

HERTFORDSHIRE COUNTY COUNCIL

**ENVIRONMENT
SCRUTINY COMMITTEE**

TUESDAY 29 JUNE 2004 AT 10.00AM

RESTORATION OF MINERALS AND WASTE SITES IN HERTFORDSHIRE

Report of the Director of Environment

Authors: Andy McIntosh, Restoration Manager
[Tel: 01992 556275]
Katharine Ingram, Planning Officer
[Tel: 01992 556254]

Executive Member: Derrick Ashley

Agenda Item No.

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1. Purpose of the report

To provide an overview of the restoration of mineral and waste sites in Hertfordshire with reference to the available 'best practice' advice together with an examination of current and forthcoming issues affecting land restoration.

2. Summary

- 2.1 This report examines the scope and role of restoration carried out by the minerals and waste industry and controlled through the planning system, as administered in Hertfordshire by the County Council. The report highlights the impact that restoration schemes can have on the environment and the local community and the benefits that good restoration can bring about.
- 2.2 Sources of best practice information for the restoration of minerals and waste sites are also discussed. The report provides an overview of available guidance and gives examples of where and how the advice is put into practice in Hertfordshire, including current initiatives.
- 2.3 Issues that are likely to affect restoration in the future are also discussed, particularly in relation to the Planning and Compulsory Purchase Act 2004.

3. Conclusion

- 3.1 This report concludes that Hertfordshire County Council is already at the forefront of best practice in mineral and waste restoration. While there is still work to be done to ensure that the Council retains this position, its pro-active approach in this area has already laid the foundations for implementing the requirements of forthcoming planning legislation.

3.2 The Committee is asked how it wishes to scrutinise the topic further. This could be through:

- a) discussion on the day;
- b) seeking a further report;
- c) establishment of a topic group

4. Background

- 4.1 As Mineral and Waste Planning Authority, the County Council has a responsibility to ensure that all sites for which it is Local Planning Authority are restored to the benefit of the environment, local residents and the wider community. The potential impact of mineral and waste operations can be considerable, whether from existing operations, new developments, or from those that have been carried out in the past and which may still have an impact on the local area. Thus the County Council has a vital role to play in the control of existing operations; the planning of future workings and the remediation of old sites.
- 4.2 The definition of what may be regarded as good restoration can be considered in terms of visual and other less obvious or indeed, hidden factors. Of these, visual perception is the most obvious and may occur at a conscious or subconscious level, taking into account, factors such as whether the land appears naturalistic or otherwise in keeping with its surroundings. Typically, this perception will be influenced by the appearance of the restored landform, the actual land-use and successful establishment of suitable vegetation. Indeed, a successfully restored site may appear to the casual observer, to be a natural landform with an appearance and land-use that is suited to the local landscape, giving no obvious indication of its former use. Other factors that arise are concerned with technical issues such as the provision of a good quality soil layer and its successful 'treatment' by proper soil handling, cultivation and aftercare. The correct provision of appropriate land levels and drainage are also important factors.
- 4.3 Whilst the size, nature and duration of the developments often cause the most easily identified short or medium term impacts upon local communities, it is the final restoration, after-use and aftercare (known collectively as reclamation) of these sites that has the most longstanding impact. For the purposes of this paper, restoration will be considered as including aftercare.
- 4.4 Consideration of the eventual afteruse of a development site, its restoration to an appropriate quality and in a timely manner, is therefore an intrinsic part of planning development control. This control has its basis in legislation, the Local Development Plan policies and Government guidance that govern development in the County. These policies and guidance must in turn, be supported by their practical application through the development control process. In order to be effective, this must include a commitment to the entire development control process, including site monitoring and enforcement.
- 4.5 Contrary to popular public understanding, restoration is not simply about returning the land to its original state although in the past, this was often the basic philosophy of many schemes. We now know that in many cases this approach can be impractical or undesirable or both. The application of best practice in the restoration of minerals and waste sites is now a far more sophisticated process than it once was, with each site providing its own individual difficulties or opportunities.

These may include opportunities for amenity provision and especially increased public access, habitat creation and environmental or landscape improvement.

- 4.6 The restoration and aftercare of mineral and waste sites is concerned firstly with ensuring from the outset that a suitable restoration scheme, that is appropriate to the desired after-use, can be completed to the required standard. Thereafter the site must be managed and maintained to ensure its continued suitability for the intended after-use and its benefit to the community, ideally and as far as possible, in a sustainable manner.

