



Appeal Decisions

Inquiry held on 4 June 2024, 19-22 November 2024 and 25 November 2024

Site Visit made on 18 November 2024

by J Whitfield BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2025

Appeal A Ref: APP/X4725/C/24/3337726

Land at Welbeck Landfill Site, Boundary Lane, Normanton

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeal is made by Welbeck Waste Management Limited against an enforcement notice issued by Wakefield Metropolitan District Council (the LPA).
 - The enforcement notice was issued on 19 January 2024.
 - The breach of planning control as alleged in the notice is failure to comply with condition 1 of planning permission Ref: 18/00754/WAS granted on 14 September 2018.
 - The development to which the permission relates is reclamation by landfilling with colliery spoil and controlled waste.
 - The condition in question is No 1 which states that: This permission shall be limited to the period ending 31 December 2025 by which time operations shall have ceased and the site will have been restored in accordance with the approved restoration scheme. All non-hazardous waste imported into the containment landfill cells, excluding capping materials and soil restoration materials, shall cease by no later than 31 December 2023.
 - The notice alleges that the condition has not been complied with in that the importation of non-hazardous waste is continuing to be imported into the landfill containment site area after the specified time period.
 - The requirements of the notice are: Cease the importation of all non-hazardous waste into the containment landfill area on the site to comply with Condition 1.
 - The period for compliance with the requirements is: 2 months
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/X4725/W/23/3336117

Welbeck Landfill Site, Boundary Lane, Normanton WF6 2JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Welbeck Waste Management Ltd against the decision of Wakefield Metropolitan District Council.
- The application Ref 18/00754/S7301, dated 7 August 2023, was refused by notice dated 30 November 2023.
- The application sought planning permission for the reclamation by landfilling with colliery spoil and controlled waste without complying with conditions attached to planning permission Ref 18/00754/WAS, dated 14 September 2018 (the 2018 permission).
- The conditions in dispute are Nos 1, 3, 15, 16 and 23 which state that:
 1. This permission shall be limited to the period ending 31 December 2025 by which time operations shall have ceased and the site will have been restored in accordance with the approved restoration scheme. All non-hazardous waste imported into the containment landfill cells, excluding capping materials and soil restoration materials, shall cease by no later than 31 December 2023.

3. The working and restoration of the site shall be carried out only in accordance with following approved plans and documents:
Planning Statement WR7346/PS)
WR7346/21/01 Site Location Plan
WR7346/21/02 Planning Application Boundary and Land Under the Applicants Control
WR7346/21/03 Approximate Land Use Areas
WR7346/21/04 Rev 2 Phasing Plan
WR7346/21/05 Pre-settlement contours
WR7346/21/06 Post Settlement Contours
WR7346/21/07 Section Location Plan
WR7346/21/08 Sections through Proposed Landform
WR7346/21/09 (Revision 1) Restoration Masterplan
WR7346/21/10 Current Scheme of Surface Water Drainage
WR7346/21/11 Proposed Scheme of Surface Water Drainage
WR7346/21/12 Waste Settlement Levels
Drawing Ref 391-NE-2016-18-03 Construction Details of the Sidewall Bund
Letter dated 16 July 2018 from Sirius Planning referring to proposed modifications to restoration works (Ref WR7346)
Rapid Health Impact Assessment for planning (Tool)
Letter dated 2 August 2018 from Sirius Planning Ref WR7346 (Additional Info) setting out confirmation of the revised timescales for the importation of non-hazardous waste to the site; and details of the proposed surcharge levels; and
Surface Water Management Plan Design Report Ref WR4766 /01 dated 2013
 15. Unless otherwise approved in writing by the Local Planning Authority final landform and surface restoration levels shall accord with the landform and contours shown on the approved plans, ie: not exceeding WR7346/21/05 - Pre-settlement contours, and WR7346/21/06 Post Settlement Contours.
 16. No tipping shall take place in any phase beyond the levels shown on the approved Plan WR7346/21/05 - Pre-settlement contours unless or until an assessment of settlement and surcharge has been submitted to and approved in writing by the Local Planning Authority. As the operations approach final fill levels and in any case before the final grading of cover and before the spreading of subsoil the surface levels shall be checked by competent surveyors and the results shall be submitted to the Local Planning Authority upon request. Markers shall then be erected to indicate the approved final fill levels and approved intermediate levels.
 23. Notwithstanding the details indicated on the approved Plan WR7346/21/09 (Rev 1) Restoration Masterplan by no later than 6 months before the anticipated completion of landfilling in each phase(s) a detailed scheme for the cultivation and landscaping of that phase(s) shall be submitted to and approved in writing by the Local Planning Authority. Such schemes shall indicate the areas to be grass seeded planted with hedges and woodland or utilised for agricultural purposes and shall give details of soil management pre-treatment and cultivation seed mixtures the location species size planting specification and protective measures for woodland areas hedgerows and trees and the phasing of the cultivation and landscaping works. The works shall be carried out in accordance with the approved details.
 - The reasons given for the conditions are:
 1. To provide for the completion and progressive restoration of the site to the approved timescale in the interests of local amenity in accordance with LDF Waste DPD Policy W8.
 3. To ensure the site is restored within the timescale envisaged in the application and in the interests of local amenity in accordance with LDF Development Policy D9 and Policy D12.
 15. To ensure the proper restoration of the site in accordance with the submitted plans in accordance with LDF Development Policy D12 and Waste DPD Policy W6.
 16. To ensure proper restoration of the site in accordance with LDF Development Policy D12 and Waste DPD Policy W6.
 23. In the interests of the proper restoration of the site in accordance with LDF Development Policy D12 and comply with Waste DPD Policy W6.
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Decisions

Appeal A

1. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. The appeal is allowed, and planning permission is granted for the reclamation by landfilling with colliery spoil and controlled waste at Welbeck Landfill Site, Boundary Lane, Normanton WF6 2JA without compliance with condition numbers 1, 3, 15, 16 and 23 previously imposed on planning permission Ref 18/00754/WAS, dated 14 September 2018 and subject to the conditions set out in the Schedule to this decision.

Applications for Costs

3. Applications for costs were made by Welbeck Waste Management Ltd against Wakefield District Council and by Wakefield District Council against Welbeck Waste Management Ltd. The applications are the subject of separate Decisions.

Procedural Matters

4. A Case Management Conference was held on 15 April 2024 to discuss only procedural matters relating to the appeals.
5. Prior to the Inquiry opening on 4 June 2024, the appellant sought, as part of the appeal process, to amend the proposals which had been put before the LPA in the application subject of Appeal B. Those amendments were to vary condition 1 of the 2018 permission to extend the timescale for completion of the importation of waste from 31 December 2023 to 31 December 2026 - an additional two years beyond the proposed deadline of 31 December 2025 which the application had been determined on. Secondly, the appellant proposed changes to the restoration and landscaping of the site from that considered by the LPA.
6. Having heard submissions from the parties, I ruled on the opening day that, with regard to the longstanding principles of *Wheatcroft*¹ and the relevant authority of *Holborn Studios*², that it was open to me to consider the revised timescale in respect of Appeal A, and both the revised timescale and revised proposals for restoration in respect of Appeal B. Nonetheless, I concluded that it was only open to me to do so if the revised proposals were subject to public consultation.
7. Furthermore, the 2018 permission was accompanied by an Environmental Statement (ES) (the 2018 ES) for the purposes of the Environmental Impact (EIA) Regulations 2017 (the EIA regulations). An addendum to the 2018 ES accompanied the 2023 application subject of Appeal B. Consequent to the refusal of the application, the appellant determined, in the scope of preparing for the appeal, that a full updated ES (the 2024 ES) was necessary to update baseline data from the 2018 ES and respond to the amended scheme which was put forward as part of the appeals. I ruled at the Inquiry that it was necessary for me to consider the appeals on the basis of the most up-to-date environmental

¹ *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

information and thus that I would accept the 2024 ES, provided consultation on its submission was also carried out alongside that on the amended proposals.

