2019) (NPPF), and associated Planning Practice Guidance (PPG), the Waste Management Plan for England (WMPE) (2021), and the National Planning Policy for Waste (2014) (NPPW).

The Development Plan

Saved Policies of the Derby and Derbyshire Waste Local Plan (2005)

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.
W11: Need for Landfill.
W12: Reclamation and Restoration.
W13: Sorting of Waste Before Disposal.

Chesterfield Borough Local Plan (2020)

CLP1: Spatial Strategy.
CLP2: Principles for location of development.
CLP6: Economic Growth.
CLP13: Managing the Water Cycle.
CLP14: A Healthy Environment.
CLP15: Green Infrastructure.
CLP16: Biodiversity, Geodiversity and the Ecological Network.
CLP20: Design.
CLP21: The Historic Environment.
CLP22: Influencing the demand for Travel.
SS4: Markham Vale (Strategic Policy).

National Planning Policy Framework (Revised 2019)

The NPPF sets out the Government's planning policies for England and how these should be applied. It states that the purpose of the planning system is to contribute to the achievement of sustainable development and the framework as a whole contains a presumption in favour of sustainable development. The term '*sustainable development*' is defined as '*meeting the needs of the present without compromising the ability of future generations to meet their own needs*'. The NPPF goes on to say that achieving sustainable development means that the framework has three overarching objectives - economic, social and environmental - which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

Those sections of the NPPF that are particularly relevant to this proposal are:

Section 2: Achieving sustainable development.
Section 12: Achieving well designed spaces.
Section 14: Meeting the challenge of climate change, flooding and coastal change.
Section 15: Conserving and enhancing the natural environment.

Planning Policy Guidance (Waste)

On-line national planning policy.

National Planning Policy for Waste (2014)

Determining Planning Applications.
Appendix A: The Waste Hierarchy.

Appendix B: Locational Criteria.

Waste Management Plan for England (2021)

This ranks options for waste management, in an order known as the Waste Hierarchy. Priority goes to preventing the creation of waste in the first place, followed by preparing waste for reuse, to recycling and then recovery.

Our Waste and Resource: A Waste Strategy for England (2018)

This Strategy is an updating statement on the 2011 Waste Review and the subsequent Waste Prevention Programme 2013 for England and is guided by two overarching objectives:

- to maximise the value of resource use; and
- to minimise waste and its impact on the environment.

The fundamental question that needs to be addressed here is whether extending the duration of an existing landfill site is acceptable in policy terms and does not give rise to any additional impacts that have already been considered as part of the original and subsequent grant of planning permissions. The application has been supported by an Environmental Statement that has assessed the impacts of the proposal which are considered in the report.

Current National Landfill Situation

Historically, landfill has been the traditional UK method of waste disposal for decades, but in recent years, a significant shift away has occurred, driven by a variety of factors including the waste hierarchy, changes in legislation to review regulation and acceptability of landfill sites, as well as fiscal measures through increases of the landfill tax first introduced in 1996.

Since the 1990s, the number of landfill sites has dropped from around 1,500 active sites to less than 250 today. Hundreds have ceased operation in the face of tax charges, dropping inputs and greater, more costly environmental constraints. In 2006, over 75% of Britain's waste was directed to landfill in comparison to under half in 2016 (Environmental Services Association, 2016).

In one sense, this represents a success as landfill is the least preferred waste destination as identified in the waste hierarchy. If landfill inputs are reducing and sites closing, then this could be seen as a huge leap forward for the circular economy and for better resource use, but it is widely acknowledged that landfill will always be required at some level at some locations across the country as there will always be a fraction of waste, even after all resource and energy has been removed that will only be fit for final disposal by landfill. It is therefore a balancing act – too much landfill capacity and there is a risk of undermining the waste hierarchy and providing a disincentive to delivering more sustainable solutions; too little and the risk is that true residual waste will

have nowhere to be directed, alongside a lack of flexibility if other facilities fail or require shut downs.

The UK's landfill capacity is diminishing. In 2017, it was calculated that England had 6.8 years left of non-hazardous landfill capacity (Tolvik Consulting, 2017). This contributes to an overall accumulative waste capacity deficit. Reports of the national waste capacity deficit (across all facility types) vary, but there is a general understanding that landfill is decreasing at a faster rate than alternative technology to potentially replace it coming online, this risks creating an imbalance in provision.

Year on year increases in household recycling rates are tailing-off (DEFRA, 2018 and Edie, 2018). Additionally, it has been claimed that 13 million tonnes of combustible waste is not being used for energy generation as the facilities are not there to support it (Moore, 2018). These factors are likely to increase inputs to landfill, thus exacerbating the reduction in UK landfill capacity.

Other strategic pressures on all waste infrastructure (including landfill) include the closing down of certain overseas markets for materials such as waste plastic, particularly by China, which hitherto accepted large quantities. Furthermore the UK may be less able to export waste to Europe if increased shipment paperwork and checks makes this option more costly. There is now an increasing understanding that due to various factors, the UK will have to increasingly deal with its own waste rather than exporting, and take responsibility for more of the waste produced.

Landfill Data and Strategic Position in Derbyshire

Locally, the County Council is not immune to the issues covered in the previous section. The Waste Planning Authorities (WPAs) of Derbyshire and Derby City (who work jointly on waste planning issues) work regularly with other WPAs from across the Country through the Duty to Cooperate (DtC) mechanism. Derbyshire, when compared with other parts of the Country, is relatively well placed in terms of future access to active landfill sites, some of this is based around the scale of the minerals industry within the County and the historic connections it has with landfill, in particular. Given the strategic nature of landfill as a waste option, I am mindful of wider commitments and that the commercial decision making around waste means that it often travels across boundaries. Some areas of the Country, particularly in the south-east and East Anglia are facing a pinch point in terms of local availability of landfill sites and, as such, waste is travelling greater and greater distances to access suitable facilities, this includes sites in Derbyshire.

In 2019, of approximately 7.7 million m³ of remaining void space in the County, a very significant 5.39 million tonnes remained at the Erin Void at that time. Derbyshire through DtC has to play its part in providing strategic waste infrastructure (including landfill) as a national requirement.

Extending the scope of the Erin landfill site would clearly build in resilience for landfill, both locally and strategically. Landfill resilience is not evenly spread and Erin, in particular, is a key site to the County's ongoing access to useable landfill space. There are currently huge pressures on both local and national waste capacity, there is little evidence that prolonging existing landfill as per this application would have any measureable impact on the delivery of other waste facilities, indeed given the landfill tax rates as a disposal option it is now a very expensive and generally uneconomic option.

The Need for the Development

The WMPE focuses on waste arising's and their management. It is a high-level, non-site specific document. It provides an analysis of the current waste management situation in England and evaluates how the Plan will support implementation of the objectives and provisions of the Waste (England and Wales) Regulations 2011.

The way waste is managed is continually evolving, with the majority of our waste moving away from landfilling to a more circular economy where we recover and regenerate products and materials whenever we can. The WMPE states that, for example, only 12% of all local authority managed waste was recycled or composted in England in 2000-01, compared to 42.7% in 2018. Meanwhile, the proportion of local authority waste sent to landfill has fallen from 79.0% to 10.8% during the same period.

The waste hierarchy, which ranks options for waste management, has driven some progress towards better use of our resources. Priority goes to preventing the creation of waste in the first place, followed by preparing waste for reuse, to recycling, and then recovery. Disposal, in landfill for example, is regarded as the worst option. To date we have increased our rates of recovery and recycling and generated much more energy from waste. The WMPE states that the focus is on moving up the waste hierarchy, to minimise the amount of waste we produce by improving our resource efficiency and keeping products in circulation longer so that they do not become waste.

The WMPE states that landfill or incineration without recovery status should usually be the last resort for waste, particularly biodegradable waste. The landfill tax is one of the key drivers to divert waste from landfill, to ensure that we meet our 2020 target of no more than 10.16 million tonnes of biodegradable municipal waste to landfill and our 2035 target of no more than 10% of municipal waste to landfill. That does not mean that all wastes will be diverted from landfill. There are some wastes for which landfill remains the best, or least worst, option. The WMPE recognises there is an ongoing role for landfill in managing waste, particularly for inert waste that cannot be prevented, recovered or recycled, but that its use should be minimised as much as possible.

Central Government has set out a high level strategy for dealing with waste in the publication '*Our Waste and Resource: A Waste Strategy for England* (2018).'

