

PLANNING AND REGULATORY COMMITTEE
22 MARCH 2016**PROPOSED FORMATION OF AN EARTH BUND ON LAND
TO SOUTH OF B4636 AND EAST OF M5 MOTORWAY,
SPETCHLEY, WORCESTERSHIRE**

Applicant

Berkeley & Spetchley Estates

Local Member

Mr R C Adams

Purpose of Report

1. To consider a County Matter planning application for the formation of an earth bund on land to south of B4636 and east of M5 Motorway, Spetchley, Worcestershire.

The Proposal

2. The applicant is seeking planning permission for the formation of an earth bund from excess soils arising from the proposed Worcester Woods Retail Park development on land bound by Nunnery Way (A4440), Newtown Road (B4636) and Charles Hastings Way located approximately 200 metres west of the site (Worcester City Council Application Ref: P14Q0562, pending consideration); and the Worcester 6 site, off Pershore Lane (A4538) situated about 100 metres north of the site (Wychavon District Council Outline Planning Permission Ref: 14/02524).
3. The applicant states that the purpose of the bund is to provide a receptor site for the soils to be removed as part of these construction projects. The bund would be constructed from up to 90,000 cubic metres of soils (both topsoil and subsoils), equating to approximately 150,000 tonnes. The applicant estimates that the retail park development would generate about 50,000 cubic metres of soils, equating to approximately 80,000 tonnes; and the Worcester 6 site would generate approximately 35,000 cubic metres, equating to about 56,000 tonnes. The applicant notes that the proposed landform of the bund has been designed to accept up to 90,000 cubic metres to allow for a possible increase in waste soils. Should the retail park development not be granted planning permission the applicant has confirmed that the proposed bund would be constructed shorter in length, due to the reduction in source material. The northern bund would be constructed first, followed by the central bund and finally the southern bund would be constructed.
4. The proposed bund would have a maximum gradient of 1 in 3, with a maximum height of 4.5 metres. It would have an overall length (extent of works) of approximately 920 metres and a maximum width of approximately 180 metres. It

would essentially comprise three separate bunds, the southern bund would run northwards from the A44 to the Woodland block known as 'The Track'. This southern bund would measure about 280 metres long by 120 metres wide (extent of works). The central bund would run northwards from the northern side of 'The Track' to the Public Right of Way (Bridleway SE-534) and the extent of works would measure approximately 410 metres long by 140 metres wide. The northern bund would run north/north-eastwards from Bridleway SE-534 and the extent of works would measure about 230 metres long by a maximum of 180 metres wide. Upon completion of the bund it would be planted along the eastern slope with native woodland planting, while the surrounding land would be returned to arable agricultural land. Access to the site would be via the existing private road/agricultural access/Bridleways SE-534, SE-535, SE-536 and SE-537 of Withy Wells Lane, which leads off Pershore Lane (A4538), past Withy Wells Farm.

5. The applicant anticipates that the vehicle movements from the retail park to the proposed development would result in a total of approximately 8,334 vehicle movements (about 4,167 vehicles entering the site and 4,167 vehicles existing the site), with approximately 6,668 vehicle movements (3,334 vehicles entering the site and 3,334 vehicles existing the site) associated with the Worcester 6 site. This would equate to approximately 48 vehicle movements per day (24 entering the site and 24 existing the site). It is anticipated that the development would take approximately 15 months to complete, with the vehicle movements associated with the retail park anticipated to take about 58 weeks and the vehicles associated with the Worcester 6 site lasting for approximately 46 weeks. The construction vehicles would consist of 20 tonne rigid 'tipper' trucks.

6. The applicant has confirmed that the majority of the mature trees and hedgerows on the application site would be retained, including the Woodland of 'The Track', except for the gappy hedgerow which separates the southernmost two fields.

7. The site working hours are proposed to be between the hours of 07:00 to 19:00 Mondays to Saturdays.

The Site

8. The proposed development site, which is approximately 13.8 hectares in area, is a long, strip of arable agricultural land, measuring approximately 1,000 metres in length and a maximum of about 200 metres wide, located immediately to the east of the M5 Motorway between Junctions 6 and 7. Worcester City Centre is located approximately 3.2 kilometres to the west, and the Village of Whittington is located about 1.1 kilometres south-west of the proposal. The villages of Tibberton and Crowle are located approximately 2.3 kilometres north and north-east of the application site, respectively. The site is bound to the north by the B4636 and to the south by the A44. Worcester live stock market is located approximately 65 metres west of the proposed development on the western side of the M5 Motorway. The development site comprises agricultural land and is currently accessed via the private road/agricultural access off the A4538. Immediately to the south of this private road/agricultural access is a woodland block known as 'King's Wood'. A further small woodland block, known as 'The Track' is also located adjacent to the centre of the proposed bund. North Hill, a local high point within the applicant's

estate lies about 520 metres to the east of the proposal, with small woodland blocks occurring within the wider landscape beyond.

9. A number of Public Rights of Way are located within the application site and the surrounding area. In particular Bridleways SE-534, SE-535, SE-536 and SE-537 run along the private road/agricultural access leading westwards from the A4538. This route is also forms part of a local cycle network. Footpaths SE-540, SE-505 and SE-527 also adjoin these Bridleways. The site is located within Flood Zone 1 (low probability of flooding), as identified on the Environment Agency's Indicative Flood Risk Map. 132kV overhead powerline runs north to south on the western side of the M5 Motorway, located about 100 metres west of the proposal; and an 11kV underground powerline crosses the access road to the west of King's Wood.

10. Lyppard Grange Ponds Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC) is located approximately 830 metres north-west of the development site. A number of Local Wildlife Sites (LWSs) are located within 1 kilometre of the proposed development, this includes: Hornhill Meadows LWS and Nunnery Wood LWS, which are sited about 320 metres and 730 metres west of the site, respectively. Spetchley Deer Park & Plantation Meadows LWS is also located approximately 740 metres south-east of the proposed development. The Ancient Woodland of Nunnery Wood is situated about 730 west of the development site.

11. The Grade II* Historic Park and Garden of Spetchley Park is located about 135 metres south of the proposal. The nearest Listed Building is that of Cudleigh Court Farmhouse a Grade II Listed Building sited about 450 metres east of the site. There are also a number of Listed Buildings within the wider landscape, with about 21 Grade II and Grade II* Listed Buildings within approximately 2.2 kilometres of the site.

12. The nearest residential properties are those of Cornmill Barn located about 170 metres south of the proposed development along the U47646, accessed via the A44. Further residential properties are located along U52044, also located off the A44, sited about 175 metres south-west of the proposal. The nearest properties to the east are those of Cudleigh Court Farm, located about 320 metres away. Further dwellings are sited along Dunmow Avenue, Fowler Avenue, Howlett Place and Towneley located approximately 250 metres to the west of the proposal. The development site is wholly located within Wychavon District, with the M5 Motorway forming the District boundary with Worcester City.

Summary of Issues

13. The main issues in the determination of this application are:

- The waste hierarchy
- Landscape character and appearance of the local area
- Residential amenities (including noise and dust emissions)
- Ecology and biodiversity
- The water environment
- Traffic, highway safety and impact upon the Public Rights of Way, and
- Economic impact.

Planning Policy

National Planning Policy Framework (NPPF)

14. The National Planning Policy Framework (NPPF) was published and came into effect on 27 March 2012. The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It constitutes guidance for local planning authorities and decision takers and is a material planning consideration in determining planning applications. Annex 3 of the NPPF lists the documents revoked and replaced by the NPPF. At the heart of the NPPF is a presumption in favour of sustainable development, which should be seen as a golden thread running through plan-making and decision-taking.

15. Sustainable Development is defined by five principles set out in the UK Sustainable Development Strategy:

- "living within the planet's environmental limits;
- ensuring a strong, healthy and just society;
- achieving a sustainable economy;
- promoting good governance; and
- using sound science responsibly".

