

Regulatory Committee

5 April 2022

NWB/21CM013: S73 application for the variation of condition 2 of Planning Consent NWB/11CM029 for the completion of extraction of sand and gravel; the continued processing of recycled aggregates and the completion of restoration;

NWB/21CM014: S73 application for the variation of condition 3 of Planning Consent NWB/15CM001 for the retention of the concrete batching plant and ancillary structures utilising both recycled and imported materials for the production of ready mixed concrete;

NWB/21CM015: S73 application for the variation of condition 2 of Planning Consent NWB/18CM001 for the retention of the steel portal frame workshop, storage and lean-to;

NWB/21CM016: S73 application for the variation of condition 3 of Planning Consent NWB/15CM008 to retain the temporary stocking area for processed aggregates 5m high, with surrounding 4m high screening bund and associated planting;

Each variation of condition is to extend the time limit on a previous planning consent for 10 years until 31 December 2031 at Dunton Recycling Centre, Lichfield Road, Curdworth, Warwickshire, B76 0BB

Application Nos.: NWB/21CM013
NWB/21CM014
NWB/21CM015
NWB/21CM016

Advertised date: 13 January 2022

Applicant: Mr B Dosanjh
KSD Aggregates Limited
Lichfield Road
Curdworth
B76 0BB

Agent: Mr Ian Briggs
Landesign
22 Parklands Drive
Loughborough
LE11 2TB

Registered by: The Strategic Director for Communities on 21 December 2021

Proposal: Four S73 applications to vary a planning condition on each of the four previous planning approvals, to extend the date for the completion of extraction of sand and gravel, the continued processing of recycled aggregates and the completion of restoration; the retention of the concrete batching plant; workshop and storage building; and the temporary stocking area, all until 31 December 2031 at Dunton Recycling Centre, Lichfield Road, Curdworth, Warwickshire, B76 0BB

Site & location: K S D Recycled Aggregates, Lichfield Road, Curdworth, B76 0BB. [Grid ref: 418961.293317].

See plan in Appendix A

Recommendation

That the Regulatory Committee authorises the grant of planning permission for the variation of the relevant planning condition on each of the four planning applications the subjects of this report, to extend the date for operation of facilities at KSD Recycled Aggregates until 31 December 2031, 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 operations and facilities at the Dunton Recycling Centre, Lichfield Road, Curdworth consist of plant and equipment for the processing of recycled aggregates, a stocking area, workshop, and a concrete batching plant using both recycled and imported materials for the production of ready mixed concrete.

- 1.2 There are four extant planning permissions relating to the operations on the site which each require the cessation of those operations by 31 December 2021. The four current planning applications have been submitted to vary the planning condition relating to the permitted date for the cessation of operations on those previous permissions.
- 1.3 One planning statement has been submitted to support all four current planning applications. The Statement advises that the applicant KSD Recycling, wishes to continue business at the Dunton site for a further 10 years. Planning consent is sought under Section 73 of the Town and Country Planning Act 1990 for the planning condition referencing the time limit for the cessation of operations for each of the four submitted planning applications to be amended to 31 December 2031. The proposed re-wording of each of the relevant planning conditions is set out below.
- 1.4 Planning consent NWB/11CM029 consolidated the previous planning approvals at the site under one consent to allow processing of recycled aggregates and the extraction of sand and gravel from the site. Planning application **NWB/21CM013** seeks consent to vary condition 2 of NWB/11CM029 which stated:

The development hereby permitted shall cease and the site be fully restored on or before the 31 December 2021.

The planning condition is proposed to be varied to state:

The development hereby permitted shall cease and the site be fully restored on or before 31 December 2031.

- 1.5 Planning consent NWB/15CM001 relates to the concrete batching plant. Planning application **NWB/21CM014** seeks consent to vary condition 3 of NWB/15CM001 which stated:

The development hereby approved shall cease on the 31 December 2021 and all associated buildings, structures, plant and materials shall be removed from the site within 6 months of that date.

The planning condition is proposed to be varied to state:

The development hereby approved shall cease on the 31 December 2031 and all associated buildings, structures, plant and materials shall be removed from the site within 6 months of that date.

- 1.6 Planning consent NWB/18CM001 relates to the workshop, storage and lean-to on the site. Planning application **NWB/21CM015** seeks consent to vary condition 2 of NWB/18CM001 which stated:

The building hereby permitted shall be removed on or before the 31 December 2021 and the site shall be fully restored in accordance with a scheme which shall first have been submitted to and approved by the County Planning Authority before that date.

The planning condition is proposed to be varied to state:

The building hereby permitted shall be removed on or before the 31 December 2031 and the site shall be fully restored in accordance with a scheme which shall first have been submitted to and approved by the County Planning Authority before that date.

- 1.7 Planning consent NWB/15CM008 relates to the northern extension of the KSD site to provide a temporary stocking area. Planning application **NWB/21CM016** seeks to vary condition 3 of NWB/15CM008 which stated:

The development hereby permitted shall cease and the site shall be fully restored on or before the 31st of December 2021.

The planning condition is proposed to be varied to state:

The development hereby permitted shall cease and the site shall be fully restored on or before the 31st of December 2031.

- 1.8 The applicant advises that the red line area for the application NWB/21CM013, includes an area in the south-eastern corner of the site that is unworked for sand and gravel as it has sat beneath the existing processed material stock-piles. The consent granted under NWB/11CM029 allows for the extraction of this area of the site. It is the applicant's intention that the remaining sand and gravel reserve which amounts to approximately 100,000 tonnes would be extracted within the extended time period.
- 1.9 The majority of the waste activities on site operate under the consolidating consent (NWB/11CM029) with output levels currently of between 200,000 to 250,000 tonnes per annum. At peak operations during the last 20 years the output from the site has been as high as 400,000 tonnes per annum.
- 1.10 The site produces crushed and graded stone and sands from reprocessed materials. In addition, the site also recovers glass as an aggregate and recycles Incinerator Bottom Ash (IBA) to create graded sands and recovered metal. Recovered metal is removed from site to a specialist metal recovery company while any waste that cannot be treated on site is collected and removed to appropriately licensed facilities elsewhere.

