

# Regulatory Committee

Date: Tuesday 11 July 2023  
Time: 10.30 am  
Venue: Committee Room 2, Shire Hall

## Membership

Councillor Jill Simpson-Vince (Chair)  
Councillor John Cooke (Vice-Chair)  
Councillor Jeff Clarke  
Councillor Judy Falp  
Councillor Dave Humphreys  
Councillor Jack Kennaugh  
Councillor Justin Kerridge  
Councillor Chris Mills  
Councillor Ian Shenton  
Councillor Adrian Warwick  
Councillor Caroline Phillips  
Councillor Andy Jenns

Items on the agenda: -

## 1. General

### (1) Apologies

To receive any apologies from Members of the Committee.

### (2) Disclosures of Pecuniary and Non-Pecuniary Interests

### (3) Minutes of the Previous Meeting

5 - 10

## 2. Delegated Decisions

11 - 12

Members are asked to note the applications dealt with under delegated powers since the last meeting.

## Planning Applications

- 3. Planning application SDC/22CM003 - revised design of Bishops Bowl Fishery utilising the importation of inert material and soils at Bishops Bowl Lakes, Bishops Itchington, Southam, CV47 2SR** 13 - 54  
Documents in relation to this application can be found via the following link –

[SDC/22CM003](#)

- 4. Planning application NBB/22CM010 Temporary upgrade of an existing agricultural access off Higham Lane, St Nicolas Park, Nuneaton, CV11 6GS** 55 - 76  
Documents in relation to this application can be found via the following link –

[NBB/22CM010](#)

**Monica Fogarty**  
Chief Executive  
Warwickshire County Council  
Shire Hall, Warwick

## **Disclaimers**

### **Webcasting and permission to be filmed**

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### **Disclosures of Pecuniary and Non-Pecuniary Interests**

Members are required to register their disclosable pecuniary interests within 28 days of their election of appointment to the Council. Any changes to matters registered or new matters that require to be registered must be notified to the Monitoring Officer as soon as practicable after they arise.

A member attending a meeting where a matter arises in which they have a disclosable pecuniary interest must (unless they have a dispensation):

- Declare the interest if they have not already registered it
- Not participate in any discussion or vote
- Leave the meeting room until the matter has been dealt with
- Give written notice of any unregistered interest to the Monitoring Officer within 28 days of the meeting

Non-pecuniary interests relevant to the agenda should be declared at the commencement of the meeting.

The public reports referred to are available on the Warwickshire Web  
<https://democracy.warwickshire.gov.uk/uuCoverPage.aspx?bcr=1>

### **Public Speaking**

Any member of the public who is resident or working in Warwickshire, or who is in receipt of services from the Council, may speak at the meeting for up to three minutes on any matter within the remit of the Committee. This can be in the form of a statement or a question. If you wish to speak, please notify Democratic Services in writing at least three working days before the meeting. You should give your name and address and the subject upon which you wish to speak. Full details of the public speaking scheme are set out in the Council's Standing Orders.

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Any member or officer of the Council or any person attending this meeting must inform Democratic Services if within a week of the meeting they discover they have COVID-19 or have been in close proximity to anyone found to have COVID-19.

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# Regulatory Committee

Tuesday 6 June 2023

## Minutes

### Attendance

#### Committee Members

Councillor Jill Simpson-Vince (Chair)  
Councillor John Cooke (Vice-Chair)  
Councillor Jeff Clarke  
Councillor Dave Humphreys  
Councillor Jack Kennaugh  
Councillor Justin Kerridge  
Councillor Chris Mills  
Councillor Ian Shenton  
Councillor Caroline Phillips  
Councillor Andy Jenns

#### Officers

Helen Barnsley, Senior Democratic Services Officer  
Sally Panayi, Senior Planning Officer  
Caroline Gutteridge, Delivery Lead Commercial & Regulatory  
Charlie Jones, Planning Officer (Contractor)  
Georg Urban, Senior Planner  
Andy Carswell, Democratic Services Officer  
Scott Tompkins, Assistant Director for Environment Services

### 1. General

#### (1) Apologies

Apologies were received from Councillor Judy Falp and Councillor Adrian Warwick.

#### (2) Disclosures of Pecuniary and Non-Pecuniary Interests

The Chair stated she was a trustee of the Rugby Free Secondary School.

#### (3) Minutes of Previous Meetings

The minutes of the meetings held on 7 March and 16 May were approved as a true and accurate record.

## 2. Delegated Decisions

Members noted the delegated decisions made by officers since the last meeting, as set out in the report.

## 3. Hybrid Planning application WDC/23CC001 Outline planning permission for development of new primary school, Land to the north of Fusiliers Way, Warwick and full planning permission for the creation of a habitat mitigation area

Sally Panayi (Senior Planner) presented the report and provided an overview of the application, which related to the granting of outline planning permission with all matters reserved apart from access for the development of a new primary school and nursery and associated parking, and full planning permission for the creation of an associated habitat mitigation area, in Warwick. This was subject to a number of conditions.

Full details presented to the Committee included the following:

- The primary school would be two form entry, capable of accommodating 420 pupils including up to 18 with special educational needs. The nursery would provide 34 places.
- The site was bordered by the existing Myton School to the northwest and the Evergreen Special School to the east. Established housing was located to the north of the site, with new houses to the east and construction work on new houses taking place to the south.
- Access to the school for staff and pupils would be from Fusiliers Way only, although there would be an access gate leading from The Malins to allow for maintenance of the playing fields.
- Information on the scale and placement of the school buildings was indicative only, in anticipation of a future reserved matters application.
- The application was originally an outline application but had been converted to a hybrid one to allow for works to be implemented on the habitat mitigation area.
- Two bunds would be created within the habitat mitigation area to improve surface water drainage. The eastern bund would be between 1.5 and 2.0 metres above the existing ground level, and the western bund would be 0.4 metres in height. Removal of a section of hedgerow would be required to install the eastern bund.
- A landscape plan indicating planting of hedges and trees within the habitat mitigation area had been submitted.
- The proposed height of the fence along the northern boundary with The Malins had been reduced from 2.4 metres to 1.8 metres, although for security reasons a small section would remain 2.4 metres tall.

No objections had been received from statutory consultees, and Warwick Town Council had expressed support for the application. Comments and objections had been received from 15 local residents, the majority expressing concerns about access to the school from The Malins and Myton Crescent. Concerns had also been raised relating to construction traffic for the habitat mitigation area accessing the site. Sally Panayi reiterated there would be no access to the proposed school from either The Malins or Myton Crescent, and construction traffic would access the site from Fusiliers Way. The only exception would be the use of the access gate from The Malins for maintenance of the playing fields, which although regular would be seasonal and occasional. Details of a green travel plan, and school safety zone could all be included within the later reserved matters application to allay the concerns expressed by residents.

Members were told there had been historic issues with flooding and drainage in rear gardens of properties on The Malins and Myton Crescent. The bunds included within the habitat mitigation area were designed to prevent greater surface water run-off into gardens and direct it towards the highway instead.

After the initial outline application was converted to a hybrid one, a second consultation with residents to advise of the change. A comment was received after publication of the agenda raising concerns over the removal of a section of hedgerow. Concern had also been raised by a resident that the school development could result in a loss of light for residents of Lavender Close, although the outline footprint plans for the school building showed these properties would not be overshadowed.

## QUESTIONS

Responding to Councillor Justin Kerridge, Sally Panayi said the rear access gate from The Malins would be made of wire mesh construction, replacing the existing five bar gate. Responding to a second question, Sally Panayi confirmed there would be an element of hedgerow removal, to facilitate construction of one of the bunds in the habitat mitigation area.

Responding to Councillor Dave Humphreys, Sally Panayi said she was not certain of the distance from the site access to the houses to the north. However the catchment area for the proposed school would be mainly the new housing surrounding the site.

The Committee was addressed by resident Tony Robinson. He said issues relating to the height of the surrounding fence and The Malins potentially being used as access had been addressed, and thanked officers for doing so. He said concerns over flooding of neighbouring properties persisted, particularly over potential issues during the construction phase. Sally Panayi said creation of the school development and the creation of the playing fields would be done in stages, with the habitat mitigation area works carried out first in order to combat the potential risk of flooding to adjacent properties, and the bunds would assist with drainage.

## DEBATE

Councillor John Cooke stated the application was policy compliant, and there would be an additional reserved matters stage where further comments could be made.

The recommendation was proposed by Councillor John Cooke and seconded by Councillor Jack Kennaugh. A vote was held and the Committee voted unanimously in favour of the recommendation.

## **Resolved**

That the Regulatory Committee authorises the grant of the hybrid planning permission to include outline planning permission with all matters reserved apart from access, for the development of a new 2 Form Entry Primary School and 34 Full Time Equivalent place Nursery with associated external areas, access and parking on land north of Fusiliers Way and directly south and southwest of Evergreen SEN School, Warwick and full planning permission for the creation of habitat mitigation area subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

The Chair requested that residents be kept updated on when work would commence and to keep lines of communication open.

### **4. Planning application RBC/22CC007: New fire rescue training centre including fire simulation training facility**

Georg Urban (Planning Officer) presented the report and provided an overview of the application, which related to the granting of planning permission for a new fire rescue training and fire simulation training facility, along with an associated welfare building, parking and fencing, in Rugby.

Full details presented to the Committee included the following:

- The site was currently vacant and had most recently been used as a Highways depot, and prior to that a contractors' welfare site.
- The nearest residential properties were to the east at a distance of around 170 metres. The surrounding area consisted of commercial and industrial units, and it was near to the Cemex cement works.
- The training facility would include a 'smoke house'; that is, a building that would be filled with fire and smoke to allow firefighters to undertake training operations. There would be an associated filtration unit and extractor pipe, which would treat the smoke to ensure there was no discharge of noxious or harmful substances.
- The training building would be constructed of decommissioned shipping containers. It would be approximately 12 metres tall and the footprint of the building would be around 21 by 12 metres.
- A two storey welfare building, which included changing and shower facilities, office space and meeting rooms, a kitchenette and storage and drying rooms, would also be constructed.



- The submission of a Construction and Environmental Management Plan would be required under a planning condition.

No objections had been received from statutory consultees and there had been no representations made by members of the public. Georg Urban said the National Planning Policy Framework stated there was an presumption in favour of granting planning permission for sustainable development, and the Council's Development Plan was up to date. The surrounding area was largely industrial in nature and so the application would not be out of keeping.

## QUESTIONS

The Chair said the site was close to a busy junction, and asked if there were any proposals to erect signage to say what it would be used for as passing motorists may be alarmed at the sight of large training fires and attempt to call 999. Georg Urban said there were no plans currently for any signage, and the main road would be the only potentially appropriate place for them. The Chair suggested temporary signage when the facility first opened may be appropriate.

Responding to Councillor Ian Shenton, Georg Urban said the filtration unit would 'clean' the smoke when it was extracted from the smoke house and before particles were released into the air.

## DEBATE

Councillor Chris Mills said the facility was vitally important for the training of firefighters.

The recommendation was proposed by Councillor Chris Mills and seconded by Councillor Jeff Clarke. A vote was held and the Committee voted unanimously in favour of the recommendation.

## Resolved

That the Regulatory Committee authorises the grant of planning permission for the construction of a new fire rescue training centre including a 'hot smoke house' Minerva fire simulation training facility, a welfare building, onsite parking, roadway, fencing, and planting, subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

## 5. Reports Containing Exempt or Confidential Information

### Resolved

That the motion to exclude the public from the remainder of the meeting be approved.

## 6. Planning Enforcement Report

Members received a confidential update outlining ongoing enforcement work taking place. They noted the contents of the report.

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## Regulatory Committee – 11<sup>th</sup> July 2023

### Applications Dealt with Under Delegated Powers between 24<sup>th</sup> May 2023 and 30<sup>th</sup> June 2023

#### Recommendation

That the Regulatory Committee notes the content of the report

#### Delegated Powers

<b>C. APPLICATIONS DEALT WITH UNDER DELEGATED POWERS BETWEEN 24th May 2023 and 30th June 2023</b>		
<b>Application reference &amp; valid date electoral division case officer</b>	<b>Site location &amp; proposal</b>	<b>Decision date</b>
<a href="#">NWB/22CM012</a>  Hartshill  Georg Urban Planning Officer	<b>Hartshill Sewage Treatment Works, Woodford Lane, Hartshill, CV10 0SX</b>  Installation of 6no. Control Kiosks	<p style="text-align: center;"><b>Approved</b></p> <p style="text-align: center;">16<sup>th</sup> June 2023</p>

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**Regulatory Committee – 11 July 2023**

**Revised design of Bishops Bowl Fishery utilising the  
importation of inert material and soils  
Bishops Bowl Lakes, Bishops Itchington, Southam,  
CV47 2SR**

**SDC/22CM003**

Application No.: SDC/22CM003

Advertised date: 25 August 2022

Applicant: Mr Shaun Smart,  
Bishops Bowl Lakes  
Bishops Itchington  
Southam  
CV47 2SR

Agent: Mr John Gough,  
Gough Planning and Development Ltd  
Hawksley Cottage  
28, Town Street  
Sutton-Cum-Lound  
Retford  
DN22 8PT

Registered by: The Strategic Director for Communities on 09 August  
2022

Proposal: Revised design of Bishops Bowl Fishery utilising the  
importation of inert material and soils

Site & location: Bishops Bowl Lakes, Bishops Itchington, Southam,  
CV47 2SR. [Grid ref: 438375.259039].

**See plan in Appendix A**

**Recommendation**

That the Regulatory Committee authorises the grant of planning permission for the revised design of Bishops Bowl Fishery utilising the importation of inert material and soils subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

## **1. Application details**

- 1.1 This planning application seeks consent for the revision of the previously approved design for the lakes at Bishops Bowl Fisheries (Ref: SDC/18CM019) approved in October 2018.
- 1.2 The site known as Greenhill Lake complex includes Greenhill Lake, Belles Lake and Rush Glen Lake, located within the Bishops Bowl Lakes Fishery, Bishops Itchington. The Fishery comprises of a series of waterbodies, some of which are quite deep, situated within former mineral workings. The previous consent approved the remodelling and partial infilling of a lake to reduce the depth of the waterbody.
- 1.3 The Planning Statement submitted to support the current application advises that the works approved in 2018 commenced in April 2020 with the import of suitable inert material to create marginal reedbed areas and to establish additional 'shallows' within the larger waterbodies to complement existing habitats elsewhere within the site.
- 1.4 The easternmost waterbody within the 2018 planning application site area, Greenhill Lake, has been infilled with shallows formed and an island created. However, the levels are inconsistent with the 2018 approved drawings as a result of a setting out error. The waterbody has been overfilled with imported waste.
- 1.5 In addition, the previously approved configuration of Greenhill Lake has been amended to provide a new throughfare across the waterbody as an alternative long term access route to the waterbodies. The waterbody is now divided into Greenhill Lake North and Greenhill Lake South. This application also seeks consent to retain this central access route as constructed.
- 1.6 As a result of the errors and alterations in implementing the approved scheme, an additional volume of inert waste is required to be imported to the site, to complete the project.
- 1.7 The applicant states that importation of an additional 140,000 m<sup>3</sup> of material would be required to complete the recontouring of the central waterbody, Belles Lake and Rush Glen Lake located within the western area of the application site. The two waterbodies would be reduced in depth from some 6 to 8 metres to between 1.8 to 2.4 m in order to improve fishing habitats and management of the waterbodies; to reduce potential long-term erosion issues and improve safety.
- 1.8 Following a response from Natural England and a subsequent site meeting regarding access to the geological SSSI positioned to the north of Greenhill Lake, an amended plan was submitted. A gated access route is proposed along the northern shoreline of Greenhill Lake North to provide occasional access to the SSSI for research and education purposes when required.

