

Written statement on Supplementary Questions (6/5/20) on behalf of:

Barton in Fabis Parish Council, Clifton Village Residents Association, Lark Hill Retirement Village Residents, Thrumpton Parish Meeting and SAVE Campaign Group

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Policy MP2p

Question 31: The Sustainability Appraisal (SA) assesses the Mill Hill, Barton-in-Fabis allocation as having a long-term negative effect on biodiversity. Please provide further explanation as to how allocation of the site is justified in this respect, particularly having regard to the need to provide net gains in biodiversity in paragraph 170 (d) of the Framework.

31.1. The allocation of the site at Mill Hill, Barton in Fabis cannot be justified in terms of the biodiversity gain achieved by mitigation, restoration and the wider landscape wide benefits of the scheme, as required by Para 170 d) of the NPPF.

31.2. Evidence to support this conclusion has arisen in the context of the planning application for this site. As the responses to the planning application from [Barton in Fabis Parish Council](#) and [Nottingham Wildlife Trust](#) show in detail, the analyses of biodiversity gains made for the site:

- Are misleading, because they are based on the most favourable set of assumptions that can be devised for the restoration measures, and do not factor in the uncertainties surrounding the possibility of achieving good condition for retained habitats and in the restoration;
- make unwarranted assumptions about the appropriateness of large bodies of open water in the restoration plan, which incorrectly inflates estimates of gain;
- take no account of impacts on individual animal and insect species;
- fails to take account of off-site impacts on the Sites of Special Scientific Importance at Attenborough and Holme Pit (see response to [Question 58](#)), an omission which would limit overall biodiversity gain; and,
- take no account of biodiversity loss through ‘trading down’ (i.e. degradation of existing habitats on site) or loss of connectivity between habitat patches as a result of habitat loss.

31.3. We submit that the SA’s conclusion of ‘long term’ (our emphasis) negative effect on biodiversity should weigh substantially against the proposed allocation and fail to see how the Local Planning Authority has justified the allocation in context of such harm.

Question 32: The SA assesses the effects of development at Mill Hill on heritage assets as positive in the long-term, but the effect on the landscape as very negative. Would negative landscape effects also negatively affect the settings of heritage assets in the long-term?

32.1. The Barton in Fabis Parish Council drew up its own document titled ‘Assessment of the Historic Environment of the Application Site and its contribution to the Setting and Historic Significance

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of Clifton Hall and its Registered Parkland' (see Appendix 2 of our [Response to Planning Application ES/3712 Regulation 25 Submission](#)) with regard to the Planning Application for the Mill Hill site. This document clearly shows how the current rural landscape reflects the historic agrarian landscape of the Clifton Estate lands, and explains why this makes a positive contribution to the setting and significance of the designated heritage assets, particularly that of Clifton Hall. **It is our contention therefore that the negative landscape effects also negatively affect the settings of heritage assets in the long-term.**

32.2. In view of the volume of detailed material available as a result of the evaluation of the planning application we briefly review the issues here and provide extracts from named, independent Council Officers and Statutory Bodies who have looked at the evidence in the light of the analysis made by the Parish Council. We summarise the responses and link to the supporting documentation (See of [Ashbridge](#), NCC Landscape team; [Mordan](#), Senior Practitioner Historic Buildings; [Allen](#), Historic England; [Street](#), Heritage Officer, Nottingham City Council) which:

- Confirms the importance of the landscape to the setting and significance of the designated heritage assets of Clifton Hall (Grade I Listed) and its Registered Park and Gardens (Grade II Listed).
- Show that the claim that there would be no heritage impact on Clifton Hall and its associated heritage assets to be unfounded because of the strong link between the heritage assets and the surrounding landscape. The proposed site for gravel extraction is part of the wider setting of the Hall. The permanent loss of the pasture and ridge and furrow landscape will be detrimental to both views of the site, the landscape character and the setting of the heritage assets.
- Conclude that as a result of the strong link between the heritage assets and their wider setting, that the long-term impact of the development would be detrimental through the loss to the character of the historic landscape context.

As a result, it is clear that the SA for this site is flawed, and the allocation is unjustified.

32.3. From the responses that are indicated it should be noted that County Council's own Officer (Ashbridge) was specifically requested to comment on the impact of the development on the historic value of the landscape, and the setting of nearby heritage assets, in respect of the Mill Hill Planning Application. Thus, it is therefore clear that the County Council understand that negative landscape effects also negatively affect the settings of heritage assets in the long-term which further supports our conclusion that the allocation is unjustified.

Question 33: What is the justification for the positive score for effect on heritage assets in the SA?

33.1. There is no justification for the positive score on heritage assets made in the SA. The issue of Clifton Hall and its Registered Park and Gardens has partly been dealt with under Question 32, which shows the impacts to be negative in the long term. The SA states that long-term impacts could be 'positive or negative depending on the details of restoration' (Nottinghamshire Minerals Local Plan Publication Version Sustainability Appraisal Report May 2019 p.237). **Since no restoration measures are proposed the positive score is unjustified.**

33.2. The Minerals Plan Publication Version 2019 states (p.151) that there would be a need for 'Expert assessment of the Clifton Hall Registered Park and Garden and the preparation and implementation of a Conservation Management Plan to improve the condition and

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management of the heritage asset to provide appropriate mitigation'. It should be noted that in the context of the Planning Application no satisfactory or acceptable mitigation measures have been proposed. Proposals do not, for example, take account of the ancient woodland status of Clifton Woods, which form part of the setting of Clifton Hall.