- 1.11 The planning statement advises that while the concrete batching plant has a permitted limit of 50,000 m³ per annum, the current operations have not achieved that level of activity.
- 1.12 Operations on the site are controlled by existing planning conditions and an EA permit. The EA permit allows the combined total quantity of waste accepted at the site to be a maximum of 500,000 tonnes per year, with 100,000 tonnes of that total permitted to be Incinerator Bottom Ash. No new operational development or uses are proposed as part of any of the four planning applications submitted.
- 1.13 The planning statement supporting the planning applications sets out the case for very special circumstances for the Dunton site in the Green Belt (*see details in section 5 Green Belt below*).

2. Consultation

- 2.1 **North Warwickshire Borough Council – Planning:** No objection but asked that if any fresh permissions are granted, the County Council review the need to control the heights of buildings and stockpiles and at the end of any extended period of operations, the site is restored and landscaped.
- 2.2 **North Warwickshire Borough Council – Environmental Health:** No objection. The site is situated in a location of high background noise and I would not expect there to be significant impact on identified noise receptors. I have checked our records and cannot find any complaints about noise for the premises.
- 2.3 **Curdworth Parish Council:** Raised no objection. Councillors wished to ensure that pre-existing conditions were retained and monitored by Enforcement Officers. It was noted there was still a lot of spillage on the main roads with debris from the site.
- 2.4 **Lea Marston Parish Council:** Objection, on the grounds:
1. The site is in in the Green Belt and has an impact on openness and the rural character of the local area. The application site represents a continued impact of urban sprawl impact on a rural character and openness.
 2. Previous planning permissions, granted as late as 2018, were all temporary and required restoration by 31 December 2021. This restoration has not been completed or indeed commenced. The KSD site is there operating without planning consent.
 3. From a Lea Marston and Marston resident community aspect the site has a continued detrimental impact on the rural character of the local area. The site is over-bearing and out of character with its immediate rural landscape and has a direct adverse visual impact on the local landscape.

4. Failure to comply with planning conditions 4 and 5 of NWB/15CM008. Failure to submit a restoration plan by 31st December 2020, one year prior to the completion of the development in December 2022.
5. Failure to comply with condition 8 of permission NWB/15CM008. There are breaches of the 4m high restriction on stockpile levels and 4m high bunds.
6. There are additional ongoing breaches with the heights of stored materials exceed 110 metres above ordinance datum.
7. The footpath M16 should be restored to its original route.

In line with the conditions of planning permissions: NWB/11CM029, NWB15CM001, NWB15CM008, and NWB/18CM001, the parish council requires the restoration of the site. The permissions granted were for temporary structures and functions.

While Lea Marston Parish Council's position is currently one of objection, the Parish Council is aware of the importance of the aggregates and minerals recycling function of this site to The Regional Spatial Strategy, WCCs Waste Local Plan for Warwickshire, the draft WCC Minerals Strategy, WCC's commitment to the Climate Emergency, and NWBC Local Plan Policy LP29.

With a constructive hope of being able to support WCC's and NWBC's strategic ambitions the Parish Council requests a meeting with the applicant and site owner to discuss options to mitigate the impact of this development on our community.

The parish council note the intention to list these applications for consideration by Regulatory Committee on 8th March 2022. We ask that this application be carried forward to a future meeting to enable the Parish Council's meeting with the applicant first. The Parish Council will be looking to exercise its right to address Committee.

I have attached Google Maps images from all four boundaries of the site. These demonstrate its impact on the openness of the Green Belt and the height of bunds and material stockpiles.

2.5 **WCC - Planning Strategy:** No objection.

When assessed together the four applications constitute inappropriate development in the Green Belt, as there would be some harm to the openness of the Green Belt from elements of the proposals. However, any harm to the openness of the Green Belt is outweighed by a number of very special circumstances. These can be summarised as:

- Para 211 of the NPPF gives great weight to the benefits of minerals extraction including to the economy.

- The site has operated without apparent adverse environmental impacts over many years and the proposal does not seek to add any new elements to the built form or create new landforms which could erode the openness of the site.
- The site's location being an island within a sea of large infrastructure minimises the loss of openness.
- The proposal is greatly contributing to meeting the national waste recycling targets for C&D waste and is moving waste up the waste hierarchy in accordance with national waste policy and targets.
- The site contributes to the permitted reserves of aggregates and these are needed to maintain the County's aggregate landbank.
- Recycling operations on the site will contribute to less primary aggregates being extracted in the county.
- Restoration benefits through biodiversity and landscape improvements should be implemented as soon as possible and not all at the end of the development.
- The proposal is in accordance with national and local minerals and waste planning policies.

- 2.6 **WCC - Flood Risk and Water Management:** No objections to any of the applications to extend the time of the operations.
- 2.7 **WCC – Highways:** No objection. The modelled future growth for vehicle movements along the A446 corridor already include the movements associated with the proposal, and as such, are considered to be part of the baseline figure. Therefore, there would be no material increase in traffic flows.
- 2.8 **WCC – Archaeology:** No Archaeological comments to make on any of the applications.
- 2.9 **WCC - Ecology:** No objection. It is recommended that the same wording be used as conditions 21 and 22 of the planning approval NWB/11CM029 to secure the habitat restoration plan and aftercare scheme. In addition, as the planting on the northern extension bund has not been completed a condition is recommended requiring the planting of the species and sizes of tree in line with the previously approved plan (Drwg No LD70-DN-001), approved through discharge of Condition 14 of planning permission NWB/15CC008.
- 2.10 **WCC – Rights of Way:** No objection in principle to the proposed variation of conditions.

- 2.11 **National Highways (Highways England):** No objections on any of the applications.
- 2.12 **Environment Agency:** No comments received.
- 2.13 **HS2:** No comments received.

3. Representations

- 3.1 Two site notices were posted on 11 January 2022, one on the entrance to the application site and a second at the entrance to Dunton Hall off Kingsbury Road to the north of the application site.
- 3.2 A press notice was posted in the Tamworth Herald on 13 January 2022. Neighbour notification letters were sent by post to the 2 nearest residential on 13 January 2022.
- 3.3 No neighbour responses have been received in response to the consultation on the four planning applications.

4. Previous Planning History

- 4.1 Sand and gravel extraction took place from the 1950s with the quarry void being later infilled with inert waste materials, creating a domed landform across the site area.
- 4.2 In October 2002 planning permission was granted to allow the re-profiling of the landfill by recycling the previously deposited inert materials. In May 2012 planning consent (NWB/11CM029) was granted which consolidated the previous planning consents into one permission to allow the continued processing of recycled aggregates, including both those historically deposited as landfill and imported waste (including construction and demolition wastes and Incinerator Bottom Ash). The permission also allowed for the extraction of the remaining reserve of sand and gravel at the site. The recycling of the previously deposited inert materials on the site has been completed.
- 4.3 Planning approval (NWB/15CM001) was granted in 2015 for the installation of a concrete batching plant and associated structures using both recycled and imported materials. The concrete batching plant operates under a permit from North Warwickshire Environmental Health Officers under Part B of the Environmental Permitting Regulations 2010 (as amended).
- 4.4 In 2015 planning consent (NWB/15CM008) was granted for the northern extension to the site to provide a temporary stocking area with a 4 m high bund to the north.