5. Legislation and Best Practice

- 5.1 The importance of good restoration in maintaining or improving the quality of the landscape is reflected in the wealth of national policies and government and other advice that exists regarding restoration practice. In England, MPG7 (The Reclamation of Mineral Workings) provides the principle guidance in respect of restoration, with aspects of restoration also supported by elements of PPG2 (Green Belts), PPG7 (The Countryside: Environmental Quality and Economic and Social Development) and PPG9 (Nature Conservation).
- 5.2 MPG8 and MPG9 relate to the registration of Interim Development Orders (IDO's) as governed by the Planning and Compensation Act 1991. Broadly speaking, this allows the imposition of planning conditions on 'registered' IDO sites, providing, amongst other things, a tool for improving the quality of site restoration, often on sites where previously there may have been few, if any, restoration provisions.
- 5.3 MPG14 relates to the Review of Mineral Planning Permissions (RoMPP); a process of systematic review of mineral planning permissions adopted under the terms of the Environment Act 1995. In general terms, this allows the update and imposition of planning conditions on existing permissions for mineral development granted since 1947, providing, amongst other things, a significant tool for improving the quality of site restoration.
- 5.4 At a national level, guidance and good practice guides are also available from the ODPM, DEFRA, Environment Agency, English Nature, the Forestry Commission and other public, voluntary and private sector organisations, including the minerals and waste industries. The minerals industry in particular, in conjunction with Government and the voluntary and academic sectors, has been at the forefront of developing best practice in restoration since at least the 1980's. This is illustrated in Appendix 1, which provides examples of some of the resultant guidance that has emerged over the past twenty years.
- 5.5 Some major mineral and waste operators have in recent years, adopted quality assurance systems such as ISO14001 as means of improving their environmental management practices. The County Council has encouraged this approach and works with operators as they incorporate their restoration and aftercare planning work into their environmental management systems.

6. Best Practice in Hertfordshire

- 6.1 Restoration schemes have a permanent impact on the quality of the local environment and on the lives of local residents. Traditionally, mineral and waste planning authorities rely on individual planning officers to control the quality of restoration and aftercare, supported perhaps by either their own specialist officers such as landscape officers or external consultants. In contrast however, Hertfordshire has for many years, been at the forefront of restoration best practice by being one of the few County Councils in the country to employ a dedicated restoration officer as an integral part of the team that deals with minerals and waste planning. This role is provided by the Restoration Manager, working as part of the County Development Unit's Development Control and Enforcement Team.
- 6.2 The Restoration Manager is involved in all stages of the planning process, from the formulation of policy to the practical application of the development control process. Operators and applicants are encouraged to seek pre-application advice in devising high quality restoration schemes, encouraging innovation and forward planning in their development proposals. The Restoration Manager also provides key support to planning officers in the technical evaluation of planning applications and submitted schemes and supports both planning officers and the Enforcement Team by specifically monitoring restoration operations as they are implemented. The Restoration Manager's skills also serve to inform all aspects of development control, providing a practical link between the industry and the planning authority in order that the operators can meet the authority's requirements at a practical level.
- 6.3 The current Restoration Manager also represents the County Council at national level through the '*National Land Reclamation Panel*', a standing local authority officers panel, which represents all those involved in land reclamation. Through this vehicle, the experience of other authorities helps to inform Hertfordshire's approach to site restoration, whilst also enabling Hertfordshire to share its experience with other authorities.
- 6.4 The County Council has also directly contributed to government sponsored research into restoration best practice through a case study carried out at Hatfield Quarry as part of a major study on behalf of the DETR in 1999 into the '*Effectiveness of Provisions for the Aftercare of Mineral Workings*' (see Appendix 1). The study report was published in 2000 and is notable in that the report's author, Dr Stuart McRae, concluded that the Hatfield site was "*in many respects, a text-book site, having the benefit of experienced and committed operators*" and "*experienced MPA and MAFF/FRCA officers*". As this example shows, the methods used to encourage best practice in restoration by Hertfordshire County Council can also serve as a template for other authorities. Best practice advice from government, industry, other authorities and external sources, is thus fed directly into the development control process.