- 1.9 The engineering works would be undertaken in a generally westerly direction across the site via the access causeway between the north and south Greenhill Lakes. A new temporary dam would be constructed to allow Belles Lake to be dewatered, re-profiled then re-flooded. Rush Glen Lake would be the last water body to be de-watered and re-profiled prior to re-flooding.
- 1.10 Materials used to infill the site would be inert spoils and soils derived from construction and development sites. The material would be imported to the site under an Environmental permit from the Environment Agency or under an amended CL:AIRE MMP (Contaminated Land: Applications in Real Environments Materials Management Plan).
- 1.11 It is envisaged that up to 50,000 m<sup>3</sup> of inert waste material would be imported to the site per annum. The proposed works would be expected to be completed within 3 years.
- 1.12 Access to the site would remain as permitted via Gaydon Road (B4451). The Transport Statement submitted with the application indicates that the proposal would result in an average of 25 HGV deliveries (50 movements) of infill material to the site per day with a maximum generation of 50 loads per day (100 movements).
- 1.13 A planning condition was imposed on the 2018 planning consent to restrict the hours of delivery of materials to the site. The proposal seeks consent for the hours to continue as previously approved with deliveries to the site between 07:00 and 18:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays with no operations on Sundays or Public or Bank Holidays.
- 1.14 During the winter months some additional artificial floodlighting may be required on site.
- 1.15 An HGV routing plan was submitted to support the application indicating a dedicated route to and from the site. The routing plan (BBF-22/4 Rev A) details vehicles travelling south to the site via the A425 to the B4452 towards Harbury, turning left after the railway bridge and continuing on the B4452, then turning right onto the B4451 towards Bishop's Itchington and right into the application site. Vehicles travelling from the M40 would access the site via the B4451 through Bishop's Itchington, turning left into the application site.

## 2. Consultation

2.1 **Stratford on Avon District Council - Planning:** No objection.

2.2 **Stratford on Avon District Council – Environmental Health:** Please replicate conditions 12, 15, 16, 17, 18 and 19 from decision SDC/18CM019.

2.3 **Cllr Christopher Kettle:** I do not have any concerns about the continued importation of inert waste to this site but would like consideration as to the agreed access route to the site. Currently the HGV access proposal is through the middle of the village of Bishops Itchington and past the two bus stops, where school children and others queue and cross the road.

I believe the designated route should be limited to the A423 from the South and the A425 coming from the north and routing along the B4452 past the Ufton landfill site, to Harbury and then the B4451 from Deppers Bridge.

This route avoids going through the middle of Bishops Itchington and avoids using the Bush Heath Road past Harbury.

*In response to Cllr Kettle's suggested alternative HGV route the applicant stated: having given the matter careful consideration this is not a viable option. The route suggested effectively takes HGV's out of the County (towards Banbury and Oxfordshire) and away from the primary source of suitable material to import to the site. The existing route south from the site along Gaydon Road (B4451) does not have a weight limit imposed and is less than 3 miles to the M40 which allows ready access to the strategic highway network. To our knowledge there have not been any historic problems with HGV's serving the site travelling through Bishop Itchington and of course your own Highways Division have not raised objection to the proposal for the continued use of this route.*

2.4 **Harbury Parish Council:** No objection.

Initial delegated objection withdrawn having received further information from the planning officer regarding the drafting of the legal agreement. No objection subject to the inclusion of a planning condition to ensure a legal agreement is made to route site traffic along the B roads.

2.5 **Bishops Itchington Parish Council:** Objection.

The parish council's objection is based upon the transport statement which indicates a significant number of vehicle movements, potentially a vehicle every six minutes over three years that will be travelling directly through the centre of Bishop's Itchington. The main road through Bishop's Itchington has traffic calming measures in the form of speed bumps and when this route was initially used previously, before



being changed, a large number of complaints were received regarding noise when empty vehicles clattered over the speed bumps. The route through the village is not appropriate as it is through the centre of the village and it is a principle route for school access and bus route. As well as speed bumps, there are two zebra crossings that are used frequently, particularly by children/young people at school times.

The parish council suggests an alternative route keeping on the 'A' roads via Southam which are high-capacity roads:  
From M40 northbound, exit at junction 11, A423 into Southam then A425 out of Southam followed by B4451.

From M40 southbound down the M40, exit at junction 14 then take the A452 then A4100, up the Fosse Way and then in.  
The suggestion is a route that takes them to the A425 then down the A425 followed by the B4452. There are approximately eight houses in Harbury that the vehicles would pass and none of them have a speed bump located outside them. The suggestion is they will go along get to Deppers Bridge using the A4452 which means they only just nick into the very north-eastern corner of Harbury by the railway cutting where there are no traffic calming in terms of speed bumps that are causing the noise which is the primary issue and other than that they are routed on 'A' roads.

In the last application, there was a condition that the vehicles would not come through Bishop's Itchington but had to come into the site from the Harbury end or through Deppers Bridge, and as a parish council we request that this previous condition is replicated and made robust. At a pre-planning meeting we were assured that the vehicles would not be going through the centre of Bishop's Itchington.

We would also request that it is conditioned that the roads are swept at least within the urban areas.

*(NOTE: The previous planning consent did not prevent HGV from travelling through Bishops Itchington but included condition 11 stating that no more than 25 HGVs per day shall turn right from the site so as to travel in a southerly direction on the B4451 Reason: In order to reduce the impact of HGVs through the village of Bishops Itchington).*

- 2.6 **WCC Flood Risk and Water Management:** No comments received.
- 2.7 **WCC Highways:** No objection subject to the imposition of conditions 9 – 13 as imposed on previous planning permission SDC/18CM019. In addition, a condition is recommended to require installation of suitable measures to ensure mud and debris will not be deposited on the highway as a result of traffic leaving the site.

- 2.8 **WCC Ecology Services:** More information requested from the applicant as to whether and to what extent the Habitat Management Plan (E3P, May 2019) has been implemented.

The four ecological reports submitted with the application were formally submitted to discharge planning conditions on the previous planning consent SDC/19CM019. Given that these reports are now 3 years old and the habitats will have changed in that time, an updated ecological walkover survey is required of the current habitats and suitability for protected/notable species to be impacted by the works.

The submitted Landscape Plan (Plan BBF-22/3 dated 01/08/2022) is very similar to the previously approved Landscape Plan (Plan BBF-18/3 dated 12/06/2018). However, we note that the plans for Greenhill Lake have changed (presumably due to proposed changes to include the construction of the causeway), and series of four ponds within the grassland margins have been omitted. We would recommend confirmation is sought from the applicant if it is still possible to create the ponds within the amended scheme, as these are which are valuable habitats for a variety of species. We would encourage the ponds to be included if possible, within the updated landscaping plans.

We recommend that the Biodiversity Impact Assessment should also be updated prior to determination, to demonstrate that a biodiversity net gain is still achievable within the amended landscape design. Should a net loss be calculated, revised landscape plans may be required in order to include further habitat creation/enhancement within the landownership of the applicant, to demonstrate a biodiversity net gain as a result of the proposed works in line with the NPPF. Given the area of the blue line boundary within the applicant's landownership, it is expected that there is scope for biodiversity net gain.

Depending on the results of the updated ecological walkover survey and Biodiversity Impact Assessment, we would consider that an updated Habitat Management Plan, Habitat Restoration Scheme, and Environmental Protection and Protected Species Plan could be submitted via conditions of any approval, similar to the previous planning approval. The plans are in order to ensure protected/notable species and protected sites and notable habitats are not harmed during the works and secure a revised long-term habitat management plan for the site.

*In June 2023 updated and amended versions of the Habitat Management Plan, Habitat Restoration Scheme provided by the applicant in May were agreed by the County Ecologist subject to conditions for the works to be implemented in accordance with those plans.*

- 2.9 **WCC Planning Policy Team:** No response received.

2.10 **Natural England:** No objection.

The final response from NE following a meeting on site and submission of a revised plan indicating the provision of future access to the Geological SSSI stated:

Based on the revised plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on Harbury Quarries Site of Special Scientific Interest (SSSI) and has no objection.

We welcome the revision to the northern shoreline of Greenhill Lake to establish an area of grassland adjacent to the SSSI to allow future access for educational and research study as well as management purposes of this important national geological designation.

We also welcome the enthusiasm and interest by the owner to develop the interpretation and environmental education interest at the site.

The initial response from Natural England raised a number of queries:

*As submitted the application could have potential significant effects on Harbury Quarries Site of Special Scientific Interest (SSSI). A summary of the basis upon which the application states that there is no impact to features of geological significance is required.*

*The Landscape and Visual Assessment document states the following in Section 3.4.2 (page 19): "Designated Assets Harbury Quarries SSSI: The Harbury Quarries SSSI is designated due to its geological importance and as such has a high sensitivity to change from certain types of development. Natural England considers that active management to maintain exposure of the important geological features and such management usually involves periodic clearance of vegetation and rock debris. Vegetation growth is a particular problem for geological conservation in many inland disused quarries. It is understood that the proposals will not reduce or obscure the rock face, however proposals will reduce the depth of water, which may enable greater access to the rock face, which would be of benefit to its ongoing management.*

*Current use of land - Whilst the SSSI designation washes over the peripheral quarry faces, the internal landscape has a weak structure, in part due to its ongoing regeneration as a commercial fishery. There is however, scope from improvement and management of vegetation for optimum ecological benefits."*

*We have the following queries based on the above:*

- The proposal seems to have reedbed and swamp adjacent to the SSSI. If the water level of this will be at or above the ground surface, we don't see how this gives greater access to the rock face as per the statement under 'Designated Assets' copied*

*above (NB the SSSI interest is the soft sediment above the bedrock).*

(Applicant's response - The current scheme repeats the locations of the reed and swamp areas and gives no more access to the SSSI than the current consented scheme does. Regrettably, there is no safe path or walkway at the base of the SSSI exposure that can safely be used.)

- *It is unclear how much inert material is being brought in, and therefore what the impact is on the SSSI. We note that the map at the end of the habitat management plan shows cross sections A-A and B-B, a copy of these would be helpful in illustrating the relationship between the SSSI, the infill and the resulting habitats adjacent to the SSSI.*

(Applicant's response - The application makes clear the additional volume of inert fill to be brought in (i.e. 140,000m<sup>3</sup>). The revised cross-sections were provided as an application drawing (BBF-22/6.)

- *The 'Current Use of Land' statement (copied above) could be read to imply some form of vegetation management which might impact the SSSI. We think it is referring to the fishing lakes as the SSSI is outside the red line for the planning application (but within the blue line for the land holding). However, this needs to be clarified.*

(Applicant's response - There is no vegetation management being proposed and I'm advised never undertaken along the cliff face adjacent to the application boundary due to the dangerous nature of the ground.)

- *Are there any plans for interpreting the SSSI?*

(Applicant's response - There are no plans for interpreting the SSSI due to the dangerous nature of the surrounding ground with no means of safe access.)

2.11 **Environment Agency:** No comments received.

2.12 **Western Power Distribution:** No comments received.

2.13 **Warwickshire Wildlife Trust:** No comments received

2.14 A press notice was published in the Stratford Herald on 25th August 2022. Site notices were displayed at the entrance to the site on Gaydon Road and on Parish Council notice boards in Harbury and Bishops Itchington on 24th August. Consultation letters were sent to 75

residential and commercial premises in proximity to the boundary of the application site.

### **3. Representations**

- 3.1 Comments and objections have been received from 12 local residents in response to the public consultation. The points and issues raised in the responses are set out below.

#### Highway Safety / Impact of HGV / Routing of HGV:

- 3.2 Unacceptable HGV traffic past our house on B4452. The proposed 50 HGV per day will negatively affect noise levels at our home and risk subsidence at our house due to previous history.
- 3.3 Site access should only be allowed on Monday to Friday, not at weekends or Bank Holidays. Many residents in Harbury and Bishops Itchington live on the B4452 and B4451. Disturbance from the heavy vehicles should be minimised by preventing movements at the times when working people are most likely to be at home enjoying their leisure time.
- 3.4 We object on the grounds of noise and pollution and increased traffic on this road.
- 3.5 I live in an old farmhouse on Station Road and I know from the HS2 and British Rail works that vibrations from the road can be heard in my house. HS2 will hopefully move away and no longer be a problem but what is proposed is an open book with no timescales. The heavy lorries are damaging the pointing in my house.
- 3.6 The other concern that I have is that the corner on the B4452 by my house is not satisfactory for an increase in the frequency of large heavy lorries. At times we see from my house queues of several vehicles waiting while lorries wait for clearance before being able to turn the corner as a similar lorry is approaching the corner from the opposite direction. I recognise that the Council can develop the corner to eliminate the problem but the Council's history in making changes is not in my eyes good. For example, the proposed lights at Bendigo crossing - always promised but no action. I think that the application should be refused.
- 3.7 The previous planning application SDC /18CM019 stated in its highway report that the additional HGV traffic would not have an adverse impact on the local highway. This unfortunately has not been the case. We monitored HGV movements transferring inert waste over to the Bishop Bowl Fisheries on many occasions. At peak times there can be up to 100 trips per day short cutting to and from the Fosse Way and travelling along the unclassified roads of Bush Heath Road and Butt Lane in Harbury. These conveyances have presented real safety

concerns to vulnerable road users. These concerns were fed back to the planning officer at WCC, and to Harbury Parish Council, Stratford District Council and Warwick County Council on numerous occasions. The planning officer visited the site and asked the owner to request that HGVs use the B4451 and B4452. Nothing changed; the HGVs continued to short cut down Bush Heath Road. Mr Smart admitted that he had no control over the HGVs once they left the site.