8. The Inquiry was adjourned, and public consultation took place until 21 July 2024. I have taken into account the responses to that consultation.
9. The 2024 ES was prepared in accordance with the EIA regulations. I am satisfied that the information submitted is sufficient to meet the requirements of Schedule 4 of the EIA regulations. Consequently, I have determined the appeals on the basis of the amended proposals and the 2024 ES.
10. On day five, the LPA informed the Inquiry that the LPA's planning witness no longer intended to give evidence to the Inquiry and had withdrawn their proof of evidence. On that basis, the LPA determined that, whilst the reason for refusal in Appeal B and the issue of the enforcement notice in Appeal A still stood, the LPA would not be providing evidence in support of its refusal on Appeal B or appeal A on ground (a).
11. Following the close of the Inquiry, the parties were given until 26 November 2024 to submit an agreed schedule of suggest conditions and until 9 December 2024 to submit a signed and completed S106 agreement.

APPEAL B

Preliminary Matters

12. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024 following the close of the Inquiry. I am satisfied the revised Framework has not materially changed the cases of the parties and thus, their views have not been sought on it. Nonetheless, I have had regard to the revised Framework.
13. The decision notice refers to the policies in the LPA's adopted Local Development Framework. However, the LPA adopted the Wakefield District Local Plan 2036 Planning Growth and Protecting Places Volume 1 Development Strategy, Strategic and Local Policies (the LP) on 24 January 2024, superseding the previously adopted plan. I have therefore determined the appeal on the basis of the relevant policies in the adopted LP.

Main Issues

14. The main issue is whether conditions 1, 3, 15, 16 and 23 of planning permission 2018/00754/WAS meet the tests of national policy in respect of:
 - the environmental effects of the extension of the period of operation and the revised proposals for the restoration of the landfill on, in particular, ecology, biodiversity and nature recovery, and the living conditions of local residents;
 - the environmental effects of alternative options for the closure of the landfill; and,
 - whether the extension of the period of operation and revised proposals for restoration of the landfill comply with the development plan taken as a whole.

Reasons

Background

15. Welbeck Landfill comprises part of a former quarry. It extends to around 87ha in total including the operational, non-hazardous landfill area of 11ha and the low-level recovery area (LLRA) of 21ha. The infilling of the quarry with waste commenced in 1987 with the importation of colliery spoil. The importation of non-hazardous waste began in 1997. Planning permission³ was then granted in February 2013 for the continuation of operations up until 19 May 2018. Subsequently, planning permission was granted in September 2018 for reclamation by landfilling with colliery spoil and controlled waste with variations to several conditions of the 2013 permission, including the time limit for operations. That became the operative permission for the site with an end date of 31 December 2023 for the importation of waste and 31 December 2025 for the restoration imposed by condition 1.
16. There is a remaining void within the non-hazardous part of the landfill, as of 30 September 2024, of around 210,184m³. The void comprises a ravine shaped feature within the landform. Clearly, completion of the landfill within the timescale approved by the 2018 permission is no longer achievable with the deadline having passed and void space remaining.

Proposals

17. The development before me comprises a revised restoration scheme for the site, which is facilitated by the continuation of landfilling of non-hazardous waste beyond 31 December 2013 to complete the remaining void. At present, the projected date by which all cells will be full is 20 November 2026. It is therefore proposed to impose a condition which requires the deposition of waste to be completed by 31 December 2026.
18. The restoration scheme is proposed to comprise 10.45ha of native woodland planting, 1.77ha of native scrub planting on the north facing slope of the landform; 2,230m of species rich hedgerow; 15.56ha of species rich grassland; and 13.51ha of open common.
19. To facilitate an earlier completion of the operations, it is proposed to reduce the infilling of the LLRA with soils from what was previously proposed in the application. Instead, a pond of around 0.94ha in size would be created following the extraction of colliery shale which is stockpiled in the area and used for landfill capping. Around 3.49ha of the LLRA around the pond would be managed to create an open mosaic habitat.
20. The contours of the finalised landform are largely unchanged from those granted in the 2018 permission, with some minor variances. The landform would be slightly lower than the approved scheme (circa 67m AOD pre-settlement height compared to 68m as approved) and would have a slightly shallower profile on the north-eastern flank.
21. In terms of timescales, it is proposed for all seeding and planting to be carried out alongside the continuation of landfilling. Restoration soils would be placed and

³ LPA Ref: 12/02120/FUL

seeding and planting would commence in 2025. It is proposed that all restoration soil placement, seeding and planting will be completed by the end of 2028.

22. In addition, it is proposed to create a network of permissive footpaths throughout the site. Given the fact that the gas and leachate management systems will remain in place for up to 60 years post closure, the permissive paths across the non-hazardous area of the landfill would not come into use until the gas and leachate production has reduced to the point where the Environmental Permit for the site is surrendered.
23. Nonetheless, whilst the approved 2018 scheme contained some provision for public access, some of the approved footpaths were conditional on permit surrender. However, some of those footpaths are now to be located on the LLRA. The appellant proposes that those footpaths could now be opened up to public use post-aftercare, rather than post-permit surrender. To that end, a new series of public rights of way would be in place five years after restoration completion in 2033. This circular network would link up with the canal-tow path to the west and the existing permissive paths to the east.

Identification of Alternatives for Landfill Completion

24. If planning permission were refused for the extension of time, then waste deposits would cease immediately. To that end, there would be several potential solutions for restoring the landfill which the appellant has put forward.
25. Firstly, the 'no-new development' scenario envisages that landfilling ceases and capping and restoration works are completed by 31 December 2025 in accordance with the 2018 permission. If landfilling ceases immediately, a ravine feature would remain within the central area of the site. There are two options in that scenario. Firstly, the ravine is left. However, it could not be capped given its profile as soils would simply slide off. Alternatively, existing waste within the landfill could be excavated and relocated to the ravine to achieve the necessary domed profile to cap the waste. The appellant's evidence is that, as of May 2024 around 64,000m³ of waste would need to be excavated and relocated. The appellant's witness accepted at the Inquiry that the figure would now be lower as a result of a reduced void from ongoing filling. However, no revised figure is before me. It was put to me at the Inquiry that the fundamental timescales and implications of the 'no new development' scenario would not change as a result of the reduced void from when the calculations were done in May 2024. I have no reason to conclude otherwise.
26. Secondly, the 'soils only scenario' envisages imported soils being used to complete the approved landform within the non-hazardous area of the landfill in accordance with the 2018 permission. It is estimated that around 240,590m³ of soils would need to be imported as of May 2024. Again, this would now be reduced but no exact figure is before me, and I have no reason to believe the timescale assumptions made in the evidence of the appellant are not robust.
27. Thirdly, the 'alternative landform' scenario involves continuing to deposit waste but with a lower quantity than that which the proposals involve, such that the ravine would be reprofiled to a shallow valley and a revised restoration plan put in place for the site. The appellant has assessed it on the basis that between 25,500m³ to 100,000m³ of additional waste would be deposited in the non-hazardous area of the landfill.

28. All those scenarios would require variations to the Environmental Permit regulated by the Environment Agency (the EA).