To achieve the main objectives of maximising waste as a resource and minimising its impact in the environment, the strategy sets out how the Country's stock of material resources will be preserved by minimising waste, promoting resource efficiency and moving towards a circular economy.

The Strategy will help with the delivery of five strategic ambitions:

- to work towards all plastic packaging placed on the market being recyclable, reusable compostable by 2025;
- to work towards eliminating food waste to landfill by 2030;
- to eliminate avoidable plastic waste over the lifetime of the 25 Year Environment Plan;
- to double resource productivity by 2050; and
- to eliminate avoidable waste of all kinds by 2050.

The Strategy recognises that landfill, however, as a management option for residual waste, will continue until improved recovery techniques become available and states *"We recognise that there is an ongoing role for landfill in managing waste, particularly for inert waste that cannot be prevented or recycled, but want to see its use minimised as much as possible."*

Paragraph 7 of the NPPW states that, when determining waste planning applications, WPAs should, (*inter-alia*):

- concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced; and
- 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.

Nationally, landfill sites have reduced in number significantly as a result of landfill tax and improvements in moving waste up the waste hierarchy. However, as in the case of Erin, this has seen the amount of waste overtime reaching landfill fall and, as a result, the time to fill voids has taken far longer than initially anticipated.

PPG is 'on-line' guidance providing further information in support of the implementation of waste planning policy of central Government. The Waste

section of the PPG recognises that there will be occasions when there is a requirement to extend the operational life of landfill sites, and states that:

“Waste planning authorities should be aware that the continued provision and availability of waste disposal sites, such as landfill, remain an important part of the network of facilities needed to manage England’s waste.

The continued movement of waste up the Waste Hierarchy may mean that landfill sites take longer to reach their full capacity, meaning an extension of time limits to exercise the planning permission may be needed in some circumstances, provided this is in accordance with the Local Plan and having taken into account all material considerations.”

At a local level, saved Policy W1b of the DDWLP presumes in favour of planning permission where a proposed development caters for the needs of the local area, in terms of quantity, variety and quality, as part of an integrated approach to waste management. It is clear that the WMPE recognises that although landfill is the least appropriate option, there is still a need for its provision both locally and nationally. Landfill resilience is not evenly spread in Derbyshire, and Erin, in particular, is a key site to the County’s ongoing access to useable landfill space. There are currently huge pressures on both local and national waste capacity. Whilst efforts to drive waste up the hierarchy are clearly improving, it is recognised that there is a capacity gap while new technologies come on line, such as energy from waste facilities, and as recycling efforts further improve.

There is still a clear requirement for landfill provision in the County, in which Erin Landfill plays a very significant role. Given that this caters for the need of the local area, as well as recognition of the requirement of landfill in the WMPE, I consider that the proposal would accord with Policy W1b of the DDWLP and the need for the development has been demonstrated.

Policy W11: *The Need For Landfill* of the DDWLP, states that “Waste disposal by means of landfill will not be permitted unless: the development is essential to satisfy a need to dispose of locally-generated waste which will not otherwise be met, taking into account the methodology set out in appendix B [of the DDWLP]; and unless any material harm would be outweighed by one of the following:

- *the development is necessary to restore land for beneficial use in line with development plan policies;*
- *the development is necessary to improve the land for agricultural use;*
- *the development is necessary to achieve farm diversification consistent with the site’s location; and*
- *the development is necessary to improve the local ecology or landscape.”*

Appendix B to the DDWLP sets out a methodology that provided a means of assessing whether or not there is a need for landfill space at any particular time during the plan period. The waste local plan, and all the policies from it which remain part of the development plan as 'saved policies', are over 15 years old. The plan period for the DDWLP expired in 2015 and the Council is in the process of working towards adoption of a new waste local plan. It has not been considered appropriate to rely on the methodology in Appendix B in the production of this report, having regard in particular to the more recent trends in the waste sector that have been referred to above. The Appendix itself makes provision for deviation if necessary from the content of the policy in; DDWLP Appendix B – B1.3 - which states that: *“Other assumptions may need to be reviewed in the light of information available at the time the methodology is applied.”*

Work with the EA and other WPAs under DtC indicates that in current void calculations there is a clear requirement for landfill void space currently in the County.

I am therefore satisfied that there is a clear need for landfill capacity currently in the County for wastes which are locally generated in compliance with policy W11 of the DDWLP. I am also satisfied that the proposal is necessary to restore the land, some for agricultural purposes, and is necessary to improve local ecology and landscape through achievement of approved contour levels.

Policy W13: *Sorting of Waste Before Disposal* of the DDWLP states that waste disposal by means of landfill will be permitted only if the applicant has shown that *“before disposal of any waste at the site, facilities will be in place for the sorting of all reasonable quantities of recyclable and compostable materials; and the proposed standard of the facilities and method of operation, including the proportions of recyclable and compostable materials to be recovered and the post-sorting management of those materials, are realistic and reasonable in the context of an integrated waste management system.”*

The pre-text to Policy W13 of the DDWLP states that *“the sorting of waste for the removal of usable matter can take place before the waste reaches the landfill site. In practice, the applicant will often be unable to give satisfactory confirmation that such pre-sorting will apply to all the disparate loads of waste which will arrive at the site. Policy W13 establishes that facilities should be made available at the waste disposal site. Such facilities may include a bring site or a household waste recycling centre”*.

The text supporting Policy W13 of the DDWLP also states a consideration should be, *“Whether, in the case of sites which will receive municipal waste, there are bring site and recycling centres in the locality. If they are not yet adequate to serve the area, whether this development should be designed to*

provide a public facility. If they are adequate, it may be better that the landfill site does not provide a public facility”.

There were only six Household Waste Recycling Centres (HWRCs) when the DDWLP was adopted in 2005. There are now nine HWRCs across the County, the closest to the application site being Chesterfield. The Chesterfield HWRC is approximately 5km from Erin Landfill. The number of ‘Bring Sites’ in the locality, such as bottle banks and clothes banks at supermarket sites, has increased significantly since the adoption of the DDWLP, and I am satisfied that there is adequate provision of this type of facility in the locality.

The proposal seeks to continue current operations in providing a residual waste disposal facility. The majority of waste received at Erin originates from merchant recycling facilities and transfer stations where recyclable material has already been removed from the waste stream and residual waste is bulked prior to transfer to landfill. Erin also takes the non-recyclable waste from DCC operated HWRCs. The public separates the waste at the HWRCs.

Whilst there is no pre-treatment of waste on site, the waste received is residual as the recyclable/recoverable material has already been removed by third parties, demonstrating that the site is part of an integrated waste management system. There is also an existing HWRC at Chesterfield within reasonable proximity and, in this context, I consider that, in line with the supporting text to Policy W13 of the DDWLP, in this instance, it would not be necessary or practical to provide such a further sorting facility on site. I note that such a facility was not required by the Authority in granting the most recent planning permission for the site CW2/1007/155 in April 2008 which is now sought to be varied. The DDWLP was a consideration at that time, and I do not therefore consider it reasonable or necessary to impose a requirement through any condition to a permission being granted on this application that would require such sorting provision to be introduced at the site.

The Principle of the Development

The site has an extensive planning history with previous planning permissions granted for landfill operations. I am satisfied that the principle of the development is acceptable given the context of the established planning history of the site as a landfill operation. The reasons and justification given for the extension of time for filling and restoration are considered acceptable as outlined above.

I do not consider that there is any significant conflict with Policy CLP1: *Spatial Strategy* of the CBLP which sets out an overarching approach to concentration of new development within walking distance of key services and supports regeneration, housing and economic growth, and the protection of Green Belt and strategic gaps and green wedges. Similarly, the proposal would comply with the requirements of Policy CLP2: *Principles for Location of*

Development of the CBLP, which relates to planning applications for developments that are not allocated in the Local Plan, in that the site is previously developed land that is not of high environmental value (meeting criteria (b) of the policy) and would provide convenient walking routes on full restoration of the site (criteria (d) of the policy).

It is noted that an area of approximately 8ha of the application site to the west of the M1 is not operational as landfill, however, it is included in the location plan as submitted. This area was included in the original planning approval and subsequent planning permission to extend the life of landfilling, however, this area has not been subject to agreed landfilling operations or any approved restoration requirements. This area is an allocated Employment Site Area (Markham Vale) under Policy SS4 of the CBLP and covers the former Markham Colliery. Significant development has already been undertaken in this area. This includes recent development within the application area boundary to the west of the M1, and a large industrial unit of Great Bear Distribution. Given that the application does not propose any landfill operation within this area, or change from the previously approved area of landfilling concentrated to the east of the M1, it is not considered that the proposal would be at odds with Policy SS4 of the CBLP and the intended development of this part of the application site within the Markham Vale Employment Area, or similarly with Policy CLP6: *Economic Growth* of the CBLP which supports office/light industrial type employment development.