Question 34: The Site Allocation Development Brief states that there would be permanent impact on the setting of the Clifton Hall Registered Park and Garden and potential impacts on other designated heritage assets in Barton-in-Fabis, Attenborough and Clifton. What would be the nature of such impacts and would development also affect the setting of the listed Clifton Hall and/or any other heritage asset(s)?

- 34.1. As our response to Question 32 shows, the SA must take account of the wider setting of Clifton Hall (Grade I Listed) which extends beyond its Registered Park and Garden (Grade II listed). We have shown that the long-term impact on the wider setting would be strongly negative. The impact on the RPG would also be significant, as is evident from the response of the [Senior Practitioner Historic Buildings, NCC](#) who states that proposals under appreciate the proximity of the development to the boundary of the registered parkland and the potential for substantial impacts short-term, and permanent harmful impacts that the proposed gravel extraction will have. He goes on to point out that the wooded areas of the parkland are important to the rural character of the designated assets and the assumption that this contribution is only from locations adjacent to the Hall or within the urban areas of the conservation area, is an underestimation. In fact, the boundary of the conservation area follows the edge of the designated parkland and as such the impacts on the parkland are also impacts on the setting of the conservation area and the setting of Clifton Hall.
- 34.2. The SA is deficient because it does not take account of the relationship between the application site and the heritage assets through the historic relationship between the Hall and the villages of Clifton and Barton in Fabis. In their response to our analysis (see Appendix 2 of our [Response to Planning Application ES/3712 Regulation 25 Submission](#)), [Historic England](#) are satisfied that the historic estate lands, which make up the setting of the heritage assets, make a positive contribution to their significance. They conclude: *'As such the impact of the quarry can reasonably be regarded as harmful to the significance of the above designated heritage assets through the loss to the character of their historic landscape context.'* They go on to note that under section 66 of the Planning (Listed Building and Conservation Area) Act 1990, it states 'in considering whether to grant planning permission for development which affects a listed building or its setting the planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'
- 34.3. In the context of the links between Clifton Hall and the wider landscape, we note the comments made in the successful High Court challenge by Historic England against planning permission in the setting of Grade 1 listed Kedleston Hall. It was found that¹ 'within the geographical limitations introduced by the term "surrounding" in the NPPF definition of "setting", a setting may well be defined by reference to non-visual attributes such as land use or the historic

¹ <https://www.sharpepritchard.co.uk/latest-news/sharpe-pritchard-represents-historic-england-in-successful-high-court-challenge-against-planning-permission-in-the-setting-of-grade-1-listed-kedleston-hall/>

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relationship between places.’ It is clear that the proposed site at Mill Hill was part of the Clifton Hall’s former estate lands and therefore there is a historic relationship between the Hall and the site.

- 34.4. In terms of impact on other heritage assets it should be noted that in addition to the impact on the setting of Clifton Hall, there is also significant impact on the Grade II listed building within the village of Barton in Fabis, at 20 Brown Lane (*The Old Post Office*, National Heritage List ref: 1248684). In the context of the Planning Application for the Mill Hill site, Jason Mordan, Senior Practitioner Historic Buildings, Nottinghamshire County Council notes that ‘the setting of 20 Brown Lane include views from the rear of extensive open countryside of the Trent Valley and views of the building are in part characterised by this landscape, and not just of the building in its village streetscape’, and that the report made in the context of the Planning Application ‘considerably underestimates the contribution that the wider rural landscape makes to the understanding and appreciation of the listed building’. He goes on to support the assessment made by the County Council’s Landscape team that ‘the impacts will be major adverse during the quarrying activities and that the permanent change to the landscape will cause permanent low to medium adverse impacts.’

Question 35: Would these impacts be harmful to the settings of the heritage assets and would any such harm be less than substantial?

- 35.1. The Barton in Fabis Parish Council contend that the impacts identified by the proposal are harmful and would be substantial both in the short and long term.
- 35.2. The conclusion that the impacts are substantial in the short term are supported by the letter from the Country Council (Oliver Meek, dated 30/8/19, not available on planning website – see attached) to Greenfield Associated, sent in the context of the Planning Application and the subsequent Regulation 25 process. He states that officers are of the view that there would be substantial harm to the setting of Clifton Hall (grade I listed) and its Registered Park and Garden (grade II listed) during extraction.
- 35.3. Following consideration of the long-term impacts, the County Council consider that there would be ‘less than substantial harm to Clifton Hall and its Registered Park and Garden following restoration’. We disagree with this assessment for the following reasons:
- 35.3.1. The operational period for the proposed site is significant, and there will be a long and sustained substantial impact on the heritage assets that outweigh any future mitigation.
- 35.3.2. Furthermore, the restoration measures proposed will not reduce the significant level of harm because Clifton Hall was built to administer its rural estate land, and therefore this was the sole reason for its existence and significance as a grand country estate house. The complete loss of its agrarian setting, which still reflects its former estate lands, would be a substantial impact on its historic significance. This is especially so because the proposed site is the last part of its former agrarian setting which remains intact.
- 35.4. Our conclusion that the harm to heritage assets is substantial in the long term is based on the NPPF’s Guidance Notes to the Historic Environment² which states that ‘It is the degree of harm