- 6.5 The County Council also contributes to conferences and seminars on the subject of land restoration, again using experience gained on sites within the County as examples of innovation and best practice.
- 6.6 By taking this pro-active approach to restoration, the County Council benefits from a co-ordinated and consistent management focus on restoration, giving greater support to industry operators and leaving planning officers free to concentrate on other aspects of development control. Hertfordshire is believed to be one of very few authorities known to take this approach with only Surrey County Council known to be operating a similar system.
- 6.7 The County's constructive and pro-active approach to working with operators has helped ensure progress on a series of high quality restoration schemes on both active and closed sites across the county. Examples are given in Appendix 2 and include sites at Hatfield, Amwell, Tyttenhanger, Panshanger, Water Hall and Bovingdon.
- 6.8 The pro-active approach to restoration has also been used to successfully address difficulties that have been presented by older 'problem' sites. The difficulties presented by these sites can be significant with problems such as poor soil cover, poor drainage and on old landfill sites, differential settlement or the exposure of old waste. These sites can present considerable risks to both the environment and human health and as such, would invariably benefit from being re-restored. However, the means of achieving this re-restoration can itself raise new issues of further impact on the environment or local amenity and often, will also require a new planning permission. Many such sites can in practice, only be restored by the importation of clean cover or soils and this issue alone can raise major planning obstacles.
- 6.9 However, there have been some notable successes, including the re-restoration of old landfill or tip sites at Water Hall (Hertford), Cole Green (Welwyn Garden City), Woodcock Hill Farm (Elstree), Netherwyld Farm (Radlett), Riverside Road (Watford) and Dell Wood (Chorleywood). In each case, land previously damaged by either tipping or poor restoration practices has, in recent years, been successfully re-restored in line with modern standards.
- 6.10 Over the past ten years, the County Development Unit has overseen the development of a rolling programme of progressive restoration on all of its major operational mineral sites. In addition, the County Council has secured the substantive completion of restoration and aftercare works on more than 30 sites across the county. These have included 18 mineral and waste sites together with 14 borrow pit and/or spoil disposal sites associated with road schemes.

7. Existing Practice and Current Initiatives

- 7.1 The County Council takes a pro-active approach to dealing with all aspects of restoration on working sites, with a rolling programme of site inspections and review meetings with operators.

During these meetings, the County Council actively seeks to identify any issues that may interfere with either the quality or timing of each stage of the restoration works together with encouraging operators to plan ahead so as to maximise the efficient and timely progress of restoration works.

- 7.2 It must be acknowledged that some operators do not always restore land to the standard required by the planning permission. This may occur through error, ignorance or deliberate intent but however caused, must be considered as an issue for attention. Where such failure occurs, the County Council seeks the implementation of appropriate remedial works and will first endeavour to achieve this through direct discussion with the operator. Should this approach fail however, then the County Council will if necessary, seek to secure compliance by means of enforcement action.
- 7.3 As a further, constructive initiative to assist in encouraging best practice, the County Development Unit is currently formulating a series of best practice 'Guidance Notes' for applicants, landowners and site operators. These guidance notes will bring together in summary form, the relevant national guidance together with Hertfordshire's own standards, to provide practical, 'Plain English' advice on subjects including: restoration and landscape design; tree and hedge protection; soil protection and handling; restoration practice; landscaping and aftercare. These new guidance notes will compliment those that have already been published by the Unit, namely:
- 'Guidance Notes for Applicants Seeking Planning Permission for Mineral Working, Waste Treatment or Disposal and Associated Development', and
 - 'Standards and Codes of Practice for Development Control Enforcement'.

These are supported by an internal 'best practice' document, the 'Development Control Manual', which governs how the development control process is managed by the County Development Unit. This is all supported by the Unit's annual service planning process.

8. Future Impacts and Issues

- 8.1 In December 2001 the government published its Planning Green Paper 'Planning: Delivering a Fundamental Change' which set out its programme of fundamental reform for England's planning system. Following this, key themes for reform were set out in the policy statement 'Sustainable Communities: Delivering through Planning' published by the ODPM in July 2002. The reform's central concepts of encouraging sustainable development and community involvement echo the aims of restoration best practice, and have very recently been set down in the Planning and Compulsory Purchase Act, which was granted Royal Assent on 13th May 2004.
- 8.2 One of the ways in which the Act has sought to formalise community participation in projects will be through the requirement for planning authorities to prepare a Statement of Community Involvement (SCI).