A much smaller area of approximately 1ha to the western side of the M1, is also within the application site and is also allocated Employment Site Area (Markham Vale) under Policy SS4 of the CBLP. This is towards the south-eastern periphery of the application site, and would be just outside of the landfill cell area. Plans submitted do show that this area would be landscaped, however, no objection has been received by Chesterfield Borough Council and I do not consider that the proposals would conflict with any future employment/light industrial proposals that may come forward for this comparatively small area of the designation, particularly as it covers an area to the periphery of the site which is not proposed to be actively landfilled.

The acceptability of the proposed amendments to development in the planning balance must be considered further, however, against planning policy and the merits of the application in the following respects:

- Noise and Vibration
- Air Quality (including dust and odour)
- Highways
- Landscape and Restoration
- Flood Risk and Drainage
- Ecology
- Heritage

- Pests - Birds, Flies and Rodents
- Climate Change

The ES, as submitted, has identified a level of likely impacts and proposed mitigation where considered necessary.

Relevant Policy Relating to Environmental and Amenity Impacts

Section 15: *Conserving and Enhancing the Natural Environment* of the NPPF states at Paragraph 170 that planning policies and decisions should contribute to and enhance the natural and local environment by inter alia e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.....*

Paragraph 180 of the NPPF states: *“Planning policies and decisions should also 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.”*

Appendix B of the NPPW outlines a number of locational criteria in testing the suitability of waste sites in determination of planning applications.

Policy W5: *Identified Interests of Environmental Importance* of the DDWLP states that proposals for waste development which might affect identified interests of environmental importance will be assessed in the light of:

- the level of protection merited by the character and status of the interests; and
- the likely impact of the development on the interests.

Waste development will be permitted only if, in the context of the assessment, the development would not materially harm the identified interests.

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.

Policy W9: *Protection of Other Interests* of the DDWLP states that waste development will be permitted only if the development would not affect other land uses to the extent that it would materially impede or endanger the social or economic activities or interests of the community.

Policy W10: *Cumulative Impact* of DDWLP seeks to assess proposals for waste development in the light of cumulative impact which they and other developments would impose on local communities, concurrently or successively. This policy presumes in favour of waste development where there is no significant and detrimental impact on the environment of those communities.

Policy CLP14: *A Healthy Environment* of the CBLP states that the quality of the environment will be recognised at all levels of the planning and development process with the aim of protecting and enhancing environmental quality. All developments will be required to have an acceptable impact on the amenity of users and adjoining occupiers, taking into account issues such as noise and disturbance, dust, odour and air quality.

Noise and Vibration

The application includes a noise impact assessment within the ES which has been considered by the EHO and the EA.

The continued landfill operations have the potential to create impacts on local amenity through the creation of excessive noise and vibration over an extended period as proposed.

Potential noise impacts are considered in the context of the existing background noise at the site, which is dominated by distant road traffic movements from the M1 Motorway. The assessment undertook background noise surveys at six noise sensitive receptors surrounding the site, including from some of the nearest residential locations to the south of the landfill at Poolsbrook Road, North Grove and East Crescent.

The results show no significant levels of noise predicted for all the plant in operation including the worst-case cumulative effect of the landfill and restoration activities occurring at the same time at noise sensitive receptors. The noise levels have been measured in accordance with current guidance including BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound and effects, and also in consideration of PPG. The results indicate that the extended operation would result in a neutral effect for the purposes of the ES and are not considered significant.

It is considered that identified receptors would not experience any significant increase in noise levels from the continued operations. This is principally due to the intervening distance and topography from the operational areas to the receptors and that proposed operations would continue largely as existing.

It is noted that some noise would be generated from the site, but that this would not be over and above that of the current operation, which is considered to be within acceptable limits.

The cumulative effect of the proposed time extension to the landfill operation, with other planned developments in the local area, have been considered in the ES. These include the well advanced Markham Vale development, which is a 200 acre site which includes industrial, distribution and commercial units spread around junction 29a of the M1 Motorway, and a proposed Solar Photovoltaic Farm (planning ref. CHE/20/00432/FUL), which is not, at this stage, consented but is currently in the planning system, is located circa 500m west of the landfill Site and west of Inkersall Road in Staveley.

It is concluded in the ES that there would be no cumulative effects at noise sensitive receptors arising from the proposed extension of time to landfill in combination with the identified developments during site operations.

Planning conditions, which are currently in force on the site with regard to hours of operation and total HGV movements, are recommended to be applied again in respect of this Section 73 application, which would again limit potential noise disturbance. The proposed hours of operation remain unchanged from the extant planning permission, which are 0700 hours to 1900 hours Monday to Friday and 0800 hours to 1300 hours on Saturday.

The most recent planning permission allows for up to a maximum of 185 HGV (370 HGV vehicle movements) each working day. The application does not propose to vary this restriction.

Similarly, conditions restricting noise levels at the site under the existing planning permission are not sought to be varied by the operator, and are recommended to be re-applied, should the application be approved.

These include:

- Silencing of all plant and machinery outside of approved hours of operation, except in an emergency (Condition 12 of CW2/1007/55).
- During operational hours, the operation shall not exceed 55dB Laeq 1 hour at any noise sensitive properties as identified in the original ES, 1997 (Condition 13 of CW2/1007/55).
- An exception to not exceed 70db Laeq 1 hour for any eight week period within 12 months where operations are noisy but temporary (for example where achieving amenity strip or screen bunds adjacent to Duckmanton) (Condition 14 of CW2/1007/55).
- Noise levels to be monitored in accordance with the scheme approved by the Waste Planning Authority 9 September 1999 (Condition 15 of CW2/1007/55).

The applicant has indicated that a number of best practice procedures would continue to be implemented such as continued enforcement of a site speed

limit, and plant would be maintained and fitted with properly lined acoustic covers and which would be closed whilst machines are in use.

The ES indicates that the assessment of vibration during the plant operations, restoration or construction phase of the development is likely to result in a negligible impact magnitude and neutral significance. Vibration effects from the movement of HGVs is in general unlikely to produce any perceptible vibration.

The EA and EHO raise no objection to the findings of the ES in respect to noise or vibration issues.

I am satisfied that subject to the retention of the conditions identified that the impacts associated with noise and vibration would be to acceptable levels and that the application, in this regard, is considered to be in accordance with Section 15 of the NPPF, Appendix B (j) of the NPPW, policies W6, W9 and W10 of the DDWLP and Policy CLP14 of the CBLP.

Air Quality

The issue of air quality is similarly assessed against the development plan policies identified above.

The site is not within a designated Air Quality Management Area (AQMA). Chesterfield Borough Council has declared one (AQMA) for exceedances of the annual mean nitrogen dioxide (NO₂) objective; however, the AQMA is in Brimington, approximately 4km to the west of the application site and would not be affected by operations at the landfill.

Road Traffic and Air Quality

An Air Quality Assessment has been undertaken by the applicant and informs the relevant section within the ES. With regard to impact from road traffic emissions generated by the development, the ES considers five receptor locations close to the site and adjacent to the A6192 Erin Road. The assessment found that any change is likely to have a negligible effect from current baseline conditions with regard to NO₂, PM10 and PM2.5 (Particle Matter) vehicle emissions. The predicted concentrations are all well below the Air Quality Assessment Levels set out in the UK Air Quality Strategy objectives.

It is considered, therefore, that the potential impact from continued development traffic emissions would not be significant and that this has been demonstrated in the ES. Cumulative impacts are therefore also likely to be not significant.

It is therefore considered that with regard to potential air quality issues arising from road traffic associated with the proposal, that the application is in

accordance with Section 15 of the NPPF, Appendix B(g) of the NPPW, policies W6, W9 and W10 of the DDWLP and Policy CLP14 of the CBLP.

Dust and Air Quality

The ES recognises that the extended operation of the landfill will potentially lead to dust emissions. There are human receptors within approximately 100m of the application site boundary, and a detailed dust assessment has been undertaken to inform the ES.

The proposed development includes a waste reception pad, an area of reinforced concrete 19m x 52m, where incoming waste would be deposited. The bulked waste would then be transported to the active cell using site-based vehicles. Material handling; on-site transportation; off-site transportation; and site restoration activities are likely to have the greatest potential for dust emissions.