- 3.8 Bush Heath Road currently has a 60-mph speed limit, with no footpath along its length. People use this road to access the numerous footpaths and roads on Thwaites Farm which is a local beauty attraction for pedestrians and cyclists. Unfortunately, the HGVs short cutting down Bush Heath Road have created real safety concerns to pedestrians and cyclists, who are classified as vulnerable road users. There are three stables located on the road and the horse riders currently must ride out onto a 60-mph road, meeting the HGVs conveying waste to Bishop Bowl quarries. Residents in Percival Drive turning right onto Bush Heath Road have also raised safety concerns, as the roundel indicating a speed reduction to 40 mph from 60 mph is located too close to the entrance to Percival Drive. Vehicles have been documented by the local police driving along Bush Heath Road and Butt Lane (inside the village boundary) at speeds well in excess of 40 mph. Some HGVs only reduce their speed once passing the 40-mph speed roundel, which means that drivers turning right out of Percival Drive have insufficient time to manoeuvre.
- 3.9 Recent changes to the Highway Code state that pedestrians should be given precedence over vehicles. This has not been Harbury villagers' experience. When walking along Bush Heath Road, HGVs conveying the inert waste have not always given way to pedestrians when there is oncoming traffic. They make no allowances for pedestrians. I have personally experienced an incident where an HGV forced me to jump onto the verge as it did not stop when there was oncoming traffic. It just drove at me.
- 3.10 Residents park cars on Butt Lane. There was an incident last year when one of the HGVs travelling to the Bishops Bowl site overtook a parked caravan when there was a car coming in the opposite direction. The HGV driver just got around the caravan but lost control of his vehicle which then bounced off the kerb. Luckily, the driver in the other car was not hit. Villagers have reported huge back drafts from these passing HGVs which are enough to unbalance vulnerable pedestrians along these roads.
- 3.11 Due to the current safety concerns involved Bush Heath Road and Butt Lane, residents campaigned to get the speed limits reduced along these roads. A 30-mph speed limit inside the village boundary was requested together with a speed reduction along the section of Bush Heath Road outside the village boundary. A compromise was agreed and WCC have agreed to reduce the speed to 40 mph along the entire

length of Bush Heath Road. As yet this has not been implemented or scheduled, although Harbury Parish Council has agreed to pay for the requisite Traffic Road Order and speed roundels, and so the safety concerns are still current.

- 3.12 Unfortunately, Harbury residents were oblivious to the fact that a planning application had been submitted and subsequently approved in October 2018. We received no letters at that time from WCC, and no planning application notices were placed in the vicinity. The approval came as a complete shock to residents when we realised belatedly what was happening at the Bishops Bowl site.
- 3.13 The HGVs have not only created genuine safety concerns for residents, but they have also created a real nuisance. They travel in groups of 2-3 on route to the quarries loaded at the same time as 2-3 are travelling back empty. The effects of 6 heavy vehicles passing each other creates significant nuisance to residents in the form of noise and vibration. We can feel vibrations in our house and can no longer use our garden when the contractors are operating due to the noise emanating from the HGVs. When the weather is warm, we cannot open our windows due to the noise.
- 3.14 Residents have done their utmost by contacting the contract hauliers involved to request that they use A and B roads to access the site but with no effect. The hauliers have stated explicitly that they will continue to travel down Bush Heath Road and Butt Lane because it is the shortest route to and from the site, thus minimising their fuel costs, and because they have "every right to do so." Because the previous planning application was approved without the residents' knowledge, our voices have fallen on deaf ears, as there was no dedicated route plan in place and no legal agreement to enforce it.
- 3.15 Therefore, unless the WCC can legally enforce the proposed dedicated route plan, and such enforcement extends down to the contracted and sub-contracted hauliers involved, we have no option but to object on safety grounds. If there is no enforcement, the route plan will not be adhered to by the numerous haulage companies involved. We have been told that most of the HGVs will be coming from the Bishops Tachbrook area. Instead of using the A and B roads the drivers will travel along Harbury Lane, cross the Fosse Way to access the Bishops Bowl site via the unclassified roads of Bush Heath Road and Butt Lane. GPS will show the drivers that this is the shortest route and so will cut down their journey time and fuel consumption.
- 3.16 The Transport Statement states at section 1.8 'there will be no further impact on the highway network as a result of the proposal to extend the site.' This is not true; there has been a significant impact on vulnerable road users already from the previous applications.

- 3.17 Section 1.6 states there have been no accidents at the site entrance junction or in the immediate vicinity. This is a misleading statement. The local community police officer is not always available at Southam Police Station. Incidents are hard to report due to limited police resources and presence in the area.
- 3.18 Residents along Bush Heath Road and Butt Lane have been trying to set up a speed watch group for these roads but have found it difficult to set one up due to communication difficulties with the local community police officers, who are continually changing and moving to other roles.
- 3.19 Much of the traffic for the previous infill came south and returned north (estimate > 95%). So in reality we saw and felt all movements i.e. in and out. Please advise typical journeys and works that will be serviced/associated to facilitate the new infills. There must be a reasonable idea from where 140,000m<sup>3</sup> of soil will become available within 3 years. If 50% of this came from South of the site then 50% would come through Bishops Itchington (BI). Apologies to the people of BI as I do not wish this upon you, only to understand if we can expect more or less of the same.

Enforcement of HGV routing plan:

- 3.20 In addition to giving strong legal status to the HGV routing plan, there should be a legal limit on the number of vehicle movements. The limit should be set in terms of movements per hour not per day as this is much more straightforward to monitor.
- 3.21 The routing of HGVs does not look to be enforceable. Approval of this application could therefore facilitate HGV movements through Bush Heath Road / Butt Lane in Harbury causing traffic, nuisance and safety issues for other road users.
- 3.22 The work to date has caused excess nuisance to local residents and this should not be allowed to continue unless WCC takes the full legal powers required to prevent lorries using Bush Heath Road/Butt Lane.
- 3.23 The wording of section 3.3 of the Transport Statement is misleading and ambiguous. At first glance the inclusion of a dedicated transport route is a step in the right direction. Many readers may believe when reading this statement that 'this can be secured through a legal agreement with the Warwickshire County Council' that the routing plan will be followed and enforced. After recent liaison with the planning office, it transpires that the legal agreement will not be drafted or executed before the application is considered and would only be put in place after it was approved. Therefore, there is no guarantee that a legal agreement will ever be made by WCC and no guarantee that such agreement will then be enforced not only against the applicant but against the contracted hauliers.



Road condition:

- 3.24 Impact on the roads local to the site. The B4451 local to the site and adjacent to Portland Lodge, in particular at times of bad weather, usually in a dirty condition. We know that a mobile sweeper was used almost on a daily basis, we witnessed it. However, despite this the road suffered from wet mud in adverse conditions and often hard pack mud in the early and later seasons. In the summer we had to contend with dust which the sweeper generally managed well when combined with damping. Our building has whitewalls that were covered in mud on numerous occasions and needing to be jet washed when the weather eased. The problems arise, in the case of arriving trucks, many not using the pull over sheets available to them and on braking with full loads shedding large lumps (generally clay) onto the road and local verges. In the case of departing vehicles, clay being shed from the wheels and underbelly that had accumulated at site. Photographs were taken. On two separate occasions I complained at the site the vehicle washer was not working on either occasion but I was advised scheduled for repair.
- 3.25 I would like to request that the roads to be used in the traffic plan are fully restored to a safe and useable condition after the operations are completed. We have already had many lorry movements along the B4552 and B4551 into the Bishops Bowl site with spoil and soil material over the last 2 or 3 years and the roads have been left with damaged verges, damaged road surfaces and damaged pavements which have been covered in mud resulting in weeds and grass growing together with dangerous slippery conditions underfoot during winter especially.
- 3.26 The damage is caused by the lorries being too big and when passing other large vehicles this results in them having to drive in to the verges especially along the B4552 and extremely close to the edge of the road which has resulted in damage to the verges and the edge of the road surfaces, creating ruts between the edge of the tarmac and the verges. Simply sending a road sweeper along the roads from time to time does not solve these problems, this has what has been done in the past and the only other action that has been taken is for the pavement along B4552 between Deppers Bridge and Harbury being cleaned of mud and weeds although not resurfaced or damage repaired. Further operations will only result in further damage and I urge the Council as part of the conditions of granting Permission to insist on making good the damage. The Annex 3 Transport Assessment claims the surrounding roads are in good condition, this is not true as they have not been repaired since the last series of lorry movements into the site via B4551 and B4552, both these roads still show severe signs of damage to verges and paving as described above.

Hours of operation/Access to site

- 3.27 Site access should only be allowed on Monday to Friday, between restricted hours of 09:00 – 16:00, and not at weekends or Bank Holidays. Many residents in Harbury and Bishops Itchington live on the B4452 and B4451. Disturbance from the heavy vehicles should be minimised by preventing movements at the times when working people are most likely to be at home enjoying their leisure time or asleep.
- 3.28 The site should not be allowed to work on Saturdays, and there should be a maximum of two heavy vehicles such as a dozer and an excavator situated on the site at any one time.

Non-compliance with previous planning permission:

- 3.29 The works should be subject to enforcement of the profiles and levels in the current planning permission. In paragraph 1.3 of the Supporting Statement, there is an admission that the applicant's contractor made a "regrettable error" in setting out. Unless an independent environmental body such as Warwickshire Wildlife Trust reports that the current situation is of benefit to wildlife, the Council should require the applicant to rectify this error, and not allow a large additional volume of material to be brought to the site.
- 3.30 Likewise, the temporary thoroughfare across Greenhill Lake should not be permitted to remain unless the environmental group reports it is beneficial to wildlife. If it is not, it should not be regularised because it would allow yet more material to be imported.
- 3.31 The 'regrettable setting out error' is convenient for the contractor to overcome his errors but what about the environmental issues of pollution and local impact associated with the overfill and the subsequent additional fill.

Noise:

- 3.32 The site should not be allowed to work on Saturdays, and there should be a maximum of two heavy vehicles such as a dozer and an excavator situated on the site at any one time. Noise levels should be monitored for Meadow Farm. Meadow Farm is just a little further from the site than Model Farm, approximately 400 metres from Rush Glen Lake. We have read the sound engineer's report and note that the sound levels at our property are unlikely to reach an actionable level based on one machine working at any one time. However, this is only an estimate, and noise from the site depends critically on the direction and strength of the wind. This is a quiet country area, so we will find even low levels of continuous noise from heavy machinery annoying. If noise does turn out to be a nuisance, we need WCC to have the powers to impose appropriate controls and mitigation measures.

- 3.33 This planning application refers to the infill of parts of the lakes with inert soils and likely we can expect similar operations, noise and disturbances, that concluded a year or so back but operated for a considerable period (not logged by us but probably more than 2 years).
- 3.34 The Noise Assessment - I would politely request to the survey authors that the site in our opinion must include the entrance and exit to the site (B4451) and the roads south or north for at least a couple of hundred metres. Portland Lodge entrance is a maximum 50 metres from the site entrance. What they have not disclosed or perhaps not measured is the noise and vibration emanating from one and often two together, trucks arriving and braking with full loads (from the North = downhill section) immediately outside Portland Lodge. Later heading North, the empty vehicles are climbing uphill from the site past Portland Lodge using a reasonable amount of engine power. We concur with the authors that the noise at the operations part of the site is minimal and not an issue. Most vehicles normally passing are maintaining speed and their disruption is minimal. Please share the noise assessment that has been undertaken at the site entrance and local to our property or please request that this becomes a supplement to survey (with appropriate vehicles and loads) and that this is added to the report.

Amenity:

- 3.35 Importantly we are not objecting to this proposed planning, providing we can have assurances that the operations can be monitored and continue to be monitored for the duration. We have good reason to raise these points, we are the nearest property and likely will be most affected of any property associated.
- 3.36 The published documents seem to make reference that this kind of works have been undertaken previously and without complaint or objection and on this basis is reasonable and proper to continue a second phase. We anticipated that these works were finished, now the planning application provides for three more years, perhaps more after that. Some people choose to tolerate such planning with a view for the common good, that it improves the biodiversity at Bishops Bowl Lakes, creates jobs perhaps and allows people to go about their business in a manner that suits them. We are of this type, but we hoped that the planning was finite, not open ended and that there is an end. Another 3 years of similar movements that we faced in Phase 1 is not reasonable.
- 3.37 So in summary this is not an objection to planning. This is an opportunity for the developers and contractors to manage better with us and pay due diligence and answer the questions above. In particular the noise and vibration local to our house and the cleanliness (and safety for cyclists/motorcyclists) of the road immediately local to the site entrance. We look forward to some positive proposals from them.

Monitoring:

- 3.38 The environmental plans should be monitored at least annually by an independent environmental body such as Warwickshire Wildlife Trust, and progress reported to WCC. Given that the contractor's track record includes a major error leading to a request for a large amount of additional material to be imported to the site, we are very worried about the monitoring of the works generally, and in particular the status of the environmental plans. The applicant says that the plans to enhance the wildlife amenity of the site are a major benefit of the work. We acknowledge this but believe that progress on these plans should be monitored and reported to the Council. The submission does say that Warwickshire Wildlife Trust may be consulted, but this should be made a requirement.

**4. Background and Planning History**

- 4.1 Bishops Bowl Lakes (located on the western side of the B4451) are a series of water bodies of varying sizes formed within abandoned former mineral workings associated with the former Harbury Cement Works (located on the eastern side of the B4451). The Cement Works and quarry ceased operation in 1970. The quarry site, much of which now forms the Bishops Bowl Lakes Fishery, was not formally restored upon the completion of mineral working. The site largely took on its current appearance through natural rebound of water levels and colonisation by vegetation and wildlife.
- 4.2 Planning permission was originally granted to allow use of the site as a commercial fishery in 1982. Since this time various planning permissions have been granted on the site. These include for: a clubhouse and shop, erection of 21 fishing lodges, erection of a two-storey manager's dwelling, water sports activities, etc. Since 2009 the current site owners have undertaken works to improve and upgrade the site to establish a viable fishery, introducing a range of fish stocks including, Carp, Tench, Rudd, Roach, Bream and Pike. Their aim is to provide a high-quality venue in Warwickshire for anglers, whilst preserving and respecting the surrounding wildlife, and maintaining the unique environment of the site.
- 4.3 Planning permission (SDC/14CM002) was granted in 2014 which allowed the remodelling and partial infilling of two lakes within Bishops Bowl Fishery. This included partial infilling of one lake (Mitre Lake) and stabilising and making safe the banks at one end of Greenhill Lake, which is the subject of the current application. These works are complete, and Mitre Lake has successfully re-established as a fishing lake.
- 4.4 Further planning permission was granted in October 2018 (SDC/18CM019) for the extended ecological enhancement of the lakes by further importation of suitable inert material. The approved works

were required to be completed and restored within 4 years of the date of commencement. The infilling commenced in April 2020 and ceased when the approved volume had been imported.

- 4.5 Construction of residential development with the erection of 80 dwellings and associated public open space on the site of the former cement works located to the east of the application site and east of B4451 Gaydon Road has been substantially completed and properties occupied. At the time of the planning application approved in 2018, construction of the residential development had only recently commenced.

