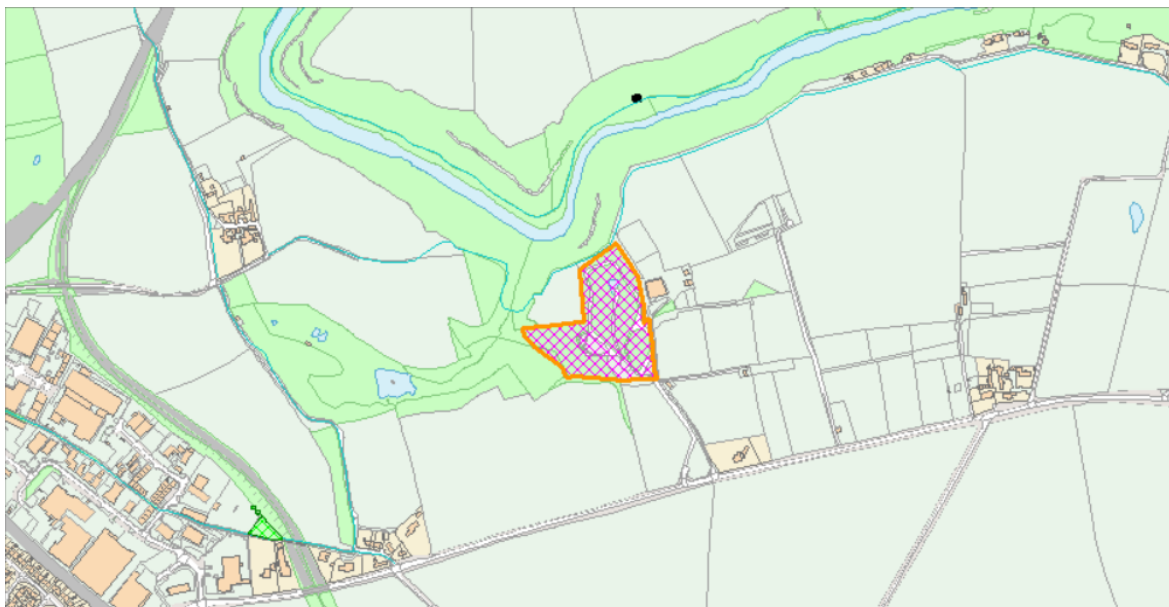




Northumberland
County Council
Strategic Planning Committee
3rd October 2023

Application No:	23/01958/VARCCM		
Proposal:	Variation of Condition 1 (Time Limit) pursuant to planning permission 15/01643/VARCCM to allow for a 10-year time extension for restoration operations		
Site Address	Shadfen Park Drift, Shadfen, Northumberland,		
Applicant/ Agent	Mrs Katie Wood 1 Meadowfield Court, Meadowfield Ind. Est., Ponteland, Newcastle upon Tyne NE20 9SD		
Ward	Longhorsley	Parish	Hepscott
Valid Date	30 May 2023	Expiry Date	1 September 2023
Case Officer Details	Name: Mr David Love Job Title: Specialist Senior Officer Tel No: 07517553360 Email: David.love@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission subject to conditions.



Introduction

1.1 This application relates to a minerals and waste application to vary a county matter proposal. Therefore, the application falls to be considered at the council's Strategic Planning Committee (SPC).

Site and Description

2.1 The site is the former Shadfen drift mine to the east of Morpeth along the A196. The planning application is for the variation of condition 1 of planning permission reference 15/01643/VARCCM in relation to an extension of time for the restoration of Shadfen Park Drift Mine. Condition 1 of 15/01643/VARCCM requires the importation of waste materials to cease and the site be fully restored, in accordance with the agreed restoration scheme, within four years of the date of the commencement of development, that is by the 14 August 2023. This is an application to extend the life of the site for a further 10 years to allow for tipping to continue and the site to be fully restored. Thus, the site would be operational until August 2033.

