

**6. FULL APPLICATION – REGULARISATION OF THE OVER TIPPED AREA TO THE EAST OF THE 1884/9/4 CONSENT, RETAINING USE OF THE SITE FOR DEPOSITING INDUSTRIAL WASTE FROM DSF REFRACTORIES AND CONSOLIDATION OF PROGRESSIVE RESTORATION AND AFTERCARE STRATEGY FOR THE REVISED SITE AREA AT FRIDEN LANDFILL SITE, NEWHAVEN, NR BUXTON SK17 0DX (NP/DDD/1022/1276, HM)**

**Applicant: MR MATTHEW HANDLEY ON BEHALF OF DSF REFRACTORIES AND MINERALS LTD**

**Summary**

1. Friden Landfill Site has been operated by DSF Refractories and Minerals Ltd as a source of high-grade silica sand and subsequently a disposal site for overburden and mineral waste, since the 1950s. A Ministerial Consent was granted in June 1950 allowing the continuation of working at a group of existing, small scale silica-sand pits and also the depositing of waste arising from the active pits into disused pits. The silica sand deposits are now worked-out and Friden pit is the only active tip where waste is being deposited. The material being deposited now is imported waste arising from the manufacturing of ceramic products at the applicants nearby refractory works.
2. The operation is small in scale and the 1950 planning permission has no stated end date. The planning permission sits alongside the Environmental Permit issued by the Environment Agency, which includes some parameters for the operation of the site including the total quantity of waste accepted for engineering restoration purposes limited to 26,000m<sup>3</sup>, with an annual limit of 1,333m<sup>3</sup>.
3. The applicant is seeking retrospective planning permission for the tipping of inert manufacturing waste (arising from their refractory works) outside the permission boundary to the south and east, which was discovered by officers during routine monitoring visits. The area of over-tipping measures 0.19 hectares; the total area of the revised site boundary is 0.9 hectares.
4. In addition to regularising the over-tipped area, the application seeks to consolidate the progressive restoration and aftercare strategy for the revised site. The overall proposed restoration scheme aims to restore the site to the levels of the adjoining land, and to establish a mosaic of valuable habitats plus incorporating a surface water management system designed to attenuate on-site surface water run-off without a need to discharge surface water off-site.
5. The key issues for the Authority to consider are whether the proposed development is acceptable having regard to: the Government's planning policies for England and the Development Plan; landscape and visual impact; ecology and biodiversity; water resources and flood risk; amenity impacts; and traffic and highway safety impacts.
6. The Authority's Standing Orders require the committee to consider planning applications for extensions of existing sites for waste disposal where an increase in site area greater than 0.1ha is proposed. In this case the extended area measures 0.19ha. The purpose of this report is to provide the committee who will be determining this planning application with relevant specialist advice on the matters, policies and other material planning considerations that will need to be taken account of in its determination.

## **Proposal**

7. The applicant is seeking retrospective planning permission to regularise the over-tipping of industrial waste arising from their nearby refractory works beyond the original permission area, whilst retaining use of the site for the continued deposit of industrial waste as well as consolidation of a progressive restoration and aftercare strategy for the revised site area. The proposal will allow the appropriate overall restoration of the former quarry and, if approved, will provide a set of modern-day planning conditions to ensure appropriate mitigation against environmental and amenity impacts, and against which future monitoring visits will assess compliance.
8. A single source of inert waste materials is currently used, and will continue to be used, to achieve the proposed restoration contours – raw silica sand-based material and mineral manufacturing by-products (after thermal processing) from the applicant's nearby refractory works. The waste material is stored at the refractory site in segregated open-air bays and transported to the tip once full loads are accrued. The applicant estimates this occurs approximately every month depending on several factors including sales at their works and ground conditions at the tip. The waste is then transported by HGV on a short section of the public highway (approximately 400m) from the applicant's refractory works. Currently, delivery of waste materials to the site are permitted between 07:30 and 17:00 Mondays to Fridays, and the applicant seeks to retain these permitted times.
9. The waste material is deposited on the site and rolled over to flatten. The waste is deposited in layers starting with the solid component (comprising bricks and offcuts), and finishing with the fines to create a suitable growing surface for restoration. Once final restoration levels have been achieved, any bricks or offcuts protruding from the surface are removed to provide as smooth a surface as possible. No soils are imported from external sources. As phased restoration progresses across the site in accordance with the proposed Restoration Phasing Plan, demarcation of the completed phases will take place to ensure no further over-tipping takes place.
10. The total amount left to tip is approximately 4,500m<sup>3</sup>. The annual amount sent to the tip is likely to continue to be in the region of 600-750m<sup>3</sup>, which is well within the Environmental Permit annual limit. This equates to approximately 6 to 7.5 years left of tipping left at the site. Based on these figures, the applicant estimates the land-forming operations will be complete by 2033.
11. It is proposed to restore the site to a mosaic of habitats of conservation value comprising neutral and calcareous grassland, tree and species rich hedgerow planting and an area of heath. Areas of existing scrub and immature woodland to the perimeter of the site will be retained. There are no soil resources on site, and no soil is proposed to be imported for restoration purposes; the inert waste materials will be used as a restoration material as has been successful within the wider area. Details of the proposed strategy for phased ecological restoration and aftercare monitoring are included within the planning application submission.