Effect on Ecology, Biodiversity and Nature Recovery

29. The LPA refused the application on the basis that the extension of time would prolong the impact of the site upon ecology and biodiversity in the surrounding locality and undermine nature recovery objectives.
30. The LPA's case at the Inquiry was largely predicated on the basis that, whilst habitat survey data and biological records search were updated as part of the 2024 ES, protected species surveys were not. It was said that the 2024 ES was made on the basis of the 2018 data and was out of date. It is also stated that the 2024 ES excludes impacts from the 2018 ES and assesses impacts against the 2024 baseline.
31. However, the 2018 permission amended the site contours, reduced the total waste input and allowed for the use of colliery spoil from the LLRA, whilst also allowing the importation of clean restoration soils into the LLRA. Prior to the 2018 permission, the LLRA had remained undisturbed for a prolonged period, resulting in the development of flora and fauna. Consequent to the implementation of the 2018 permission, the area was cleared to allow for the spoil to be worked and the soils to be imported. It is evident from the photographs before me, as well as my own observations, that very little of the previous habitat identified in the LLRA in the 2018 ES remains. To that end, the baseline for assessment in the 2024 ES is the cleared area of the LLRA.
32. The 2024 ES sets out that the operational areas of the site are of very low potential value to the species considered in the 2018 ES. The assessment was informed, in part, by a walkover survey. Given the very limited extent of potential suitable habitat which remains on the site, I am satisfied that the degree of assessment to inform the 2024 ES is sufficient.
33. The parties agree that no designated sites of international or national importance lie within the zone of influence. There are nonetheless four sites of local importance. They are the Southern Washlands Local Wildlife Site (LWS) and Local Nature Reserve (LNR); Stanley Ferry Flash LWS and, further afield, the Ashfields and Half Moon LWS and Goosehill Common LWS.
34. Goosehill Common LWS is nearly 1km from the site with no hydrological connectivity between the two. To that end, the 2024 ES concludes the effects on the LWS to be neutral.
35. The Southern Washlands LWS/LNR and Stanley Ferry LWS are between 205m and 260m from the site. There is the potential for airborne dust to be increased due to the deposition of soil on the site. However, the 2024 ES identifies that effects from dust on potential ecological receptors are unlikely at distances over 50m. Thus, it is concluded that dust would not unduly impact the sites of local importance. Furthermore, the site will continue to operate in line with its current Dust Management Plan (DMP). Indeed, it was accepted by the LPA at the Inquiry that there is no evidence of any pollution or harm to receptors arising to date from the operations at the site. Moreover, it is agreed that it is necessary to impose a condition requiring a Dust Action Plan to be agreed with the LPA and the measures therein to be put in place.

36. In addition, the Southern Washlands LWS/LNR and Ashfields and Half Moon LWS both have hydrological connective to the site. There is thus the potential for operational and restorative works to result in contaminated surface water runoff to enter the river system and negatively impact upon the designated sites. However, the Environmental Permit regulated by the EA controls the management of surface water emissions, such that there is no significant risk of pollution from the operations. Paragraph 201 of the Framework makes clear that planning decisions should assume that pollution control regimes will operate effectively.
37. Consequently, the 2024 ES concludes that the residual effects on the designated sites from dust would be neutral whilst the residual effects in terms of water pollution would also be neutral. There is no compelling evidence before me which leads me to conclude otherwise.
38. The entire appeal site lies within the Wakefield Wildlife Habitat Network (the WHN). The proposals would result in the loss of areas of sparsely vegetated land, open mosaic habit and bare grounds within the LLRA. The 2024 ES concludes that, due to their low distinctiveness, limited extent and existing condition, none of those habitats contribute significantly to the WHN. As such, the 2024 ES says the loss of those habitats would not result in a significant negative impact on the WHN. I see no reason to conclude otherwise.
39. Indeed, the proposed restoration, which includes the creation of a large area of new habitats, would strengthen the WHN. Whilst not development which is captured by Biodiversity Net Gain (BNG), the 2024 ES has utilised the Statutory Biodiversity Metric to compare the proposed restoration to the approved 2018 restoration scheme. It concludes that the proposed restoration scheme would result in a 54.12% gain in biodiversity value on the site. That is a considerable increase above the 9.17% gain that would arise from the “no new development” scenario and restoration in accordance with the 2018 permission. The calculations take into account the temporal delay of three years resulting from the proposed extended timescales. The temporal delay is assessed as being a non-significant negative effect.
40. Ultimately, in the absence of evidence to the contrary, I find the proposed restoration scheme would have a substantial positive increase in biodiversity value compared to the previously approved scheme. Consequently, the proposals would have a positive impact on the WHN.
41. In terms of habitats, the 2024 ES finds that the proposals would result in the direct loss of 0.55ha of open mosaic habitat from the land. However, the existing area is greatly reduced in size since the 2018 permission and reduced in quality. Moreover, the proposed restoration scheme would delivery 3.49ha of substrate for the development of new open mosaic habitat. Consequently, the 2024 concludes that the loss of the habitat would be a not significant effect. I see no reason to disagree.
42. In terms of protected species, several have been identified. There are numerous records of bats within 2km of the site boundary. The 2024 ES identifies no roosting opportunities within the operational areas of the site whilst existing habitats within the operational areas of the site are assessed as largely providing negligible suitable for foraging and commuting. The wider site provides areas of moderate

quality habitat for foraging and commuting bats. There is also high-quality habitat in the wider area.

43. Whilst the delay in habitat creation would temporarily reduce the habitat resource for the local bat population, the proposed restoration scheme would provide significant foraging and commuting opportunities for bats. The 2024 ES finds that, prior to maturation of the proposed habitat creation, the delay in restoration of the site would result in a not significant negative effect. However, given the significance of the increase in biodiversity value resulting from the proposed restoration, following completion, the development would have a not significant positive effect on bats.
44. A large number of birds have been recorded within 2km of the site, predominately within the Stanley Ferry Flash LWS but also in and around the Southern Washlands LWS and the Ashfields and Half Moon LWS. The 2024 ES finds that the operational area of the site provides sub-optimal habitat for breeding birds. The wider site contains a mosaic of habitats which provides suitable breeding and foraging habitat for a range of bird species.
45. The proposal would result in the loss of 8.2ha of sparsely vegetated ground, two wet ditches and heavily disturbed bare ground. However, the proposed restoration would provide additional high-quality foraging and nesting habitat for breeding birds. Given the temporal delay, the 2024 ES identifies a not significant negative effect in the short term on the breed bird assemblage. However, given the extent of habitat creation through the proposed restoration scheme, on completion it would provide a medium term not significant positive effect.
46. In terms of reptiles, the 2024 ES identifies records of grass snake with suitable reptile habitat present within the restored or unworked areas of the site. Notwithstanding that, the operational area of the site contains limited suitable habitat for reptiles due to the lack of vegetation cover. Where there is a small area of potentially suitable habitat within a ditch, this is surrounded by unsuitable habitat reducing the potential for use.
47. Nonetheless, in the absence of mitigation, the site restoration works could result in the killing or injury of grass snake which would have a significant negative impact. The delay in restoration would also reduce any available habitat resource temporarily.
48. The 2024 ES sets out that mitigation can include the relocation of grass snakes supplemented by habitat enhancements within areas where grass snakes are displaced into. It states that these measures should be secured by condition. Whilst the parties have not suggested such a condition, I agree it is necessary to impose a condition requiring the implementation of such measures to prevent killing or injury to grass snakes. The 2024 ES concludes that with the implementation of such mitigation measures, the residual effects on grass snakes are neutral.
49. The 2024 ES identifies records of otters within and around the LWS sites of the Southern Washlands and Ashfield and Half Moon. Again, ponds identified in the 2018 ES have since been removed from the LLRA. There are ponds remaining within the wider site which could provide suitable habitat for otters. Negative impacts to otters could arise where restoration works take place in proximity to the River Calder. The 2024 ES recommends that restoration works operate in

accordance with a precautionary method statement to maintain a buffer zone to prevent undue disturbance. With that in place, residual effects on otters would be neutral. Thus, I consider a condition is necessary to require the submission and agreement of method statement to protect the local otter population.