- 4.5 In 2018 retrospective planning consent (NWB/18CM001) was granted for a workshop and storage building.
- 4.6 The waste processing/recycling operations at the site are controlled by the Environment Agency under permit.
- 4.7 Each of the four planning applications granted since 2011 are subject to planning conditions requiring the operations to cease and for the site to be restored by 31 December 2021.

5. Assessment and Observations

Location and Site Description

- 5.1 KSD Recycling is located approximately 1 km to the east of the village of Curdworth and 1.4 km west of the village of Lea Marston. Coleshill is some 3 km to the south and Water Orton over 2 km to the south-west. Hams Hall Industrial area is located approximately 1.2 km to the south-east.
- 5.2 The roundabout serving junction 9 of the M42 and the M6 Toll Road is located within 0.2 km to the north of the site. The wide highway corridor of the M6 toll road and the M42 runs between the site and the settlement of Curdworth.
- 5.3 The route of the HS2 rail line, which will sit in a cutting, runs to the east of the KSD site. Construction has commenced on the HS2 site and is expected to continue for years, resulting in major changes to the landscape.
- 5.4 Immediately to the north of the northern extension to the application site is a complex of buildings. Dunton Hall, the barn 20 metres south-east of Dunton Hall and the pigeon house 30 metres west of Dunton Hall are all Grade II Listed buildings. To the south of the application site is a residential property, 1 Newlands Cottage which the applicant advises has been purchased by HS2.
- 5.5 The National Grid substation is located some 45 m to the south-east of the application site with a network of high-level power lines and tall pylons radiating out across the landscape.
- 5.6 The application site is accessed from the southbound carriageway of the Lichfield Road dual carriageway (A446). The site sits at a higher ground level than the surrounding area. As a result of the topography and the location of the bunds surrounding the site, there are no views into the site from either the highway network or from surrounding viewpoints.

- 5.7 The bund on the northern, western and eastern boundaries of the northern extension is 4 m in height. The bund located internally within the site (marking the former northern extent of the site) has an opening to allow access between the main site and the northern extension. Bunds ranging in height between 5 m and 15 m surround the application site.
- 5.8 The central area of the site is a level, hardsurfaced working area following the completion of the excavation and processing of historic landfill materials in that area. Facilities within the site include the Portacabins located to the north of the site access which provide site office and staff welfare facilities. The wheel wash, weighbridge and vehicle parking area are sited close to the site office. A range of fixed and mobile plant for crushing, washing and screening operations; the concrete batching plant and facilities for plant maintenance are located across the site. There are various stockpiles of imported and processed materials in addition to remaining areas of infill materials that are being excavated and reprocessed to create aggregate materials for use in construction.

Planning Legislation and Policy

Section 73 application

- 5.9 A planning application submitted under section 73 of the Town and Country Planning Act 1990 allows for the variation of the planning conditions imposed on an existing permission. A variation under section 73 takes effect as the grant of a new permission with different conditions and, once that new permission is implemented, the new conditions apply to any further development and use of the site.

The legislation at S73 (2) (a) states that the local planning authority on a section 73 application “shall consider only the question of the conditions subject to which planning permission should be granted”. In cases where the effect of the application is to extend a time limit on the duration of development, that may involve consideration of the overall planning impacts and benefits of the development. Section 73 gives a decision-maker three choices:

- (a) grant permission unconditionally;
- (b) grant permission subject to different conditions; and
- (c) refuse the application.

The applicant is seeking to vary a condition on each of the four planning applications to extend the timing of the cessation of operations and restoration of the site until 2031. Any new consents granted would be subject to revised planning conditions.

- 5.10 Section 38(6) of the 2004 Planning and Compensation Act requires that planning applications are determined in accordance with the provisions of the Development Plan ‘unless material considerations indicate otherwise’.
- 5.11 **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:
 - 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
 - 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.

- 5.12 **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.
- 5.13 **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.
- 5.14 The courts have made it clear that for the purposes of section 38(6) it is enough that the proposal accords with the development plan considered as a whole. It does not have to accord with each and every policy in the plan. It is a matter of judgement for your Committee whether the proposal accords with the plan, considered as a whole,

bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach.

- 5.15 The development plan relevant to the proposals consists of the Warwickshire Waste Core Strategy Adopted Local Plan 2013-2028 (July 2013), the 'saved policies' of the Minerals Local Plan for Warwickshire (Feb 1995), the emerging Warwickshire Minerals Plan 2018 – Proposed Modifications (which while not yet adopted has been examined in public and is currently subject to consultation on modifications and should be given considerable weight) and the North Warwickshire Adopted Local Plan (Sept 2021).

National Planning Policy Framework (NPPF)

- 5.16 The National Planning Policy Framework (NPPF) (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.
- 5.17 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.
- 5.18 KSD Dunton Recycling is located within the West Midlands Green Belt, as defined by the North Warwickshire Local Plan. The NPPF stresses the importance the Government attaches to Green Belts. Green Belt serves a number of purposes including safeguarding the countryside from encroachment. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harms resulting from the proposal, is clearly outweighed by other considerations.
- 5.19 The NPPF identifies forms of development that are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. This includes mineral extraction and engineering operations.
- 5.20 The NPPF states that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions, where these are subject to

separate pollution control regimes. Planning decisions should assume that these regimes will operate effectively.

- 5.21 The NPPF states that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Planning Authorities are required to take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously.
- 5.22 The NPPF also requires planning policies to safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material.
- 5.23 Paragraph 211 of the NPPF focuses on considerations for determining applications including a) the maintenance of landbanks of non-energy minerals; b) ensuring there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, taking into account the cumulative effect of multiple impacts from an individual site or from a number of sites in a locality; c) ensuring that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source and establishing appropriate noise limits for extraction in proximity to noise sensitive properties; e) providing for restoration and aftercare at the earliest opportunity.

