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## Appeal Decision

Hearing held on 4 October 2016

Site visit made on 4 October 2016

**by Nick Palmer BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 29 November 2016**

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**Appeal Ref: APP/L3055/W/16/3147055**

**Canalside Industrial Park, Kinoulton Road, Cropwell Bishop, Nottingham NG12 3BE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Chris Allsop Properties against the decision of Nottinghamshire County Council.
  - The application Ref 8/14/01550/CMA, dated 19 March 2014, was refused by notice dated 24 September 2015.
  - The development proposed is land reclamation of former mineral workings through the importation of inert waste with restoration to notable native and alien plant species habitat, characteristic of the Cropwell Bishop Gypsum Spoil Wildlife Site.
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### Decision

1. The appeal is allowed and planning permission is granted for land reclamation of former mineral workings through the importation of inert waste with restoration to notable native and alien plant species habitat, characteristic of the Cropwell Bishop Gypsum Spoil Wildlife Site at Canalside Industrial Park, Kinoulton Road, Cropwell Bishop, Nottingham NG12 3BE in accordance with the terms of the application, Ref 8/14/01550/CMA, dated 19 March 2014, subject to the conditions set out in the attached schedule.

### Main Issues

2. The main issues in the appeal are:
    - i) whether or not the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework);
    - ii) the effect of the proposal on the Green Belt;
    - iii) whether or not there is a need for the facility;
    - iv) the environmental effects of the proposal in terms of biodiversity, landscape, highway safety, noise and dust;
    - v) whether or not there are other considerations weighing in favour of the proposal; and
    - vi) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly
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outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

## **Reasons**

### *Whether Inappropriate Development*

3. The Canalside Industrial Park includes historic and more recent buildings. The historic buildings were used for the processing of gypsum which was mined locally and for the production of plaster. Those buildings have been converted into business units. The industrial park is in the open countryside to the south of the village of Cropwell Bishop. The land to the rear of the industrial park buildings contains a depression about 2-3 metres deep as a result of recent unauthorised clay extraction. The land was historically used in connection with the gypsum works. It may have been subject to previous gypsum extraction but in the 1980s appears to have been used for the deposit of gypsum spoil. The land surrounding the depression is at a higher level than the adjacent farmland. The appeal site covers the area that has been excavated and the means of access which is via the industrial park. The site is within the Green Belt as designated in the Rushcliffe Borough Local Plan (1996).
4. The proposal is to fill the depression with inert waste material and to overlay soil from mounds which are on the site to restore the land to the profile which existed before the recent extraction works took place. It is envisaged that 60,000 tonnes of waste would be deposited and it is proposed that this would take place over 3 years.
5. Green Belt policy as set out in the Framework is that Green Belts should be kept open and that development should be regarded as inappropriate. However some types of development are listed in the Framework as not being inappropriate. Engineering operations are one of those types of development which are not necessarily inappropriate provided that those operations preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. The proposed development would have the characteristics of an engineering operation although no construction work would be involved. However it would clearly be an operation for the deposit of waste and this is a type of development which is excluded from the list of exceptions in paragraph 90 of the Framework. For these reasons the proposal would be inappropriate development in the Green Belt, which is by definition harmful to the Green Belt.

### *Effect on the Green Belt*

6. Having found that the proposal would be inappropriate and therefore harmful as a matter of principle, the re-contouring of the land to approximate to that which existed before the recent clay extraction would amount to restoration. The landform resulting from the unauthorised extraction works includes depressions and mounds and is un-natural. For this reason the land has the appearance of previously-developed land. The site is in the process of re-colonisation although I saw that many areas of bare ground remain. Given the pronounced variations in levels and landform across the site the vegetation is not sufficient to blend the workings into the natural landscape. The proposal to restore the previously existing land levels and profile and to use the land for nature conservation purposes would be of benefit in restoring the landscape and removing the evidence of previous development.