16. The Government believes that sustainable development can play three critical roles in England:

- an economic role, contributing to a strong, responsive, competitive economy
- a social role, supporting vibrant and healthy communities and
- an environmental role, protecting and enhancing our natural, built and historic environment.

17. The NPPF does not contain specific waste policies, as these are contained within the National Planning Policy for Waste. However, the NPPF states that local authorities taking decisions on waste applications should have regard to the policies in the NPPF so far as relevant. For that reason the following guidance contained in the NPPF, is considered to be of specific relevance to the determination of this planning application:-

- Section 1: Building a strong, competitive economy
- Section 4: Promoting sustainable transport
- Section 7: Requiring good design
- Section 8: Promoting healthy communities
- Section 10: Meeting the challenge of climate change, flooding and coastal change
- Section 11: Conserving and enhancing the natural environment
- Section 12: Conserving the Historic Environment

National Planning Policy for Waste

18. The National Planning Policy for Waste was published on 16 October 2014 and replaces "Planning Policy Statement 10 (PPS 10): Planning for Sustainable Waste Management" as the national planning policy for waste in England. The document sets out detailed waste planning policies, and should be read in

conjunction with the NPPF, the Waste Management Plan for England and National Policy Statements for Waste Water and Hazardous Waste, or any successor documents. All local planning authorities should have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management.

The Development Plan

19. The Development Plan is the strategic framework that guides land use planning for the area. In this respect the current Development Plan consists of the Adopted Worcestershire Waste Core Strategy and Adopted South Worcestershire Development Plan.

20. Planning applications should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

Worcestershire Waste Core Strategy Development Plan Document (WCS)

Policy WCS 1: Presumption in favour of sustainable development

Policy WCS 2: Enabling Waste Management Capacity

Policy WCS 5: Landfill and disposal

Policy WCS 6: Compatible land uses

Policy WCS 8: Site infrastructure and access

Policy WCS 9: Environmental assets

Policy WCS 10: Flood risk and water resources

Policy WCS 11: Sustainable design and operation of facilities

Policy WCS 12: Local characteristics

Policy WCS 14: Amenity

Policy WCS 15: Social and economic benefits

South Worcestershire Development Plan (SWDP)

21. The South Worcestershire Development Plan (SWDP) covers the administrative areas of Worcester City Council, Wychavon District Council and Malvern Hills District Council. The SWDP is a Development Plan Document which sets out strategic planning policies and detailed development management policies. The SWDP also allocates sites for particular types of development and sets out policies on site specific requirements. It covers the period 2006-2030. The SWDP was adopted on 25 February 2016 and is subject to a six week High Court challenge period. Notwithstanding this, full weight should be given to the SWDP in the determination of this application. The SWDP policies that are of relevance to the proposal are set out below:

Policy SWDP 1 Overarching Sustainable Development Principles

Policy SWDP 2 Development Strategy and Settlement Hierarchy

Policy SWDP 3 Employment, Housing and Retail Provision Requirements and Delivery

Policy SWDP 4 Moving Around South Worcestershire

Policy SWDP 5 Green Infrastructure

Policy SWDP 6 Historic Environment

Policy SWDP 8 Providing the Right Land and Buildings for Jobs

Policy SWDP 21 Design

Policy SWDP 22 Biodiversity and Geodiversity

Policy SWDP 24 Management of the Historic Environment

Policy SWDP 25 Landscape Character
Policy SWDP 28 Management of Flood Risk
Policy SWDP 29 Sustainable Drainage Systems
Policy SWDP 31 Pollution and Land Instability
Policy SWDP 32 Minerals
Policy SWDP 45 / 6 Directions for Growth Outside the City Administrative Boundary / Worcester Technology Park (South Phase) (20.32ha)

Other Material Planning Considerations

Waste Management Plan for England (2013)

22. The Government through Defra published the Waste Management Plan for England in December 2013. This Plan superseded the previous waste management plan for England, which was set out in the Waste Strategy for England 2007.

23. There are comprehensive waste management policies in England, which taken together deliver the objectives of the revised Waste Framework Directive, therefore, it is not the intention of the Plan to introduce new policies or to change the landscape of how waste is managed in England. Its core aim is to bring current waste management policies under the umbrella of one national plan.

24. This Plan is a high level document which is non-site specific, and is a waste management, rather than a waste planning document. It provides an analysis of the current waste management situation in England, and evaluates how it will support implementation of the objectives and provisions of the revised Waste Framework Directive.

25. The key aim of this Plan is to work towards a zero waste economy as part of the transition to a sustainable economy. In particular, this means using the “waste hierarchy” (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management.

26. It states that the construction, demolition and excavation sector is the largest contributing sector to the total waste generation, generating 77.4 million tonnes of waste in 2010.

The Government Review of Waste Policy England 2011

27. The Government Review of Waste Policy in England 2011 seeks to move towards a green, zero waste economy, where waste is driven up the waste hierarchy. The waste hierarchy gives top priority to waste prevention, followed by preparing for re-use, recycling, other types of recovery (including energy recovery) and last of all disposal.

Worcestershire Local Enterprise Partnership (LEP) Business Plan 2012

28. This sets out the LEP vision, which is to "create the right economic environment to inspire businesses, encourage investment and to create lasting and sustainable employment in Worcestershire by 2017 and beyond". It also sets their key measures of success; their role; funding sources; and strategic objectives, which includes 'Objective 4: Planning, Development and Infrastructure'.

29. Objective 4 states that "*the LEP will work with key partners to deliver Worcestershire's strategic employment sites as a priority for inward investment as well as indigenous business expansion*". The list of key projects includes the development of the "*Worcester Tech Park and M5 J6/7 Corridor*".

Worcestershire Local Enterprise Partnership's World Class Worcestershire Our Strategic Economic Plan (SEP)

30. The Strategic Economic Plan's (SEP) vision and strategic framework is to ensure that Worcestershire's economy grows even more rapidly and makes an increasingly important contribution to the national economy. The SEP aims to grow the local economy by 2025 by generating over 250,000 jobs and to increase GVA by £2.9 billion.

31. The SEP sets three objectives:

- Create a World Class business location
- Provide individuals with World Class Skills, and
- Develop World Class competitive and innovative business.

32. For each objective the SEP sets opportunities and challenges, for the 'Create a World Class business location' objective, 'Economic Game Changer sites' are identified as an opportunity. Four initial 'Game Changer' sites were selected; this includes the 'Worcester Growth Corridor', which includes the Worcester 6 site (Worcester Technology Park). It states that "the WLEP working with the County Council and Districts has developed the Worcestershire 'Game Changer Programme' to identify key development opportunities, coordinate public sector activity and work with private sector partners to deliver schemes with a significant sustainable economic impact... This Programme will focus on the delivery of sites of regional significance, which occupy strategic locations within their markets and provide major opportunities to lever market-led investment and deliver growth and jobs".

Consultations

33. **Spetchley Parish Council** has raised no objections to the proposal.

34. **Tibberton Parish Council (Neighbouring Parish Council)** comments that they are concerned about the traffic disruption and associated highways issues on an extremely busy thoroughfare, especially at commuter times, and request that consideration is given to scheduling heavy construction vehicle movements outside the peak commute time periods. The Parish Council expressed concern about the volume of heavy traffic which will be using Withy Wells Lane for a 15 month plus period.

35. They note that the remains of old Warndon Wood are located within the application site and request that the woodland is protected and retained. If the proposed earth movements affect the hydrological systems, or the root systems of the trees, then even if the woodland is not actively destroyed it would not survive the development process. In addition, there have already been instances of the unauthorised removal of trees from the development and surrounding area. The

Parish Council ask the County Council to ensure that there are no further incidents of that nature.

36. The Parish Council are disappointed that the proposed development is not more sympathetic to the landscape character, noting that Worcester 6 aspires to be the jewel in Worcestershire, but the proposed development does not improve or work with the existing landscape. Should planning permission be granted the Parish Council request that conditions are imposed requiring regular road cleaning;

37. **Wychavon District Council (Planning)** has no objections to the proposal, subject to the County Planning Authority being satisfied that the proposal complies with Policy WCS 5 of the Adopted Worcestershire Waste Core Strategy; that there are no unresolved objections from statutory consultees including Highways England; and no objections from neighbouring residents. It would be expected that appropriate conditions are imposed on any planning permission which would help mitigate any potential negative impacts of the development. It is requested that consideration is given Wychavon District Council Landscape Officer's comments.