## **5. Assessment and Observations**

### **Site and Surroundings**

- 5.1 Bishops Bowl Lakes is located around 1 km to the north of Bishops Itchington and around 1 km to the south-west of Harbury. The Lakes site extends to approximately 37 hectares in total and lies to the west of and is accessed from the B4451 Gaydon Road.
- 5.2 The abandoned quarry workings now take the form of a series of lakes and water bodies. The site is operated by the applicant as a commercial fishery. As the name of the fishing facility suggests the site occupies a low-lying area of land, partially resulting from previous mineral extraction, which is effectively in a valley or bowl. The site is well screened by mature vegetation.
- 5.3 Whilst the Bishops Bowl Lakes Fishery site extends to 37 hectares in total the application site is limited to a little under 9 hectares of the site which incorporates the lakes complex where infilling works have been partially completed; the lakes where the previously approved infilling has not been completed; the site entrance and the access road into the site.
- 5.4 The abandoned quarry workings contain attractive stone faces and representative geological exposures. Two areas within the site are designated as geological Sites of Special Scientific Interest (SSSI) (Harbury Quarries SSSI Ref 15WP5). The designated exposures extend to an area of around 2.5 hectares of the overall Bishops Bowl Lakes site. The SSSIs do not fall within the red line area of the current application site.
- 5.5 Residential properties in the immediate vicinity of the site are limited in number and are clustered in small groups or as individual isolated dwellings with the exception of the recently constructed housing at Blue Pool Vale and Lias Crescent, located to the east of the B4451 and south-east of the access to the application site. The closest of the new houses are some 70 metres to the south-east of the site access and around 600 metres from the proposed infilling of Belles Lake and Rush

Glen Lake. Portland Lodge is situated around 50 metres to the north of the site entrance and around 600 metres away from the proposed infilling. A group of properties centred around Greenhill Farm and fronting onto Gaydon Road are located some 300 metres to north of the site. Immediately adjoining the southern boundary of the Lakes site is Walworth Farm. The modern farm buildings are situated in an elevated position above the site and screen the farmhouse, which is located at a lower level, from the Lakes site. Walworth Farmhouse itself is separated from the proposed infilling works by around 300 metres. Around 1 kilometre to the west of the site are situated two further farms (Hurdiss Farm and Model Farm). The applicant's residential property, The Lodge, is located centrally within the Lakes site.

- 5.6 The site is accessed via a long private roadway which extends to around 300 metres in length. The entrance onto the highway was upgraded and improved in connection with the lake shallowing and recontouring works approved in 2014 (Ref: SDC/14CM002). The initial access into the site comprises of a long section of concrete roadway, beyond which roadways are constructed of unbound materials.
- 5.7 An electricity substation is located on land to the south of the access road into the site and Mitre Pool. An electricity pylon stands adjacent to the substation with overhead power lines running northwards over the haul road.

### **Planning Policy Context**

- 5.8 Paragraph 11 of the National Planning Policy Framework (NPPF) July 2021 explains that there is a presumption in favour of sustainable development and what that means. What the presumption means in relation to a planning application is that:
- (a) proposals which accord with an up-to-date development plan should be approved without delay; and
  - (b) where there are no relevant development plan policies or the policies most important for determining the application are out-of-date, then permission should be granted unless:
  - (c) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or
  - (d) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Where the presumption in (b) applies, it is often referred to as the "tilted balance" in favour of the application.

Paragraph 12 goes on to explain that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 5.9 Paragraph 48 explains that authorities may give weight to relevant policies in emerging development plans according to: a) the stage of preparation of the emerging plan; b) the extent to which there are unresolved objections to relevant policies; and c) the degree of consistency of the relevant policies in the emerging plan to this Framework.
- 5.10 In this case, the Development Plan consists of the Stratford-on-Avon District Core Strategy 2011 to 2031, the Warwickshire County Council Waste Core Strategy adopted July 2013 and the Mineral Local Plan for Warwickshire adopted July 2022. The application should therefore be determined (as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004) in accordance with those policies unless material considerations indicate otherwise.

## **National Planning Policy**

### National Planning Policy Framework

- 5.11 The National Planning Policy Framework (July 2021) has at its heart a presumption in favour of sustainable development to be achieved by three interdependent objectives; economic, social and environmental, to build a strong competitive economy, vibrant healthy communities while enhancing the natural, built and historic environment.
- 5.12 The NPPF makes it clear that the Government is committed to securing economic growth and productivity in order to create jobs and prosperity. Planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area as well as enabling the sustainable growth and expansion of all types of business in rural areas.
- 5.13 **Paragraph 81** of the NPPF makes it clear that the Government is committed to securing economic growth requiring that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the

need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

- 5.14 **Paragraph 84** of the NPPF seeks to support the sustainable growth and expansion of all types of businesses and enterprise in rural areas and support sustainable rural tourism and leisure developments which respect the character of the countryside.
- 5.15 **Paragraph 97** of the NPPF states that planning decisions should promote public safety including anticipating and addressing possible natural hazards.
- 5.16 **Chapter 15** of the NPPF requires planning policies and decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and geological conservation interests; minimising impacts on and providing net gains for biodiversity. Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 5.17 The NPPF requires that planning decisions ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 5.18 The NPPF makes it clear that the focus of planning policies and decisions should be whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.

#### National Planning Policy for Waste (NPPW)

- 5.19 The NPPW seeks to promote sustainable development and resource efficiency by driving waste management up the waste hierarchy. Planning should seek to ensure that waste is managed close to source without endangering human health and without harming the environment.
- 5.20 The NPPW states that when determining waste planning applications, waste planning authorities should, concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and



enforced.

- 5.21 The NPPW seeks to ensure that waste management facilities in themselves are well-designed, so as they contribute positively to the character and quality of the area in which they are located. Turning specifically to land raising and landfill proposals the guidance seeks to ensure that sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards.
- 5.22 The NPPW states that when determining planning applications, waste planning authorities should consider the likely impact on the local environment and on amenity. Appendix B of the NPPW sets out a list of criteria, including; protection of water quality and resources and flood risk management, landscape and visual impacts, nature conservation, traffic and access, air quality and noise impacts, which should be considered and assessed when determining applications.

### **Local Planning Policies**

#### Stratford-on-Avon District Core Strategy 2011 to 2031

- 5.23 Stratford-on-Avon District Core Strategy contains general development management policies which all development proposals must be assessed against. This includes policies specific to the local area which seek to protect the character of the area and amenity of local residents.
- 5.24 **Policy CS.1 – Sustainable Development:** makes it clear that planning to secure a high-quality environment, managed economic growth and social equity are of equal importance. The policy goes on to say that all development proposals should contribute towards the character and quality of District and to the well-being of those who live and work in and visit the District. Development should be located and designed so that it contributes towards the maintenance of sustainable communities within the district.
- 5.25 **Policy CS.5 – Landscape:** seeks to maintain character and quality by ensuring that development takes place in a manner that minimises and mitigates its impact.
- 5.26 **Policy CS.6 – Natural Environment:** expects development to contribute towards a resilient ecological network throughout the District.
- 5.27 **Policy CS.9 – Design and Distinctiveness:** seeks to secure high quality sensitive design within development. The policy requires development proposals to be, amongst other things, sensitive to the setting, existing built form and neighbouring uses. The policy seeks to maintain healthy environments with the occupants of neighbouring sites protected from unacceptable levels of noise, contamination and pollution and adverse surroundings.

- 5.28 **Policy CS.22 - Economic Development:** states that development that provides for a wide range of business and commercial activity to be promoted in sustainable locations. The policy states that opportunities for development will be provided in the countryside, in accordance with Policy AS.10.
- 5.29 **Policy AS.10 Countryside and Villages:** seeks to maintain the vitality of rural communities and a strong rural economy by providing a wide range of activities and development in rural parts of the District in accordance with the principles of sustainable development. This includes: minimising impact on the character of the local landscape, communities and environmental features; minimising impact on the occupiers and users of existing properties in the area; and, avoiding a level of increase in traffic on rural roads that would be harmful to the local area.
- 5.30 **Policy CS.24 – Tourism and Leisure Development:** supports the growth and improvement of existing attractions in order to support the local economy.
- 5.31 Stratford-on Avon District Council produced the ‘Harbury Cement Works Masterplan’ in 2007 relating to land on either side of Gaydon Road. The document has the status of a Supplementary Planning Document. The masterplan seeks to provide a broad framework for the ultimate redevelopment of the former cement works and associated quarries which include the Bishops Bowl Fishery.

Warwickshire Waste Core Strategy Adopted Local Plan (2013-2028)

- 5.32 The adopted Waste Core Strategy sets out policies in respect of directing future waste development. The policies contained within this document reflect the national government planning policy of producing less waste, and to re-use it as a resource where possible.
- 5.33 **Policy CS1 – Waste Management Capacity:** states that sufficient waste management capacity will be provided to manage the equivalent of waste arisings in Warwickshire and as a minimum, achieve the County’s targets for recycling, composting, reuse and landfill diversion.
- 5.34 **Policy CS2 – The Spatial Waste Planning Strategy for Warwickshire:** seeks waste management facilities to be well located in accordance with identified broad locations (The application site is located within close proximity (within 5km) to Southam which is a secondary settlement and one of the broad locations identified for new waste facilities), where individual sites are well located to sources of waste, are well located to the strategic transport infrastructure and do not have significant adverse environmental impacts. Within the broad locations the policy states that new waste developments will be supported in, amongst other locations, previously developed land and contaminated or derelict land.

5.35 **Policy CS7 – Proposals for disposal facilities:** (meaning facilities primarily consisting of disposal by landfill or incineration) states that disposal facilities will only be approved where the applicant can demonstrate that the proposed facility is needed and will not prejudice the management of waste further up the Waste Hierarchy. Proposals for the landfilling of waste or land raising will not be acceptable unless it is demonstrated that:

- i. the waste cannot be managed by alternative methods that are higher up the Waste Hierarchy; and
- ii. there is an overriding need for waste to be disposed of through landfilling and land raising; and
- iii. significant environmental benefits would result from the disposal; and
- iv. it does not divert significant quantities of material away from the restoration of mineral workings or permitted landfill sites.

Where any landfill or land raise proposals do not clearly meet all four criteria, the proposal will only be permitted if it is demonstrated that landfilling or land raising at that location will deliver overriding community of environmental benefits to justify granting planning permission.

5.36 **Policy DM1 – Protection of the Natural and Built Environment:** requires new development to conserve and where possible enhance the natural and built environment by ensuring that there are no unacceptable adverse impacts upon, amongst other things, natural resources (including water, air and soil), the quality and character of the landscape and adjacent land users and occupiers and that the development satisfies Green Belt policies.

5.37 **Policy DM2- Managing Health and Amenity Impacts of Waste Development:** relates to environmental controls and states that waste management proposals will be permitted where it can be demonstrated that the development will have no significant adverse impacts on the local environment or communities through, amongst other things, noise, visual intrusion, odour, dust, emissions, traffic, etc. The policy goes on to state that planning permission will not be granted for waste management proposals whereby reason of the collective impact of different proposals or by reason of a number of impacts for the same development, the proposal has an unacceptable cumulative impact.

5.38 **Policy DM3 – Sustainable Transportation:** requires waste management proposals to use alternatives to sustainable transport where feasible. Developers must demonstrate that the proposal facilitates sustainable transportation by: minimising transportation distances, minimising the production of carbon emissions; and where road is the only viable method of transportation, demonstrating that

there is no unacceptable adverse impact on the safety, capacity and use of the highway network.

- 5.39 **Policy DM6 – Flood Risk and Water Quality:** makes it clear that planning permission will not be granted where waste management proposals would be at risk of flooding or would be likely to increase the risk of flooding elsewhere.

Warwickshire Minerals Local Plan (2018-2032) (Adopted July 2022)

- 5.40 Policy DM9 of the Minerals Plan seeks to ensure mineral sites are restored to a high standard once extraction has ceased. The Plan states that restoration of mineral extraction sites may provide improvements to biodiversity, nature conservation and recreational uses.

**Policy Considerations**

- 5.41 Bishops Bowl Lakes is an existing commercial fishery and local leisure visitor attraction. The facility evolved from the water filled mineral workings which were abandoned following mineral extraction on the site, rather than being designed and engineered as fishing lakes. As a result of their origin, the lakes were deep water bodies with steeply sloping banks which presented concerns in terms of safe access to and use of the site by patrons. Works have been undertaken with the partial infilling of some of the waterbodies to encourage and sustain the development of fish stocks and to provide a habitat suitable to sustain the site as a fishery and visitor attraction.
- 5.42 The waterbodies that have not yet been partially infilled remain as deep lakes with steeply sloping banks which are unstable and subject to subsidence in places. The nature of these deep lakes and the risk of instability are of concern in terms of safe access to the site and use of the site by patrons; maintaining the integrity of the site infrastructure and preventing damage resulting from bank subsidence and slippage; and providing a habitat suitable to sustain the site as a fishery and visitor attraction. The proposed works would complete the previously approved infilling to stabilise the integrity of the Greenhill Lake complex making it safe for patrons in the long term.
- 5.43 The continued improvement of the facility would assist with the development of a sustainable rural business and leisure facility in the long-term which is supported by national planning policy and policies of the Stratford on Avon District Core Strategy.
- 5.44 Whilst the Bishops Bowl Lakes site as a whole is of ecological value, the remaining deep-water bodies with steep banks are of limited ecological value. The shallower waters resulting from the partial infilling of the lake bodies results in the establishment of reed beds and improvements to the water environment for fish as well as other

benefits to the ecology and biodiversity of the wider site, as evidenced by the completion of the infilling of Mitre Pool and the subsequent restoration and establishment of an increased flora and fauna. The long-term benefits are supported by national and local policy.

- 5.45 Landfilling of waste materials is now the last resort in terms of waste management. However, it is acknowledged that not all materials are suitable for reuse or recycling and that there will always be a need for landfill to some degree. Furthermore, the Waste Core Strategy makes provision for landfill proposals where significant environmental benefits would result from the proposal and, where it does not meet all criteria within policy CS7 (Proposals for disposal facilities), where it is demonstrated that landfilling or land raising at that location will deliver overriding community or environmental benefits to justify the granting of planning permission. Although the site has both naturally regenerated over the years since mineral extraction ceased and areas of the waterbodies have been partially infilled following the previous planning approvals, there remain areas of the site with unsatisfactory and unsafe landforms which continue to adversely impact upon applicants' ability to fully utilise the site as a commercial fishery and leisure facility. In this respect the proposal for the further import and deposit of inert waste materials to complete the previously approved partial infilling of the remaining waterbodies would assist with securing satisfactory restoration of the site and sustainable after use of the site in the long-term which is supported by the policies of both the Waste Core Strategy and Warwickshire Minerals Local Plan.
- 5.46 Subject to the proposed development not resulting in adverse impact on ecology, geology, the amenity of nearby residents, landscape character, or highway safety, the proposal can be supported in planning policy terms.

## **Amenity and Environmental Issues**

### **Ecology**

- 5.47 The Bishops Bowl Lakes site and adjacent former cement works site are of ecological value and are designated as Bishops Hill and Bishops Bowl Local Wildlife Site. Habitat within the site includes woodland, calcareous grassland, dense and scattered scrub, shrubs and ground vegetation and marginal vegetation. Local Wildlife Sites are important in County terms and receive protection through local development plan policies.
- 5.48 The site as a whole has regenerated and those water bodies that to date have been partially filled are of increased ecological value resulting from the shallow water and the introduction of reedbeds and greater variety of habitat. The further infilling of the remaining deep waterbodies and the alteration to the design of Greenhill Lake to incorporate a new central landscaped access corridor dividing the

water body would provide additional habitat and habitat corridors. The proposed development would be phased and would involve the de-watering and re-profiling of Belles Lake and Rush Glen Lake.

- 5.49 The submitted application was supported by the detailed ecological reports which had been submitted and approved in 2019 to discharge the planning conditions attached to the 2018 planning approval. Given the age of those reports the County Ecologist required an updated ecological walkover survey be provided prior to determination. The updated walkover survey submitted was considered to be acceptable by the County Ecologist who raised no objection to the application subject to a recommendation for planning conditions relating to mitigation measures and updating of the Habitat Management Plan and Habitat Restoration Scheme to be attached to any consent granted. Updated and amended versions of the Habitat management Plan and the Habitat Restoration Plan were subsequently submitted and agreed by the County Ecologist who recommended conditions be attached to any consent granted for implementation of the scheme to be in accordance with those reports.

