

# 23/02282/CMA

**Applicant** Vistry Home \_ John A Wells Ltd

**Location** Sharphill Wood Landmere Lane Edwalton Nottinghamshire NG11 6LP

**Proposal** Spreading of waste topsoil on land west of Sharphill Wood with (post-development) continuing agricultural use

**Ward** Edwalton

Full details of the application can be found [here](#)

## THE SITE AND SURROUNDINGS

1. This County Matters application relates to a c. 27.9ha site to the west of Sharphill Woods in Edwalton comprising arable fields. The site partly abuts the A52 to the south, Old Road and an associated public right of way to the west, with part of the northern boundary abutting residential properties on Peveril Drive to the north. There is a cemetery and a wooded area to the north west corner. A public right of way runs along part of the eastern boundary of the site from Peveril Drive to Sharphill Woods, with two footpaths crossing the site running east to west. The site runs on an incline running north from the A52 with a slight plateau towards the centre of the site and a decline towards the northern boundary.
2. The site falls within the Green Belt.

## DETAILS OF THE PROPOSAL

3. The proposal is 'waste development and as such is a County Matter application where Rushcliffe Borough Council is a Consultee. The County Council are the determining authority for this type of application.
4. The proposed development comprises the spreading of c. 38,000 cubic metres of topsoil on the application site, comprising surplus topsoil arising from cut-and-fill exercises as part of the residential development to the east within the strategic allocation site at Melton Road, Edwalton.
5. The surplus topsoil is currently stockpiled within two soil bunds located within the Phase 7 parcel of the Strategic Urban Extension approved under 17/00941/OUT. The topsoil would be spread in two phases over a period of approximately six weeks at a depth of 10cm within the southern part of the site and 20cm within the northern part of the site, graded to the edges so as not to impact on boundary trees/ hedges.

## SITE HISTORY

6. There is extensive planning history in relation to the Land at Melton Road strategic housing allocation to the east of Sharphill Woods. Of relevance to

this application is 17/00941/OUT which includes reference to the management of soil resources.

## **REPRESENTATIONS**

### **Ward Councillor(s)**

7. Adjoining Ward Councillor (Cllr Dellar) has raised concerns regarding the length of time the footpaths are likely to be closed or diverted, as the soil issue has taken a long time to resolved and they would not want to see a similar delay with footpaths remaining closed. Concern regarding building material being spread onto fields and whether there is a plan to deal with this. Machinery used to move the soil could damage the soil by compression and assurance is sought that this has been considered.
8. Adjoining Ward Councillor (Cllr Matthews) submitted comments neither supporting nor objecting to the application. Concern that large quantities and depths of top soil on such slopping ground would change the nature of the soil and exacerbate run off into neighbouring properties. The slope on the northern side of this area is already very steep and gets eroded by bad weather as can be seen on the Peveril drive exit.

### **Town/Parish Council**

9. Ruddington Parish Council comment that they support the resident comments.

### **Statutory and Other Consultees**

10. The Borough Council's Environmental Sustainability Officer notes that the ecology reports referred to in the planning statement have not been provided and therefore it is not possible to consider the impact on protected species.
11. The Borough Council's Environmental Health Officer has no objection to the spreading of surplus topsoil. There may be waste management implications associated with the proposed works and it is recommended that the applicant consult with the Environment Agency prior to the commencement of works. There are no objections to the proposal on noise grounds given the nature and duration of work. Whilst it is noted that the intention is to undertake works during the winter months which should minimise dust emissions, as this may not be possible it is recommended that a dust management plan is secured by way of a condition.

### **Local Residents and the General Public**

12. One objection received with comments summarised as follows:
  - a. Surface water issues for neighbouring properties from previous attempts to store topsoil
  - b. Reprofilling hill puts residents at risk of flooding and mud runoff
  - c. Somehow the Phase 2 site will be raised 20cm in height without reprofilling the hill or affecting the pond that exists at the top of the hill
  - d. Would raise the boundary above that of Old Road, risking turning it into a river when it rains
  - e. No mitigation for the closure of the rights of way crossing the field

- f. If any of the proposed conditions of soil, profile, or predictions of water runoff are not met what is the likelihood of them being rectified?

## **PLANNING POLICY**

13. The current application is a 'County Matter' in that it falls to the County Council to determine the application as Local Planning Authority with Rushcliffe Borough Council as consultee. Therefore, the County Council will assess the proposal against the policies contained within their own Development Plan.
14. The Development Plan for Rushcliffe consists of The Rushcliffe Local Plan Part 1: Core Strategy (LPP1) and the Local Plan Part 2: Land and Planning Policies (LPP2). Other material considerations include the 2023 National Planning Policy Framework (NPPF), and the National Planning Practice Guidance (the Guidance).
15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF advises that there is a presumption in favour of sustainable development and for decision-making this means approving development proposals that accord with the development plan without delay.

## **Relevant National Planning Policies and Guidance**

16. The relevant policy considerations in the NPPF are:
- Paragraph 11c)
  - Chapter 12- Achieving well- designed and beautiful places
  - Chapter 13- Protecting Green Belt Land.
17. The National Planning Policy Guidance contains specific guidance on Waste, it sets out that the County Council is generally the waste authority, and that applications of the type proposed should be dealt with as “County Matters”.

