

## Agenda

**Meeting: Planning and Regulatory Functions Committee**

**Venue: The Grand Meeting Room,  
County Hall, Northallerton**

**Date: Tuesday, 19 December 2017 at  
10.00 a.m.**

Recording is allowed at County Council, committee and sub-committee meetings which are open to the public, please give due regard to the Council's protocol on audio/visual recording and photography at public meetings, a copy of which is available to download below. Anyone wishing to record is asked to contact, prior to the start of the meeting, the Officer whose details are at the foot of the first page of the Agenda. We ask that any recording is clearly visible to anyone at the meeting and that it is non-disruptive. <http://democracy.northyorks.gov.uk>

### Business

1. **Minutes of the Meeting held on 24 October 2017.** (Pages 5 to 9)
2. **Declarations of Interest.**
3. **Public Questions or Statements.**

Members of the public may ask questions or make statements at this meeting if they have given notice of their question/statement to Steve Loach of Democratic Services (*contact details below*) by midday on Thursday 14 December 2017. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

Continued overleaf/...

- at this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes); or
- when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting

If you are exercising your right to speak at this meeting, but do not wish to be recorded, please inform the Chairman, who will instruct anyone who may be taking a recording to cease while you speak.

4. **Approval of Safety of Sports' Grounds Policy** - seeking approval for a safety of sports grounds policy to facilitate the discharge of statutory duties under the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987.  
(Pages 10 to 28)

5. **Application for A Safety Certificate Pursuant To Section 26 Of The Fire Safety And Safety Of Places Of Sport Act 1987** - To determine an application for the issue of a general safety certificate under section 26 of the Fire Safety and Safety of Places of Sport Act 1987 in respect of the Wetherby Road stand, 'the regulated stand', at the Harrogate Town Football Club.  
(Pages 29 to 49)

#### County matters

6. **C3/16/01918/CPO – (NY/2016/0194/ENV)** - Erection of a Green Energy Facility (6,342 sq. metres) (energy from waste via gasification), office reception building (91 sq. metres), substation & switchroom (39 sq. metres), air cooled condenser (195 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kV grid via a proposed substation at land south of Knapton Quarry/Landfill as well as an underground connection (Option 1: 5.26 km and Option 2: 8.25km) to the 66kV grid via the primary substation at Yedingham at Land to the South of Knapton Quarry Landfill Site, Knapton, YO17 8JA  
(Pages 50 to 142)

7. **C3/17/00604/CPO - (NY/2017/0129/FUL)** - Retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling Knapton Quarry Landfill Site, Knapton, YO17 8JA  
(Pages 143 to 190)

8. **C8/41/107A/PA – (NY/2016/0073/ENV)** - Variation of condition No's 1, 2, 3, 5, 6, 14, 18 & 20 of Planning Permission ref. C8/2012/0035/CP dated 4 September 2012 for the continuation of tipping of colliery waste from Kellingley Colliery and soil materials from other locations for a further two years until 13th May 2018, revised tipping materials and revisions to the vehicle route, revised restoration scheme and landscaping at Womersley Quarry, off Stubbs Lane, Womersley, DN6 9BB  
(Pages 191 to 250)

#### General

9. **Items dealt with under the Scheme of Delegation** (Pages 251 to 254)
10. **Publication by Local Authorities of information about the handling of planning applications**  
(Pages 255 to 267)

11. **Planning and Regulatory Functions Sub-Committee – Appointment** - to consider the appointment of a Planning and Regulatory Functions Sub-Committee  
(Pages 268 to 269)
12. **Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances.**

**PLEASE NOTE:-**

**Should it become apparent that the meeting will extend into the afternoon a lunch break will be taken at around 1pm**

Barry Khan  
Assistant Chief Executive (Legal and Democratic Services)  
County Hall  
Northallerton

December 2017

**NOTES: Emergency procedures for Meetings**

**Fire**

The fire evacuation alarm is a continuous Klaxon. On hearing this you should leave the building by the nearest safe fire exit. Once outside the building please proceed to the fire assembly point outside the main entrance. Persons should not re-enter the building until authorised to do so by the Fire and Rescue Service or the Emergency Co-ordinator.

An intermittent alarm indicates an emergency in nearby building. It is not necessary to evacuate the building but you should be ready for instructions from the Fire Warden.

**Accident or Illness**

First Aid treatment can be obtained by telephoning Extension 7575.

# Planning and Regulatory Functions Committee

## 1. Membership

County Councillors (11)						
	<i>Councillors Names</i>				<i>Political Party</i>	
1	BLADES, David (Vice-Chairman)				Conservative	
2	BROADBENT, Eric				Labour	
3	HESELTINE, Robert				Independent	
4	HUGILL, David				Conservative	
5	JORDAN, Mike				Conservative	
6	McCARTNEY, John				NY Independent	
7	METCALFE, Zoe				Conservative	
8	MUSGRAVE, Richard				Conservative	
9	PEARSON, Chris				Conservative	
10	PEARSON, Clive				Conservative	
11	SOWRAY, Peter (Chairman)				Conservative	
<b>Total Membership – (11)</b>				<b>Quorum – (3)</b>		
<b>Con</b>	<b>Lib Dem</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Total</b>	
<b>8</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>11</b>	

## 2. Substitute Members

<b>Conservative</b>		<b>Labour</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1	WELCH, Richard	1	RANDERSON, Tony
2	JEFFELS, David	2	
3	SWIERS, Roberta	3	
4	LUNN, Clifford		
5	GOODRICK, Caroline		
<b>NY Independent</b>			
	<i>Councillors Names</i>		
1			
2			
3			
4			
5			

## North Yorkshire County Council

### Planning and Regulatory Functions Committee

Minutes of the meeting held at County Hall, Northallerton on 24 October 2017 at 10.00 am.

**Present:-**

County Councillors Peter Sowray (Chairman), David Blades, Eric Broadbent, Robert Heseltine, David Hugill, David Ireton (as substitute for Richard Musgrave), Mike Jordan, Zoe Metcalfe, Chris Pearson, and Clive Pearson.

Apologies for absence were submitted from County Councillors John McCartney and Richard Musgrave.

There were four members of the public in attendance.

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**Copies of all documents considered are in the Minute Book**

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**30. Minutes**

**Resolved -**

That the Minutes of the meeting held on 29 August 2017, having been printed and circulated, be taken as read and confirmed and signed by the Chairman as a correct record.

**31. Declarations of Interest**

There were no declarations of interest.

**32. Public Questions or Statements**

The representative of the Assistant Chief Executive (Legal and Democratic Services) referred to an email received from a Member of the Committee, which he had forwarded on behalf of a member of the public, regarding potential breaches of planning conditions in respect of an application determined by the Planning and Regulatory Functions Committee. The Chairman stated that the matter had been referred to the appropriate officers for them to determine the action required in relation to the issues raised, in line with usual practice.

It was noted that, apart from the people who had registered to speak in respect of the application below, and who would be invited to do so during consideration of that Item, there were no questions or statements from members of the public.

**33. C1/17/00548/CM – (NY/2017/0160/73A) - Application to vary Condition No. 2 of Planning Permission Ref. No. C1/13/00022/CM to permit unrestricted hours of use of the sports pavilion at Richmond School, Darlington Road, Richmond**

Considered -

The report of the Corporate Director - Business and Environmental Services requesting Members to determine a planning application to vary condition no. 2 of Planning Permission Ref. No. C1/13/00022/CM to extend the hours of use of the sports pavilion on land at Richmond School, Darlington Road, Richmond.

The application was subject to objections raised by Richmondshire District Council (Planning), Richmond Town Council and 12 local residents on the grounds of noise and light disturbance, need for extension to permitted hours, traffic movements and parking and management and security of the pavilion and fear of crime and was, therefore, reported to the Committee for determination.

Mr Bruce Hunter, local resident, addressed the Committee, outlining the following:-

- ◆ He emphasised that he had no objection, in principle, to the use of the sports pavilion as a community facility, in line with the existing operational hours and days.
- ◆ He noted that there had been occasions, since the opening of the pavilion, when the conditions relating to operational hours and days had been breached and those breaches had been reported to the Planning Authority.
- ◆ He considered that the proposal would lead to the pavilion being used as a social venue rather than a sports pavilion.
- ◆ He noted that similar sports pavilions in the region did not operate at the times requested, and set out in the proposed conditions, and could see no reason for the sports pavilion at the school to operate differently to those other venues.
- ◆ He noted that extending the hours and days of operation would allow alcohol to be sold during those times, thereby creating a social venue.
- ◆ He noted the significant issues raised by the local community in terms of the effect on local amenity including light and noise pollution and requested that the Committee reject the application in respect of those issues.

A representative of the Head of Planning Services presented the Committee report, highlighting the proposal; the site description; the consultations that had taken place; the advertisement and representations; planning guidance and policy; planning considerations and provided a conclusion and recommendation.

Detailed plans, photographs and visual information were presented to complement the report.

She noted that since the publication of the report there had been two further representations received from members of the public, one objecting to, and, one supporting the application and an email from the local County Councillor whose division the application was in. She noted that the issues highlighted within those further representations did not raise any additional issues to those identified through previous representations, as detailed in the report.

Members undertook a discussion of the application and the following issues and points were raised:-

- ◆ A Member noted the reference from the public speaker to breaches of the original planning conditions and asked for details in relation to those. In response it was stated that the only reported breach took place in May 2017 and was in relation to the use of the football pitch for a family fun day, on a Sunday, which was not compliant with the existing conditions. It was noted that there had also been some confusion in relation to the hours permitted to use facilities. It was stated that those issues had led to this application being submitted.
- ◆ In terms of compliance with the new conditions set out in the report, should the application be approved by Members, it was noted that this would be managed by the school.
- ◆ Clarification was provided as to where the car parking facilities were on the site and that it was considered that there were adequate parking facilities to serve the site and the sports pavilion.
- ◆ It was clarified that there was no smoking area for the sports pavilion, as the school site was a no smoking site, however, those who wished to smoke could leave the site at the bridleway adjacent to the boundary. It was not considered that anyone wishing to smoke off site would have a significant impact on local residences.
- ◆ A Member noted that a number of issues arising from the application related to licensing regulations and asked whether the District Council had raised any concerns in terms of licensing matters in view of the application. In response it was noted that the relevant licences had been granted by the District Council and that consideration of these was not pertinent to determination of the planning application. A Member suggested that condition 4 was the most appropriate condition that could be applied in terms of musical performances taking place within the pavilion and, therefore, suggested that consideration be given to adding an informative to the decision notice, should Members be minded to grant the application, in relation to the determination of licensing issues, and the need to approach the District Council.
- ◆ A Member stated that the email from the local County Councillor referred to a restrictive covenant placed on the land. In response it was highlighted that this matter was addressed within the report at paragraphs 7.39 and 7.40. It was noted that a restrictive covenant was not a material planning consideration and was a civil matter which fell outside the scope of the planning process.
- ◆ It was stated that a consultation had taken place in relation to the proposed later opening of the pavilion with signs placed along Darlington Road, outside of the school boundary and near to residential properties, with no objections having been received in relation to that.

**Resolved -**

- (i) That the application be approved for the reasons stated within the report and subject to the conditions detailed;
- (ii) That the following informative note be added to the decision notice:

“Please note matters dealt with under the licensing regime would be governed by the District Council and any necessary permissions would need to be sought

directly from Richmondshire District Council.”

**34. Items dealt with under the Scheme of Delegation**

Considered -

The report of the Corporate Director - Business and Environmental Services outlining items dealt with under the Scheme of Delegation between the period 31 July 2017 to 25 September 2017, inclusive.

**Resolved -**

That the report be noted.

**35. Conferment of the Title of Honorary Alderman**

Considered -

The report of the Assistant Chief Executive (Legal and Democratic Services) requesting Members to consider whether it would wish to make recommendation to the County Council to confer the title of Honorary Alderman on former Members of the Council.

A representative of the Assistant Chief Executive noted that, following the County Council elections in May 2017, six Members had served the County Council for 20 years or more and, therefore, were eligible to be conferred with the title of Honorary Alderman, those Members were:-

Margaret-Ann de Courcey-Bayley  
John Fort BEM  
Bill Houlton  
Shelagh Marshall OBE  
Chris Metcalfe  
John Savage

He also noted that, subject to Members' agreement, Bernard Bateman MBE who had been elected partway through the 1997 municipal year, by way of a by-election, could be conferred with the title of Honorary Alderman, should the Committee agree that service commencing partway through a municipal year would be seen as a full year's service, thereby giving 20 years' service to the former Member.

Members were also requested to consider conferring the title of Honorary Alderman to former County Councillor Michael Heseltine, on a posthumous basis, in view of his 40 years of service to the County Council, up until his death late last year.

It was noted that the Committee would make a recommendation to County Council of those former Members they wished to confer the title of Honorary Alderman to and that a special meeting of the Council would take place to undertake that ceremony.

**Resolved -**

That it be recommended to County Council:

- (i) that Margaret-Ann de Courcey-Bayley, John Fort BEM, Bill Houlton, Shelagh Marshall OBE, Chris Metcalfe and John Savage be conferred with the title of Honorary Aldermen;



- (ii) that Bernard Bateman MBE be conferred with the title of Honorary Alderman and that the regulations relating to the conferment of the title of Honorary Alderman be altered to ensure that, in the future, those elected by way of a by-election, part way through a municipal year, are considered as having served a full year, in respect of the years of service required for the conferment of the title; and
- (iii) that former County Councillor Michael Heseltine be conferred with the title of Honorary Alderman, posthumously.

The meeting concluded at 10.45 am.

SL/JR

**North Yorkshire County Council**

**Business and Environmental Services**

**Planning and Regulatory Functions Committee**

**19 December 2017**

**Approval of Safety of Sports Grounds Policy**

**Report of the Corporate Director – Business and Environmental Services**

**1.0 Purpose of the report**

- 1.1 To seek approval for a safety of sports grounds policy to facilitate the discharge of statutory duties under the Safety of Sports Grounds Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987.

**2.0 Background**

Regulation of Sports Grounds

- 2.1 The Safety of Sports Grounds Act 1975 requires local authorities to issue a safety certificate to any sports ground designated by the Secretary of State for Culture, Media and Sport. These are sports grounds that, in her opinion, have accommodation for more than 10,000 spectators, or 5,000 in the case of Premiership or Football League grounds in England and Wales. Scarborough Cricket Club is currently the only designated ground in North Yorkshire. The Fire Safety and Safety of Places of Sport Act 1987 requires local authorities to issue a safety certificate in respect of any 'regulated stand'. That is a covered stand which has an accommodation for 500 or more spectators. There are regulated stands at the following grounds in North Yorkshire: Catterick Racecourse; Harrogate Town Football Club; Ripon Racecourse; the Show Ring at the Yorkshire Show Ground; Thirsk Racecourse; and Whitby Town Football Club.
- 2.2 The Sports Grounds Safety Authority (SGSA) is the UK Government's expert body on safety at sports grounds. Its core statutory functions are set out in the Football Spectators Act 1989 and the Sports Ground Safety Authority Act 2011. It has statutory responsibility to regulate local authorities in their oversight of safety at grounds in the Premier League and Football League, and at Wembley and the Principality Stadium. It issues guidance, including the Guide to Safety at Sports Grounds (the "Green Guide"), which apply at all grounds including non-league football grounds, racecourses, cricket grounds and other sports arena.
- 2.3 Following the outcome of the Hillsborough Inquest concluded in April 2016 SGSA reviewed the findings and identified that certifying authorities should operate under agreed policies and procedures which clearly set out duties arising from legislation and current guidance. SGSA has issued policy guidance including template policy documents. This guidance has been used to prepare a draft policy for North Yorkshire County Council which is attached to this report and for which approval is now sought.

### **3.0 The Policy**

- 3.1 The draft policy contain sections on the issue of general safety certificates for both designated grounds and regulated stands, the monitoring and inspection of grounds and enforcement. It identifies delegated authority in relation to the safety of sports grounds certification as set out in the County Council's Constitution and specifies the partner agencies who work with the County Council to form the safety advisory group (SAG) for each ground.

### **4.0 Delegation of Authority**

- 4.1 The Council has delegated its power to issue, amend or replace safety certificates for sports grounds and for regulated stands at sports grounds under the 1975 and 1987 Acts to the Planning and Regulatory Functions Committee. Power to amend or replace safety certificates is further delegated to the Corporate Director (Business and Environmental Services) by means of the Officer Delegation Scheme.

### **5.0 Recommendations**

- 5.1 That Members approve the draft policy for use with immediate effect.
- 5.2 That Members agree to review the policy on an annual basis.

DAVID BOWE  
Corporate Director, Business and Environmental Services

Author of report: Elizabeth Fitzgerald

Background documents: None

## **NORTH YORKSHIRE COUNTY COUNCIL**

### **SAFETY OF SPORTS GROUNDS POLICY**

#### **Issue and review of general safety certificate**

##### **1. Introduction**

North Yorkshire County Council recognises its statutory duty for the safety certification of sports grounds under Safety of Sports Grounds Act 1975 (as amended) (1975 Act) and the Fire Safety and Safety of Places of Sport Act 1987(1987 Act), and also recognises its responsibilities for safety of people at all sports grounds within its boundary. In undertaking this role the Council will:

- delegate its power to take and implement decisions on safety certification to a designated council officer;
- appoint a designated council officer to chair the Safety Advisory Group (SAG) for each sports ground subject to a safety certificate;
- provide for adequate resources and appoint appropriate council officers and/or engage competent specialist agencies/external consultants as necessary, to assist the Council in carrying out its statutory duties relating to the safety of people at sports grounds under the 1975 and 1987 Acts;
- convene regular SAG meetings to assist in its statutory duty to sports grounds, whose membership will include representatives of the police, fire service, ambulance service, building control, the relevant certificate holder and invite the Sports Grounds Safety Authority where applicable;
- determine if any sports grounds contain regulated stands and will expediently process and issue safety certificates in respect of those stands and/or any sports ground designated by the secretary of state under the provisions of the 1975 Act;
- put in place policies and procedures for monitoring by inspection/audit compliance with the terms and conditions of any safety certificate issued and taking appropriate and proportional action in response to any identified defect or incident compromising people's safety;
- provide prompt advice on people's safety on request from sports ground venue operators, and
- keep under review its procedures and arrangements in pursuit of ensuring the reasonable safety of people at sports grounds within its responsibility.

## 2. Definitions

The 1975 Act defines a sports ground as a place where sports or other competitive activities take place in the open air, where accommodation has been provided for people, consisting of artificial structures or natural structures artificially modified for the purpose.

Under the provisions of section 1 of the 1975 Act the Secretary of state for Culture, Media and Sport may designate as requiring a safety certificate any sports ground that has accommodation for more than 10,000 spectators, or 5,000 in the case of Premier League and Football League grounds in England and Wales. These sports grounds are referred to as designated grounds.

A Regulated Stand is defined in the 1987 Act as any covered stand at a sports ground with accommodation for 500 or more spectators, whether seating or standing.

The Safety Advisory Group (SAG) is a multi-agency advisory group consisting of the appropriate members of local authority staff, representatives of North Yorkshire Police, Local Authority Building control, North Yorkshire Fire and Rescue Service and Yorkshire Ambulance Service NHS Trust.

## 3. Legislation and Guidance

This policy and procedures should be read in conjunction with the following legislation that applies to the safety of people at sports grounds:

Safety of Sports Grounds Act 1975

Fire Safety and Safety of Places of Sport Act 1987

Safety of Sports Grounds Regulations 1987

Safety of Places of Sport Regulations 1988

Guidance on the application of the legislation referenced above can be found in the following Home Office Circulars-

**Home Office Circular No 7/1986** – Annex C of which provides guidance on the procedure regarding applications for general safety certificates under the provisions of the Safety at Sports Grounds Act 1975.

**Home Office Circular No 96/1988** – Which includes advice on the issue of safety certificates for regulated stands.

**Home Office Circular No 97/1988** – Which includes statutory guidance to local authorities under section 26 (8) of the 1987 Act on the methodology that must be applied in determining whether a stand at a sports ground is a "regulated" stand.

Further advice is contained in "Guide to safety certification of sports grounds" published by the Sports Grounds Safety Authority.

#### **4. Purpose**

This document sets out North Yorkshire County Council's approach to discharging its powers and responsibilities in respect of the issue and review of safety certificates for sports grounds.

#### **5. Scope**

The sports grounds covered by these arrangements are:

**Catterick Racecourse**

**Harrogate Town Football Club**

**Ripon Racecourse**

**Scarborough Cricket Club**

**The Show Ring at the Yorkshire Showground**

**Thirsk Racecourse**

**Whitby Town Football Club**

The powers of issue of a safety certificate are vested in the Council and the Planning and Regulatory Functions Committee.

The powers of review of a safety certificate are vested in the Planning and Regulatory Functions Committee and in officers with delegated authority for this activity.

#### **6. Delegated Powers**

The Council has delegated its powers for the safety certification of sports grounds under the 1975 Act and the 1987 Act to the Planning and Regulatory Functions Committee.

The delegated powers allow for the designated council officer to amend safety certificates. The Corporate Director (Business and Environmental Services) is designated by virtue of paragraph 4.4(m) of the Officer Delegation Scheme within the Constitution of North Yorkshire County Council.

#### **7. Qualified person**

Upon receipt of an application for a safety certificate the Council must determine if the applicant is a "qualified person" This is defined in the 1975 Act as a person who is likely to be in a position to prevent any contravention of the terms and conditions of the safety certificate. The certificate holder should be in a position of authority within the management of the sports ground and could include the chairman, chief executive, club secretary, ground manager, safety officer or a director, depending on the sports ground/club.

Under the 1987 Act, the definition of a person qualified to hold the safety certificate for a regulated stand is more tightly drawn. In the case of a general safety certificate, it is the person responsible for the management of the sports ground; for a special safety certificate, it is the person responsible for organising the activity being watched by the people. This apart, the procedure mirrors that for the issue of the safety certificate for a designated sports ground.

If the Council determines the applicant is not a qualified person, it must notify him/her in writing. The applicant may then appeal against this determination to a magistrate's court within 28 days or 7 days in the case of a special safety certificate.

## **8. Safety certificate applications and information required**

The format of an application for a safety certificate for a designated ground and for a regulated stand are set out in the Safety of Sports Grounds Regulations 1987 and Safety of Places of Sport Regulations 1988 respectively. In accordance with the European Services Directive of December 2006 the Council is required to make provision for online safety certificate applications. Application forms for a safety certificate under either the 1975 Act or 1987 Act are accessible on the Council's web site.

Applications are processed through the Council's trading standards service. The Council must supply the chief officer of police and, where it is not itself that authority, the fire authority or the building authority, with a copy of any application received. It will also formally consult them about the terms and conditions of the certificate. The normal forum for this consultation will be the SAG.

The application should be accompanied by detailed information as to structure, capacity and safety management systems. The Council may, by writing, require the applicant to submit within a reasonable period such additional information and plans it considers necessary to enable it to determine what terms and conditions to include.

## **9. Timetable**

In issuing a safety certificate, documentation will be required to be submitted from the applicant of the safety certificate in a timely manner in order that it may be considered prior to the application being presented to the Planning and Regulatory Committee.

## **10. Contents of a safety certificate.**

In accordance with section 2 of the 1975 Act and section 27 of the 1987 Act the Council is required to include in the safety certificate such terms and conditions it considers necessary or expedient to secure the reasonable safety of people. Safety certificates issued by the Council will include the capacity of the designated ground, or regulated stand, as well as capacities for each part thereof. The certificate will also include the terms and conditions with which the holder must comply to maintain that capacity. In determining the contents of a safety certificate the Council will take account of the advice of the safety advisory group and the guidance contained in the Guide to Safety at Sports Grounds and that published by the Sports Grounds Safety Authority in its "Guide to the safety certification of sports grounds".

## **11. Ratification of the certificate**

In accordance with its constitution, the Council has delegated its power to issue and amend a safety certificate to the Planning and Regulatory Functions Committee, and its power to amend a safety certificate to the Corporate Director (Business and Environmental Services). Amendments to safety certificates are reported to the Planning and Regulatory Functions Committee.

## **12. Rights of Appeal**

The 1975 and 1987 Acts both provide right of appeal to the magistrates' court to:

- any person against a determination by the local authority that he/she is not qualified to hold a safety certificate;
- any interested party against the inclusion of anything in or omission of anything from a safety certificate or the refusal of the local authority to amend or replace it; or
- any person, upon whom the local authority has served a notice that it has determined that a particular stand is a designated stand, against that determination.

Appeals must be lodged within 28 days if they relate to a general safety certificate.

## **13. Review of safety certificate**

The Council will undertake a review of issued safety certificates on an annual basis or at a lesser time in response to physical changes at sports grounds, incidents or 'near misses' brought to their notice, changes in safety management performance or in response to changes to legislation or spectator safety guidance.

The review will consider the terms and conditions of safety certificates to validate they remain relevant for providing for the reasonable safety of people at the ground at the designated sports ground or regulated stand. The review will be undertaken by officers of the Trading Standards Service who shall consult with North Yorkshire Police, North Yorkshire Fire and Rescue Service, Local Authority Building Control and Yorkshire Ambulance Service NHS Trust. The outcome of the review shall be recorded and reported to Planning and Regulatory Functions Committee.

## **14. Public access**

The safety certificate is a public document, to which any person who is either responsible for applying it or likely to be affected by it should have access. The Safety at Sports Grounds Regulations 1987 and 1988 require the Council to notify every interested party, as defined by the Regulations as

- the holder of a safety certificate;
- any other person who is or may be concerned in ensuring compliance with the terms and conditions of a safety certificate;
- the chief officer of police; and



- where the local authority is in Wales, Greater London or a metropolitan county, the fire authority or, in any other case, the building authority.

This notice must specify that a copy of the safety certificate and any application is available for inspection at a specified time and place. The Council must also publish a similar notice in a local newspaper.

## **Monitoring and inspection**

### **16 Introduction**

North Yorkshire County Council recognises its statutory duty for the safety certification of sports grounds under Safety of Sports Grounds Act 1975 (as amended) (1975 Act) and the Fire Safety and Safety of Places of Sport Act 1987 (1987 Act), and also recognises its responsibilities for safety of people at all sports grounds within its boundary, and in furtherance of meeting its role will implement the following procedures and arrangements in respect of monitoring and inspection of sports ground.

In discharging its monitoring and inspection responsibilities the Council will:

- delegate its power to take and implement decisions on safety certification to a designated council officer;
- appoint a designated council officer to chair the Safety Advisory Group (SAG) to each sports ground subject to a safety certificate and be delegated with powers to make decisions on behalf of the Council;
- provide for adequate resources and appoint appropriate council officers and/or engage competent specialist agencies/external consultants as necessary, to assist the Council in carrying out its statutory duties relating to the monitoring and inspection sports grounds under the provisions of the 1975 and 1987 Acts;
- convene regular SAG meetings to assist in its statutory duty in respect of sports grounds.
- regularly monitor by inspection/audit compliance with the terms and conditions of any safety certificate issued; and
- keep under review its procedures and arrangements in pursuit of ensuring the reasonable safety of people at sports grounds within its responsibility.

### **17 Definitions**

The 1975 Act defines a sports ground as a place where sports and other competitive activities take place in the open air, where accommodation has been provided for people, consisting of artificial structures or natural structures artificially modified for the purpose.

Under the provisions of section 1 of the 1975 Act the Secretary of state for Culture, Media and Sport may designate as requiring a safety certificate any sports ground that has accommodation for more than 10,000 spectators, or 5,000 in the case of Premier League and Football League grounds in England and Wales. These sports grounds are referred to as designated grounds.

A Regulated Stand is defined in the Fire Safety and Safety of Places of Sport Act 1987 as any covered stand at a sports ground with accommodation for 500 or more spectators, whether seating or standing.

The Safety Advisory Group (SAG) is a multi-agency advisory group consisting of North Yorkshire Police, North Yorkshire Fire and Rescue Service, Local Authority Building Control and Yorkshire Ambulance Service NHS Trust.

## **18. Legislation and guidance**

The legislation that applies to the monitoring of the safety of people at sports grounds should be read in conjunction with this policy and procedures. The relevant legislation is as follows –

**Safety of Sports Grounds Act 1975** – Section 10B of which provides that it shall be the duty of every local authority to enforce within their area the Act and regulations made under it and for that purpose to arrange for the periodical inspection of designated sports grounds. “Periodical” is defined in that section as meaning at least once in every 12 months.

**Fire Safety and Safety of Places of Sport Act 1997** – Section 34 of which provides that it shall be the duty of every local authority to enforce within their area the provisions of Part III of the Act and for that purpose to arrange for the periodical inspection of sports grounds at which there are regulated stands.

Both Acts also require local authorities to act in accordance with such guidance as the Secretary of State may give them. Such guidance has been given in the following Home Office Circulars.

**Home Office Circular No 72/1987** - This circular sets out the Statutory Guidance given by the Secretary of State on the scope of inspections of designated sports grounds.

**Home Office Circular No 97/1988** - This circular sets out the Statutory Guidance given by the Secretary of State on the frequency and scope of the inspections of the regulated stands. It also reminds local authorities that section 34 of the Act applies to the whole of a sports ground which contains a regulated stand but that the extent of the inspection of any un-certificated parts of the ground should be determined by the local authority.

In addition the “Guide to Safety Certification of Sports Grounds” published by the Sports Ground Safety Authority provides further guidance on monitoring by local authorities.

## **19. Purpose of monitoring and inspection**

The monitoring and inspection regime is intended to provide reassurance to the Council that the terms and conditions of safety certificates issued under the provisions of the 1975 and 1987 Acts are being complied with and that ground management are maintaining the sports ground and its safety management regime at a level which provides for the reasonable safety of people.

The regime will include:

- annual inspections; and
- during performance inspections.

## **20. Scope**

The monitoring and inspection procedures set out in this document will apply to the following sports grounds –

**Catterick Racecourse**

**Thirsk Racecourse**

**Ripon Racecourse**

**Scarborough Cricket Club**

**Whitby Town Football Club**

**Harrogate Town Football Club**

**The show ring at The Yorkshire Showground**

## **21. Delegated powers**

The Council has delegated its powers for the monitoring and inspection of sports grounds under the 1975 Act and the 1987 Act to:

The Corporate Director (Business and Environmental Services) by virtue of paragraph 4.4(m) of the Officer Delegation Scheme within the Constitution of North Yorkshire County Council.

## **22. Annual Inspection**

An inspection will be undertaken of each designated ground at least once every 12 months.

The inspection schedule of grounds with regulated stands will depend on the size of the largest regulated stand.

Where a ground contains a regulated stand that has accommodation for more than 2000 people an inspection of that stand, plus any other regulated stands and such un-certificated parts of the ground as the Council considers necessary, will be undertaken at least once every calendar year following the date of the last inspection.