50. Finally, invasive species comprising Giant hogweed, Himalayan balsam, Japanese knotweed and wall cotoneaster have been identified on the site. However, the 2024 ES identifies that a permit has been applied for from the EA to treat the invasive species.
51. The LPA argues that the extension of the site and subsequent delay to the implementation and maturation of the restoration scheme would result in further adverse ecological impacts. There would inevitably be some degree of harm arising from the temporal delay in achieving restoration of the site as I have set out above. The proposal would result in a three-year delay to completion of the landfill beyond the 31 December 2025 deadline in the 2018 permission.
52. Nonetheless, the LPA's witness at the Inquiry accepted that the appeal proposal was the best option in terms of impact on ecology when compared to the alternatives. Moreover, as I will turn to in due course, the parties agree the proposal is the quickest way to restore the site.
53. Consequently, I find the proposal would not, subject to conditions to secure the necessary mitigation measures, have a harmful effect on biodiversity and ecology, nor would it undermine nature recovery objectives. Overall, subject to conditions to secure the implementation of the proposed restoration scheme, the proposals would have substantial biodiversity improvements above the approved 2018 scheme.
54. The proposals would, therefore, accord with LP Policies SP23, which sets out that the district's landscape features and wildlife habitats will be protected and enhanced, and LP52 which states that development adjacent to watercourses should demonstrate no significant harm to ecological features.
55. LP Policy LP51 sets out that, where any designated site may be affected by a development, an appropriate ecological assessment will be required. However, the evidence suggests that no designated sites are likely to be affected by the proposals.
56. Furthermore, the proposals would minimise disturbance and protect and enhance the site's ecological value and moreover, the proposed restoration scheme would significantly increase the biodiversity value of the site. Thus, there is no conflict with Policy LP51.
57. In addition, the proposal would comply with LP Policy LP53 which states that development that would adversely affect the integrity and value of the wildlife habitat network across the district will only be permitted where it can be demonstrated that the public interest clearly outweighs any significant harm.
58. There would also be compliance with LP Policy LP56 which requires new development to make a positive contribution to the environment, including retaining and enhancing important and ecological landscape features.

59. Finally, the development would conserve and integrate existing natural features and use new landscape features to integrate the development with the surrounding landscape, in accordance with LP Policy LP59.
60. The development would also accord with paragraph 187 of the Framework which requires decisions to contribute to and enhance the natural and local environment.

Effect on Living Conditions

61. The LPA's reason for refusal indicated that the proposed extension of time to operations would result in harm to the living conditions of nearby residents. However, prior to the Inquiry, the LPA indicated that it no longer wished to defend the appeal on that basis.
62. Nonetheless, concerns have been raised, both in writing and at the Inquiry by Normanton Town Council and Just Transition Wakefield, as well as in several representations from local residents, regarding the potential harm to living conditions that would arise from the extension of time to the landfill operations.
63. I note that residents were harmed by odour emissions from the site around 2006/2007. However, those circumstances were a considerable time ago, and there is very little evidence before me of any recent issues with odour. Moreover, odour emissions from the site are controlled and managed by the EA through the permitting process. The planning process must work on the basis that the permitting regime will be properly enforced.
64. Concerns have been expressed that local residents have been exposed to nuisance by flies. The submissions of Normanton Town Council indicate that residents made over 137 complaints regard flies in mid-2023 and the EA noted two breaches of the permit in respect of exposure of waste and poor practice in reprofiling.
65. However, there is little substantive evidence before me that demonstrates the incident was anything other than an isolated one. There is little before me which points towards a prolonged issue with flies nor indeed any such matter which cannot be addressed by the EA through the permit.
66. There is the potential for harm from dust emissions. However, it was accepted by the LPA at the Inquiry that there is no evidence of any pollution or harm to receptors arising to date from the operations at the site. Moreover, such concerns must be predicated on the assumption that the pollution control measures set out in the Environmental Permit would be properly enforced. The appellant also accepts that a condition is necessary for a Dust Action Plan to be put in place which sets out the activities to be undertaken to suppress dust emissions. I agree such a condition is necessary to prevent off-site dust impacts in respect of the living conditions of nearby residents.
67. In terms of noise, there is little evidence before me that the proposals would result in harmful noise effects on the living conditions of local residents. Indeed, there is nothing of substance before me which demonstrates that the site has an issue, persistent or otherwise, with noise impacts. Conditions are agreed by the parties which restrict the hours of operation, restrict noise levels for operations, require noise limits as assessed at various receptors in the surrounding area, and require noise monitoring. I am satisfied such conditions are necessary and would prevent

potential harmful impacts on the living conditions of nearby residents in respect of noise.

68. As a result, I find the proposal would not, subject to conditions to secure the necessary mitigation measures, have a significant, harmful effect on the living conditions of nearby residents. To that end, the proposals would comply with LP Policy LP56 which requires new development to make a positive contribution to the environment and its locality.

Effects of the Alternatives

69. In terms of the “no new development” scenario, the EA indicates that, given the existing contours of the ravine, it would be unstable as the waste degrades and its steep sides would be unsuitable for capping as the soils would slip off. Indeed, the EA states that capping of the current steep slopes would not be agreed by them. Furthermore, the profile of the base of the ravine is such that it would not allow surface water to adequately run off the landform. The evidence of the appellant, supported by the EA and not contested by the LPA, is that the potential accumulation of surface water as a result of the ravine would likely lead to pollution as a result of water ingress into the waste.
70. I heard at length at the Inquiry regarding the effect the uncapped ravine would have in terms of generating excess leachate and interfering with the control and monitoring systems in place for landfill gas due to instability, differential settlement and increased air ingress. Therefore, there would be an increased risk of the escape of leachate into surface or groundwater and the escape of landfill gas. Moreover, ceasing waste imports and leaving the ravine uncapped would likely have significant, harmful effects on those living nearby as waste is exposed to the air and landfill gas is not controlled correctly, giving rise to odours.
71. In addition, in the scenario that waste is relocated from elsewhere within the landfill to infill the void, there would be the likely risk of substantial effects in terms of odours. As waste is dug up and moved around, odours would likely escape, particularly given the high sulphur content in waste which has been deposited in more recent years. Moreover, there is the potential for gas control pipework to be affected which may lead to odorous escapes of landfill gas.
72. Furthermore, the evidence before me is that it would take a minimum of 24 months for a variation of the environmental permit to be dealt with by the EA following a two-month timescale for designing the reprofile. Thereafter, in the scenario that existing waste is relocated and the void reprofiled, it would take around 6-12 months to complete the works. To that end, the works would not be completed until 2028 with restoration not being complete until 2030. At an additional two years, the “no new development” scenario would thus result in significantly greater impact from the temporal delay in contrast to the appeal scheme.
73. Overall, the detailed, substantive evidence of both the appellant and the EA is that there is a high risk of harmful effects on the environment and on the living conditions of residents in the event of the “no new development” scenario. In the absence of evidence to the contrary, I see no reason to conclude otherwise.
74. In terms of the “soils only” scenario, the EA indicates that there would be issues arising from the use of soils given the differential settlement that would occur. The 2018 permission was granted on the basis the landform would comprise non-

hazardous waste and assumptions were applied about the amount the waste would settle over time. Since soils contain significantly lower levels of biodegradable material, the evidence before me indicates that the soils would only settle by a few percentage points, compared to the 23% settlement assumed for the non-hazardous waste. As the soils would be placed on top of between 20m and 40m of waste material, they would essentially compress the waste below. I heard at length at the Inquiry how this would have the potential to result in significant damage to the liner of the landfill which would result in the escape of leachate into groundwater and surface water. Additionally, it would potentially damage the leachate and gas wells, all of which have been designed on the basis of non-hazardous waste. Furthermore, the EA makes clear that the alteration in waste types could impact the effective capture and management of gas and leachate, consequently increasing the likelihood of odours.