Local Planning Authorities will be required to produce this document to detail their policy for involving interested parties in preparing and revising Local Development Documents and for consulting on significant planning applications. Guidance issued on the Government's objectives for SCI's (*Community Involvement in Planning: The Government's Objectives*, ODPM: February 2004) places emphasis on encouraging pre-application consultations and discussions with the local community. Ensuring that the local community is involved in restoration projects at an early stage is therefore set to become more important than ever before. As part of this strategy of community involvement, the new legislation will allow planning authorities to issue a standard planning application form, with the aim of providing "a mechanism for developers to focus pre-application consultation, working with communities on development proposals before applying for planning permission". Where restoration proposals are concerned, the proactive approach that Hertfordshire has already taken in encouraging this kind of consultation will be strengthened by the new legislation. It should also ensure that operators give restoration schemes a higher priority when submitting planning applications, in order to fulfil their community interest obligations.

- 8.3 In order to support the delivery of improved planning services the Government has also introduced the £350 million Planning Delivery Grant, payable over a three-year period from 2003-4. Although County Councils were not eligible for grant during the first year, they have been included in the grant allocations for the remaining two years. Hertfordshire received £138,000 for 2004-5. One option for using part of the grant currently being considered is employing a consultant to assist with the preparation of Hertfordshire's best practice '*Guidance Notes*' referred to in para 7.3 as a way of facilitating best practice in restoration.
- 8.4 Embodied in the Planning and Compulsory Purchase Act 2004 and currently the subject of research by the ODPM, is the introduction of monitoring fees, payable by operators to the Local Planning Authority. This is potentially a significant future source of funding for restoration work in Hertfordshire where it could enable the County to increase the available site monitoring resources, thereby increasing the County Council's ability to ensure full compliance with the Council's exacting restoration standards.

9. Conclusion

- 9.1 This report demonstrates that ensuring appropriate and good quality restoration schemes are planned and implemented at mineral and waste sites is a very important issue for the County, due to the longstanding impact of restoration schemes on local communities. Good restoration schemes can provide significant benefits for both local amenity and the environment.
- 9.2 By taking a pro-active approach to restoration and employing a dedicated restoration resource, Hertfordshire County Council has already established itself at the forefront of restoration best practice for mineral and waste sites.

It has contributed both directly and indirectly to the wealth of best practice advice that exists regarding restoration and the Council ensures that best practice advice is fed directly into the development control process at all stages.

- 9.3 As a result of these efforts, Hertfordshire County Council has already 'paved the way' for the upcoming requirements of the new Planning Act. Whilst there remains a need to further encourage operators, particularly smaller independent operators, to place greater emphasis and investment in good restoration schemes, many notable success stories already exist in the County.
- 9.4 In future, the Planning and Compensation Act 2004 should serve to raise the profile of restoration schemes in the minds of industry operators and the local community and thus assist the Councils work in implementing restoration best practice. Prudent investment of funding sources such as the Planning Delivery Grant offers the potential means to ensure that the County Council's leading role and commitment in this important area will continue.

10 Access to Services Implications

- 10.1 Restoration and afteruse can increase accessibility to the countryside through the creation of footpaths and public open space and this is reflected in the policies of the Minerals Local Plan Review which seek to promote such access, where appropriate. Similarly, restoration can contribute to achieving bio-diversity targets as well as enhancing the amenity of an area.

11. Financial Implications

- 11.1 There are no financial implications arising from this report.

Background papers used by the author when compiling this report

PPG2 (Green Belts), 1995

PPG7 (The Countryside: Environmental Quality and Economic and Social Development), 1997

PPG9 (Nature Conservation), 1994

MPG7 (The Reclamation of Mineral Workings), 1996

MPG8 (Planning and Compensation Act 1991: Interim Development Order Permissions (IDOs) – Statutory Provisions and Procedures), 1991

MPG9 Planning and Compensation Act 1991: Interim Development Order Permissions (IDOs) - Conditions, 1992

MPG14 (Environment Act 1995: Review of Mineral Planning Permissions [RoMPP]), 1995

'Community Involvement in Planning: The Government's Objectives', ODPM: February 2004

'Good Practice Guide for Mineral Site Restoration and Enhancement' (Surrey County Council 2002)

'Effectiveness of Aftercare Provisions for the Aftercare of Mineral Workings' (DETR 2000).