7. Development plan policies recognise that waste disposal may be acceptable in the Green Belt. Policy W3.17 of the Waste Local Plan<sup>1</sup> allows for waste disposal in the Green Belt where this represents the best option for reclaiming mineral workings or other derelict voids to an after-use appropriate to the Green Belt. That policy does not require consideration of whether a proposal would be inappropriate however and in this respect is not entirely consistent with the Framework.
8. Policy WCS7 of the Waste Core Strategy<sup>2</sup> supports landfill proposals in Green Belt subject to Green Belt policies and is consistent with the Framework in this respect. That policy recognises that the use of derelict or previously-developed land or old quarries for waste disposal may be acceptable under Green Belt policy provided that very special circumstances can be demonstrated. The recognition in that policy that waste disposal in old quarries may be acceptable carries some weight in favour of the proposal.
9. On 31 August 2015 the Government wrote to Chief Planning Officers advising that it is the Government's planning policy that intentional unauthorised development in the Green Belt is a material consideration. This is because the carrying out of such development without obtaining planning permission would be likely to cause harm and does not provide an opportunity to secure mitigation measures. The Council considers that the unauthorised extraction works carried out by the appellant were intentional notwithstanding that he claims that he understood that permission was not needed. Whether or not this is the case I find that the proposal would be of benefit in terms of the openness of the Green Belt in restoring the site and re-profiling the soil mounds. The Council and objectors have concern that the developer would profit both from the proposal and the unauthorised development, but this does not alter my findings on this issue.
10. Evidence was provided by an interested party regarding a calculation of the volume of material to be deposited and the projected land levels in relation to surrounding land levels. The submitted plans show a clear profile for the final levels where the restored land would be at a higher level than the adjacent land. However, it was clear from what I saw on my visit that the land levels around the excavated area are already significantly higher than the adjacent farm land, and would have been prior to the unauthorised extraction. I am satisfied that the proposal is to restore the land to its previous levels and this can be controlled through conditions in relation to the approved plans and a detailed restoration scheme.
11. The land including the appeal site is enclosed by trees and hedges around its boundaries and I saw that it is not generally visible across the landscape or from the nearby footpaths. The limited degree of visibility does not necessarily diminish the requirement of Green Belt policy to keep land open. The former workings, including soil mounds, are evidence of previous development which is contrary to that policy requirement. I have found that the proposal would be of benefit to the openness of the Green Belt and I give substantial weight in favour of the proposal on this basis.

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<sup>1</sup> Nottinghamshire and Nottingham Waste Local Plan (2002)

<sup>2</sup> Nottinghamshire and Nottingham Replacement Waste Local Plan Waste Core Strategy (2013)

*Need for the Facility*

12. It is intended to dispose of residual inert wastes from recycling facilities or construction projects. The main parties have agreed in the Statement of Common Ground that this waste could not be economically recycled. The parties also agree that the existing facilities in the County have capacity to manage this type of waste for at least 6 years. However those facilities are in the north of the County and some distance from the urban area of Nottingham.
13. Policy WCS3 of the Waste Core Strategy seeks to ensure that there is sufficient waste disposal capacity but not an excess of provision which may have the effect of discouraging the treatment of waste at a higher level in the waste hierarchy. That policy allows for the provision of new disposal capacity where this is demonstrated to be necessary. Policy WCS5 also has this requirement and where such additional facilities are necessary, provision around the urban areas of Nottingham and Mansfield/Ashfield are prioritised. This priority area is defined as a Disposal Shortfall Area on the key diagram of the Waste Core Strategy.
14. The proposal is intended to manage up to approximately 20,000 tonnes per annum which is a small proportion of the total amount of inert waste managed in the County, given at about 270,000 tonnes per annum. Its small scale and general proximity to Nottingham would indicate that it would be a local facility. As such it would be consistent with the overall aim of the Waste Core Strategy<sup>3</sup> in terms of the provision of a network of facilities.
15. Much inert waste arising from Nottingham has previously been used as landfill cover but a landfill site which is about 6km from the appeal site is no longer operational. This together with the scale of new housing development taking place in Nottingham would indicate a need for the facility. As a local facility the proposal would reduce the need to transport waste over long distances to the north of the County. The Council has acknowledged that although there is no demonstrated need for the facility on the basis of available capacity the proposal would fulfil such a role.
16. However, although reasonably close to the urban area of Nottingham, the site is outside the Disposal Shortfall Area. A number of potential sites have been suggested to the Council following consultation on its Site Allocations document although the locations of those sites are not publicly available at present. The Council has also approved a scheme for the re-contouring of a golf course at Calverton subject to completion of a legal agreement. That proposed development is within the Disposal Shortfall Area and in locational terms would have a higher priority than the appeal site under policy WCS5. However the proposal before me would have preference under that policy to the golf course site in terms of it being for the reclamation of a mineral working or man-made void notwithstanding that this was not authorised. I am satisfied that, with regard to the relatively small volumes represented here, and taking into account the other potential sites, the site would provide for a local need and for these reasons I find no overall conflict with policy WCS5 of the Waste Core Strategy.