At all other grounds with regulated stands an inspection of the regulated stands and such un-certificated parts of the ground as the Council considers necessary will be carried out at least once every alternate calendar year following the date of the last inspection.

In addition to the officer with delegated authority for undertaking the inspections, the council's structural engineer and council's electrical engineer will be part of the inspection team. The police, fire authority and ambulance authority will also be invited to take part in the inspection.

The inspection of designated sports grounds will include all items detailed in the Secretary of State's statutory guidance as set out in Home Office Circular 72/1987. For regulated stands the inspection will cover the items in the statutory guidance set out in Home Office Circular 97/1988. The inspections will encompass:

- the certificates covering structural, dynamic performance and electrical tests;
- the records maintained by the management of the sports ground, in particular of attendances, accidents, maintenance, equipment tests, steward training and contingency plans;
- the condition of the sports ground and its fixtures and fittings; and
- the lighting, public address, fire warning and entry control equipment.

### **23. During Performance Inspection**

During Performance Inspections will be made from time to time, on event days, to ensure that the terms and conditions in the safety certificate are suitable and appropriate for the use taking place and to monitor the ground management's compliance with the terms and conditions of the safety certificate.

When undertaking during performance inspections the council's inspecting officer will:

- make their presence known to the duty safety officer and others in the control room;
- tour all accessible parts of the sports ground and 'walk the ground', that is to say, not stay in one particular area of the sports ground for any length of time;
- observe the safety management arrangements and crowd, recording any problems and noting the time of the incident etc;
- record items examined on an inspection check sheet a copy of which will be annexed to the officer's report of the inspection; and
- after the event produce detailed reports of the management of the activity which shall be copied to the club management and submitted at any debriefing meeting or sent to the club requesting action and/or explanations, to enable consideration to be given to further control and/or enforcement action.

Where breaches in the terms and conditions of safety certificates are noted, these will be brought to the attention to the holder and duty safety officer immediately. A standard notification of non-compliance form will be used to notify the holder at the venue of any non-compliance. These will be followed up by formal letters of confirmation.

The responsibility for the safety of people at the ground lies at all times with the holder of the general safety certificate. Therefore, when the inspecting officer is at the ground, he should not try to enforce the terms and conditions of the safety certificate on the people, but should refer breaches and concerns immediately to the club's duty safety officer.

The frequency of during performance inspections will be determined by risk assessment which will take account of the safety management culture at the ground and ground management's compliance with the safety certificate.

## **24. Suitably trained and competent staff**

Individual officers who undertake inspection duties under the 1975 and 1987 Acts will be suitably trained and qualified to ensure their competency.

The Council will ensure that:

- duties are specified in job descriptions and experience is built-up over time with provision made in individual appraisal for monitoring progress;
- all advisers have professional qualifications, experience in other sectors and are on CPD cycles as well as regular participation in sports grounds work and SAGs; and
- appropriate succession planning is in place to ensure that staff have the necessary training and experience to undertake the roles they may be expected to undertake.

## **Enforcement policy**

### **1. Introduction**

This enforcement policy sets out the arrangements that **North Yorkshire County Council** Council has put in place for ensuring compliance with the relevant safety at sports grounds legislation. It explains the Council's powers and approach to enforcement activity, how the Council deals with businesses and the approach to be taken when infringements of the law are established. In applying this policy the Council's aim is to ensure that any enforcement action taken is proportionate, open, consistent and clear.

### **2. Definitions**

The 1975 Act defines a sports ground as a place where sports and other competitive activities take place in the open air, where accommodation has been provided for people, consisting of artificial structures or natural structures artificially modified for the purpose.

Under the provisions of section 1 of the 1975 Act the Secretary of state for Culture, Media and Sport may designate as requiring a safety certificate any sports ground that has accommodation for more than 10,000 spectators, or 5,000 in the case of Premier League and Football League grounds in England and Wales. These sports grounds are referred to as designated grounds.

A Regulated Stand is defined in the Fire Safety and Safety of Places of Sport Act 1987 as any covered stand at a sports ground with accommodation for 500 or more spectators, whether seating or standing.

The Safety Advisory Group (SAG) is a multi-agency advisory group consisting of North Yorkshire County Council, North Yorkshire Police, North Yorkshire Fire and Rescue Service, Local Authority Building Control and Yorkshire Ambulance Service NHS Trust.

### 3. Legislation and guidance

The relevant legislation that applies to sports grounds safety enforcement and which should be read in conjunction with this policy are as follows -

**Safety of Sports Grounds Act 1975 - 10B Enforcement** - The duty of every local authority to enforce within their area the Act and regulations made under it and to arrange periodical inspection of designated sports grounds.

**Fire Safety and Safety of Places of Sport Act 1997 - 25 Enforcement** - It shall be the duty of every local authority to enforce within their area the provisions of this Act and of regulations made under it for designated grounds.

Detailed guidance on prohibition notices is contained in the DCMS Circular of 16 November 1995.

It is an offence for any responsible person, not merely the certificate holder, to contravene the terms and conditions of a safety certificate or a prohibition notice. The penalties for contraventions of the safety certificate are listed in section 12 of the 1975 Act and section 36 of the 1987 Act.

Further advice is contained in "Guide to Safety Certification of Sports Grounds" published by the Sports Grounds Safety Authority.

### 4. Purpose

The Council seeks to ensure that in enforcement and regulation, the interests of the public are protected.

The purpose of this policy is to ensure that the law is applied in a fair, equitable and consistent manner and to guide officers into taking the appropriate action.

In general and where appropriate, consideration will be given to alternatives to prosecution, for example giving advice and assistance, or obtaining assurances about future conduct.

Before formal action is taken, officers will normally provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of safety of people at the ground, health and safety or to prevent evidence being destroyed.)

All decisions will be impartial and will not be influenced by race, politics, gender, sexual orientation, religious beliefs or any other belief or status of the alleged offender.

Officers will have due regard to the principles contained within the Enforcement Concordat, and any other published and relevant guidance, including:

#### **The Guide to Safety at Sportsgrounds 'Green guide', most recent edition**

The Council will take into account the comments of any victim, injured party or other relevant person to establish:

- his or her views about the circumstances in which enforcement action is deemed appropriate; and

- the nature and extent of any harm or loss, and its significance relative to the individual circumstances.

North Yorkshire County Council is a public authority for the purposes of the Human Rights Act 1998. Officers will therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

## 5. Scope

The sports grounds primarily covered by these arrangements are:

**Catterick Racecourse**

**Thirsk Racecourse**

**Ripon Racecourse**

**Scarborough Cricket Club**

**Whitby Town Football Club**

**Harrogate Town Football Club**

**The show ring at The Yorkshire Showground**

Under the provisions of section 10 of the Safety of Sports Grounds Act 1975 the Council has the power to issue a prohibition notice to limit the capacity, or totally prohibit the admittance of people to any sports ground within North Yorkshire County Council area.

## 6. Delegated powers

The Council has delegated its powers for the enforcement of the Safety of Sports Grounds Act 1975 (as amended) and the Fire Safety and Safety of Places of Sport Act 1987 to:

The Corporate Director (Business and Environmental Services) by virtue of paragraph 4.4(m) of the Officer Delegation Scheme within the Constitution of North Yorkshire County Council.

## 7. Consistency

The Council will seek to ensure that enforcement is fairly applied by committing to the following principles of fairness:

**Proportionate** - Any action taken by the Council, to achieve compliance or to bring regulated entities to account for non-compliance, will be proportionate to the risk to public safety, or to the severity of non-compliance, which includes any actual or potential harm arising from the failure under the law. We will seek to minimise the costs of compliance by ensuring that any action we require is in proportion to the risk.

**Consistency** – There will be a consistent approach from the Council in relation to any advice given, enforcement action, prosecutions and in response to incidents and complaints. The Council will discuss and compare enforcement decisions and policies amongst our own officers and, where appropriate, with other authorities and enforcement bodies.

**Targeted** – By adopting a risk based system for prioritising regulatory action the Council aims to make sure, through targeting, that the direction of regulatory effort takes into account the level of risk and ensure action will be targeted at those situations that give rise to the more serious risks or the least well controlled risks.

**Transparent**– The Council will be open about how we set about our work and will provide information and advice in plain language. We will ensure we help those we regulate to understand the standards expected from them and the standards that they should expect from the local authority.

**Accountable** - The Council will be able to justify all enforcement decisions and be accountable for the efficiency, effectiveness and cost. Consultation and feedback opportunities are given to stakeholders. The local authority will publish an annual report which will detail performance for the previous year.

## **8. Enforcement considerations**

The Council's enforcement officers will consider a number of factors and questions before deciding when to act, these questions will include:

- The seriousness of compliance failure i.e. could the offence lead to a serious risk of injury or has serious injury or death already occurred, if the problem is not rectified will it lead to a significant risk?
- The degree of willfulness involved i.e. does the individual or organisation concerned appear to be willing to carry out the necessary action immediately or in a specified time frame or has the problem resulted from a deliberately ignoring conditions or the law?
- The ground managements past performance and its current practice i.e. has the recommendations, is this a recurring problem, has the business had a previous high standard of practice?
- The risks being controlled and there consequence – what type of risks are involved and will they have serious consequences that could affect the public?
- Legal, official or professional guidance – Has all legislation and guidance been taken into consideration when taking a decision?

## **9. Choices of enforcement action**

There are several courses of action open to the council's enforcement officers depending on the different circumstances that may be encountered or apply to the situation. The choices of enforcement action are:

- Informal Warning
- Reduction in Capacity
- Prohibition Notice
- Simple Caution



- Prosecution

The following gives a more detailed explanation of each of the enforcement options:

### **Informal warning**

Informal action includes offering advice, verbal warnings and requests for action, the use of letters/informal notices and reports.

Informal action is appropriate where:

- the act or omission is not serious;
- it can reasonably be expected that informal action will achieve compliance;
- confidence in the business management is reasonably high; and
- the consequences of non-compliance will not pose a significant risk to health, safety or the public,

An informal warning will be in the form of a written letter that clearly and in plain language will:

- contain all information necessary to ensure that the club/organisation knows what is required and why it is necessary;
- indicate the regulations contravened and the measures that will achieve compliance with the legal requirements and that other means of compliance may be chosen;
- where recommendations of good practice are included make it clear that they are not legal requirements; and
- set out the timescales for compliance.

### **Reduction in capacity**

Reducing the capacity of all, or part of, a sports ground is a formal action which would be appropriate in the following situations:

- if an incident suggests that the management of a sports ground is performing poorly; or
- if the Council's inspecting personnel identify any deficiencies in the fabric, equipment, records or management systems, which the authority has not already taken into account when accepting or calculating the permitted capacity.

Any new capacity should be properly calculated having regard to the change in circumstances and the procedures to be followed will be the same as during the routine annual review of the safety certificate. Ground management should be invited to submit its proposed revised (P) or (S) factor, but the Council reserve the right to overrule this if appropriate.

When reducing a capacity it is important that

- officers act reasonably and in accordance with due process, not least because the certificate holder has a right of appeal against any reduction in capacity; and
- a formal amendment to the safety certificate is issued.

Once the remedial measures or improvements have been implemented consideration should be given to restoring the original capacity.

### **Prohibition notice**

Unlike the other provisions of the 1975 and 1987 Acts, the power to issue a prohibition notice applies to all sports grounds, as defined in section 17 of the 1975 Act, including those that are neither designated nor contain a regulated stand.

Section 10 of the 1975 Act empowers the Council to issue a prohibition notice in respect of all or part of any sports ground if it considers that “the admission of people to a sports ground or any part of a sports ground involves or will involve a risk to them so serious, that, until steps have been taken to reduce it to a reasonable level, admission of people to the sports ground or that part of the sports ground ought to be prohibited or restricted”. A prohibition notice is therefore a measure of last resort and should only be used where an amendment of the safety certificate (where issued) is not considered an effective way of dealing with the risk(s)

When issuing a prohibition notice consideration should be given as to whether the risk to people is or may be imminent and if so the notice should take effect as soon as it is served. In all other cases it should come into force at the end of the period specified in the notice.

A prohibition notice must specify:

- the nature of the risk to people; and
- the number of people that may be admitted to the sports ground, or any part of the sports ground, until appropriate steps have been taken to address those risks.

The notice may also include directions as to the steps which will have to be taken to reduce the risk to a reasonable level.

Under the Environment and Safety Information Act 1988 the local authority is required to keep a register of any prohibition notices that it has issued.

### **Simple cautions (formerly known as formal cautions)**

A simple caution should only be issued for offences where there is no imminent risk or where the offence is readily admitted and immediate action has removed the imminent risk. A caution can be used to:

- deal quickly and simply with less serious offenders
- to divert them from unnecessary appearance in the criminal courts and
- to reduce the chances of their re-offending

A record of the caution is required to be kept on the Council's computer system.

If the offender commits a further offence, the caution may influence our decision to take a prosecution

Simple cautions should not be used as an alternative to prosecutions where insufficient evidence is available. Officers should be prepared to prosecute where an individual or business refuses to accept a simple caution

More information can be found in Home Office Circular 016/2008 – "Simple Cautioning Adult Offenders"

## **Prosecution**

The decision to prosecute is very significant and must be related to risk. In general, it should be reserved for those who

- blatantly disregard the law;
- refuse to implement basic legal requirements and who put the public at risk.

Factors to consider are:

- The seriousness of the offence, including the seriousness of the result of the offence.
- The previous history of the defendant/organisation.
- Availability, co-operation and reliability of witnesses.
- The willingness of persons involved to put matters right.
- The probable public benefit and importance of the case.
- Whether other action e.g. prohibition notices would be more effective (It may be appropriate in some circumstances to serve a prohibition notice as well as to prosecute if the risk to employees or the public remains high).
- Any explanation offered by the defendant/organisation.

Before deciding to proceed with a prosecution officers must be satisfied that there is relevant, admissible, substantial and reliable evidence that the offence has been committed by the defendant and that there is a realistic prospect of conviction. Any prosecutions should be brought without delay.

## **12. Appeals**

Appeals against a reduction in capacity imposed by way of an amendment to a safety certificate or against a prohibition notice are to a Magistrates Court. Where an appeal is made against an amendment to a safety certificate the amendment cannot take effect until the appeal is heard. However, in the case of an appeal against a prohibition notice any reduction in capacity remains in place until the appeal is heard.

### **13. Penalties**

It is an offence for any responsible person, not merely the certificate holder, to contravene the terms and conditions of a safety certificate or a prohibition notice. These offences and associated penalties, along with the defences of absence of consent and due diligence, are listed in section 12 of the Safety of Sports Grounds Act 1975 and section 36 of the Fire Safety and Safety of Places of Sport Act 1987.

### **Suitably trained and competent staff**

Individual officers who are responsible for the issue and review of safety certificates under the 1975 and 1987 Acts will be suitably trained and qualified to ensure their competency and will complete on-going continuing professional development. They will have annual appraisals at which personal development plans will be discussed and agreed.

### **15. Revisions to this Document and Review**

This policy and procedures will be reviewed at intervals not exceeding 12 months and amended at any stage to reflect any changes that may occur in operation procedure or to current legislation.

Following any amendment a complete replacement will be distributed.

Date of Issue –

Date of last review –

Reviewed by -

**North Yorkshire County Council**  
**Business and Environmental Services**  
**Planning and Regulatory Functions Committee**

19 December 2017

**Application for A Safety Certificate Pursuant To Section 26 Of The Fire Safety And Safety Of Places Of Sport Act 1987**

**Report of the Corporate Director – Business and Environmental Services**

**1.0 Purpose of the report**

- 1.1 To determine an application for the issue of a general safety certificate under section 26 of the Fire Safety and Safety of Places of Sport Act 1987 in respect of the Wetherby Road stand, 'the regulated stand', at the Harrogate Town Football Club.

**2.0 Background**

Regulation of Sports Grounds

- 2.1 A county council is responsible for the issuing of safety certificates for any designated sports ground or regulated stand at a sports ground in its area.
- 2.2 The Secretary of State for Culture, Media and Sport may designate any sports ground which in his opinion has accommodation for more than 10,000 spectators, or more than 5,000 spectators in the case of Premiership or Football League grounds in England and Wales.
- 2.3 Any sports ground which is not a designated sports ground and which provides covered accommodation in stands for 500 or more spectators must hold a general safety certificate issued by the local authority. Such a stand is known as a 'regulated stand', and is determined to be such by the local authority in accordance with guidance issued by the Secretary of State ('the Green Guide'). The local authority makes a preliminary determination that the stand is a regulated stand. This becomes a final determination once two months has elapsed.

**3.0 The Application**

Description of Sports Ground

- 3.1 A safety certificate is sought by Garry Plant for the Wetherby Road stand at Harrogate Town Football Club, Wetherby Road, Harrogate. The ground has three non-regulated stands with capacities below 500 spectators and the Wetherby Road stand which is the subject of this application. There are two exits onto Wetherby Road, and an emergency exit leading to the hospital car park. The Club currently plays in the Vanarama National League North, the sixth level of league football in the UK.
- 3.2 The application is produced as appendix A to this report. A plan showing the sports ground is produced as appendix B to this report.

### Determination

- 3.3 Officers inspected the Wetherby Road stand on 10 April 2017 and made a preliminary determination that the stand is a regulated stand based on a calculated capacity of 878, which is in excess of the 500 spectator threshold. The preliminary determination was notified to Harrogate Town Football Club by letter dated 13<sup>th</sup> April 2017. No appeal against this determination was received and so this became a final determination on 13<sup>th</sup> June 2017.

### The Applicant

- 3.4 The person who qualifies for the issue of a general safety certificate is the person responsible for the management of the ground and is a suitably qualified person in accordance with the requirements set out in the 1975 Act. If the local authority determines that the applicant is a person who qualifies for the issue of the general safety certificate they shall issue to him such a certificate.
- 3.5 The effect of this provision is that a certificate must be issued to a person as long as the Committee is satisfied that he is a person responsible for the management of the ground. Any concerns about spectator safety arising from the condition or management of the ground would be addressed by adjusting the capacity of the stand, including reducing it to zero if necessary. Officers are permitted to amend any safety certificate once issued under the Officers' Delegation Scheme allowing them to address issues as and when they arise.
- 3.6 The applicant Garry Plant is the Managing Director of Harrogate Town Football Club and he has worked at the club for three years. He has confirmed at the safety advisory group that he is responsible person for the management of the ground and is an active member of the Board of Directors to Harrogate Football Club. Mr Plant is a person who is likely to be in a position to prevent any contravention of the terms and conditions of a safety certificate.

## **4.0 Consultations**

- 4.1 Section 28(10) of the Fire Safety and Safety of Places of Sport Act 1987 states that a copy of the application must be sent to the chief of police, the fire authority and the building authority and that the local authority shall consult with them about the terms and conditions to be included in the certificate. Copies of the application and supporting documentation were sent to each consultee on 5<sup>th</sup> September 2017 and a revised operations manual which encompassed some amendments was sent to consultees on 27 November 2017.
- 4.2 **North Yorkshire Police** – responded on 27 November 2017 at the Safety Advisory group meeting some additional information was required to be added to the operations manual, which is a living document. It is anticipated that this will be added to the operations manual no later than 19 December 2017, and the officer attending Committee will be in able to confirm the position at that date.
- 4.3 **North Yorkshire Fire & Rescue** – responded on 27 November 2017 at the safety advisory group meeting and that the Fire and Rescue Service were satisfied with the fire risk assessment and site inspection.
- 4.4 **Harrogate Borough Council**
- 4.4.1 **Building Control** – responded on 5 September to say the application was satisfactory in respect of measures in place to control structural issues.

4.4.2 **Environmental Health** - A number of amendments and actions are required in relation to health and safety issues and it is anticipated that these will be carried out no later than 19 December 2017. The officer attending Committee will be able to confirm the position at that date.

## 5.0 Advertisement and representations

5.1 There is no requirement to advertise the application for a safety certificate in advance of the determination, however, once a certificate is issued the fact of its issue and details of how it can be inspected must be published in a newspaper circulating in the area of the ground. It is planned that the notice in this case will be advertised in the Harrogate Advertiser and also on the County Council website.

## 6.0 Content of safety certificate for stands

6.1 Section 27 of the Fire Safety and Safety of Places of Sport Act 1987 states that a safety certificate for a regulated stand may contain conditions which the local authority feel necessary or expedient to secure reasonable safety in the stand when it is in use for viewing the specified activities, which shall be football, within the ground. Officers do not currently consider that any conditions are necessary. Should conditions be required in the future these can be included by amending the certificate using delegated authority under the Officer Delegation Scheme.

6.2 The safety certificate shall contain different terms and conditions in relation to different activities taking place within the ground, thus permitting the football club to adapt to the different spectator numbers attracted to differing leagues of football played at the ground.

6.3 The draft general safety certificate for Harrogate Town Football Club is attached as appendix C. Based on the assessment of the stand, its environment and management control, it is the view of officers that the stand can currently safely accommodate 702 spectators. This figure can be amended in the future under the Officer Delegation Scheme if and when conditions at the ground change.

## 7.0 Recommendations

7.1 It is recommended that a general safety certificate under section 26 of the Fire Safety and Safety of Places of Sport Act 1987 is issued to Garry Plant in respect of the Wetherby Road stand, 'the regulated stand', at the Harrogate Town Football Club subject to the following conditions:

- i) Officers should review the terms of the general safety certificate at least annually and make any amendments to capacity as required under the Officers' Delegation Scheme. Any amendments to be reported to the Planning and Regulatory Functions Committee following the annual meeting of the multi-agency Safety Advisory Group.

DAVID BOWE  
Corporate Director, Business and Environmental Services

Author of report: Elizabeth Fitzgerald

Background documents: None

### Application for a safety certificate for a regulated stand under part 3 of the Fire Safety and Safety of Places of Sport Act 1987

Please select whether you wish to apply for a 'general' (to cover activities held over an indefinite period) or 'special' (to cover one occasion or a series of occasions) safety certificate	General
I hereby apply for a safety certificate in respect to the following stand	The Wetherby Road Stand
The stand is part of the following sports ground	The CNG Stadium
The safety certificate is to be issued to	Harrogate Town AFC Ltd
Who are you making an application on behalf of?	A sports club
Please state your name	Garry Plant
Please state your position (ie. Chairman)	managing Director

#### Your contact details

Address line 1	The CNG Stadium, Wetherby Road
Town or City	Harrogate
County	North Yorkshire
Postcode	HG2 7SA
Telephone number	01423210600
Email address	garryplant@harrogatetownafc.com

#### Sports ground details

Name of sports ground	The CNG Stadium
Address line 1	Wetherby Road
Town or City	Harrogate
County	North Yorkshire
Postcode	HG2 7SA
Name of the occupier	Harrogate Town AFC Ltd

#### Owner details

Name of the owner	Harrogate Borough County Council (ground is on a lease)
Address line 1	Crescent Gardens
Town or City	Harrogate
County	North Yorkshire
Postcode	HG1 9RW
Location and name (if any) of the stand for which application is being made	The Wetherby Road Stand at The CNG Stadium

#### Other concerned parties

Are there any persons other than the proposed holder of the certificate who to his knowledge will or may be concerned in ensuring compliance with the terms and conditions of the safety certificate for which this application is being made?	No
--	----

#### General certificate details

List activities for which the stand provides viewing accommodation and which are to be covered by the general safety certificate	To Watch Football Matches
Give the approximate date of the construction of the stands for which application is made and details of any subsequent extension, major alteration or re-construction of it, together with relevant dates	July 2015, no extension, alteration since then.
Name of issuing fire authority	Not provided
Name of holder of fire certificate	Not provided
Date of issue of fire certificate	Not provided
Description of premises covered by the fire certificate	Not provided
Name of issuing licensing authority	National League
Name of licensee	Ground Grading License
Type of licence (liquor, gaming etc.)	Liquor
Date of expiry	Not provided
Description of the part or parts of the sports ground covered by the licence	The Main Stadium Bar and The Corporate Bar

State maximum capacity of the accommodation in the stand for spectators to view activities at the sports ground

Maximum no. of seated spectators	500 over 2 stands
State any restrictions on this capacity	N/A



Maximum no. of standing spectators	3503
State any restrictions on this capacity	N/A
Is the number of spectators admitted to the stand controlled on entry to that stand?	No

#### Spectator numbers Year 1

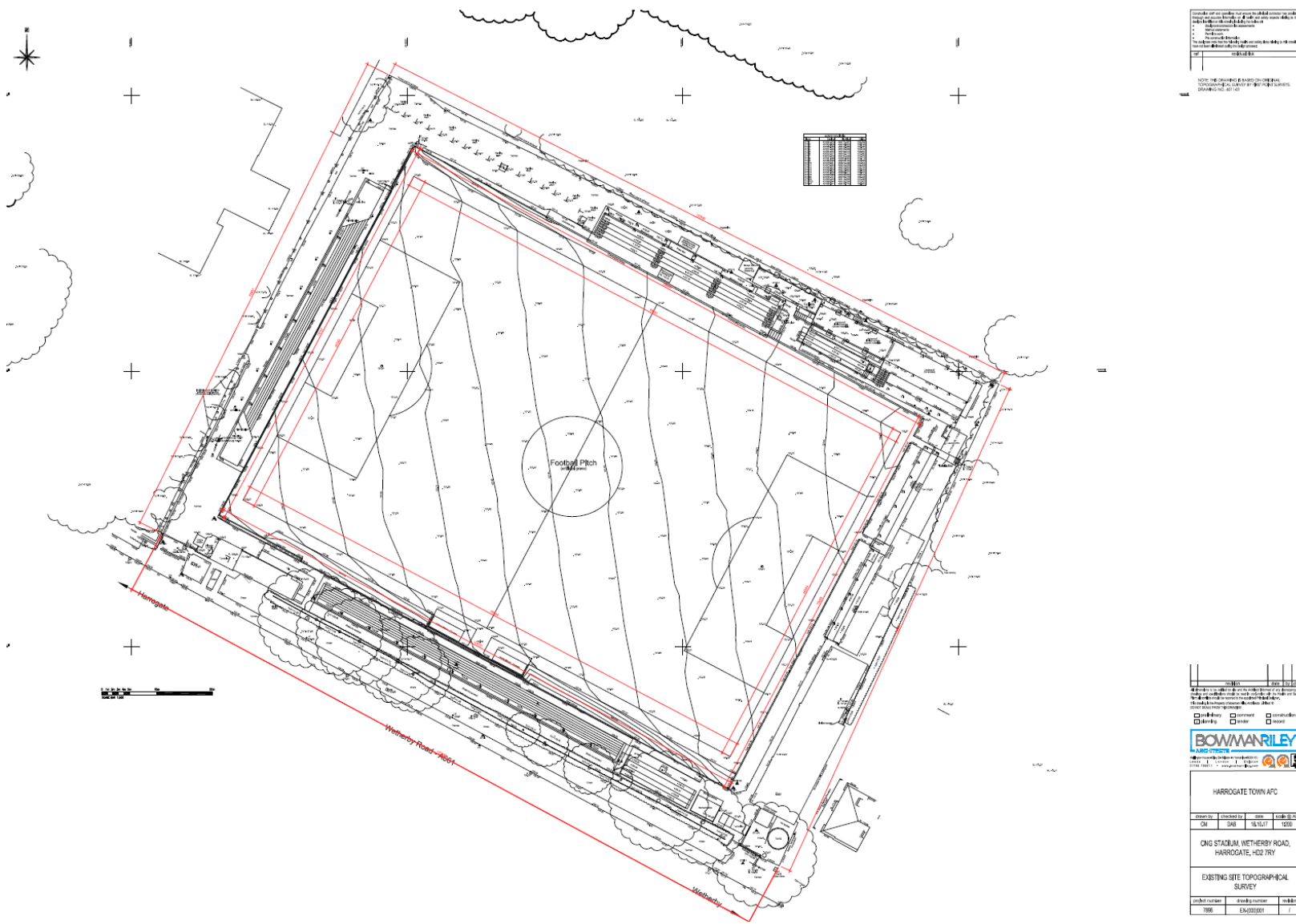
Name of activity	Football Match
Number of occasions over the year	Not provided
Total number of seated spectators (for the year)	Not provided
Total number of standing spectators (for the year)	Not provided
Date of stated activity which attracted the highest seating attendance	Not provided
Attendance (seated) during above date	Not provided
Date of stated activity which attracted the highest standing attendance	Not provided
Attendance (standing) during above date	Not provided

#### Year 2

Name of activity	Football Match
Number of occasions over the year	Not provided
Total number of seated spectators (for the year)	Not provided
Total number of standing spectators (for the year)	Not provided
Date of stated activity which attracted the highest seating attendance	Not provided
Attendance (seated) during above date	Not provided
Date of stated activity which attracted the highest standing attendance	Not provided
Attendance (standing) during above date	Not provided

#### Year 3

Name of activity	Football Match
Number of occasions over the year	Not provided
Total number of seated spectators (for the year)	Not provided
Total number of standing spectators (for the year)	Not provided
Date of stated activity which attracted the highest seating attendance	Not provided
Attendance (seated) during above date	Not provided
Date of stated activity which attracted the highest standing attendance	Not provided
Attendance (standing) during above date	Not provided



NOT TO SCALE  
 THIS DRAWING IS A REPRESENTATION OF THE ORIGINAL SURVEY DATA AND IS NOT TO BE USED FOR CONSTRUCTION PURPOSES WITHOUT THE ORIGINAL SURVEY DATA.

**BOWMAN RILEY**  
 LAND SURVEYORS

HARROGATE TOWN AFC

checked by	date	scale
CM	04/11/17	1:1000

CNG STADIUM, WETHERBY ROAD,  
 HARROGATE, HD2 7RY

EXISTING SITE TOPOGRAPHICAL SURVEY

sheet number	of sheets	date
1006	10/2017/001	1

General Safety Certificate

North Yorkshire County Council

**Fire Safety and safety of Places of Sport Act 1987**

**GENERAL SAFETY CERTIFICATE  
FOR A REGULATED STAND  
KNOWN AS**

**The Wetherby Road stand**

**at**

Harrogate Town Football Club

# **Fire Safety and Safety of Places of Sport Act 1987**

## **GENERAL SAFETY CERTIFICATE**

### **ARRANGEMENT**

GENERAL SAFETY CERTIFICATE

APPENDIX 1 OPERATIONS MANUAL

APPENDIX 2 PERMITTED NUMBERS OF SPECTATORS

APPENDIX 3 SPECIFIED ACTIVITIES

APPENDIX 4 GENERAL GROUND ARRANGEMENT DRAWINGS

APPENDIX 5 SCHEDULE OF AMENDMENTS TO THE GENERAL SAFETY  
CERTIFICATE

APPENDIX 6 DOCUMENTS KEPT WITH THE GENERAL SAFETY CERTIFICATE

## **Fire Safety and Safety of Places of Sport Act 1987**

### **INFORMATION**

It is important to know all the provisions of the Fire Safety and Safety of Places of Sports Act 1987 and Safety of Sports Grounds Act 1975 which are relevant to stadia within its scope.