Waste Management Plan for England

- 5.24 Regulation 18 of the Waste (England and Wales) Regulations 2011 requires that planning authorities shall have regard to certain provisions in Articles 13 and 16 of the EU Waste Framework Directive when exercising their planning functions. This requirement continues to apply notwithstanding the departure of the United Kingdom from the European Union. Article 13 concerns the protection of human health and the environment. Article 16 sets the objective of establishing an adequate and integrated network of installations which enable waste to be disposed of or recovered in one of the nearest appropriate installations, by means of one of the most appropriate methods and technologies, to ensure high level of protection for the environment and public health.

To help deliver these objectives, the Government published the National Planning Policy Framework (NPPW) in 2014 to be read in conjunction with the NPPF and the Waste Management Plan for England. Its Introduction explains that it is the Government's ambition to work towards a more sustainable and efficient approach to resource

use and management and that positive planning has a pivotal role in delivering these ambitions.

The Waste Management Plan for England (WMPE) published January 2021 states that the construction and demolition sector is the largest contributing sector to the total waste generation. This generated 120.3 million tonnes of waste in 2016, accounting for almost two-thirds (64%) of total waste generated. The WMPE details that the UK is committed to meeting its target of recovering at least 70% by weight of non-hazardous construction and demolition waste by 2020. This target is reflected in the policies of the adopted Waste Plan.

National Planning Policy for Waste (NPPW)

5.25 The NPPW requires that in determining planning applications waste planning authorities should:

- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the NPPW and the locational implications of any advice on health from the relevant health bodies;
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;
- 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;
- ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary.

The criteria in Appendix B of the NPPW are:

- a) protection of water quality and resources and flood risk management
- b) land instability
- c) landscape and visual impacts
- d) nature conservation
- e) conserving the historic environment
- f) traffic and access
- g) air emissions, including dust
- h) odours
- i) vermin and birds
- j) noise, light and vibration
- k) litter
- l) potential land use conflict.

Warwickshire Waste Core Strategy Adopted Local Plan (July 2013)

- 5.26 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.
- 5.27 **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.
- 5.28 **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 falls within close proximity to Coleshill which is one of the broad locations identified), where individual sites are well located to sources of waste, well located to the strategic transport infrastructure and do not have significant adverse environmental impacts. Particular preference is shown to: sites operating under an existing waste management use, active mineral sites or landfills and previously developed land.
- 5.29 **Policy CS3 – Strategy for Locating Large Scale Waste Sites:** (facilities managing 50,000 tonnes of waste per annum or more), directs such development to the main settlements within the County, where it is demonstrated that the development provides environmental benefits. Coleshill is identified as one such settlement.
- 5.30 **Policy CS5 – Proposals for reuse, recycling, waste transfer/storage and composting:** Proposals for re-use, recycling, waste transfer/storage and composting will be encouraged provided that the proposal accords with all other relevant policies.
- 5.31 **Policy DM1 – Protection and Enhancement of the Natural and Built Environment:** states that development should conserve and where possible enhance, the natural and built environment by ensuring that there are no unacceptable adverse impacts upon natural resources, biodiversity, geodiversity, archaeology, heritage assets and their setting, the quality and character of the landscape, adjacent land uses or occupiers and that the development satisfies Green Belt policy.
- 5.32 **Policy DM2 – Managing Health, Economic and Amenity Impacts of Waste Development:** states that planning permission will not be granted for waste management proposals which have unacceptable adverse impacts on the local environment, economy or communities as a result of impacts including noise; lighting; visual intrusion; vibration; odour; dust; emissions; contamination; water quality or quantity and road traffic, either individually or cumulatively with existing or proposed

developments. Proposals will only be permitted where the adverse impacts will be avoided or satisfactorily mitigated.

- 5.33 **Policy DM6 – Flood Risk and Water Quality:** states 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
- 5.34 **Policy DM7 – Aviation Safeguarding:** states that planning permission will not be granted for waste management proposals where it would cause an unacceptable hazard to aviation.
- 5.35 **Policy DM8 – Reinstatement, restoration and aftercare:** states that planning permission for waste management uses in the open, and development associated with such uses, will not be granted unless satisfactory provision has been made for high quality reinstatement or restoration of the site and the long-term management of its after use.

Minerals Local Plan for Warwickshire 1995 (saved policies)

- 5.36 The saved policies of the Minerals Local Plan set out specific policies in respect of minerals development. While the plan is very old and has been overtaken to some degree by the NPPF, the policies in relation to sand and gravel, demand and supply, mitigation and restoration are still valid. The relevant saved policies are considered to be:
- 5.37 **Policy M4 – Sand and Gravel Extraction:** States that planning permission for the working of sand and gravel will be considered in the context of an assessed regional demand.
- 5.38 **Policy M6 – Considerations and Constraints:** States that applications for extraction of minerals will be considered on the basis of the provisions of the development plan and their likely overall impact on operational and economic needs, physical restraints and other considerations.
- 5.39 **Policy M7 – Mitigation and conditions:** states that in seeking to ensure that any adverse environmental effects and the implications for residents' quality of life are mitigated at all mineral workings:
- (d) Proposals for operations ancillary or secondary to mineral extraction will normally be expected to be sited adjacent to primary plant. The use of plant, machinery and buildings will be restricted to processes principally using minerals produced from the site. Where appropriate, conditions may be imposed or agreements sought to control the life-span of operations ancillary or secondary to mineral extraction.
- 5.40 **Policy M9 – Restoration of mineral workings:** states that restoration of workings to a high standard and a beneficial after use will be

required in accordance with the development plan. Satisfactory arrangements for after care will also be sought.