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<sup>3</sup> Paragraph 7.8

17. For these reasons I consider that a need for the facility has been demonstrated and that the proposal would accord with policy WCS3 of the Waste Core Strategy.
18. Evidence was submitted by an interested party regarding efforts being made in the house building industry to reduce waste and to recycle materials. Nonetheless, while a significant proportion of construction and demolition waste is recycled, there will remain a significant proportion of material which cannot be economically recycled, and this is accepted by the Council. There is no substantive evidence before me to demonstrate any realistic prospect of economic recycling of the material proposed to be deposited or that the proposal would prejudice the treatment of the waste at a higher level in the waste hierarchy.

### Environmental Considerations

#### *Biodiversity*

19. The area to the rear of the industrial park including the site was designated a Local Wildlife Site (LWS) in 2001 due to the plant species which colonised the areas previously used for the deposit of gypsum spoil. The excavated area is in the process of some limited re-colonisation by plants while the areas around the excavation remain largely undisturbed although vehicle tracks have disturbed the vegetation to some extent.
20. The aim is to restore the habitat to a state commensurate with its designation using soil from mounds stored on the site. That soil has been tested and demonstrated to be suitable to create species-rich calcareous grassland. The existing varied terrain is said by the Council to be suitable for varied faunal species and while this terrain would be lost, the proposal is to create localised variations to the topography to maintain that value.
21. A management scheme is proposed which would benefit the establishment of the habitat. This would include the management of the areas around the margins of the excavation where scrub vegetation has encroached; this would benefit biodiversity. The undisturbed areas would be fenced off to ensure that they are protected from disturbance during the proposed works.
22. If left undisturbed the site would continue to regenerate and may eventually achieve a biodiversity value across the excavated area worthy of the LWS designation, but the absence of topsoil across much of the site may compromise this. Nonetheless some intervention would be still likely to be necessary such as the re-grading of slopes for safety reasons. The proposal before me would also restore biodiversity but in a more managed way as the site would be subject to aftercare management. While the regeneration of the site may be delayed, the active management of the site would be of clear benefit to biodiversity.
23. There is no evidence before me to demonstrate that any existing biodiversity interest notably that associated with the marginal undisturbed areas would be harmed by the proposal and conditions can be imposed to secure mitigation measures for any species that are present.
24. The appellant has previously used the land for recreational driving of vehicles and this activity would have disturbed the habitat. He has however agreed to a condition which would remove permitted development rights for temporary

uses, preventing such activity in the future. For the reasons given and subject to the imposition of suitable conditions I conclude that the proposed development would not be harmful to biodiversity.

### *Landscape*

25. The restoration of the site would be consistent with the aims of the Greater Nottinghamshire Landscape Character Assessment to conserve and enhance the rural landscape. The site is enclosed by hedges and is not generally visible across the landscape but it is visible from the industrial park. During the period of the proposed works these would be intrusive in views from the industrial park, as would the movement of HGVs to and from the site but in the longer term there would be a benefit in terms of restoration of the landscape.