² <https://www.gov.uk/guidance/conserving-and-enhancing-the-historic-environment>

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to the assets significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting'. The permanent loss of the agrarian setting, which encompasses Clifton Hall's former estate lands and constitutes the sole reason for the existence of the Hall, will result in significant harm to this key element of its special historic interest. Therefore, the Parish Council firmly believes that development within the setting of the heritage assets will result in substantial harm to their historic significance, because it results in a highly modified landscape dominated by open water.

Question 36: Has any balancing exercise been carried out to weigh any less than substantial harm against public benefits?

- 36.1. A robust balancing exercise has not been undertaken. It is our contention that it would not be possible to favourably balance the public benefits, which are required to be 'substantial' against the substantial harm to the heritage assets. Even in a scenario where 'less than substantial harm' was derived, there is no convincing evidence that the public benefits outweigh this level of harm (which would still be highly significant).
- 36.2. The possibility of a balancing exercise has been identified in the context of the planning application for the Mill Hill site, in respect of the management plan for Clifton Wood as set out in Oliver Meek's letter to Greenfield dated 30/8/19 (not available on planning website). He states: 'Officers are of the view that amendments to the proposed development are unlikely to reduce the impacts to the setting of the heritage assets and requests improvements.' At present no such improvements have been provided and so the balancing exercise has not been done. In fact the scope of the balancing exercise proposed is limited because of the poor understanding of the significance of setting of the wider agrarian landscape to Clifton Hall, and the narrow focus of the invitation to look at Clifton Woods. The mitigation measures proposed are not substantial enough to outweigh the harm to the setting and significance of the designated heritage assets. They may also be inappropriate given the Ancient Woodland status of Clifton Woods.
- 36.3. Proposals made in the context of the planning application to mitigate harm to heritage assets include woodland management, creation of new pathways and interpretation boards. It should be noted that Clifton Wood currently has many well-defined pathways all used by the public, many of which reflect the historic paths shown on the 1763 Estate Map. The construction of more pathways would increase the likelihood of damaging impacts to the designated ancient wood as increased recreational use will cause disturbance to wildlife, (particularly breeding birds). There would also be the potential for compaction of the soil structure and detrimental impacts on soil communities. No evidence is provided that local residents would regard such interventions as public benefits. Moreover, even if they were supported, they would not compensate for the significant and permanent loss of the wider setting and harm to the historic significance of the heritage assets.
- 36.4. The Barton in Fabis Parish Council contend that the proposed public benefits do not compensate for the loss to a key element of the historic interest and therefore significance of the Hall and do not reflect the guidance in the NPPF paragraph 193. The exercise undertaken by the County Council is not robust because it has not given 'great weight' to the asset's

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conservation in line with para 193 of the NPPF, or has it 'special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses,' in line with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Question 37: What, if any, mitigation measures could be used to reduce any harmful impact on heritage assets?

- 37.1. As we have argued above there is a close and fundamental connection between the heritage asset of Clifton Hall and the remnants of its wider estate lands. The restoration measures proposed inadequately address this issue and as a consequence would result in significant and permanent effects on the fabric of the overall historic and present-day pastoral landscape of the allocation Site and its surroundings.
- 37.2. The Mill Hill site at Barton in Fabis is part of a distinctive landscape within the River Trent Valley and restoration to large areas of open water and nature conservation would be detrimental to the existing pastoral landscape character. The restoration plan for the mineral extraction site would destroy the traditional pastoral landscape character of this part of the Trent Valley and create a new highly modified landscape of open water and wetland habitat. These changes, combined with those that gave rise to the Attenborough Nature Reserve, would have a significant cumulative effect on the overall structure and unity of the Trent corridor, by rendering this area devoid of its distinctive sense of place as a pastoral river valley set against the backdrop of steep wooded escarpments, and the historically important Clifton Estate.
- 37.3. In addition to the permanent loss of the historic setting of Clifton Hall, there will be the removal of, and changes to, individual features of the historic environment, such as Cottagers' Field and Cottagers' Hills (location of proposed plant site, also known as Brandshill Grasslands), and the footpath that runs between Clifton and Barton in Fabis. The two fields within the proposed site are highly important elements of the setting which contribute to the significance of the Hall and are relevant to the historic cultural link between the Hall and Barton in respect of their history as common grazing land, a practice which continued until 1960 when the Clifton family sold their estate holdings. This old system of tenure was linked to Clifton Manor whereby pasture was apportioned to poorer tenants to serve as communal grazing areas for the livestock of local cottage people in Barton, hence the field names. Both Cottagers' Field and Hills are of importance to the historic significance of the Hall as their history as common land reflects how the Clifton's managed their estate lands in respect of the poorer tenants in Barton, particularly following the enclosure of the parish in 1759. The history of the management of these fields as common pasture and meadow land also accounts for their value in terms of their biodiversity.
- 37.4. Mitigation measures cannot reduce the harmful impacts to heritage assets as the necessary restoration would result in such a fundamentally altered landscape that bears no relationship to the current setting of the heritage assets.