## **Site and Surroundings**

12. The application site is a parcel of land occupying an area of approximately 0.9 hectares located approximately 3.5km to the east of the village of Hartington. Access to the site is off the A515 at the A5012 via the site access track.
13. Immediately surrounding the site is land within the original permission area which is now restored to areas of grassland, scrub and woodland. Beyond the previously restored areas, the site is bounded to the north and east by agricultural land. The access track lies to the south, beyond which there is a stone supplier and

reclamation yard, haulage company, petrol station, a restaurant and residential dwelling. The dwelling, Four Winds, is the closest residential property approximately 70m from the site. The A515 lies to the west, beyond which the land use is predominantly agricultural.

14. The site is part of the “White Peak – Limestone plateau pastures” landscape character area. The Landscape Character Assessment describes the landform of the area as gently rolling hills, with a mostly open character. The plateau is a pastoral landscape with small to medium sized rectangular field boundaries. Tree cover is mostly limited to occasional tree groups, or small shelter belts, allowing wide views to the surrounding higher ground.
15. In terms of statutory protected sites, the Peak District Dales Special Area of Conservation (SAC) is located 1.8km to the northeast of the site. No Special Protection Areas or Ramsar sites are present within 2km of the site. Two SSSI, Long Dale and Gratton Dale SSSI and Green Lane Pits SSSI, are located within 2km of the site. Long Dale and Gratton Dale SSSI is located 1.8km northeast and is encompassed within the Peak District Dales SAC. Green Lane Pits SSSI is located 1.7km north of the application site.
16. There are two Derbyshire Wildlife Trust reserves (non-statutory protected sites) within 2km of the site. Hartington Meadows lies approximately 1.2km to the northwest, and Hartshead Quarry (a disused limestone quarry) lies approximately 1.5km to the west.

#### **RECOMMENDATION:**

17. **That the application be APPROVED subject to the following conditions:**
  1. **Duration of the use of the land for the deposit of waste arising from the nearby refractory works to cease on or before 31 December 2033.**
  2. **Scope of the permission listing the approved plans and documents for the avoidance of doubt.**
  3. **No waste other than inert waste arising from the nearby refractory works shall be imported to and deposited at the site.**
  4. **No heavy goods vehicles (HGVs) shall travel to or from the site other than via the existing gated site entrance off the A5012 as shown on the Location Plan Drawing No. ECL.8765.D01.007 Rev A.**
  5. **Appropriate vehicle sheeting to prevent material spillage, wind blow and dust nuisance.**
  6. **No operational vehicles shall enter the public highway unless their wheels and chassis have been cleaned to prevent material being deposited on the public highway.**
  7. **The working, restoration and aftercare of the site shall be carried out only in accordance the approved plans.**
  8. **Hours of working restricted to between 07:30 and 17:00 Mondays to Fridays.**

9. **Measures shall be taken to minimise dust arising from the handling of inert waste in accordance with the Nuisance Health Risk Assessment dated May 2023.**
10. **All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times, and shall be fitted with and use effective silencers.**
11. **The existing trees within the site/identified on the Proposed Restoration Masterplan Drawing No. ECL.8765.D01.002 Rev D shall be retained.**
12. **Annual survey as described in paragraph 6.5.2 of the Closure and Aftercare Management Plan Rev B dated November 2023 shall be submitted for approval to the WPA. Annual survey information shall include details of how Biodiversity Net Gain is being met.**
13. **The Proposed Restoration Masterplan Drawing No. ECL.8765.D01.002 Rev D and Closure and Aftercare Management Plan Rev B dated November 2023 shall be implemented in full accordance with the approved details. Restoration of the whole site shall be completed by 31 December 2034.**
14. **Upon satisfactory completion of the restoration scheme, to be confirmed in writing by the WPA, the site shall thereafter be subject to a 5 year programme of aftercare requirements as detailed in the Closure and Aftercare Management Plan Rev B.**

### **Key Issues**

18. The main issues in this case are considered to be:
  - Whether the proposals accord with the Government's planning policies for England and the Development Plan; and
  - Whether the impacts of the development are (or can be made) acceptable or would be significant enough to justify refusing the application. In particular the impacts on: landscape and visual impact; ecology and biodiversity; water resources and flood risk; amenity impacts; and traffic and highway safety.