The dust assessment considered residual effects after dust management for each potential impact. It also considered meteorological and wind direction data, and dispersion/distance in assessment of potential effects. The results indicate that in consideration of deposition of dust upon sensitive receptors identified in the study as Poolsbrook, Duckmanton, Oaks Farm and Markham Lane, that the magnitude of the dust effect in all cases was considered to be negligible.

With regard to consideration of dust effects on health, the annual mean particle matter PM10 concentrations at receptors in the vicinity of the application site are likely to be close to background level, i.e. 13.9 micrograms per cubic meter of air ($\mu\text{g}/\text{m}^3$) in 2020. The Institute of Air Quality Management (IAQM) guidance takes the approach that there is little risk that a process contribution from a dust source would lead to an exceedance of the objectives Air Quality Assessment Levels set out in the UK Air Quality Strategy objectives, where background ambient PM10 concentrations are below $17\mu\text{g}/\text{m}^3$. Therefore, it is considered that the proposed development would have an insignificant effect on health due to fugitive emissions of PM10 particle matter.

The magnitude of dust effects at local receptors has been shown to be negligible in the assessment of dust effects in the ES. I am satisfied that any dust generation would be within safe and acceptable limits, and a condition for de-watering of ground in dry conditions (Condition 11 of CW2/1007/55) is recommended for retention.

On site mitigation to limit dust effects would continue and are also a requirement of the EA permit requirements for the operations on site through a Dust Management Plan (DMP).

I am satisfied that the ES has shown that the designed in mitigation measures, summarised below, provide an appropriate level of mitigation at the landfill:

- Existing screening bunds and planting would be retained.
- The waste reception pad would be located more than 250m from any dust sensitive receptors.
- Water suppression would be used as necessary.
- Vehicle speeds on site would be limited to 15 mph.
- All vehicles using the site would be appropriately contained or sheeted.
- All vehicles leaving the site would use a wheel wash.

The EA and EHO raise no objection to the findings of the ES in respect to air quality and fugitive dust issues. Cumulative air impacts from dust generation are therefore likely to be to acceptable levels. I note the comments received from the public that there is concern about associated potential health risks associated with air quality, however, I am satisfied that it has been demonstrated effectively with the ES that air quality impacts would be within acceptable limits.

It is therefore considered that with regard to potential air quality issues arising from dust emissions associated with the proposal, that the application is in accordance with Section 15 of the NPPF, Appendix B(g) of the NPPW, policies W6, W9 and W10 of the DDWLP and Policy CLP14 of the CBLP.

Odours and Air Quality

The ES acknowledges that the potential effect of odour at receptors is dependent on the distance from the source to the receptor and the sensitivity of the receptors and that residential receptors are considered highly sensitive in the assessment.

The ES considers wind frequency to determine 'pathway effectiveness', or the odour flux to the receptor, based on distance from source to receptor, the frequency of winds from the source to the receptor, the effects of dispersion and dilution and the topography/terrain. The risk of odour impacts and the receptor sensitivities have then been combined to determine the likely magnitude of the odour effect at each receptor.

Whilst odour is emitted from the site, the ES indicates that '*significant effects*', due to odour from the landfill, are unlikely at the receptor areas of Duckmanton (residential) and the commercial areas along Markham Lane to the south and south-east of the application site. Odour effects are considered likely to be slight at the residential receptor Oaks Farm.

The assessment identifies that there is a risk of moderate odour effects at Poolsbrook (residential).

The significance of these odour effects at the receptor locations considered in the ES are all identified as being '*not significant*'.

With regard to mitigation of likely impacts from odour, the operator has an Odour Management Plan (OMP) in place, which forms part of the Environmental Management System as required under the EA Environmental Permit. The agent for the applicant has confirmed that the EA permit will not be varied as a consequence of the planning application.

The OMP aims to ensure that odour assessments form part of daily inspections, and that odour is primarily controlled by good operational practices, with appropriate measures undertaken to prevent odour beyond the site boundary. The OMP includes a description of the likely odour sources, and receptors and the control procedures used to manage odour at the site on a daily basis.

Food waste, landfill gas, and leachate are the main identified sources of odour. The OMP outlines a programme for waste disposal management to mitigate against odour effects. This includes methods such as depositing odorous waste in front of the working face, to then be covered immediately by other non-malodorous waste materials. Where possible, the OMP requires that high odour risk waste deposition will occur during periods of favourable weather conditions. Completed areas of the installation are capped with an engineered clay liner as soon as possible upon the cessation of waste infilling.

Landfill gas and leachate plant are required to be monitored and appropriately maintained under the OMP and, if considered necessary, odour management sprays containing either a masking or neutralising agent may be utilised around sensitive areas of the installation.

Operations at the landfill are permitted by the EA and, with regard to Paragraph 183 of the NPPF, the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

Whilst no objections have been received by the EA or EHO, I note the comment of the EHO that they have received complaints alleging that the site gives rise to odour, and such complaints are then forwarded to the EA as permitting authority. No enforcement action has, to date, been taken against the operators of Erin Landfill by the EA and it is considered that the operator is using appropriate measures to control odour within acceptable levels from the landfill operation.

Whilst odour does emanate from the site, the ES recognises this. Although the ES identifies the likely effects to be '*not significant*', it offers appropriate mitigation of the likely impact through implementation of the OMP. Neither the EA nor EHO have questioned the findings of the ES, or objected to the proposed extension of time for filling and restoration.

It is therefore considered that with regard to potential odour issues, that the application is in accordance with Section 15 of the NPPF, Appendix B(g) of the NPPW, policies W6, W9 and W10 of the DDWLP and Policy CLP14 of the CBLP.

Highways

Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Appendix B (f) of the NPPW states that WPAs should consider, in determination of waste planning applications, the suitability of the road network and the extent to which access would require reliance on local roads.

Policy W2: *Transport Principles* of the DDWLP states that waste development which would be likely to result in an overall significant increase in the number or distance of waste-related journeys for people, materials or waste, or, would not provide or utilise a choice of transport modes for people, materials or waste, will not be permitted if there is a practicable, environmentally better alternative.

Policy CLP22: *Influencing the Demand for Travel* of the CBLP states that development proposals will not be permitted where they would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

There have been significant changes to the local highway network since the original consent was granted, such as the creation of junction 29a of the M1 motorway and the development of Markham Vale Business Park.

Vehicles visiting the landfill would continue to access the site via Markham Lane to the east of the site, which passes under the motorway and over Erin Road. Markham Lane has direct access to the M1 Motorway via junction 29a, and therefore has good road linkage being within very close proximity to the M1.

Markham Lane is subject to a 40mph speed limit, has a carriageway width of approximately 7.3m and features footways with street lighting for an extent of around 500m from the roundabout junction. To the north of this point,

Markham Lane becomes a private road (owned by Viridor). The private road is gated to prevent unauthorised access outside of opening hours. The road has an advisory 10mph speed limit and features speed humps as a traffic calming measure.

The most recent planning permission allows for up to a maximum of 185 visits (370 vehicle movements) each working day. The application does not propose to vary this restriction. The Highway Authority has no objections to the proposal, subject to this vehicle movement thresholds being maintained.

A full Transport Assessment has been carried out with respect to the development proposals which informs the relevant chapter within the ES.

The ES states that as a direct result of the Coronavirus (COVID-19) situation during the Spring and early Summer of 2020, it has been impossible to undertake traffic surveys of the junctions adjacent to the site. Without the benefit of being able to commission fresh traffic surveys, it has been necessary to review traffic data presented within Transport Assessments which supported a number of planning applications which have been submitted for development sites within the immediate and wider locality of the Erin Landfill site. The Highway Authority has raised no objection to this approach.

The ES demonstrates that the level of traffic associated with the site in its current and extended operation is modest and any impact upon the highway network would be negligible. Having regard to the detailed analysis undertaken in the preparation of the accompanying Transport Assessment, it is concluded that the continued operation of the Erin Landfill site does not give rise to the need for mitigation measures.

It is not evident that cumulative impact with neighbouring uses would cause significant impact with regard to highways issues.

I am therefore satisfied that there would be no significant highway impacts or unacceptable highway safety impacts associated with the proposal which is considered to be in accordance with Paragraph 109 of the NPPF, Appendix B (f) of the NPPW, policies W2 and W10 of the DDWLP and Policy CLP22 of the CBLP in this regard.