### *Highway Safety*

26. The appellant envisages that the supply of inert waste would not be constant and there would be significant periods of inactivity. The maximum number of daily trips to the site by HGVs would be nine on the basis that the site would be operational for 6 months each year. There are weight restrictions in place on the southern part of Kinoulton Road and on Nottingham Road through Cropwell Bishop and those restrictions limit the route that can be taken by HGVs which would be to and from the A46 via Nottingham Road and Kinoulton Road.
27. The existing access to the industrial park has limited visibility particularly to the south along Kinoulton Road where there are bends and a dip in the road. The appellant would carry out improvements to that junction to improve visibility and those improvements can be secured by condition.
28. The Nottingham Road/Kinoulton Road junction is constrained in terms of the width of both roads meaning that large vehicles have to use both sides of each road when turning. The visibility to the west of the junction is also restricted. However in the critical eastern direction the visibility for drivers emerging from Kinoulton Road is good. The Highway Authority has no objection to the proposal subject to the improvements to the industrial park access and on the basis that the volume of HGV traffic to and from the facility would be limited.
29. I understand that there have been road traffic accidents in the area but there is no evidence before me to indicate that there is an existing severe highway safety hazard or that the development would result in such a hazard. I saw that there is a bus stop opposite the Nottingham Road/Kinoulton Road junction and I note that school children use that bus stop and that they regularly walk along Nottingham Road to the village hall and the adjoining play area. There are footpaths along the road and through the village and there is no evidence that the limited number of HGVs would prejudice pedestrian safety. However taking a precautionary approach the appellant has agreed to limit the times when HGVs travel to and from the site to avoid peak times at the beginning and end of the school day. This can be secured through a condition.
30. I have taken into account all other points made in this respect including the use of the canal footpath which crosses Kinoulton Road in close proximity to the industrial park access. The Framework<sup>4</sup> states that development should only be refused on transport grounds where the residual cumulative impacts are

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<sup>4</sup> NPPF Paragraph 32

severe. For the reasons given I find that the proposal would not result in any severe impact on highway safety.

#### *Noise*

31. The application as originally submitted made reference to crushing and screening activities taking place on site but the appellant subsequently clarified that such operations would not take place. Potential sources of noise would arise from the excavator and bulldozer to be used on the site and from lorries travelling to and from the site. However there are no immediately adjacent dwellings, the nearest dwellings being about 250 - 300 metres away. The haul route would pass only a small number of dwellings on the western side of the village and the volume of traffic would be limited.
32. The Council's Environmental Health Officer had no concern regarding the potential for noise and disturbance and I see no reason to disagree. Conditions can be imposed to control the plant to be used and to prevent crushing or screening from taking place. For these reasons and subject to the imposition of conditions it is unlikely that there would be any adverse effect on nearby occupiers in terms of noise.

#### *Dust*

33. Concern was expressed by local residents and by a local business (Cropwell Bishop Creamery) that dust would be generated and that this would affect living conditions as well as the viability of the business. Although the site is about 600 metres from the creamery prevailing winds would carry any dust towards that business which is particularly sensitive in terms of the stilton cheese produced and the high food standards that must be maintained.
34. While it is likely that dust would be generated from time to time by the proposed operation, measures can be taken as part of a dust management plan to limit this. Haul routes can be damped down, vehicles can be sheeted and operations can be stopped if it is evident that dust is being generated and carried away by winds.
35. There is no evidence to indicate that dust would be prejudicial to users of the footpaths or to local farmers. Because the site is a significant distance away from the nearest dwellings and the creamery and given that dust management measures can be secured I conclude that there would be no adverse impact in terms of dust.

#### *Other Environmental Effects*

36. The Environment Agency has confirmed that the proposal would have no harmful effect in terms of pollution of the water environment and that an Environmental Permit would be required for the proposed works. The Permit would control the type of material to be deposited.
37. Other concerns have been expressed by local residents about odour and vermin but I see no reason why the development would be harmful in these respects. For the above reasons I conclude that there would be no unacceptable adverse environmental effects and that the proposal would accord with policy WCS13 of the Waste Core Strategy which requires that there is no unacceptable impact on the environment or living conditions.