The following points are particularly important but reference should be made to the Act itself for authoritative information.

(i) **Right of Entry and Inspection**

Section 35 of The Fire Safety and Safety of Places of Sports Act 1987 gives to authorised officers the power to enter and inspect a sports ground and to make any inquiries as are considered necessary for the purposes of the Act. Authorised officers also have power to examine records of attendance at the ground and records relating to the maintenance of safety at the ground.

(ii) **Alterations and Extensions**

Section 32 of the Act requires notice to be given to the Council before work is begun on any proposed alteration or extension to the stadium.

(iii) **Offences and Penalties**

For the following offences, that is to say: -

- (a) Contravening any term or condition of this certificate (otherwise than in pursuance of a prohibition notice), admitting spectators to the sports ground at a time when no application for a safety certificate has been made or where a certificate does not relate to the current sports ground or has been withdrawn, surrendered or cancelled; or in contravention of a prohibition notice, the penalty is, on summary conviction, a fine not exceeding the statutory maximum or, on conviction on indictment, a fine or imprisonment for a term not exceeding two years, or both.
- (b) Knowingly or recklessly making a false statement or producing, signing, furnishing or otherwise making use of a document containing a false statement, or
- (c) Failing to give notice of an alteration or extension to the sports ground or obstructing an authorised officer, the penalty is on summary conviction, a fine not exceeding level 5 on the standard scale.

(iv) **Prohibition Notices**

Section 10 of the Safety of Sports Grounds Act 1975 Act (as amended) provides that if the local authority are of the opinion that the admission of spectators to a sports ground or any part of a sports ground involves or will involve a risk to them so serious that, until steps have been taken to reduce it to a reasonable level, admission of spectators to the ground or that part of the ground ought to be prohibited or restricted, the authority may serve a notice (referred to as a "prohibition notice") on the Holder of

the general safety certificate or the person responsible for the management of the ground, prohibiting or restricting the admission of spectators.

(v) **Appeals**

Section 30 of the Fire Safety and safety of Places of Sports Act 1987 provides that an interested party may appeal to a Magistrates' Court against the inclusion of anything in, or the omission of anything from, a safety certificate.

(vi) **Transfer of the Certificate**

If the Holder of the safety certificate ceases to be the person responsible for the management of the ground, an application must be made to the Council for the transfer of the certificate to some other qualified person.

(vii) **Other Legislation/guidance**

The holder should be aware that apart from the legislation detailed in (i) above there may be other acts and guidance that apply to the sports ground. These include health and safety legislation, legislation relating to people with disabilities, civil contingencies legislation, The Regulatory Reform Fire Safety Order (2005), Sports Ground and Stadia Guide No.4: 'Safety Management' document and any other specific pieces of legislation or guidance that may have relevant safety implications.

**NOTE:** No temporary variation of the terms and conditions of the certificate will be permitted other than in accordance with the terms and conditions of any relevant letter of consent by the certifying authority

# SAFETY OF SPORTS GROUNDS ACT 1975

## GENERAL SAFETY CERTIFICATE

### Harrogate town Football Club Wetherby Road Stand

1. In exercise of the powers conferred by the Safety of Sports Grounds Act 1975 (as amended) and all other enabling powers, the **North Yorkshire County Council** ("the Council") hereby issues to: -

#### **MR GARRY PLANT, managing Director of Harrogate Town Football Club**

("The Holder"), this General Safety Certificate in respect of **Harrogate Town Football Club, Wetherby Road, Harrogate, North Yorkshire. HG2 7SA** being the sports ground requiring a general safety certificate in respect of the Wetherby Road stand.

2. This Certificate includes the Appendices and Drawings attached hereto.
3. The words used in this Certificate and the appendices attached hereto shall have the meaning assigned to them by the Safety of Sports Grounds Act, 1975, the Fire Safety and Safety of Places of Sport Act, 1987 and current edition of the Guide to Safety at Sports Grounds.
4. The Holder shall retain control over the whole and each part of the sports ground and shall take all necessary precautions for the reasonable safety of spectators admitted to the sports ground. The responsibility for the safety of spectators at the sports ground lies at all times with the Holder.
5. The Holder shall inform the Council of the name of the person at senior level in the organisation who is responsible for safety policy and its implementation, together with those of the safety officer and deputy safety officer who shall be of sufficient competence, status and authority to take responsibility for spectator safety and be able to authorise and supervise safety measures. Either the safety officer or a nominated deputy shall be present at any event during which spectators are admitted to the ground.
6. Unless a nominated Safety Officer or Deputy Safety Officer whose appointment has been notified to the Council, is present, the capacity of the sports ground will be zero.
7. The Holder shall ensure compliance with the terms and conditions of this certificate at all times the sports ground is in use for a specified activity.
8. The use of the sports ground for spectator events under this General Safety Certificate is restricted to those activities specified in Appendix 3 and is subject to the terms and conditions set out in this Certificate. No ancillary activities, apart from those listed in Appendix 3, are permitted without the prior written consent of the Council.
9. The Holder shall produce and comply with a written statement of safety policy for spectators and employees, outlining the chain of command, and covering the safety objectives and the means of achieving them and take steps to ensure that it is known and understood by all staff and voluntary workers who may be involved in ground operations. The Holder shall also ensure that the policy is reviewed annually and revised as necessary. A copy shall be included in the operations manual and a copy

of the policy shall be forwarded to the Council.

10. The Holder shall maintain and comply with all sections of the Operations Manual at appendix 1 which relates to the safety of people at the sports ground.
11. The Holder shall ensure that the maximum number of spectators that may be admitted at any one time to the sports ground and to each part thereof shall not exceed the capacities specified in Appendix 2, and shall also ensure that any measures for managing crowds prescribed in the Operations Manual and this certificate are observed.
12. The Holder shall, on the basis of a risk assessment, identify and apply precautions to prevent the outbreak and spread of fire; measures to ensure the safety of spectators should fire break out; provision and maintenance of fire safety equipment and the training of staff to deal with an outbreak of fire. These shall be set out in a fire safety plan in \* *[insert details of where this is to be found in the Operating Manual]* of the Operations Manual, a copy of which is appendix 1 to this Certificate.
13. The Holder shall undertake or commission a medical risk assessment from a competent person or organisation. In undertaking this assessment the local ambulance NHS trust, crowd doctor and first aid providers should be consulted. From the results of this assessment the Holder shall produce a medical plan defining the levels of medical and first aid provision for staff and spectators at the sports ground which shall be set out in \* *[insert details of where the plan of action is to be found within the Operations manual]* of the Operations Manual, a copy of which is at Appendix 1 to this certificate.
14. After conducting all the necessary risk assessments, the holder shall produce detailed capacity calculations in accordance with the guidance set out in the current edition of the Guide to Safety at Sports Grounds. These calculations shall be reviewed at least once a year, after any structural changes made at the sports ground and/or after any incident that involves implementing the Holder's emergency plans. The calculations shall be submitted to the council. The Holder may within this document specify different capacities for different events that might be held within the Sports Ground.
15. The Holder shall, on the basis of a risk assessment, identify the equipment, permanent staff, safety management personnel, stewards and others necessary to monitor, direct, guide, manage and assist spectators during specified activities. Details of the equipment to be provided, the level of staffing and the training given to those staff shall be set out in \* *[insert details of where this is to be found in the operating manual]* of the Operations Manual, a copy of which is at appendix 1 to this Certificate.
16. The Holder shall, on the basis of a risk assessment, identify the inspections and testing of structures, equipment and systems necessary to ensure the reasonable safety of spectators. The Holder shall set out the frequency of the inspection and testing in \* *[insert details of where this is to be found in the operations manual]* of the Operations Manual, a copy of which is at Appendix 1 to this certificate. The frequency of any such inspection and test should not exceed the frequency indicated by the equipment manufacturer.

The Holder shall keep a record of all inspections and tests specified in the Operations Manual. These records shall be available for inspection by authorised officer's at all reasonable times."

17. The Holder shall assess in writing, the risk of incidents prejudicing public safety or disrupting normal operations and produce a plan of action to deal with all



contingencies. The plan of action shall be produced in consultation with the Police, Fire Brigade, Ambulance Service and the Council. The plan of action shall cover all reasonably foreseeable contingencies up to and including the need for partial and/or the need for total evacuation of the stadium and shall identify appropriate individuals and their respective tasks. The Holder shall set out the plan of action in \* *[insert details of where the plan of action is to be found in the operations manual]* of the Operations Manual a copy of which is at Appendix 1 to this certificate. The plans shall be reviewed annually, after any incident, near miss or exercise.

18. The plan of action shall also be reviewed when any permanent or temporary change is made to the structures or installations at the ground. Where following any review the Holder revises the plan of action in \* *[insert details of where the plan of action is to be found within the Operations Manual]* of the Operations Manual, a copy of which is at Appendix 1 of this certificate details of the revisions should be forwarded to the council.
19. The Holder shall also carry out training exercises at least once a year so as to ensure the emergency procedures as set out in the “plan of action” operate correctly. The Holder shall notify the Council, the police and the other emergency services not less than 14 days before a training exercise is to take place to enable them to observe the standards of staff training. Details of training exercises, including its duration, the instruction provided and the personnel involved shall be entered in a log book.
20. The Holder shall use his or her best endeavours to agree a Statement of Intent with the police over their respective roles.
21. The Holder shall give not less than 35 days Notice to the Council, Police, Fire Brigade and Ambulance Service of all forthcoming specified events, together with details of any activity that might require a change to this certificate and not less than 3 months Notice before the sports ground is used for Group C activities specified in Appendix 3. The 35 days notice can be waived by agreement with the Council.
22. The Holder shall notify the Council, in writing, at least 28 days before any change of circumstances affecting this certificate. Any changes, which may involve alterations or conditions at the ground, shall be accompanied by sufficient information: -
  - (a) Such information shall include two sets of drawings to an appropriate scale to clearly show the proposed works, capacity calculations and risk assessments and such other drawings as may be necessary,
  - (b) Such calculations, risk assessments and other details as are necessary, or are further required by the council to enable them to undertake the necessary consultation and to make an informed decision on the application.
23. No alteration or addition shall be made to the sports ground or its structures or installations without the prior written consent of the Council.
24. No specific activity, which is specially presented for children, shall take place until the Council’s consent has been given in writing. At least 28 days notice in writing shall be given to the Council of any intention to provide such a specified activity.
25. The Holder shall draw up and keep up to date plans showing the layout of the sports ground, buildings, equipment, and all details considered necessary by the Council in connection with the Safety Certificate and shall upon request supply the Council with copies.

26. This Certificate is issued without prejudice to other legislation controlling the construction or use of sports grounds or buildings or otherwise affecting the Holder and does not invalidate any statutory obligation upon the Holder. The specific requirements of this certificate shall not be regarded as the limit of the obligation placed on the Holder to take all necessary precautions for the reasonable safety of spectators admitted to the sports ground.

North Yorkshire County Council.

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(The Officer appointed for this purpose)

**Date:**

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\*indicates additional materials to be supplied by the Football Club following amendments being made to their Operations Manual following recommendations made at the Safety Advisory Group on 27-11-17.



# **APPENDIX 1**

## **Operations Manual**

**APPENDIX 2**  
**PERMITTED NUMBERS OF SPECTATORS**

## **APPENDIX 3**

### **SPECIFIED ACTIVITIES**

#### **ACTIVITIES COVERED BY THE CERTIFICATE**

The activities covered by this certificate are as follows: -

Group A      Football

## APPENDIX 4

### GENERAL GROUND ARRANGEMENT DRAWINGS

#### LIST OF DRAWINGS

<b>CERTIFICATE DRAWING NO.</b>	<b>ARCHITECTS DRAWING NO.</b>	<b>DESCRIPTION</b>
7896	EX-(000) 001	Architects plan of Harrogate Town Football club ground

## **APPENDIX 5**

### **AMENDMENTS TO GENERAL SAFETY CERTIFICATE**

DATE OF ISSUE



## **APPENDIX 6**

### **DOCUMENTS TO BE KEPT WITH THE GENERAL SAFETY CERTIFICATE**

1. Statement of Intent
2. All risk assessments for the sports ground
3. Safety Officers Job Description
4. Regulatory Reform Order (Fire Safety) Risk Assessments
5. Copies of any Council letters giving permission as required within this document

**North Yorkshire County Council**

**Business and Environmental Services**

**Planning and Regulatory Functions Committee**

19 December 2017

**C3/16/01918/CPO - Planning Application for the purposes of the erection of a Green Energy Facility (6,342 sq. metres) (energy from waste via gasification), office reception building (91 sq. metres), substation & switchroom (39 sq. metres), air cooled condensers (377 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kv grid via a proposed substation at land south of Knapton Quarry/landfill as well as an underground connection (option 1: 5.26 km and option 2: 8.25km) to the 66kv grid via the primary substation at Yedingham on land to the south of Knapton Quarry landfill site, Knapton, YO17 8JA on behalf of Knapton Green Energy (Tetragen (Knapton UK) Ltd & NCG Estates) (Ryedale District) (Thornton Dale and the Wolds Electoral Division)**

**Report of the Corporate Director – Business and Environmental Services**

**1.0 Purpose of the report**

- 1.1 To determine a planning application for the erection of a Green Energy Facility (6,342 sq. metres gross external area) (energy from waste via gasification), office reception building (91 sq. metres), substation & switchroom (39 sq. metres), air cooled condensers (377 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kV grid via a proposed substation at land south of Knapton Quarry/Landfill as well as an underground connection (Option 1: 5.26 km and Option 2: 8.25km) to the 66kV grid via the primary substation at Yedingham on land to the South of Knapton Quarry Landfill Site, Knapton, YO17 8JA on behalf of Knapton Green Energy (Tetragen (Knapton UK) Ltd & NCG Estates).
- 1.2 This application is subject to 18 objections having been raised by local members of the public (summarised in paragraphs 5.4 & 5.7 of this report) and also an objection raised by Wintringham Parish Council and concerns raised by Scampston Parish Council (see Section 4 of this report) and is, therefore, reported to this Committee for determination.

**2.0 Background**

Members Site Visit

- 2.1 On 7 February 2017 Members resolved to conduct a formal Site Visit in advance of the determination of the planning application. The Site Visit subsequently took place on 28 February 2017. The following Members and substitutes were in attendance at that site meeting; Cllr Sowray, Cllr Lee, Cllr Blades, Cllr Windass, Cllr Packham, Cllr Lunn, Cllr Trotter, Cllr Chris Pearson and Cllr Broadbent.

- 2.2 On 6 June 2017, at the first meeting of the Planning and Regulatory Functions Committee following the County Council elections, it was considered appropriate that new Members of the Committee be offered an opportunity to visit the site before the determination of the application. It was resolved that a formal Committee site visit would take place on 14 July 2017. The Site Visit related to the development proposed within the application the subject of this report and also planning application ref. NY/2017/0129/FUL for the retention and change of use of the existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling and pre-treatment operations at Knapton Quarry Landfill Site, Knapton.
- 2.3 The following Members were in attendance at that site meeting; Cllr Hugill, Cllr Clive Pearson, Cllr Jordan and the local member Cllr Sanderson. The Site Visit gave Members the opportunity to gain an understanding of the proposed development in the context of the existing operations and on-site buildings and infrastructure, the surrounding land, buildings and the public highway. At all times during the visit Members were accompanied by Officers. However, in accordance with the County Council's adopted protocol for Members Site Visits, no discussion of the merits of the planning application or decision-making took place.
- 2.4 The application was included on the published agenda for the meeting of the Planning and Regulatory Functions Committee on 18 July 2017. However, due to the late circulation of documents by the Applicant to Members of the Committee, the determination of the application was deferred to allow the County Planning Authority to consider the documents and make them available in the public domain.
- 2.5 The application was included on the published agenda for the meeting of the Planning and Regulatory Functions Committee on 29 August 2017. However, following the circulation of a document by the Applicant which outlined potential changes to the proposed development, Members resolved to defer the determination of the application to allow the Applicant the opportunity to formally submit amendments to the proposed development to allow consideration and consultation in advance of a future meeting of the Planning and Regulatory Functions Committee.

#### Site Description

- 2.6 The application site lies on the Yorkshire Wolds approximately 10 kilometres to the east of Malton and south of the A64 Malton to Filey trunk road. The application site is 4 hectares of land to the south of the former quarry and active landfill which is a long established 10 hectare site on the north facing, downhill slope with Knapton Wood at a higher level to the south. The site access road is off the A64 and runs in a north-south direction uphill to the site entrance to the landfill and waste transfer buildings.
- 2.7 The existing waste management site is licensed to receive up to 150,000 tonnes of waste per annum and receives residual household waste also referred to as municipal solid waste ('MSW'), commercial and industrial ('C&I') and construction and demolition ('C&D') waste. In recent years the site has received up to 135,000 tonnes of waste per annum, equivalent to an average of 370 tonnes per day. The landfill currently receives 75,000 tonnes of active waste per annum which is deposited within the existing landfill cells. The site also receives circa 25,000 tonnes of waste which is recycled and historically has received circa 35,000 tonnes of inert waste which has been used to restore parts of the landfill. In addition a restored part of the landfill site is used for open windrow composting operations.

- 2.8 The application site is undeveloped greenfield agricultural land in an open countryside location on the north facing scarp of the Yorkshire Wolds on the southern flank of the Vale of Pickering. The level of the land forming the southern part of the application site rises from approximately 82m AOD in the north-east corner up to approximately 96m AOD in the south-west corner. The dominant land use of the surrounding area is open farmland and woodland. The Knapton Wood plantation occupies an elevated position and extends to the south west, south, south-east and east of the application site. The Sands Wood plantation is 780m to the west of the application site. The application site falls within an Area of High Landscape Value (AHLV) as defined by the Ryedale Local Plan (2013).
- 2.9 The application site itself is not located within, or immediately adjacent to a wetland, coastal zone, mountain and forest area, nature reserve and park, a designated area (such as SSSI, SPA/SAC, RAMSAR, AONB), a densely populated area or a landscape of national significance. At its closest point the boundary of the North York Moors National Park is approximately 9km north-west of the application site. Knapton Hall is 1.1km to the north-west of the application site. The nearest listed building is the Church of St Edmund (Grade II) in the village of East Knapton 1km to the north west of the application site. Scampston Hall (Grade II\*) is 2.4km west of the application site and is set within a Registered Park and Garden (Grade II\*) the boundary of which is 1.3km west of the application site at its closest point. There is a Scheduled Ancient Monument (a cross dyke) 250m to the south of the application site beyond Knapton Wood. The application site has the potential to be of some archaeological significance.
- 2.10 The villages of West and East Knapton are 1.3km to the north west, West Heslerton is 1.5km to the east, Wintringham is 1.6km to the south-west and Scampston is 2.5km to the west. There are no residential properties within close proximity of the application site. The nearest residential properties are at West Farm beyond Knapton Wood approximately 750 metres to the south east. A caravan and camping site (Wolds Way) is also located approximately 850 metres to the south-east. There is also a telecommunications mast near West Farm 800m south-east of the application site which is visible on the skyline when viewed from the A64 and other positions to the north. There are residential properties east of the village of East Knapton at Mill Grange and Hartswood Farm (and small campsite) which are 1km to the north-east of the application site on the northern side of the A64.
- 2.11 Public bridleway number 25.81/15/1 (along Knapton Wold Road) is approximately 500 metres to the west and public bridleway number 25.81/24/1 runs 250 metres to the south of the application site (separated by Knapton Wood). The Wolds Way National Trail runs in an east-west alignment which at its closest point is approximately 250 metres to the south of the application site (also separated by Knapton Wood).
- 2.12 The site lies in flood zone 1 (low risk) and is located on the Chalk (Principal aquifer) but is close to the boundary with the Speeton Clay Formation (unproductive strata). The site is not located within a Source Protection Zone and there are no licensed abstractions in the vicinity.
- 2.13 A plan showing the application site is attached to this report at Appendix A and an aerial photo at Appendix B.

### Planning History

- 2.14 There is no planning history applicable to the proposed development site aside from a 'Screening Opinion' (ref. NY/2016/0085/SCR) that was issued by the Authority on 20 July 2016 under Regulation 5 of the Town and County Planning (Environmental Impact Assessment) Regulations 2011. The 'Screening Opinion' stated that the proposed Green Energy Facility has the potential to have significant impacts upon the environment and therefore any future planning application for the development should be accompanied by an Environmental Statement.
- 2.15 The planning history of the adjacent former quarry/active landfill and waste management site is of relevance and is summarised in the following paragraphs.
- 2.16 Having lain dormant for a number of years Knapton Quarry recommenced working in 1966 (originally sand and gravel with more recent quarrying of underlying chalk). The planning history for the site shows that permission ref. P/939 was granted for extraction in October 1966 and permission ref. P/939A was granted for extraction in June 1970. The applicant and operator at the time was R R Butler.
- 2.17 On 16 December 1976 planning permission ref. C3/114/12 was granted for the erection of a building for the manufacture of concrete products at Knapton Quarry. The applicant and operator at the time was Knapton Gravel Co.
- 2.18 On 18 April 1979 planning permission ref. C/3/114/12A/PA was granted for the tipping of waste (inert) at Knapton Quarry. The applicant and operator at the time was R R Butler.
- 2.19 On 13 April 1984 planning permission ref. C3/114/12C was granted for extraction and tipping at Knapton Quarry. The applicant and operator at the time was B Doughty.
- 2.20 On 12 September 1984 planning permission ref. C3/114/12D was granted for tipping at Knapton Quarry. The applicant at the time was B Doughty.
- 2.21 On 8 February 1988 planning permission ref. C3/114/12E was granted for a building at Knapton Quarry. The applicant at the time was Knapton Quarry and Skip Hire.
- 2.22 On 27 March 1991 planning permission ref. C3/114/12F/FA was granted for an extension to the existing quarry and restoration of the whole site to agriculture by landfill operations. The applicant and operator at the time was Ray Owen Waste Disposals. The permission authorised the disposal of non-hazardous domestic, commercial and industrial waste in engineered landfill containment cells.
- 2.23 On 3 February 1998 planning permission ref C3/97/00706 was granted for the demolition of an existing building and construction and operation of a waste transfer and recycling centre at Knapton Quarry, East Knapton. The applicant and operator at the time was Owen Environmental Services.
- 2.24 On 7 January 2002 planning permission ref. C3/114/12G/FA was granted for an extension to the existing chalk quarry with restoration by infilling at Knapton Quarry until 14 March 2035 with restoration by 14 March 2037 (Condition 2 on the planning permission). The planning permission includes 49 planning conditions and is accompanied by a Section 106 legal agreement dated 5 March 2001. The applicant and operator at the time was Ray Owen Waste Disposal.

- 2.25 On 18 September 2003 planning permission ref. C3/02/01200/CPO was granted for the demolition of an existing building and construction of a new building for the purposes of the operation of a waste transfer and recycling centre at Knapton Quarry and Landfill site, East Knapton. The permission has been implemented and the waste transfer and recycling centre is operational. Condition 4 on the permission authorised the vehicular movement of waste or soils to or within the site only between 0730 and 1730 hours Mondays to Fridays and 0730 and 1300 hours Saturdays with no working on Sundays or Bank and Public Holidays. The applicant and operator at the time was F D Todd & Sons Ltd.
- 2.26 On 6 June 2008 planning permission ref. C3/08/00235/CPO was granted for the erection of a building for the pre-treatment of waste prior to final disposal and provision of new weighbridge at Knapton Quarry, Knapton. The weighbridge was implemented and remains on site, but the new pre-treatment building (which would require the partial demolition of the existing buildings) has not yet been erected. Condition 2 states that the permission authorises the erection of a building for the pre-treatment of waste prior to final disposal and the provision of a new weighbridge only until the completion of the associated tipping operations after which it shall be discontinued and the development including all plant and machinery shall be removed before that date and the land restored within 12 months.
- 2.27 On 30 September 2009 planning permission ref. C3/09/00833/CPO was granted for the variation of condition 4 of Planning Permission C3/02/01200/CPO to allow for extended hours of operation of the Waste Transfer and Recycling Building on land at Knapton Quarry Landfill Site, East Knapton, Malton. The applicant and operator at the time was F D Todd & Sons Ltd. Condition 1 of the permission states that the building shall operate only as a waste transfer and recycling centre until the completion of the tipping operations after which it shall be discontinued and all plant, machinery, vehicles and skips, including the building, shall be removed within 12 months of the completion of tipping operations and the land restored. Condition 3 on planning permission ref. C3/09/00833/CPO authorises vehicular movement of waste or soils to or within the site only between 0730 and 2200 hours Mondays to Fridays and 0730 and 1600 hours Saturdays and Sundays.
- 2.28 On 28 September 2012 approval ref. NY/2012/0287/A30 (C3/12/00795/CPO) was given for the composting (open windrows to maximum height of 3.5m) and storage of green waste to form soil making material for the use in the restoration of the landfill site. The composting takes place on an impermeable pad to the south of the waste reception yard area. A maximum of 2,000 tonnes of green waste is composted at the site per year.
- 2.29 On 24 November 2016 planning permission ref. C3/12/00997/CPO was granted for the variation of condition No. 3 of planning permission reference C3/114/12G/FA to allow for revised final restoration details at Knapton Quarry Landfill, East Knapton, Malton. The planning permission authorises infilling with imported waste until 14 March 2035 and restoration of the land by 14 March 2037. The landfill operator states that they are expected to stop tipping active waste within the engineered landfill cells in 2017 and that landfill capping and restoration works (which involve material classified as waste) will continue at the site until at least 2035. The operator estimates that in excess of 200,000m<sup>3</sup> of inert waste material will be required to complete the restoration of the landfill. The landfill currently generates approximately 250 cubic metres of gas (methane and carbon dioxide) per hour. A micro generation plant at the site currently utilises 40 cubic metres per hour of the gas in order to generate 57kw of electricity. 7kw of this electricity is used locally at the site with the remaining 50kw uploaded to the local grid (max. export capacity). The remaining 210

cu/hr is disposed of through an emissions compliant flare. The permission requires that the landfill site is restored to a long term biomass cropping (short rotation willow coppice) and permanent woodland after use. The permission is subject to a Section 106 legal agreement dated 23 November 2016 in relation to long term restoration management and aftercare (25 years).

- 2.30 The extant permissions for the adjacent site are references C3/12/00997/CPO (landfill), C3/12/00795/CPO (composting), C3/08/00235/CPO (pre-treatment of waste building & weighbridge) and C3/09/00833/CPO (waste transfer and recycling building). The planning permissions for the pre-treatment of waste building & weighbridge and the waste transfer and recycling building include conditions which only permit the use of the buildings until the completion of the associated tipping operations after which they shall be removed and the land restored.
- 2.31 On 15 May 2017 the County Planning Authority registered an application ref. NY/2017/0129/FUL for the retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling and pre-treatment operations at Knapton Quarry Landfill Site, Knapton. The application shall be determined in parallel with the application which is the subject of this report.

### **3.0 The proposal**

- 3.1 Planning permission is sought for the erection of a Green Energy Facility (6,342 sq. metres gross external area) (energy from waste via gasification), office reception building (91 sq. metres), substation & switchroom (39 sq. metres), air cooled condensers (377 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kV grid via a proposed substation at land south of Knapton Quarry/Landfill as well as an underground connection (Option 1: 5.26 km and Option 2: 8.25km) to the 66kV grid via the primary substation at Yedingham on land to the South of Knapton Quarry Landfill Site, Knapton, YO17 8JA on behalf of Knapton Green Energy (Tetragen (Knapton UK) Ltd & NCG Estates).
- 3.2 The application is accompanied by an Environmental Statement that reports on the results of the EIA and assesses the significance of any potential impact of the proposed development in relation to the following:- Socio-Economic Issues, Landscape and Visual Impact, Air Quality and Odour, Noise, Archaeology and Cultural Heritage, Traffic and Transportation, Ecology, Ground Conditions and Flood Risk and Hydrology.
- 3.3 In September 2017 the Applicant submitted an amended Landscape and Visual Impact Assessment (LVIA) and amended drawings detailing a reduction in the size of the built envelope of the proposed Green Energy Facility as well as further landscape mitigation measures. The Applicant has confirmed that this has been possible following the completion of the technology evaluation and down-selection of a preferred provider and the amendments aim to address the key issues previously identified, in particular those relating to perceived effect on the landscape. The following paragraphs explain the amendments to the original application where applicable.