Landscape and Restoration

At national level, the NPPF seeks to protect landscape and local character. The most relevant section of the NPPF in this regard is considered to be Chapter 12: *Achieving well designed places*. Appendix B (c) of the NPPW similarly identifies landscape impact as a consideration in determination of waste planning applications.

Paragraph 127 (c) of the NPPF requires that planning decisions are sympathetic to local character, including the surrounding built and landscape setting, whilst not preventing or discouraging appropriate innovation or change.

With regard to the Development Plan, Policy W7: *Landscape and Other Visual Impacts* of the DDWLP states that 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.”

Policy CLP15: *Green Infrastructure* of the CBLP seeks to protect and enhance landscape character and to create new green infrastructure where possible.

Policy CLP20: *Design* of the CBLP promotes good design and requires that all development should identify and respond positively to the character of the site and surroundings and respect the local distinctiveness of its context.

Policy W12: *Reclamation and Restoration* of the DDWLP states that waste disposal by means of landfill will be permitted only if the application provides for the restoration of the site to contemporary standards and for an appropriate after-use, including an appropriate period of aftercare, and the application demonstrates that sufficient waste and other fill material is likely to be available, within reasonable proximity of the site, to achieve restoration of the site within the proposed time-scale.

The application site is within National Character Area (NCA) Nottingham, Derbyshire and Yorkshire Coalfield. The Landscape Character of Derbyshire, (4th Edition) identifies the site as being within ‘*Estate Farmlands*’ character type. The local landscape of the site, and its immediate surroundings, is not covered by any national or local landscape designations.

After opencast coal extraction at the site (and local area) in the 1980s, much of the area to the north and the west of the site has been restored to agriculture and notably forming the Poolsbrook Country Park. The wider local area is a maturing landscape. A major employment scheme is progressing to the north, east and south of the site, upon the former Markham Vale Colliery site and associated areas. In addition, a large-scale solar farm has been erected to the west of the site. However, there remains significant evidence of disturbance and dereliction of surrounding landscapes. The landscape is undergoing significant change, the landfill remaining a constant feature from the 1990s, but the LVIA outlines that this is feature to be restored for landscape (and visual) benefit.

The former footpath directly linking Duckmanton and Poolsbrook remains diverted around the western edge of the landfill. Restoration proposals would allow for a new network of permissive paths within the area.

As a result of its land use history, the surrounding areas have a varied landscape character and quality. It is a landscape still in transition from an extensive area of disturbance and dereliction, resulting from the history of coal mining and related activities, to a modified regenerated landscape incorporating significant employment areas around key transport routes and substantial areas of lower grade agricultural land. The historic, existing and future planned developments in the local area create sub-urban and a chaotic feel to the landscape. Restoration of the site would help to relieve this.

The operations at the site are not attractive visually, however, the achievement of restoration levels as approved can only be achieved through continuation of landfilling. Final restoration and landscaping of the site would then improve the visual amenity of the site significantly.

A LVIA has been undertaken to inform the ES. The landscape baseline condition within the local area has evolved substantially since the original consent, development within the wider area is ongoing and focussed upon the Markham Vale employment area.

In addition, other areas of the former open cast and degraded mineral areas are now restored and forming mature landscape features, e.g. Poolsbrook Country Park. Landscape condition at the site (and study area) have improved over the historic baseline, as the site (and wider area) has been progressively restored.

The extent of the study area for a development is broadly defined by the visual envelope of the proposed development and the anticipated extent of the Zone of Theoretical Visibility (ZTV) arising from the development itself. The ZTV study area for this assessment extends to a c.2km radius from the site boundary.

The LVIA considers baseline landscape character as existing, a comparative assessment between the consented scheme and an assessment of the landscape and visual effects of the proposed scheme.

The time frame for the visual disturbance has changed (start and end dates) and the overall duration of the whole site operation (and period for visual effects to arise) is to be extended.

The LVIA concludes that none of the identified residential receptors within 1km or settlements within 2km would experience visual effects of a '*significant*' nature. There are properties that would have views over the ongoing works,

however, these are visual effects that have already been considered acceptable at the time of the original consent. Due to delays in landfilling input volumes, the landfilling is still to take place in the site areas most visible from these properties. The LVIA considers the likely impact upon seven of the closest residential groups. In addition, 11 viewpoints were selected on the basis that they provide views to (or illustrate the limited visibility) of the existing landfill from sensitive receptors (residential, recreational and public rights of way (PROW)).

There are properties, notably groups R1 (East Crescent) and R2 (North Grove), that would have views over the ongoing works, and are considered sensitive receptors. The LVIA states, however, that these are visual effects that have already been considered acceptable at the time of the original consent and therefore the magnitude of these effects for the purposes of the LVIA/ES are considered negligible, as there is no change to the development form and profile proposed to that originally consented. Due to delays in landfilling input volumes, the landfilling is still to take place in the site areas most visible from these properties. The site is probably most prominent at Viewpoint 2 located on Erin Road near Poolsbrook where the unrestored southern edge of the landform is still evident and contrasts with the surrounding landscape. The proposed phasing scheme suggests that there will be progressive restoration of the northern slopes throughout stages 1 and 2, so that by stage 3 of the development adverse visual effects from Viewpoint 2 are likely to be largely mitigated.

The assessment concludes that there would be no '*significant*' visual effects from any of the recreational routes or main road corridors within the study area. Views are generally screened by a combination of route alignment, topography, built features and vegetation.

It is noted that at the time of original assessment, there was substantially less screening vegetation around the site perimeter, the outlook and site screening has improved markedly during the intervening period.

The assessment has established there would be limited additional landscape and visual effects generated by the extension of time to landfilling and restoration works at Erin Landfill. Although the visual receptors would be exposed to an extended duration of landfilling operations, these effects are no different to those originally consented, and from many aspects despite the delay, the visual effects are still to be experienced. The individual duration of effects would be extended but the site is now operated within a maturing landscape setting, improving local landscape structure and near range visual screening.

The final restoration scheme has also been reviewed as part of this submission, although it broadly conforms to the principles of the original

scheme. It is proposed to return the land on final restoration to a mix of agricultural land with some species rich grassland, woodland and permissive footpaths. Overall, I consider the landscape proposal to be appropriate to the character of the wider landscape and would deliver a number of environmental benefits for local communities. The final restoration would require the submission of further details relating to species mixes, planting densities, cultivations, and I would recommend that a planning condition is added to this effect.

With regard to aftercare, the application now proposes to vary landscaping of the site and, as a consequence, the aftercare scheme previously agreed will need to be updated, and Condition 19 of the previous planning permission varied. It is suggested that should this application be approved, that a condition is applied to require an updated aftercare scheme to take account of variations in the landscaping detail proposed and soil profile strategy for restoration. The currently approved soil strategy included in the aftercare scheme indicates that top soils and sub soils required for restoration can be sourced from the existing site (as confirmed in the initial ES 1997), and the current application does not deviate from this.

Settlement of waste can take a number of years, the exact duration of which is difficult to predict, but does depend on various factors such as fill rate, compaction of waste and leachate control which the operator must carefully manage. The application includes pre and post settlement contour plans. The settlement contours do not differ from that as previously approved. Whilst pre-settlement contours would result in a higher profile, over time the profile would fall, and the operator must achieve post-settlement levels as indicated in the submitted plan. The application for these purposes is not restricted by tonnage/amount of waste which can be deposited at the site (other than through daily vehicle movements), but rather by the approved contours. Whilst it is noted that these may take a significant period of time to achieve, it is considered that on restoration, at either pre-settlement or post settlement stages that the contours would be to acceptable levels, as already agreed under the previous planning permissions.

It is not evident that cumulative impact with neighbouring uses would cause significant harm with regard to landscape issues.

I am therefore satisfied that impacts associated with landscape, visual impacts and restoration could be managed accordingly, and that the application in this regard is considered to be in accordance with Section 12 of the NPPF, Appendix B (c) of the NPPW, and policies W7, W10 and W12 of the DDWLP and policies CLP15 and CLP20 of the CBLP.

Flood Risk and Drainage

Chapter 14: *Meeting the challenge of climate change, flooding and coastal change* is the relevant section of the NPPF with regard to flood risk.

Appendix B (a) of the NPPW, protection of water quality and resources and flood risk management, is also concerned with flooding, with consequent issues relating to the management of potential risk posed to water quality.

Policy W6 of the DDWLP states that waste development will be permitted only if it would not result in material harm caused by contamination, pollution or other adverse environmental or health effects. The supporting text to the policy in 'Box W6' states that, where there is a risk to local drainage systems, the developer will provide an effective alternative drainage system and that the proposal includes adequate provision to ensure that there will not be contaminated run-off.