Question 38: What effects would be likely on the openness of the Green Belt and the purposes of including land within the Green Belt, both during operation and in the long term?

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- 38.1. In our analysis both the Minerals Plan and the application for Planning Permission at the Mill Hill site, the Parish Council have shown that the proposed development will result in significant harm to the openness of the green belt in the area. It will take a minimum of 25 years to build, operate and restore the site and its allocation will therefore have a substantial long-term industrialising impact on this unspoilt area of the Green Belt, and should be regarded as semi-permanent. Of particular concern is the proposal to place the processing facilities on the Brandshill/Mill Hill ridgeline.
- 38.2. The Brandshill/Mill Hill ridgeline is one of the most prominent and visible ridgelines in Nottinghamshire and was protected from development in the County Council Structure Plan for this very reason. In the context of the recent planning application, Rushcliffe Borough Council, in their objection to the scheme, stated that the scheme is harmful because 'The proposal would represent unjustified and inappropriate development in the Green Belt. The development constitutes an engineering operation that does not maintain the openness of the Green Belt.'
- 38.3. The proposals are also unjustified given their contribution to the cumulative impact that development is having on the green belt in this area, which include: the realignment and duelling of the A453; Lark Hill Village; Clifton South Park and Ride; and, the prospective developments at Clifton Woods and Fairham/Clifton Pastures.

Question 39: Could any mitigation measures be used to reduce any impact on the Green Belt?

- 39.1. The mitigation measures proposed do not reduce the impact on the Green Belt because the prominent topographic position of the processing plant and storage facilities. Indeed, they erode the openness of the landscape in this area, and restoration measures fundamentally change the historic character of the site.
- 39.2. It should also be noted that Brandshill Grassland was designated part of the wider Mature Landscape Area (MLA). Its contribution to the setting of Clifton Hall is described above. In their response to the County Council, the NCC Landscape Team stated that such historic landscapes should still be protected. The processing plant, associated access track, tree screening and soil bunds proposed for this area will together substantially change the overall landscape character of the area as a result of urbanising effects which will modify its key characteristics of openness, naturalness, remoteness and rural tranquillity for over a generation. Under current proposals, the overall character of Brandshill Grassland would be permanently changed by the addition of unnatural features which would impact upon its key characteristics described above.

Question 40: Should the reference in paragraph 4.41 to the Mill Hill site being expected to be operational in approximately 2019 be deleted or amended?

No date should be assumed.

This matter is being dealt with by:
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Greenfield Associates
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By E-Mail Only

Dear Mr Rees

30 August 2019

Proposal: The extraction and processing of sand and gravel, including the construction of a new site access road, landscaping and screening bunds. Mineral washing plant and other associated infrastructure with restoration to agriculture and nature conservation areas.

Location: Land off Green Street, Mill Hill and land at Barton in Fabis, off Chestnut Lane, Nottingham

Applicant: London Rock Supplies Limited

I write further to the recently issued letter (dated 22nd August 2019) relating to the above planning application, which included a Regulation 25 request for further information. As set out within that letter, officers would be issuing a further letter setting out the harms arising from the proposed development and inviting you to address these matters.

As we have discussed with you in meetings (and as set out in consultation responses from statutory and technical consultees), officers are of the view that there are a range of harms to the environment and public amenity which would result from the proposed development, as it currently stands. Setting aside the matters where there is insufficient information, officers are of the view that the development as proposed would result in a range of harms and that these outweigh the benefits of the proposed development at present. Therefore, currently any recommendation to the County Council's Planning and Licensing Committee would be to refuse planning permission.

Notwithstanding the current position, officers are of the opinion that sand and gravel extraction at this location could be acceptable in principle, as evidenced by the inclusion of the application site as an allocation within the emerging Nottinghamshire Minerals Local Plan – Publication Version. As such, the purpose of this letter is to clearly set out the areas where the County Council considers there to be harms and provide you with another opportunity to address them, be it through amendments to the proposed development, further mitigation or compensation measures.