### **Geology**

- 5.50 There are two areas within the Bishops Bowl Lakes site which are designated as geological Sites of Special Scientific Interest (SSSI) (Harbury Quarries SSSI Ref 15WP5). The SSSI on the northern side of Greenhill Lake North is positioned close to the water's edge beyond / adjacent to the red line boundary of the application site. This northern SSSI provides an exposure of glacial and glacio-lacustrine sediments attributed to the Wolstonian glaciation overlying a Middle Pleistocene land surface. The SSSI is currently overgrown and inaccessible for study due to the proximity to the lake and the unstable nature of the exposure.
- 5.51 Natural England in their consultation response questioned the impact of the proposed development and in particular water levels and the increase in fill on the SSSI. In addition, Natural England advised that it would be useful to establish whether the middle unit of the SSSI north of Greenhill Lake North could be enhanced with the creation of access at the eastern end of the SSSI for science, interpretation and management purposes, by using some infill material.
- 5.52 Following a meeting and discussions on site between the landowner/applicant, Natural England and Planning Officer, a plan was submitted to amend the detail of the restoration along the northern bank of Greenhill Lake North to provide a narrow strip of land, wide enough to enable access to and occasional clearance of a section of the SSSI for research and educational purposes. The final consultation response from Natural England stated no objection to the proposed development detailed in the revised plans and confirmed that the development would not have a significant adverse impact on the SSSI.

## **Noise**

- 5.53 The proposed development would involve the use of plant and equipment traditionally found operating within quarries and landfills which by their nature generate noise. The operations would however be low key and limited in timescale to 3 years. In addition, the site is located within a hollow or bowl some distance from the nearest residential property. The infilling works would be separated from the nearest dwellings by some 250 metres. The noise assessment submitted with the application concludes that the development would not result in adverse noise impacts arising from noise emissions. Subject to the imposition of the same conditions controlling noise emissions and the hours of operation of the site as were previously imposed on the planning approval granted in 2018 (SDC/18CM019), it is considered that the development could be undertaken without adversely impacting upon neighbours and the surroundings by virtue of noise.
- 5.54 An objection received from a local resident requested that the noise assessment include noise from the entrance to the application site to monitor the noise of loaded vehicles arriving at the site and empty lorries as they accelerate up the hill when leaving the site. The noise assessment included monitoring locations surrounding the site at Model Farm, Greenhill Farm, Walworth Farm and at the houses to the east of the B4451 but not the site entrance. The location at the entrance to the site as suggested would not be considered appropriate as a noise monitoring location given the proximity to the public highway (B4451) as it would not be possible to differentiate between vehicles accessing the application site or other vehicles travelling passed the site.
- 5.55 The Environmental Health Officer at Stratford District Council raised no objection to the proposed development subject to the previous conditions controlling the hours of operation and noise limits being re-applied to any consent granted.

## **Dust**

- 5.56 Operation of plant and equipment and the deposit and handling of soils and spoils can generate dust. The application states that the operator would apply a proactive approach to the management of dust by adopting a Dust Action Plan to include the provision of a pressurised water bowser and road sweeper, along with high standards of housekeeping, including damping down of haul roads and sheeting of vehicles, to minimise track-out and windblown dust. The enclosed nature of the site and distance separation from sensitive receptors (250 metres to the nearest residential property) is such that dust is unlikely to be a cause of complaint.

- 5.57 The proposed development would be identical to the previously approved lake reprofiling works in terms of its potential to generate dust and adverse air quality impacts. While the works previously undertaken on site did not result in complaints relating to dust, one objection to the current planning application cited dust from the highway as an issue in the summer when unsheeted lorries have on occasions arrived at the site, shedding material onto the road or lorries departing the site which have not been cleaned as a result of failure of the wheel wash.
- 5.58 The EHO at Stratford District Council raised no objection to the proposed development subject to the previously recommended planning conditions being imposed again. Conditions requiring all loaded lorries entering the site to be sheeted and means to minimise the generation of dust are recommended in addition to a condition for wheel wash facilities to ensure mud and debris is not deposited onto the highway.

### **Visual/Landscape Impact**

- 5.59 In visual terms there would be short term impacts related to the infilling works and long-term visual impacts in respect of the restored site upon completion of the works.
- 5.60 The Bishops Bowl Lakes site is very much enclosed and screened from view by virtue of its low-lying position within the landscape and existence of established vegetation within and around the site. The infilling works would be undertaken at locations within the site where it would be largely screened from view. The infilling works themselves would therefore result in minimal visual impact beyond the boundaries of the Bishops Bowl Lakes site.
- 5.61 Upon completion of the infilling works water levels within the Greenhill Lakes complex would be allowed to return to their existing surface levels. Apart from the introduction of reed beds to the water bodies and marginal planting around the lakes there would be little overall change to the visual appearance of the site. The restoration scheme proposed would break up the expanse of water and soften the appearance of the lakes. Therefore, in the long term it is considered that the proposed development would enhance the site in visual and landscape terms. While a Habitat Restoration Scheme was approved to discharge the planning condition imposed on the previous planning approval, there is a requirement to update that Scheme therefore a condition is recommended to secure the updated restoration scheme (condition 7).



## **Lighting**

- 5.62 The majority of the site operations would be undertaken during daylight hours. However, during the winter months artificial lighting may be required. Type and location of lighting could be controlled by condition to prevent adverse impact. A suitably worded condition is proposed (condition 16).

## **Access & Highways**

- 5.63 The proposed development would generate HGV vehicle movements in order to import fill materials to the site. The development would be accessed via the existing entrance into the Bishops Bowl Lakes site off the B4451 Gaydon Road. A Transport Assessment submitted with the application concludes that the development would generate an average of 25 loads (50 vehicle movements) per day.
- 5.64 The site access has been constructed to a standard suitable to accommodate HGV traffic generated by the infilling operation. The width of the access is above that which would be required for the day-to-day operation of the fishing lakes. The previous planning permission for infilling imposed a planning condition requiring the remodelling of the access upon completion of the infilling works in order to reduce the overall width and radii of the access in order to ensure its safe operation in the long term. A planning condition is again proposed to secure the reduction of the access width upon completion of the development.
- 5.65 Fill materials would be derived from development sites in the local area as and when they arise. Therefore, traffic distribution would to some degree be dependent on the source of material. A Transport Statement submitted with the application assessed the potential impact of the HGV's accessing the site from the north as well as the south travelling through Bishops Itchington and concludes that the temporary additional traffic generated by the proposals would not result in any material adverse impact on the local highway network.
- 5.66 A number of objections have been received from local residents in Harbury stating that HGV travelling to and from the application site following the previous planning consent granted used a route along Bush Heath Road and Butt Lane (D60530). Residents are concerned that this route should not be used in the future for HGV travelling to and from the site. Doubt has been expressed as to whether a routeing agreement would be successful or enforceable.
- 5.67 Bishops Itchington Parish Council have objected to the current planning application stating that the route through the village is not appropriate as it is through the centre of the village and is the principal route for school access and bus route. The main road through Bishop's Itchington has traffic calming measures in the form of speed bumps and when this route was

initially used previously, before being changed, a large number of complaints were received regarding noise when empty vehicles clattered over the speed bumps. In addition to speed bumps, there are two zebra crossings that are used frequently. The Parish Council suggested an alternative route on 'A' roads for northbound vehicles on the M40 via Banbury and Southam to avoid Bishops Tachbrook.

- 5.68 The B4451 and B4452 provide a link between the M40 and Southam, travelling through Bishops Itchington, which is used as a through route by HGVs. There is no restriction preventing the use of either the B4451 or B4452 by HGV traffic. HGVs accessing the Bishops Bowl Lakes site in connection with the previously approved and the proposed development are likely to be only a small proportion of the total number of HGVs travelling through Bishops Itchington. A total prohibition of HGVs accessing the proposed development from the south through Bishops Itchington would therefore appear to be unreasonable.
- 5.69 The planning application is supported by an HGV route map Plan BBF-22/4 Rev A to define the route to be used by HGV to travel to and from the site. The Route Map indicates use of the B4451 to travel north from the M40 to the site via Bishops Itchington and to travel south from areas located north of the application site via the B4452. A section 106 agreement in the form of Unilateral Undertaking (UU) to control vehicle routeing has been provided by the Applicant's solicitor and agreed by WCC officers prior to presentation of the application to Regulatory Committee for determination. The UU includes an obligation stating that if a vehicle takes the wrong route a written warning would be issued to the owner/operator on the first and second occasion with their right to access the site terminated on the third occasion.
- 5.70 Whilst the local highway network is generally suitable for the type and level of traffic, when the first planning application (SDC/14CM002) for import of infill material was determined it was considered appropriate to restrict vehicle movements through Bishops Itchington. A condition was imposed limiting right hand turns out of the site (towards Bishops Itchington) to 25 per day. This condition was repeated on the 2018 application (SDC/18CM019) and is recommended by the Highway Authority to be repeated on the current application. To be able to monitor compliance with the recommended condition, a further condition is recommended requiring the installation of CCTV at the site access to enable the number of vehicles turning right to be monitored/recorded and for a record of CCTV to be retained by the operator for a period of three months to be available for inspection in case of complaints (condition 13).
- 5.71 The operation of sites of the nature proposed can result in mud and debris being tracked onto the road network as vehicles re-enter the public highway having deposited their loads and travelled over unmade ground. This can adversely impact upon the cleanliness of the immediate road network and highway safety. However, the internal access road into the Bishops Bowl Lakes site is quite long, in excess of

300 metres, and predominantly hard surfaced, combined with the use of a wheel wash and the use of a road sweeper as necessary the deposition of mud and debris on the highway is minimised.

- 5.72 As stated in the section on dust above, a comment/objection has been received in response to the current application indicating that there have been instances during the previously approved infilling works of mud and debris being deposited on the highway as a result of the breakdown of the wheel wash facility and as a result of loaded vehicles arriving unsheeted. However, the Highway Authority raised no objection to the proposed development subject to the conditions on the previous planning consent being repeated which include the provision of wheel wash facilities and the requirement for loaded HGV to be sheeted.

### **Residential Amenity**

- 5.73 The enclosed nature of the site and distance from residential properties is such that the proposed development would not result in adverse impact upon the visual amenity of nearby residents in the short or long term.
- 5.74 Objections have been received from local residents stating that the development would result in noise and disturbance to the local area as a result of HGV movements. Suggestions have been made that the site should only operate during the week, Monday to Friday and not at weekends or bank holidays and hours of operation should be reduced to 09:00 to 16:00.
- 5.75 The operator has indicated in the Planning Statement that material would be imported at a rate of 50,000 m<sup>3</sup> per annum, generating 25 loads per day. At the rate indicated and operating between the hours of 07:00 to 18:00 Monday to Friday and 07:00 to 13:00 on Saturdays with no working on Sundays or bank holidays as previously approved, the proposed infilling would be completed within 3 years.
- 5.76 It would be possible to reduce the hours and number of days per week for the site to operate for the import of infill material. The suggested reduction in hours would halve the weekly operating hours from the previously approved 71 hours to 35 hours per week. However, the result of reduced operating hours would be an extension of the time for the works to be completed, potentially doubling the required time from 3 years to 6 years. The proposal is a temporary operation which is considered better on balance to be completed within a shorter time period, that is within a three-year period as proposed.
- 5.77 Planning conditions are recommended to be repeated from the previous planning consent to control the hours of operation, noise and dust emissions, measures to prevent the deposit of mud on the highway and satisfactory restoration of the site, being imposed on any

planning permission granted. It is considered that subject to those conditions the proposed development would result in no adverse impact on residential amenity to a degree that would warrant refusal of the proposal.

### **Environmental Permit**

- 5.78 Materials utilised to infill the site would be inert waste spoils and soils derived from construction and development sites. The development would require an Environmental Permit administered by the Environment Agency. The Permit would control procedures for the acceptance of the imported inert material and how the site would be operated on a day-to-day basis.
- 5.79 An objection has been made in relation to non-compliance with the previous planning permission and it has been suggested that the operator should be required to comply with the earlier permission and this application should be refused. A failure to comply with a planning permission cannot be a reason to refuse a subsequent application and each application has to be judged on its merits and determined in accordance with the development plan and national planning policy.

### **Restoration**

- 5.80 On completion of the infilling works the area of the site impacted by the proposed development would once again be incorporated into the fishery facility. With the implementation of a habitat restoration scheme the site would appear little different to its current form, apart from a reduction or softening of the existing open expanses of water. In addition the proposed scheme would secure the sustainable long term use of the site as a commercial fishing facility and local leisure attraction. Conditions are proposed to secure satisfactory restoration of the site.

## **6. Conclusion**

- 6.1 The Bishops Bowl Lakes site is an established commercial fishery and leisure facility. The history of the site is such that the series of lakes established over time as the former mineral workings flooded and naturally regenerated, rather being designed and engineered as part of a formal restoration scheme. The lakes that resulted were deep water bodies with steeply sloping sides and unstable lake edges and rock faces resulting in problems for the fishery operator in producing a safe environment for visitors and creating a suitable habitat to maintain fish stocks and attract clients to fish at the facility.
- 6.2 Previous works approved in 2014 have completed the partial infilling of the eastern lake body, Mitre Lake providing significant environmental and ecological benefits. While a setting out error resulted in the lake body being filled to a greater depth than approved in 2018 and

therefore not being carried out in accordance with the approved scheme there have however been environmental and ecological benefits. The proposed development seeks to import the volume of infill material required to complete the partial infilling of the remaining lake body. The proposed works would improve the quality of the water environment for fish and enhance the attractiveness of the site for visitors and secure the sustainable use and management of the site in the long-term.

- 6.3 A routing agreement for HGV to travel to and from the application site via the B4451 and B4452 is to be secured by a section 106 agreement. The draft agreement has been agreed in principle by WCC Legal team. If the application is approved by Regulatory Committee as recommended, the draft agreement would be signed and completed before the permission is issued.
- 6.4 While the proposed development to complete the partial infill of the remaining lake body would result in a degree of detrimental impact to the amenity of the area as a result of HCV deliveries of inert materials and soils to the site; the movement of machinery to position those materials, and the associated noise and disturbance, it is considered the ecological and environmental benefits would on balance outweigh those detrimental impacts during the three-year temporary period required to complete the operation, subject to the recommended planning conditions to control and mitigate those impacts.
- 6.5 It is considered that the development accords with the NPPF, policies of the Development Plan and Harbury Cement Works Master Plan. It is therefore considered that, subject to the imposition of suitable worded planning conditions, the proposal is recommended for approval.

## 7. Supporting Papers

- 7.1 Submitted Planning Application – Planning reference SDC/22CM003
- 7.2 Appendix A – Map of site and location.
- 7.3 Appendix B – Planning Conditions.