75. Similarly, it would take a minimum of 24 months to achieve a variation of the permit after a two-month period to prepare and submit the application. There would then be a varying timescale for carrying out the works depending on whether or not soils would be diverted from the LLRA to the landfill void. Notwithstanding that, the LLRA would require greater imports of soils to comply with the 2018 permission than is proposed through the appeal scheme, meaning the filling period would likely take longer than which is currently proposed. As it is, a period of 26 months solely to make and achieve regulatory approval would take the 'soils only' scenario beyond the proposed December 2026 deadline for completion of the landform with further delay in carrying out the works.
76. To that end, the substantive evidence of both the appellant and the EA is that there is a high risk of harmful effects on the environment and on the living conditions of residents in the event of the 'soils only' scenario. In the absence of evidence to the contrary, I see no reason to conclude otherwise.
77. In terms of the "alternative landform" scenario, the EA states that with a shallow valley feature located in the void, there is a risk of the accumulation of surface water. This could result in increased erosion, creating instability in the cap albeit the evidence of the EA and the appellant is that it could be managed with the correct systems in place.
78. The 'alternative landform' scenario would not necessarily result in the potential odour and environmental impacts arising from the relocation of waste in the 'no new development' scenario. However, since the 'alternative landform' scenario would not comply with the 2018 restoration scheme, there would be a need to prepare and submit a new planning application to the LPA to obtain approval for the revised landform which would take around two months to prepare. It would also take at least 24 months to obtain a permit approval. Thereafter, depending on the quantity of waste needed, it would take between three and 12 months to complete the infilling necessary. To that end, the 'alternative landform' would take around 2.5-3.5 years to complete filling. Again, this goes substantially beyond the proposed timescales for completion.
79. Ultimately, the EA's position is that the refusal to grant additional time required to restore the site will make it difficult for the EA to effectively regulate the site and ensure that compliance with the Environmental Permit is maintained.

80. In the end, the uncontested evidence of the appellant is that the EA would not grant applications to vary the Environmental Permit for any of the alternatives, given the harm that would arise. Consequently, it appears that there is, essentially, no realistic, achievable alternative to ensure the closure and restoration of the landfill site other than the appeal scheme. As a result, I find that the appeal proposals are the most expedient means to restore the site and thus minimise harm from the temporal delay in completion arising from the proposals.
81. I conclude, therefore, the extent of the harm which arises from each of the scenarios is such that the lack of harm in respect of the appeal proposal is of significant benefit.

Other Matters

82. Normanton Town Council indicates that there has been potential leachate leaking into the River Calder along with debris from the site. Moreover, their submissions refer to notes from EA Community Liaison Meetings which state there has been minor non-compliance with the environmental permit in respect of leachate compliance. However, it was put to me at the Inquiry that such references do not refer to the escape of leachate but rather the maintained levels of leachate within the landfill. In the absence of contradictory evidence to that effect, I see no reason to conclude otherwise. Moreover, there is no substantive evidence before me that leachate has leaked into the River Calder from the site previously.
83. Furthermore, the evidence put before me at the Inquiry is that the ochreous deposits referred to and documented in photographs by Normanton Town Council do not demonstrate pollution but rather a natural consequence of the exposure of colliery shale to the environment. Again, I have no contrary evidence to lead me to believe otherwise.
84. In terms of landscape impact, the landform would be broadly the same as that approved through the 2018 permission. The 2024 ES concludes that landscape effects would be negligible. Whilst there would be delay in achieving the restoration of the site from that approved in 2018, the site already assimilates well within the surrounding landscape. The harm from the temporal delay would be limited and, in any event, significantly outweighed by the harm from the alternatives. To that end, the 2024 ES concludes there would be no harm to landscape character. There is little substantive evidence to the contrary before me.
85. In terms of the visual impact, the 2024 ES concludes that these would be limited in respect of the temporary activity of HGV and plant movements on the upper slopes of the landform. The landform would change through time as landfilling is completed and restoration achieved. Soils would be exposed and moved around at various points. However, that impact would have gone by completion of restoration at the end of 2028. The landform would be finalised at that point. Whilst the 2024 ES identifies some minor, adverse effect for residential and recreational receptors within 2km of the site, the proposals would effectively result in very limited change from the existing baseline.
86. Moreover, those minor, adverse effects would exist if the appeal was dismissed and planning permission refused. The site would require restoration as per the aforementioned alternatives. The visual impacts of the landform and of operations would thus be similar if not greater as a consequence. To that end, I am satisfied the visual impact would be acceptable.

87. In terms of flood risk, the appeal site lies predominately within Flood Zone 1. Whilst parts of the wider site are within Flood Zone 2 and 3, there is no suggestion that the proposals would result in flood risk concerns. The EA has raised no objections to the development on flood risk grounds. Conditions are suggested by the parties in respect of surface water and foul drainage. I am satisfied such conditions are necessary.
88. In terms of highway safety, the uncontested evidence of the appellant is that there are no underlying road safety issues around the site and that the network movements resulting from the proposal would result in such issues, with only very minor changes in vehicle flows forecast during the proposed lifetime of the landfilling.
89. Moreover, conditions are necessary to require a wheel wash to be maintained to prevent mud from HGVs within the site escaping onto the public highway. Furthermore, a condition is suggested which requires a scheme for the footpaths, bridleways and other routes, including the provision of a safe pedestrian crossing of the Bowstring bridge to be submitted and agreed. I agree such a condition is necessary to prevent harm to highway and pedestrian safety.
90. Just Transition Wakefield submits that the proposal would result in the long-term blight of the area and damage the well-being of the community, including prevention of access to open spaces. However, the appellant has demonstrated that the proposal is the quickest and least impactful way of ensuring the suitable restoration of the site.
91. At the Inquiry, Just Transition Wakefield made submissions to that effect that I should disregard the policies of the LP as circumstances have evolved since its adoption. However, the LP forms the development plan, and I am required by statute to have regard to it.
92. I note the concerns of residents that previous extensions make it likely that future extensions would be required beyond December 2026. Whilst I acknowledge that the prolongation of landfilling will naturally cause residents a degree of uncertainty, for all the reasons above, I am satisfied that the extension of time would not result in harm to ecology or local residents, and the proposals can be suitably controlled both through the conditions imposed on the planning permission and through the permitting regime overseen by the EA.

Benefits

93. I heard at the Inquiry that the LPA has aspirations for the wider area surrounding and including the appeal site to become a country park for the enjoyment of the public. However, it was also put to me that there is no LP policy which secures such a use for the appeal site.
94. As it is, the appellant has put forward a network of public access to the site which would be implemented at various times throughout the restoration. This would involve early access to the restored parts of the site through the provision of permissive footpaths. The timing of the provisions of the entire footpath is dependent on restoration and the safe surrender of the permit. Nonetheless, the 2018 permission contained no clear mechanism to deliver the extent of public access proposed.

95. As such, the proposed restoration scheme would make a significant contribution to the aspirations of the LPA and the local community for the site to form part of a country park. This is a benefit of significant weight.
96. The parties agree that the proposals assist in ensuring that existing landfill capacity is utilised instead of new capacity being created or waste being transported further from its source. The proposal would therefore be a significant benefit in terms of sustainably dealing with waste whilst tackling the emission of greenhouse gases and subsequent impacts on climate change.

Overall Conclusions

97. As set out above, the largely unchallenged evidence of the appellant and the EA is that it is not possible to restore the site in an acceptable manner by 31 December 2025 as required by condition 1 of the 2018 permission.
98. To that end, condition 1 of the 2018 permission does not meet the tests of necessity, reasonableness or enforceability set out in paragraph 57 of the Framework.
99. Furthermore, for the reasons set out above, I find that the continuation of landfilling on the site until 31 December 2026 would not have harmful effects on ecology, biodiversity, nature recovery or the living conditions of local residents and indeed is necessary in order to achieve the restoration of the site without causing harmful environmental effects.
100. Moreover, I have found that the proposed restoration scheme would have significant benefits for biodiversity and public access. The evidence leads me to conclude that a timescale for completion of the restoration to 31 December 2028 is necessary in order to achieve restoration of the site which does not have undue environmental effects.
101. To that end, conditions 3, 15, 16 and 23 in respect of the approved plans, the final landform and restoration levels and the proposed restoration and landscaping scheme are no longer necessary or reasonable.
102. In addition to the significant benefits to biodiversity and public access that would arise from the proposals, there would also be benefits in terms of sustainable waste management. All these benefits collectively weigh heavily in favour of the development.
103. LP Policy SP16 sets out the LPA's strategic approach to waste management whilst LP Policy SP17 states out that further waste management capacity will be provided to meet identified needs through, amongst other things, existing landfill sites. It goes on to state that existing sites for waste management will be protected unless it can be demonstrated there is no longer a need for the facility or capacity can be met elsewhere in the district. Neither of those apply here.
104. LP Policy SP18 safeguards the appeal site for the disposal of residual waste in order to meet capacity needs. It sets out that the appeal site is allocated for waste management to meet the future identified need within the plan period, noting that the appeal site is an existing operational site where landfill capacity will be safeguarded as a means of final disposal of residual waste.