### **Relevant Planning History**

19. 1884/9/4, granted in June 1950, for the continued winning and working of silica sand and clay followed by restoration using waste and overburden from the silica workings.
20. The Authority provided Pre-Application Advice in December 2021. Officers advice concluded that an application seeking to regularise an area of over-tipped industrial waste, retention of a permitted waste management facility, and the consolidation of a progressive working, restoration and aftercare strategy, in line with policy DMMW5, is likely to be supported by the Waste Planning Authority, subject to the application suitably justifying the exceptional circumstances required to approve major development. The advice was subject to compliance with all relevant policies in the Core Strategy and Development Management policies and ensuring that all detrimental environmental impacts are either effectively mitigated or outweighed by other material considerations, both individually or cumulatively.

## **Consultations**

21. The following is a summary of the responses received during consultation on this application and includes any modifications or changes to consultation responses as a result of further information. Full copies of responses can be found on the Authority website.
22. Hartington Town Quarter Parish Council: No response received to date.
23. Highway Authority: No highway safety objections.
24. Environment Agency: No objection to the application.
25. Environmental Health: Note the landfill site is regulated by the Environment Agency and on that basis have no further comments to make.
26. Local Flood Authority: No response received to date.
27. PDNPA Landscape: No response received to date.
28. PDNPA Ecology: Generally, the information submitted is considered acceptable and the proposal of a mosaic of habitats created as a phased approach is welcomed. The Biodiversity Net Gain (BNG) metric shows that the proposals, once the restoration and aftercare strategy is complete, have the potential to provide substantial biodiversity gains that far exceed the now mandatory requirement of 10%. These substantial gains are considered suitable to provide compensation and compliance with Development Plan policies, which include the requirement to demonstrate 'exceptional circumstances'. However, in order to have confidence in the prediction of around 40% BNG, further details were requested (including an updated Closure and Aftercare Management Plan explaining how the proposed habitats will be established and managed).

Following the submission of further information by the applicant confirming restoration and aftercare details, the PDNPA Ecologist is satisfied with the revised content.

## **Representations**

29. There have been no representations received from members of the public.

## **Main Policies**

30. Relevant Core Strategy Policies (2011): GSP1, GSP2, GSP3, DS1, L1, CC1, CC3, T4.
31. Relevant Development Management Policies (2019): DMC3, DMC11, DMMW1, DMMW2, DMMW3, DMMW4, DMMW5.

## **National Planning Policy Framework**

32. The National Planning Policy Framework (NPPF) was published in 2012 and replaced a significant proportion of central government planning policy with immediate effect. The latest revised NPPF was published in December 2023. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and Development Management Policies 2019 and the Development Plan provides a clear starting point consistent

with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.

33. Paragraph 182 of the NPPF states that 'great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads'.
34. Paragraph 183 of the NPPF states that when considering applications for development within National Parks permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Such applications should include an assessment of: the need for the development; scope for meeting the need for it in some other way; and any detrimental effect on the environment, the landscape and recreational opportunities.
35. The NPPF goes on to confirm that for the purposes of paragraphs 182 and 183, determination of whether a proposal constitutes 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated.

#### National Planning Policy for Waste

36. The National Planning Policy for Waste (NPPW) 2014 sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. This includes the delivery of sustainable development and helping to secure the re-use, recovery or disposal of waste in line with the principles of the waste hierarchy without endangering human health or harming the environment. The NPPW forms part of the overall national planning policy, and is a material planning consideration in decisions on waste related planning applications.
37. The NPPW requires Waste Planning Authorities (WPAs) to consider the environmental and amenity impacts, and concern themselves with implementing the planning strategy in the Local Plan and not with control of processes which are a matter for the pollution control authorities. WPAs should work on the assumption that relevant pollution control regimes will be properly applied and enforced.

#### Core Strategy

38. Core Strategy policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle (that is, where there are conflicting desired outcomes in achieving National Park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GSP1 also sets out the need for sustainable development and to avoid major development other than in exceptional circumstances, and the need to mitigate potential localised harm where major development is allowed.
39. Policy GSP2 criterion A states that opportunities for enhancing the valued characteristics of the National Park will be identified and acted upon, and criterion B requires proposals intended to enhance the National Park to demonstrate that they offer significant overall benefit to the natural beauty, wildlife and cultural heritage of

the area. Criterion C states that when development is permitted, a design will be sought that respects the character of the area, and where appropriate, landscaping and planting schemes will be sought that are consistent with local landscape characteristics and their setting, complementing the locality and helping to achieve biodiversity objectives.

40. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site, paying particular attention to, amongst other things: scale of the development appropriate to the character and appearance of the National Park; siting, landscaping and building materials; and impact on living conditions of communities.
41. Policy DS1 *Development Strategy* sets out the principles to promote a sustainable distribution and level of growth and support the effective conservation and enhancement of the National Park, which will be applied to determine proposals for new development.
42. Core Strategy policy L1 addresses landscape character and valued characteristics. The policy seeks to ensure that all development conserves and enhances valued landscape character and other valued characteristics.
43. The purpose of Policy CC1 is to build in resilience to, and mitigate the causes of, climate change. This includes directing development away from flood risk areas and achieving the highest possible reductions in carbon emissions.
44. Policy CC3 *Waste Management* sets out the principles to achieve more sustainable use of resources. This includes permitting small scale waste facilities to serve local communities and the appropriate restoration and after-use of waste sites so that they can contribute to the recreation and biodiversity value of the National Park.
45. Policy T4 sets out the principles to control and manage the demand for freight transport, such as freight facilities should be related to the needs of National Park-based businesses and should be located to avoid harm to the valued characteristics of the National Park or compromise to the routes which are subject to weight restriction orders. Infrastructure developments that enable the transfer of road freight, including minerals, to rail will be supported where appropriate. Developments requiring access by Large Goods Vehicles must be located on and or readily accessible to the Strategic or Secondary Road Network.

#### Development Management Policies

46. Development Management policy DMC3 requires development to be of a high standard that respects, protects and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place. Policy DMC3 B sets out various aspects that particular attention will be paid to, including siting, scale, form, mass, levels, the use and maintenance of landscaping of an appropriate mix of species suited to both the landscape and biodiversity interests of the locality, flood risk and sustainable drainage.
47. Policy DMC11 *Safeguarding, recording and enhancing nature conservation interests* says that proposals should aim to achieve net gains to biodiversity or geodiversity as a result of development. In considering whether a proposal conserves and enhances sites, features or species of wildlife, geological or geomorphological importance all reasonable measures must be taken to avoid net loss.

48. Policy DMMW1 provides the full list of evidence applicants for minerals and waste development will be expected to provide and explains that the need to demonstrate these requirements may vary in the case of applications for extensions to mineral workings, depending on their scale and nature.
49. Policies DMMW2 and DMMW3 require that proposals for minerals development or the development of waste management facilities should demonstrate that any impacts associated with it, such as any potential effects on the water environment and the need to minimise landscape and visual impact, can be reduced to an acceptable level or eliminated to ensure that local amenity is protected.
50. Policy DMMW4 outlines a sequential approach to the development of waste management facilities to ensure that, in accordance with the Core Strategy, they are located in accessible sustainable locations with compatible surrounding land uses.
51. Policy DMMW5 deals with the restoration and aftercare of minerals development and waste disposal by landfill which contributes to the enhancement of the National Park. It goes on to say the restoration of sites can and should contribute to targets for the enhancement of biodiversity, geodiversity and amenity, as appropriate.

## **Assessment**

### **Principle of the Development**

52. The proposal is to regularise the applicant's over-tipping of inert waste arising from their nearby refractory works for restoration purposes within an additional parcel of land comprising 0.19ha adjacent to Friden landfill site. Any proposal involving 'waste development' is defined as major development in The Town and Country Planning (Development Management Procedure) (England) Order 2015, as amended. Therefore, this proposal is considered to constitute major development, despite it being a small-scale facility. Government planning policy is that major development should not take place within a National Park except in exceptional circumstances. The thrust of Core Strategy Policy GSP1 echoes national planning policy requiring applications for major developments to demonstrate they are in the public interest before being allowed to proceed.
53. The applicant refers to a number of public benefits of the proposal which they consider justify exceptional circumstances required to permit major development, including:
  - Planning permission already exists for the deposit of inert waste to complete the site restoration works by reinstating the former silica sand pit identified as "Tip V" in the original consent. Even though the 1950 permission pre-dates the creation of the National Park, the Minister who granted it was aware the site lay within the boundaries of the proposed National Park and therefore certain conditions were imposed in order to ensure that the workings would cause the least possible damage to amenities of the area. One condition, 6e, remains applicable to Friden Tip and states "*Tip V shall not exceed the height of the surface of the adjoining land and initial tipping shall be so arranged as to provide level areas on which screen or trees shall be planted in accordance with a progressive scheme to be agreed with the Local Planning Authority*". Compliance with this imprecise condition is difficult to determine, given the adjoining land varies in height. Furthermore, whilst a restoration plan was approved in 2011 satisfying the requirements of condition 6e, no progressive scheme has been agreed with the PDNPA and there is no record of additional ecological features or an ecological maintenance plan to ensure the enhancement of local biodiversity. Whilst previous tipping has taken place in areas outside the permission boundary to the



east, this planning application provides an opportunity to consolidate progressive restoration across the revised site boundary and, if approved, would provide a set of modern planning conditions against which future monitoring visits will assess compliance.