38. **Wychavon District Council (Landscape Officer)** comments that, on balance, although they suggest there is no strong landscape objection to the proposal in principle, some of the detailed design of the bund should be given more consideration in order that the proposal better respects its setting in terms of visual impact and landscape character.

39. They comment that the most visible and, therefore, sensitive part of the site is the north-west corner of the site, where the site is at its lowest point. This section of the proposal contains some of the highest area of the bund (over 4 metres in height), such that the new landform may look rather 'engineered'. The proposal would look more natural if the contours were further apart, creating a gentler rise from the north-western corner. This would result in less material being accommodated on the site; or it being spread uniformly over the remainder of the application site, raising the existing ground levels minimally. Notwithstanding this, the artificial 'engineered' landform to the north-western corner would be less appreciable as the planting that is proposed matures and starts to mask the landform beneath, but in the interim it would look rather severe. The proposed planting would be generally agreeable, except that pine which should be greatly reduced in number or, preferably, removed from the planting mix.

40. The proposals would be highly visible from the Public Right of Way which crosses the site, but the proposed planting would serve to further screen the M5 Motorway from the footpath. In views from the wider footpath network, the proposed planting would tie in with other woodland blocks in the landscape and would help to visibly connect them.

41. In terms of landscape character, the site falls within the Landscape Type Principal Timbered Farmlands as identified in the County Landscape Character Assessment. Primary identified Key Characteristics include 'ancient wooded character' and Landscape Guidelines for the Landscape Type include 'encourage the planting of new woodlands, reflecting the scale, shape and composition of the existing ancient woodland character, favouring oak as the major species' and 'seek opportunities to enhance tree cover along highways'. Therefore, the proposal for woodland planting would not be at odds with the identified landscape character in

principle; however, in order to respect the identified 'organic' character, the District Landscape Officer suggests that the shape of the planting blocks should be reconsidered.

42. **Wychavon District Council (Conservation Officer)** has no objections, stating that this application within the Spetchley Estate does not affect the registered boundary of the historic park and garden.

43. **Worcester City Council (Neighbour District Council)** has made no comments.

44. **Worcestershire County Council Minerals and Waste Management Planning Policy Officer** objects to the proposal as it is considered contrary to the vision, objectives and policy of the adopted Worcestershire Waste Core Strategy.

45. The Planning Policy Officer raises significant concerns that the applicant has misinterpreted the content of the Worcestershire Waste Core Strategy, stating that the planning application states that the Waste Core Strategy refers to a shortage of sites or capacity to manage the type of waste in question, namely inert excavation waste. This is not the case. Whilst a capacity gap was identified for re-use and recycling and 'other recovery' facilities, it is considered that it is not likely that the inert excavation waste subject of this application could be managed at such facilities.

46. As such, it is considered that the relevant consideration is whether there is sufficient landfill or disposal capacity for this type of waste. Table 3 of the Waste Core Strategy clearly shows that no capacity gap was identified for disposal and landfill, and Table 4 of the Waste Core Strategy shows that no capacity gap is anticipated during the lifetime of the Strategy.

47. The Planning Policy Officer has reviewed these assumption, and states that Indicator W23 in the 2013-2014 Minerals and Waste Annual Monitoring Report (AMR) shows that the Environment Agency's "waste data tables" showed that in 2013 there was 2,964,000 cubic metres of void space for inert landfill within Worcestershire. The 2014-2015 AMR (currently in draft but due for publication imminently) shows that in 2014 there was 2,957,850 cubic metres of void space for inert landfill in Worcestershire. Figure 6.1. of the 2014-2015 AMR shows that cumulative landfill is approximatively 36% below the projections in the Waste Core Strategy, meaning that Worcestershire is unlikely to experience a capacity gap for this type of waste before the end of the Strategy period (2027).

48. The applicant has stated that "*there are currently no sites identified within the county to receive up to 90,000 cubic metres waste soils*". However, no evidence has been submitted in the application to illustrate what effort has been made to identify any such sites or the reasons that any sites which have been shown above to have capacity for this type of waste are unable to accept it. We consider that such information is crucial to the consideration of the principle of the proposed development.

49. Should no such capacity be available within Worcestershire, it is considered that disposal at an existing site beyond the county boundary would be more appropriate than the creation of a bund specifically to service two developments.

The application states that "*waste authorities should be self-sufficient in dealing with waste arisings*". Whilst this is true to some degree, it does not reflect the complex nature of the waste management industry. Worcestershire's Waste Core Strategy seeks to achieve "equivalent self-sufficiency", meaning that provision is made in the Waste Core Strategy to manage a volume of waste equivalent to the county's arisings, but not necessarily precluding cross-boundary movements where that is the most appropriate option.

50. It is considered that there is no overriding economic imperative for this proposal to be granted. Appropriate disposal of waste must be considered to be an essential component of the design and business case for any development. No overriding factors have been demonstrated in this case, and it is considered that the waste arising from the Worcester 6 Site and Retail Park development should be appropriately disposed of, as would be expected of all developments in the county.

51. **Historic England** has no objections, stating that this planning application should be determined in accordance with national and local policy guidance. They recommended that the specialist conservation advice of the District Council's Conservation Officer should be sought.

52. **Garden History Society** has made no comments.

53. **Hereford and Worcester Garden Trust** has made no comments.

54. **The County Archaeologist** has no objections, subject to the imposition of conditions requiring a programme of archaeological monitoring and recording in order to investigate and record any archaeological remains that may be exposed, damaged or destroyed by the development.

55. They note that the applicant has not submitted any form of baseline historic environment assessment with the application. The County Archaeologist has examined the Worcestershire Historic Environment Record which indicates that there are no known heritage assets within the development area, but equally that very little archaeological work has been undertaken in the wider area to date and none within the site itself. The apparent absence of any known heritage assets within the proposed development is, therefore, potentially a reflection of the lack of archaeological work in the area to date as opposed to a genuine absence of any remains.

56. **The Environment Agency** comments that due to the volume of material the regulatory options available to the application are to either apply for a bespoke deposit for recovery permit. Bespoke permit applications will require a site specific risk assessment. Prior to the determination of a permit, a waste recovery plan is required which is assessed for the suitability of the activities. The Regulatory Guidance Note No.13 - 'Defining waste recovery- permanent deposit of waste on land' which supports the process is currently under review and will be replaced shortly. The main change would be that applicants would be required to confirm if the project would continue using non-waste material.

57. Alternatively, the project could be carried out under the Cl:aire (Contaminated Land: Applications in Real Environments) Code of Practice

58. The code of practice allows the use of excavated materials during the remediation and development of land and applies to excavated materials that are:

- Reused on the site of production
- Transferred between sites and reused directly without treatment, or
- Transferred between sites and reused following treatment, as part of a cluster project.

59. The Code of Practice explains the lines of evidence that are needed to demonstrate that the excavated materials are not, or have ceased to be waste. Any material that requires treatment to make it suitable for its intended use is considered to be a waste and as such waste controls apply.

60. In all circumstances any waste activity should be carried out in accordance with Duty of Care. Waste should be stored, handled, and transported ensuring there is no detriment to the environment or harm to human health. Where necessary waste transfer notes should be produced, completed in sufficient details and retained by all the relevant parties.

61. As the proposals are in Flood Zone 1, the Environment Agency refers the County Planning Authority to their standing advice and expect liaison with the South Worcestershire Land Drainage Partnership and Lead Local Flood Authority.

62. **Public Health England** has no objections, subject to the imposition of conditions to control noise and air pollution emissions. They also comment that they have no significant concerns regarding risk to health of the local population from the proposed activity, providing that the applicant takes all appropriate measures to prevent or control pollution, in accordance with the relevant sector technical guidance or industry best practice.