- 3.4 The proposed Green Energy Facility (GEF) would be a single purpose built building comprising a waste reception hall and gasification plant comprising a gasifier, boiler island, steam turbine and generator set and gas cleaning and an ash handling system. The GEF building would measure 56 metres in width and 109 metres in length and would have a stepped roof design (curved): the higher part to accommodate the gasification plant area forming the western part of the building and the lower being the waste reception area forming the eastern part of the building. The GEF building would also contain electrical and maintenance rooms, stores, a workshop and staff welfare facilities at ground floor level and an office, staff room and meeting room at first floor level. The upper part of the south facing elevation of the GEF would include a 57 metre long row of solar panels on the roof slope (part of the September 2017 amendments).
- 3.5 The GEF building would be constructed on a level building platform which, as part of the September 2017 amendments, has been reduced 1.5 metres lower than the original proposal (now designed at 84.80m AOD). The amended roof height over the gasification plant would reach a maximum height of 18.4 metres above finished floor level (previously 23 metres). The amended roof height over the waste reception area bay would reach a maximum height of 11.9 metres above finished floor level (previously 13.5 metres). In light of the lower building platform the emission stack would rise 34.5 metres above the platform (previous height of 33 metres but same AOD height). The stack, which would have a matt mid grey finish, was previously 1 metre in diameter however the amended details show a wider stack with a diameter of 2.4 metres in light of the requirement to accommodate two exhausts from the two ACC units. The external construction materials for the walls of the GEF building would comprise a low level blue brick plinth, dark green profiled metal cladding on the south, west and part north elevations and mid grey profiled metal cladding on the east elevation and the majority of the north elevation. The building would have a profiled metal clad curved roof (light grey) and there would be cedar cladding at the entrance on the northern side of the building and three exposed timber beams curving from the roof to ground level on the north elevation. Please refer to Appendices C & D for site sections and visualisations.
- 3.6 In the amended details the Applicant has provided a comparison table to show the reduced mass of the building now proposed which is shown below:

Summary of changes to building dimensions					
	Original Height (metres)	Reduction (metres)	Less Lower Building Platform Level (metres)	New Effective Height (metres)	% reduction
<b>Front Eaves</b>	13.609	3.054	1.500	9.055	33.5%
<b>Rear Eaves</b>	17.073	3.420	1.500	13.653	28.8%
<b>High Point</b>	23.000	4.895	1.500	18.105	27.8%



- 3.7 Previously one air cooled condenser for recovering water from the steam generation process was proposed adjacent to the south west corner of the GEF building. The air cooled condenser was shown as having a maximum gross external area of 200 square metres (10m by 20m) and a maximum height of 21 metres. The amended details now show that two condenser units, each approximately 8.5 metres in height, would be located in enclosures on the south elevation of the GEF with a footprint of 377 square metres. The position of the ACC units is shown at Appendix G.
- 3.8 Within the northern portion of the Site a small substation and reception/weighbridge building is proposed. The reception/weighbridge building would control the incoming and outgoing traffic and provide an office, meeting room and welfare facilities for staff and visitors. A visitor car park would be located adjacent to the reception building. The reception/weighbridge building would have a rectangular footprint and a gross external area of 91.2 square metres and extend to 6.2 metres in height at its highest point. Please refer to the plan and elevation drawing at Appendix F. The external construction materials for the reception/weighbridge building would comprise a low level blue brick plinth, cedar cladding and a profiled metal clad curved roof (light grey) with exposed timber beams.
- 3.9 It is proposed to extend the internal access road along the eastern site of the landfill site and loop round to meet an external service yard (hardstanding) to be constructed on the eastern side of the GEF building. The extended internal access road would be 4m wide with passing bays and would loop round the southern and western sides of the GEF building where the road would widen to 10m in width along the northern side of the building. As part of the September 2017 amendments arising from the proposed technology the area of hardstanding (service yard) required to the east of the GEF has been reduced. There would be HGV entry/exit points on the eastern and southern sides of the waste reception part of the GEF building. In addition 20 car parking spaces are proposed, 10 of which are to be located within the southern portion of the Site adjacent to the GEF. 10 are to be located within the northern portion of the Site adjacent to the reception building and weighbridges.
- 3.10 The proposed GEF would receive and consume circa 65,000 tonnes of non-recyclable, primarily non-fossil fuel derived, waste ('Fuel') per annum from the adjacent waste transfer, recycling and treatment facilities (to be retained) at Knapton Landfill. In order to supply the 65,000 tonnes of Fuel to the GEF it is estimated that Knapton Landfill would receive around 80,000 tonnes of source waste material per annum. This waste would go through a pre-treatment process at the existing waste transfer and recycling buildings at Knapton Landfill where recyclable materials such as glass and metals would be extracted. These recyclable materials would leave the Knapton Landfill site as part of the ongoing waste transfer and recycling operations at Knapton Landfill. The sorted non-recyclable waste (such as rubber, plastics etc) would then be passed through shredders to ensure the Refuse Derived Fuel (RDF) is of optimal consistency before being delivered to the GEF. The GEF would create energy from non-recyclable waste through gasification or hyper-oxygenated combustion of the waste at high temperature. The GEF would produce 8 MW of electricity equivalent to powering circa 16,000 homes a year. The GEF would be designed to be "CHP-ready" i.e. to be easily re-configured to supply heat to match local demand. The Applicants are currently exploring the potential to transmit surplus renewable heat and energy generated by the facility to local energy intensive businesses including the West Knapton malting factory (Maltings) to the north.

- 3.11 The electricity generated by the GEF would be transmitted to the local 11kV grid via a substation at the Site and then to the local area grid (66kV) at the existing Yedingham Primary Substation (1 km south of the village of Yedingham and 3.4km north east of the Site). The application details show two potential cable route options to connect the proposed development to the Yedingham Primary Substation. Option 1 is to lay the cable to the east along the verge of the A64 before directing it north along the verge of the Malton Road (B1528) and south at Yedingham along Station Road to the substation itself. Option 2 is to lay the cable in a western direction along the verge of the A64 before directing the cable north along the verge of Station Road to the substation.
- 3.12 The application states that *“The Proposed Development represents a more efficient and environmentally sustainable method of disposing of non-recyclable waste than existing operations or other currently available alternatives”*. The GEF would accept waste primarily from many of the same sources as are currently accepted into Knapton Landfill (excluding the municipal, residential and food waste fractions currently comprised in the landfill waste stream also known as ‘black bag waste’) but would be delivered using a reduced number of dedicated vehicles with higher payload capacities.
- 3.13 The amended details (Sept 2017) have also confirmed the use of landfill gas (methane & carbon dioxide) and the short rotation willow coppice in the GEF process. The Applicant states that the adjacent landfill currently generates approximately 250 cubic metres of gas per hour of which 210 cu/hr is flared and is therefore *“wasted energy that has the potential to produce 0.5MW of electricity”*. It is therefore proposed to capture the gas and divert it to feed into the GEF to supplement the syngas. This would involve the gas being transferred to the combustion chamber of the GEF via underground pipes. The Applicant states that this will put what is an existing greenhouse gas into a beneficial and environmentally sustainable use. The Applicant also highlights that Knapton Quarry is only in year 1 post capping and therefore it is expected that the gas yield (curve) will increase exponentially up to year 8, before generating a steady supply. Gas production is expected to tail off between years 15 to 20. The site will continue to generate significant volumes of gas after year 20 but at a gradually decreasing volume.
- 3.14 In addition to this the GEF would also utilise the short rotation willow coppice, which will be planted as part of the restoration works associated with the adjacent landfill site, to generate further energy. The Applicant states that the 5 hectares of willow coppice would contribute approximately 50kW to the overall energy production at the GEF.

#### Landscaping

- 3.15 The applicant states that the material excavated (including underlying chalk) during the creation of the development platform (‘cut and fill’ to situate the GEF building at lower level than existing land up at 84.80m AOD) would be used to remodel the landform around the building to assist screening and integration into the existing landform. Please see the site section drawings at Appendix C. Any surplus excavated material would be used in the restoration of the adjacent landfill site and not exported off site. The remodelling work is largely within the eastern portion of the Site where a planted woodland screen bund (approximately 5 metre high mound) would be created to a high point of 90.25m AOD. The revised layout detailed in the September 2017 amendments allows for the building to be relocated further to the east and south thus providing wider margins on the north and west boundaries that can be utilised to provide more screening by earthworks and planting. The reduction in areas of hardstanding (decrease of 1095m<sup>2</sup>) has, in turn, increased the areas available for

soft landscaping and woodland planting. The highest point of the planted woodland screen bund to the east of the building is unchanged but the bund would have a wider footprint. The top of the bank to the south of the GEF would be approximately 96m AOD which would fall away northward to a swale which would run parallel to the southern elevation of the GEF building. The top of the bank to the west of the GEF would be approximately 92m AOD which would fall away eastward to a swale which would run parallel to the western elevation of the GEF building.

- 3.16 The proposed landscaping scheme comprises a mixed woodland with a core of predominantly evergreen species, in character with neighbouring tree belts and woodland; and surrounded by a woodland edge of native deciduous trees. The landscape setting would also include a wildflower meadow to the rear of the GEF and damp swales and seasonal attenuation ponds. The site would be enclosed by a timber post and four rail fence where there are no existing hedgerows, with the fences bounded by either new hedgerow or woodland edge species. The Applicant states *“It is anticipated that there will be a balance of material between cut and fill operations. The earthworks design and woodland planting together will provide screening and break up the outline of the building when viewed from key vantage points. The landform has been sensitively designed to reflect the existing landscape character. Planting will comprise predominantly native species that will filter views to the development and over time assimilate the building into the landscape. The proposed landscape design will also create a range of new habitats including woodland, hedgerows, chalk grassland, and ponds/wetlands that will significantly increase the biodiversity of the area”*. The Applicant also states *“The landform design and associated planting will reinforce existing screening of the GEF by landform and woodland. Where there is little natural screening at present (i.e. predominantly from the east) the proposed landform design and woodland planting will provide a screen to the lower half of the building and associated external areas. As woodland planting matures the screening effect of the landscape proposals will increase”*. The proposals are shown on the drawings and visualisations attached to this report at Appendices C, D & G. It should be noted that the trees shown are at approximately 15 years’ maturity from date of planting and therefore a long way short of full maturity.
- 3.17 The amended details (Sept 2017) have also confirmed that the owners of the Knapton Landfill site have agreed not to coppice a 15 metre wide belt (area 2120sqm) of the planted willow which forms part of the restoration works for Knapton Landfill. The belt is on the southern edge of the landfill and adjacent to the north elevation of the GEF building. In addition the owner also agrees to plant an additional area (1460sqm) of willow coppice to provide further screening to the GEF as show on the drawings attached at Appendices C & G. The Applicant has confirmed that arrangement would need to be secured via a Section 106 legal agreement.

#### Traffic

- 3.18 It is proposed that an average of ten 44 tonne HGVs, with a typical payload of 24 tonnes per day would deliver the non-recyclable waste to Knapton Landfill for treatment (20 arrivals and departures per day). Following pre-treatment an internal vehicle would move the Fuel to the GEF. These vehicles would not enter the public highway and are only associated with onsite operations. In addition to the above it is anticipated that there would be a further 10 two way movements per day associated with cars for staff and visitors arriving at the Site. The traffic generated by the proposed development is set out in the table below:

Type of Trip	Average
Number of vehicle movements / working day delivering non-recyclable waste to Knapton Quarry	20
Estimated payload of delivery vehicles	24 tonnes
Estimated number of non-waste vehicles / working day	10
<b>Total vehicle movements / working day</b>	<b>30</b>
<i>Vehicle movement definition, egress = 1 movement, ingress = 1 movement</i>	

#### Hours of operation

- 3.19 It is proposed that the facility would receive waste into the reception building during the following hours: Monday to Saturday: 0630 to 1830 and Sunday: 0900 to 1730. No deliveries shall be made outside these hours including Bank Holidays and Public Holidays. The applicant states that *“In order to ensure the facility operates 24 hours a day the GEF will store up to three day’s supply of Fuel within the waste reception area of the GEF building”*.

#### External Lighting

- 3.20 The application includes an external lighting plan which shows the positions of the proposed external lighting for the GEF building, external yard area and the reception/weighbridge office building. It shows the lux levels and light spillage projections. There would be 13 lights mounted on the building at 7 metres high and three mounted at 3 metres high. In addition there would be three column mounted lights at a height of 8 metres. The application details state *“All lighting will be directional, shielded and controlled by electronic timers and/or motion sensors to ensure it is only on where and when operationally necessary or to ensure the health and safety of persons”*.

#### Employment and Economic Impact

- 3.21 It was previously anticipated that the Proposed Development would directly employ or secure the ongoing employment at Knapton of a total of 30 full time equivalent staff. In the amended details this is now a total of 55 full time equivalent staff. In addition to direct employees, the GEF would require a number of indirect staff (estimated at 15 jobs) to maintain and service the technology, operate the service vehicles and to manage the fuel supply arrangements.
- 3.22 The Applicant expects that the development would contribute £179,000 to local business rate taxes per annum. The Applicant further states that, when the rates of the existing Knapton Quarry waste management site are included, which the GEF helps to secure, the estimated contribution to local business rate taxes is anticipated to be in the region of £300,000 contribution to local taxes per annum.
- 3.23 The Applicant has confirmed that if planning permission is granted construction would likely commence in Spring/Summer 2018 and be completed by the fourth quarter of 2019.
- 3.24 The Applicant states that the benefits of locating the GEF in the proposed location are as follows:-
- *“Utilise the existing access and road infrastructure at Knapton Quarry;*
  - *Benefit from the existing landscaping;*
  - *Knapton Quarry already generates traffic movements and receives waste and therefore the Proposed Development is not a new waste facility;*
  - *Utilise existing waste handling infrastructure and facilities are already present on the site and will remain so until at least 2035;*
  - *Retain 15 jobs at Knapton Quarry (and create 40 new jobs at the GEF);*

- *Has the opportunity to export CO2, heat and electrical energy to nearby energy intensive businesses;*
- *Allows the bottom ash waste product from the GEF to be used to accelerate the capping and restoration of the landfill cells at Knapton Quarry;*
- *Utilise methane from the landfill cells, the majority of which is currently being disposed of by way of a flare and vent to the atmosphere, to use in generating energy over a significant time period;*
- *Utilise the short rotation willow coppice, which will be planted as part of the restoration works associated with the landfill, as a fuel stock for the adjacent GEF; and*
- *Invest in a significant system upgrade at the primary substation at Yedingham”.*

#### 4.0 Consultations

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on 29 November 2016, the subsequent re-consultation on 1 March 2017 following the receipt of further environmental information comprising a Regulation 22 submission on heritage and landscape and visual impacts, dated February 2017 and the further re-consultation on 14 September 2017 following the receipt of further/amended environmental information comprising a Regulation 22 submission detailing the reduction in the size of the built envelope of the GEF as well as further landscape mitigation measures, dated September 2017. As required by the Regulations, notification of the Secretary of State (National Planning Casework Unit) of the planning application was undertaken on 29 November 2016.

- 4.1 **Ryedale District Council (Planning)**- responded on 5 January 2017 and stated that their comments were focussed on the siting, scale and design of the proposed building and its impact upon the landscape. Ryedale District Council (Planning) highlighted that the application site is located within the Yorkshire Wolds Landscape Character Area, designated as an Area of High Landscape Value. The response made reference to the requirements of policies SP13 (Landscapes) and SP20 (Generic Development Management Issues) of the Ryedale Plan.
- 4.1.1 The response stated that the scale and height of the proposed building represented a significant building in this particular location and within Ryedale and that there are only limited examples of buildings in Ryedale that have heights of 23m notwithstanding the building also having components reaching 33m in height.
- 4.1.2 Ryedale District Council (Planning) stated that *“The site is located on the Yorkshire Wolds rising escarpment, giving rise to public viewpoints to the south from the A64 and beyond. There will also be views of the proposal across the Vale of Pickering from settlements and viewpoints on and adjacent to the A170 and from the rising land within the North York Moors. In addition there are reservations about the impact of the proposal upon the network of public footpaths to the east and south of the application site. It is considered that the introduction of the proposed development will not be consistent with the special scenic qualities of the landscape and be contrary to Policy SP13 of the Local Plan Strategy. Although it may be possible to partly mitigate some of this impact through a carefully considered landscaping scheme”*. Ryedale District Council (Planning) also state that *“Furthermore, the scale of the proposed activity in this currently undeveloped rural area will give rise to a significant change in the character and appearance of the area”*.

- 4.1.3 In summary Ryedale District Council (Planning) stated that there were significant concerns regarding the scale of the proposed building and its impact upon the landscape and it was considered to be contrary to the requirements of policies SP13 and SP20 of the Ryedale Plan. Ryedale District Council (Planning), did however, acknowledge that there could be significant benefits associated with the scheme and that it was for NYCC to weigh the above comments in the overall planning balance.
- 4.1.4 On 16 March 2017, in response to the reconsultation on further information, Ryedale District Council (Planning) confirmed that they maintained the view that the proposed development was not consistent with Policy SP13 of the Local Plan Strategy- Ryedale Plan by virtue of its scale and height and its impact upon the special scenic qualities of the landscape. However RDC recognised that the landscape harm had to be weighed in the balance by NYCC alongside the benefits of the proposed development.
- 4.1.5 On 18 October 2017, in response to the reconsultation on further information, Ryedale District Council (Planning) state that the amendments to the proposal, notably the reduction in the heights of the building and proposed landscaping, reduce the impact of the proposal upon the wider landscape. The scheme as now proposed, has less conflict with Policy SP13 (Landscapes) of the Local Plan Strategy. Providing NYCC are convinced regarding the need for the development in principle the landscape impacts of the proposal are not considered to be objectionable. It is however, suggested that the planting is undertaken in the next available planting season, and comprises indigenous and mature species so the building's impact can be reduced upon the wider landscape.
- 4.2 **Environmental Health Officer (Ryedale)-** responded on 5 January 2017 (observations contained within Ryedale District Council (Planning) response) with comments on air quality and noise.
- 4.2.1 With regard to air quality the EHO noted the applicant's proposals for odour mitigation and the adoption of Standard Operating Procedures. The EHO noted that the processes will be regulated by the Environment Agency and they will have to ensure that the application can achieve all regulatory air quality objectives or their own other specific pollutant environmental limit values, in addition to the control of odours.
- 4.2.2 With regard to noise the EHO noted that the development would operate 24 hours a day and therefore it was critical that the proposed development does not cause noise issues to nearby surrounding sensitive receptors. The EHO stated that this was particularly important at the sensitive evening and night times as the road traffic on the A64 reduces significantly on a night time.
- 4.2.3 The EHO noted that the applicant's noise consultant acknowledged that at this stage the number and physical size of significant sources was unknown and therefore notional point source limits were proposed which were then converted to an overall sound power limit at the site. The EHO stated that *"in the absence of manufacturers noise data and information regarding the proposed buildings' acoustic properties, noise limits at the surrounding residential receptors were used to derive at source noise limits"*.

- 4.2.4 In noting that the applicant relies on BS4142 in order to derive suggested receptor noise levels and relies on the reduction of a partly open window to give a reduction of 10-15dbLA the EHO stated *“Due to the issue of having an absence of manufacturer’s noise data and information regarding the proposed buildings acoustic properties or the number and size of noise sources, there is some logic in using this approach as a starting point in designing the facilities to achieve a certain acoustic standard. The approach is however too simplistic for dealing with this application and setting planning conditions based on these levels. The proposed development will have a number of sources of noise. The levels are likely to fluctuate depending on temperature, loading etc. There is no assessment of any anticipated tonal characteristics that maybe audible. The suggested Receptor Noise Limits are in some cases still significantly higher than the measured existing background noise levels e.g. the proposed Receptor Noise Limit for Position 3 (West Wold Farm and Wolds Way Caravan and Camping site) is 12dbLA above the background. The reduction afforded by a partially open window will be of no relevance to a person camping at the site”*.
- 4.2.5 The EHO recommended consideration of pre-commencement conditions to cover the submission, approval and implementation of a Noise Impact Report and Construction Environmental Management Plan.
- 4.2.6 No further comments have been received in response to subsequent consultations.
- 4.3 **North York Moors National Park-** responded on 13 February 2017 and confirmed that the key consideration for the NYMNPA is visual impact on the setting of the Park. The NYMNPA states *“Subject to NYCC satisfying itself that there will be no significant plume from the stack, this Authority considers the development would not be likely to have an adverse impact on the setting of the National Park or on the public enjoyment of views out from the National Park due to the distance from the Park boundary and the backdrop of the higher ground of the Wolds beyond or the enjoyment of the Wolds Way National Trail and as such have no objections”*.
- 4.3.1 On 31 March 2017 the NYMNPA National Trails Officer stated *“The Yorkshire Wolds Way National Trail is rightly renowned for the exceptional peace and tranquillity that it affords its users. As Yorkshire Wolds Way National Trail Officer I would like to express my concern that the tranquillity for those users of the Yorkshire Wolds Way including those staying at the Yorkshire Wolds Caravan and Camping Park should not be negatively impacted by this proposal. If the Authority is minded to approve this proposal it should be satisfied that all necessary measures have been taken to ensure that there are no negative noise impacts on Yorkshire Wolds Way users. I am objecting to the above proposal, unless the Authority can be satisfied that any additional noise levels can be contained”*.
- 4.4 **NYCC Heritage - Ecology-** responded on 12 December 2016 and confirmed that the Ecological Impact Assessment had been carried out in accordance with current standards and guidance and that it was not expected that there will be any direct impacts arising from the development. The County Ecologist also recommended that cable route Option 1 was pursued as this had the least impact on ecological features.
- 4.4.1 The County Ecologist stated that *“Possible indirect effects may occur as a result of disturbance to bat foraging habitat, in the form of lighting and noise, however the Environmental Statement predicts that these impacts will be minimal, provided that mitigation measures proposed for woodland and hedgerow protection and a sensitive lighting plan are adhered to. These should be secured by condition”*.

- 4.4.2 The County Ecologist also recommended the inclusion of conditions to cover a pre commencement check for badgers, a survey of vegetation prior to removal during nesting bird season and also the submission of a Biodiversity Enhancement and Management Plan (BEMP) as recommended within the applicant's Environmental Statement.
- 4.4.3 On 9 March 2017, in response to the reconsultation on further information, the County Ecologist confirmed that *"the additional information does not relate directly to ecology and it has therefore not changed the advice provided in my previous response to the application (dated 12th Dec 2016), as such the recommendations and advice within that response are still valid and should be taken into consideration in the determination of the application"*.
- 4.4.4 On 21 September 2017, in response to the reconsultation on further/amended information, the County Ecologist confirmed that the *"details submitted do not significantly affect the position with regards to ecology and as such the last comments that I provided (12th Dec 2016) are still relevant with regards to pre commencement surveys, conditions relating to sensitive lighting strategy, nesting bird timings and provision of a biodiversity enhancement and management plan (BEMP)"*.
- 4.5 **NYCC Heritage - Principal Landscape Architect (PLA)**- responded on 22 December 2016 and set out detailed comments on the Landscape and Visual Impact Assessment (LVIA) and highlighted queries and requests for further information. The PLA stated *"This is for a permanent industrial scale development on a greenfield site in the open countryside and within the Wolds Area of High Landscape Value (justified at the Ryedale Local Plan Inquiry 1999). The proposed development would comprise a large building and stack which, although carefully designed in itself, would have potential to be seen from a wide area as it would be sited on the visually sensitive north facing scarp of the Wolds which faces the flat open Vale of Pickering. Its construction would necessitate cutting into the smooth slope of the chalk escarpment to form a level platform. The building is potentially highly visible and the proposed planting and mounding measures would not adequately screen this development meaning that together with the adverse effect on landscape character the application cannot be supported in landscape terms"*.
- 4.5.1 In summary the PLA stated that the application could not be supported in terms of landscape for the following reasons:-

*"There is conflict with planning policy on landscape. In particular the proposal conflicts with NPPF in that it does not accord with the Local Plan (specifically Ryedale Local Plan Strategy Policy SP13), and it conflicts with National Planning Policy Framework (NPPF) paragraph 17 as the proposal does not respect the intrinsic character and beauty of the countryside. It is also not in accordance with NPPF paragraphs 58 and 109.*

*There is further conflict with national and local policy in that while the proposed development site is adjacent to a landfill site (soon to be restored to rural land uses), it is not within or adjacent to 'previously used land' under the National Planning Policy Framework definition. The permanent and irreversible nature of the proposed development is in contrast with the temporary nature of the existing landfill and waste transfer and composting operations, which are only permitted for the lifetime of the landfill operation which is due to cease in 2017, followed by an estimated 4 years of restoration to rural land uses. The proposed buildings, associated vehicle movements, noise and lighting would perpetuate indefinitely this area of disturbance within the Wolds landscape. There are no restoration proposals to return the land to*



*its original contours and rural land uses, should the proposed use come to an end. The incremental loss of tranquility, including urban intrusion, loss of dark skies, and traffic noise, is an issue. In the Minerals and Waste Local Plan (Publication Stage) Knapton Quarry is only safeguarded for composting, and the duration would be limited by the current terms of planning permission”.*

- 4.5.2 The PLA stated that should permission be granted conditions should be included to cover soil management, landscape proposals, landscape maintenance, approval of external building materials and colours and that the development receives a temporary permission with requirements for site restoration.
- 4.5.3 On 7 March 2017 the PLA stated that further information would not make this proposal acceptable in landscape terms because of the conflict with planning policy. The PLA stated that *“The landscape perspective is relevant because of likely long term adverse effects on the tourist economy of the Yorkshire Wolds which is identified in the LEP Economic Strategy as ‘an outstanding landscape’”.*
- 4.5.4 The PLA stated *“the scale of the proposals remains disproportionate because a) they compare unfavourably with the current situation of a waste transfer, treatment and landfill site that is due to cease on completion of restoration and b) they are large scale by rural development standards, and are sited in an elevated greenfield location on the escarpment of the Yorkshire Wolds. Partial screening does not eliminate effects on landscape character and tranquillity, or on perceptions of the area”.*
- 4.5.5 In other comments the PLA stated that the bottom ash from the GEF was not needed for landfill cell capping, that in terms of alternative sites some of the benefits of the site could also be obtained elsewhere and questioned the proportion of renewable energy that is to be generated and the overall sustainability of the proposal.
- 4.5.6 On 11 October 2017, in response to the reconsultation on further/amended information, (in the absence of a Principal Landscape Architect) the NYCC Heritage Manager noted that previous consultation responses have highlighted that the development comprises a large building that has the potential to be seen from a wide area as it would be sited on the visually sensitive north facing scarp of the Wolds which faces the flat open Vale of Pickering. The NYCC Heritage Manager observed that the site is highly visible and the proposed planting and mounding measures submitted previously would not have adequately screened the development meaning that the application could not be supported in landscape terms.
- 4.5.7 The NYCC Heritage Manager noted the amendments to reduce the size of the building and also the roof shape, external colour finishes and proposals for additional fast growing planting (willow coppice) at the frontage of the building which will partially screen its position. The NYCC Heritage Manager stated *“While these measures will not totally hide the building from view, the landscape impact of the development is reduced. When viewed from a distance the facility will appear as a development which is similar in character although large with the rest of the Vale of Pickering which the site overlooks. The site position is on a transitional zone which is scattered with isolated farm buildings. Closer to the site, the site is largely hidden by landforms, hedgerows and trees”.*

- 4.5.8 The response conceded that the development will have a detrimental impact on the landscape due to the partial visibility but due to the revised proposals it is not unacceptable in landscape terms. The revised comments on the landscaping are as follows:- *“The mounding landforms proposed echo landforms seen on the escarpment to the east of the site. These revisions reduce the conflict the original application had with Ryedale Local Plan policy which designates this area as a landscape of local value. It is recognized that the site lies within a zone of transition in terms of landscape character.”* (page 16 LVIA V.2) *The landfill site is understood to have a long lease which effectively means that this facility will be built next to and coexist with an essentially permanent facility. The revised proposals include a reduction in size of vehicles and site deliveries which will reduce impact on the tranquility of this transitional Wolds area and it is accepted that the noise from A64 provides an already intrusive impact on the site already impacting on the tranquility of this area”.*
- 4.5.9 The NYCC Heritage Manager has confirmed that the development would be acceptable subject to conditions to secure the approval of a soil management plan, hard and soft landscape proposals, a landscape aftercare maintenance scheme, and external materials and colour finishes. The recommendation also requests a temporary time limit that requires removal of all buildings, plant and machinery and site restoration.
- 4.5.10 On 16 November 2017 the NYCC Heritage Manager confirmed that the inclusion of conditions that require demolition and site restoration in the event of the cessation of electricity production at the site (as an alternative to having an arbitrary time limit) would be acceptable.
- 4.6 **NYCC Heritage - Archaeology**- responded on 12 December 2016 and acknowledged that the submitted geophysical survey had identified a number of features of archaeological interest within the proposed development area and the significance of these features was not currently understood. The County Archaeologist stated that *“The Vale of Pickering and Yorkshire Wolds are rich in archaeological remains, particularly for the prehistoric and Roman periods. These remains can include high status finds such as Bronze Age and Iron Age burial mounds and settlements of the Roman and Anglo-Saxon periods”.*
- 4.6.1 The County Archaeologist noted that the applicant’s Environmental Statement indicates that archaeological trial trenching is required to fully characterise the significance of the anomalies visible in the geophysical survey. The County Archaeologist supported the proposal for trial trenching and recommended that this takes places prior to a planning decision being made rather than being carried forward as a condition of consent.
- 4.6.2 With regards to the cable connections the County Archaeologist supported the recommendation for archaeological monitoring during installation.
- 4.6.3 In response the applicant requested that consideration be given to the trial trenching being secured by a pre commencement condition as an alternative to completing the trial trenching pre determination due to costs and the timescales for the project potentially affecting the viability of the development.

- 4.6.4 The County Archaeologist encouraged the provision of trial trenching prior to determination if at all possible and highlighted on 17 January 2017 that *“If trial trenching is carried forward as a (pre commencement) planning condition this could expose the developer to an unknown level of risk and cost, particularly if archaeological remains are found to be extensive, complex and include sensitive features such as human remains or well-preserved organic deposits. The extent of archaeological mitigation necessary if such deposits are present could potentially reduce the viability of the development”*. If a conditioned approach was adopted the County Archaeologist recommended conditions requiring the submission of an WSI prior to the commencement of development and also a scheme of archaeological investigation evaluation and assessment of any archaeological remains within the application area.
- 4.6.5 The Applicant acknowledged the risk and stated that the below-ground archaeology within the application site was relatively well-understood based on the 2014 geophysical survey and desk-based assessment. The Applicant stated that *“As stated in the desk based assessment and the ES chapter, it is unlikely that the archaeology will be of greater than low/local to moderate/regional significance which means that it could be dealt with by appropriate mitigation in the form of an archaeological investigation (the nature of which - watching brief or full excavation - will depend on the results of the trial trenching). As such it is less important to carry out trial trenching pre-determination”*.
- 4.6.6 On 9 March 2017, in response to the reconsultation on further information, the County Archaeologist confirmed no additional observations to make in light of the amendments and the previous advice dated 12 December 2016 (and followed up in an email dated 17 January 2017) remained valid.
- 4.6.7 On 21 September 2017, in response to the reconsultation on further/amended information, the County Archaeologist confirmed no additional observations to make in light of the amendments and the previous advice dated 12 December 2016 (and followed up in an email dated 17 January 2017) remains valid.
- 4.7 **Scampston Parish Council-** responded on 11 March 2017 and raised the following concerns:
1. Noise from the site both during the development and ongoing noise pollution should the development be passed.
  2. Persistent or intermittent smell emanating from the site and the need for measures to minimise this should the site be developed.
  3. The visual impact of this proposed development should not be ignored or taken lightly as despite any screening it seems the size of the proposed development is excessively large for its location alongside the A64 and amongst predominately arable land.
  4. Concerns have been raised about light pollution from the site and the need for security lighting overnight which will have local impact.
  5. Electric cables have been cited by Brooks Ecological Report as being developed underground at the proposed site, however the Parish Council has already noted that extra cabling has been erected alongside the A64 above ground which is considered by the Parish Council as being both dangerous to traffic and unsightly in the environment.
  6. Vermin at the site is also an issue which will need constant management.
  7. Rubbish is evident along the A64 road which may originate from the site and blown in the wind. This needs monitoring.
  8. Local business interests and the impact of this proposed development upon them is also concerning members of the community.