'A Practical Guide to Restoration' (RMC 1986);

'Joint Agricultural Restoration Experiments, Bush Farm Final Report' DoE/MAFF/SAGA 1988);

'The Soil Code' (MAFF 1998);

'Practice Guide for handling Soils' (MAFF 2000);

'Recycling Land for Forestry' (Forestry Commission 1997);

'Wildlife After Gravel' (The game Conservancy/ARC 1992);

2nd Draft 'Waste Management Paper 26E' (Environment Agency 1996).

See also Appendix 1

EXAMPLES OF BEST PRACTICE GUIDANCE FOR RESTORATION

General:

- *A Practical Guide to Restoration*, RMC Group plc, (1986);
- *Good Practice Guide for Mineral Site Restoration and Enhancement*, Surrey County Council, (2002).

Planning Policy Guidance Notes:

- *PPG2, Green Belts*, DoE, (January 1995).
- *PPG7, The Countryside – Environmental Quality and Economic and Social Development*, DoE, (February 1997)
- *PPG9, Nature Conservation*, DoE, (October 1994).

Mineral Planning Guidance Notes:

- *MPG7, The Reclamation of Mineral Workings*, DoE, (November 1996).
- *MPG8, Planning and Compensation Act 1991: Interim Development Orders Permissions (IDO's) – Statutory Provisions and Procedures*, DoE, (September 1991).
- *MPG9, Planning and Compensation Act 1991: Interim Development Order Permissions (IDO's) - Conditions*, DoE, (March 1992).
- *MPG14, Environment Act 1995: Review of Minerals Planning Permissions*, DoE, (September 1995).

Other Government Guidance:

- *Community Involvement in Planning: The Government's Objectives*, ODPM (2004);

Soils:

- Thompson, T.R.E. & Peccol, E.C, *Sustaining land Resources: The Role of Soil Information in Planning the Sustainable use of Land Resources*, Cranfield University (1995).
- *The Soil Code: Code of Good Agricultural Practice for the Protection of Soil*, MAFF/ Welsh Office Agriculture Department (1993, Revised 1998);
- Bending, N.A.D, McRae, S.G, *Soil-forming Materials, Their use in Land Reclamation*, DETR, (1999).
- *Good Practice Guide for Handling Soils*, MAFF, (2000).

Water Environment:

- Thompson, A., Easton, P.H., Hine, P.D. & Huxley, C.L., *Reducing the Effects of Surface Mineral Workings on the Water Environment: A Guide to Good Practice*, DETR (1998).

Agriculture:

- Joint Agricultural Land Restoration Experiments (DoE / MAFF / Sand and Gravel Association), *Bush Farm, Upminster, Essex, Final Report, 1982-87, RMC (UK) Ltd, (1988).*
- RPS Clouston & Wye College, *Guidance on Good Practice for the Reclamation of Mineral Workings to Agriculture, D0E, (1996).*
- Land Research Associates, *Agricultural Quality of Restored Land at Bush Farm, DETR (1997).*

Forestry:

- Moffat, J, *Recycling Land for Forestry (Forestry Commission Technical Paper 22), Forestry Commission, (1997).*
- *The UK Forestry Standard: The Government's Approach to Sustainable Forestry, Forestry Commission / Department for Agriculture for Northern Ireland, (1998).*

Wildlife, Nature and Earth Science Conservation:

- Andrews, J &, Kinsman, D, *Gravel Pit Restoration for Wildlife: Site Managers Guide, RSPB / Tarmac Quarry Products.*
- *Earth Science Conservation in Great Britain; A Strategy, Nature Conservancy Council, (1990).*
- *Wildlife After Gravel: Twenty years of Practical Research by the Game Conservancy and ARC, The Game Conservancy / ARC Ltd, (1992).*
- Land Use Consultants and Wardell Armstrong, *Reclamation of Damaged land for nature Conservation, DoE, (1996).*
- Watson, D, Hack, V. & Fasham, M. (Editor), *Wildlife Management and Habitat Creation on Landfill Sites; A Manual of Best Practice, Ecoscope Applied Ecologists, (2000).*
- White, G, Gilbert, J, Benstead, P, Fasham, M, Jose, P, *Habitat Creation Handbook for the Minerals Industry, RSPB, (2003).*