63. **Worcestershire Regulatory Services** has no objections, stating that the submitted Noise Assessment indicates that construction of the proposal would not result in increased noise levels west of the M5 Motorway and is, therefore, considered acceptable on noise grounds. With regards to dust emissions, the submitted Dust Assessment adequately covers the issues of nuisance dust, and is therefore, considered acceptable.

64. **South Worcestershire Land Drainage Partnership** has made no comments.

65. **Lead Local Flood Authority** has no objections, stating that they are satisfied in principle with the drainage strategy set out in the submitted Drainage Scheme. The submitted Scheme indicates that surface water would be re-routed to pass through two ponds before entering the current field drains. These ponds would slow the flow of the water entering into the field drainage system, provide attenuation and act as sediment traps. Care needs to be taken to ensure that the drainage ditches that the ponds outfall to are kept in a working order.

66. **Highways England** recommends that planning permission is not granted for a 3 month period (ending 22 March 2016) to enable the applicant to submit further information relating to the engineering details of the bund which demonstrates the engineering nature of the materials to be used and the stability of the bund front slope; details of how surface water runoff is to be controlled to prevent discharge of

any water on to Highways England land; and details of how access is to be provided in order to allow maintenance of the M5 Motorway boundary fence, in order to demonstrate that the proposed development would not have a detrimental impact on the continued safe operation and functionality of the Strategic Road Network.

67. Should the County Planning Authority disagree with the recommendation of Highways England, they must consult the Secretary of State for Transport, as set out by the Town and Country Planning (Development Affecting Trunk Roads) Direction 2015.

68. **The County Highways Officer** has no objections.

69. **The County Footpath Officer** has made no comments.

70. **British Horse Society** has made no comments.

71. **The Ramblers Association** has no objections, subject to the imposition of conditions requiring details of the measures to be implemented to protect uses of the Public Rights of Way; and to repair damage and reinstate the Bridleway to its former condition. They comment that the final landform and planting proposal appear to be acceptable; however, they are concerned about the use of Withy Wells Lane as the access to the site. The lane has Bridleway status (Bridleways SE-535 and SE-536). This route is also waymarked as a local cycle route. In addition Footpaths SE-502, SE-505 and SE-527 connect to this Bridleway. The Ramblers Association estimate that in the time it would take to walk this Bridleway, users would be passed by four HGVs.

72. **Open Space Society** has made no comments.

73. **Campaign to Protect Rural England** has made no comments.

74. **The County Landscape Officer** has no objections to the proposal, subject to the imposition of a condition requiring the protection of retained trees and hedgerows. They recommend that Blackthorn is removed from the planting scheme. They also comment that the submitted Landscape Assessment would benefit from being expanded to include models of the bund and representations of the proposed planting specification at maturity. Undoubtedly, there is potential to create a new landscape feature that can contribute towards the local landscape Green Infrastructure network in a positive sense. Nonetheless, the bund should ideally be modelled in order to determine its immediate post-construction and longer-term impact and contribution to the landscape.

75. **The County Ecologist** has no objections, subject to the imposition of conditions requiring the timing of vegetation clearance outside the bird breeding season (March to September, inclusively); protection of retained trees and hedgerows; submission of a Landscape and Ecological Management Plan; and in the unlikely event any protected species are found on the site, all works must cease and the advice of an a suitably qualified Ecologist must be sought. They also recommend that Blackthorn is removed from the planting scheme.

76. **Worcestershire Wildlife Trust** has no objections, subject to the imposition of conditions requiring a Construction Environmental Management Plan to include

details regarding protection of the retained ecological features during construction; and an ecological management plan.

77. **Natural England** has no objections, stating that they do not consider there to be any issues with this application in regards to the impacts upon the nearby Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC).

78. **Hereford and Worcester Fire & Rescue Service** has made no comments.

79. **West Mercia Police** has no objections to the proposal.

80. **Western Power Distribution** has made no comments.

Other Representations

81. The application has been advertised in the press, on site and by neighbour notification letters. To date 1 letter of representation objecting to the proposal has been received from the Cyclists' Touring Club (CTC), the national cycling charity; and 'Push Bike!', the local cycling campaign group. This letter of representation is available in the Members' Support Unit. Their main comments are summarised below:-

82. The site is crossed east-west by a bridleway which forms part of a signed family leisure cycle route. It also forms one of the few safe routes eastwards out of the City and connects with an extensive network of quiet rural lanes. Whilst the application notes the existence of the cycleway, scant regard is given in the application to ensuring the route is maintained in a safe and useable manner. Nor is there any commitment to ensuring the route is re-instated to a reasonable standard with an all year surface after development has been completed. It is strongly recommend that planning permission is refused, unless conditions are imposed which ensures this important cycle route is maintained throughout the construction period and improvements are made to improve the usability of this important part of the county's cycle network. It is further recommended that a developer contribution is made to improving off site linkages and signage of this route.

The Planning Development Control Manager's Comments

83. The determination of a planning application is to be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) requires the local planning authority to determine planning applications in accordance with the development plan, unless there are material circumstances which 'indicate otherwise'. Section 70(2) provides that in determining applications the local planning authority shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations. The relevant policies and key issues have been set out earlier.

The Waste Hierarchy

84. The Landfill (England & Wales) Regulations 2002 confirms that the term landfill refers to sites for the deposit of waste into or onto land and as such also includes landraising.

85. The National Planning Policy for Waste states that positive planning plays a pivotal role in delivering this country's waste ambitions through:

- Delivery of sustainable development and resource efficiency...by driving waste management up the waste hierarchy
- Ensuring that waste management is considered alongside other spatial planning concerns...recognising the positive contribution that waste management can make to the development of sustainable communities
- Providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of, and
- Helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.

86. Paragraph 3 of the National Planning Policy for Waste states that "*in preparing Local Plans, waste planning authorities should...drive waste management up the waste hierarchy, recognising the need for a mix of types and scale of facilities, and that adequate provision must be made for waste disposal*".

87. Paragraph 7 of the National Planning Policy for Waste states that applicants should be expected to "*demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy*".

88. The Government Review of Waste Policy in England 2011 seeks to move towards a green, zero waste economy, where waste is driven up the waste hierarchy. The waste hierarchy gives top priority to waste prevention, followed by preparing for re-use, recycling, other types of recovery (including energy recovery) and last of all disposal. This is reiterated in the Waste Management Plan for England (2013).

89. Waste Management Plan for England (2013) states that "*in England, the waste hierarchy is both a guide to sustainable waste management and a legal requirement, enshrined in law through the Waste (England and Wales) Regulations 2011. The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery (including energy recovery), and last of all disposal (e.g. landfill). The dividends of applying the waste hierarchy will not just be environmental. We can save money by making products with fewer natural resources, and we can reduce the costs of waste treatment and disposal*".

90. Paragraph 2.75 of the Worcestershire Waste Core Strategy states that "*the evidence base demonstrates that there is no need for new landfill or disposal capacity. The strategy will encourage management of waste at higher levels of the waste hierarchy. Therefore landfill and disposal facilities will not be encouraged at any level of the geographic hierarchy*". It goes on to state at paragraph 4.21 that "*the Waste Core Strategy, in line with national policy, aims to drive waste up the waste hierarchy, to use it as a resource and to minimise the amount which is landfilled or*

disposed of. The existing landfill capacity in the county is sufficient for the lifetime of the Strategy. This means that proposals for new landfill or disposal capacity are not encouraged". The lifetime of the Worcestershire Waste Core Strategy is up to 2027.

91. Table 3 of the Worcestershire Waste Core Strategy also illustrates that no capacity gap was identified for disposal and landfill, and Table 4 of the Worcestershire Waste Core Strategy shows that no capacity gap is anticipated during the lifetime of the Strategy.