### *Other Considerations*

38. The proposed 10 year aftercare management period would be of benefit in re-establishing the habitat but this must be viewed in the context that the unauthorised excavation destroyed part of the habitat. The restoration scheme would be of no overall benefit given that the habitat would be restored to that which existed prior to extraction works taking place. However compared to the option of leaving the site in its current condition the proposal can be seen as being beneficial. Taking these matters into account I give limited weight to the benefit of the proposal in terms of biodiversity.
39. The improvements to the access to the industrial park would remain after the development ceases and because this would continue to benefit other users of the industrial park and highway users this would be of benefit. This must be balanced against the increased use of the local road network during the period of the works and taking this into account I give limited weight to that benefit.
40. The proposal would provide a local waste disposal facility which would be reasonably close to Nottingham. It would be of benefit in reducing the need to transport waste but there may also be other sites available and the capacity of the site is limited. For these reasons any benefit in this regard would be limited and so would attract limited weight.
41. I have found that the proposal would be of considerable benefit in restoring the landscape and removing the evidence of previous development thus restoring the openness of the Green Belt. I have given substantial weight to this benefit.

### *Very Special Circumstances*

42. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
43. I have concluded that the proposed development would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. Paragraph 88 of the Framework states that substantial weight should be given to any harm. I have found no other harm arising from the proposal.
44. On the other hand I have concluded that substantial weight can be given to the benefit of restoring the site and that further limited weights can be given to the identified benefits that would arise from the provision of a local waste disposal facility, the improvements to the access and biodiversity. Those weights clearly outweigh the substantial weight that I have given to the harm in terms of inappropriateness. On this basis I find that very special circumstances have been demonstrated which justify the proposed development.
45. The proposal would for these reasons accord with policy WCS5 of the Waste Core Strategy in terms of its requirement to demonstrate such very special circumstances.

### *Unilateral Undertaking*

46. An unsigned and undated Unilateral Undertaking (UU) was submitted at the Hearing. Following the Hearing a signed and dated document has been submitted however two pages of the document which contain definitions and provisions relating to commencement of development are missing. The UU is intended to secure measures for the management of HGVs and a ten year habitat management plan. Those restrictions can be secured by planning conditions which would meet the tests as set out in the Framework. Because the UU is incomplete I shall disregard it.

### **Conditions**

47. I have imposed the conditions as suggested by the Council with some exceptions. The conditions have been agreed by the appellant who has suggested additional detailed requirements and I have incorporated those changes. In imposing conditions I have had regard to the tests in paragraph 206 of the Framework and I have made some changes to the wording of the conditions to better accord with those tests.
48. Conditions requiring the operator to notify the Waste Planning Authority at key stages in the development and requiring development to take place in accordance with the approved plans and documents are necessary in order to provide certainty and to enable effective monitoring of the development. Conditions requiring the development to cease within 3 years and for restoration works to be completed within 1 year after that are necessary to limit the environmental effects and to secure the timely restoration of the site. I have also imposed a condition requiring an alternative restoration scheme in the event of early cessation of waste disposal.
49. I have imposed conditions requiring protection of the areas around the site, a further ecological survey and necessary mitigation measures and a biodiversity management plan in order to safeguard the existing habitat around the margins of the site and biodiversity. A condition requiring details of lighting would also be necessary to prevent disturbance to bats.
50. Conditions requiring management measures for dust and noise are necessary to safeguard businesses and the living conditions of residents in the area. A number of conditions are necessary in the interest of highway safety and the living conditions of residents to require the provision of the access improvement works and to ensure that HGVs travel to and from the site via the agreed route. Conditions are also necessary to ensure that lorries are sheeted and that wheel cleaning measures are in place to prevent the deposit of mud and dust on roads.
51. Conditions limiting the maximum daily number of HGV movements and the times of those movements are also necessary in the interest of highway safety having regard to the configuration of the Kinoulton Road/Nottingham Road junction and the proximity of the bus stop and village hall/play area.
52. The suggested condition limiting the waste that can be deposited to inert waste is not necessary as this would be controlled by the environmental permit. Conditions are necessary to prevent any crushing or screening operations and limit the plant that can be operated in order to limit noise and dust. A condition setting out a procedure to be followed in the event of a noise

complaint is necessary on a precautionary basis to ensure that noise is effectively controlled.