Policy CLP13: *Managing the Water Cycle* of the CBLP seeks to limit flood risk and protect the water environment.

A Flood Risk Assessment (FRA) has been undertaken to inform the ES. The site is located within Flood Zone 1 and therefore, has a '*low probability*' of flooding.

The site is located within the River Doe Lea valley towards the southern end of the River Rother catchment. The River Doe Lea flows into the River Rother near Renishaw, approximately 4km to the north of the Site.

The majority of the site drains to the east and north towards the River Doe Lea, the western edge of the Site and restored land immediately to the north of the site drains to the west to the Pools Brook which is tributary of the River Doe Lea.

The existing surface water management at the landfill has evolved in parallel with development of the landfill. Currently on site, the surface water run-off is controlled by a series of perimeter ditches on the restored areas of site which directs the run-off into the centre of the site. From here the surface water is sent via a ditch that discharges through a headwall and through a series of underground pipework to the settlement lagoons in the north-west corner of the site. Any surface water which cannot be collected by gravity is pumped to this headwall and discharged into the settlement lagoons.

It is proposed to continue this method while landfilling operations are ongoing, however, once an area is restored then the revised surface water features as proposed can be constructed.

Whilst there is already a scheme of surface water management in place for the site that covers the restored and operational areas, attenuation requirements to ensure surface water run-off from site does not increase flood risk downstream has been substantially updated over the last few years.

Whilst the area to be drained (site catchment) would remain the same, additional attenuation capacity is required. This would be provided by a new lagoon to the east of the existing site offices and combining two existing lagoons and extending slightly in the north-east of the site. Perimeter swales would be implemented as part of the restoration scheme to capture surface water from the various areas of the site.

The Local Lead Flood Authority (LLFA) has no objection in principle to the alterations to the surface water management regime proposed. The LLFA has advised that the operator for health and safety purposes, in relation to maintenance, carries out its own suitable risk assessment with regard to depths of proposed drainage and lagoons. The LLFA has confirmed, however, that this comment relates to an operational/safety matter and is satisfied that this could be relayed to the applicant as a footnote in the decision should the application be successful.

Leachate is pumped from the cells and stored in two separate lagoons adjacent to the plant area to the north-east of the site. Drainage of leachate, and surface water management of restored areas are therefore on two separate designed systems. All discharges to controlled waters from the site are regulated by the EA permit. Collected leachate is removed by tanker from the site for treatment at an appropriate licensed treatment facility.

Potential adverse impacts from the continued operations are identified in the ES. These include:

- Leachate escape through breach of engineered containment systems of adjacent non-hazardous landfill cells.
- Leaks and spills of fuels and oils associated with vehicles and equipment.
- Sediment loading of watercourses.
- Discharge of poor-quality water to watercourses.
- Flooding of development site generating physical hazards and contamination of flood waters.

The above risks are identified as being moderate to low at the operational phase, and between moderate and very low at the restoration phase.

The ES outlines mitigation against these potential impacts. These include standard pollution prevention procedures to be implemented during the operational phase based on industry best practice and are controlled through the EA permit.

Examples of some of the measures that would be adopted at the site are included below, to mitigate potential impacts on the water environment:

- silt traps, straw bales placed within stream channel and temporary settlement lagoons;
- protective coverings to stockpiles and locations away from watercourses;
- retention of vegetated strips along watercourses;
- tanked areas for plant and wheel washing;
- bunded fuel storage and refuelling areas;
- provision of spill kits;
- location refuelling areas away from watercourses; and
- provision of vegetation/grass cover on earth stockpiles.

The redesigned surface water management scheme is also considered mitigation against potential effects.

The ES finds that the residual environmental effects, which are those that remain after all proposed mitigation measures are implemented are “*very low adverse.*”

The LLFA and EA have no objections to the findings of the FRA or the ES and the site is not considered to be at high risk of flooding. The proposed development would not increase the likelihood of flooding to adjacent land uses. The risks of impact as identified could be suitably mitigated and any discharge into watercourses is controlled by the EA. Potential contamination of leachate, as raised as a concern by objectors, is noted. However, I am satisfied that cells are appropriately engineered to minimise risk to contamination of groundwater and controlled through the EA permit. Whilst any contamination of local hydrology systems and groundwater is subject to penalty by the EA, I am satisfied that, given that no objections have been received by either the EA or LLFA, the applicant has demonstrated appropriate measures would be in place to manage drainage and protect hydrology interests.

I am therefore satisfied that the application is in accordance with the policies identified above with regard to flood risk and drainage.

Ecology

Chapter 15: *Conserving and enhancing the natural environment* of the NPPF, provides specific guidance on protection and enhancement of biodiversity the natural environment. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by “*(inter-alia)*:

- d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;* and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.”

Appendix B (d) Nature Conservation of the NPPW states that, in determination of planning applications, considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites), a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves), Nature Improvement Areas and ecological networks and protected species.

Policy W5: *Identified Interests of Environmental Importance* of the DDWLP states that proposals for waste development, which might affect identified interests of environmental importance, will be assessed in the light of:

- the level of protection merited by the character and status of the interests; and
- the likely impact of the development on the interests.

Waste development will be permitted only if, in the context of the assessment, the development would not materially harm the identified interests.

Policy CLP16: *Biodiversity, Geodiversity and the Ecological Network* of the CBLP expects development proposals to protect, enhance and contribute to the management of the ecological network of habitats, to avoid or minimise adverse impacts and to provide a net measurable gain in biodiversity.

The site is not within any sensitive ecological designation. Duckmanton Railway Cutting Site of Special Scientific Interest (SSSI) and Doe Lea Stream SSSI are over 2.6km and 3.6km away from the site boundary respectively. At this mitigating distance, it is considered that there would be no direct or indirect impacts on the SSSIs.

Norbriggs Flash Local Nature Reserve (LNR) is located approximately 1.5km to the north of the site boundary. Norbriggs Flash is designated for its important habitats for wintering wading birds and wildfowl. Retained habitats within the retention lagoon area of the site may contribute to the existing corridor of Local Wildlife Sites (LWSs) between the River Doe Lea located on the eastern edges of the site and the River Rother over 2km to the north. It is considered that there will be no negative impacts from the proposal upon Norbriggs LNR.

Markham Colliery Reedbed LWS is a County designated site within 100m, which has potential to provide connectivity with the habitats in the north-eastern section of the site, providing a corridor of reedbeds and a network of ponds within the surrounding area. Considering this habitat is of County value,

it is considered probable that the retention of the reedbeds on site would contribute positively to the enhancement of this habitat network within the wider landscape, resulting in a permanent, significant and positive impact on this receptor.

The ES concludes that the restoration, as proposed with aftercare, would have a positive impact upon habitats and ecology of the site, some significant.

A Preliminary Ecological Appraisal (PEA) was undertaken within the proposed development site boundary to inform the ES. The principle of landfilling has already been established on site through the previous consents.

Therefore, the impact assessment considers the extension of time to continue the consented operations. The PEA lists potential wildlife types that may be in the immediate proximity, but suitable habitats are currently limited to restored areas and the fringes of the site given that it is a working landfill.

The site would be further enhanced through the measures outlined below, resulting in increased biodiversity throughout the site. These measures include:

- reduction in woodland areas allowing for increased diversity of habitats on site;
- increase in areas of unimproved species-rich neutral grassland supporting a diverse and complex mix of both flora and fauna;
- increased planting of native species hedgerows and trees supporting an increased invertebrate assemblage and improved foraging, commuting and nesting/roosting habitats for birds and bats; and
- creation of a network of surface water ponds and drainage ditches across site, enhancing habitat and waterbody connectivity.

It is considered that the now proposed restoration and planting scheme provides benefits to wildlife that outweigh the limited impacts to the low ecological value currently supported by the site. Should successful maturation of the habitats be achieved, supported by an appropriate aftercare plan, the site would be considered to provide a substantial positive enhancement in ecological value both on site and within the wider habitat. The species rich grassland in the proportions now proposed to offset some of the woodland planting, is considered overall to be a more balanced approach which is likely to result in biodiversity net gain.

Whilst DWT in its comment states that clearly any delay in the restoration will have a knock-on impact in terms of time on the recovery of nature in this part of the County, it does note that the ongoing use of the site for landfill is unlikely to have any additional impacts on features of high nature conservation value. DWT has not objected to the proposals and the reduction in woodland

planting is supported by EMBC who, “*note the emphasis on ecological restoration of the land and the intention to produce species-rich grassland and we would be in general support and applaud these plans, given that the site could support good populations of many butterfly species.*”

Subject to a condition requiring a revised aftercare document, to ensure maintenance of the habitats proposed in the revised restoration scheme, I am of the view the application is in accordance with the policies identified above with regard to ecological issues.