92. Policy WCS 2 of the Worcestershire Waste Core Strategy reiterates this stating at point v) states "no additional landfill or disposal capacity is required to achieve self-sufficiency; therefore, no delivery milestones have been identified". It goes on to state that "proposals for landfill and disposal capacity are not encouraged and will not be permitted unless they meet the criteria set out in Policy WCS 5".

93. Policy WCS 5 of the adopted Worcestershire Waste Core Strategy states that *"no capacity gap has been identified for the landfill or disposal of waste. Planning permission will not be granted for the landfill or disposal of waste except where it is demonstrated that:*

- i. re-use, recycling, or energy or resource recovery are not practicable for the waste type to be managed and no landfill or disposal capacity exists in the county for that type of waste; or*
- ii. there will be a shortfall in landfill or disposal capacity necessary to achieve the aims and purpose of the strategy; or*
- iii. the proposal is essential for operational or safety reasons or is the most appropriate option".*

94. The applicant states that *"there are no designated sites within Worcestershire that can receive this waste, and the waste authority has advised that it would be a poor use of a landfill site to dispose of it in that way".*

95. The 2013/2014 Annual Monitoring Report (AMR) for Worcestershire does not identify a capacity gap for landfill, noting *"that with the continued shift towards reuse, recycling and other recovery it appears that the demand for additional landfill capacity will continue to reduce".* With regards to inert landfill, such as this proposal, the AMR notes that there is capacity for 2,964,000 cubic metres within the County. The commentary states that *"the amount landfilled is in line with the projections made in the Waste Core Strategy; however Environment Agency data indicates that void space has not declined at the same rate. This is not uncommon as a result of re-assessments of void space by the Environment Agency or the creation of new voids, as mineral workings with planning permission to be restored by landfilling are excavated. This means that there is more inert landfill capacity remaining at this stage in the Waste Core Strategy than was projected. This is not considered to be a problem, but will be kept under review".*

96. Furthermore, the 2014-2015 AMR, which is currently in draft but due for publication imminently, shows that in 2014 there was 2,957,850 cubic metres of void space for inert landfill in Worcestershire. Figure 6.6 of the 2014-2015 AMR shows that cumulative landfill is approximately 36% below the projections in the Waste Core Strategy, meaning that Worcestershire is unlikely to experience a capacity gap

for this type of waste before the end of the Strategy period (2027). In view of this, it is considered that there is adequate provision of inert landfill capacity within the County.

97. With reference to parts i) and ii) of Policy WCS 5, the Planning Development Control Manager considers that inert waste soils, such as this, can be recovered for use in construction projects, where there is a beneficial purpose or could be disposed of to licenced landfill sites. The AMR demonstrates that the assumptions within the adopted Waste Core Strategy are correct, and therefore, there is adequate inert landfill capacity within the County. Consequently, it is considered that parts i) and ii) of Policy WCS 5 do not apply to the proposal and therefore, for the proposal to conform with this Waste Core Strategy Policy the applicant must demonstrate that the proposal is essential for operational or safety reasons or is the most appropriate option.

98. The supporting text to Policy WCS 5 states that *"excavation activities, a normal part of the construction process, can result in considerable arisings of subsoils. In some cases, this type of waste can usefully be re-used for purposes such as flood management schemes, landscaping, levelling of sites, the construction of bunds, embankments or features for noise attenuation. However, to prevent inappropriate development, these kinds of proposals will be considered against Policy WCS 5: Landfill and disposal. The decision on whether proposals are a form of disposal will be guided by the Environment Agency's advice"*. This is contained within the document: RGN13: Defining waste recovery: permanent deposit of waste on land.

99. Appendix 1 of RGN13 gives examples of when the Environment Agency considers a particular activity could be considered a recovery operation rather than disposal operation. Appendix 1 states that *"bunds can be created for a number of purposes. Evidence must be presented that shows the bund is needed. This would include setting out the benefits that would be derived when the work is complete, and justifying that there was a genuine need for the bund...if a very large bund is proposed, but the benefits derived from installing it are marginal, this would point more towards a disposal operation"*.

100. In view of this, it is considered that the proposed construction of an earth bund would require a substantial amount of inert material, requiring approximately 150,000 tonnes of soils. This would result in a bund feature measuring some 920 metres long by a maximum of about 180 metres wide by a maximum of 4.5 metres high. Therefore, a clear benefit must be demonstrated for the bund to be considered a recovery operation.

101. The applicant's justification statement is that *"the principles of sustainable waste management require waste to be dealt with as close to its source as possible. Further, waste authorities are required to aim towards self-sufficiency in dealing with as much of its own waste as possible without relying on neighbouring authorities. The exportation of the waste soils to a neighbouring county would therefore go against this 'proximity principle'". The application is located within close proximity to the sources of the waste soils and provides an opportunity to dispose of the waste soil within Worcestershire. This will limit the distance lorries need to travel.*

102. *Further, whilst the bund is essentially a waste operation it does also serve two purposes. Firstly, it has been designed so as to enable partial arable use. Secondly, the opportunity will be taken to provide biodiversity enhancements to the remainder of the bund. The existing site is of limited ecological value so the proposal presents the opportunity to create new habitats and encourage biodiversity".*

103. It is noted that the applicant refers to the 'proximity principle'; Members are advised that the terms 'proximity principle' is no longer used in national policy; and notes the comments of the County Minerals and Waste Management Officer who comments that the "*Worcestershire's Waste Core Strategy seeks to achieve "equivalent self-sufficiency", meaning that provision is made in the Waste Core Strategy to manage a volume of waste equivalent to the county's arisings, but not necessarily precluding cross-boundary movements where that is the most appropriate option".*

104. This report shall now examine the merits of the proposal in terms of residential amenity, landscape character and visual impact, traffic and highway safety, water environment, ecology and biodiversity, and economic impact to ascertain whether "*the proposal is essential for operational or safety reasons or is the most appropriate option*" to comply with Policy WCS 5 of the adopted Waste Core Strategy.

Landscape character and appearance of the local area

105. The application was accompanied by a Landscape and Visual Impact Appraisal, which concludes that "*the site can accommodate the proposed development without harm to the wider landscape, and in a manner consistent with existing landscape pattern and character evident in the surroundings*". It notes that there would be a temporary short-term impacts on the landscape and visual character of the site while the works are being undertaken, due to the increased vehicle movements and the presence of construction vehicles and bare soil on the site, but considers that in the longer term, these impacts would reduce as the proposed woodland planting matures, integrating the proposal into the surrounding landscape.

106. The Planning Development Control Manager considers that the application site is fairly well contained and screened from Nunnery Way (A4440), Pershore Lane (A4538), A44 and the north-eastern section of the B4636 by a combination of topography and existing established vegetation. It is considered that views of the central part of the proposal would be screened from views along the M5 Motorway, as the Motorway is within a cutting at this location. Views further south along the M5 Motorway would also be well screened due to the existing dense vegetation along the western application site boundary. The most visible and, therefore, sensitive part of the application site is the north-west corner of the bund, where the site is at its lowest point and highly visible from the M5 Motorway and the B4636 on the bridge over the M5 Motorway. This section of the proposal would contain some of the highest areas of the proposed bund, measuring approximately 4.5 metres high, consequently, the District Landscape Officer considers that the new landform would appear 'engineered' within this section of the site, and considers the proposal would look more natural if the contours were further apart, creating a gentler rise from the north-western corner. The District Landscape Officer notes the proposal would be highly visible from the Bridleways which cross the site, but considers that the proposed planting would serve to further screen the M5 Motorway from the

Bridleways. The proposed planting would tie in with other woodland blocks in the landscape and would help to visibly connect them.

107. With regards to landscape character the District Landscape Officer considers that the proposal for woodland planting would not be at odds with the identified landscape character in principle; however, in order to respect the identified 'organic' character, the District Landscape Officer suggests that the shape of the planting blocks should be reconsidered. Overall, the District Landscape Officer raises no objections; subject to the detailed design of the bund being given further consideration in order that the proposal better respects its setting in terms of visual impact and landscape character.