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Portfolio Holder	Cllr Jan Matecki	janmatecki@warwickshire.gov.uk



## Appendix B

# Revised design of Bishops Bowl Fishery utilising the importation of inert material and soils Bishops Bowl Lakes, Bishops Itchington, Southam, CV47 2SR

## SDC/22CM003

### Planning Conditions.

#### COMMENCEMENT DATE

1. The development hereby approved shall be commenced no later than 3 years from the date of this permission.

**Reason:** To comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

#### GENERAL OPERATIONS

2. The development hereby approved shall be carried out in accordance with the details submitted with planning application reference no. SDC/22CM003 and in accordance with the approved plans reference:
  - BBF 22/1 – Location Plan,
  - BBF 22/3 Rev A – Landscape Plan,
  - BBF 22/4 Rev A – HGV Routing Plan,
  - BBF 22/5 – Working Scheme,
  - BBF 22/6 rev A – Cross Sections

and any samples or details approved in accordance with the conditions attached to this permission, except to the extent that any modification is required or allowed by or pursuant to these conditions.

**Reason:** In order to define the exact details of the planning permission granted and to secure a satisfactory standard of development.

3. No works shall be undertaken on site in connection with the development hereby approved unless the County Planning Authority has first been advised in writing of the date of commencement.

**Reason:** In order to ensure a satisfactory standard of development.

4. The development hereby approved shall cease, the site shall be restored in accordance with the approved restoration scheme and the site access reduced in scale in accordance with the requirements of condition 8 within three years of the date of commencement.

**Reason:** In order to secure satisfactory and timely restoration of the site.

5. The development shall be timetabled and carried out to wholly accord with the detailed mitigation measures for the safeguarding of habitats and protected species within the site as set out in Appendix II Precautionary Working Methods of the report Ecological Walkover Bishops Bowl Fishery prepared by E3P, dated 23<sup>rd</sup> February 2023 and in Section 3 'Work Schedule' on page 6 of the Bishops Bowl Fishery Habitat Management Plan Report Ref: 80-123-R3-REVC dated May 2023.

**Reason:** To ensure that protected species and habitats are not harmed by the development.

6. The development hereby permitted (as shown on Plan BBF-22/3 Rev A) shall be implemented in accordance with the details and timing of the Bishops Bowl Fishery Habitat Management Plan Report Ref: 80-123-R3-REVC dated May 2023 unless otherwise approved in writing by the County Planning Authority.

**Reason:** This is to ensure that the development results in a biodiversity net gain in accordance with the NPPF and to protect features of recognised nature conservation in accordance with the Local Plan Policies, NPPF and ODPM circular 6/2005.

7. All habitat creation and restoration works shall be carried out in accordance with the details of the Bishop Bowl Fishery Habitat Restoration Scheme Report Ref: 80-123-R6-REVC dated May 2023 unless otherwise approved in writing by the County Planning Authority.

**Reason:** To ensure there is no net biodiversity loss in accordance with the NPPF.

8. Within 6 months of the completion of the importation of the material and associated ancillary works, the geometry of the access shall be reduced to provide an overall access width of 6.0 metres for a distance of 20.0 metres with 10.0 metre radius turnouts in accordance with full design details which shall first have been submitted to and approved in writing by the County Planning Authority.

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

9. The existing measures employed on site, including the wheel wash facility, to ensure that mud will not be deposited on the highway as a result of construction traffic leaving the site shall be retained on site and in operation for the duration of the development.

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



10. Any mud or other deleterious material deposited on the highway by vehicles entering or leaving the proposed development within 200 metres of either side of the access used by the vehicle shall be removed from the highway forthwith.

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

11. No more than 25 HGVs per day shall turn right from the site so as to travel in a southerly direction on the B4451.

**Reason:** In order to reduce the impact of HGVs through the village of Bishops Itchington.

12. No vehicle shall enter or leave the site other than via the existing access off the B4451 Station Road.

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

13. The development hereby permitted shall not commence until a scheme for the remote monitoring of the site entrance via a web camera/CCTV is submitted to and approved in writing by the County Planning Authority. The Scheme as approved shall be implemented before operations hereby permitted commence. At any one time, the recording of the previous 3-month period of the CCTV footage shall be retained and available for inspection as requested by the County Planning Authority.

**Reason:** In order to secure satisfactory development of the site and to protect the amenity of the area and nearby occupiers

14. No construction or engineering works or waste importation to the site shall take place except between the following hours:

07:00 – 18:00 hours Monday to Friday  
07:00 – 13:00 hours Saturdays

There shall be no such operations or uses on Sundays and Bank Holidays.

**Reason:** In order to protect the amenity of nearby residents.

15. In order to minimise the raising of dust, the following steps shall be taken:

- An operational bowser shall be available on site at all times;
- All haul roads within the site shall be laid out with hardcore or other similar suitable material and maintained in good condition and damped down as necessary during dry conditions;
- The working areas shall be damped down as necessary during dry conditions.

**Reason:** To minimise the impacts, relating to the generation of dust, on the amenities of the area.

16. At no time during the implementation of the development shall any operations take place which despite the use of the dust control measures, would give rise to airborne dust levels sufficient to cause nuisance to habitable properties located beyond the boundary of the site.

**Reason:** In order to protect the amenity of the area and nearby residents.

17. The level of noise from the site shall not exceed the following noise limits at residential properties at the specified locations. All measurements shall be made in accordance with the methodology of 5228-1:2009 and its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Location	Noise Limit LAeq, 1 hour
Greenhill Farm	51 dB
Walworth Farm	47 dB
Model Farm	47 dB
Residential Properties to east of B4451	53 dB

**Reason:** In order to protect the amenity of the area and nearby residents.

18. Machinery and vehicles used on the site to implement the approved development shall be maintained and silenced to comply with the best practicable standard and shall be located as far from nearby properties as possible.

**Reason:** In order to protect the amenity of the area and nearby residents.

19. No lighting shall be installed or operated on the site in connection with the operations permitted by the approved development unless full details have been submitted to and approved in writing by the County Planning Authority. Following approval the lighting shall be operated in accordance with the approved details.

**Reason:** In order to protect the amenity of the area and nearby residents.

### **Development Plan Policies Relevant to the Decision.**

#### Stratford-on-Avon District Core Strategy 2011 to 2031

Policy CS.1: Sustainable Development  
Policy CS.5: Landscape  
Policy CS.6: Natural Environment  
Policy CS.9: Design and Distinctiveness  
Policy CS.22: Economic Development  
Policy AS.10: Countryside and Villages  
Policy CS.24: Tourism and Leisure Development

#### Harbury Cement Works Masterplan 2007

Warwickshire Waste Core Strategy Adopted Local Plan (2013-2028)

Policy CS1: Waste Management Capacity  
Policy CS2: The Spatial Waste Planning Strategy for Warwickshire  
Policy CS7: Proposals for disposal facilities  
Policy DM1: Protection of the Natural and Built Environment  
Policy DM2: Managing Health and Amenity Impacts of Waste Development  
Policy DM3: Sustainable Transportation  
Policy DM6: Flood Risk and Water Quality

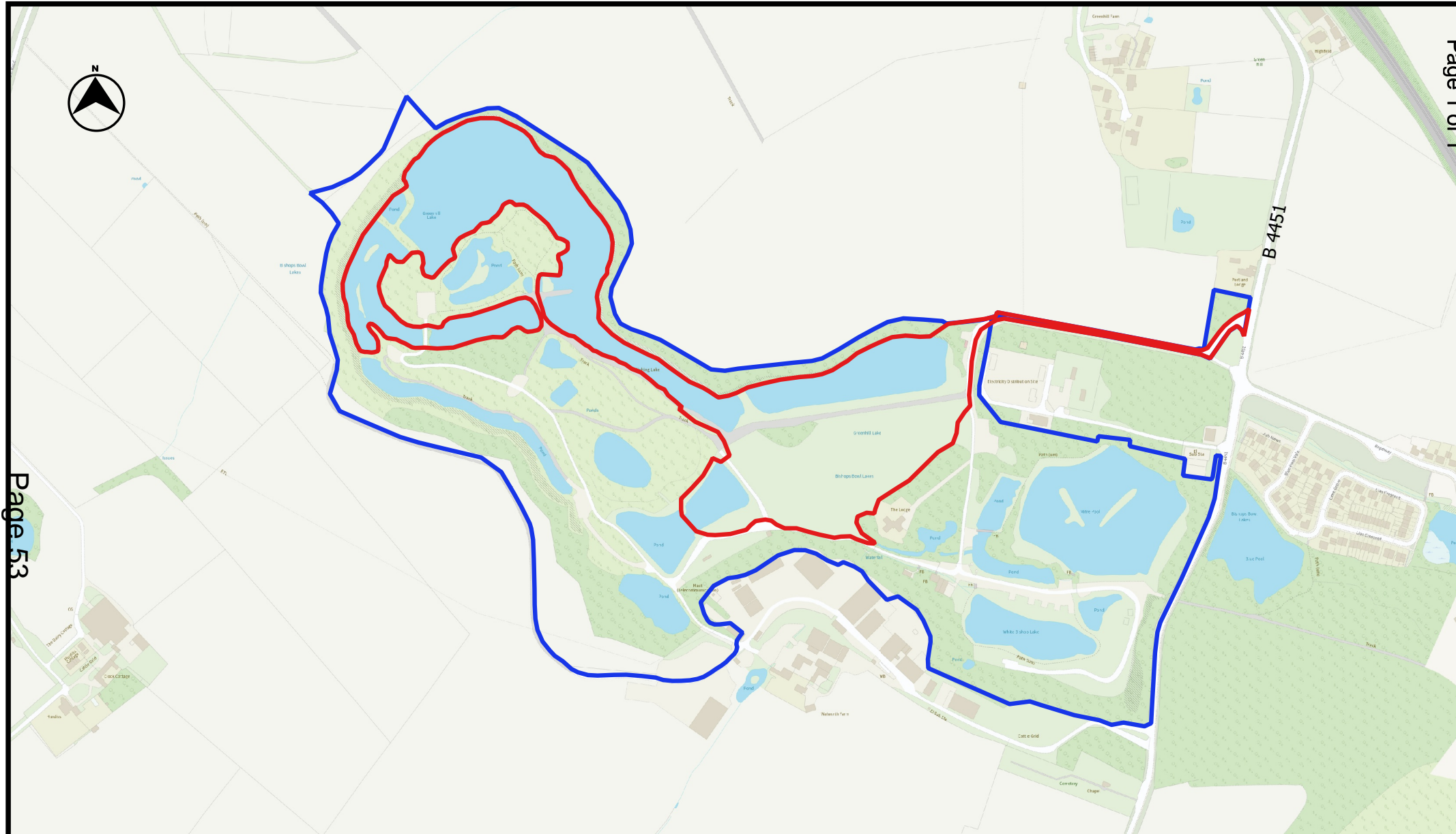
Warwickshire Minerals Local Plan (2018-2032) (Adopted July 2022)

Policy DM9: Reinstatement, reclamation, restoration and aftercare

**Compliance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.**

In considering this application the County Council has complied with paragraph 38 contained in the National Planning Policy Framework.

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**Application No: SDC/22CM003**  
**Bishops Bowl Lakes, Bishops Itchington CV47 2SR**  
**Revised design of lakes using importation of inert material and soils**

Regulatory Committee 11th July 2023  
 Scale 1:6000 Drawn by: SP

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**Regulatory Committee – 11<sup>th</sup> July 2023**

**Temporary upgrade of an existing agricultural access  
off Higham Lane, St Nicolas Park,  
Nuneaton, CV11 6GS until March 2025**

**NBB/22CM010**

Application No.: NBB/22CM010

Advertised date: 25 January 2023

Applicant: Severn Trent Water Limited  
Severn Trent Centre  
2, St John's Street  
Coventry  
Warwickshire  
CV1 2LZ

Agent: Mr Maxwell Griffin  
The Estate Office  
Fisher German LLP  
Norman Court, Ivanhoe Business Park  
Ashby de la Zouch  
LE65 2UZ

Registered by: The Strategic Director for Communities on 19 December  
2022

Proposal: Temporary upgrade of an existing agricultural access off  
Higham Lane, St Nicolas Park, Nuneaton, CV11 6GS  
until March 2025

Site & location: Agricultural access off Higham Lane, Higham Lane, St  
Nicolas Park, Nuneaton, CV11 6GS. [Grid ref:  
437651.294324].

**See plan in Appendix A**

**Recommendation**

That the Regulatory Committee authorises the grant of planning permission for the temporary upgrade of an existing agricultural access off Higham Lane, St Nicolas Park, Nuneaton subject to the conditions and for the reasons contained within Appendix B of the report of the Strategic Director for Communities.

## 1. Application details

- 1.1 The applicant, Severn Trent Water Ltd (STWL) has a statutory responsibility for the provision of water and sewerage. STWL is currently implementing its Asset Management Plan for AMP7 (April 2020 to March 2025) which is the mechanism by which the regulator OFWAT defines in a five-year capital expenditure programme for all water companies. The investment during the AMP7 period is in response to a number of key challenges including population growth and the importance of protecting the environment. Installation of a new sewer pipeline is required to meet the increased demand of the rising population in the wider area.
- 1.2 The planning application seeks consent for the temporary upgrade of an existing farm access off Higham Lane until March 2025. The access onto the classified road (C110) would be used to provide construction access to a section of the route of the proposed sewer pipeline which is routed from Hinckley sewage treatment works (STW) to Hartshill STW.
- 1.3 The current application is one of several planning applications submitted by STWL to both Warwickshire County Council and Leicestershire County Council (LCC) for the temporary upgrade of existing field gates to enable the construction of the sewer pipeline. The proposed access subject of this application is numbered 'Access 12a'. An access currently for determination by LCC off Nuneaton Lane, numbered 'Access 10' is located 240 metres to the north, on the northern side of the A5. Two further planning applications have been submitted in April 2023 to WCC for access from A444 Weddington Lane.
- 1.4 The installation of the sewer pipeline would be permitted development under Schedule 2, Part 13, Class B(a) of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). The installation of the haul road is permitted development under Schedule 2, Part 4, Class A of the GPDO. Details of the haul road and the sewer pipeline have not been included in the planning application. Information has been provided in the Design and Access Statement supporting the application indicating that the first 20 metres of the internal haul road would be constructed of compact asphalt to avoid mud or debris
- 1.5 The existing field access is required to be modified. Removal of a 6 m length of the existing hedgerow to the north of the access and 23 m length to the south of the access would be required to provide a suitable visibility splay. (The section of hedgerow proposed to be removed at the time of submission of the application was subsequently removed prior to determination of the application to avoid bird nesting season).
- 1.6 The existing access point would be widened to a width of 8 m, with a bellmouth tied into the existing road level. The bellmouth is proposed to comprise 100mm of asphalt surfacing laid above sub-surface materials.