- There is an established local supply of inert material sourced from the applicant's nearby refractory works in Friden. Waste material is transported by HGV on a short portion of the public highway (approximately 400m) from the works to the application site. Use of this material allows the restoration scheme to be achieved within the proposed timescales whilst keeping transportation movements to a minimum.
  - The proposal is for the ongoing recovery of inert waste for restoration purposes, thereby moving waste up the waste hierarchy and reducing the need to dispose of it by landfill. This is in line with the Government's strategy of driving waste up the waste hierarchy.
  - There are clear and significant ecological benefits arising from the proposal to restore the site to a mosaic of habitats comprising neutral and calcareous grassland, heath, trees, hedgerow and ponds. The Biodiversity Net Gain (BNG) assessment shows that the proposals, once the restoration and aftercare strategy is complete, have the potential to provide around 40% biodiversity gains that far exceed the now mandatory requirement of 10% biodiversity net gains.
  - The proposed progressive restoration strategy has been designed to operate in phases in order to accelerate the ecological restoration works on the reinstated sections of the site. Phased demarcation of the site is proposed to avoid any further unregulated tipping taking place on site.
54. It is considered that a combination of the public benefits described above is sufficient to justify exceptional circumstances in this instance, having regard to the Government's strategy set out in the NPPF and Core Strategy policy GSP1.
55. Core Strategy policy CC3 provides the strategic context for non-agricultural waste development. As referred to above, the proposal involves the recovery of inert waste, thus moving waste up the waste hierarchy and reducing the need to dispose of it by landfill. In terms of criterion B and C, the area of over-tipping measures just 0.19ha and therefore can be reasonably considered small-scale. Only waste arising from the nearby manufacturing works located approximately 400m to the north-east of the site, will be imported. Finally, having regard to criterion D, the proposal involves a consolidated progressive restoration and aftercare strategy for the revised site area which includes a substantial contribution to the biodiversity value of the locality.
56. Further level of policy detail for waste related developments is provided within Development Management Policy DMMW4 which, in part A, sets out a sequential approach for locating waste developments to ensure that they are in accessible sustainable locations with compatible surrounding land uses. The proposal is for a small extension to an existing small-scale waste management facility which has planning permission to deposit waste from the nearby refractory works to infill the remaining void to levels which do not exceed the height of the surface of the adjoining land. The application site is not located within a Core Strategy policy DS1 settlement, and former mineral extraction sites do not constitute previously development land. Despite being in the least favoured location according to the sequential approach outlined in Development Management policy DMMW4, the application site is situated within close proximity to its source of waste to minimise transportation of waste to the facility, the principle of development is already

established for the existing site, and there are compatible industrial land uses adjacent.

57. Part B of Development Management policy DMMW4 lists criteria against which proposals for waste management facilities considered acceptable under Core Strategy policy CC3 (i.e. those accommodating only waste from the immediate area) will be assessed to ensure that the effects of the development can be reduced or mitigated. The proposal is a small extension to an existing small-scale waste management facility, recovering industrial manufacturing waste from the immediate locality to achieve a restoration profile comparative to the original topography. Transportation movements will be minimal, and there are no proposals for outside storage of waste materials at the site.
58. The principle of waste recovery for the purpose of the restoration of the former silica sand pit is already established under the ministerial consent issued in 1950, which leaves only the retrospective element of the application relating to the over tipped area to be considered in principle. On balance, having regard to the NPPF, Core Strategy policies GSP1 and CC3, and Development Management policy DMMW4 and the other material considerations outlined above, the principle of the development is considered to be acceptable and in accordance with national planning policy and the Development Plan.

#### Landscape and Visual Impact

59. The NPPW requires waste planning authorities to consider the need to protect landscapes or designated areas of national importance such as National Parks when determining planning applications for waste management facilities. Development Management policy DMMW3 seeks to ensure that waste management facilities will only be permitted where the impacts of the development on the environment of the National Park are reduced to an acceptable level, or eliminated, particularly in relation to the need to minimise landscape and visual impact. No concerns have been raised regarding landscape and visual impacts.
60. The application site is situated within the Limestone Plateau Pastures landscape character area of the White Peak, which is described in the Landscape Strategy and Action Plan as an upland agricultural landscape with a regular pattern of straight roads and small to medium sized rectangular fields bounded by limestone walls. Tree cover is mostly limited to occasional tree groups, or small shelter belts, allowing wide views to the surrounding higher ground.
61. It is evident from aerial photographs that a belt of trees was felled between 2010 and 2013 to the east of the original site boundary, some of which were within the site and others were not, to presumably accommodate the over-tipping to the east. These trees may have been growing within the void left from the silica sand extraction. The loss of this tree belt to the east is unfortunate (and cannot be quantified retrospectively given the date of removal over ten years ago). The trees would have provided a wildlife corridor/habitat for species, but were unlikely to have made a significant contribution to screening the site. The revised site area is small in scale and generally well screened in all directions by trees and shrubs to the north, west and east as well as the existing industrial uses to the south. The tipping activity is conducted at a level which is below the elevation of the surrounding land. These factors combined ensure that views of the waste management facility are limited and as such the proposal for the small extension to the existing facility is not considered to have a wide scale landscape impact.
62. There are landscape improvements to be gained from implementation of the proposed progressive restoration masterplan for the revised site boundary

incorporating the over-tipped area to the east. The masterplan compensates for the loss of the tree belt, incorporating a belt of trees linking existing woodland, and providing a wildlife corridor and habitat for birds, bats and other mammals. In addition, native hedgerows are proposed as recommended within the Preliminary Ecological Assessment. The revised restoration masterplan is considered acceptable having regard to Development Management policy DMMW3 subject to a recommended condition requiring submission of annual surveys as recommended within the Closure and Aftercare Management Plan to ensure the restoration masterplan is appropriately implemented and maintained. Overall the proposals as they relate to landscape and visual impact are considered to be acceptable having regard to Core Strategy policy DMC3 and Development Management policy DMMW3.