- 4.7.1 Scampston Parish Council has not responded to the reconsultation (14 September 2017) on the further/amended information which detailed the reduction in the size of the GEF.
- 4.8 **Heslerton Parish Council**- has not responded.
- 4.9 **Wintringham Parish Council**- responded on 20 March 2017 and stated that *“In general, the Parish Council understands the need to manage waste and is sympathetic to proposals to generate electrical power during the processing of waste. However, local residents expect that when the existing landfill site closes next year at the expiry of the current planning permission (which only lasts until the landfill site is full), there will be no vehicle movements, no noise, and no pollution. The A64 through Rillington is exceptionally busy, and has in the past seen serious and even fatal road traffic accidents. This is a great opportunity to reduce the traffic through this pinchpoint which will be lost forever if the application is approved”*. Wintringham Parish Council raised the following concerns:
1. The development is on a greenfield site south of the current landfill site, on the edge of the Wolds, and in full view of the Vale of Pickering and the southern boundary of the North Yorkshire Moors National Park. It is a *“massive construction”* and the scale of the development is in direct conflict with the Ryedale Local Plan, being inconsistent with the rural location and special scenic qualities of the landscape.
  2. The principle of Gasification plants to generate electricity is unproven technology. There are no other long established commercial sites in the UK, and several have failed and been abandoned after construction.
  3. The site is very close to the Wolds Way National Trail, one of only 16 such long distance paths in the UK. Together with other public footpaths bordering the site, it is a popular and well used national amenity noted for its peace and beauty, which would be blighted if this was approved.
  4. Gasification plants produce ash waste. Initially this is to be used as top dressing for the landfill site but when that is complete in four years’ time, the bottom ash will need to be removed by large vehicles. It is not clear in the planning application where this waste will be disposed of, or whether these vehicle movements have been included in the planning application.
  5. There will be several areas of pollution created by the plant – noise, light, and emissions. As vehicles move around the site, their reversing signals will be clearly audible over long distances. As the plant will be working throughout the night, the noise of incineration, turbines, shredders, vehicles and other machinery will continue all the time. There are no street lights near the proposed plant, so the light pollution at night from security lighting will change the rural character of the location. Local residents currently experience a smell from the landfill site when the wind is in a certain direction. They are prepared to put up with this on occasion, but the proposed facility will undoubtedly produce a discharge of smoke and smell into the atmosphere 24 hours a day, seven days a week, 365 days a year.
- 4.9.1 In conclusion Wintringham Parish Council stated *“this proposal appears to be the wrong development in the wrong place – it would surely be better to locate it much closer to the UK’s main centres of population, which is where most of the waste originates (many of the vehicles currently using the landfill site travel long distances, anecdotally from Ireland and the south west of England). This would significantly reduce the vehicle miles required to service the plant, allow a shorter feed into the electricity National Grid, and potentially support the supply of heat from the plant to industry (which is unlikely to be viable in the current location). Locating the plant*

*nearer to the source of the waste would be a much greener solution than the one proposed by Knapton Green Energy”.*

- 4.9.2 On 7 November 2017, in response to the reconsultation on further/amended information, Wintringham Parish Council made the following comments:-

*“We note that the height of the main building has been reduced by 4.8 metres, but it will still be 108 metres long, with a chimney height of 34 metres, and thus clearly visible from all of the Vale of Pickering, and it is of course at the edge of the beautiful Yorkshire Wolds. Reducing the amount of space used for hardstanding will not have any significant benefit in our opinion.*

*It is still not clear what will happen to the waste produced by the GEF in 5 years time when the existing landfill site has been topped out.*

*A byproduct of gasification is heat, and it was originally suggested that local businesses could potentially benefit from that. However, there do not appear to be any suitable businesses nearby, which seems to indicate that a more suitable location would be nearer to such industry, as has been the case with other gasification plants.*

*Our original concerns about the pollution affecting local residents, in the guise of noise, light and odour, still apply.*

*As the site was due to revert to green space now that the landfill site is full, the local residents fully expected that related vehicle movements on the A64 would cease. The latest proposal involves taking 95,000 tons of waste every year to or from the site. The A64 through Rillington village is a very congested road, and in the recent past there have been several fatalities in this area. Anything which increases that risk must be prevented.*

*This is not a facility than can only be built at this one site. It is clearly the wrong development in the wrong place”.*

- 4.10 **Highway Authority (LHA)**- responded on 9 December 2016 and noted that the existing access complies with their design standards for visibility splays. The LHA highlighted that the access for the site is off the A64 trunk road which is under the control of Highways England who should be consulted as they oversee the operation of the road. The LHA confirmed that they had no objections to the application.
- 4.10.1 On 2 March 2017, in response to the reconsultation on further information, the LHA noted that the further information has no effect on traffic and transportations matter connected with the site and they wished to make no further comments.
- 4.10.2 On 26 September 2017, in response to the reconsultation on further/amended information, the LHA confirmed no objections to the proposed development.
- 4.11 **Highways England**- responded on 13 December 2016 and confirmed no objection on the grounds of highways traffic and transportation impact should the Council wish to grant consent.
- 4.11.1 With regard to traffic Highways England stated *“It is clear that in the short term the existing landfill and recyclables are around 100,000 tonnes which is greater than the proposed GEF. Although there is an increase in staff the overall level of traffic generation is unlikely to be higher than the existing facility”.*

- 4.11.2 With regard to road safety and the accident data provided by the Applicant Highways England stated *“It can be concluded that the existing operation of the landfill site does not give rise to highways safety issues, as such there is no reason to believe that the proposed use, which will generate similar or lower levels of traffic, will give rise to a highway safety issue”*.
- 4.11.3 On 22 March 2017, in response to the reconsultation on further information, Highways England provided further comments and confirmed no objection, however recommended that conditions should be attached to any planning permission granted in relation to the following.
1. A standard Construction Traffic Management Plan [CTMP] condition ensuring that Highways England is agreeable to the CTMP methods.
  2. A condition requesting that the scheme relating to the power line elements that cross and are adjacent to the Strategic Road Network (SRN) (A64) is agreed in full with Highways England before commencement of construction, including in relation to:
    - The construction methods of that element of the scheme; and
    - The detailed proposals regarding the permanent form of that element of the scheme (including agreement to the deliverability of that element of the scheme).
- 4.11.4 On 26 September 2017, in response to the reconsultation on further/amended information, Highways England confirmed no objection but advised that the proposed works to install the underground power cable along the margins of the A64 were governed by additional regulations outside of the planning process and provided informative advice in this respect.
- 4.12 **Environment Agency-** responded on 5 January 2017 and confirmed no objections to the proposed development. The Environment Agency acknowledged and welcomed the fact that the proposed facility would result in non-recyclable waste being moved up the ‘waste hierarchy’ away from landfill to energy recovery.
- 4.12.1 The Environment Agency stated that *“The applicant will need to demonstrate that the proposed use of bottom ash as a restoration material within the adjacent landfill will be suitable for this use. The proposal indicates a novel treatment (by vitrification) of the fly ash. This process will also need to be controlled by us under the environmental permitting process. There would also need to be an agreed option for the proper end point deposit of the treated fly ash material”*.
- 4.12.2 The Environment Agency strongly support the use of rainwater harvesting to meet the water needs on site and the recycling of the water used to raise steam. The Environment Agency also confirmed that the site lies in flood zone 1 (low risk) and therefore have no comments to make on flood risk.
- 4.12.3 The Environment Agency confirmed that the development will require an Environmental Permit and that the Environment Agency do not currently have enough information to know if the proposed development can meet their requirements to prevent, minimise and/or control pollution. The Applicant should be aware that a permit may not be granted. A permit will only be granted where the risk to the environment is acceptable. The Environment Agency highlighted that they advise that there is parallel tracking of the planning and permit applications to allow any issues to be resolved if possible at the earliest stages and this would avoid the potential need for any amendments to the planning application post-permission.

- 4.12.4 The Environment Agency noted that the Applicant has chosen not to parallel track the applications and as a result are not able to offer detailed advice or comments on permitting issues impacting upon planning. The Environment Agency response included guidance to the applicant on pollution control, CHP requirements, energy efficiency requirements, groundwater protection, land contamination and water resources (abstraction licence).
- 4.12.5 On 3 March 2017, in response to the reconsultation on further information, the Environment Agency confirmed that they have no further comments to make in relation to the additional information submitted and their comments made on 5 January 2017 remain valid.
- 4.12.6 On 18 September 2017, in response to the reconsultation on further/amended information, the Environment Agency confirmed that they have no further comments to make in relation to the additional information submitted and their comments made on 5 January 2017 remain valid.
- 4.13 **North Yorkshire Fire and Rescue Service-** responded on 14 March 2017 and stated *“At this stage in the planning approval process the fire authority have no objection to the proposed development. The fire authority will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the fire authority. The proposals/plans should ensure that the requirement B5 of Schedule 1 to the Building Regulations 2000 (as amended), access and facilities for the fire service will be met”*.
- 4.14 **Natural England-** responded on 13 December 2016 and confirmed that the proposal is unlikely to affect any statutorily protected sites or landscapes and refer to their Standing Advice for protected species.
- 4.14.1 On 9 March 2017, in response to the reconsultation on further information, Natural England confirmed that the additional information to the original application *“is unlikely to have significantly different impacts on the natural environment than the original proposal”*.
- 4.14.2 On 4 October 2017, in response to the reconsultation on further/amended information, Natural England confirmed that the previous response applies equally to this reconsultation and they made no objection to the original proposal. Natural England repeated that the amendments to the application *“are unlikely to have significantly different impacts on the natural environment than the original proposal”*.
- 4.15 **Yorkshire Water Services Ltd-** responded on 1 December 2016 and confirmed that a water supply can be provided under the terms of the Water Industry Act, 1991. The response also confirmed that this proposal is in an area not served by the public sewerage network and the application should be referred to the Environment Agency and the Local Authority's Environmental Health Section for comment on private treatment facilities.
- 4.15.1 On 15 September 2017, in response to the reconsultation on further/amended information, Yorkshire Water confirmed that after reviewing the new details on the documents list, including the proposed drainage plans (foul to private package treatment plant, surface water to soakways), no further observation comments were required.

- 4.16 **NYCC SUDS Officer-** responded on 13 February 2017 and made comments on surface water management. The NYCC SUDS Officer recommended that the Applicant provides details of exceedance flow routes and maintenance proposals for the drainage prior to any planning approval. The NYCC SUDS Officer confirmed that upon receipt of satisfactory information to address the issues noted a planning condition can be recommended to ensure suitable surface water management. The Applicant provided the requested details on 21 February 2017 which was forwarded onto the NYCC SUDS Officer for consideration.
- 4.16.1 On 6 March 2017, in response to the reconsultation on further information, the NYCC SUDS Officer confirmed no objections to the proposal with respect to surface water management subject to a planning condition requiring details of surface water drainage design.
- 4.16.2 On 4 October 2017, in response to the reconsultation on further information, the NYCC SUDS Officer confirmed no additional comments to make further to those made on 6 March 2017.
- 4.17 **Historic England-** responded on 15 December 2016 and stated that the application had not provided the assessment of significance of heritage assets as required by the NPPF and as a consequence it was not possible to understand the impact of the scheme on the significance of heritage assets or establish the public benefit balance and therefore the application should not be determined. Historic England drew particular and specific attention to Scampston Hall and Gardens and stated that *'this is a complex heritage site with multiple designations'*. Historic England stated that it would be important to demonstrate that the contribution setting makes to the historic park and garden had been understood through the identification of key viewpoints.
- 4.17.1 On 24 March 2017, in response to the reconsultation on further information, Historic England confirmed that they had no objections to the application on heritage grounds and considered that the application meets the requirements of paragraph 128 of the NPPF. In explanation they stated:
- "In our previous letters we drew attention to the need for comprehensive assessment of the Scampston Hall complex of heritage assets in order to understand how the development proposal might harm those assets. As a consequence it was our view set out in our advice letters of 15 December, that the information presented by the applicant in support of their proposal did not address our earlier advice, with particular regard to Scampston Hall, its landscape, the contribution made by setting to its significance and the necessity to identify key views and viewpoints.*
- Whilst we considered that the assessment of the archaeological resource was acceptable, it was our position that the significance of Scampston Hall complex and the contribution made by 'setting' to that significance, had not been established and we recommended that the application should not be determined.*
- The Amended Information now includes a 'Heritage Impact Assessment' (On Site Archaeology, February 2017). Historic England considers this to be a reasoned, well written and researched document that addresses our concerns with regard to the identification of heritage assets, the assessment of significance (and the contribution made by setting), understanding of 'harm' and proposals for mitigation. The Heritage Impact Assessment makes a coherent argument for establishing that the proposed development will have 'no impact on the significance of Scampston Park or any of the heritage assets within it'.*



*As such we consider that the application now meets the requirements of paragraph 128 of the National Planning Policy Framework (NPPF)”.*

- 4.17.2 On 25 September 2017, in response to the reconsultation on further/amended information Historic England noted that the installation was intended to be smaller than previously proposed so Historic England had no objection on heritage grounds and considered that the application meets the requirements of the NPPF, in particular paragraph number 128.
- 4.18 **Thornton IDB**- has not responded.
- 4.19 **NYCC Public Rights of Way Team**- responded on 13 December 2016 and requested the inclusion of an informative on any permission granted which requires that *“No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development”*.
- 4.19.1 On 2 March 2017, in response to the reconsultation on further information, the PRoW team confirmed that no rights of way were affected by this proposal.
- 4.19.2 On 19 September 2017, in response to the reconsultation on further/amended information, the PRoW team confirmed that they had no further comments to add to their original response to consultation on the above application.
- 4.20 **Health & Safety Executive**- has not commented on the proposed development.
- 4.21 **Civil Aviation Authority**- has not responded.
- 4.22 **Ministry of Defence Safeguarding Organisation**- has not responded.
- 4.23 **National Grid (Plant Protection)** - has not responded.
- 4.24 **Northern Powergrid (Yorkshire)** - has not responded.
- 4.25 **NYCC Strategic Policy and Economic Growth Team**- responded on 27 February 2017. The response stated:-

*“The Green Energy facility will create 30 direct full time equivalent employment opportunities and estimates a further 15 indirect FTEs. In addition the facility claims that it will generate almost £1m per annum in additional GVA within Ryedale and North Yorkshire.*

*The facility will be visible from the A64 and will be situated in open countryside however it will not be visible from the South side of Knapton Wood due to the local topography and should not therefore be visible to users of the Wolds Way walking trail.*

*The proposed planning application states that vehicle movements will be reduced from the existing landfill facility however it should be noted that within the next four years vehicle movements would be reduced to zero at the site as the existing land fill site is restored. Given the location of the A64 however it is unlikely that the reduction of vehicle movements to zero would have a meaningful impact on the overall amenity as this road can become congested particularly during peak holiday times.*

*The buildings have been designed to minimise the potential negative impacts of their appearance in the local landscape and they will sit within the hillside not visible above the skyline. While there is likely to be visual impact from the A64 it is being mitigated to some extent in the design of the development and does not appear to have a significantly greater impact than the existing quarry works. In respect of the overall visual impact I would acknowledge that more detailed observations will be made by the NYCC Principal Landscape Architect and Historic England.*

*Any potential negative economic consequences on nearby tourism attractions including Scampston Hall, Wolds Way Lavender and Wolds Way Camping and Caravanning appear to be marginal however should traffic movements increase beyond those stated and the nature of operations become unduly noisy then this may begin to have a wider negative effect.*

*Overall the proposed Green Energy Facility will create a number of direct new jobs as well as indirect jobs in related supply chains in addition to generating additional GVA in Ryedale District. There is little evidence to suggest that the proposal will have a negative economic impact however this view is predicated on the high levels of environmental mitigation identified within the planning application and these need to be fully implemented and monitored to ensure that the positive benefits of lower carbon energy and local job creation are not outweighed by loss of environmental amenity and subsequent negative impact on the local tourism economy”.*

#### **Notifications**

4.26 **County Cllr. Janet Sanderson-** was notified of the application by letter.

#### **5.0 Advertisement and representations**

- 5.1 This application has been advertised by means of eight Site Notices posted on 1 December 2016 (responses to which expired on 22 December 2016). The Site Notices were posted in the following locations: at the site entrance and in the villages of West Knapton (2), East Knapton (2), Wintringham (2) and West Heslerton (1). A Press Notice appeared in the Malton Gazette & Herald on 7 December 2016 (responses to which expired on 21 December 2016).
- 5.2 A total of 22 neighbour notification letters were sent on 29 November 2016 and the period in which to make representations expired on 20 December 2016. The following properties received a neighbour notification letter:
1. WEST WOLD FARM, WEST KNAPTON
  2. BARN COTTAGE, WEST KNAPTON
  3. EAST FARM, WEST KNAPTON
  4. HARTSWOOD LODGE, EAST KNAPTON
  5. HARTSWOOD BUNGALOW, EAST KNAPTON
  6. MILL GRANARY, EAST KNAPTON
  7. MILL BARN, EAST KNAPTON
  8. MILL HOUSE, EAST KNAPTON
  9. HARTSWOOD FARM, EAST KNAPTON
  10. BARN COTTAGE, KNAPTON WOLD ROAD, MALTON
  11. EAST FARM, KNAPTON WOLD ROAD, MALTON
  12. WOLDS WAY LAVENDER, SANDY LANE, WEST KNAPTON
  13. ST EDMUND'S CHURCH, MAIN STREET, EAST KNAPTON
  14. KNAPTON HALL COTTAGE, MAIN STREET, EAST KNAPTON
  15. FLAT 1 KNAPTON HALL, MAIN STREET, EAST KNAPTON
  16. ELM TREE FARM, MAIN STREET, EAST KNAPTON
  17. CORNER FARM, MAIN STREET, WEST KNAPTON

18. WHITE COTTAGE, EAST KNAPTON
19. MILL GRANGE, EAST KNAPTON
20. SOUTH FARM, KNAPTON WOLD ROAD
21. WOLDS WAY CARAVAN & CAMPING, KNAPTON WOLD ROAD
22. KNAPTON HALL, MAIN STREET, EAST KNAPTON

5.3 A total of 39 letters of representation have been received, of which 18 raise objections to the proposed development and 21 are in support. The approximate locations of the objectors and supporters are shown on the plan attached to this report at Appendix H.

5.4 The reasons for objection are summarised as follows:-

- Use of greenfield land in rural location and area of high landscape value
- Visual, odour, noise, wildlife and light pollution impacts
- 24/7 operation
- Traffic
- The screening provided by the wood to the south cannot be relied upon
- 33 metre stack would be an eyesore
- huge industrial building in a very prominent position will detract from the landscape value
- Impact upon tourists particularly those using nearby caravan and camping site
- Impact upon users of nearby bridleways and the Wolds Way National Trail
- No alternative sites have been considered
- No specific requirement for industrial building to be site at Knapton Quarry
- Comparisons between existing levels and proposed levels for both traffic and pollution are not a justified comparisons as landfilling ends in early 2017. As such, the proposal should consider and compare with future expected levels, i.e. when the existing landfill operation has ceased and restored when there would be a large reduction in traffic.
- Waste recycling facilities should be deferred until the draft Minerals and Waste Joint Local Plan has been adopted.
- Evidence of the proposed technology being flawed and unproven and applicant should demonstrate it is financially viable
- Limited information on the handling of the by products from the Gasification process and its subsequent effects.
- visual assessment inaccurate claims that it won't be visible from the residential properties in the vicinity but the development site can be seen from various aspects of Mill Grange.
- building cannot be screened sufficiently well due to the slow growing nature of trees on Wold soil.
- HGV traffic is routed through the small village of Rillington.

5.5 The reasons for support are summarised as follows:-

- Make good use of waste and the investment will provide jobs and safeguard existing jobs
- Traffic would be less than existing
- Any traffic concerns are outweighed by potential green and economic benefits
- Impressive layout of the new plant and the 'green' technology
- More attractive and impressive building than many of the local farm buildings that have been put up
- Recycling is supported and this is an alternative to putting waste in the ground
- Energy from waste is preferred to depleting natural resources
- It will put the existing landfill and transfer station to good use

- The existing landfill has operated without serious inconvenience and the proposal would have even less of an impact.
- Vast improvement on the odour producing landfill site and methane gas must be flared off at present.
- broaden our energy mix and which will increase our local generative capacity
- it would contribute towards region's ambition to become self-sufficient in generating its own electricity
- location suitable in terms of landscaping, visual protection and distance from neighbouring habitation
- Positive for future of North Yorkshire.

5.6 In accordance with Regulation 22 of the Town and County Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regs. 2011) following the receipt of further environmental information relating to the Environmental Statement (on heritage and landscape and visual impacts, dated February 2017) the County Planning Authority re-publicised the application by way of eight Site Notices posted 28 February 2017 (responses to which expired on 21 March 2017) and a Press Notice which appeared in the Malton Gazette & Herald on 8 March 2017 (responses to which expired on 29 March 2017). In addition the members of the public previously notified and also those who made representations to the Authority on the application were notified of the further environmental information and the further comments received are included in the summaries above.

5.7 In accordance with Regulation 22 of the Town and County Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regs. 2011) following the receipt of further/amended environmental information relating to the Environmental Statement (detailing the reduction in the size of the built envelope of the GEF as well as further landscape mitigation measures, dated September 2017) the County Planning Authority re-publicised the application by way of eight Site Notices posted on 20 September 2017 (responses to which expired on 11 October 2017) and a Press Notice which appeared in the Malton Gazette & Herald on 20 September 2017 (responses to which expired on 11 October 2017). In addition the members of the public previously notified and also those who made representations to the Authority on the application were notified of the further environmental information. A total of six further representations have been received from individuals who previously objected to the development and the responses are summarised below:-

- No other industrial or residential development has been permitted on the stretch of the Wolds and this industrial development could set a precedent for future developments along this escarpment.
- There are existing designated industrial zones/areas/parks for this type of development.
- All waste is imported to site so there is no indigenous reason for the development to be sited at this location.
- There should be plans to reduce traffic flows, especially long, slow moving HGVs and the priority should be safety along the A64.
- Despite slight reduction in the size and the improved landscape mitigation measures this large-scale industrial development is simply inappropriate in this location.
- The waste disposal at the landfill has come to an end and the land should be re-established as a green field site instead of creating a permanent industrial waste processing facility in an unspoilt rural location.
- The amendments do nothing to eliminate the potential effects on landscape character. The development is industrial scale on agricultural land completely out of character with the area.

- The amendments do not address the potential effects on local tourism particularly the Wolds Way Caravan and Camping site and the Wolds Way.
- The applicant states it will take to 2035 to cap the landfill with soil but they also say they are going to plant willow for coppicing on the landfill which is not possible- either the capping is done and then planted or it isn't done and can't be.
- The applicant neither owns nor controls Knapton plantation but relies on the woodland for screening purposes.
- The amendments make no difference as the site still falls within an area of high landscape value on a greenfield site on the northern escarpment of the Wolds and will be intrusive and inappropriate when viewed from the A64 and properties in East and West Knapton and as far away as the A170.
- The planning committee should consider the needs and expectations of the wider community in this open countryside area, rather than the commercial and financial aspirations of a development company.

## 6.0 Planning policy and guidance

### National Planning Policy

- 6.1 The policy relevant to the determination of this particular planning application provided at the national level is contained within the National Planning Policy Framework (NPPF) (published March 2012) and also the National Planning Policy for Waste (published October 2014).

### National Planning Policy Framework (NPPF)

- 6.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.
- 6.3 The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay (if plans are up-to-date and consistent with the NPPF). The Government has set down its intention with respect to sustainable development stating its approach as "*making the necessary decisions now to realise our vision of stimulating economic growth and tackling the deficit, maximising wellbeing and protecting our environment, without negatively impacting on the ability of future generations to do the same*". The Government defines sustainable development as that which fulfils the following three roles:
- **An economic role** – development should contribute 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;
  - **A social role** – development supporting strong, vibrant and healthy communities; and,
  - **An environmental role** – development that contributes to protecting and enhancing the natural, built and historic environment and as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

- 6.4 The NPPF advises that when making decisions, development proposals should be approved that accord with the Development Plan and when the Development Plan is absent, silent or relevant policies are out of date, permission should be granted unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this framework indicate development should be restricted.
- 6.5 This national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure. Paragraph 14 of the NPPF states that *“At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means:*
- *approving development proposals that accord with the development plan without delay; and*
  - *where the development plan is absent, silent or relevant policies are **out-of-date**, granting permission unless:*  
*-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*  
*-specific policies in this Framework indicate development should be restricted”.*
- 6.6 Paragraph 17 of the NPPF states that core land-use planning principles should underpin both plan-making and decision taking. The 12 principles listed in the NPPF state that land-use planning should:
- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
  - not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
  - proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating
  - sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
  - always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
  - take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
  - support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);

- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

6.7 Paragraph 32 within Section 4 (Promoting sustainable transport) of the NPPF states that plans and decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

6.8 Paragraph 58 within Section 7 (Requiring good design) of the NPPF identifies 6 objectives that planning policies and decisions should aim to ensure that new developments:

- *“function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
- *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
- *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*
- *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
- *are visually attractive as a result of good architecture and appropriate landscaping.”*

6.9 Paragraphs 93-98 within Section 10 (Meeting the challenge of climate change, flooding and coastal change) of the NPPF states that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change. Paragraph 93 indicates that planning has a key role in “supporting the delivery of renewable and low carbon energy and associated infrastructure”.

- 6.10 Paragraph 97 encourages local planning authorities to recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources in order to increase the use and supply of renewable and low carbon energy. Local planning authorities are urged to have a positive strategy to promote energy from renewable and low carbon sources; and design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily.
- 6.11 Paragraph 98 states that “when determining planning applications, local planning authorities should:
- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
  - approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas”.
- 6.12 Within Section 11 of the NPPF it is clear that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.
- 6.13 Paragraph 109 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity, preventing development from contributing to or being adversely affected by unacceptable levels of soil, air, water or noise pollution.
- 6.14 Paragraph 111 states “Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land”.
- 6.15 Paragraph 112 states “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.
- 6.16 Paragraph 118 within Section 11 (Conserving and enhancing the natural environment) of the NPPF sets out a number of principles for determining planning applications which aims to conserve and enhance biodiversity. Paragraph 118 states: *“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles (inter alia): if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.*



- 6.17 Paragraph 120 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that to prevent unacceptable risks from pollution, decisions should ensure that the development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area should be taken into account. Paragraph 122 states that *“In doing so, 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. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities”*.
- 6.18 Paragraph 123 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that *“Planning policies and decisions should aim to:*
- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
  - *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
  - *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
  - *identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”*.
- 6.19 Paragraph 128 within Section 12 of the NPPF states that *“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation”*.
- National Planning Policy for Waste (published October 2014)
- 6.20 The National Planning Policy for Waste (NPPW) replaced ‘Planning Policy Statement 10: Planning for Sustainable Waste Management’ (PPS 10) published in 2006 and is to be considered alongside other national planning policy for England - such as in the NPPF (2012) and Defra’s Waste Management Plan for England (2013).
- 6.21 Paragraph 1 of the NPPW states that the Government’s ambition is to *“work towards a more sustainable and efficient approach to resource use and management”*. The NPPW sets out the *“pivotal role”* that planning plays in delivering the country’s waste ambitions with those of relevance to this application being as follows:

- *“delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy (see Appendix A of NPPW);*
- *ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, 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 or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;*
- *helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and*
- *ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste”.*

6.22 It should be noted that a footnote is included in the National Planning Policy for Waste for the reference in bullet point three to the “proximity principle”. The footnote refers to Schedule 1, Part 1, paragraph 4 of The Waste (England and Wales) Regulations 2011 (S.I 2011/988) for the principles behind the term proximity (as well as self-sufficiency). The reference states the following;

- “(1) To establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including, where such collection also covers such waste from other producers, taking into account best available techniques.*
- (2) The network must be designed to enable the European Union as a whole to become self-sufficient in waste disposal and in the recovery of mixed municipal waste collected from private households, and to enable the United Kingdom to move towards that aim taking into account geographical circumstances or the need for specialised installations for certain types of waste.*
- (3) The network must enable waste to be disposed of and mixed municipal waste collected from private households to be recovered in one of the nearest appropriate installations, by means of the most appropriate technologies, in order to ensure a high level of protection for the environment and human health.*
- (4) This paragraph does not require that the full range of final recovery facilities be located in England or in Wales or in England and Wales together”.*

6.23 Paragraphs 2 to 6 of the NPPW relate to the preparation of Local Plans in respect of the evidence base, identification of need in Local Plan making, identifying suitable sites and Green Belt protection and are not directly relevant to the determination of planning applications for waste management facilities. However in terms of identifying suitable sites when preparing Plans paragraph 4 is of relevance as it states that Authorities should look *“for opportunities to co-locate waste management facilities together and with complementary activities. Where a low carbon energy recovery facility is considered as an appropriate type of development, waste planning authorities should consider the suitable siting of such facilities to enable the utilisation of the heat produced as an energy source in close proximity to suitable potential heat customers”.*

- 6.24 In relation to the determination of planning applications, Paragraph 7 of the NPPW states that Waste Planning Authorities should:
- “only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;
  - recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants 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;
  - consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;
  - ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;
  - concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;
  - ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary”.
- 6.25 The criteria set out in the first two bullet points are not material to the determination of this application, as the Local Plan (2006) pre-dates current national policy (2014). Paragraphs 8 and 9 of the NPPW relate to planning applications for non-waste development and the monitoring and reporting of waste and are not directly relevant to the determination of this application.
- 6.26 Appendix A of the NPPW comprises a diagram of the ‘Waste Hierarchy’ which is unchanged from that included in PPS10.
- 6.27 Appendix B of the NPPW sets out the ‘Locational Criteria’ to be assessed by Local Planning Authorities in determining applications for waste management facilities, as follows:-
- a. *“protection of water quality and resources and flood risk management;*
  - b. *land instability;*
  - c. *landscape and visual impacts;*
  - d. *nature conservation;*
  - e. *conserving the historic environment;*
  - f. *traffic and access;*
  - g. *air emissions, including dust;*
  - h. *odours;*
  - i. *vermin and birds;*
  - j. *noise, light and vibration;*
  - k. *litter; and,*
  - l. *potential land use conflict”.*

- 6.28 It is considered that criteria a, c, d, e, f, g, h, i, j, k, and l are relevant to the determination of this application and these are set out in full below:
- a. *protection of water quality and resources and flood risk management*  
*Considerations will include the proximity of vulnerable surface and groundwater or aquifers. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care.*
  - c. *landscape and visual impacts*  
*Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character; (ii) the need to protect landscapes or designated areas of national importance (National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts) (iii) localised height restrictions.*
  - d. *nature conservation*  
*Considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites), a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves), Nature Improvement Areas and ecological networks and protected species.*
  - e. *conserving the historic environment*  
*Considerations will include the potential effects on the significance of heritage assets, whether designated or not, including any contribution made by their setting.*
  - f. *traffic and access*  
*Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports.*
  - g. *air emissions, including dust*  
*Considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.*
  - h. *odours*  
*Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.*
  - i. *vermin and birds*  
*Considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby. They can also provide a hazard to aircraft at locations close to aerodromes or low flying areas.*  
*As part of the aerodrome safeguarding procedure (ODPM Circular 1/20035) local planning authorities are required to consult aerodrome operators on proposed developments likely to attract birds. Consultation arrangements apply within safeguarded areas (which should be shown on the policies map in the Local Plan).*  
*The primary aim is to guard against new or increased hazards caused by development. The most important types of development in this respect include facilities intended for the handling, compaction, treatment or disposal of household or commercial wastes.*

- j. *noise, light and vibration*  
*Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered.*
- k. *litter*  
*Litter can be a concern at some waste management facilities.*
- l. *potential land use conflict*  
*Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility”.*

6.29 It should be noted that the National Planning Policy for Waste does not contain any guidance on dealing with unallocated sites.