105. Whilst the site falls within the general extent of the Green Belt, I agree with the appellant that the allocation takes precedence and there is no need to consider the test of very special circumstances.
106. I conclude, therefore, that the proposals would accord with the development plan as a whole. Planning permission should therefore be granted subject to conditions.

Conditions

107. The main parties have agreed a list of conditions which formed the basis of the discussion at the Inquiry. Subsequent to that discussion, a finalised list of conditions has been submitted. Conditions which have been previously discharged or which are no longer considered necessary have been omitted.
108. Condition 1 in respect of the time limits is necessary to ensure a clear timescale is given for the importation of waste to cease and for restoration to be completed. Condition 2 is necessary to ensure all buildings and infrastructure are removed from the site on completion of restoration in the interests of the character and appearance of the area. Condition 3 in relation to the approved plans and condition 4 in respect of phasing are necessary to provide certainty over the phasing, contours and details of the site restoration.
109. Condition 5 in respect of operating hours for servicing, maintenance and testing of plant, condition 6 in respect of maintenance location, and conditions 7, 8, 9, 10, 11, 12 and 13 in respect of noise levels, monitoring and schemes are necessary to prevent harmful impacts on the living conditions of nearby residents. Conditions 14 and 15 in respect of a dust action plan are necessary to prevent harmful dust impacts on the living conditions of nearby residents, as well as upon ecology.
110. Condition 16 in respect of tipping levels is necessary to ensure the proposed restoration form is achieved in the interests of ecology and landscape impact. Condition 17 in respect of wheel washing equipment is necessary to prevent mud from the site impacting on highway safety. Condition 18 in respect of the provision of operation contact details is necessary to ensure the site operates without unduly affecting the environment or the living conditions of nearby residents. Condition 19 is necessary to allow the LPA to appropriately monitor restoration progress. Condition 20 in respect of details for landscaping of unrestored areas is necessary to prevent harm to ecology and landscape impact. Conditions 21 and 22 are also necessary to prevent harm to ecology, ensure biodiversity benefits and to ensure landscape impacts are avoided.
111. Condition 23 is necessary to ensure the benefits arising from the proposed footpath network are delivered without undue highway and pedestrian safety impacts. Condition 24 in respect of soils is necessary to ensure appropriate restoration of the site. Conditions 25, 26 and 27 in respect of drainage and storage of fuels or chemicals are necessary to prevent effects in respect of flood risk and water pollution.
112. Whilst not part of the agreed conditions put forward by the parties, condition 28 is necessary to ensure appropriate mitigation measures are put in place to prevent harm to grass snakes as identified in the 2024 ES. Likewise, condition 29 is necessary in accordance with the migration identified in the 2024 ES to prevent harm to otters.

Planning Obligations

113. A Section 106 agreement has been entered into by the LPA and the appellant. A signed and completed version is before me.
114. The obligations require the approval and implementation of a Landscape and Ecology Management Plan (the LEMP). This comprises a 25-year period of management measures, after the initial five-year aftercare period, for the restoration scheme of the currently operational areas of the site as shown on the submitted restoration masterplan.
115. The appeal site is currently held on a lease by the appellant. Wakefield District Council are the landowner. The lease was entered into 19 November 1998 for an initial period of 35 years. There is an option to renew the Lease for a further 35-year term, which can be exercised up to November 2031.
116. Were the appellant to renew the lease, then the planning obligation ensures that the LEMP will be implemented and maintained for the 30-year period by the appellant.
117. Additionally, if the appellant does not renew the lease, then the planning obligation ensures that it pays to the Council, 10 working days prior to the expiry of, or relinquishment of, its lease, a maintenance contribution to allow the Council to implement and manage the LEMP. The maintenance contribution has been calculated on the basis of a yearly maintenance cost, with the cost broken down by hectare. It makes a calculation for the commuted sum on both for number of years remaining on the LEMP at the time the lease lapses and the amount of land within the leasehold of the appellant, taking into account that the appellant may not relinquish the entire site and may retain a lease on parts of it.
118. There is no dispute regarding the appropriateness of the costs involved. I have no reason to conclude they are not a reasonable and appropriate amount to cover the cost of maintenance of the LEMP
119. I find the obligations are necessary to ensure the delivery of the LEMP and its benefits to biodiversity and the provision of ecological value. They are directly related to the proposals since they provide a mechanism for the delivery of the biodiversity benefits of the scheme. Moreover, I am satisfied the obligations are reasonable in terms of scale and kind to the development since they secure the outcomes of the LEMP Scheme either through delivery or through an appropriate commuted sum.
120. I conclude, therefore, that the planning obligations meet the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and the tests in paragraph 58 of the Framework.

Conclusion

121. For the reasons given above, I conclude that the appeal should be allowed.

APPEAL A

Appeal A on ground (a)

122. An appeal on ground (a) is brought on the basis that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, the condition concerned ought to be discharged.
123. The development for my consideration, therefore, is the reclamation by landfilling with colliery spoil and controlled waste without complying with the 31 December 2023 time limit for the cessation of the importation of non-hazardous waste into the containment landfill cells as required by condition 1 of the 2018 permission. It is not open to me to review any of the other conditions imposed on the 2018 permission as doing so would widen the scope of the notice.
124. The appellant proposes the imposition of a new condition, requiring the importation of waste into the landfill to cease no later than 31 December 2026. However, doing so would be inconsistent with the remainder of condition 1 which requires restoration to be complete by 31 December 2025. Indeed, the appellant accepted in closing submissions that the extension of time for the completion of landfilling would be inconsistent with the unamended time limit for the completion of restoration.
125. In any event, even if I were to discharge condition 1 and impose a new condition requiring waste importation to cease by 31 December 2026, there would be no mechanism to secure the necessary mitigation measures set out in the 2024 ES or the restoration scheme for the site which has justified the extension of time as set out in Appeal B. Since success on Appeal B results in the granting of a new permission, the 2018 permission remains extant and unaltered, along with the conditions attached to it.
126. Consequently, if the appeal on ground (a) were to succeed and the enforcement notice quashed, it would be open to the appellant to continue to implement the 2018 permission to the extended timescale and thus the mitigation measures and benefits resulting from the extension of time and the associated restoration scheme would not be secured.
127. To that end, the appeal on ground (a) and the deemed application must fail.
128. However, regard is to be had to S180(1) of the Act which states where, after the service of a copy of an enforcement notice, planning permission is granted for any development carried out before the grant of that permission, the notice shall cease to have an effect so far as inconsistent with that permission.
129. As a result of the success of Appeal B and the grant of a new planning permission for the reclamation by landfilling with colliery spoil and controlled waste without complying with conditions 1, 3, 15, 16 and 23 of the 2018 permission, and subject to new conditions, the notice will cease to have effect insofar as it is inconsistent with that permission.
130. Nonetheless, the appeal on ground (a) does not succeed, the enforcement notice is upheld, and planning permission is refused on the deemed application.