*“The waste planning authority is generally the county council (in areas where there are 2 tiers of local government – county councils and district councils), the unitary authority, or the national park authority. The [Town and Country Planning \(Prescription of County Matters\) \(England\) Regulations 2003](#) prescribe classes of waste operations and uses of land that should be dealt with as “county matters”.*

18. The NPPG sets out further guidance on protecting human health and the environment, and also states that ‘non-waste’ authorities (such as Rushcliffe) “must have regard to national planning policy for waste”.
19. The National Planning Policy for Waste (2014) sets out the Government’s detailed waste planning policies and Waste Planning Authorities how to determine planning applications.

A link to the National Policy can be found [here](#).

## **Relevant Local Planning Policies and Guidance**

20. The relevant policy considerations in the LPP1 are:
- Policy 1 (Presumption in Favour of Sustainable Development)
  - Policy 4 (Nottingham- Derby Green Belt)
  - Policy 5 (Employment Provision and Economic Development)
  - Policy 10 (Design and Enhancing Local Identity).
21. The relevant policy considerations in the LPP2 are:
- Policy 1 (Development Requirements)
  - Policy 21 (Green Belt).

The full text of the policies in the LPP1 and LPP2, together with the supporting text, can be found in the Local Plan documents on the Council's website at:

[Adopted Local Plan - Rushcliffe Borough Council](#)

22. The Nottinghamshire County Council have the Adopted Waste Local Plan (2002) and the Waste Core Strategy (2013).

These policies can be found [here](#).

It is not proposed in this report to go into detail regarding these policies, and it is for the County Council to be satisfied that the proposal accords with relevant Waste policies.

## **APPRAISAL**

23. The County Council seeks the views of the Borough Council in relation to the proposed spreading of waste soil and they are the determining authority for this application. Matters relating to flooding/ drainage, highways and rights of way are for the County Council to be considered through the relevant internal consultation. Accordingly the Borough Council can only provide comment in relation to matters relating to National and Local Plan policies.
24. The main policy consideration is the location of the site within the Green Belt. Policy 21 of the LPP2 states that applications for development in the Green Belt will be determined in accordance with the National Planning Policy Framework. Paragraph 152 of the NPPF states that development in the Green Belt should be regarded as inappropriate which is, by definition, harmful and should not be approved except in very special circumstances. Paragraph 153 states that when considering any planning application, substantial weight should be given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
25. Exceptions to inappropriate development are set out in paragraph 154 of the NPPF. Certain other forms of development listed under paragraph 155 are also not inappropriate, provided the openness is preserved and there is not a conflict with the purposes of including land within the Green Belt. This includes engineering operations under criterion b) of these exceptions.
26. In considering whether the proposal would preserve the openness of the Green Belt, National Planning Practice Guidance sets out a number of

matters which need to be taken into account when making this assessment including:

- openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume
  - the duration of the development, and how successfully it can be remediated - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness
  - The degree of activity likely to be generated, such as traffic generation.
27. The application proposes the depositing of soil across the site at a depth varying from 10 cm to 20 cm. The deposited material would be graded towards the field perimeters to ensure that any existing boundary planting is not buried. It is not considered that visually the proposal would harm the openness of the Green Belt given the modest depth of deposited materials and the grading to the edges. The works would take place over a period of approximately six weeks following which the land would continue to be farmed in its current arable use with no proposed change to the nature or degree of activity on the site. It is therefore considered that the proposal would preserve the openness of the Green Belt as an exception to inappropriate development.
28. It is not considered that the proposal would harm the character of the rural landscape given that it is to be returned to an agricultural use once the earthworks are complete.
29. The Public Right of Way running from Peveril Drive to Sharphill Woods is to remain open. The two Public Rights of Way running east to west to link with Old Road would be closed for a temporary period during the works. The submission indicates an alternative footpath route running along the northern and western edges of the site to retain access to Old Road during the temporary closure. Matters regarding the Rights of Way diversion are for the County Council to consider internally with their Rights of Way team.
30. The submission includes a works strategy which states that fill material shall be free of soft or loose soils, roots, waste and other foreign matter. The strategy also includes measures in relation to mitigating undue soil compaction.
31. In terms of flooding, this is a matter for the County Council to consider in their role as the Lead Local Flood Authority. The submission includes a Drainage Technical Note which states that existing percolation rates would be replicated with the additional depth of topsoil, run-off is unlikely to increase as the topography and surface areas will remain the same.
32. Matters relating to flood risk and ecology are subject to ongoing internal discussion within Nottinghamshire County Council and the Borough Council is unable to provide further comment in this regard.
33. It is recommended that the County Council should be informed that the Borough Council raises no objection to the proposal subject to the County Council being satisfied that there would be no significant adverse impact on visual amenity and the open character of the Green Belt and that other

matters in relation to surface water drainage, ecology, construction noise/disturbance, dust mitigation and matters relating to footway diversions have been sufficiently addressed.

34. It is recommended that, should the application be approved, conditions be imposed as set out below. It should be noted that the list of conditions is not exhaustive and is based on the information submitted to the Borough Council for consideration.

## **RECOMMENDATION**

It is RECOMMENDED that the Nottinghamshire County Council be advised that the Borough Council DOES NOT OBJECT to the development, subject to the County Council being satisfied that the proposal accords with the relevant development plan and that all other material considerations can be satisfactorily addressed, including the following:

- Surface Water Drainage
- Ecology
- Construction noise/disturbance
- Dust migration
- Footway diversion matters.

Should Planning Permission be granted it is recommended the Borough Council requests conditions in relation to:

- Soil handling
- Control of noise, dust and vibration during works
- Tree and hedge protection
- Hours of operation of site works
- Surface water drainage
- Land restoration.