2.2 Shadfen Park Drift Mine is located approximately 1.5km east of Morpeth and covers a total area of approximately 2.7 hectares. It did include an opencast excavation which extended approximately 20m below the surrounding land and which was partially flooded before the restoration works commenced on the site. It also included several audits which were sealed with concrete by the Coal Authority in 1998. However, the site was not restored at this time.

2.3 In June 2006, under planning reference 00/CC/43, planning permission was granted for the importation of inert fill into the void left by the mine. This was to ensure the restoration of this derelict site. Overburden material left on the site was used to create an impermeable clay liner in the base of the void. In addition, 25,000m³ of existing overburden material was tipped into the north face of the quarry to stabilise the northern face. Imported inert materials are then being imported to restore the remaining void. The waste would be finished with approximately 2m of soils to complete the final restoration. It was estimated that the site has an overall capacity of approximately 40,000m³.

2.4 Following discharge of condition tipping commenced in the site on the 1 April 2009. The timeframes for the completion of the tipping and the restoration of the site have subsequently been extended twice (permission references 11/00178/CCM and 15/01643/VARCCM). Condition 1 of the current planning permission, reference 15/01643/VARCCM requires the site to be fully restored by 14th August 2023. The rate of tipping has slowed significantly since work started at the site because of the increasing emphasis on recycling and the move away from landfilling. All the material tipped at the site (mainly soils and clays) have been sorted from a mixed construction, demolition and excavation waste stream and they are the residual elements that cannot be recycled. The type of inert wastes disposed at the site are controlled by the Environment Agency. In addition, Shadfen is operated as a 'closed gate' facility and consequently it is only waste from Watson's of Bedlington own skip hire and haulage business that can be tipped at the site. This ensures that Watson's of Bedlington has control over the waste stream, as required by the Environment Agency permit, but it does result in a slow rate of tipping.

2.5 Furthermore, the request for extension is likely a reflection in the greater emphasis of recycling and advancements in the recovering of materials. It demonstrates that landfilling is increasingly becoming harder to achieve because of positive recycling and reuse of materials.

2.6 It is proposed that condition 1 of planning permission 15/01643/VARCCM should not be altered but remains as follows:

'The importation of material shall cease, and the site be fully restored in accordance with the agreed restoration scheme within 10 years of the date of this permission.'

2.7 Although the proposal does not involve altering condition number 1 it will, by virtue of altering the date on the decision notice, result in an extension of the life of the site by 10 years.

2.8 A plan has been submitted with the application that details the location of the geological barrier and tipping of waste is on the geological barrier. Tipping has occurred at a slow rate as the operator is using waste from his own business only rather than bringing in waste from other operators. This ensures that the operator has control over the waste deposited in the site and he can ensure that it is clean construction and demolition waste as required by the permit. The geological barrier, and the nature of the surrounding land, has resulted in water accumulating in the bottom of the void in inclement weather. There is a pump on site, and this is used when necessary, or when tipping occurs, to allow tipping activities to continue at this site.

2.9 There is a mobile screener in the southwest corner of the site and this screens the material imported into the site; the location of the plant is shown on the attached plan. This piece of equipment has been operated at the site for the last 12 years without resulting in any complaints from the residents of nearby properties. In addition, there are two temporary tracks around the eastern and western sides of the site they are temporary and lead into the void. Again, for clarity their location has been identified on the attached plan however as the working voids moves the location of these tracks will alter over time.

2.10 This application does not include any other alterations to the operation at the site.

3. Planning History

Reference Number: CM/75/D/4B

Description: Extension to underground workings and renewal of temporary permission for existing drift mine, as amended by letter and enclosures received 18th March 1983, letter received 11th July 1983 and plan received on 16th February 1984

Status: NONCCZ

Reference Number: CM/75/D/4D

Description: Construction of office block and shower block with ancillary fencing, car parking and landscape works

Status: NONCCZ

Reference Number: C/78/D/227

Description: Intermediate and final restoration contours submitted in substitution for similar plans received with planning permission 75/D/4A

Status: PER

Reference Number: 11/00178/CCM

Description: Extension of time for restoration of Shadfen Park Drift. Planning reference number 00/CC/43