Emerging Warwickshire Minerals Plan (Main Modifications 2021)

- 5.41 The latest version of the emerging Minerals Plan is now at the final Main Modifications stage; the Inspector's Report is expected to be produced shortly. The plan and policies reflect the very latest planning policy guidance and NPPF revisions. Although not yet adopted the plan holds considerable weight as it is at the final stage prior to adoption and as the relevant principles in the policies are consistent with the NPPF and are not proposed to be modified in any significant respects before adoption. The main policies relevant to the current applications are considered to be:
- 5.42 **Policy S0 – Mineral Sites to be Allocated:** To meet the demand for sand and gravel in the County during and up to the end of the plan period (2032) of 6.525 million tonnes, sites are allocated for mineral development, including a site of 48 hectares at Lea Marston (site 9).
- 5.43 **Policy MCS1 – Supply of Minerals and Materials:** states that the Minerals Planning Authority (MPA) will support the supply of materials from substitute or secondary and recycled materials and mineral waste.
- 5.44 **Policy MCS2 – Sand and Gravel:** states that the MPA will ensure that there is a steady and adequate supply of sand and gravel and throughout the plan period maintain at least a 7 year landbank of permitted reserves.
- 5.45 **Policy MCS4 – Secondary and Recycled Aggregates:** states that proposals for the reception, processing, treatment and distribution of waste materials in order to produce recycled and secondary aggregates will be supported where the proposal will promote the sustainable management of waste in accordance with the principles of the Waste Hierarchy and will facilitate a reduction in the need for primary aggregates. (*Dunton Quarry is cited in the justification text as a major facility providing materials to the local and regional construction industry.*)
- 5.46 **Policy MCS5 – Safeguarding of Minerals and Minerals Infrastructure:** States that Warwickshire's sand and gravel, crushed rock, brick-making clay resources, cement raw materials, shallow coal and building stone and existing mineral sites or existing and future mineral infrastructure will be safeguarded against needless sterilisation by non-minerals development. In addition, minerals infrastructure safeguarded in Warwickshire comprises: permitted and allocated minerals sites; concrete batching plants; mortar plant; asphalt plants; concrete products plant; and recycled and secondary aggregates sites.

- 5.47 **Policy MCS11 – Ancillary Mineral Development within Mineral Sites:** states that ancillary minerals development will be permitted subject to criteria including, where it can be demonstrated that the development will not result in unacceptable adverse impacts; not delay the restoration of the mineral site, will be temporary and restricted to the life of the mineral site; restored and managed in accord with an approved scheme and will contribute to the local economy and secure continued employment on the site.
- 5.48 **Policy DM 1 – Protection and enhancement of environmental assets and landscapes:** Mineral development proposals should protect, conserve, and where possible enhance, environmental assets and landscapes (the natural environment) by ensuring that there are no unacceptable adverse impacts upon the quality of landscape; natural resources (including water, air and soil resources); biodiversity; geodiversity.
- 5.49 **Policy DM2 – Warwickshire’s Historic Environment & Heritage Assets:**
States that to safeguard the importance of Warwickshire’s historic environment, mineral development should seek to conserve, and enhance the significance of heritage assets and their setting.
- 5.50 **Policy DM3 – Green Infrastructure:** states that proposals for minerals development will only be granted which do not compromise the integrity of strategic and local green infrastructure assets including locations of natural and cultural heritage, green spaces, or biodiversity or other environmental interest in urban and rural areas. The restoration of existing mineral sites should take account of opportunities to create, maintain and enhance green infrastructure.
- 5.51 **Policy DM4 – Health, Economy and Amenity – Minimising the Impacts of Mineral Development:** states that planning permission will not be granted for mineral development proposals which will have unacceptable adverse impacts on local communities (including adjacent land uses or occupiers) or their environment, or on the economy, either individually or cumulatively with other existing or proposed developments through any of the following: noise; lighting, vibration; visual intrusion; public health; dust; emissions to air and odours; contamination of land; water pollution; road traffic; loss of best and most versatile agricultural land; land instability; flood risk and drainage.
- 5.52 **Policy DM5 – Sustainable Transportation:** States that where road is the only viable method of transportation developers must demonstrate that there is no unacceptable adverse impact on the safety, capacity and use of the highway network.
- 5.53 **Policy DM6 – Public Rights of Way and Recreational Highways:** states that mineral development proposals will only be granted where it

is demonstrated that there is no unacceptable adverse impact upon rights of way, unless suitable permanent diversions or alternative routes are provided.

- 5.54 **Policy DM7 – Flood Risk and Water Quality:** states that planning permission will not be granted unless it can be demonstrated that the development will not increase the risk of flooding elsewhere throughout the lifetime of the development. Planning permission will not be granted where mineral development proposals would have an unacceptable adverse impact on water quality or achieving the targets of the Water Framework Directive.
- 5.55 **Policy DM9 – Reinstatement, reclamation, restoration and aftercare:** states that planning permission for mineral development will not be granted unless satisfactory provision has been made for: high quality restoration and aftercare of the site; the future management of its after use, including securing and making as safe as possible the site when minerals operations cease and it has been demonstrated that the site will be reclaimed at the earliest opportunity.
- 5.56 **Policy DM11 – Climate Change - Carbon Emissions and Resource Efficiency:** states that mineral development that reduces overall carbon emissions and improves resource efficiency during construction, operation and restoration will be supported subject to compliance with other policies in the development plan.
- 5.57 **Policy DM12 – Overall Assessment of Proposals:** Proposals should clearly demonstrate that any adverse impacts have been considered under the following mitigation hierarchy: Level 1 avoided; or Level 2 satisfactorily mitigated where all avoidance has been implemented as far as possible; or Level 3 adequately compensated for either onsite or offsite (as a last resort where any adverse impacts cannot be avoided or satisfactorily mitigated). All opportunities to satisfy Level 1 and Level 2 should be exhausted before proceeding to the next stage.

North Warwickshire Adopted Local Plan (Sept 2021)

- 5.58 The following policies of the North Warwickshire Local Plan are considered to be relevant to the determination of the applications.
- 5.59 **Policy LP1 – Sustainable Development:** states that planning applications that accord with the policies of the Local Plan will be approved without delay, unless material considerations indicate otherwise.
- 5.60 **Policy LP3 – Green Belt:** The extent of the Green Belt in North Warwickshire is detailed on the Policies Map while policy LP3 outlines considerations for development in the Green Belt in addition to the NPPF.

- 5.61 **Policy LP11 – Economic Regeneration:** states that support and encouragement will be given to established / lawful rural businesses to expand where this has no significant and demonstrable harm in particular on the character of the area.
- 5.62 **Policy LP14 – Landscape:** states that new development should, as far as possible retain existing trees, hedgerows and nature conservation features such as water bodies with appropriate protection from construction where necessary and strengthen visual amenity and bio-diversity through further hard and soft landscaping. The Council will seek replacement or enhancement to such natural features where their loss results from proposed development.
- 5.63 **Policy LP15 – Historic Environment:** requires that the quality, character, diversity and local distinctiveness of the historic environment will be conserved or enhanced.
- 5.64 **Policy LP16 – Natural Environment:** States that the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced as appropriate relative to the nature of development proposed.
- 5.65 **Policy LP29 – Development Considerations:** Sets out the Borough Council’s development considerations, which include: targeting development at brownfield land in appropriate locations reflecting the settlement hierarchy; provide safe and suitable access to the site for all users; to avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution; protect and enhance the historic and natural environment; protect the quality and hydrology of ground or surface water sources so as to reduce the risk of pollution and flooding, on site or elsewhere and seek to maximise opportunities to encourage re-use and recycling of waste materials, both in construction and operation.