108. The County Landscape Officer has been consulted and has raised no objections to the proposal, subject to the imposition of a condition requiring the protection of retained trees and hedgerows. With regards to impacts upon the Grade II* Historic Park and Garden of Spetchley Park, the Garden History Society and Hereford and Worcester Garden Trust were consulted and have both made no comments. Historic England has also been consulted and has raised no objections, recommending that the specialist advice of the District Council Conservation Officer is sought. The District Conservation Officer has no objections, noting that this application is within the Spetchley Estate, but does not affect the registered boundary of the Historic Park and Garden.

109. In view of the above matters, the Planning Development Control Manager considers that subject to the imposition of appropriate conditions regarding the detailed design of the bund, the planting schedule and the protection of retained trees, the proposal would not have an adverse or detrimental impact upon the character and appearance of the local area. The Planning Development Control Manager is, however, not satisfied that there would be a clear benefit for the construction of an earth bund at this location in terms of visual screening, and considers that overall the proposal in terms of landscape character and visual impact would have a neutral impact, subject to the imposition of the conditions recommended by the District and County Landscape Officers.

Residential Amenities (noise and dust impacts)

110. The nearest residential properties are those of Cornmill Barn located about 170 metres south of the proposed development along the U47646, accessed via the A44. Further residential properties are located along U52044, also located off the A44, sited about 175 metres south-west of the proposal. The nearest properties to the east are those of Cudleigh Court Farm, located about 320 metres away. Further dwellings are sited along Dunmow Avenue, Fowler Avenue, Howlett Place and Towneley located approximately 250 metres to the west of the proposal.

111. A Noise Overview Assessment and Dust Assessment accompanied the planning application. The Noise Overview Assessment concludes that "*whilst some acoustic screening of short segments of the M5 Motorway to specific receptors points would occur, there would be little or no additional screening from the majority of the section of the M5 Motorway from which noise currently contributes to the local noise environment at individual noise-sensitive locations. Accordingly, the overall reduction in noise would be very slight and it is unlikely the reduction would be perceptible.*

112. *In terms of any potential adverse effects resulting from reflections of the M5 Motorway traffic noise from the bund back towards the opposite (west) side of the Motorway, a zero, or virtually zero impact is anticipated in this regard...In view of the above, it is concluded that there would be no appreciable acoustic effects resulting from the proposed bund".*

113. The Dust Assessment concludes that *"through good practice and implementation of appropriate mitigation measures, it is expected that the release of dust would be effectively controlled and mitigated resulting in the impact at surrounding receptors to be not significant. Due to the low additional number of HGV trips during the construction phase of the development, there is predicted to be a neutral impact on air quality from road vehicle exhaust emissions. As such, it is considered that air quality does not represent a material constraint to the development proposals".* The Dust Assessment identifies a number of mitigation measures which include: developing and implementing a Dust Management Plan; sheeting of all loaded lorries; switching off vehicle engines when stationary; and minimising drop heights from loading shovels.

114. Paragraph 122 of the NPPF states that *"local planning authorities should focus on whether the development itself is an acceptable use of the land, and the impact of the use, rather than the control of processes or emissions themselves where these are subject to approval under pollution control regimes. Local planning authorities should assume that these regimes will operate effectively".* Paragraph Reference ID: 28-050-20141016 of the Government PPG elaborates on this matter, stating that *"there exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes. However, before granting planning permission they will need to be satisfied that these issues can or will be adequately addressed by taking the advice from the relevant regulatory body".*

115. The Planning Development Control Manager notes that the proposal would likely require an Environmental Permit from the Environment Agency, which would control emissions. The Environment Agency has been consulted and has made no adverse comments. Worcestershire Regulatory Services has raised no objections to the proposal. With regards to impacts to human health, Public Health England has raised no objections, subject to the imposition of conditions to control noise and air pollution emissions. They state that they have no significant concerns regarding risk to health of the local population from the proposed activity, providing that the applicant takes all appropriate measures to prevent or control pollution, in accordance with the relevant sector technical guidance or industry best practice.

116. In view of the above matters, the Planning Development Control Manager considers that, subject to the imposition of appropriate conditions that there would be no adverse air pollution, noise or dust impacts on residential amenity or that of human health. The Planning Development Control Manager is, however, not satisfied that there would be a clear benefit for the construction of an earth bund at this location in terms of noise attenuation benefits, given that the Noise Overview Assessment concludes that noise reduction would be "very slight and is unlikely the noise reduction would be perceptible".

The Water Environment

117. The proposed development is located within Flood Zone 1 (low probability), as identified on the Environment Agency's Indicative Flood Risk Map. The Government's Planning Practice Guidance (PPG) identifies that all uses of land are appropriate within this zone. However, as the application site exceeds 1 hectare it is accompanied by a Flood Risk Assessment.

118. The Flood Risk Assessment (incorporating a hydrology and drainage scheme) concludes that *"the proposed bund would potentially occupy a piece of land that currently drains towards the M5 Motorway and is dependent on its drainage on the infrastructure of the Motorway. The proposed drainage plan aims to use the new land levels of the bund to drain the bund and land local to the M5 Motorway away from the Motorway drains and thereby reduce the flows to these drains. The outflows from the ponds would drain into existing large farm ditches and away from urban areas. In addition, two sedimentation ponds are proposed during the construction phase of the bunds. These ponds would allow a degree of attenuation of flows, but critically act as sediment traps during the construction phase. Once the bunds planting has matured and the bunds soil structure is formed, these ponds would be redundant as the runoff from the bunds would be less under woodland than the current arable land. The proposed drainage scheme would reduce the runoff volumes to the M5 Motorway culverts, but would divert large portion of the catchment drainage eastwards. This scheme offers significant protection to the M5 Motorway infrastructure"*.

119. The Lead Local Flood Authority has been consulted and has raised no objections, stating that they are satisfied with the principles of the drainage strategy. In view of this, the Planning Development Control Manager considers that there would be no adverse effects on the water environment and considers that the planning application accords with Policy WCS 10 of the Worcestershire Waste Core Strategy. It is noted that overall the proposal would provide minor drainage benefits in terms of reducing the reliance of the site on the existing M5 Motorway drainage infrastructure. However, should drainage and resilience of the M5 Motorway drainage infrastructure be a principal concern then it is considered that other solutions could be considered.

Ecology and biodiversity

120. There are a number of international, national and regional designated wildlife sites within the surrounding landscape. Most notably Lyppard Grange Ponds SSSI and SAC, which is located approximately 830 metres north-west of the development site. A number of LWSs are located within 1 kilometre of the proposed development, including Hornhill Meadows LWS and Nunnery Wood LWS, which are sited about 320 metres and 730 metres west of the site, respectively. Spetchley Deer Park & Plantation Meadows LWS is also located approximately 740 metres south-east of the proposed development.

121. The application was accompanied by an Ecological Assessment, the Assessment considered that *"whilst a moderate diversity of species is currently present towards the north and south of the site the habitat present is not considered to be of particular botanical interest and falls short of the criteria for features of*

significant ecological value. Nonetheless, the habitats present still provide opportunities for a range of local wildlife".

122. It recommends that vegetation clearance should take place outside the bird breeding season (March to August, inclusive); and precautionary measures for Great Crested Newts, notably *"care should be taken to ensure no wet area are created during the works which might attract newts. Also arable habitats should not be allowed to fall out of management prior to workings commencing such that additional sheltering opportunities are created"*.

123. The Assessment concludes that *"no impacts to any protected wildlife sites and no significant impacts to valuable habitats are identified. The landscape proposals would create habitat enhancements in the medium-term with the provision of grassland and woodland planting of greater ecological value than the existing arable fields"*. The Assessment recommends that a Landscape and Ecology Management Plan is imposed as a condition of any planning permission to ensure the goals for biodiversity, landscape and recreation are achieved in the long-term.

124. Natural England and Worcestershire Wildlife Trust have been consulted due to the proximity of the proposal to the Lyppard Grange Ponds SSSI and SAC, and LWS's, respectively. Natural England has raised no objections to the proposal, and considers the proposal would not impact on the nearby SSSI and SAC. Worcestershire Wildlife Trust has no objections, subject to the imposition of a condition requiring a CEMP. The County Ecologist has no objections, subject to the imposition of appropriate conditions.