### Ecology and Biodiversity

63. Paragraph 180 of the NPPF requires development to contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity. Core Strategy policy CC3 seeks to achieve appropriate restoration and after-use of waste sites so that they can contribute to the biodiversity value of the National Park. Development Management policy DMC11 requires all development proposals to aim to achieve net gains in biodiversity, and policy DMMW5 requires the restoration of waste disposal sites to contribute to the enhancement of biodiversity. Implementation of mandatory biodiversity net gain applies to planning applications submitted on or after 12 February 2024 for major development sites and from 2 April 2024 for small scale sites, except for certain exemptions. The statutory framework for biodiversity net gain has been designed to secure at least a 10% gain in biodiversity value. Whilst permissions granted for applications submitted before this date are not subject to statutory biodiversity net gain, the applicant was advised at pre-application stage that the restoration scheme should provide substantial biodiversity net gains in order to provide an enhancement to the National Park, and have used the BNG metric calculator as means of quantifying the biodiversity value of the site and the potential gain.
64. The application is retrospective and the revised application area has been an operational waste management facility for several years. The Preliminary Ecological Assessment and Biodiversity Net Gain Assessment describes the dominant existing habitat types to be a combination of semi-natural broadleaved woodland, bare ground, ephemeral/short perennial vegetation and tall ruderal vegetation. The proposed restoration plan provides a mosaic of suitable habitats for the local setting which are of improved biodiversity value compared with the existing habitats or those which would naturally establish without the proposed intervention and management. The proposed scheme comprises areas of neutral and calcareous grassland, tree planting, species rich hedgerow and a small area of heath. Areas of scrub and immature woodland to the perimeter of the site will be retained. Assuming successful implementation of actions outlined in the Closure and Aftercare Management Plan (which was revised following feedback from the PDNPA Ecologist), and the site is restored within the appropriate timeframe for all newly created habitats and retained habitats, the biodiversity metric calculations result in a net change of +39.62% in habitat units. The inclusion of native hedgerow planting results in at least a 10% gain in hedgerow units, and the addition of hedgerow between parcels of retained and proposed woodland/tree planting would increase connectivity between these habitats. The inclusion of a pond (infiltration/detention basin) results in a substantial gain in watercourse units.
65. The production of the Biodiversity Net Gain assessment is useful to quantify potential biodiversity losses and gains; however, the result of the provided metric should be seen as an indicator of potential biodiversity uplift rather than the certain outcome in

this instance. The PDNPA Ecologist notes the habitat condition assessment was undertaken in March, whereas best practice for undertaking such an assessment is April-October inclusive with summer months allowing more species to be identified. Whilst it is possible an early assessment has potential to have implications for the metric calculations, these are likely to be minor in this case. Having considered further information submitted by the applicant, notably the revised Closure and Aftercare Management Plan, the PDNPA Ecologist is confident that the proposals have the potential to provide substantial biodiversity gains that far exceed the now mandatory requirement of at least 10%.

66. According to the results of the Preliminary Ecological Assessment, the extended application site supports suitable habitat for protected species such as bats, badger and birds albeit relatively limited in extent due to the small size of the site. The restoration proposals will increase the suitable foraging habitat for bats and birds due to the planting of trees and hedgerows, creating open water and establishing grassland. The Preliminary Ecological Assessment rules out negative impacts on protected species as a result of the proposals, and recommends the applicant remains vigilant to the potential for badgers to utilise the site given their ability to excavate new setts in a very short space of time.
67. It is considered that the ecological and biodiversity implications of the proposal have been assessed and these can be adequately mitigated subject to conditions. Therefore, the proposed development is acceptable having regard to Core Strategy policies CC3 and DMC11, and Development Management policy DMMW5.