Policy Considerations

Waste Policies

- 5.66 The site is defined as a “Large scale” waste site in terms of the Adopted Waste Local Plan Policy CS3 (ii) as it manages more than 50,000 tonnes per annum. The proposals for the continued operation of the waste recycling facilities accord with the thrust of the policies in the Plan. The site plays a major part in contributing to the construction and demolition waste recycling targets set out in the Waste Local Plan and hence would be compliant with Policy CS1 in terms of contributing significantly to the county’s waste management capacity, moving waste up the waste hierarchy and reducing the reliance on the use of primary aggregates.

- 5.67 In terms of the type of main locations where waste facilities will be given preference, active mineral sites are specified under Policy CS2. In locational terms the site is situated in “close proximity”, that is within 5 km of a Secondary Settlement as defined in the plan (Coleshill). In such cases, the applicant must demonstrate that there are “significant transport, operational and environmental benefits” in proposing a site in such areas. By virtue of the current activities the site appears to already provide significant transport and operational benefits given the proximity to the major road network. The principle for the retention of the recycling facility is supported by Policy CS5.

Mineral Policies

- 5.68 In the adopted Minerals Plan an allocated site (Preferred Area PA2 Lea Marston) is situated directly to the south and east of the existing quarry at Dunton. While that site has not been taken forward to date, the Emerging Minerals Plan includes a modified area of the Lea Marston site (Site 9). The resubmitted site has a slightly different configuration and a reduced site area of 48 hectares. The Lea Marston site is in accord with the Spatial Strategy which seeks to allocate sand and gravel sites which are in close proximity to urban areas along major road transport routes to support growth and infrastructure in main settlements and markets. Locationally, the mineral remaining to be extracted at Dunton Quarry would fit in with the plan strategy.
- 5.69 Dunton Quarry has been included in the landbank calculation and the final Plan calculation, as it has permitted reserves of 108,000 tonnes. This confirms the need for the minerals at the application site, and it will contribute to meeting the demand of 6.525 million tonnes until near the end of the plan period in 2032 and enable a steady and adequate supply of aggregates both from primary and secondary materials.

Green Belt

- 5.70 The site is located within the West Midlands Green Belt as defined by the North Warwickshire Local Plan. National policy is reflected in both the adopted and emerging Council’s Local Plans. The NPPF states that “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”.
- 5.71 Whilst minerals development may not be inappropriate development in the Green Belt, the cumulative extent of all the individual developments on the application site, including the waste recycling activities, the concrete plant and high stockpiles would suggest that the overall development is inappropriate development in the Green Belt.
- 5.72 When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other

harm resulting from the proposal, is clearly outweighed by other considerations.

- 5.73 The applicant has set out the case for very special circumstances at the Dunton site in the planning statement submitted in support of the four applications:
- i. Paragraph 213 of the NPPF requires minerals planning authorities to plan for a steady and adequate supply of aggregates by means including preparing an annual Local Aggregate Assessment (LAA) to forecast future demand, based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options, including secondary and recycled sources. The 2017 LAA for Warwickshire shows that construction and demolition waste recycling makes a major contribution to aggregates in Warwickshire with KSD's site providing a significant proportion of the total. Given the amount of development being undertaken in the Midlands with housing development and HS2 the applicants put forward the need for the retention of their recycling facility as a very special circumstance.
 - ii. The applicant states that the site is a well-established element in the steady and adequate supply of aggregates. While the new mineral plan is close to adoption, there will be a long period of time before any of the mineral allocations identified in the plan will become operational. The loss of the Dunton site would have an adverse effect on the local supply of aggregates and would exacerbate the County's reliance on importing aggregates from neighbouring counties. Relying on importation instead of recycling indigenous waste does not meet with the aims of sustainable development.
 - iii. The area surrounding the site is heavily developed with major motorways; distribution parks and national grid infrastructure which are all extremely obvious in the landscape. The existing appearance of the area is not an open landscape that would become visually enclosed by the retention of the existing facilities at Dunton.
 - iv. The major HS2 development works on land adjacent to the Dunton site adds to the very special circumstances in favour of retaining the site, as HS2 works are already generating construction waste that needs to be managed and generates a need for aggregates and concrete.
 - v. As the proposal is temporary in nature the purposes and openness of the Green Belt would not be undermined in the long term.
 - vi. The operations have all been previously assessed by the Planning Authority on multiple occasions as not inappropriate in the Green

Belt. This accords with the NPPF paragraph 149 (g) (partial redevelopment of previously developed land whether redundant or in continuing use) and 150 (a) (mineral extraction) and (b) (engineering operations).

- vii. The applicant has made the case that the company has worked hard to improve the environmental performance of the site which historically had a poor record. During the time KSD has operated the site the company has improved screening, planted trees, recovered and removed massive quantities of excess waste, improved the site's appearance, completely re-engineered the site and improved traffic and highway cleanliness. The company has also invested heavily in newer, cleaner and quieter processing plant.

5.74 The proposal does not involve the construction of any new development or structures on the site and so it could be argued there would no further impact on the Green Belt than existing.

Need for the retention of the facility

5.75 The site has been established for some 50 years with KSD operating for over 20 years. The site produces a full range of recycled aggregate products from the waste stream.

5.76 The applicant puts forward the case that the volume of development being undertaken and planned in the vicinity of the Dunton site will increase the demand for waste management and aggregate resources for a number of years. Closure of the Dunton recycling facility would exacerbate an already strained and under-provided market.

5.77 The site provides employment both directly and indirectly. The site currently employs 45 people on site, in the office and in haulier roles. In addition, the aggregate site supports indirect service jobs including for example vehicle and plant maintenance roles and roles in the construction sector. Closure of the site would potentially result in the loss of those jobs.