- 1.7 A gate would be installed to secure the haul road when not in use.
- 1.8 The temporary access area would slope away from the highway, with surface water draining into the field and the surrounding highway verge.
- 1.9 On completion of the STWL works the access would be reinstated to its previous state. The sections of removed hedgerow would be replanted with a double staggered row of whips comprising a mix of at least 6 native species. The replanted hedgerow would in the long term be managed by the third-party landowner.
- 1.10 In response to the comments received from the Highway Authority a Stage 1 Road Safety Audit (RSA) was submitted in April 2023 together with a construction management plan, amended plans and additional information.
- 1.11 The construction management plan details that traffic movements for each access would be split between daily traffic which would be transport of personnel to and from the pipeline construction area and site delivery traffic which would be the delivery of materials, plant and equipment. Materials to be delivered to Access 12a, are indicated to require a total of 160 HGV movements. The materials would include some 574 concrete pipes, 9 manholes, 2 reception shafts. Site deliveries would be limited to 24 HGV movements per day.
- 1.12 Road sweepers and wheel washing facilities are proposed to prevent transfer of mud and debris onto the highway.
- 1.13 The proposed layout plan as originally submitted with the planning application (A7S14280-JMS-XX-ZZ-DR-T-00) indicated there to be no right turn into the temporary access for vehicles travelling south on Higham Lane from the A5. The scheme was subsequently amended by revised drawing indicating the no right turn removed, allowing vehicles to enter the temporary access when travelling south on Higham Lane.
- 1.14 Advanced warning signs stating 'works access' are proposed to be erected on the highway verge to warn motorists of turning/stationary vehicles.

## **2. Consultation**

- 2.1 **Nuneaton and Bedworth – Planning:** No objections in principle to the application. NBBC queried why the planning application was only submitted to the County Council – considered the same application should be submitted to NBBC as the site falls within the NBBC boundary.

*The proposed access is a County Matter and therefore determined by the County Planning Authority rather than the Borough Council as the Local Planning Authority because the access is required to facilitate a waste development for the provision of a sewer pipeline.*

- 2.2 **Nuneaton and Bedworth - Environmental Protection:** No adverse comments from Environmental Protection.
- 2.3 **Cllr Robert Tromans:** No comments received at time of writing.
- 2.4 **WCC – Highways:** No objection, subject to recommended conditions requiring the temporary access to be laid out in accordance with the drawing, submission and approval of a Construction Management Plan and a condition requiring the reinstatement of the field access on completion of the use of the temporary access.
- 2.5 **WCC – Archaeology:** No archaeological comments to make on this application.
- 2.6 **WCC - Ecology:** No objection subject to conditions and notes to be attached to any consent granted.
- 2.7 The application is for temporary access to the agricultural field, which includes proposed removal of 6m of hedgerow to the north and 23m of hedgerow to the south of the existing access. The ecological walkover survey (Middlemarch Environmental) included a survey of the existing hedgerow which is species-poor, approx. 1.7m in height and regularly trimmed. The grass verge was approximately 0.5m wide and was species-poor, however the survey was undertaken at a sub-optimal time of year for surveying grassland in November 2022.
- 2.8 There are no statutory or non-statutory sites of nature conservation interest within close proximity to the site.  
The County Ecologist recommended that prior to works commencing on site, thorough visual checks should be made of the hedgerows for the presence of breeding bird activity. Ideally all hedgerow removal works should be carried out outside the main nesting bird season, generally considered to be March to September.
- 2.9 The WBRC holds record of great crested newt within the local area, the nearest record being c.200m to the south-east of the application site in the housing development. However the nearest pond to the site is over 200m from the site, and as such I agree with the conclusion of the report that any impact on GCN is unlikely. GCN are a European Protected Species and also protected under the WCA (1981). I would recommend that care is taken during site clearance works and removal of the hedgerow, and in the unlikely case any GCN or reptile species (such as grass snake) is found, all works must stop immediately whilst advice is sought from a suitably qualified ecologist or Natural England.

- 2.10 The hedgerow is proposed to be replaced in 2025. We would recommend the replacement hedgerow is established using an appropriate mix of native species which are characteristic to the local area (in line with the Warwickshire Landscape Guidelines). A species-rich mix is recommended to benefit biodiversity, and we would recommend at least different 6 species are planted. Appropriate stakes, ties and rabbit guards, and watering will be required to ensure the hedgerow is established successfully. Details of the hedgerow and grassland verge establishment should be provided in a combined ecological and landscaping scheme and secured via condition, in order to ensure no net loss of biodiversity.
- 2.11 A condition is recommended requiring a detailed ecological and landscaping scheme and notes relating to nesting birds, reptiles and amphibians and a general trench note be attached to any consent granted.
- 2.12 **Environment Agency:** No comment received.
- 2.13 **National Highways:** Confirm that there are no comments to make in relation to the proposals as this location falls under the remit of the local authority.
- 2.14 **Leicestershire County Council Highways:** There would appear to be no material impact on the public highway and therefore the Local Highway Authority has no comments to make.

LCC Highways are aware of Leicestershire County Council application reference 2022/CM/0166/LCC for similar proposals on the Leicestershire side of Nuneaton Lane, to which it advised further information was required from the Applicant.

As part of application reference 2022/CM/0166/LCC, LCC advised it was unclear what type of vehicles would be using the access on a daily basis, or the frequency of vehicles throughout the day. In order to establish if the access is safe and suitable for the type and volume of traffic which would be using it, LCC advised this information was required. The information provided by the Applicant to support this application is similar and does not contain trip generation information. LCC were unaware of this current application at the time it provided its response for Leicestershire County Council application reference 2022/CM/0166/LCC, however it is considered that there could be a possibility that vehicle trips would be generated between this access and the proposed access within the Leicestershire boundary. Nevertheless, as part of application reference 2022/CM/0166/LCC, LCC advised it could only consider the site access arrangements and the impact of the proposals on the Leicestershire road network. Any impact of vehicles travelling between the two accesses is likely to be on the Nuneaton Lane/ A5 Watling Street/ Higham Lane roundabout, which is under the jurisdiction of National Highways.

- 2.15 **Leicestershire County Council Planning:** We have no significant concerns from a minerals and waste safeguarding perspective.

As you may be aware Leicestershire County Council have also received two very similar applications from Severn Trent to create new temporary accesses' (Ref. 2023/10005/04 - Watling Street & 2023/10006/04 - Nuneaton Lane). These applications are still under consideration, with additional highways information having been requested by the relevant consultees.

- 2.16 Two site notices were displayed on lamp columns on the side of the road opposite the proposed access on 25 January 2023. In addition a Press notice was published in the local paper on 25 January 2023.
- 2.17 The 17 nearest residential properties were individually notified by post on 25 January 2023.

### **3. Representations**

- 3.1 In response to the consultation, objections were received from the Nuneaton & Bedworth Borough Councillor and from 6 local residents who objected to the proposal on the following grounds:
- 3.2 Increase in volume of traffic will be unacceptable due to large volume already incurred from the new housing estate and the loss of the low bridge on Hinckley Rd. Before these changes HGV's did not use this road but has now become a main route for them.
- 3.3 The proposed no right turn into the site will push extra hgv traffic onto the already congested roads in the local area instead of the shorter route from the A5.
- 3.4 The plans indicate no right-turn into the site. This is ridiculous. It will be far more dangerous for all the necessary vehicles to have to approach the site by coming up Higham Lane, through a residential area and probably past both Higham Lane school and Milby school. This is not to mention how they will reach Higham Lane to be travelling in the right direction to turn left into the site– through the Town Centre? down Weddington Road and the gyratory? If they go down Higham Lane from the A5, where are they going to turn round? There are only mini roundabouts not designed for large vehicles. Higham Lane is well used by cyclists as it is the only reasonable route up to the Leicestershire lanes; having to share this with additional large vehicles (described in the application as HGVs and large items of plant and construction equipment) is dreadful. The site is close to the A5 and access should ONLY be from the A5.

- 3.5 'The Construction traffic being routed up Higham Lane will cause problems of safety for school children, other pedestrians as well as put added pressure on already over burden roads. Worst idea they have had for ages.'
- 3.6 I understand that the works are necessary, but the access must be provided in a less destructive, safer way. It is not even the works to improve things for the area I live but for Hinckley.
- 3.7 I am appalled at the amount of hedgerow that is to be removed. If greater visibility is required, the hedge could just be reduced in height. The biodiversity value of a mature hedge is immeasurable. It will take years for a re-instated hedge to grow back. There is not even mention of the fact that there are restrictions as to when this could even be done i.e. not from March to October, which is bird nesting season. This cannot be allowed for a 'temporary' issue.
- 3.8 Concerns regarding local wildlife particularly nesting birds with loss of hedgerow. I refer you to 'Hedgerow protection and management. The hedgerow will meet most if not all criteria as regards its protection
- 3.9 Notification of the submission of amendments to the scheme, including the removal of the 'no right turn' was sent as an email on 13th April 2023 to all parties that had made a comment on the application.
- 3.10 The local Borough Councillor commented that the removal of the no right turn was very useful. He also commented that the traffic survey did not record cyclists who are common in this location as this (Higham Lane) is one of very few places to get onto country lanes and cycle routes towards MIRA from Weddington and Nuneaton East Divisions in Nuneaton. It would be difficult to refuse the application, but if County is minded to approve it then we need robust conditions to prevent the local clay soils getting onto Higham Lane. The Councillor also requested that the speed limit past the site entrance be reduced to 30 mph.

#### **4. Previous Planning History**

- 4.1 There is no previous planning history relating to the application site.

#### **5. Assessment and Observations**

##### **Location**

- 5.1 The application site is located some 3 km to the north-east of Nuneaton town centre and over 2.5 km to the west of the outskirts of Hinckley. The existing access is on the western side of Higham Lane, 75 m to the south of the roundabout serving the junction of Higham Lane with A5 Watling Street. The ungated field access serves the arable land to the west. The field is bounded by a hedgerow which is less than 2 m in

height set back from the highway by a narrow grass verge. On the eastern side of Higham Lane, opposite the existing field access is a new housing development which has recently been constructed and at the time of the Officer's site visit was partially occupied.

- 5.2 The site is located within Flood Zone 1 where there is a low probability of flooding.
- 5.3 The site is not located in the Green Belt. There are no public rights of way impacted by the proposal. The nearest public right of way is located some 400 m to the south of the application site. There are no listed buildings or conservation areas within the vicinity of the application site.

### **Planning Policy**

- 5.4 Paragraph 11 of the National Planning Policy Framework (NPPF) July 2021 explains that there is a presumption in favour of sustainable development and what that means. What the presumption means in relation to a planning application is that:
  - (a) proposals which accord with an up-to-date development plan should be approved without delay; and
  - (b) where there are no relevant development plan policies or the policies most important for determining the application are out-of-date, then permission should be granted unless:
  - (c) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or
  - (d) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Where the presumption in (b) applies, it is often referred to as the "tilted balance" in favour of the application.

Paragraph 12 goes on to explain that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

- 5.5 Paragraph 48 explains that authorities may give weight to relevant policies in emerging development plans according to: a) the stage of preparation of the emerging plan; b) the extent to which there are unresolved objections to relevant policies; and c) the degree of consistency of the relevant policies in the emerging plan to this Framework.
- 5.6 In this case, the development plan is the Warwickshire Waste Core Strategy Adopted Local Plan (July 2013) and the Nuneaton and Bedworth Borough Council Borough Plan (2011 – 2031) adopted in June 2019, which has relevant policies that are up to date so far as they relate to this proposal. The application should therefore be determined (as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004) in accordance with those policies unless material considerations indicate otherwise.

#### The National Planning Policy Framework

- 5.7 At a national level the NPPF sets out the Government's planning policies and how these should be applied.
- 5.8 The NPPF has at its heart a presumption in favour of sustainable development and states that proposals which accord with the development plan should be approved without delay. The NPPF states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. In meeting development needs the NPPF acknowledges the importance of minimising adverse effects on the local and natural environment.

**Paragraph 20** of the NPPF states that strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for:

b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat).

- 5.9 **Paragraph 111** states that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.10 **Paragraph 153** confirms that plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts.

- 5.11 **Paragraph 174** states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes; recognising the intrinsic character and beauty of the countryside and wider economic benefits including the economic benefits; minimising impacts on and providing net gains for biodiversity and by preventing new development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.12 **Paragraph 180** requires local planning authorities, when determining planning applications to apply the principle that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 5.13 **Paragraph 185** states that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

National Planning Policy for Waste (NPPW)

- 5.14 The NPPW sets out the Government's ambition to work towards a more sustainable and efficient approach to resource reuse and management, including driving waste management up the waste hierarchy. The NPPW reaffirms that waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced. When determining waste planning applications, the NPPW requires waste planning authorities to consider the likely impact on the local environment and on amenity against criteria including visual impact, traffic and access, air emissions including dust, odours, noise and litter.

Warwickshire Waste Core Strategy Adopted Local Plan (July 2013)

- 5.15 The Warwickshire Waste Core Strategy contains policies specific to directing future waste development including general development management policies which apply to all development proposals on waste sites. The Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.
- 5.16 **Policy CS1 – Waste Management Capacity:** seeks to ensure that there is sufficient waste management capacity provided to manage the equivalent of waste arisings in Warwickshire. The Council will seek to meet identified capacity gaps for each waste stream.



- 5.17 **Policy CS2 – The Spatial Waste Planning Strategy for Warwickshire:** sets out the preferred broad locations where new waste management facilities would be suitable – general industrial land, sites under existing waste management use, active mineral sites or landfills, previously developed land, contaminated or derelict land, land adjoining a sewage works, redundant agricultural or forestry buildings.
- 5.18 **Policy DM1 – Protection and enhancement of the natural and built environment:** states new waste development should conserve, and where possible enhance, the natural and built environment by ensuring that there are no unacceptable adverse impacts upon:
- natural resources (including water, air and soil);
  - biodiversity;
  - geodiversity;
  - archaeology;
  - heritage and cultural assets and their settings;
  - the quality and character of the landscape;
  - adjacent land uses or occupiers; and
  - the distinctive character and setting of the County's settlements.
- 5.19 **Policy DM2 – Managing Health and Amenity Impacts of Waste Development:** requires proposals to demonstrate that they would not result in unacceptable adverse impacts on the local environment, economy or communities through any of the following: noise, lighting/illumination, visual intrusion, vibration, odour, dust, emissions, contamination, water quality, water quantity, road traffic, loss of best and most versatile agricultural land or land instability either individually or cumulatively with other existing or proposed developments. Proposals will only be permitted where the adverse impacts will be:
- i) avoided; or
  - ii) satisfactorily mitigated where an adverse impact cannot be avoided, or the adverse impacts have been avoided as far as possible.
- 5.20 **Policy DM3 – Sustainable Transportation:** requires proposals to demonstrate that the proposal facilitates sustainable transportation by, amongst other things, demonstrating that there are is no unacceptable adverse impact on the safety, capacity and use of the highway network.
- 5.21 **Policy DM6 – Flood Risk and Water Quality:** makes it clear that planning permission will not be granted where waste management proposals would be at risk of flooding or would be likely to increase the risk of flooding elsewhere.