Green Belt

Paragraph 146 of the NPPF identifies that mineral extraction is not inappropriate in the Green Belt provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

Officers are of the view that the proposed development does not preserve the openness of the Green Belt, and does conflict with the purposes of including land within it, for the following reasons:

- The soils and overburden stored around the plant and processing area and along the eastern side of the access road that runs down Brandshill, would measure from 3m in height up to 8m in height and would be retained for up to 15 years. The soil bunds adjacent to Green Street would introduce a substantial landscaped mass with the specific purpose of restricting views. This impact would be in an area that is highly sensitive to any obstructions that reduce openness because of its prominent location at the crest of hill that currently affords unrestricted open aspects over the Trent Valley Green Belt. In addition, the bund along the eastern side of the access road would introduce an unnatural mass, interrupting views over Brandshill and the Trent Valley beyond, from Fox Covert Lane. Noting that the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) identifies the boundary between medium and long term effects as 10 years, the impact would be a long-term harm to the openness of the Green Belt.
- The applicant has outlined that stockpiles of sand and gravel in the processing area would be maintained to ensure there is always a 1 month supply and that heights would be up to 8m. It is noted that the crest of Brandshill would be lowered to create a flat plant/processing area at 80-81m AOD (approximately the same height as the adjacent Green Street) and there would be screening bunds parallel to Green Street. However, the stockpile would be up to 5m above the screening bunds. As such, these stockpiles would be relatively fixed features in a topographically prominent position, for a period of up to 15 years and it is considered that this would harm the openness of the Green Belt in this location.
- The conveyor is a fixed piece of machinery out of place within a countryside location. It is acknowledged that it would be a relatively low piece of plant and set within a cutting for much of its length, but part of it, or the concrete tunnel that it would pass through, would be visible from Bridleway No. 3. The conveyor would also be visible where it raises out of the cutting to pass over the Seven Trent water pipe. The conveyor would be in place for up to 15 years and it is considered that it would harm the openness of the Green Belt.
- Within the plant and processing area there would be sand and gravel wash plant, including log washer, sand classifier, lignite separator, gravel screens and stocking conveyor; oversized gravel crusher; pumps and mobile generator; weighbridge and potentially a wheel wash. The plant would vary in height, but taller elements would be over 10m in height. This level of plant and machinery in a concentrated location is reflective of an industrial or construction operation and is not in keeping with a countryside location. The plant area is spatially distinct and separated from the actual extraction area both in terms of distance and altitude. The screening provided by the soil bunds would reduce some of the direct visual impacts of the plant and machinery, certainly at the lower level. However, the soil bunds at 3-5m in height would not screen the taller elements of plant and machinery such as the rinsing screen (nominally 7.4m) and the sand washing unit and lignite plant (nominally 11m). The plant and machinery would be in place for up to 15 years and would be removed upon restoration of the site. The plant and machinery would harm the openness of the Green Belt in this particular location for up to 15 years due to its height and prominence.
- There would be an average of 20 cars and 57 HGVs per day (a maximum of 100 HGVs). This would equate to approximately one HGV movement every 6 minutes between 07:00 – 18:00 (weekdays) for up to 15 years. It is considered that this level of intensity, when compared to the existing level of HGV movements along Green Street, is sufficiently high to harm the openness of the Green Belt.
- The decision to separate the operations to extract and process the sand and gravel has created two distinct sections to the proposed development. There is a concentration of elements and features which harm the openness of the Green Belt individually in the plant and processing area. This area will take on the appearance of an industrial or construction activity incongruous with a countryside location for a period of up to 15 years, after which the area would be restored. Overall, it is considered that there would be a long term, but not permanent, conflict with safeguarding the countryside from encroachment, which is one of the purposes of including land in the Green Belt.

On the basis of the above, the County Council is of the view that the development is 'inappropriate development'. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (NPPF – paragraph 143). The County Council gives 'substantial weight' to the above identified harms to the Green Belt as instructed by the NPPF and it should be noted that very special circumstances will not exist unless the potential harm, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations (NPPF – paragraph 144).

It is acknowledged that amendments to the scheme have already been made to reduce the impact of the development on the Green Belt. However, officers are of the view that amendments to some of the above elements of the scheme could further reduce Green Belt impacts identified above. As such, officers invite the applicant to consider such amendments which, if combined with addressing the matters raised in the recent Regulation 25 letter along with the additional harms detailed below, could help to reduce the harms that have been identified to such a level that, when taken into consideration alongside the identified benefits of the proposed development, allows officers to demonstrate the very special circumstances required by Green Belt policy in the NPPF.

Habitat Loss

Barton Flash Local Wildlife Site (LWS) totals 8.86ha and 6.36 ha (approximately 72%) of this would be lost to the proposed extraction. This impact is categorised in the Environmental Statement (ES) as being of 'major negative' significance.

Brandshill Marsh LWS totals 3.89ha, with 1.95ha (approximately 50%) of this lost to the proposed extraction. This impact is categorised in the ES as being of 'major negative' significance.

Brandshill Grassland LWS totals 12.12ha. A proportion of the LWS would be lost to the proposed haul road, conveyor and a screening bund; but the exact size of the loss is unknown. The impact was originally categorised in the ES as being of 'major negative' significance. Since the original ES, soil storage bunds which were proposed at the base of Brandshill have been removed from the scheme, so the level of impact is reduced, but has not been formally assessed.

The proposed development would result in habitat loss to a range of UK Biodiversity Action Plan (BAP) priority habitats including semi-improved grassland, neutral grassland, marshy grassland, hedgerow, and ditch. The impact of the loss of each of these habitats is assessed as being of 'major negative' significance in the ES.