#### Water Resources and Flood Risk

68. Development Management policy DMC3 B seeks to ensure that proposals which are acceptable in principle pay particular attention to flood risk, water conservation and sustainable drainage amongst other things. Policy DMMW2 seeks to ensure that proposals for waste development minimise their amenity impacts including water run-off and flooding. Policy DMMW3 seeks to ensure that waste proposals reduce their environmental impacts to an acceptable level including any potential effects on groundwater, rivers or other aspects of the water environment. The application site lies within Flood Zone 1 (low risk).
69. The proposed progressive restoration of the extended site incorporates a surface water management system which is designed to fully attenuate on-site surface water run-off without a need to discharge surface water off-site. On-site surface water will drain into an attenuation pond (infiltration/detention basin) which will be created in low lying ground within the restoration profile. The site is designed to fall from south to north with water more likely to collect at the north of the site where the basin is proposed. The pond size is determined by the storage capacity for the catchment area, and this has been calculated as part of the hydraulic model (which includes a climate change uplift). The pond is intended to be split with one half used for attenuation and the other used for infiltration, with a weir bund separating the two. The attenuated side of the pond is designed to allow for a marginal aquatic habitat to establish. No comments have been received from the Lead Local Flood Authority in terms of surface water drainage. However, it is worthy to note that the surface water management scheme has been designed such that all surface water will be contained and managed within the application site.
70. The Environment Agency (EA) have no objection to the application and have provided informative comments advising an application to vary the existing Deposit for Recovery Environmental Permit for the site to reflect the change in site boundary is being considered concurrently. It is understood their National Permitting Service are currently determining the variation, taking into account any geotechnical

considerations. The EA note the existing Deposit for Recovery Environmental Permit allows the deposit of inert waste which could give rise to leachate generation and groundwater pollution. The Deposit for Recovery permit also sits on top of a closed landfill which may increase these risks. The local drift geology comprises carboniferous limestone underlying the pocket deposits of silica sands which have been exploited over numerous years for their refractory properties. The site does not lie within a groundwater Source Protection Zone. It is important to note the EA have not raised an objection with regard to leachate generation or groundwater pollution, and in accordance with the NPPW the Waste Planning Authority should work on the assumption that the relevant pollution control regime will be properly applied and enforced, in this instance by the Environment Agency through the Environmental Permitting process.

71. Overall, it is considered that the proposal is acceptable having regard to Development Management policies DMC3, DMMW2 and DMMW3, subject to conditions, and no increase in flood risk or negative impacts on groundwater and surface water are anticipated.

#### Amenity Impacts

72. Development Management policy DMMW2 seeks to ensure that proposals for waste management facilities minimise adverse impacts on amenity to an acceptable level, or are eliminated, particularly in relation to: nuisance and general disturbance resulting from transport (including number of vehicle movements, mud on the road and routing); noise; vibration; dust; fumes and odour; water run-off and flooding; visual impact; potential effects of land instability; effects on human health; and impacts on recreation and public rights of way. No concerns have been raised in terms of potential amenity impacts.
73. The application site is located within a predominantly rural setting, with a small number of isolated dwellings, non-residential premises and works situated nearby. The nearest dwelling, Four Winds Bungalow, lies approximately 70m to the south. The Carriages Restaurant is situated adjacent to the bungalow, and other commercial/non-residential properties are located closer to the revised application site. The potential impacts on the amenity and human health of the nearby receptors are considered to relate to dust/air quality and noise. The restoration works, and the nature of inert restoration materials are unlikely to generate odour/pest/litter issues, and there are no negative impacts relating to light pollution given that no artificial lighting is present or proposed on site.
74. The nature of the inert waste restoration material has the potential to generate dust in dry and windy conditions. The nature of the dust emissions and the potential impacts on local sensitive receptors have been assessed in the Nuisance Health Risk Assessment submitted with the planning application. The Risk Assessment quantifies a 'medium' dust risk level arising from the inert waste which is transported to the site from the nearby refractory works, since the fine/powdery nature of the material has potential to generate dust when stored or handled especially in dry windy conditions. Dust nuisance could also arise from vehicular movements to and from the site along the short section of public highway, access road and within the application site itself. Given the close proximity of sensitive receptors to the site the risk of dust emissions is classified as medium to high risk to account for exposure to restoration works during dry ground conditions, calm wind or downwind direction from the north (which is infrequent). In view of this risk, the applicant lists measures in place to mitigate potential adverse impacts including dampening down of restoration surfaces and haul roads during dry conditions and timing engineering works to avoid unsuitable weather conditions. Considering the small-scale nature of the restoration works with operations taking place on site approximately once a month, along with the proposed

mitigation measures, it is considered the dust impacts would be low. It should be noted dust control is also a regulatory function of the EA.