Status: PER

Reference Number: 15/01643/VARCCM

Description: Variation to condition 2 (importation of material) of application 11/00178/CCM

Status: PER

Reference Number: CM/75/D/4A

Description: Amendment of the working details for proposed coal mine on 7.08 hectares of land, as amended by Plan No. 1A received by Northumberland County Council on 25th June 1976

Status: NONCCZ

Reference Number: CM/75/D/4

Description: Proposed Coal Mine, as amended by plans received by Northumberland County Council on 18th February 1975 and letter dated 10th October 1975 received by Northumberland County Council on 15th October 1975 and amplified by site plan No. 1 received by Northumberland County Council on 8th December 1975

Status: NONCCZ

4. Planning Policy

4.1 Development Plan Policy

STP 1 - Spatial strategy (Strategic Policy)

STP 2 - Presumption in favour of sustainable development (Strategic Policy)

STP 3 - Principles of sustainable development (Strategic Policy)

STP 4 - Climate change mitigation and adaptation (Strategic Policy)

STP 7 - Strategic approach to the Green Belt (Strategic Policy)

QOP 4 - Landscaping and trees

TRA 2 - The effects of development on the transport network

ENV 1 - Approaches to assessing the impact of development on the natural, historic and built environment (Strategic Policy)

ENV 2 - Biodiversity and geodiversity

ENV 3 - Landscape

MIN 1 - Environmental criteria for assessing minerals proposals (Strategic Policy)

MIN 3 - Mineral and landfill site restoration, aftercare and after-use (Strategic Policy)

WAS 3 - Waste disposal (Strategic Policy)

WAS 4 - Safeguarding waste management facilities (Strategic Policy)

4.2 National Planning Policy

NPPG - National Planning Practice Guidance (2021, as updated)

NPPF - National Planning Policy Framework (2021)

NPW – National Waste Strategy

4.3 Neighbourhood Planning Policy

5. Consultee Responses

Hepscott Parish Council	No response received.
Highways	No objection subject to continuation of existing conditions
County Ecologist	No objection subject to continuation of existing conditions
Environment Agency	No response but the proposal will be subject to separate legislation governed by the EA.
Natural England	No response received.

6. Public Responses

Neighbour Notification

Number of Neighbours Notified	2
Number of Objections	0
Number of Support	1
Number of General Comments	0

Notices

- General site notice, 3rd July 2023
- Northumberland Gazette 22nd June 2023

Summary of Responses:

- A single letter of support has been received.

7. Appraisal

7.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the development comprises policies in the Northumberland Local Plan. The National Planning Policy Framework (NPPF) (February 2019) and Planning Practice Guidance (PPG) are material considerations in determining this application.

7.2 The main issues for consideration in the determination of this application are:

- Spatial strategy
- Waste Management

Spatial Strategy

7.3 Paragraph 79 of the NPPF states that housing should be located where it will enhance or maintain the vitality of rural communities. Where there are groups of smaller settlements, development in one village may support services in a village nearby.

7.4 Local Plan policy STP 1 sets out the spatial strategy through the associated maps. In this instance the proposal lies within the Greenbelt surrounding Morpeth. There is a general presumption against most types of development. However, the proposal is identified as an existing waste management facility under policy WAS 4. Given the proposal maintains an existing facility and does not impact further on the Greenbelt than that already considered through the Local Plan process the principle of the proposal can be supported through the spatial strategy.

Waste Management

7.5 The Waste Recovery Plan, drawn up in 2012, estimated that 2,500m³ of materials had already been tipped on the site, under the Waste Exemption, leaving a total of 37,500m³ to be imported into the site. Since 2012, it is estimated that approximately 12,000 m³ of material has been bought into the site (19,000 tonnes since 2015). There is a remaining void space equating to approximately 25,000 m³ of material.

7.6 In 2012 it was anticipated that 3-4000 m³ of material would be bought into the site a year however this has dropped due to the emphasis on recycling and now a maximum of 2,000m³ is bought into the site per annum. On that basis, an extension of time for a further 10 years to complete the site restoration is considered appropriate.