Amenity:

- Land Use Consultants, *Amenity Reclamation of Mineral Workings, Main Report, DoE, (1992).*
- Land Use Consultants, *The Use of Land for Amenity Purposes: A Summary of Requirements, D0E, (1992).*

Landfill Technology:

- *Waste management Paper 26E: Landfill Restoration and Post Closure Management, 2nd Consultation draft, Environment Agency, (1996).*
- *Landfill Gas and Leachate Control Applied to Arable After-use, MAFF, (1998).*
- Godley, A.R, Alker & G.R, Hallet, J.E, *Landfill Leachate Management Using Short Rotation Coppice, Final Technical Report and Operational Guide, WRc plc, (2002).*

Aftercare:

- *Effectiveness of Provisions for the Aftercare of Mineral Workings, DETR, (2000).*

EXAMPLES OF SITES IN HERTFORDSHIRE EXHIBITING BEST PRACTICE IN RESTORATION

- *Hatfield Quarry* – Developed since the late 1960's, the site has been progressively restored since the 1970's and since the 1980's in particular, has been at the forefront of best practice in the restoration and aftercare of land for agriculture and woodland. The site has featured in government sponsored research into the aftercare of restored mineral workings. More recently, the site has also featured a practical experiment into the use of 'short rotation willow coppice' as a mechanism for the biological treatment of landfill leachate. This 4-year study was successfully concluded in 2002, having shown that the technology was both viable and sustainable. In 2003, revised restoration proposals over part of the site saw the introduction of a new conservation-based lake area, adding an extra dimension to the existing landscape matrix of restored agricultural fields and woodland.
- *Amwell Nature Reserve* – Developed since the 1970's and with the emphasis on wetland restoration for wildfowl, the former sand and gravel pit was progressively restored to create an award winning nature reserve of local, national and European significance. Peripheral areas have also been restored for either amenity or conservation uses.
- *Tyttenhanger Quarry Complex* – Developed over several years, the site has been progressively restored since the 1990's to a combination of agricultural, amenity and conservation uses. In recent years, operations at the site have featured the working and progressive restoration of the parkland landscape around the Grade I listed building, Tyttenhanger House where restoration works are now well advanced.
- *Panshanger Country Park* – Originally granted planning permission in the 1980's, the permitted working area includes sensitive areas within the historic Panshanger Park. The site has been designated as a Grade II* listed parkland; an important Humphrey Repton landscape containing many 'veteran' trees, including the famous 'Panshanger Oak'. In recent years, the County Council has worked closely with the site operator to develop a revised working and restoration scheme that is especially sensitive to the site's historic character and introduced many significant improvements to the original 1980's scheme.
- *Water Hall Quarry Complex* – One of the County's oldest working sites and a source of a major planning dispute in 1993/94. Restoration practice at the site has progressed significantly since the resolution of that dispute in 1994, such that the site now displays examples of best practice in restoration. This has been most clearly demonstrated in Pollards Quarry where phased restoration successfully began in earnest during 2002/03 with further restoration planned for completion in 2004.

- *Bovingdon Brickworks (Pocketts Dell)* – The only remaining brickworks in the county, the works produces high quality bricks, including hand made examples for use in specialist building conservation work. The brickworks identified a need for new clay resources in the late 1990's and this led to the grant of planning permission for a new extension to the clay workings at the adjacent 'Pocketts Dell' site. The new clay pit benefits from a sophisticated phased scheme of working and restoration with an annual review of all operations included as a planning requirement. This enables both operator and planning authority to monitor progress and to address, in a constructive manner, any issues that come to light. This approach has been highly successful and has been aided considerably by the efforts of the site operator. The site has seen the establishment of a well managed mineral extraction operation with phased, high quality restoration being achieved within the first 2-3 years of operation.
- *Box Moor Trust Bovingdon Brickworks Conservation Area* – The recent development of this new conservation area grew out of the 'RoMPP' review process for the old clay workings at the brickworks and was subsequently established in association with the new development at Pocketts Dell. Here, the old clay pits were restored and handed over to the management of the Box Moor Trust to be maintained as a Conservation Area with public access for the benefit of the local community. Though still in the early stages of development, the site offers considerable potential for the creation of an important conservation area offering significant benefits for the local community.