Heritage

The site is not within a sensitive locality with regard to cultural heritage and is not in close proximity to designated and non-designated heritage assets. The nearest designated heritage assets to the site are 18 Listed Buildings located in the nearby settlements Staveley, Netherthorpe and Long Duckmanton. There are no Scheduled Monuments located within 2km of the site.

Given the site’s historical use as an opencast coal site and the current landfill operation, the potential for direct impacts on heritage resources are considered to be negligible. Therefore, consideration of potential effects to heritage resources has been scoped out of the updated ES by the applicant. The proposal accords with the Development Plan and the NPPF in this regard.

Pests - Birds, Flies and Rodents

Appendix B (i). Vermin and birds of the NPPW, recognises that some waste operations can lead to attraction of pests, and in determination of such planning applications considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby.

Policies W6: *Pollution and Related Nuisances* and W9: *Protection of Other Interests* of the DDWLP, and Policy CLP14: *A Healthy Environment* of the CBLP, all have some relevance in protecting amenity, minimising disturbance of adjoining land uses.

The ES indicates that the management of vermin and flies is detailed in the Operational Management Plan (OMP) and Pest Control Plan (PCP) controlled as part of the Environmental Permit for the site.

Mitigation through the PCP is as follows:

- Robust waste assessment combined with appropriate disposal and handling procedures.

- Sufficient cover material.
- Trained and informed staff.
- Good housekeeping on site.
- Use of approved pest control treatment techniques and qualified pest contractors.
- The site operates under a landfill gas management plan to minimise odour.

More specific fly control measures include:

- Insecticide sprays: These are used by the pest control contractor to address areas of the site that are reported as having an increase in fly numbers.
- Insecticide Fogging: This method is occasionally utilised on the waste when the Site Manager or the pest monitoring contractor are of the opinion that the number of flies has increased significantly or in the receipt of complaints. This method involves fogging the waste mass in the putrescible cells with insecticide, effectively treating as much of the operational waste areas as possible.
- Insecticutors: The site has a number of blue light insecticutors (that attract insects to the light and provide a mild electrical shock that kills the insect). These are placed around the offices and other buildings on site that are utilised and are maintained by our pest contractor to aid in controlling fly populations at the site.

More specific vermin control measures include:

- Baiting the site: This involves placing food in designed traps that attract the vermin in and contains them. This work is undertaken by our pest control contractor.
- Trapping areas of the site: This is in addition to baiting and is used to capture and contain vermin within the trap on site. This work is undertaken by our approved pest control contractor.
- Night time culls: In the event vermin numbers are considered to be excessive (i.e. the number of sightings of vermin on site increases) then Viridor is able to arrange for a series of night time culls on the site by a pest control contractor. When arranged, these culls often take place over a number of nights throughout a week to two week period.

A third party contractor carries out monthly visits to site to perform bait treatment in order to control the population of vermin. The frequency of attendance is set at a minimum of once per month to bait and trap the site for vermin. In the event that the numbers of vermin are considered by either the contractor or by Viridor staff to be on the increase then the frequency of visits is increased and the location and numbers of traps on the site is reviewed,

with any increase in number or change of location agreed with the contractor. Records of visits and treatments are retained within the site office.

Viridor has confirmed it does not currently use mechanical bird scarers on site. However, a falconer normally visits the site three times a week which can be increased if required.

It is noted that a substantial amount of the objections from the public received relate to issues of pest attraction. I acknowledge that any presence of vermin, flies and birds can lead to disturbance and at least a perception of associated potential health risks.

No objections have, however, been received by the EA or EHO, and I am satisfied that the mitigation measures are in place through the OMP/PCP. Whilst Appendix B(i) of the NPPW indicates that this should be a consideration in determination of the application, I am also mindful that there are measures in place to mitigate against these effects through the OMP/PCP. The need to duplicate such controls in this instance is not considered necessary, in consideration of Paragraph 183 of the NPPF, and also with regard to the tests for the imposition of planning conditions and obligations paragraphs 55-56 of the NPPF. I do not consider there to be particular conflict with the requirements of Appendix B(i) of the NPPW, or policies W6 and W9 of the DDWLP, and Policy CLP14 of the CBLP, given that the issues have been considered in determination of the application, and mitigation has been demonstrated. Following the advice of the EHO, however, should the operator fail to meet the requirements of the permit or fall short of the commitments in the approved OMP/PCP, then this would be within the remit of the EA to ensure the requirements of the permit are being met.

Climate Change

Paragraph 150 of the NPPF requires that new development should be planned for in ways that avoid increased vulnerability to the range of impacts arising from climate change. It says that when new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure.

The ES identifies the greatest potential impact to climate change from the operation of the landfill is the generation of landfill gas from the biodegradable waste degrading in anaerobic conditions. Landfill operators control landfill gas by implementing a positive extraction system that captures the gas, which is largely methane, and uses it as a fuel to generate electricity.

There is already a scheme of landfill gas management at Erin which generates electricity. The current planning permission allows operation of the gas engines and associated equipment for the life of the site. As the landfill

will be generating gas beyond that of the proposed cessation of restoration works (2035), the continued operation of the gas compound beyond 2035 will be sought under a new and separate planning application.

Given that the ES has demonstrated that the proposals would be within acceptable limits, and as a system to extract methane is in place and regulated by the EA, I do not consider that the proposal is at odds with Paragraph 150 of the NPPF.

Conclusions

The site of the established landfill operation is not within a sensitive locality with regard to landscape, heritage, or ecological designations. The site has an extensive planning history with previous planning permissions granted for landfill operations. I am satisfied that the principle of the development is acceptable given the context of the established planning history of the site as a landfill operation. The reasons and justification given for the extension of time for filling and restoration are considered acceptable as outlined above.

Extending the scope of the Erin landfill site will clearly build in resilience for landfill both locally and strategically. Landfill resilience is not evenly spread and Erin in particular is a key site to the County's ongoing access to useable landfill space. There are currently huge pressures on both local and national waste capacity, there is little evidence that prolonging existing landfill as per this application will have any measureable impact on the delivery of other waste facilities, indeed given the landfill tax rates as a disposal option it is now a very expensive and generally uneconomic option.

I am satisfied that there is a clear need for landfill capacity currently in the County as not all waste types can be recycled or re-used. There remains demand until other effective solutions, such as disposal of waste through energy from waste type operations come on line.

In consideration of the potential impacts of extending the time for filling and restoration, and changes to landscaping/restoration and the waste pad provision, no objections to the planning application have been received from statutory consultees.

I am mindful of the impacts outlined in the ES and concerns raised in representations by the public. I consider, however, that any impacts, either in isolation or cumulative, can be mitigated against appropriately either through the imposition of planning conditions where necessary, or through the EA permit for the operation.

The application is considered to be in accordance with the development plan and national planning guidance, and is recommended for approval subject to the conditions listed below.

(3) **Financial Considerations** The correct fee of £234 has been received.

(4) **Legal Considerations** The Conservation of Habitats and Species Regulations 2017 (as amended) consolidate earlier regulations and now transpose the European Union (EU) Directive on Natural Habitats, and Wild Fauna and Flora (92/143/EEC) into national legislation. They afford a high level of protection to a variety of species that are considered important at a European scale. The Regulations identify European Protected Species and various habitats of importance within the EU, with important sites being designated as Special Area of Conservation (SAC). Any proposed development that may have a significant effect on a SAC (either direct, indirect, temporary or permanent) should be assessed in relation to the site's '*conservation objectives*', i.e. the reasons for which the site is designated.

Under the 2017 Regulations, an "appropriate assessment" of the implications of the proposed development, in view of the site's conservation objectives must be made in respect of any decision to be taken for any consent for a project (or a plan) or which either alone or in combination with other plans or projects would be likely to have a significant effect on a European Site, and is not directly connected with the management of the site for nature conservation.

The proposal has been screened under the above Regulations and it is considered that there is no further requirement for an Appropriate Assessment in this case, given that any impacts would not significantly affect any site categorised in the designations identified above.

I do not consider there to 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.

(6) **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.

(7) **Background Papers** **File No 2.117.37**
Application documents as submitted 26 October 2020 (including Environmental Statement documents), valid 10 November 2020. All correspondence relating to application, CW2/1020/38 file no. 2.117.37.