7.7 Policy WAS3 Waste Disposal (Strategic Policy) within NLP, under Criteria (1)(c) states the following:

'Encourage the positive use of inert waste material through the restoration of minerals extraction sites and for land reclamation and improvement schemes where it is possible to do so'

7.8 The application is for the disposal of clays and soils that cannot be recycled. The operation benefits from a 'recovery' permit, issued by the Environment Agency and this underlines the fact that the material deposited in the site is being used to restore, that is recover, land that was previously degraded by an old coal mining operation. The use of the waste to restore the Shadfen Drift Mine is supported by Policy WAS 3 in the Local Plan.

7.9 Policy WAS4 states in criteria (1):

'Existing waste management facilities (as shown on the Policies Map) will be safeguarded from development that would prejudice or prevent the use of the site for waste management use.'

7.10 The Shadfen site is identified as an existing waste management facility within the NLP and therefore its continued use is safeguarded under Policy WAS4, until such a point as the restoration is completed.

7.11 Overall, the strategic policies (Policy WAS3 and Policy WAS4) support the retention and the continued use of Shadfen for the disposal of inert wastes to restore and recover the drift mine.

Equality Duty

7.12 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due

regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

7.13 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

7.14 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

7.15 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

7.16 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision-making process, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 The continuation of tipping at the site for a further ten years will ensure that Shadfen Park Drift Mine is restored to the environmental benefit of the area. The void was successfully engineered, in accordance with the planning conditions, and the site has operated successfully since 2012. The overall emphasis on recycling in national and local government policy and the use of only residual material from this process has resulted in the site being restored at a slower rate than was originally anticipated. However, the infilling of this void is supported by strategic planning policy as it will result in the restoration and recovery of degraded land that has result from an old coal mining operation. In addition, the Environment Agency permit now requires the operator to have control over the source, quality and type of waste deposited at the site and that it is restricted to waste from the operators' own business. Overall, it is considered that an additional 10 years would help to ensure that the site would ultimately be restored to the environmental benefit of the area.

9. Recommendation

9.1 That this application be GRANTED permission subject to the following:

Conditions/Reason

01. Timescale

The importation of material hereby approved and subject to this application shall cease, and the site be fully restored in accordance with the approved restoration scheme no later than 10 years from the date of this permission.

Reason: To ensure that the development is carried out within a reasonable period of time.

Approved Plans and Documents

02. The development hereby permitted shall be carried out in complete accordance with the plans and specifications approved by the Waste Planning Authority and specified as follows:

Site Layout 001

Planning Application 00/CC/43

Planning application and supporting statement dated 7 September 2000 (as subsequently amended)

Plan ref. DRG no. SPD-APP

Report on "Shadfen Park Drift Restoration Scheme Revised Proposals" (April 2004) (as subsequently amended)

Report on "Shadfen Park Drift Restoration - Demonstration of Operational Safeguards for Protection of Groundwater" (July 2005)

Letters and attachments from Dickinson Dees of 1 June 2001 and 21 June 2001.

E-mail from Dickinson-Dees, dated 12 January 2005.

Letter and attached documentation relating to structural Stability of Slopes and Stythe, dated 21 February 2006.

Planning Application 11/00178/CCM

Plan ref KW/83097/vkd

Planning Application 15/01643/VARCCM

Application plan S73 2015

Site Layout Plan 001

Reason: To ensure that the development is carried out in accordance with the approved details

03. Materials

No materials other than inert materials consisting of soils and naturally occurring excavated materials shall be imported into the site.

Reason: To ensure that the development is carried out in accordance with the approved details

04. Restricted Permitted Development Rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) no fixed plant or machinery, buildings, structures and erections shall be erected on the site and no mining engineering or other operations shall be carried out.

Reason: In the interests of amenity and to protect the openness of the Greenbelt as per policy STP 8.

05. On Site Amenity

The site offices, site parking and dry wheel wash shall remain in situ for the duration of the use hereby approved.