125. The Planning Development Control Manager considers that subject to the imposition of appropriate conditions that the proposed development would have no adverse impacts on the ecology and biodiversity at the site or in the surrounding area; and considers that the proposal would provide minor ecological benefits.

Traffic, highway safety and impact upon the Public Rights of Way

126. The development site would be accessed via the existing private road/agricultural access of Withy Wells Lane that joins the priority junction with Pershore Lane (A4538). This junction forms parts of a crossroads with Bredicot Lane. The national speed limit of 60 mph applies to Pershore Lane at this location. A visibility splay of 215 metres for the speed limit on the road can be achieved at 2.4 metres and 4.5 metres set back. The access would be sufficient to allow 2 tipper trucks to pass at the entrance.

127. Construction vehicles would consist of 20 tonne rigid 'tipper' trucks that are approximately 10 metres in length. In addition, at the beginning and end of the project, a small number of low-loaders (measuring about 15 metres long and 80 tonne capacity) would be used to deliver construction vehicles. These would be scheduled deliveries so their access and egress can be managed to mitigate their impact. During the construction period, personnel would use car and vans to access the site on a daily basis.

128. The proposed bund would accommodate up to a maximum of 150,000 tonnes of waste soils, based on the site being operational 6 days per week, and an average load of 20 tonnes per vehicle, the applicant estimates that the proposal would generate a total of 15,002 HGV movements, equating to about 24 HGV movements

per day from each site (a total of 48 HGV movements per day - 24 entering the site and 24 exiting the site). Based on an 8 hour working day, the two-way trip rate would be 6 HGV's per hour. This is based on the worst case scenario that both Worcester 6 site and the retail park development are under construction at the same time. The construction period for the bund is anticipated to last for approximately 15 months. The applicant states that "*due to the low numbers of HGVs movements, it is unlikely that the construction vehicles would meet on Withy Wells Lane, however, there would be sufficient pulling in areas and verges on Withy Wells Lane where construction vehicles could pass other users on the lane if necessary*".

129. It is noted that in the Transport Assessment the applicant states that "*in 2014, Pershore Lane (A4538) had an annual average daily flow of approximately 10,400 vehicles of which 7% (about 728) were HGV's*". Therefore, based on these figures, the proposal would result in approximately 6.6% rise per day in HGV traffic along Pershore Lane (A4538) for a temporary period of time (about 15 months). However, it is noted that if the waste soils were not be deposited at the proposed site, these vehicles would still be on the road network, as this material would have to be recovered/disposed of elsewhere, unless the Worcester 6 and retail park developers were to re-use the material on site.

130. The applicant states that construction lorries would have to travel about 2.6 kilometres (retail park development) and 1 kilometre (Worcester 6 site) to the application site. The applicant state that internal movement within the construction site would use existing tracks within the Spetchley Estate, with potential for temporary construction routes and passing points to be installed.

131. The route for construction traffic from the retail park site to the proposed development would follow the B4636 in a north-east direction, turning right at the roundabout onto Pershore Lane (A4538), travelling in a southern direction and turning right into Withy Lane. The route for construction traffic from the Worcester 6 site to the proposal would follow Pershore Lane (A4538) to the north of the application site. Construction vehicles would turn right out of the Worcester 6 site, travelling southwards along Pershore Lane (A4538) and turn right into Withy Lane.

132. Tibberton Parish Council comments that they are concerned about the traffic disruption and associated highways issues on an extremely busy thoroughfare, especially at commuter times, and request that consideration is given to scheduling heavy construction vehicle movements outside the peak commute time periods; and request regular road cleaning.

133. With regards to Tibberton Parish Council's comments, it is noted that the application states that there would be breaks in construction works/deliveries during peak hours and that there would be a wheel wash facility on site and a road sweeper would be used as necessary.

134. Highways England has been consulted due to the proximity of the M5 Motorway and recommends that planning permission is not granted for a period of 3 months (ending on 22 March 2016) to enable the application to submit further information to ensure the proposal would not have a detrimental impact on the continued safe operation and functionality of the Strategic Road Network. The County Highways Officer has raised no objections.

135. A number of Public Rights of Way are located in the vicinity of the application site, notably Bridleways SE-534, SE-535, SE-536 and SE-537 which run along Withy Wells Lane. This route is also forms part of a local cycle network.

136. One letter of representation objecting to the proposal has been received stating that whilst the applicant notes the existence of the cycleway, scant regard is given in the application to ensuring this route is maintained in a safe and useable manner. Nor is there any commitment to ensuring the route is re-instated to a reasonable standard with an all year surface after development has been completed. It is strongly recommend that planning permission is refused, unless conditions are imposed which ensures this important cycle route is maintained throughout the construction period and improvements are made to improve the usability of this important part of the county's cycle network. It is further recommended that a developer contribution is made to improving off site linkages and signage of this route.

137. To minimise the impact of construction traffic on the Public Rights of Way, the applicant has set out a number of principles within the Transport Assessment, this includes the following:

- *"Internal movement within the construction site would use existing tracks within the Spetchley Estate, with potential for temporary construction routes and passing points to be installed. Although these are Public Rights of Way, any impacts on the users of these routes could be mitigated through site management.*
- *Temporary diversion of pedestrian / cycle routes and Public Rights of Way to be signposted accordingly, if necessary.*
- *Signs should be placed along pedestrian/cycle routes and Public Rights of Way to warn of frequent construction traffic.*
- *Drivers and staff would be educated and forewarned about the potential for other users to be on the lane.*
- *Provide induction training for drivers, workers and visitors and send instructions out to visitors before their visit.*
- *Vehicle speed would be limited to 10mph on the lane, and also on site.*
- *The appointed contractor would carry out a highway conditions survey along both construction traffic routes prior to the commencement of construction work. Following the completion of the construction work a further highway conditions survey would be carried out to ensure that any defects are reasonably attributed to the construction work".*

138. Given the scale, nature and type of the proposal, it is not considered that a developer contribution would be necessary in this instance, as once the bund was constructed; it is considered it would have no impact whatsoever on the cycle network. In view of this, it is considered that such a planning obligation would not pass the tests set out at paragraphs 203 and 204 of the NPPF, namely:-

139. *"Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*

140. *Planning obligations should only be sought where they meet all of the following tests:*

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development".*

141. The County Footpath Officer, British Horse Society and Open Space Society have been consulted but made no comments. The Ramblers Association has raised no objections, subject to the imposition of conditions requiring details of the measures to be implemented to protect uses of the Public Rights of Way; and to repair damage and reinstate the Bridleway to its former condition.

142. Based on the advice of the Ramblers Association, the Planning Development Control Manager is satisfied that subject to the imposition of appropriate conditions that the proposal would not have an unacceptable impact upon Public Rights of Way.

143. With regards to traffic and highways safety, based on the advice of Highways England, the Planning Development Control Manager considers that further information is required in order to ensure that the proposal does not have an unacceptable impact on the integrity of the M5 Motorway. As set out by the Town and Country Planning (Development Affecting Trunk Roads) Direction 2015 should the County Planning Authority wish to grant planning permission contrary to Highways England advice, the County Planning Authority must consult the Secretary of State for Transport. The County Planning Authority must then not determine the application until either the Secretary of State gives a direction in respect to the application (and the County Planning Authority must then determine the application in accordance with the terms of the direction); or the County Planning Authority receive notification by or on behalf of the Secretary of State that the Secretary of State does not propose to give any such direction in respect to the application; or a period of 21 days has elapsed without the Secretary of State giving such a direction.

Economic Impact

144. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development through the three dimensions of economic, social and environmental. In particular the NPPF sees the economic role of planning as *"contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating the development requirements, including provision of infrastructure"*.

145. In addition, the NPPF at Paragraph 19 states that the *"Government is committed to ensuring that the planning system does everything it can to support economic growth, and therefore, significant weight should be placed on the need to support economic growth through the planning system"*.