It is noted that there are a range of mitigation measures proposed including: the direct placement of soils from Barton Flash into Phases 2 and 3; the storage of soils from Brandshill Marsh LWS to be used in the restoration scheme; Brandshill Grassland being annually monitored and management through grazing at an appropriate level.

Proposed compensation is also noted, with the original ES highlighting that the proposed restoration involves the creation of priority habitats and stating that this would adequately mitigate and compensate for the loss of the existing habitats within the application site. To support this position, a net gain calculation has been undertaken using the biodiversity impact assessment.

As set out in our recent letter (22nd August 2019) officers have concerns about some of the habitat mitigation measures and the accuracy of the net gain calculation and as a result, further information has been sought in this regard. Officers will remain of the view that the proposed development would result in impacts of major negative significance to LWS and UK BAP habitats until the requested information is provided and the officers are satisfied with its content. Officers place considerable weight on these impacts.

The net gain calculation information that is subject of the recent Regulation 25 request will not change the major negative significance of the loss of LWS and UK BAP priority habitat, but does provide an opportunity to compensate for its loss. However, it is suggested that serious consideration is given to the avoidance of working these areas and officers invite you to discuss

this further. It would be of particular interest to gain an understanding of the implications for the amount of mineral that would be sterilised if these areas were not worked.

In addition, the recently published Government response to the consultation on net gain sets out that biodiversity net gain will become mandatory in due course (although the timetable for this is not yet known). Furthermore, it sets out that Government will require net gain outcomes, through habitat creation or enhancement as part of delivering mandatory biodiversity net gain, to be maintained for a minimum of 30 years, and will encourage longer term protection where this is acceptable to the landowner. Officers strongly recommend that any further biodiversity net gain calculation includes the provision of a minimum of 30 years of aftercare, to align the proposed development with the future mandatory approach in addition to demonstrating your commitment to securing a high quality restoration scheme for the site.

Ecological Impacts on Species

Breeding and wintering birds

The ES identifies the site as being of county level importance for wintering birds. The ES identifies the site as being of local level importance for breeding birds. However, officers disagree with this and has assessed the site on the basis of being of county level importance for breeding birds. In the absence of mitigation, the ES assesses the impact of habitat loss as being of major negative significance for breeding and wintering birds. It also assesses the impact of damage and disturbance to breeding birds as being of minor negative significance, in the absence of mitigation.

Officers note a series of mitigation/compensation measures proposed to minimise the impact of the proposed development on birds including removal of vegetation outside of the bird breeding season or preceded by a nesting survey; retention of a 30m stand-off from the River Trent and the retention of habitat to maintain a buffer zone for nesting, foraging or commuting; hedgerow management and infilling; and the creation and management of a range of habitats.

The ES states that, due to the net gains for nature conservation, no residual impacts on habitats are predicted. As set out above, officers have requested further information regarding the accuracy of the net gain calculations. Officers will remain of the view that the proposed development would result in impacts of major negative significance to the habitat of breeding and wintering birds at a site of county importance until the requested information is provided and officers are satisfied with its content.

Barn owl hunting habitat

As set out in the letter of 22nd August 2019 the officers have requested further information about the calculation of losses and gains of hunting habitat for barn owls and the impact that this would have on the species.

Even with the figures provided, there would be a net loss of hunting habitat during four of the identified phases of the development. The level of impact that this would have on barn owls in the area has not been assessed, but the loss of hunting habitat during the operation of the quarry is a harm which weighs against the proposed development. You are therefore invited to consider ways in which this impact can be mitigated.

Bat foraging habitat

The development would result in the loss of features which provide foraging and commuting habitat for bats including internal hedgerow, scrub, marshy and neutral grassland. The ES has assessed the habitat on site as being of local value and the loss of this habitat as resulting in an impact of minor negative significance.

However, due to the survey's inability to conclusively identify some species of bats, the site may actually meet the criteria for being of county value. Furthermore, the County Council notes that the bat surveys have not been undertaken to current standards (although it is acknowledged that they

were undertaken to the correct standards at the time they were conducted, although surveys of the site were not comprehensive). Due to the bat identification issues and surveys not being of a current standard, officers are treating the site as being of county value and the impact of this loss being of major negative significance.

The ES is of the view that, due to the net gains for nature conservation, no residual impacts on habitats are predicted. As set out above, officers have requested further information regarding the accuracy of the net gain calculations. Officers will remain of the view that the proposed development would result in impacts of major negative significance to the habitat of commuting and foraging bats at a site of county importance until the requested information is provided and the County Council is satisfied with its content.

Reptile habitat

No reptiles were found during the ecological surveys and, as such, the ES assesses that there would be no impact on reptiles. However, there were a number of constraints with the reptile surveys, the site has habitat to support reptiles and reptiles have been recorded on site since the surveys were undertaken. In addition, a juvenile grass snake has been reported on site which could be indicative of a breeding population. As such, officers are of the view that the site is of local value for reptiles. Mitigation measures are proposed which could suitably prevent the killing or injuring of reptiles. The impact of the loss of habitat during extraction is assessed as being of minor negative significance.

Toads

Common toads are not protected on Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) but are listed as a UK BAP priority species.