75. In the EA's response, reference is made to the risks which could arise from the deposit of inert waste for recovery (for which a variation of the existing Environmental Permit will be required to reflect the extended site area), including landfill gas. They do not raise any objections but note the Deposit for Recovery permit sits on top of an historic closed landfill which may increase the risk of landfill gas emissions. Landfill gas monitoring takes place in accordance with the requirements of the historic closed landfill Environmental Permit, the results of which are still picking up traces of landfill gas. In particular, several consecutive breaches of the 3.7% trigger level for BH1 for CO<sub>2</sub> has been reported to the EA. The EA have agreed a short-term plan of action with the operator to address this issue. Further investigation of this matter with the EA, who are the regulatory authority, reveals it is not unusual for closed landfills to generate gas, which is why the site remains in its aftercare period. In accordance with the permit, the operator will be required to monitor gas emissions during the aftercare stage and cannot surrender their license until it can be proven their activities are no longer causing/ have the potential to cause environmental impacts.
76. Proposed site restoration works involve the operation of earth-moving machinery and plant, HGVs delivering and offloading inert waste materials, and other site traffic such as road sweepers all of which have the potential to generate noise nuisance. Noise generating activities and the potential impacts on local sensitive receptors have been assessed in the submitted Nuisance Health Risk Assessment. Given the close proximity of sensitive receptors to the site the risk of noise nuisance is categorised as medium, although it is recognised there are relatively high background noise levels due to surrounding industrial/commercial premises as well as traffic on the nearby A515. The small-scale nature of the restoration works will typically involve a dumper truck and an excavator required once a month on site, and as such it is considered that noise impacts can be managed to an acceptable level.
77. The relevant technical consultees (Derbyshire Dales District Council Environmental Health and the Environment Agency) have been consulted and have no objections relating to dust/air quality and noise. On balance, it is considered that the proposal is acceptable having regard to Development Management policy DMMW2, subject to conditions, and no significant negative amenity impacts are anticipated.

#### Traffic and Highway Safety

78. Core Strategy policy T4 seeks to locate developments requiring access by large goods vehicles on or readily accessible to the strategic or secondary road network. Development Management policy DMMW2 seeks to reduce to an acceptable level nuisance and general disturbance arising from traffic associated with the development of waste management facilities, including the number of vehicle movements, prevention transfer of mud onto roads and routing. No concerns have been raised in terms of potential highway safety and traffic impacts of the proposal.
79. Restoration of the application site requires delivery of waste from the refractory works a short distance away on the public highway and via a short unpaved haul road. Tracking of mud onto the public highway is possible, depending on the weather conditions, although given the small-scale nature of the restoration works typically taking place once a month it is not considered an issue likely to cause public nuisance. The volume of traffic involved in the restoration works will not change from current operations. Vehicles will continue to access the site along the short stretch of public highway from the refractory works approximately 400m away, via a short haul road which will remain in situ for the completion of the restoration and aftercare of the extended site.

80. Overall, it is considered that the proposal is acceptable having regard to Core Strategy policy T4 and Development Management policy DMMW2, subject to conditions, in terms of impacts on traffic and highway safety.

### **Conclusion**

81. The applicant is seeking retrospective planning permission to regularise the over-tipping of industrial inert waste arising from their nearby refractory works beyond the original permission area, whilst retaining use of the site for the continued deposit of industrial waste as well as consolidation of a progressive restoration and aftercare strategy for the revised site area comprising a mosaic of habitats previously recommended by the Authority.
82. On balance it is considered there are public benefits to the proposal sufficient to justify exceptional circumstances in this instance, having regard to the Government's strategy set out in the National Planning Policy Framework and Core Strategy policy GSP1. Furthermore, the principle of the development is considered to be established having regard to Core Strategy policy CC3 and Development Management policy DMMW4.
83. Impacts on landscape and visual impact, ecology and biodiversity, water resources and flood risk, amenity impacts, and traffic and highway safety have been carefully considered. There are no outstanding objections to the application by statutory consultees and it is considered that, subject to the imposition of suitable planning conditions to control and mitigate the development, there are no significant issues which would justify refusal of the application.
84. The operation of the site will be controlled by the Environment Agency through the environmental permit and in accordance with the National Planning Policy for Waste the Waste Planning Authority should work on the assumption that the relevant pollution control regime will be properly applied and enforced.
85. The Authority has notified the operator of the intention to undertake up to three chargeable monitoring visits during the 2024/2025 financial year under the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023. These visits provide an opportunity to monitor progress and assess compliance with the schedule of modern-day planning conditions.
86. Although not a statutory requirement for developments to provide a minimum 10% biodiversity net gain at the time this planning application was submitted, the Authority has secured a scheme that will provide substantial biodiversity net gains in excess of this figure once the restoration and aftercare strategy is complete. These significant gains are considered suitable to provide compensation for lost habitat and contribute to the 'exceptional circumstances' required in order to comply with the Development Plan. In addition, the local recovery of refractory waste negates the need for disposal via other means requiring additional vehicle movements. It is also considered that the provision of a small scale waste management facility to meet the identified local need of a business providing employment in a rural area is in the public interest.
87. The proposal is considered to be acceptable, subject to the imposition of planning conditions. In the absence of any further material considerations, it is considered that the proposal is in accordance with the Government's national planning policies and the Development Plan and is recommended for approval. Delegated authority is sought for officers to agree the final wording of the conditions summarised in

paragraph 17 of this report with the applicant following Planning Committee resolution.

**Human Rights**

Any human rights issues have been considered and addressed in the preparation of this report.

**List of Background Papers** (not previously published)

Nil

**Report Author and Job Title**

Helen Marsden – Senior Minerals Planner