53. Conditions are required to ensure that details of the restoration scheme are approved and that restoration is effectively carried out. The suggested condition requiring no vehicles to cross the areas of replaced soil except where necessary is imprecise and so would not meet the necessary test. Conditions requiring aftercare management and monitoring are necessary to ensure that the habitat becomes effectively established. However the suggested condition requiring annual meetings with the Waste Planning Authority would be imprecise. The extended 10 year aftercare period exceeds the normal requirement of the Waste Planning Authority but would be necessary having regard to the LWS designation.
54. Finally a condition restricting permitted development rights for temporary uses would be necessary to avoid harm to the habitat from any temporary use that would otherwise be permitted.

### **Conclusion**

55. For the reasons given and having regard to all other matters raised I conclude that the appeal should be allowed.

*Nick Palmer*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The Waste Planning Authority shall be notified in writing of the date of commencement of the following at least seven days, but not more than 14 days prior to their commencement:
  - a) the commencement of site preparation works; and
  - b) the commencement of the importation of inert material into the site.
- 3) The importation of inert material into the site shall be completed no later than three years from the date of commencement of importation as notified to the Waste Planning Authority under condition 2 (b). The Waste Planning Authority shall be notified in writing of the date of cessation of the importation of inert material into the site within 14 days of its occurrence.
- 4) All restoration operations required in accordance with conditions 21-24 shall be completed no later than 12 months from the date of cessation of the importation of inert material into the site as notified to the Waste Planning Authority under condition 3.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:
  - a) Planning Application Supporting Statement dated August 2014;
  - b) Document entitled 'Site Restoration' dated June 2014;
  - c) Ecological Walk-over, Badger and Reptile Surveys dated July 2013;
  - d) Technical Note 1 – Response to local highway authority's comments dated February 2015 and revised in March 2015;
  - e) Plans Ref. CAP04, CAP09, 11-58-02 and 11-58-05.
- 6) No development shall take place until the following have been submitted to and approved in writing by the Waste Planning Authority:
  - a) a plan identifying all parts of the land required to be used for operational purposes in association with the deposit of wastes (the Waste Management Area), and adjoining land which is not required for waste deposit (the Retained Area);
  - b) details of measures for the marking out of the extent of the areas referred to in (a);
  - c) details of measures for the protection of all existing trees, hedges and areas of grassland within the Retained Area.

No development shall take place until all existing trees, hedges and areas of grassland have been protected in accordance with the approved details, the Waste Planning Authority has been notified in writing that those measures have been provided and the Waste Planning Authority has been given an opportunity to inspect the site. Within the Retained Area no waste disposal operation, including the operation of any associated plant, machinery or vehicle shall be carried out and no storage or excavation of materials shall take place.