Reason: In the interests of amenity and compliance with Local Plan policies TRA 2 and WAS 2.

06. Settlement Lagoon

The approved settlement lagoon, as set out in approved plan SHAD/1, shall be retained for the duration of the development hereby approved. The lagoon shall then be removed upon the cessation of on-site restoration work.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2.

07. Soil Stripping Notice

The Waste Planning Authority shall be given at least 48 hours' notice (excluding Sundays, Bank or Public Holidays) of any intended phase of topsoil or subsoil stripping and such works shall only proceed with the approval of the Waste Planning Authority.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2.

08. Soil Stripping Limitation

The stripping and movement of topsoil and subsoil shall only be carried out under conditions where the soil is sufficiently dry and friable to avoid soil smearing and compaction and to ensure that all available soil resources are recovered. Details of appropriate methods of soil stripping should be submitted to and agreed with the Waste Planning Authority for any permanently wet or waterlogged areas of the site and thereafter be implemented in full.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2.

09. Soil Storage Mounds

Any soils or soil-making material stripped or imported and not used in progressive restoration, shall be stored in mounds, the details of which shall be submitted to and agreed with the Waste Planning Authority and implemented in full.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2.

10. Mine Gas Control

The development shall be constructed in accordance with the Mine Gas control measures as specified in the letter from Wardell Armstrong dated 20 February 2006

and the details attached thereto. This includes the provision of granular fill consisting of coarse 40-70mm aggregate covering the mine entrances within the void and extending to the surface of the restored landform.

Reason: To prevent problems occurring from stythe gas emissions as per policy WAS 2.

11. Site Management Plan

The site shall be managed in accordance with the 'Site Management Plan' included within the report on the "Demonstration of Operational Safeguards for Protection of Groundwater" (July 2005).

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

12. Operating Hours

All operations on site shall only take place between the following hours:

Monday-Friday 7.00 am-7.00 pm

Saturday 7.00 am-1.00 pm and

not at any time on Sunday, Bank or Public Holiday.

Reason: In the interests of the proper working, to protect residential amenity and as per policy WAS 2.

13. Dust Management

Measures shall be taken to prevent the raising of dust from any part of the site and such measures shall include the use of a water bowser or similar apparatus and wind break fencing when necessary and shall also include the temporary cessation of relevant operations, if necessary, to prevent the transmission of dust to areas outside any part of the site.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2.

14. Storage Bunding

No fuel, oil, lubricant, paint or solvent shall be stored within the site, without the details of the appropriate storage submitted to and agreed with the Waste Planning Authority; any storage so approved shall incorporate bunding to accommodate at least 110% of the stored materials. The agreed details shall be implemented in full.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

15. Stockproof Fencing

Stockproof fences shall be maintained around the working areas at all times during periods of soils/overburden stripping, and restoration.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

16. Availability of Operational Details

A copy of this permission, all approved plans/documents, subsequently approved details, and the sites operational log shall be kept at the site when in operation and all relevant personnel shall be made aware of their contents.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2

17. Site Security

The site shall be made secure, and the access gates locked when the site is not in use.

Reason: In the interests of the proper working, security, and restoration of the site as per policy WAS 2.

18. Wagons to be Sheeted

All loaded wagons entering/leaving the site shall be sheeted to prevent the spread of dust/debris onto the highway.

Reason: In the interests of highway safety as per policy TRA 2.

19. Vehicular Movements

No more than 33 loaded lorries shall enter the site during any week (Mon-Sat) (equivalent to 6 per 9 hour working day) with a maximum of 20 loaded lorries over any full working day. The operator shall keep a log of vehicles entering and exiting the site to be made available at all reasonable times to the planning authority.

Reason: In the interests of highway safety as per policy TRA 2.

20. Access Restrictions

The access from the A196 on to the private haul road constructed pursuant to planning permission 06/00128/CCM shall be the sole access for vehicles associated with the site.

Reason: In the interests of highway safety as per policy TRA 2.

21. Directional Signage

The directional signage erected adjacent to the site shall be maintained for the duration of the use hereby approved.