UK Energy From Waste Statistics, 2019 (Tolvik Consulting, 2020)
UK Statistics on Waste (DEFRA/Edie, 2018)
The Reducing Landfill Capacity in the UK and what needs to be done (Moore 2018)

(8) **OFFICER'S RECOMMENDATION** That the Committee resolves that planning permission is **granted** subject to conditions substantively as follows:

Duration

- 1) All infilling operations approved or required under the terms of this Permission shall be completed by 31 May 2035 and all restoration shall be completed within a further 24 months.

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

Form of Development

- 2) The development shall take place in accordance with the details contained in the 1APP completed application form dated 26 October 2020 (considered valid on 10 October 2020), planning statement dated October 2020 (subject to revised wording to Paragraph 3.5.2 confirmed by email of agent of 12 March 2021), Transport Assessment 19 August 2020, Environmental Statement and Appendices of October 2020, Flood Risk Assessment of August 2020, Design Report (Surface Water Scheme, July 2020), and the following plans:
 - Site Location Plan - V14025/21/01 Rev.0
 - Planning Application Boundary Plan - V14025/21/02 Rev.0
 - Phasing Plan - V14025/21/03 Rev 0
 - Pre-settlement Contours - V14025/21/04 Rev 0
 - Post settlement Contours - V14025/21/05 Rev 0
 - Surface Water Management - V14025/21/06 Rev 0
 - Waste Reception Area - V14025/21/07 Rev 0
 - Restoration Contours (taken at 5 metre intervals)- V14025/21/08 Rev 1
 - Restoration Plan - V14025/08/05 Rev 0

Reason: To ensure that the development is carried out in accordance with the details in the submitted planning application in the interest of the amenity of the area.

- 3) Within three months of the date of this permission, a detailed specification for the waste pad hereby approved including depth, construction material and written method of litter control, shall be submitted in writing to the Waste Planning Authority. The waste pad

shall be constructed and operated in accordance with the details to be agreed in writing by the Waste Planning Authority.

Reason: For the avoidance of doubt and in the interests of litter control and amenity of neighbours and residents.

Vehicle Movements

- 4) No more than 185 heavy goods vehicles visits (370 vehicle movements) carrying waste shall enter the waste disposal site on any day.

Reason: To limit the volume of traffic in the interests of the amenity of local residents.

Hours of Operation

- 5) Except in emergencies to maintain safe landfill working, which shall be notified to the Waste Planning Authority as soon as practicable, no operations other than gas and leachate control, operation of pollution prevention and control equipment, servicing, essential maintenance and testing of plant shall be carried out except between:

0700 hours - 1730 hours Mondays to Fridays; and
0700 hours - 1300 hours Saturdays.

No waste material shall be delivered to or disposed of within the site between 1630 hours and 1730 hours Mondays to Fridays and no disposal operations shall take place on Sundays or Bank and other Public Holidays.

The owner/operator of the site may apply to the Waste Planning Authority for a temporary extension of these hours if adverse weather conditions threaten the achievement of the agreed programme of works for any year. The programme of works for each year shall have been submitted to the Waste Planning Authority before 30 November of the preceding year. The extra hours of operation and the period during which they shall apply shall be agreed in writing by the Waste Planning Authority.

Reason: To protect the amenity of local residents.

Types of Waste

- 6) No waste other than those materials defined in this and previous applications code nos. CW2/997/59, CW2/1007/155 shall be deposited at the site.

Reason: Waste materials outside these categories may raise other environmental and amenity issues which would require further consideration.

Access and Routing

- 7) The sole vehicular access to the site shall be via Markham Lane.

Reason: To prevent the use of other routes in the interests of the amenity of local residents.

- 8) The surface of the site access shall be maintained in a solid bound material and repaired as necessary and the access and all permanently surface internal roads shall be kept clean and free of mud and other debris at all times until completion of site restoration, landscaping and aftercare.

Reason: In the interests of highway safety and the amenity of local residents.

- 9) There shall be no alterations to the sign at the site entrance without the prior written approval of the Waste Planning Authority.

Reason: In the interests of highway safety and the amenity of local residents.

- 10) No mud or other debris shall be carried from the site onto the public highway.

Reason: In the interests of highway safety and the amenity of local residents.

Dust

- 11) At all times, all operations hereby approved at this site shall be carried out in a manner to minimise the generation of dust. Roads and haul roads shall be watered in dry conditions. At such times as any operation gives rise to unacceptable levels of dust leaving the site, that operation shall be temporarily suspended until it can be resumed without causing nuisance.

Reason: To protect the amenity of local residents.

Noise

- 12) All plant and machinery shall operate only during the permitted hours, except in emergency, and shall be silenced at all times in accordance with the manufacturers' recommendations.

Reason: To protect the amenity of local residents.

- 13) During the operational hours approved under Condition 5, the noise levels arising from the development shall not exceed 55 dB Laeq, 1 hour at any noise sensitive properties identified in Environmental Statement dated September 1997, and updated Environmental Statement dated October 2020.

Reason: To protect the amenity of local residents.

- 14) Where operations which are noisy and temporary (i.e. the construction of the amenity strip adjacent to Duckmanton and other screen bunds), the noise limit set by this condition may be exceeded for periods not exceeding eight weeks in any period of 12 months throughout the duration of the development, as measured at any of the noise monitoring locations. During these periods the noise levels shall not exceed 70 dB Laeq, 1 hour.

Reason: To protect the amenity of local residents.

- 15) The noise levels shall be monitored in accordance with the scheme submitted 9 July 1999, including the document entitled "Scheme for Monitoring Site Noise Levels", Terry Adams (undated) approved by the Waste Planning Authority on 9 September 1999.

Reason: To protect the amenity of local residents.

Water Resources

- 16) 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 is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of the interconnected tanks, plus 10% whichever is the greater. All filling points, gauges and sight glasses shall 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 shall be detailed to discharge downwards into the bund.

Reason: To protect the quality of water resources.

Restoration and Landscaping

- 17) The site shall be restored and landscaped in accordance with the following plans hereby approved:

- Pre-settlement Contours - V14025/21/04 Rev 0
- Post-settlement Contours - V14025/21/05 Rev 0
- Surface Water Management - V14025/21/06 Rev 0
- Restoration Contours - V14025/21/08 Rev 0
- Restoration Plan - V14025/08/05 Rev 0

Reason: To ensure the satisfactory restoration and landscaping of the site in the interests of the visual amenity of the area.

- 18) Within six months of the date of this permission, submission of a detailed scheme relating to species mixes, planting densities and cultivations, shall be submitted to the Waste Planning Authority for its written approval. The final landscaping/restoration of the site shall be undertaken in accordance with the details to be agreed in writing by the Waste Planning Authority.

Reason: To ensure the satisfactory restoration and landscaping of the site in the interests of the visual amenity of the area.

- 19) All trees, shrubs and hedges planted in accordance with the approved schemes shall be maintained and any plants which, within five years of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise approved by the Waste Planning Authority.

Reason: To ensure the satisfactory restoration and landscaping of the site in the interests of the visual amenity of the area.

Aftercare

- 20) Within six months of the date of this permission, an updated aftercare scheme to include details of the aftercare of the restored site, and to take account of any variations hereby approved in the landscaping detail and any variations in soil type strategy for restoration, including capping and restoration soil depths, shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall then be implemented as approved.

Reason: To ensure appropriate aftercare of the site in the interests of the visual amenity of the locality.

Cessation/Non-completion

- 21) In the event of the cessation of infilling operations or the failure to complete the approved level of infilling within the period specified in Condition 1, the operator, shall, within six months of the date of

cessation, submit a scheme for the restoration of the site at the levels achieved and the scheme shall thereafter be implemented as approved by the Waste Planning Authority. For the avoidance of doubt, in the context of this condition, the Waste Planning Authority may, at its discretion, adjudge tipping to have ceased if no significant amount of material has been deposited on the site for a continuous period of six months.

Reason: To secure the proper restoration of the site within a reasonable and acceptable timescale, particularly in the event of a cessation of the operations.

Floodlighting

- 22) The external lighting employed at the site shall be as that detailed in the letter submitted by Haul Waste, dated 29 July 1999 and approved by the Waste Planning Authority 9 September 1999.

Reason: In the interests of amenity of local residents.

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

The Council, as Waste Planning Authority (the “Authority”), worked with the Council, as applicant (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 has engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

Tim Gregory
Director – Economy, Transport and Environment