Appeal A on ground (f)

131. An appeal on ground (f) is brought on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
132. The notice requires the cessation of the importation of non-hazardous waste into the landfill. On that basis, it seems to me the purpose of the notice is to remedy the breach by making the development comply with the terms of the 2018 planning permission.
133. The appellant submits that the notice serves a dual purpose of remedying the breach and remedying injury to amenity. Even if that is the case, the parties agree that, if the notice does have dual purpose, then the appeal on ground (f) can only succeed where the requirements of the notice exceed both limbs of S173(4) of the Act.
134. To that end, the requirement to cease the importation of waste is the only step that could be taken that would ensure compliance with the 2018 permission. Any lesser step than cessation would not remedy the breach.
135. In closing submissions, the appellant made the proposition that it cannot have been necessary at all to remedy the breach on the basis that complying with the requirement would result in harm from the environmental consequences of leaving the site incomplete.
136. However, I have some difficulty with such a proposition. Firstly, the wording of S174(2) is whether “the steps required by the notice to be taken or the activities required by the notice to cease exceed what is necessary”, to remedy the breach or injury to amenity as the case may be. The question is not whether it was necessary to issue the notice.
137. Essentially, the appellant’s proposition conflates S174(2)(f) with the question of whether or not it was expedient in the first place for the LPA to take enforcement action. They are two separate tests, the latter of which, is not matter for consideration under S174(2)(f) nor one which is before me.
138. In any event, given the notice will cease to have effect as a result of my decision to grant planning permission on Appeal B, it is a moot point.
139. The appeal on ground (f) fails.

Appeal A on ground (g)

140. An appeal on ground (g) is brought on the basis that the time period for compliance in the notice falls short of what should reasonably be allowed.
141. The appellant submits, essentially, that leaving the landfill unfinished would result in the leaving of a void and the aforementioned risks associated with that. The appellant thus states that it was unreasonable for the notice to allow only two months for compliance given that the alternatives have been demonstrated to have greater impacts than the continuation of landfilling.

142. However, there is no evidence before me that the cessation of waste inputs into the site could not be achieved within 2 months. As the LPA submits, the notice does not require any positive steps to be taken, it simply requires the cessation of the importation waste.

143. The appeal on ground (g) therefore fails.

Conclusion

144. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended

J Whitfield

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Alison Ogley, Solicitor Advocate

She called:

Jon Mason BSc (Hons) Dip LA CMLI

Director, Axis

John Martin BSc (Hons) MSc FGS

Director, TerraConsult Ltd &
ByrneLooby Partners (UK)

Peter Hoy BSc (Hons) PgCert

Senior Director, FPC Environment and
Design Ltd

Alistair Hoyle BSc (Hons) MCD Mrtpi

Associate Director, Axis

FOR THE LOCAL PLANNING AUTHORITY:

Alan Evans, of Counsel

He called:

Samantha Shove BSc (Joint Hons)
MRes MCIEEM CEnv MRSB

Technical Director of Ecology, Ecus

FOR NORMANTON TOWN COUNCIL (NTC)

Councillor Mark Jennings

Councillor for NTC

INTERESTED PARTIES:

Professor Barry Goodchild

Just Transition Wakefield

Documents Submitted at Inquiry

- 1) Appellant's Appearance List
- 2) Appellant's Opening Submissions – 4 June 2024
- 3) Planning Inspectorate Procedural Guidance and Environmental Impact Assessment Regulations excerpts
- 4) Appellant's Opening Submissions – 19 November 2024
- 5) LPA's Opening Submissions – 19 November 2024
- 6) Inquiry Statement of Just Transition Wakefield
- 7) LPA's Closing Submissions – 25 November 2024
- 8) Appellant's Closing Submissions – 25 November 2024
- 9) Appellant's Cost Submissions – 25 November 2024
- 10) LPA's Cost Submissions – 25 November 2024

Schedule of Conditions

- 1) This permission shall be limited to the period ending 31 December 2028 by which time operations shall have ceased and the site will have been restored in accordance with the approved restoration scheme. All non-hazardous waste imported into the containment landfill cells, excluding capping materials and soil restoration materials, shall cease by no later than 31 December 2026.
- 2) Unless otherwise approved in writing by the local planning authority, and with the exception of the landfill gas utilisation plant, leachate infrastructure, and haul roads essential for access, on completion of the restoration of the site in accordance with Indicative Restoration Masterplan ref 3625-01-02, all buildings and infrastructure shall be removed from the site within a period of 6 months from the final restoration of the site.
- 3) Unless otherwise agreed by the conditions below, the working and restoration of the site shall be carried out only in accordance with following approved plans and documents:
 - WR7856/02/01 Site Location Plan
 - WR7856/02/02 Planning Application Boundary Land under Applicant's control
 - WR7856/02/03 Approximate Land use Areas
 - 3265-01-01 Rev A Phasing Plan
 - WR8009/21/05 Pre-Settlement contours
 - WR8009/21/06 /06 Post -Settlement Contours
 - WR8009/21/07 Cross-Section Location Plan
 - WR8009/21/08 R2 Cross-sections through proposed landform
 - WR8009/21/11 Surface Water Scheme
 - 3625-01-02 Indicative Restoration Masterplan
 - 3265-01-03 Footpath Network
 - WR7346/21/12 Waste Settlement Levels
 - Drawing Ref 391-NE-2016-18-03 Construction Details of the Sidewall Bund
- 4) The phasing shall be carried out in accordance with the phasing plan at Condition 3. Updates to the Phasing Plan, if required, shall be submitted annually 12 months from the date of this permission to the Local Planning Authority for their approval in writing. Phasing shall be carried out in accordance with the approved details.
- 5) Servicing, maintenance and testing of plant related to operations hereby permitted shall not take place on Sundays or Bank Holidays nor at any other time except between the hours of 0700 and 2200 on Mondays to Fridays and 0800 and 1600 on Saturdays.
- 6) Except in cases of emergencies or with the prior written approval of the Local Planning Authority all vehicle and plant maintenance shall be undertaken in the existing site compound area shown on 'Approximate Land Use Areas' plan, ref WR7856/02/03.

- 7) Site operations (except soil stripping and replacement and baffle mound construction and removal carried out between the hours of 08:30 and 1730 hours Mondays to Fridays and 0930 and 1300 hours Saturdays which shall be subject to condition 8) shall be controlled such that the site attributable free field equivalent continuous A-weighted sound pressure level (LAeq) for any one hour period during the twelve hour period 07:00 - 19:00 hours Mondays to Fridays and the five hour period 0800 - 1300 hours on Saturdays shall not exceed the following levels: 269 Windhill Road - 48LAeq dB; Aire and Calder Cottages - 48LAeq dB; Goosehill Cattery - 48LAeq dB; 27 Park Avenue Kirkthorpe - 48LAeq dB; End Dwelling on Newland Lane - 48LAeq dB; Spring View Half Moon Lane - 48 LAeq dB; City Fields Location R5 (Figure 6.1 of Environmental Statement) - 53 LAeq dB.
- 8) Soil stripping and replacement and baffle mound formation and removal operations carried out between the hours of 0830 and 1730 Mondays to Fridays and 0930 and 1300 on Saturdays shall be controlled such that the site attributable free field equivalent continuous A-weighted sound pressure level (LAeq) for any one hour period 0830 - 1730 hours Mondays to Fridays and the period 0930 - 1300 hours Saturdays shall not exceed 70dB (A) at noise sensitive properties.
- 9) Site operations shall be controlled such that the site attributable free field equivalent continuous A-weighted sound pressure level (LAeq) for any one hour during the periods 1300 to 1600 on Saturdays 0900 to 1600 on Sundays 0800 to 1600 on Bank and Public Holidays and 0800 to 1800 on Good Fridays shall not exceed the following levels: 269 Windhill Road - 43dB LAeq; Aire and Calder Cottages - 43dB LAeq; Goosehill Cattery - 42dB LAeq; 27 Park Avenue Kirkthorpe - 43dB LAeq; End Dwelling on Newland Lane - 43db LAeq; Spring View Half Moon Lane - 42dB LAeq; City Fields Location R5 (Figure 6.1 of Environmental Statement) - 53 LAeq dB.
- 10) Servicing, maintenance and plant testing operations shall be controlled such that the site attributable free field equivalent continuous A-weighted sound pressure level for any one hour period during the period 1930 - 2200 hours Mondays to Fridays and during the period 1300 - 1600 hours Saturdays shall not exceed 40 dB (A) at noise sensitive properties.
- 11) Noise from the site arising from any pumps generators (including power) and flare stacks outside the hours permitted by condition 5 shall not cause the A-weighted free field equivalent continuous sound pressure level (LAeq) (1hr) to exceed 40 dB (A) at noise sensitive properties.
- 12) Notwithstanding the approved details, by no later than three months of the date of this permission, a scheme detailing measures for the monitoring of noise shall be submitted to the Local Planning Authority for their approval in writing. The Local Planning Authority shall have the right to inspect any noise monitoring equipment at all reasonable times and shall be furnished with particulars of the measurements recorded by the equipment and records of the plant and equipment operating on the site at the time upon request. The approved scheme shall be fully implemented and operated for the duration of the permitted operations.
- 13) Notwithstanding the approved details, by no later than three months of the date of this planning permission, a scheme detailing measures for the control of noise from reversing vehicles shall be submitted to the Local Planning

Authority for their approval in writing. The scheme shall include: (1) non-intrusive alarms and (2) details of the protocol to be followed, measures to be taken if complaints are received and details of recording and reporting to the Local Planning Authority. Unless otherwise agreed in writing by the Local Planning Authority, the scheme shall thereafter be retained and operated throughout the life of the development.