Reason: In the interests of highway safety as per policy TRA 2.

22. Restoration and Aftercare

Within 12 months of the date of this decision, a restoration and aftercare scheme shall be submitted and approved by the Waste Planning Authority.

The scheme shall include, but is not limited to, the following details:

- a) An aftercare scheme, including an aftercare period of at least 5 years;
- b) A timetable for the implementation of the works;
- c) Safeguarding of existing areas of grassland and scrub, where possible;

- d) the creation of areas of grassland and scrub including details of species composition, density of cover, and timing and method of establishment. Species rich grassland should be sown directly onto subsoil;
- e) the creation of a reduced area of woodland, including specifications of tree species, stock type and size, and spacing, method, timing and position of planting.;
- f) methods of controlling weeds;
- g) application of fertilisers, or methods of determining fertiliser requirements, if appropriate;
- h) woodland management, including maintenance of tree planting, replacement of dead/dieing trees, and commitment to investigate and remedy site conditions which cause abnormal tree failure;
- i) maintenance of all drainage facilities, and any wetland features provided;
- j) timing and frequency of inspections;
- k) arrangement for submission of a report detailing an annual programme of procedures to maintain planting; and
- l) arrangements for consultations with landowners and occupiers.

Thereafter, the site shall be restored and managed in accordance with the agreed schemes.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

23. Soil Placement

Soils emplacement shall only be undertaken when it and the ground onto which it is to be placed, are in a dry and friable condition.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

24. Soil Depth

A minimum overall soil depth of 750 mm shall be spread, of which 200 mm shall be topsoil.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

25. Site Inspection Prior to Topsoil

The Planning Authority shall be given the opportunity to inspect the site prior to topsoil emplacement.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

26. Wildflower Mix

A Northumberland Wildflower Mix MG5, as approved within the letter from Northumberland County Council to Blackett Hart and Pratt dated 9 November 2007 shall be used to seed restored areas. Should this seed mix not be available, a revised seed mix should be submitted to and agreed by the Waste Planning Authority prior to any seeding commencing and implemented in full.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

27. Perimeter Fencing and Signage

The perimeter fencing and warning signs shall remain in situ, in accordance with plan no DrgNo SPD3 approved by the Planning Authority on 30 January 2009. The fencing and signs shall be maintained in a sound and legible condition for the duration of the use hereby approved.

Reason: In the interests of the amenity and safety of local residents and livestock as per policy WAS 2 and ENV 2.

28. Sandmartins

Should any sandmartins be discovered nesting within the site boundary, a scheme for the protection of the sand martin nesting area within the site shall be submitted to and agreed by the Waste Planning Authority. The development shall thereafter be carried out in accordance with the agreed scheme.

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

29. Water Body Creation

Notwithstanding the details submitted in relation to this planning application, the water body created as a result of the site restoration shall solely be maintained for nature conservation purposes and shall not be used as a fishing lake (either on a commercial or non-commercial basis).

Reason: In the interests of the proper working and restoration of the site as per policy WAS 2 and ENV 2.

Informative

Ecology

The risk of encountering nesting birds or other protected species in connection with the execution of this planning consent is low, but there is a small risk that individual animals may be encountered during works. Wild birds and their nests are strictly protected under the Wildlife and Countryside Act 1981 (as amended). All wild birds and their nests are protected whilst in use and it is an offence to recklessly or intentionally destroy nests or dependent young when on or near the nest, or to kill or take them. Accordingly, any vegetation removal or soil stripping undertaken between 1 March - 31 August carried out as part of the proposal should be preceded by checks to confirm that no bird's nests that are being built or are in use, eggs or dependent young will be damaged or destroyed.

Applicants and contractors should note that the protected species legislation operates independently of the planning system, planning consent does not override the legislation relating to protected species and that they should be aware that there is a small chance of encountering protected species during works. In the unlikely event of protected species such as nesting birds being encountered during development then works should cease immediately and professional ecological advice should be sought straight away.

Date of Report: 8th September 2023

Background Papers: Planning application file(s) 23/01958/VARCCM