5.78 Although Dunton has only a temporary planning permission, the importance of the site for the recycling of aggregates should not be underestimated. The annual Aggregate Working Party (AWP) survey of recycled aggregates shows that of the nine main sites in the county Dunton is the largest by a substantial margin. The site is well positioned to take recycled aggregates from both within the county and in particular from adjacent urban areas of Coventry and Birmingham and further afield. In the response to the objection from Lea Marston Parish Council, the applicant advised that closure of the site would result in an annual gap in productive capacity in the county of between 200,000 and 400,000 tonnes. While the nearby Minerals Plan allocation (Site 9) at Lea Marston may partially absorb the gap in

supply, there would remain a requirement for an alternative large recycling site in the northern part of the county to meet need. The applicant also stated that while closing the site would overcome the Parish Council's objection, there remains currently a very high demand for aggregate locally as a result of HS2, therefore the issue would be transferred to somewhere else in the vicinity.

- 5.79 The applicant has made the case that identification of an alternative site beyond the Green Belt would require waste traffic from the West Midlands to travel greater distances through the green belt to that site, thereby increasing the carbon impact of waste operations.

Amenity and Environmental Issues

Access and Traffic

- 5.80 The site is located in very close proximity to the strategic road network with the Lichfield Road roundabout providing access to the M6 Toll Road, M42, and the A446. The existing site access onto the southbound carriageway of the A446 would continue to serve the site.
- 5.81 Within the site, internal haul roads are concreted with wheel wash facilities including a double wheel bath, shaker strip and high pressure body and wheel spray to ensure vehicles are able to leave the site in an appropriate condition.
- 5.82 There are no changes proposed to the capacity and output of the operation at the site. The recycling operation has at peak times produced up to some 400,000 tonnes of per annum with current operations running at approximately half that level. In addition, the concrete batching plant could produce some 50,000 m³ per annum but has not yet achieved that level of output.
- 5.83 County Highways raised no objection to the proposed retention of the existing operations on the site following confirmation that the traffic generation figures for the site are included in the modelling for future vehicle growth along the A446 corridor and show no material change in traffic flows.

Noise

- 5.84 The site is surrounded by screening bunds that contain the noise from the site. The local background noise is dominated by traffic noise from the M42, M6 Toll and the A446. The construction and operation of HS2 in close proximity is likely to increase background noise levels further.
- 5.85 The noise assessment submitted to support the 2011 planning consent (NWB/11CM029) assessed the background noise levels at Curdworth Village, Dunton Hall and Newlands Cottages in 2010. Planning condition 18 of that consent requires that the development shall not

result in any increase in background noise levels, measured as a 1 hour L(A)eq at the nearest dwellings, in order to protect the amenity of the area and nearby residents. The wording of that planning condition is proposed to be repeated for any new consent granted. The existing KSD recycling operations are not to be changed as a result of the proposed extension of time.

- 5.86 The Environmental Health Officer stated there is no objection to the application and confirmed that as the location is one of high background noise there would be no significant impact on identified noise receptors.

Ecology and Visual Impact

- 5.87 The application site is surrounded by bunds which provide a screen to prevent views into the site from the surrounding area. The outline of the screen bunds and possibly the stockpiles are partially visible from the skyline in some locations such as Church Lane near Lea Marston. Although the site is several metres higher than the village of Lea Marston, in general there is limited visual impact and no harm to the general amenity because of the other infrastructure surrounding the site; the intervening distance between the site and any sensitive receptors and some woodland and hedgerow features between the village and the site. The site does not impact on Cudworth which is 1km away to the west of the M42 and A446.
- 5.88 The construction has commenced for the HS2 rail line with a deep cutting immediately to the east of the application site. The application site is effectively contained both spatially and visually between the HS2 development and the substantial road network to the north and west of the site.
- 5.89 Planning conditions imposed on the previous approvals restrict the height of the stockpiles within the northern extension site to 4 metres as measured from the base of the site. For the remainder of the site covered by consent NWB/11CM029 conditions restrict the height of stockpiles to no more than 10 m or 110 m above ordnance datum (aOD) and for crushing and screening plant to be located within the site on ground no higher than 100 m aOD. The concrete batching plant is the tallest structure on the site with a maximum height of 10m. The height of the bunds as approved in the 2011 permission range from 102 m aOD to 115 m aOD. Information submitted in the planning statement, informed by a topographic survey dated 2018 indicates the bunds have been implemented generally in accordance with the approved heights.
- 5.90 The objection from Lea Marston Parish Council states that the bunds surrounding the site exceed the permitted heights and that the site has an overbearing visual impact. While it is acknowledged that the bunds are of significant height and are not a natural feature in the landscape,

they do largely comply with the approved plan and are covered in vegetation to varying degrees, giving some screening. It is considered that undertaking any works to reduce the height of the bunds as implied to be necessary by the Parish Council's objection, would be counter productive. It would be necessary to remove existing established vegetation with the disbenefit of reducing biodiversity and resulting in an adverse impact on visual amenity. In response to the photographic images submitted by Lea Marston Parish Council to support their objection, the applicant responded by stating that in most of the images the ground between the photographer and the site is to be the subject of massive changes as part of the HS2 development, there being a 30 m deep and wide cutting along the eastern side of the site. In the very near future the site will be left surrounded by motorways and HS2.

- 5.91 The previous consents were subject to conditions for approval of landscaping schemes. A landscaping scheme was approved to discharge a condition on the 2012 permission (NWB/11CM029). A scheme to ensure no net loss of biodiversity was also approved as a condition for the northern extension to the KSD site granted in March 2016 (NWB15CM008). That approved scheme required the planting of over 1000 trees and shrubs on the northern bund. While a proportion of the planting on this later scheme has been undertaken it has not been completed and some planting has not been successful. The applicant informed that implementation of the complete planting scheme was impacted by the Covid pandemic, then subsequently delayed awaiting the outcome of determination of the current planning applications. The County Ecologist raised no objection to the planning applications but recommended that the approved scheme should be fully implemented.
- 5.92 While planting has been undertaken to reduce the appearance of the bunds in the landscape, it is considered that more could be done to improve and naturalise the appearance of the site. Mitigation measures such as additional planting would reduce the impact of the appearance of the site when viewed from surrounding areas by softening the boundaries. It is recommended that in addition to ensuring the planting scheme on the most northern bund is fully implemented, an additional planning condition be imposed requiring the submission for approval of a further landscaping plan for additional planting within those areas of the site subject of planning application NWB/21CM013 within 3 months of the date of decision.

Hours of operation

- 5.93 The site currently operates with various operating hours depending on the planning consent. The permission granted in 2012 (NWB/11CM029) allows working between 07:30 and 17:30 Monday to Friday and 07:30 to 13:00 on Saturdays and with no working on Sundays or public holidays. That consent does however allow for the

delivery of waste materials outside of those specified hours with no processing allowed.