National Planning Practice Guidance (NPPG) (2014)

6.30 On 6 March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (NPPG) web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled. The NPPG supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections of NPPG and detailed in the subsequent paragraphs of this report: -

- Air Quality
- Design
- Flood Risk and Coastal Change
- Health and Wellbeing
- Natural Environment
- Noise
- Renewable and low carbon energy
- Travel plans, transport assessments and statements in decision-taking
- Waste

Air Quality

6.31 The NPPG confirms that legally binding limits exist for concentrations of all major air pollutants outdoors, including particulate matter (PM10 and PM2.5) as well as nitrogen dioxide (NO2). The NPPG states that particulate matter and NO2 “*can combine in the atmosphere to form ozone, a harmful air pollutant (and potent greenhouse gas) which can be transported great distances by weather systems*”.

6.32 The NPPG goes on to state that planning should take air quality impacts from new development into account “*where the national assessment indicates that relevant limits have been exceeded or are near the limit*”. The national assessment is identified as the annual assessment Defra undertake using monitoring and modelling information.

6.33 The NPPG explains that an assessment of whether national objectives are being met are undertaken by unitary and district authorities through the local air quality management (LAQM) regime. If the objectives are not being met, the relevant authority “*must declare an air quality management area and prepare an air quality action plan*”.

- 6.34 With regard to new developments, the NPPG identifies that air quality could be a relevant material consideration where: *“the development is likely to generate air quality impact in an area where air quality is known to be poor...where the development is likely to impact upon the implementation of air quality strategies and action plans and/or...lead to a breach of EU legislation”*. The NPPG states that air quality impacts could arise from significant traffic generation, new point sources of air pollution, and construction impacts e.g. dust arisings which could affect nearby sensitive locations.
- 6.35 If air quality could be a concern, the NPPG advises that Local Planning Authorities may want to know about:
- *“The ‘baseline’ local air quality;*
  - *Whether the proposed development could significantly change air quality...; and/or*
  - *Whether there is likely to be an increase in the number of people exposed to a problem with air quality...”*
- 6.36 The NPPG also notes that the Environment Agency can provide help on large or complex processes by identifying Environmental Permit requirements and whether there may be any significant air quality issues at the Permit stage.
- 6.37 In terms of possible mitigation for an impact on air quality, the NPPG states that mitigation options will be *“locationally specific”* and *“proportionate to the likely impact”*, and that these can be secured through appropriate planning conditions or obligations. Suggested examples of mitigation provided in the NPPG include amendments to layout and design to increase distances between sources of air pollution and receptors; the use of green infrastructure to increase the absorption of dust and pollutants; control of emissions and dust during both construction and operation; and the provision of funding towards measures which have been identified to offset any air quality impacts arising from new development.

#### Design

- 6.38 The guidance states *“Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term”*.
- 6.39 When determining applications, the NPPG advises that *“Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies, and other material considerations”*. Where buildings *“promote high levels of sustainability”*, the NPPG advises that planning permission should not be refused on the basis of concerns about whether the development is incompatible with an existing townscape, if good design can mitigate the concerns.
- 6.40 In general, the NPPG states that *“Development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinct patterns of development...while not preventing or discouraging appropriate innovation”*.
- 6.41 In relation to landscape impacts, the NPPG advises that development can be integrated into the wider area through the use of natural features and high quality landscaping. In addition, the NPPG promotes the creation of green spaces and notes that high quality landscaping *“makes an important contribution to the quality of an area”*.

#### Flood Risk and Coastal Change

- 6.42 The guidance states “Developers and applicants need to consider flood risk to and from the development site, and it is likely to be in their own best interests to do this as early as possible, in particular, to reduce the risk of subsequent, significant additional costs being incurred. The broad approach of assessing, avoiding, managing and mitigating flood risk should be followed”.

#### Health and Wellbeing

- 6.43 The NPPG advises that health and wellbeing should be taken into consideration by Local Planning Authorities in their decision making, including “*potential pollution and other environmental hazards, which might lead to an adverse impact on human health*”.

#### Natural Environment

- 6.44 This section explains key issues in implementing policy to protect biodiversity, including local requirements. It reiterates that “*the National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution*”.

#### Noise

- 6.45 This section advises on how planning can manage potential noise impacts in new development. In terms of decision taking on planning applications its states that Authorities should take account of the acoustic environment and in doing so consider whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved. It also states that “neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development”.

#### Renewable and low carbon energy

- 6.46 The NPPG recognises the benefits of increased energy production from renewable and low carbon sources, as it will contribute to “a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses”.

- 6.47 In terms of relevant planning considerations, generally the NPPG notes that “Renewable energy developments should be acceptable for their location”.

#### Travel plans, transport assessments and statements in decision-taking

- 6.48 The NPPG notes that Travel Plans and Transport Assessments can “*positively contribute to:*

- *Encouraging sustainable travel;*
- *Lessening traffic generation and its detrimental impacts;...and*
- *Improving road safety*”.

- 6.49 The NPPG sets out the anticipated scope and content for such documents, and notes that Travel Plans should be monitored for a length of time and at a frequency which is appropriate to the scale of the development.

## Waste

- 6.50 With regard to the Waste Hierarchy the guidance states that “driving waste up the Waste Hierarchy is an integral part of the National Waste Management Plan for England and national planning policy for waste” and “all local planning authorities, to the extent appropriate to their responsibilities, should look to drive waste management up the hierarchy”.
- 6.51 The guidance states, in respect of the use of unallocated sites for waste management facilities, that applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the Waste Hierarchy. If the proposal is consistent with an up to date Local Plan, there is no need to demonstrate ‘need’.
- 6.52 With regard to expansion/extension of existing waste facilities the guidance states that “the waste planning authority should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community’s wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant”.
- 6.53 The guidance includes advice on the relationship between planning and other regulatory regimes. On this matter it states “The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity taking into account the criteria set out in Appendix B to National Planning Policy for Waste. 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”.
- 6.54 The guidance states that “the role of the environmental permit, regulated by the Environment Agency, is to provide the required level of protection for the environment from the operation of a waste facility. The permit will aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health”.
- National Waste Management Plan for England (2013)
- 6.55 National waste planning policy in England forms part of a wider national waste management plan to meet the requirements of the Waste Directive. The UK Government adopted the National Waste Management Plan for England (NWMP) in December 2013.
- 6.56 It should be noted that *“This Plan provides an overview of waste management in England... It is not, therefore, 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”*.



- 6.57 The NWMP identifies a commitment to achieving a zero waste economy. It states that: “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”. Later on, it identifies that 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).
- 6.58 The NWMP recognises that it is: “important to make sure that waste is optimally managed, so that the costs to society of dealing with waste, including the environmental costs, are minimised”. It goes on to state: “The key aim of the waste management plan for England is to set out our 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”.
- 6.59 In addition, the NWMP identifies that “The Government supports efficient energy recovery from residual waste – of materials which cannot be reused or recycled – to deliver environmental benefits, reduce carbon impact and provide economic opportunities. Our aim is to get the most energy out of waste, not to get the most waste into energy recovery. Defra has produced a guide to energy from waste to provide factual information to all of those interested in the development of such facilities including developers, local authorities and local communities”.
- 6.60 It is noted within the NWMP that “The Environment Agency is the main regulator of waste management in England. Among its responsibilities are the determination of applications for environmental permits required under Article 23 of the revised Waste Framework Directive; and carrying out inspection and other compliance assessment activities” (page 12). In addition, “The waste producer and the waste holder should manage waste in a way that guarantees a high level of protection of the environment and human health. In accordance with the polluter-pays principle, the costs of waste management shall be borne by the original waste producer or by the current or previous waste holders. The distributors of products potentially share these costs. The polluter-pays principle ensures that those responsible for producing and holding waste are incentivised to reduce and/or manage their waste in a way that reduces impacts on the environment and human health”.
- 6.61 In terms of the location of new waste infrastructure, the NWMP highlights that “*The Government’s ambitions for waste highlight the importance of putting in place the right waste management infrastructure at the right time and in the right location. We aim to have the appropriate waste reprocessing and treatment infrastructure constructed and operated effectively at all levels of the waste hierarchy to enable the most efficient treatment of our waste and resources*”.
- 6.62 The NWMP also refers to the nearest appropriate installation principle, advising that: “*The revised Waste Framework Directive establishes the principle of ‘proximity’. This is within the context of the requirement on Member States to establish an integrated and adequate network of waste disposal installations for recovery of mixed municipal waste collected from private households. The requirement includes where such collection also covers waste from other producers.*”

*The network must enable waste to be disposed of, or be recovered, in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.*

*The Directive also requires that the network shall be designed in such a way as to enable Member States to move towards the aim of self-sufficiency in waste disposal and the recovery of waste. However, Member States must take into account geographical circumstances or the need for specialised installations for certain types of waste and the Directive makes it clear that each Member State does not have to possess the full range of final recovery facilities.*

*This principle must be applied when decisions are taken on the location of appropriate waste facilities”.*

- 6.63 In relation to planning decisions, the NWMP states: “All local planning authorities should have regard to both the waste management plan for England and the national waste planning policy when discharging their responsibilities to the extent that they are appropriate to waste management”.

#### The Development Plan

- 6.64 Whilst the NPPF is a significant material consideration, under Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning authorities continue to be required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:
- The extant ‘saved’ policies of the North Yorkshire Waste Local Plan (adopted 2006); and
  - The extant policies of the Ryedale Plan- Local Plan Strategy (2013)
- 6.65 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption. In this respect, it is worth noting that the following document contains emerging local policies that may be of relevance to this application:
- Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority): hereafter referred to as the MWJP.
- 6.66 The existing open windrow composting, transfer, treatment and recycling operations on the adjacent landfill site are proposed as a safeguarded waste site (Plan period up to 31 December 2030). The application site is neither proposed, nor included, as a preferred or allocated site. The safeguarded status is not a determining factor in light of the extant planning permissions allowing the use of the buildings until 2035 which is beyond the Plan period (to 31 December 2030). The relevant draft policies relating to this application are considered to be W01 (Moving waste up the waste hierarchy), W10 (Overall locational principles for provision of waste capacity) W11 (Waste site identification principles) and D06 (Landscape). The draft MWJP was the subject of an 8 week public consultation on an Addendum of Proposed Changes to the Publication Draft (July 2017) over summer 2017 which ended in September 2017. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 for independent examination which is expected to take place in the New Year. At the current stage, it would not be appropriate to give any significant weight to this emerging document in respect of the development proposed in this planning application. However the relevant policies are set out in full below:-

Draft Policy W01 (Moving waste up the waste hierarchy)

- "1) Proposals will be permitted where they would contribute to moving waste up the waste hierarchy through:
- i) the minimisation of waste, or;
  - ii) the increased re-use, recycling or composting of waste, or;
  - iii) the provision of waste treatment capacity and small scale proposals for energy recovery (including advanced thermal treatment technologies), which would help to divert waste from landfill.
- 2) Further capacity for the large scale recovery of energy from waste (in excess of 75,000 tonnes annual throughput capacity), including through advanced thermal treatment technologies, will only be permitted in line with Policy W04 and where any heat generated can be utilised as a source of low carbon energy or, where use of heat is not practicable, the efficient recovery of energy can be achieved.
- 3) The provision of new capacity for the landfill of residual non-inert waste will be permitted where it can be demonstrated that it is the only practicable option and sufficient permitted capacity within the Plan area is not available. Proposals for the extension of time at existing permitted landfill sites with remaining void space will be supported in principle, where necessary either;
- (i) to maintain capacity for disposal of residual waste, or;
  - (ii) to achieve the satisfactory restoration of the site.
- 4) Landfill of inert waste will be permitted where it would facilitate:
- i) a high standard of quarry reclamation in accordance with agreed reclamation objectives, or;
  - ii) the substantial improvement of derelict or degraded land where it can be demonstrated that the import of the waste is essential to bring the derelict or degraded land back into beneficial use and the scale of the importation would not undermine the potential to manage waste further up the hierarchy".

Draft Policy W10 (Overall locational principles for provision of waste capacity)

"The allocation of sites and determination of planning applications should be consistent with the following principles:

- 1) Providing new waste management capacity within those parts of the Plan area outside the North York Moors National Park and the Areas of Outstanding Natural Beauty, unless the facility to be provided is appropriately scaled to meet waste management needs arising in the designated area and can be provided without causing unacceptable harm to the designated area.
- 2) Maximising the potential of the existing facility network by supporting the continuation of activity at existing time limited sites with permission, the grant of permission for additional capacity and/or appropriate additional or alternative waste uses within the footprint of existing sites and, the extension to the footprint of existing sites.
- 3) Supporting proposals for development of waste management capacity at new sites where the site is compatible with the requirements of Policy W11; and the site is located as close as practicable to the source/s of waste to be dealt with. This means:
  - a) For new facilities serving district scale markets for waste, particularly LACW, C&I and CD&E waste, or for facilities which are not intended to serve the specialised needs of particular industries or businesses, giving priority to locations which are within or near to main settlements in the area (identified on the key diagram) or, for facilities which are intended mainly to serve localised needs for waste management capacity in more

- rural parts of the Plan area, including agricultural waste, where they are well-located with regard to the geographical area the facility is expected to serve;
- b) For larger scale or specialised facilities expected to play a wider strategic role (e.g. serving multi-district scale catchments or which would meet specialised needs of particular industries or businesses), these will be located where overall transportation impacts would be minimised taking into account the market area expected to be served by the facility”.

#### Draft Policy W11 (Waste site identification principles)

“The allocation of sites and determination of planning applications for new waste management facilities should be consistent with the following principles:

- 1) Siting facilities for the preparation for re-use, recycling, transfer and treatment of waste (excluding energy recovery or open composting) on previously developed land, industrial and employment land, or at **or adjacent to\*** existing waste management sites, giving preference to sites where it can be demonstrated that co-locational benefits would arise taking into account existing or proposed uses and economic activities nearby. Where the site or facility is proposed to deal mainly with waste arising in rural areas then use of redundant agricultural buildings or their curtilages will also be acceptable in principle and, for agricultural waste, appropriate on-farm locations;
- 2) Siting facilities for the open composting of waste on previously developed land, industrial land, **or adjacent to\*** existing waste management sites and, where the site or facility is proposed to deal with small scale waste arisings in rural areas, the curtilage of redundant agricultural buildings or other appropriate on-farm locations. Where development of new capacity on greenfield land is necessary then preference will be given to sites located on lower quality agricultural land. Sites for the composting of waste where the process may release bioaerosols should be located at least 250 metres from the nearest residential building;
- 3) Siting facilities involving the recovery of energy from waste, including through anaerobic digestion, on previously developed land, industrial and employment land, or at **or adjacent to\*** existing waste management sites, giving preference to sites where it can be demonstrated that co-locational benefits would arise taking into account existing or proposed uses and economic activities nearby, including where the energy produced can be utilised efficiently. For facilities which can produce combined heat and power, this includes giving preference to sites with the potential for heat utilisation. Where the site or facility is proposed to deal mainly with agricultural waste through anaerobic digestion including energy recovery, then use of redundant agricultural buildings or their curtilages and other appropriate on-farm locations will also be acceptable in principle;
- 4) Siting facilities to support the re-use and recycling of CD&E waste at the point of arising (for temporary facilities linked to the life of the associated construction project) and at active mineral workings where the main outputs of the process are to be sold alongside or blended with mineral produced at the site; as well as at the types of sites identified in 1) above, where these are well related to the sources of arisings and/or markets for the end product;
- 5) Siting facilities to provide additional waste water treatment capacity, including for waste water containing Naturally Occurring Radioactive Materials, at existing waste water treatment works sites as a first priority. Where this is not practicable, preference will be given to use of previously developed land or industrial and employment land. Where development of new capacity on greenfield land is necessary then preference will be given to sites located on

lower quality agricultural land. Siting of facilities for management of waste water from hydrocarbons development will also be considered under the requirements of Policy M18 where relevant;

- 6) Providing any additional capacity required for landfill of waste through preferring the infill of quarry voids for mineral site reclamation purposes, giving preference to proposals where a need for infill has been identified as part of an agreed quarry reclamation scheme and where any pollution control concerns can be mitigated to an acceptable level.  
In all cases sites will need to be suitable when considered in relation to physical, environmental, amenity and infrastructure constraints including existing and proposed neighbouring land uses, the capacity of transport infrastructure and any cumulative impact from previous waste disposal facilities, in line with national policy”.

*\*text in bold is the wording added as part of the ‘Addendum of Proposed Changes to Publication Draft’ (July 2017).*

#### Draft Policy D06 (Landscape).

- “1) *All landscapes will be protected from the harmful effects of development. Proposals will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures.*
- 2) *For proposals which may impact on nationally designated areas including the National Park, AONBs, and the adjacent Yorkshire Dales National Park, a very high level of protection to landscape will be required. Development which would have an unacceptable landscape impact on these areas will not be permitted.*
- 3) *Protection will also be afforded to the historic character and setting of York and to areas defined as Heritage Coast. Permission will only be granted where it would not lead to an unacceptable impact on the historic character or setting of York or on the undeveloped character of Heritage Coast, unless the need for, or benefits of, the development outweigh the harm caused.*
- 4) *Where proposals may have an adverse impact on landscape, tranquillity or dark night skies, schemes should provide for a high standard of design and mitigation, having regard to landscape character, the wider landscape context and setting of the site and any visual impact, as well as for the delivery of landscape enhancement where practicable”.*

6.67 The NPPF states that for the purposes of decision-taking, the policies in the Local Plan should not be considered out of date because they were adopted prior to the publication of the NPPF. However, the policies contained within the NPPF are material considerations which local planning authorities should take into account from the day of its publication.

6.68 If, following the 12 month transitional period given to local planning authorities to ensure compliance of their Local Plans with the NPPF, a new or amended plan has not been adopted, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (paragraph 215 of the NPPF). The closer the policies in the plan are to the policies in the NPPF the greater the weight that may be given. In addition paragraph 216 of the NPPF states that “*From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.*

6.69 The relevant policies within the NPPF have been set out above and within the next section the relevant ‘saved’ policies from the North Yorkshire Waste Local Plan (adopted 2006) are outlined and the degree of consistency with the NPPF is considered. This exercise is not applicable to the policies contained within the more recently adopted ‘Ryedale Plan: Local Plan Strategy’ (adopted September 2013) as the Local Plan Strategy is a post-NPPF adoption and has been deemed to be in compliance with the general aims of the NPPF.

North Yorkshire Waste Local Plan (NYWLP) (adopted 2006)

6.70 In the absence of an adopted Minerals and Waste Joint Plan and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 as of 27 September 2007 only the ‘saved’ policies can now be considered as comprising of the Development Plan. The ‘saved’ policies relevant to the determination of this application are:

- 4/1 – Waste Management Proposals
- 4/3 – Landscape Protection
- 4/7- Protection of Agricultural Land
- 4/15 - Archaeological Evaluation
- 4/16 - Archaeological Sites
- 4/18 – Traffic Impact
- 4/19 – Quality of Life
- 4/20 - Open Space, Recreation and Public Rights of Way
- 5/3 – Recycling, sorting and transfer of industrial, commercial and household waste
- 5/10 – Incineration of Waste

‘Saved’ Policy 4/1 – Waste Management Proposals

6.71 This Policy states:

*Proposals for waste management facilities will be permitted provided that:*

- a) the siting and scale of the development is appropriate to the location of the proposal;*
- b) the proposed method and scheme of working would minimise the impact of the proposal;*
- c) there would not be an unacceptable environmental impact;*
- d) there would not be an unacceptable cumulative impact on the local area;*
- e) the landscaping and screening has been designed to effectively mitigate the impact of the proposal in a way that is sympathetic to local landscape character;*
- f) where appropriate, adequate provision is made for the restoration, aftercare and management of the site to an agreed afteruse;*
- g) the proposed transport links are adequate to serve the development; and,*
- h) other environmental and amenity safeguards would effectively mitigate the impact of the proposal;*
- i) it can be demonstrated that the proposal represents the Best Practicable Environmental Option for dealing with the waste;*
- j) the location is geographically well located to the source of the waste thereby according with the proximity principle.*

- 6.72 This 'saved' Policy of the NYWLP is directly relevant to the development currently under consideration. In accordance with paragraph 214 of the NPPF, an analysis of consistency shows the NPPF to be silent on matters raised in criteria a), b), i) and j). With regard to criterion f), Paragraph 144 of the NPPF states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the imposition of appropriate conditions, where necessary.
- 6.73 As the NPPF does not provide specific waste policies, the NPPW has also been reviewed in relation to the proposed development in terms of compliance with criteria a), i) and j). There is nothing specifically related to criteria b) and f) within the NPPW.
- 6.74 With regard to criterion a) this is consistent with the NPPW which sets out locational criteria for waste management facilities and states that the type and scale of the facility should be taken into account when deciding on appropriate locations.
- 6.75 In terms of criterion i), the Best Practicable Environmental Option (BPEO) is a set of procedures with the goal of managing waste and other environmental concerns. BPEO assessment is a method for identifying the option that provides "*the most environmental benefit*" of "*least environmental damage*". The technique is not reflected in NPPW or the NPPF, but the principles of putting forward the most sustainable option i.e. movement of waste up the waste hierarchy is set out in NPPW. Therefore, although criterion i) does not conflict with the provision of NPPW it should be given less weight for this reason. NPPW reflects the proximity principle set out in criterion j), therefore, this point should be given weight.
- 6.76 'Saved' Policy 4/1 g) is consistent with the provisions of the NPPF insofar as supporting the adequacy of transport links, however, there are differences in the objectives that criterion g) states that transport links should be adequate, whereas the NPPF states that improvements to the transport network should be considered. Therefore, the NPPF guidance should be given more weight in this instance because it goes a step further in supporting those developments comprising improvements to transport links.
- 6.77 In terms of criteria c), d) and h) of 'saved' Policy 4/1 the NPPF states that developments should contribute to and enhance the local environment, not give rise to unacceptable risks from pollution, and that cumulative effects should be taken into account. The wording in 'saved' Policy 4/1 states that there should not be unacceptable impacts and that safeguards should mitigate the impacts. Although there is a slight difference in emphasis the provisions of the policy are generally consistent with the NPPF and should be given weight.
- 6.78 Criterion e) of 'saved' Policy 4/1 requires that landscaping and screening should mitigate the impact of the development, being sympathetic to local landscape character. Therefore, it is considered that the policy is consistent with the relevant policies of the NPPF, but more emphasis should be given to protecting and enhancing valued landscapes. Greater weight should therefore be given to the NPPF in this instance because it goes a step further in protecting and enhancing valued landscapes.

'Saved' Policy 4/3 – Landscape protection

- 6.79 This 'saved' policy advises that waste management facilities will only be permitted "where there would not be an unacceptable effect on the character and uniqueness of the landscape. Wherever possible, proposals should result in an enhancement of local landscape character".

6.80 In its reasoned justification, 'saved' Policy 4/3 advises that in considering development proposals, the Authority will expect developers to respect and enhance the special character and distinctiveness of features which make specific landscapes locally important. Where waste management proposals are determined to be compatible with the local landscape by virtue of siting, scale and design, possibilities for the enhancement of the character of the local landscape should also be explored.

6.81 This specific 'saved' policy is considered to be relevant and full weight can be given to 'saved' Policy 4/3 as the NPPF makes clear that the effects of development on the landscape, including the potential sensitivity of an area to adverse landscape impacts, should be taken into account. The NPPF (paragraph 109) promotes the protection and enhancement of valued landscapes and Appendix B (Locational Criteria) of the NPPW encourages development to respect landscape character.

6.82 'Saved' Policy 4/7 - Protection of Agricultural Land

The policy states that "*Proposals for waste management facilities on the best and most versatile agricultural land will only be permitted where:*

- i) there is an overriding need for the development;*
- ii) there is a lack of development opportunities on non agricultural land;*
- iii) there is insufficient land available in grades below 3a*
- iv) Other sustainability considerations on land below grade 3a outweigh issues of agricultural land quality*

*Where, in exceptional circumstances, development is permitted on the best and most versatile agricultural land it will only be permitted where provision is made for a high standard of restoration such that an agricultural afteruse can be achieved or the future potential for high quality agricultural use is safeguarded"*

6.83 The Policy does not conflict with the aims and objectives of the NPPF which recognises the economic and other benefits of the best and most versatile agricultural land and encourages the use areas of poorer quality agricultural land in preference to that of a higher quality.

'Saved' Policy 4/15 - Archaeological Evaluation

6.82 The policy states that "*Where proposals for waste management facilities affect sites of known or potential archaeological importance the applicant will be required to carry out an archaeological field evaluation prior to the determination of the planning application*".

6.83 The Policy does not conflict with the aims and objectives of the NPPF, however, there are differences in that the NPPF requires developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The NPPF acknowledges that the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Therefore, the NPPF guidance should be given more weight in this instance.

'Saved' Policy 4/16 - Archaeological Sites

6.84 The policy states that "*Proposals for waste management facilities which would have an unacceptable effect on nationally important archaeological remains, whether scheduled or not, and their settings, will not be permitted. Where planning permission is granted for waste management facilities which would affect sites of regional, County or local importance, conditions will be imposed to ensure the remains are preserved in-situ or by record, as appropriate to their archaeological interest*".



6.85 The Policy does not conflict with the aims and objectives of the NPPF, however, there are differences in that the NPPF requires developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The NPPF acknowledges that the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Therefore, the NPPF guidance should be given more weight in this instance.

'Saved' Policy 4/18 – Traffic impact

6.86 This 'saved' Policy addresses transport issues and advises that waste management facilities will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway and would not have an unacceptable impact on local communities.

6.87 'Saved' Policy 4/18 does not conflict with the aims and objectives of the NPPF, however, there are differences in that the NPPF states that improvements to the transport network should be considered, therefore, the NPPF guidance should be given more weight in this instance.

'Saved' Policy 4/19 – Quality of life

6.88 This 'saved' Policy seeks to ensure that waste management facilities will be permitted only where there would not be an unacceptable impact on the local environment and residential amenity.

6.89 It is considered that full weight can be given to 'saved' Policy 4/19 as the NPPF makes clear that the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution, should be taken into account.

'Saved' Policy 4/20- Open space, Recreation and Public Rights of Way

6.90 The Policy states that *"The development of waste management facilities will not be permitted where there would be an unacceptable impact on recreational amenity of the area, on open spaces with recreational value or on the enjoyment of the Public Rights or Way network. Proposals for waste management facilities which would interrupt, obstruct or conflict with use of a public right of way will only be permitted where satisfactory provision has been made, in the application, for protecting the existing right of way or for providing acceptable alternative arrangements both during and after working"*.

6.91 It is considered that full weight can be given to 'saved' Policy 4/20 as the NPPF makes clear that planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users.

'Saved' Policy 5/3 – Recycling, sorting and transfer of industrial, commercial and household waste

6.92 'Saved' Policy 5/3 of the North Yorkshire Waste Local Plan is considered mainly relevant to planning application ref. NY/2017/0129/FUL for the retention and change of use of the existing waste transfer buildings. It has a degree of relevance to the determination of this application as the existing waste recycling and transfer buildings are proposed to supply feedstock to the GEF. The policy advises that 'Proposals for facilities for recycling, sorting and transfer of industrial, commercial and household wastes will be permitted provided that:

- a) The proposed site is suitably located with an existing, former or proposed industrial area of a character appropriate to the development; or

- b) The proposed site is suitably located within a redundant site or building;
  - c) The proposed site is appropriately located within or adjacent to active or worked out quarries or landfill sites; and
  - d) The operations are carried out in suitable buildings; and
  - e) The highway network and site access can satisfactorily accommodate the traffic generated; and
  - f) That in appropriate cases it does not prejudice the restoration and afteruse of the quarry or landfill site; and
  - g) The proposal will not have an unacceptable impact on local amenity or the environment’.
- 6.93 Criterion a), b), c), d) and f) are broadly consistent with national policy in the NPPF and NPPW in terms of new development on previously developed land or appropriate land without prejudicing restoration, and can therefore be afforded full weight in the determination process.
- 6.94 The locational criteria set out in Appendix B of NPPW, which are to be used when determining proposals for waste facilities include considerations relating to traffic and amenity, which criterion e) and g) comply with and can therefore be afforded full weight.
- ‘Saved’ Policy 5/10 – Incineration of Waste
- 6.95 Whilst acknowledging that the proposed GEF does not involve incineration (the proposed technology is energy from waste via gasification) it is noted that the Applicant relies on 5/10(b) to justify the location of the development and the general aims of this ‘saved’ Policy are of some relevance and in light of the Applicant’s position warrant consideration. The Policy states that:  
*Proposals for the incineration of household, commercial and nonhazardous industrial waste will be permitted only after opportunities for recycling and composting have been explored and provided the following criteria are met:*
- a) *the proposed site is suitably located within an existing, former or proposed industrial area of a character appropriate to the development; or*
  - b) *the proposed site is suitably located on land formerly occupied by waste management facilities of a character appropriate to the development; or*
  - c) *the proposed site is suitably located on areas of contaminated, despoiled or previously derelict land; and*
  - d) *the highway network and site access can satisfactorily accommodate the traffic generated; and*
  - e) *the proposal will not have an unacceptable impact on local amenity or the environment.*
- 6.96 The NPPF encourages the re-use of previously developed land which is the main purpose of Criterion a), b) and c). Within the NPPW (paragraph 4) it refers to the co-location of waste management facilities albeit for Plan making purposes and not decisions on planning applications. Criterion d) and e) include considerations relating to traffic and amenity, which can be afforded full weight.
- 6.97 In addition to the abovementioned ‘saved’ policies contained within the NYWLP it should be noted that paragraph 5.46 of the North Yorkshire Waste Local Plan relates to “Other Methods of Energy Recovery” and states:  
*“There are a number of other developing technologies to recover energy from waste including Gasification, Pyrolysis and Anaerobic Digestion...If a proposal comes forward for this type of development during the Plan period then these will be judged on their merits taking account of the policies of the Plan”.* Taking account of paragraph 14 of the NPPF it is considered that the NYWLP (2006) is ‘out of date’ in

light of the absence of policies relevant to development for energy from waste via gasification and as a result there is a presumption in favour of sustainable development and a 'tilt' towards granting permission unless *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted"*.