- 14) Notwithstanding the approved details, by no later than three months of the date of this permission, a Dust Action Plan shall be submitted for approval to the Local Planning Authority. The Dust Action Plan shall specify all activities to be undertaken to suppress dust emissions based on full monitoring of meteorological conditions on a continuous basis including soil moisture and evaporation and wind speed and direction on site. The approved Dust Action Plan shall be fully implemented and operated for the duration of the permitted operations.
- 15) The dust control equipment installed shall be used as necessary to suppress dust on the site arising from all operations in accordance with the Dust Action Plan.
- 16) No tipping shall take place in any phase beyond the levels shown on the approved Pre-Settlement Contours Plan ref WR8009/21/05. As the operations approach final fill levels, and in any case before the final grading of cover and before the spreading of subsoil, the surface levels shall be checked and the results shall be submitted to the Local Planning Authority.
- 17) Washing equipment for cleaning the wheels and undersides of vehicles shall be provided on site to prevent mud and debris being deposited onto the public highway. The washing equipment shall be fully operational and shall be used to clean all vehicles to ensure that they are free from mud and debris before they leave the site at all times during the carrying out of operations on the site until the final completion of restoration. Any mud or debris from the site which is deposited on to the public highway during this period of works shall be removed as soon as is reasonably practicably, but no later than during the next working day.
- 18) The operator shall erect and maintain in good condition for the lifetime of the development, a notice board showing the name address and telephone number of an official who will be available and authorised to deal with any complaints regarding the conduct of site operations as soon as is reasonably practicably, but no later than during the next working day, such complaints are notified to him/her.
- 19) Within 6 weeks from the date of this permission, a plan showing which areas of the site have already been restored and those areas which are unrestored shall be submitted to the Local Planning Authority for approval in writing.
- 20) Notwithstanding the details indicated on the approved Indicative Restoration Masterplan (ref 3625-01-02), within three months from the date of this permission, a detailed scheme for the cultivation and landscaping for the unrestored areas shown on the plan submitted under condition 19 shall be submitted to the Local Planning Authority for approval in writing. Such schemes shall indicate the areas to be grass seeded, planted with hedges and woodland or utilised for agricultural purposes and shall give details of soil conditions (to include the methodology for chemical analysis of the soil to be

carried out to assess the fertiliser lime and other major and minor nutrients required to promote satisfactory vegetation growth), management, pre-treatment and cultivation, seed mixtures, the location, species size, planting specification and protective measures for woodland areas, hedgerows and trees and the phasing of the cultivation and landscaping works. The works shall be carried out thereafter in accordance with the approved details.

- 21) Unless otherwise agreed in writing by the Local Planning Authority, within six months of the date of this permission an aftercare scheme for the Landscape and Ecology Management Plan (LEMP) area shall be submitted to the Local Planning Authority for their approval in writing. The aftercare scheme shall specify the steps which are to be taken over the period of five years following the restoration of each phase of the LEMP area or from the date of this permission if the area has already been restored (as confirmed by Condition 19) so as to bring the land to the required standard for its proposed after use and shall specify the commencement of the aftercare period for the different parts of the site. These steps shall include but not necessarily be confined to the following measures: (a) planting and seeding, and replacement planting and seeding where planting material fails is removed dies or becomes seriously damaged or diseased; (b) cultivation; (c) control of invasive species; (d) site drainage (secondary); (e) management practices such as the cutting and removal of vegetation; (f) protection of trees shrubs hedges, herb rich grassland areas, and wetland areas; (g) maintenance of footpaths; (h) the keeping of records and annual review of performance and proposed aftercare operations for the forthcoming year which shall be submitted between 1 October and 31 December each year. Aftercare shall be carried out in accordance with the approved Aftercare Scheme.
- 22) Within 12 months from the date of this permission, a Landscape and Ecology Management Plan (LEMP) which covers the LEMP area shall be submitted to the Local Planning Authority for their approval in writing. The LEMP shall cover details of landscape management for 25 years beyond the five year aftercare period as set by Condition 21 above. The scheme shall be fully implemented in accordance with approved details.
- 23) Notwithstanding the approved details shown on Plan Ref 3625-01-03 (Footpath Network) by no later than 12 months from the date of this permission, a scheme providing a specification for the construction of the permissive footpaths, bridleways other recreational routes on the site and a phased programme for their construction shall be submitted to the Local Planning Authority for their approval in writing. The scheme shall include the provision of a safe pedestrian crossing of the Bowstring bridge linked to a circular bridlepath route around the site perimeter. The footpaths and bridleways shall thereafter be constructed in accordance with the approved programme.
- 24) Before placement of any topsoil or any suitable soil forming material the top 400mm of subsoil or soil forming material shall be ripped to relieve compaction. Any stone or other material exposed on the surface capable of impeding cultivation shall be removed.
- 25) By no later than six months of the date of this permission a scheme of surface water drainage in accordance with the principles of sustainable urban

drainage shall be submitted to the Local Planning Authority for their approval in writing. The scheme shall detail the following elements:

- (a) The phasing of the development and the related phasing of drainage provision;
- (b) Restricting the rate of development flow runoff from the site to the maximum flowrate of 2.5 litres per second per hectare (unless calculated and agreed otherwise);
- (c) A 40% allowance (or higher, if increased by current national guidance) shall be included for climate change effects for the lifetime of the development;
- (d) Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event.
- (e) For the accommodation of additional flows in storm events impacting upon the watercourse network, and which cater for the impact resulting from the minimum 100 year return period storm event.
- (f) A detailed maintenance and management regime for the storage facility;
- (g) A 'SuDS Audit' and a maintenance plan for the proposed drainage system and provide details of who will maintain the proposed drainage system for the lifetime of the development

Once approved, the scheme shall be fully implemented in accordance with approved phasing programme and by no later than 31 December 2028, unless otherwise agreed in writing with the local planning authority. The approved maintenance and management scheme shall be fully implemented / operated throughout the lifetime of the development.

- 26) There shall be no discharge of foul or contaminated drainage from the site to any part of the groundwater or surface water network whether directly or via soakaway.
- 27) Any facilities for the storage of oil fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points' vents gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be installed to discharge downwards into the bund.
- 28) Notwithstanding the approved details, no later than three months of the date of this permission, a mitigation strategy to include measures to protect against the killing or injury of the grass snakes, including a timetable for the implementation of such measures, shall be submitted to and agreed in writing by the local planning authority. The measures within the mitigation strategy should thereafter be implemented in accordance with the approved timescale.
- 29) Notwithstanding the approved details, no later than three months of the date of this permission, a method statement to include measures to protect against the disturbance of otters, including a timetable for the implementation

of such measures, shall be submitted to and agreed in writing by the local planning authority. The measures within the mitigation strategy should thereafter be implemented in accordance with the approved timescale.