- 5.94 The planning consent granted for the concrete batching plant (NWB/15CM001) and the northern extension to the site (NWB/15CM008) have different operating hours which allow vehicle entry to the site and operations between the hours of 07:00 to 19:00 Monday to Friday, 07:00 to 13:00 on Saturday with no operations on Sundays or public holidays.
- 5.95 The applicant has indicated that in practice the operations on the site conform to the hours of the 2012 consent. It is recommended that the planning condition relating to the operating hours on both the concrete batching consent and the northern extension be rephrased on any new planning decision to conform with the hours for the wider consent of 07:30 to 17:30 Monday to Friday and 07:30 to 13:00 on Saturdays with no working on Sundays and public holidays.

Restoration

- 5.96 While operations at the site have been undertaken for a number of years, the consents under which they operate are temporary, with planning conditions imposed requiring the site to be restored. The previously approved restoration scheme would see the site restored to an agricultural use. Restoration of the site is required to comply with the NPPF and policies DM9 of the Mineral Plan and Policy DM8 of the Waste Core Strategy. Approval of the proposed 10 year extension of time for the remaining mineral extraction, waste recycling and concrete batching operations at the site would delay the restoration and would not comply with policy requirements for reclamation at the earliest opportunity, however, it is considered that the delay in this case is outweighed by the benefits of recycling and the substitution for the extraction of primary aggregates. It is also considered that the visual impact of the site could be improved prior to the final restoration of the site through landscaping and biodiversity improvements, as recommended above by the planting of additional landscaping.
- 5.97 The proposals are for the temporary extension of the existing operations. The requirement remains as previously conditioned, for the site to be restored and landscaped at the end of the 10 year period.

Heritage

- 5.98 The site is well established with historic minerals operations that have removed the original ground surface with the result that there is no impact on archaeological remains. The County Archaeologist has advised that there are no comments to make and or objections to the proposed retention of the recycling facility.

5.99 Immediately to the north of the application site is a complex of Grade II Listed buildings which include Dunton Hall, a barn 20 metres south-east of Dunton Hall and the pigeon house 30 metres west of Dunton Hall. The bund along the northern boundary of the site screens views of the site and plant within the site from the listed buildings. When planning consent was granted in 2016 for the northern extension to the KSD site, the northern bund was not considered to pose a significant change in the landscape character of the area and therefore not to adversely affect the setting of the listed buildings any further than had previously occurred. There have been considerable changes to the setting of those buildings given the developments that have occurred in the past 30 years or more with the construction of the M42, M6 Toll Road and the A446 which are permanent. There are no alterations proposed to the operations at the application site and their retention for a further temporary period is not considered to have any greater impact on the setting of the listed buildings.

Flood and Drainage

5.100 The application site is in an elevated location within Flood Zone 1, over 1.0 km north of the nearest area of Flood Zone 2 around the River Tame. The application site is served by below ground attenuation tanks located adjacent to the southern boundary of the site, which store surface water runoff from across the site in order to prevent discharge of surface water beyond the site. The stored water is used within the processing plants on the site in addition to use during dry weather conditions to suppress dust. The site is operated under an EA permit and subject to a planning condition requiring that there is no discharge of foul or contaminated drainage from the site.

5.101 In determining the previous planning application for the workshop and storage building on the site (NWB/18CM001) a planning condition was imposed requiring the specification of the tanks to be submitted to the Lead Local Flood Authority (LLFA) to ensure sufficient capacity to accommodate the additional run-off as a result of the workshop development. It is recommended that the condition be imposed on a new planning consent as while works have been undertaken to increase surface water storage capacity, the details have not been formally submitted for the discharge of that previous planning condition. The LLFA has stated there is no objection to the proposed extension of time.

6. Conclusions

6.1 The four applications seek to vary the planning conditions requiring the cessation of operations by December 2021 of approved the mineral extraction; recycling of waste materials; operation of the concrete batching plant; the retention of the northern extension as a storage area and the workshop and store at the KSD Recycling site. It is

proposed that the applications are each subject to a revised planning condition requiring cessation of operations and restoration of the site by December 2031.

- 6.2 The site is located in the Green Belt where policy seeks to resist inappropriate development and maintain openness, except where very special circumstances are demonstrated which outweigh inappropriateness or any other harm as a result of the development.
- 6.3 It is considered that there are Very Special Circumstances which outweigh the harm to the Green Belt. The site is in a very good sustainable location for minerals and waste development, as the site also serves major local markets for recycling and the materials can be transported in and out of the site on the strategic road network and other major roads where there is no nuisance to residents. It would be extremely difficult to replace this site with a new site without causing large environmental impacts to communities.
- 6.4 The recycling facility contributes significantly to the total of recycled aggregates and recovered aggregates in the West Midlands and north Warwickshire. In addition, the remaining mineral to be extracted on site contributes to the Warwickshire Landbank calculation and as such complies with the need requirement of Policy S0 and the supply policies MCS1 (aggregates), MCS2 (sand and gravel) and MCS4 (Secondary and Recycled Aggregates) of the Emerging Minerals Plan.
- 6.5 Activities on the application site are well screened by the bunds surrounding the site, ensuring no adverse visual impact or detrimental effect on nearby listed buildings. The site is seen in the context of the substantial road network infrastructure, the large National Grid substation facility and the construction works for HS2. While objection has been received from Lea Marston Parish Council to the visual impact of the bunds, it is considered that additional planting would mitigate their appearance in the landscape. The proposals are considered to satisfy policies DM1, DM3 and DM4 of the Emerging Minerals Plan and the relevant sections of Paragraph 211 of the NPPF.
- 6.6 The operation of the site is considered to comply with Policy DM5 (Sustainable Transportation) of the Emerging Minerals Plan given the location in close proximity to the strategic road network with no unacceptable impact on the safety, capacity and use of the highway.
- 6.7 The proposals comply with the development plan overall except to the extent that they are inappropriate in the Green Belt. The very special circumstances put forward by the applicant are considered to outweigh the inappropriateness and therefore it is considered that the four applications may be supported and recommended for approval subject to the following planning conditions.

7. Supporting Documents

7.1 Submitted Planning Applications – Planning references:

- NWB/21CM013
- NWB/21CM014
- NWB/21CM015
- NWB/21CM016

7.2 Appendix A – Map of site and location.

7.3 Appendix B – Planning Conditions.

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