Whilst no toads were recorded during the amphibian surveys, the presence of common toad were recorded during the reptile survey. The majority of these were recorded within the marshy grassland areas surrounding the ditches and ponds. The ES assesses the population as being of site level ecological value and that the loss of habitat during extraction would be a major negative impact, in the absence of mitigation. However, with the eastern ditch being diverted there would be no net loss of habitat and terrestrial areas of highly suitable habitat would be hand searched prior to their removal, with individuals captured and moved to an area of suitable habitat. With the diversion of the ditch and mitigation measures the ES concludes there would be a negligible impact on toads.

Given that the toads were not identified during the amphibian survey, the precise location of toads is unknown. The County Council considers it unlikely that the hand search of a large area of potential terrestrial habitat could be meaningfully achieved in practice, given the extent of habitat to be lost. An alternative approach would potentially be the use of one-way temporary fencing, which would allow toads to move to breeding areas but not return to the terrestrial habitat. However, details of the mitigation measures are required prior to determination so that officers can understand whether this approach is feasible.

Officers note the restoration proposals include the creation of a larger area of marshy grassland than currently exists. However, as highlighted in our recent letter to you (22nd August 2019) further information has been requested in relation to the net gain calculation (which includes concerns about the time of aftercare attributed to marshy grassland). On the basis of the above, and that officers are of the view that the currently proposed mitigation measures are unfeasible and could result in the potential killing or injury of toads during works, officers are of the view that the development would result in a 'major negative' impact on this UK BAP species.

Necklace Ground Beetle (Carabus monilis)

Due to the presence of a (potentially) very large population of necklace ground beetle, which is an endangered UK BAP species, the application site is of county value to invertebrates. The ES

assesses the impacts relating to habitat loss, habitat isolation/fragmentation and killing and injury as being of major negative significance, in the absence of mitigation.

Mitigation is proposed through a programme of translocation and compensation is proposed through there being no net biodiversity loss. As such, the ES assesses that the species would persist at the application site at pre-development levels and the restoration strategy would be used to deliver habitat enhancements.

As set out in our letter of 22nd August 2019, officers have requested further information in relation to both the programme of translocation and the biodiversity net gain calculation. Officers will remain of the view that the proposed development would result in an impact of major negative significance to this endangered UK BAP species until the requested information is provided and officers are satisfied with its content.

Badgers

The ES notes that the presence of commuting and foraging badgers and assesses the site as being of local value. The loss of foraging habitat is assessed as being of minor negative significance. The ES assesses that the species would persist at the application site at pre-development levels and the restoration strategy would be used to deliver habitat enhancements.

As set out in our letter of 22nd August 2019, officers have requested further information in relation to the biodiversity net gain calculation. Officers will remain of the view that the loss of foraging habitat would have an impact that is of minor negative significance, until the requested information is provided, and officers are satisfied with its content.

Brown hare

During consultation on the original application submission the presence of brown hare (a UK BAP priority species) at the site was drawn to our attention. The January 2018 Regulation 25 submission noted that there is suitable habitat on site for brown hare, but that this species was not considered during the original ES as there were no sighting of the species during over 30 visits to the site. Nevertheless, the Reg 25 submission came to the view that with the restoration the impacts would be negligible.

Officers note the discrepancy between consultee reports of brown hare and the absence of sightings during ecological surveying. Taking into account the suitable habitat for brown hare officers are treating the site as being of local value for this species. It is noted that there will be some habitat suitable in the restoration scheme, however, this would be less than there is at present with a reduction in grasslands and an increase in open water. As such, officers are of the view that the development would result in a minor negative impact on this UK BAP species.

Harvest mice

There are records of harvest mice within the application site (a UK BAP priority species). Whilst the species has not been surveyed, it is suggested that there could be a small population on site and the development would result in the loss of small amount of habitat and the possible killing/injury of individuals, which in the absence of mitigation could result in a major negative impact at the local level. However, with mitigation and the creation of habitat the impact is anticipated to be negligible.

Officers are of the view that the proposed mitigation would minimise the potential for the killing and injury of harvest mice, although it remains a possibility. It is noted that there will be some habitat suitable in the restoration scheme, however, this would be less than there is at present with a reduction in grasslands and hedgerow, and an increase in open water. As such, officers are of the view that the impact on harvest mice would be of minor negative significance.

Hedgehog

Hedgehog is a UK BAP priority species. No information regarding hedgehogs has been provided within the ES or subsequent regulation 25 submissions. The County Council expects hedgehog to be present within the site and the development would result in a loss of relevant habitat, although mitigation measures are likely to mitigate the risk of injury/killing. As such, the County Council is of the view that the impact on hedgehog habitat would be of minor negative significance.

Species overview

The proposed development would result in impacts including habitat loss, risk of injury/killing and habitat isolation/fragmentation to a wide range of protected and/or UK BAP species. Collectively, considerable weight is given to the impacts set out above.

The above sets out the impacts that officers consider the proposed development would have as the application currently stands. However, it is acknowledged that the Regulation 25 request for further information (particularly in relation to biodiversity net gain calculation, necklace ground beetles and barn owls) may change the current level of impact that is identified above.