'Ryedale Plan: Local Plan Strategy' (Adopted September 2013)

6.98 At the local level, regard has to be had to the 'Ryedale Plan- Local Plan Strategy' (2013). The introduction to the 'Ryedale Plan- Local Plan Strategy' (2013) states that *"The purpose of the Ryedale Plan is to encourage new development and to manage future growth whilst ensuring that change across the District is based on a presumption in favour of sustainable development"*.

6.99 The Local Plan Strategy (2013) document states that *"the Plan acts as a local expression of national policy. It establishes local policies which comply with national policy (NPPF) but which also provide a specific local policy response which reflects the distinctiveness of this District and best integrates local social, economic and environmental issues"*. The Local Plan Strategy (2013) does not contain any policies specifically related to waste development (also referred to as a 'County Matter') but there are general development management policies which would usually be applicable to development under the jurisdiction of the District Council which, in this instance, are relevant to the determination of this application are: -

- Policy SP6 - 'Delivery and Distribution of Employment/Industrial Land and Premises'
- Policy SP8 - 'Tourism'
- Policy SP10 - 'Physical Infrastructure'
- Policy SP12 - 'Heritage';
- Policy SP13 - 'Landscapes';
- Policy SP14 - 'Biodiversity'
- Policy SP16- 'Design'
- Policy SP17 - 'Managing Air Quality, Land and Water Resources';
- Policy SP18- 'Renewable and Low Carbon Energy';
- Policy SP19 – 'Presumption in Favour of Sustainable Development'; and
- Policy SP20 - 'Generic Development Management Issues'.

6.100 SP6 'Delivery and Distribution of Employment/Industrial Land and Premises' refers to employment uses and, inter alia, states that *"the intention is to support established sectors in the local economy and provide opportunities for diversification which over the Plan Period, will enable a step change in business growth, improved skills and a more sustainable local economy"*. With reference to 'Significant Industrial Processes in Open Countryside Locations' (Significant Industrial Processes not defined within the Local Plan) the policy states *"Major industrial processes involving the extraction, utilisation, working or harnessing of natural materials or land assets will be supported where:*

- *They are required in that location and no other suitable sites are available in the locality*
- *They can be satisfactorily accommodated on the highway network and will not lead to significant adverse highways impacts*
- *They do not adversely affect the amenity of neighbouring occupants of the site in line with Policy SP20*
- *They can be satisfactorily accommodated in the surrounding landscape in line with Policies SP13 and SP16*
- *The economic benefits to the District outweigh any adverse impacts"*.

- 6.101 SP8 states that tourism in Ryedale will contribute to a sustainable and diverse economy. The policy sets out a number of ways by which it aims to support sustainable tourism in the District. The parts of the policy relevant to new tourism developments are not directly applicable to the application under consideration although in light of the objection raised it is considered that the aim of the policy is relevant.
- 6.101 SP10 'Physical Infrastructure' sets out necessary improvements to Community Facilities and Physical Infrastructure which are critical to support their Strategy. The list of types of infrastructure and related services includes 'Waste Transfer Station - location in Ryedale to be confirmed'.
- 6.102 SP12 'Heritage'; states "*The potential of heritage assets to contribute towards the economy, tourism, education and community identity will be exploited including (inter alia): The nationally significant prehistoric archaeological landscapes of the Yorkshire Wolds and the Vale of Pickering*" and "*To assist in protecting the District's historic assets and features, the Council will (inter alia): Consider ways in which planning obligations can be used in conjunction with the allocation of sites at the Service Villages in the Vale of Pickering to secure increased protection, management and/or understanding of archaeological assets*".
- 6.103 SP13 'Landscapes' seeks to protect and enhance the quality, character and value of Ryedale's diverse landscapes. Specifically in relation to 'Landscape Character' the policy states that:  
*"Development proposals should contribute to the protection and enhancement of distinctive elements of landscape character that are the result of historical and cultural influences, natural features and aesthetic qualities including:*
- *The distribution and form of settlements and buildings in their landscape setting;*
  - *The character of individual settlements, including building styles and materials;*
  - *The pattern and presence of distinctive landscape features and natural elements (including field boundaries, woodland, habitat types, landforms, topography and watercourses);*
  - *Visually sensitive skylines, hill and valley sides; and*
  - *The ambience of the area, including nocturnal character, level and type of activity and tranquillity, sense of enclosure/exposure*".
- 6.104 The policy also refers to consideration of the impact of development proposals upon landscapes which are valued locally, which *inter alia*, includes the Wolds Area of High Landscape Value. The policy states that the Yorkshire Wolds are valued locally for their natural beauty and scenic qualities. The policy acknowledges that the distinctive elements of the landscape character of the area should be protected and that there are particular visual sensitivities given the topography and resulting long distance skyline views within Ryedale and further afield.
- 6.105 SP14 'Biodiversity' states "*In considering proposals for development – Proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them. Proposals for development which would result in loss or significant harm to: Habitats or species included in the Ryedale Biodiversity Action Plan and priority species and habitat in the UK Biodiversity Action Plan; Local Sites of Nature Conservation Importance or Sites of Geodiversity Importance; Other types of Ancient Woodland and ancient/veteran trees, will only be permitted where it can be demonstrated that there is a need for the development in that location and*

*that the benefit of the development outweighs the loss and harm. Where loss and harm cannot be prevented or adequately mitigated, compensation for the loss / harm will be sought. Applications for planning permission will be refused where significant harm cannot be prevented, adequately mitigated against or compensated for. Loss or harm to other nature conservation features should be avoided or mitigated. Compensation will be sought for the loss or damage to other nature conservation features, which would result from the development proposed. Protected sites, including Internationally and nationally protected sites and Sites of Importance for Nature Conservation are identified on the adopted Proposals Map”.*

- 6.106 Policy SP16 ‘Design’ states, inter alia, that *“To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings including:*
- *Topography and landform that shape the form and structure of settlements in the landscape*
  - *The structure of towns and villages formed by street patterns, routes, public spaces, rivers and becks. The medieval street patterns and historic cores of Malton, Pickering, Kirkbymoorside and Helmsley are of particular significance and medieval two row villages with back lanes are typical in Ryedale*
  - *The grain of the settlements, influenced by street blocks, plot sizes, the orientation of buildings, boundaries, spaces between buildings and the density, size and scale of buildings*
  - *The character and appearance of open space and green spaces including existing Visually Important Undeveloped Areas (VIUAs) or further VIUAs which may be designated in the Local Plan Sites Document or in a Neighbourhood Plan. Development proposals on land designated as a VIUA will only be permitted where the benefits of the development proposed significantly outweigh the loss or damage to the character of the settlement*
  - *Views, vistas and skylines that are provided and framed by the above and/or influenced by the position of key historic or landmark buildings and structures*
  - *The type, texture and colour of materials, quality and type of building techniques and elements of architectural detail”.*
- 6.107 SP17 ‘Managing Air Quality, Land and Water Resources’ includes policies relevant to the proposed development which state as follows:-
- *“Land resources will be protected and improved by (inter alia) prioritising the use of previously developed land*
  - *Flood risk will be managed by (inter alia) requiring the use of sustainable drainage systems and techniques*
  - *Air Quality will be protected and improved by (inter alia) only permitting development if the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured”.*
- 6.108 Policy SP18 ‘Renewable and Low Carbon Energy’; states *“Developments that generate renewable and/or low carbon sources of energy will be supported providing that individually and cumulatively proposals:*
- *Can be satisfactorily assimilated into the landscape or built environment, especially in respect of the setting of the North York Moors National Park, the Howardian Hills Area of Outstanding Natural Beauty (and its setting), the Wolds and the Vale of Pickering;*
  - *Would not impact adversely on the local community, economy, or historical interests, unless their impact can be acceptably mitigated;*

- *Would not have an adverse impact on nature conservation, in particular in relation to any sites of international biodiversity importance, unless their impact can be acceptably mitigated;*
- *Would not have an adverse impact on air quality, soil and water resources in Policy SP17, unless their impact can be acceptably mitigated”.*

6.109 SP19 ‘Presumption in Favour of Sustainable Development’ carries forward the presumption contained in the NPPF and states that the Council will take a positive approach when considering development proposals and *“always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area”*. The policy states that *“planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise”*.

6.110 SP20 ‘Generic Development Management Issues’, with regard to character states *“New development will respect the character and context of the immediate locality and the wider landscape character in terms of physical features and the type and variety of existing uses. Proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses”*.

6.111 With regard to amenity and safety SP20 states that *“New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence”*.

## **7.0 Planning considerations**

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. In light of the abovementioned planning policy and guidance it is felt that the main considerations in this instance are the principle of the development, need, location, design, landscape and visual impact, impact upon agricultural land, the impact upon the environment and local amenity (noise, air quality, odour, dust and light), public rights of way, traffic impact, cultural heritage and archaeology, flood risk and site drainage, ecology and economic impacts.

### Principle of the development

7.2 Section 10 of the NPPF and the NPPW place great emphasis on the need for planning to facilitate the delivery of renewable/low carbon energy. The proposed facility would generate approximately 8MW of low carbon energy for export to the grid providing sufficient power for up to 16,000 properties. In doing so the proposed development would move all incoming waste up the ‘waste hierarchy’ away from disposal (landfill) to energy recovery and recycling and transfer (currently done so at present) and is therefore in general accordance with the aims of paragraph 97 of the NPPF and paragraph 1 of the NPPW on these matters.

- 7.3 NYWLP 'saved' policy 5/10 states that facilities for waste incineration would only be permitted *"only after opportunities for recycling and composting have been explored"*. It should be noted that 'saved' policy 5/10 was drafted with conventional incineration in mind but the policy principles are relevant to the GEF proposal and are used in the Applicant's justification and therefore will be discussed within later sections of this report. It is important to note that gasification represents significant advances over incineration, gasification is a cleaner process and does not compete with recycling. In line with 'saved' policy 5/3 of the NYWLP the proposed development does include provision for the front-end recycling of imported waste material within the existing waste recycling and transfer buildings which would involve the sorting and separation of recyclables which are then bulked up and transported off-site for re-use as an alternative to disposal by landfill and in addition the existing permitted composting is permitted until 2035, (composting, transfer, treatment and recycling operations are proposed to be safeguarded within the draft MWJP).
- 7.4 The contribution the proposed development would make towards low carbon electricity generation and moving waste up the 'waste hierarchy' is consistent with national planning policy contained within the NPPF paragraphs 93-98 and the NPPW. However, any potential adverse impacts on the environment, landscape and amenity arising from the proposed development need to be considered in detail and the main considerations are addressed in later sections of this report.
- Need
- 7.5 The proposed GEF is primarily an Energy from Waste facility (with front end recycling using existing waste pre-treatment and transfer buildings). In terms of demonstrating need, paragraph 98 of the NPPF states that *"when determining planning applications, local planning authorities should (inter alia) not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also to recognise that even small-scale projects provide a valuable contribution to cutting down greenhouse gas emissions"*. Furthermore paragraph 7 of the NPPW states that waste planning authorities should only expect *"to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan"*. However, such a requirement is not relevant to the determination of this application, as the NYWLP (2006) pre-dates current national policy (2014).
- 7.6 Whilst there is no requirement for the Applicant to demonstrate need for the development, the Applicant is of the view that the need for waste disposal capacity at this location has already been established by the existence of Knapton Landfill and in this regard they do not consider the GEF to be a new waste disposal facility but a more sustainable replacement waste management facility.
- 7.7 The Applicant states that tipping of active waste at Knapton will cease in 2017 and as a result there would be a significant reduction in waste disposal capacity for non-recyclable waste within the local area. The Applicant's case is that the GEF is expected to make a significant contribution to addressing this existing localised waste need by accepting 65,000 tonnes per annum. Unlike previous operations at Knapton Landfill the non-recyclable waste would no longer be disposed of by landfilling but would instead be used to generate low carbon electricity and heat which is a move towards a more sustainable option (recovery of energy from waste).
- 7.8 It is accepted that the proposed GEF would effectively replace the unsustainable landfill operations at Knapton and it would support the existing waste management facility and move waste up the 'waste hierarchy' in line with national planning policy contained within the NPPW.

### Location

- 7.9 National policy does give priority to the re-use of previously-developed land and it is noted that the proposed development of this greenfield site is therefore not consistent with paragraph 111 of the NPPF. However the Applicant states within the application that from a locational, operational and sustainability standpoint the proposed development site is considered an ideal location for the GEF and the application details emphasise the co-locational benefits associated with locating the GEF adjacent to the existing landfill site (as listed in paragraph 3.24 of this report).
- 7.10 The Applicant states that the main advantages of locating the GEF in the proposed location is the utilisation of the existing waste handling infrastructure/capacity at the adjacent Knapton landfill for the front end handling, sorting and processing of waste. The existing facilities would allow recyclable waste to be removed from the waste stream prior to the non recyclables being used as energy feedstock for the gasifier contained within the GEF.
- 7.11 The Applicant states that the GEF also has the ability to utilise the landfill gas generated by the landfill cells and the short rotation willow coppice to be grown on the adjacent landfill site. In addition the bottom ash waste product from the GEF can be used to assist in the capping and restoration of the adjacent landfill cells. However, it should be noted that the Environment Agency have highlighted that the Applicant will need to demonstrate that the proposed use of bottom ash as a restoration material within the adjacent landfill will be suitable and it would need to be controlled by the environmental permitting process. Whilst there are no specifics provided the Applicant states that there may also be future opportunities to export heat and energy to nearby energy intensive businesses (potentially the Maltings to the north and local farm businesses such as fruit growing).
- 7.12 Policy SP6 ('Delivery and Distribution of Employment/Industrial Land and Premises') of the Ryedale Plan- Local Plan Strategy (2013) is relevant as it relates to significant industrial processes in an open countryside location. The policy states that development will be supported where it is required in the proposed location with no other suitable sites available in the locality. In this case the site specific benefits of locating the GEF adjacent to the existing and established waste management site and landfill (as listed in paragraph 3.24 of this report) should be given significant weight and there are no alternative sites in the area that offer a comparable level of benefits and it is therefore considered that there is no conflict with this requirement of Policy SP6 of the Ryedale Plan- Local Plan Strategy (2013).
- 7.13 In relation to the 'proximity principle', as set out at national level in the NPPW and local policy in 'saved' Policy 4/1(j) of the NYWLP, this aims to direct waste management facilities close to the sources of the waste. The Applicant states that the proposed development would accept waste from the same sources as Knapton landfill in addition to committed tonnage which is currently being sent to landfill or incineration. The contracts and source of waste material is a commercial matter and the costs associated with the transport of the waste and market forces would regulate the waste movement such that the facility would be likely to represent the 'Nearest Appropriate Installation' (in respect of the 'proximity principle') for the treatment of that waste.



- 7.14 'Saved' Policy 5/10 of the NYWLP (2006) directs waste incineration operations to sites defined as suitable on the basis they are *"an existing, former or proposed industrial area of a character appropriate to the development"* (5/10a); *"located on land formerly occupied by waste management facilities of a character appropriate to the development"* (5/10b) or *"the proposed site is suitably located on areas of contaminated, despoiled or previously derelict land"* (5/10c). However, whilst there are some similarities, this application is not for waste incineration and therefore the policy is not directly relevant. As referred to in paragraph 6.97 of this report in taking account of paragraph 14 of the NPPF it is considered that the NYWLP (2006) is 'out of date' in light of the absence of policies relevant to development for energy from waste via gasification and as a result there is a presumption in favour of sustainable development and a 'tilt' towards granting permission unless *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted"*.
- 7.15 Paragraph 4 of the NPPW refers to opportunities for the co-location of waste management facilities for local plan-making purposes (i.e. the MWJP). It is acknowledged that in this case the proposed application site is neither proposed nor included as a preferred or allocated site in the emerging MWJP. However, the Applicant underlines that there are sustainability benefits in having the waste pre-treatment process in the same location as the GEF to create the fuel (RDF) for the energy generation and it would allow for the continuation of the sustainable management of waste within the County. The Applicant also points to support from draft local policies W10(2) (Overall locational principles for provision of waste capacity) and W11(1&3) (Waste site identification principles) of the draft MWJP which seek to support new energy from waste facilities where the proposed development would maximise co-locational benefits and the operational capacity of an existing waste management site by the extension of the footprint of existing facilities such as Knapton Landfill. It is considered that given the stage of the Plan adoption process (submitted for Examination in Public) these policies can be afforded weight but not significant weight.
- 7.16 The Applicant's justification for the location set out above is noted, however, national planning guidance in regard to expansion/extension of existing waste facilities states that *"the waste planning authority should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community's wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant"*. Furthermore 'saved' Policy 4/1(a) of the NYWLP (2006) states that waste management facilities will be permitted where the siting and scale of the development is appropriate to the location and this shall be explored in more detail in the following sections of the report.
- 7.17 Overall, it is considered that, whilst the development is not consistent with paragraph 111 of NPPF, the proposed facility in this location would contribute to the delivery of an integrated and adequate network of waste management installations by providing an energy from waste (recycling and recovery) facility. It offers an opportunity to move waste up the 'waste hierarchy' and divert it away from the less sustainable option of disposal to landfill, and it is considered that the capacity to be provided by the facility would help ensure that waste can be dealt with at the 'Nearest Appropriate Installation' and help ensure its management in accordance with the 'proximity principle' of the NPPW (2014) and 'saved' Policy 4/1 of the NYWLP (2006).

#### Design, landscape and visual impact

- 7.18 The GEF building would measure 56 metres in width and 109 metres in length and would have a stepped roof design (curved): the higher part to accommodate the gasification plant area and the lower being the waste (RDF) reception area. The footprint of the building was not altered by the amendments submitted by the Applicant in September 2017 but its height and position has been changed. The GEF building would be constructed on a level building platform which, as part of the September 2017 amendments, has been reduced 1.5 metres lower than the original proposal (now designed at 84.80m AOD). The roof height over the gasification plant reaches a maximum height of 18.4 metres above finished floor level (previously 23 metres). The roof height over the waste reception area reaches a maximum height of 11.9 metres above finished floor level (previously 13.5 metres). The amended details show a wider stack with a diameter of 2.4 metres in light of the requirement to accommodate two exhausts from the two ACC units (previously one taller single ACC unit) with a matt mid grey finish and an overall height of 34.5 metres (previously 33 metres high but now takes account of 1.5m reduction in ground level). It is understood that the emissions from the stack would not comprise of any visible gases or smoke and therefore the only visible plume would result from the condensation of water vapour in cold conditions.
- 7.19 The Applicant has stated that the size of the building is dictated by the internal energy from waste technology and the practical requirements of the end use and progress with the evaluation and selection of EfW technology has enabled the Applicant to table the amendments to reduce the scale of the GEF building. The Applicant states that the stepped and curved roof is preferred to a standard industrial building design in order to limit the number of sharp and rectangular corners and visual edges in response to the landscape setting. Externally the building would be faced predominantly in metal cladding coloured mid grey and dark green to the walls and light grey to the roof. Timber cladding would be used at the entrance area of the building (see Appendix D). The reception/office building in the northern part of the site would have a gross external area of 91.2 square metres and extend to 6.2 metres in height at its highest point (see Appendix F) and would benefit from proposed screen planting to the east. This building, like the main GEF building, would have a curved roof design and similar external materials and finishes. The use of recessive and non-reflective colour finishes should allow the buildings to blend into the woodland backdrop and the final external construction materials and colour finishes for the buildings (including the stack) shall be approved under condition (Condition 26) should permission be granted.
- 7.20 A landscape and visual impact assessment (LVIA) was provided within Chapter 8 of the Environmental Statement (ES) and was updated to account of the amendments to the scale of the GEF building and the wider stack. The site is located on the north facing scarp of the Yorkshire Wolds which forms the southern flank of the Vale of Pickering and within a locally designated Area of High Landscape Value. The Applicant is of the view that the proposed GEF site faces north into the Vale of Pickering and therefore relates more to this character area than to the Wolds and the NYCC Heritage Manager is in agreement, noting that the site is within a 'transitional zone' between the two landscape character areas. The Applicant states that the landscape forming the southern extent of the Vale of Pickering is characterised by woodland blocks, large agri-industrial buildings, the A64 corridor and other linear infrastructure including overhead electricity transmission lines and the railway. The Applicant is of the opinion that the proposed development would be in keeping with the local character in this part of the Vale of Pickering. The land surrounding the application site, notwithstanding the A64, is predominantly in agricultural use. It is considered that the site is in the open countryside within an area of transition

between the Vale of Pickering and the Wolds and the new buildings would be visible from surrounding vantage points including the nearby A64. In response to consultation on the original proposal the District Council previously highlighted that the proposal represented a significant building in this particular location and there are only limited examples of buildings in Ryedale that have heights of 23m notwithstanding the building also having components reaching 33m in height. The highest point of the GEF building has since been reduced to 18.4 metres above finished floor level. The other visible permanent industrial operation in the area is the West Knapton malting factory (Maltings) to the north which is prominent on the skyline.

- 7.21 It is noted that there would be views available from visual receptors to the northwest, north and north east in West and East Knapton at distances of 1-1.5km. The main views towards the site are from the A64 travelling in both easterly and westerly directions. Vehicles travelling east towards Scarborough would have passing views across the fields towards the proposed GEF where it would be positioned below Knapton Wood. Travelling west along the A64 towards Malton the road user would have views across adjacent farmland towards the site for a short section, west of Hartswood Lodge. The updated LVIA assessed the significance of visual effects to the majority of residential receptors in East and West Knapton as being negligible to minor adverse (previously moderate adverse) in light of the amended proposals. The previous visual analysis had recorded five properties in East Knapton as being likely to experience major adverse visual effects but taking account of the amended proposals this has reduced to two properties and the views towards the development site are filtered by intervening trees.
- 7.22 There is a public bridleway (along Knapton Wold Road) approximately 500 metres to the west of the site and a public bridleway that runs 250 metres to the south of the application site (separated by Knapton Wood). In addition the Wolds Way National Trail runs in an east-west alignment which at its closest point is approximately 250 metres to the south of the application site (also separated by Knapton Wood). From viewpoints from the south the application site is screened by existing mature woodland planting and benefits from changes in the level of the intervening land. Previously it was considered that the upper sections of the proposed building would potentially rise above these natural screening elements (track side hedgerows along the public bridleway to the west) but the reduced building height, and lower building platform of the revised scheme, would remove the building from these views, with only views to the top of the wider stack being available from receptors to the west of the site.
- 7.23 The GEF would be developed in a single, relatively well contained, field with the backdrop of Knapton Wood to the south and would be visually and physically associated with the existing landfill and waste transfer activity on the adjacent land to the north and therefore it would not appear as an isolated or divorced new development in the open countryside. However there is little or no natural screening at present particularly along the eastern side of the site. In response the Applicant proposes to reduce the levels in the immediate area of the site to create a level platform for the GEF as indicated in the section drawing attached to this report at Appendix C. The excavated material would be used to remodel the landform in the vicinity of the proposed building to create an artificial screening mound along the eastern boundary together with landscape planting which aims to partially screen and break up the outline of the building. The amended position of the GEF building has also allowed for wider planting strips along the northern and western sides of the site. The Applicant's updated LVIA highlights that by lowering the building platform by cutting into the existing slope and by increased scope for earthworks and planting on

the site boundary the development would 'nestle' into the landform between the landfill site and higher ground to the south. In addition the owners of the Knapton Landfill site have agreed not to coppice a 15 metre wide belt (area 2120sqm) of the planted willow which forms part of the restoration works for Knapton Landfill and also plant an additional area (1460sqm) of willow coppice to provide further screening all of which would be allowed to mature to a full height of 8 metres. The coppice belt would be to the north facing elevation of the GEF as shown on the plan attached at Appendix G and would provide a screen to the lower parts of the building and all the parking/vehicle movements associated with the daily operation of the facility. The willow planted on the adjacent landfill would only be coppiced once the dedicated screen planting north of the GEF building has reached a minimum average height of 10 metres above the finished floor level of the GEF building. The Applicant has confirmed that the arrangements to retain and plant the coppice on the adjacent landfill site would need to be secured via a Section 106 legal agreement (draft agreement provided).

- 7.24 The proposed GEF, when viewed from a number of vantage points to the north, would appear against the existing woodland backdrop on the north facing scarp of the Yorkshire Wolds and would not breach the skyline. In addition it is acknowledged that the proposed landform design, additional woodland planting and short rotation willow coppice to be grown on the adjacent landfill site would provide partial screening of the development and partially break up the outline of the building and soften views towards the building. Paragraph 58 of the NPPF advises that planning decisions should ensure that new developments *"function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development"*. Similarly paragraph 7 of the NPPW states that Authorities should *"ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located"*. Furthermore Appendix B(c) of the NPPW encourages design-led solutions to produce acceptable development which respects landscape character. The Principal Landscape Architect previously conceded that the GEF building as detailed in the original planning submission had been *"carefully designed"* and noted that the design attempted to assimilate the building into the landscape and, in itself, was not considered to be poor.
- 7.25 It was previously considered that the proposed GEF building would undoubtedly influence and change the landscape character in the area and would not enhance the quality, character and value of the landscape. The concerns previously raised by the District Council, local residents and the Principal Landscape Architect have been acknowledged by the Applicant and this is reflected in the amended scale, design and layout of the building and immediate surroundings. The District Council notes that the reduction in the height of the building and proposed landscaping reduce the impact of the proposal upon the wider landscape and are of the view that the scheme now has less conflict with Policy SP13 (Landscapes) of the Local Plan Strategy. Similarly the NYCC Heritage Manager notes that whilst the amendments and additional mitigation measures would not totally hide the building from view the landscape impact of the development would be reduced. The NYCC Heritage Manager has confirmed that the development as amended is not unacceptable in landscape terms and the proposed landforms echo landforms seen on the escarpment to the east of the site and the revisions reduce the conflict the original proposal had with Ryedale Local Plan policy which designates this area as a landscape of local value. In light of the above it is concluded that the proposed earthworks would respect the character of the undulating slopes of the Wolds escarpment, particularly to the east of the proposed development site. The new earthworks would also provide the benefit of deeper soils to aid establishment of the new woodland. Earthworks would be in keeping with

existing slopes on the Wolds escarpment but the form of the underlying topography would become less noticeable as the maturing tree canopy would disguise the landform below.

- 7.26 Draft Policy D06 (Landscape) of the draft MWJP states that proposals will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures. It is considered that given the stage of the Plan adoption process (submitted for Examination in Public) this policy can be afforded weight but not significant weight. It is accepted that the development is industrial in style, but the potential for the proposed GEF building to appear alien or incongruous in the landscape is lessened by the proposed screening mound along the eastern boundary (amended to have a wider footprint), together with dense landscape planting (amended to provide wider belts of planting) which, once mature, would largely screen the building. Careful attention has been paid to the views that can be gained from the public highways and viewpoints, as such the massing, external appearance and orientation of the building aims to minimise any visual impact. Extensive landscaping (to be managed and maintained) would lessen the impact and ensure that the new GEF building does not detract from the landscape character of the area or dominate the skyline. It is considered that the development, which had the potential to conflict with both 'saved' Policy 4/3 of the NYWLP (2006) and the draft MWJP policy through an adverse effect on landscape character, would not, in its amended form, result in unacceptable harm when the enhanced landscape and earthwork mitigation is taken into account.
- 7.27 In their initial comments both the NYCC Principal Landscape Architect and the NYCC Heritage Manager requested that if permission is granted that it is on a temporary basis with requirements for site restoration. However, the GEF development has not been proposed as a temporary use of land and differs from the historical minerals (quarry) and waste (landfill) related land uses on the adjacent site that are accepted as being temporary in nature. The proposed development is an energy from waste (EfW) facility designed to produce 8MW of low carbon energy and would incorporate other on site infrastructure and a grid connection. The Applicant has highlighted that the proposed facility involves a significant capital investment and in order to be sustainable it must be designed with a life cycle to recover that investment. It is understood that the building would be designed to be flexible enough to accommodate more efficient EfW technologies should they become available in the future but if granted permission on a permanent basis the facility would secure the long-term, sustainable production of low carbon energy. Furthermore it is considered that a temporary time limit, which planning guidance indicates are suitable for developments that warrant a 'trial period', would not be reasonable and would not meet the tests of being a valid planning condition.
- 7.28 The NYCC Heritage Manager confirmed in the final comments on the application that the inclusion of conditions that require demolition and site restoration in the event of the cessation of electricity production at the site (as an alternative to having an arbitrary time limit) would be acceptable. It is considered that such conditions (numbers 3 and 35) would ensure that there are powers to avoid being left with redundant industrial style buildings on the hillside should the development fail or be abandoned and the Authority will have powers to require site restoration. It is also considered prudent to include a planning condition that removes 'permitted development' rights for any future buildings, fixed plant or areas of hardstanding (beyond that provided for in the proposed development) which would be secured by Condition 34. In addition if permission is granted conditions shall secure the approval detailed landscape proposals implementation during the first available planting

season, replacement of early failures and the ongoing monitoring, protection and maintenance of existing and proposed vegetation during site preparation, construction and during the operational period (Conditions 18-21). In addition Condition 33 requires an annual review meeting during the first 5 years establishment period to ensure satisfactory progress with the landscape planting scheme.

- 7.29 The proposed revision and additional mitigation is noted and 'saved' Policy 4/1(e) permits development where *"the landscaping and screening has been designed to effectively mitigate the impact of the proposal in a way that is sympathetic to local landscape character"* and in this case the amended development would be sympathetic to the landscape character. The amendments to lower the height of the GEF building, lower the development platform, thicken the areas of screen planting and increase the size of the screening bund are welcomed and would serve to reduce the visual impact of the building once the planting has matured. It is considered that the application as amended results in a development that, both individually and cumulatively, can be satisfactorily assimilated into the landscape in respect of the Wolds and the Vale of Pickering. The proposal is also consistent with paragraph 109 of the NPPF in that the revised development seeks to protect the locally valued landscapes (in this case the AHLV) and it is concluded that the development could be assimilated into the landscape in accordance with the requirements of SP18 of the Ryedale Plan- Local Plan Strategy (2013) but it will be essential that the proposed landscape and visual mitigation measures are fully implemented then subsequently monitored, protected and managed if permission is granted.
- 7.30 In conclusion the proposed GEF would not result in unacceptable harm to local visual amenity or landscape character and subject to the abovementioned conditions there is an absence of significant conflict with 'saved' policies 4/1(a, d & e) and 4/3 of the Waste Local Plan (2006) and policies SP6, SP13, SP16, SP18, SP19 and SP20 of the 'Ryedale Plan - Local Plan Strategy' (2013).