Nuneaton and Bedworth Borough Plan (2011-2031) Adopted June 2019

- 5.22 **Policy DS1 – Presumption in favour of sustainable development:** states that a positive approach will be taken towards proposals that reflects the presumption in favour of sustainable development contained in the NPPF. It will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.
- 5.23 **Policy DS3 – Development principles:** requires that all new development is sustainable and of a high quality, fully supported by infrastructure provision, as well as environmental mitigation and enhancement. New development within the settlement boundaries will be acceptable subject to there being a positive impact on amenity, the surrounding environment and local infrastructure.
- 5.24 **Policy HS1 – Ensuring the delivery of infrastructure:** states that development will be required to provide infrastructure appropriate to the scale and context of the site in order to mitigate any impacts of the development, and address the needs associated with the development.
- 5.25 **Policy NE3 – Biodiversity and geodiversity:** seeks to conserve, enhance, restore and where appropriate create ecological value in sites as well as supporting biodiversity offsetting in order to achieve no net loss of biodiversity.
- 5.26 **Policy BE4 – Valuing and conserving our historic environment:** states that development proposals which sustain and enhance the borough's heritage assets, will be approved

**Policy Considerations**

- 5.27 The proposed development seeks to provide a temporary upgrade to an existing field access onto Higham Lane for a period of two years. The upgraded access is required to provide a construction access to a section of the route of a proposed sewer pipeline which is routed from Hinckley STW to Hartshill STW.
- 5.28 The provision of infrastructure is supported by both policies in the NPPF and the development plan. The upgrading of the access would facilitate the installation of essential sewage infrastructure to ensure the current and future waste management infrastructure needs of the region may be met.
- 5.29 The development plan also includes policy constraints which seek to ensure a satisfactory form of development in order to protect the natural and built environment and the amenity of neighbouring occupiers from any adverse impacts resulting from the development. Subject to such effects and impacts being appropriately managed, the

proposed development would accord with the policies of the NPPF and the development plan. The potential issues are considered below.

## **Amenity Issues and Environmental Issues**

### **Highway and Access Issues**

- 5.30 There are a number of recently constructed residential properties on the eastern side of Higham Lane, opposite the existing field access. Concern has been expressed by local residents that there would be an increase in HGV movements in the area. Objections were made in relation to the initially proposed no right turn into the site stating that vehicles travelling south from the A5 would be pushed onto the already congested local roads and HGV would potentially have to travel through Nuneaton town centre.
- 5.31 Following the preparation of a Stage 1 Road Safety Audit, amended plans were submitted indicating the 'no right turn' removed from the scheme which would allow vehicles travelling south from the A5 to turn right into the site. The erection of 'Works Access' signs on the grass verge beside the carriageway is proposed to give warning that vehicles would be stopping close to (just before /just after) the A5 roundabout to turn into the field access.
- 5.32 The amended submission provides the tracking for the Heavy Commercial Vehicles that would use the site to demonstrate that vehicles would be able to enter and leave the temporary access without having an impact on traffic on the opposite side of the carriageway.
- 5.33 The RSA review raised a lack of suitable wheel washing facilities. The Construction Management Plan (CMP) makes reference to the use of road sweepers. The Highways Authority advise that in addition to the use of a road sweeper the CMP should be revised to include reference to the provision of a site operative and jet wash to clean the wheels of vehicles before they re-enter the public highway. A revised CMP was submitted indicating that there would be a dedicated traffic marshal on site and a jet wash in place to clean vehicles before they leave the site.
- 5.34 Subject to the recommended planning conditions for the CMP and for the reinstatement of the temporary access to a field access, the Highway Authority revised their initial objection to a response of no objection.

### **Ecology Issues**

- 5.35 There are no statutory or non-statutory sites of nature conservation within close proximity to the site. The Ecological Walkover Survey submitted with the planning application describes the section of hedgerow at Access 12a as species-poor intact hedgerow,

approximately 1.7 m in height comprising hawthorn, field maple and blackthorn. Parallel to the hedgerow is poor semi-improved grass verge with an arable field to the east of the hedgerow.

- 5.36 The proposed development would require removal of 6 m of hedgerow to the north of the access and 23 m to the south of the access. On completion of the sewer pipeline installation the access would be reinstated to a field access and a replacement hedgerow planted.
- 5.37 Objections were received from local residents relating to the removal of a section of the existing mature hedgerow and the impact it would have on nesting birds and biodiversity. A suggestion was made for the height of the hedge to be reduced for the time period of the temporary access rather than being removed. However, to achieve the required visibility splays it would be necessary to remove the sections of hedgerow as proposed. The Road Safety Audit noted that obstructed visibility would increase the risk of failure to give way type collisions.
- 5.38 The County Ecologist raised no objection to the removal of the hedgerow subject to the planting of the replacement. A species rich mix is recommended to benefit biodiversity with at least 6 different native species to be planted. Details of the replacement hedgerow and grassland verge to ensure no net loss of biodiversity are recommended to be provided in a combined ecological and landscaping scheme secured by planning condition.

### **Heritage**

- 5.39 There are no listed buildings or conservation areas within the vicinity of the proposed development. The closest listed building being St James Church in Weddington, over 1.8 km to the south-west. The Nuneaton Town Centre Conservation Area is almost 3 km to the south-west. Given the scale and location of the proposed development and the distance to the nearest heritage asset, the proposed works would not have a detrimental impact on any designated heritage assets and are considered to accord with the requirements of policy BE4 of the Local Plan.

## **6. Conclusions**

- 6.1 The proposed development for the temporary use of an existing field access would provide access for HGV to deliver plant, materials and construction equipment to the construction site of a STWL pipeline installation to be undertaken as permitted development by the Statutory Undertaker. The proposed development would therefore facilitate the provision of the necessary waste disposal requirements of the wider area, in accordance with policy DM2 of the Waste Core Strategy.

- 6.2 The design and layout of the temporary access is acceptable to comply with the requirements of the Highway Authority. On completion of the pipeline installation works, the temporary access would be removed and the access returned to a field access in accordance with policy DM3 of the Waste Core Strategy. The hedgerow removed to provide the adequate sightlines would be replanted in accordance with policy NE3 of the Nuneaton and Bedworth Borough Plan.
- 6.3 The proposed temporary access is considered to accord with policies the NPPF and the development plan and is recommended for approval subject to the recommended conditions.

**7. Supporting Documents**

- 7.1 Submitted Planning Application – Planning reference NBB/22CM010
- 7.2 Appendix A – Map of site and location.
- 7.3 Appendix B – Planning Conditions.

	<b>Name</b>	<b>Contact Information</b>
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## Appendix B

### Temporary upgrade of an existing agricultural access off Higham Lane, St Nicolas Park, Nuneaton, CV11 6GS until March 2025

#### NBB/22CM010

#### Planning Conditions.

1. The development hereby permitted shall commence no later than 3 years from the date of this permission.

**Reason:** To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The temporary upgraded access hereby permitted shall not be brought into use until it has been laid out and constructed in general accordance with drawings numbered A7S14280-JMS-XX-ZZDR-T-0075 Rev-P02 and 1002\_000407-08-MAE-XX-XX-DR-C-0003 Rev P03.

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

3. The development hereby permitted shall be implemented and operated in accordance with the Hinckley to Hartshill Transfer Construction Management Plan – Access 10 & 12A Document no: A7S14280-JMS-XX-ZZ--PL-CO-0002 P02 dated 22.06.23. The development will be carried out in full accordance with the Plan (or any variation) so approved.

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

4. The development hereby permitted shall not commence until a detailed ecological and landscaping scheme has been submitted to and approved in writing by the County Planning Authority. The plan should include details of native species hedgerow planting and grassland creation and management of all new planting. Details of species used and sourcing of plants should be included. Such measures shall thereafter be implemented in full.

**Reason:** In accordance with NPPF, ODPM Circular 2005/06

5. The temporary access hereby permitted shall be removed and the land restored to its former condition on or before 31 March 2025 including the reinstatement of the verge and kerb line in accordance with the standard specification of the Highway Authority and the replacement of the hedgerow in accordance with the ecological and landscape scheme.

**Reason:** In the interests of highway safety and to mitigate harm to biodiversity.

### **Development Plan Policies Relevant to the Decision.**

#### Warwickshire Waste Core Strategy Adopted Local Plan (July 2013)

Policy CS1: Waste Management Capacity  
Policy CS2: The Spatial Waste Planning Strategy for Warwickshire  
Policy DM1: Protection and enhancement of the natural and built environment  
Policy DM2: Managing Health and Amenity Impacts of Waste Development  
Policy DM3: Sustainable Transportation  
Policy DM6: Flood Risk and Water Quality

#### Nuneaton and Bedworth Borough Plan (2011-2031) Adopted June 2019

Policy DS1: Presumption in favour of sustainable development  
Policy DS3: Development principles  
Policy HS1: Ensuring the delivery of infrastructure  
Policy NE3: Biodiversity and geodiversity  
Policy BE4: Valuing and conserving our historic environment

### **Reasons for the Grant of Planning Permission.**

#### **Notes**

##### Highway Authority Notes:

- a. Condition number 2 requires work to be carried out within the limits of the public highway.
- b. In terms of design guidance this is carried out in conjunction with the County Road Construction Strategy 2022 on our website as referred to on the opening page. Please see link below:  
<https://api.warwickshire.gov.uk/documents/WCCC-770-261>

Before commencing such works the applicant / developer must enter into a Highway Works Agreement with the Highway Authority under the provisions of Section 184 of the Highways Act 1980. Application to enter into such an agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall Post Room, Warwick, CV34 4SX or by email to: [s38admin@warwickshire.gov.uk](mailto:s38admin@warwickshire.gov.uk)



In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution.

Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP or by email to: [streetworks@warwickshire.gov.uk](mailto:streetworks@warwickshire.gov.uk)

For works lasting ten days or less, ten days' notice will be required. For works lasting longer than 10 days, three months' notice will be required.

#### Ecology Notes:

##### Nesting Bird note:

Work should avoid disturbance to nesting birds. Birds can nest in many places including buildings, trees, shrubs, dense ivy, and bramble/rose scrub. Nesting birds are protected under the Wildlife and Countryside Act 1981 (as amended). The main nesting season lasts approximately from March to September inclusive, so work should ideally take place outside these dates if at all possible. N.B birds can nest at any time, and the site should ideally be checked by a suitably qualified ecologist for their presence immediately before work starts, especially if during the breeding season.

##### Generic reptile and amphibian note:

In view of the nearby records, care should be taken when clearing the ground prior to development and when storing materials on site.

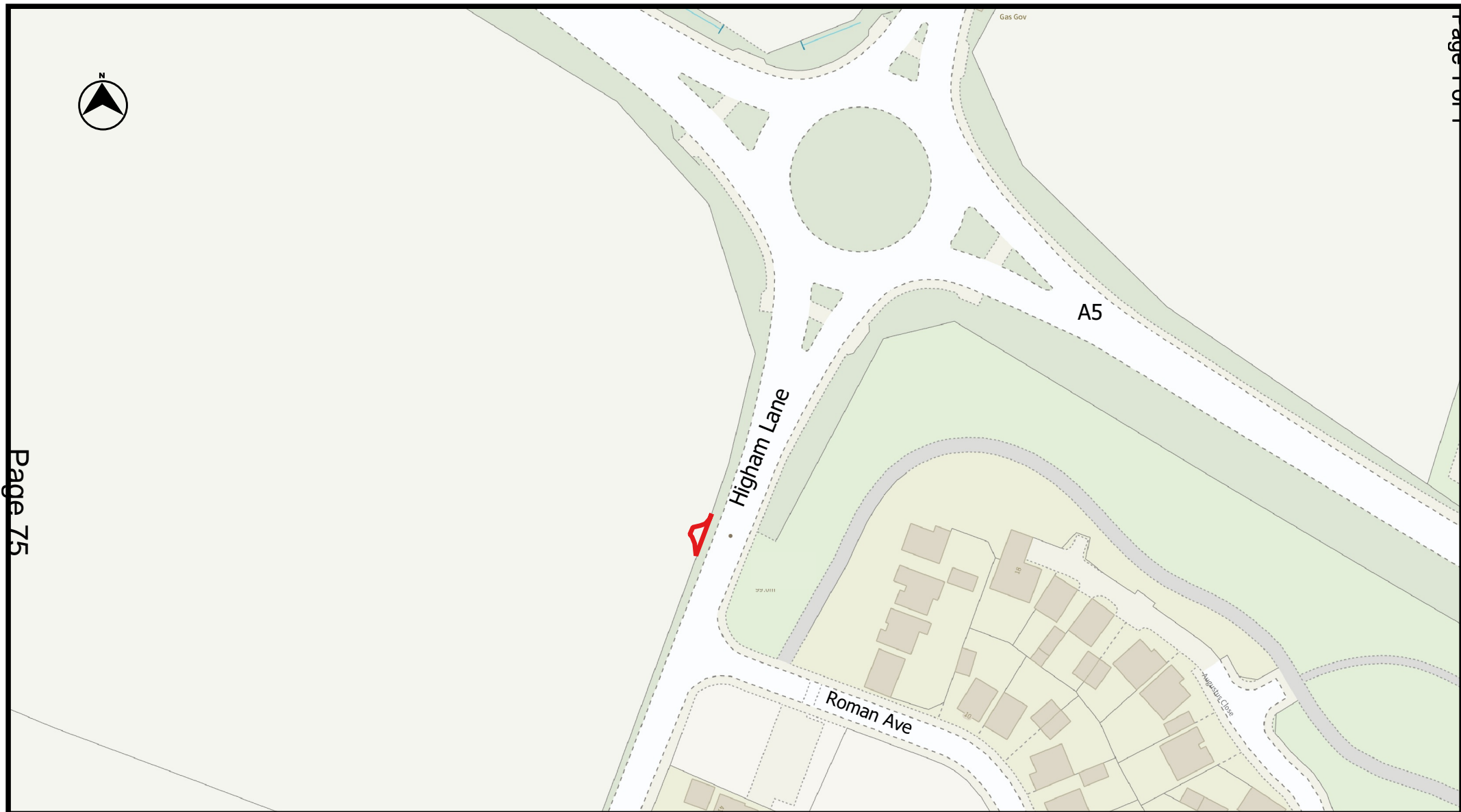
If evidence of specially protected species such as reptiles or amphibians is found (great crested newt, grass snake, common lizard or slow-worm), work should stop while WCC Ecological Services (01926 418060) or Natural England (02080 261089) are contacted.

Reptiles and amphibians are protected to varying degrees under the 1981 Wildlife and Countryside Act and the Countryside and Rights of Way Act 2000 and great crested newts are additionally deemed European Protected Species under the Conservation of Habitats and Species Regulations 2017.

##### General trench note:

Particular care should be taken when clearing ground prior to development, and if evidence of badgers, amphibians or reptiles is found (such as the presence of newts, lizards, snakes, reptile sloughs or badger snuffle holes, latrines or established setts) work must stop immediately while WCC Ecological Services or Natural England are contacted. Applicants are advised to pay particular attention to foundation ditches, which can be hazardous to badgers. Sloping boards or steps should be provided to allow animals to escape from such ditches should they become trapped. Failure to consider

this matter, leading to the death of individuals, may leave the developer liable for prosecution. Further information about species licensing and legislation can be obtained from the Species Licensing Service on 02080261089. Badgers and their setts (communal place of rest) are protected under the Protection of Badgers Act 1992, making it illegal to carry out work that may disturb badgers without a Natural England licence. Reptiles and amphibians are protected to varying degrees under the Wildlife and Countryside Act 1981 (as amended) and the Countryside and Rights of Way Act 2000 and great crested newts are additionally deemed European Protected Species.



**Application No: NBB/22CM010**  
**Higham Lane, St Nicolas Park, Nuneaton, CV11 6GS**  
**Temporary access**

Regulatory Committee 11 July 2023  
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