Landscape and Visual Impacts

A Landscape and Visual Impact Assessment has been provided as part of the ES. Following consultation, officers disagree with a number of the conclusions of the assessment and are of the view the development would result in the following impacts:

- A major adverse permanent impact on the existing physical landscape;
- A major adverse impact on landscape character during operations, reducing to moderate adverse impact upon completion of restoration;
- A major adverse visual impact to residents on the edge of Barton in Fabis during quarrying reducing to low to medium adverse upon restoration;
- A major adverse visual impact to users of the rights of way within the site, reducing to minor adverse following restoration; and
- A moderate adverse impact on users of Attenborough Nature Reserve during extraction reducing to minor adverse/neutral following completion of the restoration.

The above landscape and visual impacts are given considerable weight.

The avoidance of LWS and certain habitat areas, as suggest above, may also bring a reduction in the level of landscape and visual impact. The retention of the best examples of ridge and furrow within the site may also reduce landscape and visual impacts. Officers suggest that serious consideration is given to this and invites you to discuss with us such amendments further.

Impacts to Heritage Assets

A Cultural Heritage Assessment has been provided as part of the ES. Following consultation, officers disagree with a number of the conclusions of the assessment and are of the view the development would result in the following impacts:

- There would be substantial harm to the setting of Clifton Hall (grade I listed) and its Registered Park and Garden (grade II listed) during extraction;
- There would be less than substantial harm to Clifton Hall and its Registered Park and Garden following restoration.
- There would be less than substantial harm to 20 Brown Lane during operation and following restoration.

The NPPF identifies that substantial harm to a grade II registered park or garden should be exceptional and substantial harm to a grade I listed building should be wholly exceptional (paragraph 194). Where a development would lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm or loss (NPPF - paragraph

195). The also NPPF states that where there is less than substantial harm, the harm should be weighed against the public benefits of the proposal (paragraph 196).

Further assessment of the impact on the historic value of the landscape and setting that it provides to heritage assets, and the public benefits of the proposal, were provided in the January 2019 Regulation 25 submission. Officers remain of the view that the development would result in the harms described above and the public benefits of the proposed development do not outweigh the substantial harm identified during extraction, or the less than substantial harm following restoration. Officers give great weight to the long term and permanent harm to the setting of the above heritage assets that would result from the development.

Officers are of the view that amendments to the proposed development are unlikely to reduce the impacts to the setting of the heritage assets identified above. However, officers consider that there is the opportunity provide 'substantial public benefits' through the proposed development to outweigh the identified harm. Officers consider that this could be achieved through the improvements to the understanding of Clifton Hall Registered Park and Garden and the preparation and implementation of a Conservation Management Plan to improve the condition and management of the heritage asset. This is set out in the 'Appendix 2: Site Allocation Development Briefs' of the Nottinghamshire Minerals Local Plan – Publication Version. Officers suggest that serious consideration is given to this and invites you to discuss such improvements further with officers from both the County Council and Nottingham City Council.

Air Quality

Dust impacts at nearby sensitive receptors have been identified (as set out in the January 2019 Regulation 25 submission), including:

- Moderate adverse impact at Burrows Farm.
- Slight adverse impact at Chestnut Lane.
- Slight adverse impact at Lark Hill Village.
- Slight adverse impact at Fairham Pastures.

The dust impact would be on amenity rather than on health and has been assessed as being below a level at which there would be a 'significant' impact. The County Council attaches little weight to the identified dust impacts.

Amenity of Public

Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. In doing so, decisions should identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

Whilst the application site has no formal designation in this regard, it is considered that it is a tranquil area that has remained relatively undisturbed by noise and is prized for its recreational and amenity value for this, and other, reasons. As a result of noise, landscape and visual impacts associated with the development there would be an adverse impact for the operational period of the development on the tranquillity of this area. This is considered not just to affect the application site but also across the River Trent at Attenborough Nature Reserve which is of significant value for recreation and amenity. This conflicts with the thrust of Paragraph 180 of the NPPF. The County Council attaches moderate weight to this impact.

The County Council suggests that further benefits through the restoration of the site could be achieved, which may go some way to offsetting the harm to recreation and amenity of the public within the area. Such benefits could include a commitment to provide permissive footpaths for the length of the aftercare period linked to locations where the public can view species (e.g. viewing platforms/hides); and surfacing enhancements to Bridleway No. 3. The County Council suggests

that serious consideration is given to this and invites you to discuss with us the possibility and practicalities of such amendments further.

Best and Most Versatile Agricultural Land

There would be the loss of a relatively small area of Best and Most Versatile Agricultural Land. The economic benefits of BMV agricultural land are recognised, but in the context of the wider rural landscape the area that would be lost is relatively small and the restoration proposals include some replacement. Overall, little weight is attached to the loss of BMV agricultural land.

I trust the above clearly sets out the harms that would arise from the proposed development as the application currently stands, and which would be considered in the overall assessment of the application if it were to be determined without further amendment. If you would like to discuss any of the above matters further, please do not hesitate to contact us.

Yours sincerely

Oliver Meek

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cc Stephen Pointer, NCC Planning Policy
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