- 7) No development shall take place until a Dust Management Plan which shall include an assessment of impacts and any necessary mitigation measures has been submitted to and approved in writing by the Waste Planning Authority. Development shall be carried out in accordance with the approved Plan.
- 8) No development shall take place until a method statement detailing techniques for the control of noise and vibration during the works has been submitted to and approved in writing by the Waste Planning Authority. Development shall be carried out in accordance with the approved method statement.
- 9) No development shall take place until an HGV Management Scheme has been submitted to and approved in writing by the Waste Planning Authority. This shall include details of signs to be erected at the site and written instructions to be provided to HGV drivers requiring that HGVs travel to and from the site only via the A46, Nottingham Road and Kinoulton Road and no other route. The pay load areas of HGVs travelling to and from the site shall be sheeted at all times.
- 10) No development shall take place until an ecological walk-over survey incorporating a refuge search has been undertaken by a suitably qualified ecologist to identify the presence of any protected species within the Waste Management Area as identified under condition 6, and the results of that survey together with any necessary mitigation measures have been submitted to and approved in writing by the Waste Planning Authority. The approved mitigation measures shall be carried out before any works take place on site.
- 11) No development shall take place until a Biodiversity Management Plan for the Retained Area as identified under condition 6 has been submitted to and approved in writing by the Waste Planning Authority. The Plan shall include a timetable for works which accords with the mitigation, compensation and enhancement recommendations set out in Sections 6.2 and 6.3 of the Ecological Walk-over, Badger and Reptile Surveys dated July 2013. The Retained Area shall be managed in accordance with the Biodiversity Management Plan for the duration of the development.
- 12) No HGVs shall enter the site for the purpose of depositing waste materials as part of the development hereby approved unless and until the highway improvement works indicated on drawing F13073/02 have been carried out.
- 13) No waste shall be deposited at the site until details of measures to prevent the deposit of mud and debris on the public highway have been submitted to and approved in writing by the Waste Planning Authority. The approved measures shall be provided before any works are commenced on site.
- 14) No floodlighting shall be erected on the site until details have been submitted to and approved in writing by the Waste Planning Authority. Floodlighting shall be angled downwards and suitably shielded to ensure that it does not result in glare or dazzle. Floodlighting shall not be used outside the following times: Mondays to Fridays 07:00 to 18:00 hours and Saturdays 07:30 to 12:30 hours. Outside those hours any external lighting shall only be operated individually and through a movement sensor switch with a maximum lighting cycle not exceeding 5 minutes.

- 15) Operations shall only take place during the following times: Mondays to Fridays 07:00 to 18:00 hours and Saturdays 07:30 to 12:30 hours. No operations shall take place on Sundays or on Bank or Public Holidays.
- 16) No HGVs shall enter or leave the site between the following hours on Mondays to Fridays during school term times:  
08:30 to 09:00 hours and 15:30 to 16:30 hours.
- 17) No crushing or screening of waste shall take place on or adjacent to the site.
- 18) Only one bulldozer or one 360° tracked excavator shall be operated on the site at any time. The mobile plant shall be fitted with white noise reversing warning devices and shall be fitted with silencers which shall be maintained in accordance with the manufacturer's recommendations and specifications.
- 19) In the event of a noise complaint being received by the Waste Planning Authority regarding the development hereby permitted which, in the opinion of the Waste Planning Authority may be justified, at the first practicable opportunity following a request from the Waste Planning Authority a noise impact survey shall be carried out by the site owner or operator and submitted to the Waste Planning Authority for its written approval. The free field noise level associated with the development, when measured in the curtilage of the complainant's property (or any alternative location which may be agreed with the Waste Planning Authority) shall not exceed the background noise level by more than 10dB(A), subject to a maximum of 55dB LAeq 1hr. Should the survey demonstrate that those noise limits are being exceeded the report shall specify additional mitigation measures and details of their timing. Any additional mitigation measures that may be approved in writing by the Waste Planning Authority shall be carried out immediately upon approval and thereafter maintained.
- 20) There shall be no more than 18 HGV movements to and from the site (9 in, 9 out) in any one working day between Monday and Friday and no more than 8 HGV movements to and from the site (4 in, 4 out) on Saturdays. Written records shall be maintained of all HGV movements into and out of the site and copies of those records shall be made available to the Waste Planning Authority within 7 days of a written request being made.
- 21) No development shall take place until a detailed restoration scheme has been submitted to and approved in writing by the Waste Planning Authority. The Waste Management Area shall be restored to a nature conservation end-use. The restoration scheme shall include details of the following:
  - a) results of analysis for metals, polycyclic aromatic hydrocarbons and petroleum hydrocarbons of the soil substrate proposed to be used;
  - b) removal and placement of clay substrate which shall only be derived from the three areas identified on drawing no. CAP09;
  - c) the creation of micro-topography across the site to include humps, hollows and south-facing bunds; and

- d) seeding, including the seed mix and proportions, sowing rates, methods of establishment and areas left for natural regeneration.