146. The proposed development would facilitate the construction of the Worcester 6 site (Worcester Technology Park), which is listed as a key project within the Worcestershire LEP Business Plan and identified as a 'Game Changer' site within the Worcestershire SEP. 'Game Changer' sites are those with a significant sustainable economic impact of regional significance, which occupy strategic locations within their markets and provide major opportunities to lever market-led

investment and deliver growth and jobs. The Worcester 6 site is also allocated within the adopted South Worcestershire Development Plan (Policy SWDP 45 / 6). The supporting text to Policy SWDP45/6 states that "*although provision has been made for local employment opportunities within the city and the urban extensions, there is evidence to support a 70ha (gross) sub-regional employment site providing opportunities for existing manufacturing companies in the area to consolidate and expand by relocating to this site. The land is located immediately south-east of Junction 6 of the M5, a key gateway to the city. It lies within Wychavon District, but as the site abuts the city boundary it will provide serviced employment land to meet the growth of Worcester*".

147. In view of the above matters, it is considered the proposal would help to facilitate the construction of the Worcester 6 site, which would provide significant economic benefits as well as facilitating the construction of the retail park should this be granted planning permission.

Conclusion

148. As with any planning application, this application should be determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. The reason why the Development Plan is at the heart of the planning system is because it is the forum where the need for new development is identified, and also where it would be inappropriate. The plan would have been through public consultation, and would have been subject of independent examination.

149. The key development plan policy to be considered in the determination of this planning application is that of Policy WCS 5 of the adopted Worcestershire Waste Core Strategy. Policy WCS 5 of states that "*no capacity gap has been identified for the landfill or disposal of waste*". The supporting text to Policy WCS 5 states that "*the decision on whether proposals are a form of disposal will be guided by the Environment Agency's advice*". This is contained within the document: RGN13: Defining waste recovery: permanent deposit of waste on land.

150. Appendix 1 of RGN13 gives examples of when the Environment Agency considers a particular activity could be considered a recovery operation rather than disposal operation. Appendix 1 states that "*bunds can be created for a number of purposes. Evidence must be presented that shows the bund is needed. This would include setting out the benefits that would be derived when the work is complete, and justifying that there was a genuine need for the bund...if a very large bund is proposed, but the benefits derived from installing it are marginal, this would point more towards a disposal operation*".

151. Therefore, for the proposal to be considered a recovery operation rather than a waste disposal operation, the applicant has to demonstrate a clear benefit to the deposit of waste soils in this location.

152. It is noted that the application was accompanied by a Noise Overview Assessment, which concluded that "*whilst some acoustic screening of short segments of the M5 Motorway to specific receptors points would occur, there would be little or no additional screening from the majority of the section of the M5*

Motorway from which noise currently contributes to the local noise environment at individual noise-sensitive locations. Accordingly, the overall reduction in noise would be very slight and it is unlikely the reduction would be perceptible". Therefore, the Planning Development Control Manager considers that the proposal would provide negligible noise attenuation benefits.

153. The submitted Landscape and Visual Appraisal concludes that *"there would be temporary short-term adverse impacts on the landscape and visual character of the site while the works are being undertaken, due to the increased vehicle movements and the presence of construction vehicles and bare soil on the site. However, in the medium to longer-term the proposal could be accommodated without harm to the wider landscape, and in a manner consistent with existing landscape pattern and character evident in the surroundings".* Therefore, the Planning Development Control Manager considers that the proposal would provide a neutral impact upon the landscape, subject to the imposition of appropriate conditions.

154. The submitted Ecology Assessment concludes that *"the landscape proposals will create habitat enhancements in the medium-term with the provision of grassland and woodland planting of greater ecological value than the existing arable fields".* Therefore, the Planning Development Control Manager considers that the proposal would provide minor ecology and biodiversity benefits.

155. Furthermore, it is noted that the applicant states that the proposal *"provides an opportunity to dispose of the waste soil within Worcestershire".* In view of above matters, the proposal is considered a disposal operation. Policy WCS 5 goes on to state that *"planning permission will not be granted for the landfill or disposal of waste except where it is demonstrated that:*

- i. re-use, recycling, or energy or resource recovery are not practicable for the waste type to be managed and no landfill or disposal capacity exists in the county for that type of waste; or*
- ii. there will be a shortfall in landfill or disposal capacity necessary to achieve the aims and purpose of the strategy; or*
- iii. the proposal is essential for operational or safety reasons or is the most appropriate option".*

156. It is considered that parts i) and ii) of Policy WCS 5 do not apply to the proposal and therefore, for the proposal to conform with this Waste Core Strategy Policy the applicant must demonstrate that the proposal is essential for operational or safety reasons or is the most appropriate option.

157. As indicated earlier, it is considered that there would be no clear noise attenuation benefits from the construction of the earth bund in this location; it is considered the proposal would have a neutral impact upon the landscape, subject to the imposition of appropriate conditions; and only minor benefits in terms of ecology and biodiversity are anticipated. It is considered that the proposal would provide minor drainage benefits in terms of reducing the reliance of the existing site on the M5 Motorway drainage infrastructure, thereby enhancing the resilience of the Strategic Road Network. It is also considered that the proposal would help to facilitate the development of the Worcester 6 site, which is identified as a key project in the Worcestershire LEP Business Plan; as an 'Economic Game Changer site' in the Strategic Economic Plan (SEP); and is allocated within the South

Worcestershire Development Plan (Policy SWDP 45 / 6). It is noted that the NPPF affords significant weight to be placed on the need to support economic growth through the planning system.

158. Furthermore, the proposal would limit the distance HGV's have to travel to dispose of the waste soils at an appropriate licenced facility or recovered for beneficial purposes in other projects. Notwithstanding this, the Planning Development Control Manager is not satisfied that the limited benefits of this proposal when taken individually or as a whole demonstrates that "*the proposal is essential for operational or safety reasons or is the most appropriate option*", as set out in part iii) of Policy WCS 5 of the adopted Worcestershire Waste Core Strategy. Therefore, it is considered that there would not be a clear benefit for the construction of an earth bund in this location that would override Policy WCS 5 of the adopted Waste Core Strategy and the principle of the waste hierarchy.

159. It is also noted that the County Minerals and Waste Management Planning Policy Officer objects to the proposal as it is considered contrary to the vision, objectives and policy of the adopted Worcestershire Waste Core Strategy.

160. Whilst the NPPF reiterates that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise; and each application must also be considered on its own merits, it is considered that should this application be granted planning permission, it would set an undesirable precedent which would encourage further landfill / landraising applications to dispose of construction waste in the countryside potentially creating alien landforms without any clear benefits, undermining Policy WCS 5 of the adopted Worcestershire Waste Core Strategy. Furthermore, the County Minerals and Waste Management Planning Policy Officer considers that appropriate disposal of waste must be considered to be an essential component of the design and business case for any development. No overriding factors have been demonstrated in this case, and it is considered that the waste arising from the Worcester 6 Site and Retail Park development should be appropriately disposed of, as would be expected of all developments in the county.

161. On balance, it is considered that permitting the formation of an earth bund on land to south of B4636 and east of M5 Motorway, Spetchley, Worcestershire, would be contrary to Policy WCS 5 of the adopted Worcestershire Waste Core Strategy, as the proposal would be a waste disposal operation, with no clear benefits that outweigh the harm of not driving waste up the waste hierarchy.

Recommendation

162. The Planning Development Control Manager recommends that planning permission be refused for the formation of an earth bund on land to south of B4636 and east of M5 Motorway, Spetchley, Worcestershire for the following reason:

The proposal is considered to be a waste disposal operation that would not drive waste up the waste hierarchy, contrary to Policy WCS 5 of the adopted Worcestershire Waste Core Strategy.

Contact Points

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Background Papers

In the opinion of the proper officer (in this case the Planning Development Control Manager) the following are the background papers relating to the subject matter of this report:

The application, plans and consultation replies in file reference 15/000040/CM.