The restoration scheme shall be carried out in accordance with the approved details.

- 22) Upon completion of inert waste disposal, the material shall be prepared for soil replacement and the Waste Planning Authority shall be notified in writing at least 5 working days before any soil replacement takes place to allow for inspection before further restoration is carried out.
- 23) Upon the completion of soil replacement the soil shall be prepared for seeding and the Waste Planning Authority shall be notified in writing at least 5 working days before any cultivation and seeding takes place to allow for inspection before further restoration is carried out.
- 24) Soils shall only be replaced when they and the ground on which they are to be placed are in a dry and friable condition and no movements, re-spreading, levelling, ripping or loosening of soils shall occur when it is raining or when there are pools of water on the surface of the receiving area.
- 25) The Waste Management Area shall undergo aftercare management for a 10 year period following completion of restoration. The date of commencement of the aftercare period shall be submitted to and approved in writing by the Waste Planning Authority before that period begins and the aftercare period shall run from the approved date.
- 26) No development shall take place until an aftercare and habitat management strategy covering the Waste Management Area and the Retained Area as identified in condition 6 has been submitted to and approved in writing by the Waste Planning Authority. The strategy shall set out the management actions, the periods during which those actions are to be taken and the person(s) or organisation responsible. The strategy shall ensure that the nature conservation value of the Waste Management Area and Retained Area is optimised, consistent with its designation as a Local Wildlife Site. The scheme shall include details of cultivations, a programme of periodic scrub clearance, weed control, sowing of seed mixtures, soil analysis, habitat management practices and remedial treatments. Records shall be kept and an annual review of performance with proposed operations for the coming year shall be submitted to the Waste Planning Authority between 31 March and 31 May each year.
- 27) In the event that inert waste disposal at the site ceases for a period in excess of 12 months, within three months of receipt of a written request from the Waste Planning Authority a revised scheme for the restoration of the site shall be submitted to the Waste Planning Authority for its approval. Such a scheme shall include details of the final contours, provision of soils and seeding of the site. The scheme as may be approved shall be carried out in full within 12 months of its approval and shall be subject to the aftercare requirements of conditions 25 and 26.
- 28) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the Waste Management Area and the Retained Area shall only be used for the

authorised operations and for the use of the restored site for nature conservation and for no other use including any temporary use.

## **APPEARANCES**

### FOR THE APPELLANT:

Ben Hunt

Ben Hunt Planning Ltd

### FOR THE WASTE PLANNING AUTHORITY:

Mike Hankin

Senior Practitioner, Planning Applications,  
Norfolk County Council

Nick Crouch

Senior Practitioner, Nature Conservation,  
Norfolk County Council

Councillor John Wilkinson

Chair of Planning and Licensing Committee,  
Norfolk County Council

Councillor Richard Butler

County Councillor, Cotgrave Division,  
Norfolk County Council

### INTERESTED PERSONS:

Alan Wilson

Chair, Cropwell Bishop Parish Council

Ian Skailes

Managing Director, Cropwell Bishop  
Creamery Ltd

Stephen Coult

Browne Jacobson LLP on behalf of Cropwell  
Bishop Creamery Ltd

Councillor Gordon Moore

Local Councillor

Jane Jones

Local resident

William Gilbert

Local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

### SUBMITTED BY THE APPELLANT:

- 1 Unsigned Unilateral Undertaking
- 2 List of species identified in NCC Appendix 5 as present in 2001
- 3 Photographs of the site and adjacent buildings taken in 1980s
- 4 Aerial photographs with site red line added

### SUBMITTED BY THE WASTE PLANNING AUTHORITY:

- 5 Lists of calcareous grassland characteristic species and species identified in surveys
- 6 Aerial photograph of the site and surrounding area
- 7 Aerial photographs of the site

SUBMITTED BY INTERESTED PERSONS:

- 8 Barratt Developments PLC Annual Results 30 June 2016 (submitted by Stephen Coult)
- 9 Aerial photograph, plans, drawings and documents (submitted by William Gilbert)