#### Impact upon Agricultural Land

- 7.31 The application site is Grade 3 agricultural land (currently grassland overlying bedrock) although there are no records of any post 1988 Agricultural Land Classification data setting out amendments for this area that would refine this grading to subcategory 3a or 3b. The proposed development would result in the permanent loss of approximately 4 hectares of agricultural land although it is not known how much of the land, if any, is best and most versatile (Grade 3a or below). The Applicant has provided no evidence to demonstrate that the land is not Grade 3a best and most versatile. However, in light of the position of the application site it is considered unlikely that the proposed development site is high quality agricultural land, but presuming a Grade 3a classification it is considered that the loss of the site from agricultural use would be of relatively minor significance and would not result in any significant conflict with the aims of paragraph 112 of the NPPF or 'saved' Policy 4/7 of the NYWLP (2006).

#### Local amenity (Noise)

- 7.32 The application is accompanied by a noise assessment (Chapter 10 of the ES) which has considered the operation of the GEF and the times of HGV movements and the potential impacts in terms of noise and vibration disturbance. The NYMNP National Trails Officer has raised concerns about the impact in tranquillity for users of the Yorkshire Wolds Way including those staying at the Yorkshire Wolds Caravan and Camping Park. In addition a number of the local objections have raised noise disturbance as a concern.

- 7.33 All activities at the GEF would be carried out within the purpose-built facility with fast acting roller shutters that would be closed except to allow deliveries of RDF, thus minimising the potential for noise pollution. In addition, all potential point source noise emitters would be enclosed, shrouded or baffled to ensure noise is kept to a minimum. All operational vehicles would be fitted with white noise reversing alarms to reduce noise at the site boundary and beyond.
- 7.34 Whilst the hours of HGV movements for waste are to be restricted the gasification plant contained within the GEF would operate 24 hours a day and the EHO highlights that it is critical that the proposed development does not cause noise disturbance issues to nearby surrounding sensitive receptors (including Wolds Way Caravan and Camping site) particularly during evening and night times as the road traffic on the A64 reduces significantly on a night time (lower background noise).
- 7.35 The EHO acknowledges that at this stage whilst the general building design objectives to reduce noise are stated the number and physical size of significant sources is unknown (including the manufacturer's noise data and proposed acoustic properties of the GEF). If permission is granted the detailed acoustic design of the facility would be developed and the Applicant states that this information would be confirmed. The EHO has recommended that to ensure that noise and acoustic attenuation are to the highest possible standards during the procurement, design and feasibility of the development that should permission be granted a Noise Impact Report is submitted and approved under condition prior to the commencement of development.
- 7.36 As recommended by the EHO the applicant has confirmed that a Construction Environmental Management Plan (CEMP) would be produced to manage potential environmental risk during construction. A planning condition would be included on any permission granted to require a CEMP that identifies the steps and procedures that would be implemented to minimise the creation and impact of noise and vibration resulting from the site preparation, demolition, groundwork and construction phases of the development (Condition 5). The mitigation measures included in a CEMP would sufficiently control the potential temporary noise and vibration arising from the site construction phase. In addition the hours of construction and hours of HGV movements to and from the site shall be restricted by condition (Conditions 4 & 8).
- 7.37 The District EHO has raised no objection to the conclusions of the noise assessment but due to there being a degree of uncertainty over the effectiveness of the detailed acoustic design it is considered that if permission is granted a Noise Impact Report and a noise monitoring scheme should be submitted detailing day time and night time noise limits at identified noise sensitive receptors and proposals for monitoring and any mitigation deemed necessary to comply with agreed noise limits (Conditions 9-11). With regard to paragraph 120 of the NPPF it is acknowledged that there is likely to be a degree of effect on tranquillity in the area as a result of the new development and associated activity, however it is anticipated that noise from the development would not give rise to significant adverse impacts on health and quality of life. The result is that the development is not considered to be inconsistent with national policy contained within paragraph 120 of the NPPF and Appendix B(j) of the NPPW and would not conflict to an unacceptable degree with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or the relevant parts of policies SP17 and SP20 of the Ryedale Plan- Local Plan Strategy (2013).

Local amenity (Air quality)

- 7.38 The application is accompanied by an Air Quality Assessment (Chapter 9 of the ES) which includes atmospheric dispersion modelling of emissions to atmosphere from the facility. The modelling was undertaken for scenarios that represented the normal and 'worst-case' operating conditions and demonstrates that the emissions to air from the GEF would not have a significant impact on local air quality and would not cause harm to local receptors. The emissions would be discharged to atmosphere via a 34.5 metre high stack which was assessed by the Applicant as being sufficient to ensure adequate pollutant dispersion. It should be noted that the application site and surrounding area does not fall within an Air Quality Management Area.
- 7.39 In considering air quality and pollution it is important to note that planning and other regulatory regimes are separate, but complementary. The planning system controls the development and use of land in the public interest and, as stated in paragraphs 120 and 122 of the NPPF, this includes ensuring that new development is appropriate for its location taking account the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution. The focus of the planning system is 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. The NPPF advises that local planning authorities should assume that these regimes will operate effectively.
- 7.40 The comments from the Environment Agency are noted. The proposed development, if granted planning permission, would be subject to the controls of the Environmental Permit and regular inspection by the Environment Agency. It is considered that the emissions from the site could be adequately monitored and controlled under the environmental permitting regime. The controls exercised under the regulatory pollution regime exist to prevent or mitigate harm from development and any grant of planning permission for the development would not inhibit the relevant regulators from refusing a permit application should they consider it would cause demonstrable harm.
- 7.41 The Applicants assessment indicates that emissions would comply with the limits of the Industrial Emissions Directive (IED) and not have a significant impact on local air quality in a way that would harm nearby sensitive receptors. As such it is considered that the proposed development is in accordance with the national policy contained within paragraph 120 of the NPPF and Appendix B(g) of the NPPW and would not conflict with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or the relevant parts of policies SP17 and SP20 of the Ryedale Plan- Local Plan Strategy (2013).

Local amenity (Odour)

- 7.42 An odour impact assessment has been included within Chapter 9 of the ES. It is noted that the existing adjacent site is an active landfill and waste transfer and treatment operation which by the nature of the material handled currently generates a certain level of odour. The proposed GEF would consume fuel (RDF) which is typically less odorous than municipal solid waste and would primarily comprise dry wastes such as non-recyclable waste timber, card, paper, plastics and rubbers as opposed to 'black bin bag' waste which contains food and other potentially putrescent organic waste.



- 7.43 The nearest residential properties are at West Farm beyond Knapton Wood approximately 750 metres to the south east. In addition a caravan and camping site (Wolds Way) is also located approximately 850 metres to the south-east also separated by Knapton Wood. The application site lies within the context of existing nearby odorous activities, including landfilling, waste management and agriculture (including pig farms). There are potential sources of odour from the proposed facility although the frequency, intensity, and duration of odour is assessed as being likely to be low. There would be no external storage or processing of waste materials at the facility and the RDF would be received and stored within the reception part of the GEF building.
- 7.44 The GEF building has been designed to remain sealed and under negative pressure, save for when an incoming delivery is made. The building would incorporate fast acting roller shutter doors that would close when the vehicles delivering the waste are inside the building to contain odour emissions. The doors would remain closed except when the vehicle leaves the building. This operational procedure will be secured by planning condition (Condition 28). In addition the applicant's odour impact assessment recommends that an Odour Management Plan is developed for the Site prior to its operation should planning permission be granted. This would form part of an application to the Environment Agency for an Environmental Permit for the Site.
- 7.45 The EHO's consultation response acknowledges the Applicant's proposals for odour mitigation and the adoption of Standard Operating Procedures. The EHO notes that the processes would be regulated by the Environment Agency and they would have to ensure that the application can achieve all regulatory air quality objectives or their own other specific pollutant environmental limit values, in addition to the control of odours.
- 7.46 The Environmental Permit for the proposed development, if granted, would be subject to regular inspection by the Environment Agency. This would include for example, in the event that odour is found beyond the site boundary, requirements for steps to be taken in line with the Odour Management Plan as agreed with the Environment Agency. The environmental permit would set operational conditions which would incorporate the pollutant emission limit values (ELVs) as specified by the Industrial Emissions Directive (IED).
- 7.47 The Environmental Permit would only be granted if the Environment Agency, Health Protection Agency and other statutory consultees are satisfied that the development would not cause any unacceptable risks to human health and the environment. It is considered that the emissions from the site could be adequately monitored and controlled under the environmental permitting regime. If planning permission is granted a planning condition would not be appropriate to control the level of emissions from a proposed development where they are subject to pollution control. The existence of alternative statutory means of controlling pollution is a material consideration to be taken into account in the determination of applications for development which would also be subject to those other forms of statutory control. The planning system should not be operated so as to duplicate environmental controls.

- 7.48 It is considered that, if planning permission is granted, the facilities design and the mitigation measures proposed would sufficiently control odour emissions arising from the facility and it would not give rise to any amenity issues and would be considered consistent with the national policy contained within paragraph 120 of the NPPF and Appendix B(g & h) of the NPPW and would not conflict with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or policies SP17 and SP20 of the Ryedale Plan- Local Plan Strategy (2013).

Local amenity (Dust)

- 7.49 The Applicant's air quality assessment investigated whether there would be any adverse impacts resulting from dust from the development and found that there is potential for the generation of wind-blown dust during the construction phase, however, the Site is not located in close proximity to a built up area or sensitive receptors and benefits from shelter provided by existing woodland planting. It is considered that there would not be an unacceptable impact caused by dust and the applicant has confirmed that a Construction Environmental Management Plan (CEMP) would be produced to manage potential environmental risk during construction. A planning condition would be included on any permission granted to require a CEMP that identifies the steps and procedures that will be implemented to minimise the creation and impact of dust resulting from the site preparation, demolition, groundwork and construction phases of the development (Condition 5). The mitigation measures included in a CEMP would sufficiently control the potential temporary dust emissions arising from the site construction and would not give rise to any amenity issues associated with dust and would be considered consistent with the national policy contained within paragraph 120 of the NPPF and Appendix B(g) of the NPPW and would not conflict with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or policies SP17 and SP20 of the Ryedale Plan- Local Plan Strategy (2013).

Local amenity (external lighting)

- 7.50 The external lighting would take the form of building and column mounted units installed up to heights of 8 metres. No concerns have been raised by the EHO and whilst there is some local concern the submitted lighting plan indicates that there would be no light spillage beyond the site boundary. The lighting would incorporate electronic timers and/or motion sensors which would ensure that lighting is only on where and when operationally necessary or to ensure the health and safety of staff. If permission is granted the final design details for the external lighting would be agreed under condition prior to the building being brought into use (Condition 27). It is considered that the proposed lighting would have limited impact and would not cause significant harm to the surrounding landscape or environment in terms of light pollution or loss of amenity and would be considered consistent with the national policy contained within paragraph 120 of the NPPF and Appendix B(j) of the NPPW and would not conflict with the aims of 'saved' policies 4/1(h) and 4/19 of the NYWLP (2006) and policy SP20 of the Ryedale Plan- Local Plan Strategy (2013).

Local amenity (Litter, Vermin and Birds)

- 7.51 The nature of the proposed development warrants consideration as to whether it could give rise to potential adverse issues relating to windblown litter, vermin and birds. Within Appendix B of the NPPW, in respect of 'Locational Criteria' for waste management facilities, paragraphs 'i' and 'k' set out considerations in respect of vermin, birds and litter. There is an acknowledgement within the NPPW that these matters are especially an issue for landfill sites although it can be a problem for other waste management facilities which handle household or commercial wastes.

- 7.52 The Applicant's proposed mitigation is to ensure that all fuel (RDF) delivered to the Site would be received and stored within the main GEF building (reception hall) and the doors shall be closed during all times except for the entry and exit of vehicles. The building would be sealed, under negative pressure and accessed via fast acting roller shutters. In addition there are no proposals for the external handling, processing or storage of RDF or waste materials at the site. If planning permission is granted a planning condition would be attached to the permission to ensure these proposed mitigation measures are implemented (Condition 28).
- 7.53 The Applicant has confirmed that vermin control is enforced and continually monitored by an external specialist contractor at the existing site and this would be carried for as part of this proposed development. In addition the Site would be swept regularly to ensure roads are kept clean of litter, dust and debris. Delivery vehicles would be sheeted to control potential litter migration into the surrounding environment and this would be secured by condition. The GEF would accept waste primarily from many of the same sources as are currently accepted into Knapton Landfill (excluding the municipal, residential and food waste fractions currently comprised in the landfill waste stream also known as 'black bag waste'). In light of the type of waste received the likelihood of windblown litter in the area adjacent to the recycling and transfer buildings is greatly reduced. Furthermore, the Site would operate within the terms of an environmental permit which would impose additional responsibilities and obligation with regard to litter, vermin and pest control outside of the planning regime.
- 7.54 It is considered that in light of the aforementioned mitigation measures and that no waste is to be stored or processed in the open, the proposal would not give rise to any negative impacts in terms of litter or vermin and would be consistent with the requirements of Appendix B(i and k) of the NPPW and would not conflict with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or the relevant part of policy SP20 of the Ryedale Plan- Local Plan Strategy (2013).

#### Fire Prevention

- 7.55 It is noted that fire safety is considered as part of the Environmental Permit regime and also that the North Yorkshire Fire and Rescue Service have no objections as the suitability of proposed fire safety measures would be considered at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority. The Applicant has confirmed that the site would be manned 24 hours a day and is a secure site. In addition the fire prevention and management plan practices would be implemented in the building design and operation and this is consistent with national policy which refers to safety in design within paragraph 58 of the NPPF. In light of the nature of the land use and proximity to the A64, it is considered prudent to include a condition requiring the submission and approval of a fire prevention scheme for the whole site to be implemented prior to the development being brought into use (Condition 12).

#### Public Rights of Way

- 7.56 There is a public bridleway (along Knapton Wold Road) approximately 500 metres to the west of the site and a public bridleway that runs 250 metres to the south of the application site (separated by Knapton Wood). In addition the Wolds Way National Trail runs in an east-west alignment which at its closest point is approximately 250 metres to the south of the application site (also separated by Knapton Wood). The application site is screened from the Wolds Way National Trail by existing mature woodland planting and benefits from changes in the level of the intervening land and existing track side hedgerows. However, whilst noting the amendments to reduce the size of the building, the upper parts of the stack would be visible above the track side hedgerows along the public bridleway to the west and has the potential to effect

recreational amenity of the area in terms of the adverse visual impact. However, as discussed earlier in this section, it is unlikely to result in an unacceptable level of visual harm. The County Public Rights of Way department, in their response, have requested that the existing public right of ways are protected and kept clear of any obstruction and if permission is granted an informative will be included to ensure that nearby PRowS are not obstructed. There are no objections from the County Public Rights of Way department and, in light of the above, it is considered that the proposed development would not interrupt, obstruct or conflict with use of any public right of ways and complies with 'saved' policy 4/20 of the NYWLP (2006) and the relevant part of policy SP20 of the Ryedale Plan- Local Plan Strategy (2013).

#### Traffic Impact

- 7.57 The application is accompanied by a Transport Assessment (Chapter 12 of the ES) which considers the potential traffic impacts of the proposal arising from vehicular movements and the extent of impact within the existing highway network. It also considers the existing and continuing operations at the existing landfill and waste pre-treatment and recycling operations.
- 7.58 Knapton Landfill currently receives up to 75,000 tonnes of MSW, C&I and C&D waste per annum which is deposited within the existing landfill cells. The site also receives 25,000 tonnes of recyclable waste for sorting and bulking. As such, the existing site and waste management facility receives 100,000 tonnes of waste per annum, equivalent to an average of 274 tonnes per day. In addition to the waste received, the site also receives circa 35,000 tonnes of restoration material per annum.
- 7.59 The 75,000 tonnes of landfill waste is transferred to the Knapton Landfill site by a variety of vehicles including 44 tonnes HGVs (payload of circa 22 tonnes), skip trucks (payload as low as 1 tonne) and rigid body tipper trucks (payload of circa 18 tonnes). Up to 85 vehicles a day (170 two way movements) bring this waste to landfill. A further circa 18 vehicles a day (36 two way movements) transport the recyclable waste to the site for sorting and bulking. Restoration material is brought in on circa 6 tipper trucks a day (12 two way movements) with a payload of circa 18 tonnes. In addition to the above, a further 10 vehicles per day are associated with cars for staff and visitors entering the Site (20 two way movements). As such, the existing landfill and waste recycling/transfer facility generates in the region of up to 235 vehicle movements per day and is therefore a significant traffic generator. There are no planning restrictions on the number of vehicle movements arising from the existing on site waste management operations.
- 7.60 It is proposed that there would be an average of twenty 44 tonne HGV movements per day, with a typical payload of 24 tonnes delivering waste to site. There would be internal vehicle movements within the site to transfer the fuel (RDF) from the pre-treatment buildings to the GEF reception hall. These vehicles would not enter the public highway and are only associated with onsite operations. In addition there would be 10 two way movements per day associated with cars for staff and visitors arriving at the Site.
- 7.61 The Transport Assessment concludes that there are no existing road safety concerns with the existing site and that the proposed level of movements would not have a material impact on the local highway network or the strategic road network (A64). There have been no objections raised by Highways England or the Local Highway Authority. If permission is granted Highways England request the inclusion of conditions to cover a Construction Traffic Management Plan [CTMP] and a detailed scheme for the installation of the powerline across and adjacent to the A64 (Conditions 6 & 7). In addition conditions would be included on any permission

granted to restrict the maximum number of daily HGV movements to and from the site (maximum of 40 per day) and ensure vehicles are suitably enclosed or sheeted to ensure material is not deposited on the highway (Conditions 30 & 31). In addition access to the site shall be only via the existing access (to be extended a part of this development) off the A64 which shall be maintained in good condition (Condition 29).

- 7.63 It is considered that the development proposals would not result in any adverse impact to the surrounding highway network nor would it have a detrimental effect on highway safety and capacity. The NPPF, at paragraph 32, advises that development should only be prevented on transport grounds where the impacts are 'severe' and it is considered that there are no reasons to refuse the application on such grounds as it is consistent with the national planning policy contained within the NPPF and also Appendix B(f) of the NPPW. With regard to local policy the existing transport links are adequate and the traffic generated can be satisfactorily accommodated by the local highway network in compliance with 'saved' policies 4/1(g) and 4/18 of the NYWLP (2006) and policy SP20 of the Ryedale Plan- Local Plan Strategy (2013).

Cultural Heritage (Designated heritage assets)

- 7.64 The nearest listed building is the Church of St Edmund (Grade II) in the village of East Knapton 1km to the north west of the application site. Scampston Hall (Grade II\*) is 2.4km west of the application site and is set within a Registered Park and Garden (Grade II\*) the boundary of which is 1.3km west of the application site at its closest point.
- 7.65 Historic England requested additional information in order for them to fully consider the impact the development would have on the nearby Scampston Hall and surrounding Registered Park and Garden. Scampston Park and the listed buildings are of national significance and their wider settings contribute to their significance. In response the Applicant included a Heritage Impact Assessment within their submission of further information. The Heritage Impact Assessment analysed the potential impact of the proposed development on the designed landscape of Scampston Park, a grade II\* registered park/garden, and the 14 listed structures within it including the grade II\* listed Scampston Hall.
- 7.66 The Assessment included walkover surveys to identify 'key views' and notes that *"Scampston Park was designed to be 'insulated' from the surrounding landscape and countryside, which is a key feature of parks designed by Capability Brown. There would have been no 'designed views' from the park to the surrounding land"*. The Assessment identified four positions where an observer could see the landscape park and the proposed site at the same time. It was concluded that these aspects of the setting of the park make either no, or an extremely low, contribution to the significance of the landscape park and that *"the visibility of the Site of the Proposed Development will be so slight from these viewpoints that there will be no impact on the significance of Scampston Park"*. The assessment indicates that the proposed development would have no adverse effect on any nearby listed buildings, scheduled monuments or the registered park/garden. This includes the two grade II listed milestones that lie close to the Option 1 cable route and the one listed milestone that lies on the Option 2 cable route. Historic England has commented that *"The Heritage Impact Assessment makes a coherent argument for establishing that the proposed development will have 'no impact on the significance of Scampston Park or any of the heritage assets within it'"*.

7.67 Following consideration of the further information submitted by the Applicant Historic England have confirmed that they have no objections to the application on heritage grounds and consider that the application meets the requirements of paragraph 128 of the NPPF. It is considered that due to the separation distance and the intervening land, planting and also the A64 the proposed development site would not be within the setting of the designated heritage assets within Scampston Park. In conclusion the proposed development would have no impact of significance on any designated heritage assets, either directly or through changes to their settings and as such the proposal would be consistent with paragraph 128 of the NPPF and Appendix B(e) of the NPPW and would not conflict with policy SP12 of the Ryedale Plan- Local Plan Strategy (2013).

Cultural Heritage (Archaeology)

7.68 With regard to non-designated heritage assets the ES includes a desk based assessment and an archaeological geophysical survey. The assessment identified features of archaeological interest within the proposed development area and the County Archaeologist has observed that the significance of these features is not currently understood. There is a Scheduled Ancient Monument (a cross dyke) 250 metres to the south of the application site beyond Knapton Wood and the application site has potential to be of archaeological significance. The geophysical survey indicates that archaeological trial trenching is required to fully characterise the significance of the anomalies visible. The County Archaeologist supports the proposal for trial trenching and initially recommended that this takes place prior to a planning decision being made.

7.69 Whilst the County Archaeologist encourages trial trenching prior to determination the Applicant acknowledges the level of risk and cost in not adopting such an approach, particularly if archaeological remains are found. The Applicant highlights that the below-ground archaeology within the application site is relatively well-understood and it is unlikely to be of greater than low/local to moderate/regional significance which means that if permission is granted it could be dealt with by appropriate mitigation in the form of an archaeological investigation (the nature of which - watching brief or full excavation - would depend on the results of the trial trenching). It is considered that if permission is granted detailed conditions (Conditions 13-15) would provide the necessary safeguards to secure a scheme of archaeological investigation, evaluation and assessment (WSI) and it is not essential that trial trenching is completed pre-determination. It is noted that the cable trench despite being narrow also has the potential to encounter archaeological features and appropriate mitigation would be in the form of a watching brief during installation. A condition shall be included on any permission granted to secure the approval of the selected cable route details prior to the commencement of development (Condition 25).

7.70 In light of the above and subject to the inclusion of the appropriate planning conditions should permission be granted it is not considered that the proposed development would lead to a detrimental effect upon the archaeological value of the site and as such the proposal would not conflict to an unacceptable degree with paragraph 128 of the NPPF or Appendix B(e) of the NPPW, and would comply with 'saved' policies 4/15 and 4/16 of the NYWLP (2006) and policy SP12 of the Ryedale Plan- Local Plan Strategy (2013).

#### Flood risk and site drainage

- 7.71 The application is accompanied by a Flood Risk Assessment (Chapter 15 of the ES) that confirms that the application site lies within Flood Zone 1 and is at low risk of flooding. The Environment Agency have confirmed that they have no comments to make on flood risk. The proposed development comprises additional buildings and hardstanding and with regard to surface water management the application site is an undeveloped greenfield site and no drainage system currently exists. The NYCC SUDs Officer has no objections but requests that if permission is granted the detailed design and associated management and maintenance plan of surface water drainage is submitted and approved prior to the commencement of development (Condition 16).
- 7.72 It is considered that in light of the above the development would be designed to incorporate sustainable drainage principles, would not increase flood risk or have an adverse impact upon the water environment and is therefore consistent with Appendix B(a) of the NPPW and complies with policy SP17 of the Ryedale Plan-Local Plan Strategy (2013).

#### Ecology

- 7.73 The ES includes an Ecological Impact Assessment which highlights that there is unlikely to be an impact on any statutory or non-statutory designated nature conservation sites. It assessed the application site as being of limited ecological value. The potential ecological impacts in terms of protected species relate to vegetation removal works and precautions for nesting birds and also pre-commencement checks for badger and sensitive lighting to protect bat foraging habitat.
- 7.74 If permission is granted the proposed landscape design shown at Appendix G of this report would create a range of new habitats including woodland, hedgerows, chalk grassland, and ponds/wetlands that would significantly increase the biodiversity of the area. The County Ecologist supports the proposed planting around the application site and acknowledges the applicant's proposal to prepare a Biodiversity Enhancement and Management Plan (BEMP), to be submitted prior to the commencement of development should permission be granted (Condition 23). The County Ecologist is satisfied that the BEMP would be the appropriate mechanism for the safeguarding of existing vegetation on site, the creation of new areas of habitat and biodiversity enhancements and the future monitoring and management of these areas. The County Ecologist has also confirmed the preferred route of the cable as being Option 1 as having the least impact on ecological features. A condition shall be included on any permission granted to secure the approval of the selected cable route details prior to the commencement of development (Condition 25).
- 7.75 There are no ecological objections to the development and it is considered that the proposed development would not result in loss or significant harm to any sites of ecological value or be detrimental to nature conservation interests. There are opportunities for new areas of habitat and biodiversity enhancements consistent with the relevant biodiversity policies included in paragraphs 109 and 118 of the NPPF and Appendix B(d) of the NPPW and the development would comply with policy SP14 of the Ryedale Plan- Local Plan Strategy (2013).

Economic impact – Employment and tourism

- 7.76 The application site is adjacent to an established landfill and waste recycling facility which at present provides employment for 9 full time members of staff. The Applicant anticipates that the proposed development would either directly employ or secure the ongoing employment at Knapton of a total of 55 full time equivalent staff. In addition to direct employees, the GEF would require a number of indirect staff to maintain and service the technology, operate the service vehicles and to manage the fuel supply arrangements (estimated as a further 15 indirect FTEs). The ES estimates that the potential gross value added (GVA) to the local economy from the development would be almost £1 million per annum within Ryedale and North Yorkshire. The ES also states that once the GEF is operational the development would contribute £179,000 to local business rate taxes per annum. The Applicant further states that, when the rates of the existing Knapton Quarry waste management site are included, which the GEF helps to secure, the estimated contribution to local business rate taxes is anticipated to be in the region of £300,000 contribution to local taxes per annum.
- 7.77 With regard to other socio-economic impacts, it is noted that tourism is an important contributor to the local economy in Ryedale. Policy SP8 of the 'Ryedale Plan- Local Plan Strategy' (2013) supports sustainable tourism and aims to maximise the opportunities to further develop tourism. Furthermore SP12 of the 'Ryedale Plan- Local Plan Strategy' (2013) recognises the potential of heritage assets to contribute towards the economy and tourism. There are objections that have expressed concern that tourism would be prejudiced by the proposed development particularly Scampston Hall and the nearby campsite and caravan parks and the possible negative perceptions arising from the new development.
- 7.78 The adjacent site is an established landfill and waste transfer facility which has operated for 20-25 years. There is no evidence to indicate that the operation of the site has been a negative restraint on the tourism industry in the area during this time. The landfilling operations are time-limited and the tipping of active waste is expected to cease this year. In terms of cumulative impact it is not proposed to continue the disposal of non-recyclable waste to the landfill simultaneously with the operation of the proposed GEF although restoration tipping (inert waste) activity will continue until 2035.
- 7.79 Whether the development would have a materially detrimental impact on tourism or on the propensity of tourists to make visits to the area is difficult to gauge and quantify. There is no evidence to suggest there would be conflict between land uses that would result in a significant adverse impact upon the tourism industry in the area. The amenity impacts are considered earlier in this section of the report, but it is noted that the proposed development would incorporate mitigation and control particularly in relation to noise and odour monitoring and therefore potential negative economic consequences on nearby tourist attractions are considered to be marginal.
- 7.80 In terms of the landscape and visual impact considered earlier in the report the proposed development and visible stack could give rise to negative perceptions for visitors to the area; however, there is no evidence to support the conclusion that it would result in long lasting negative effects on the local economy. The net effect in terms of jobs in the local economy is difficult to gauge, as there may be in-direct impacts potentially both positive and negative.



- 7.81 The precise impact of the development upon the local economy is difficult to predict with a high degree of certainty but it is accepted that there would be benefits arising from job creation and retention and the predicted annual GVA associated with the development. In considering the overall impact on the local economy it is concluded that there would be no significant conflict with the aims of policy SP8 of the Ryedale Plan- Local Plan Strategy (2013). Policy SP6 of the 'Ryedale Plan - Local Plan Strategy' (2013), in referring to significant industrial process in the open countryside, states that developments would be supported where *"the economic benefits to the District outweigh any adverse impacts"*. The application can rely on this policy support because it is considered that the economic benefits arising from the construction and operation of the GEF at a site adjacent to an existing waste management site with clear co-locational benefits outweighs any adverse impacts on landscape character and visual amenity. In considering the overall impact on the local economy it is concluded that there would be no significant conflict with the aims of policies SP8 and SP12 of the Ryedale Plan- Local Plan Strategy (2013) and the development would be in accordance with the local economic aspirations included within policies SP6 and SP19 of the Ryedale Plan- Local Plan Strategy (2013).

## 8.0 Conclusion

- 8.1 The proposed development seeks to manage waste up the 'waste hierarchy' from disposal to re-use (recycling) and recovery (energy from waste) and as a result the facility would generate 8MW of renewable/low carbon energy. The development would contribute towards the Government's commitment to divert waste from landfill and focus on renewable/low carbon electricity generation. It is considered that the principle of the development is consistent with the national planning policy on waste management and energy which is afforded significant weight in the planning considerations.
- 8.2 The proposed development comprises the construction of an energy from waste facility on greenfield land adjacent to an existing waste management site (landfill and waste recycling). It is acknowledged that the proposed greenfield development site is not previously developed (brownfield) land of an industrial character and as a result the location of the development conflicts with planning policy (paragraph 111 of the NPPF and 'saved' policy 5/10 of the NYWLP). It is also accepted that in terms of landscape character and enhancement of landscapes the new building has the potential to conflict with local policies 4/3 of the NYWLP and SP13 of the Ryedale Plan, but it is concluded that it is not to an unacceptable degree. As recognized by the District Council in their response, the landscape harm has to be weighed in the balance alongside the benefits of the proposed development. The site is not high quality agricultural land and due to its position adjacent to a landfill site is not of high landscape and ecological value being situated between an established waste management facility and mature woodland and the site represents a logical extension to the evolving waste management practices in this area in line with emerging policies of the MWJP. There are no landscape objections to the development and it has been accepted that the site is positioned within a transitional zone and when viewed from a distance would appear as a development which is similar in character, although large, with the rest of the Vale of Pickering which the site overlooks. The proposed development is in line with the NPPW and emerging local waste policy in terms of maximising co-locational benefits for waste management facilities together with taking advantage of existing operational capacity by the extension of an existing waste management facility. The land is not subject to any national landscape or heritage designations and, with regard to the local Area of High Landscape Value status, any adverse landscape character and visual impacts have been largely mitigated through the proposed cut and fill operations to provide a lower platform for

the building and partially 'sink' the building into the hillside, widening of the screen planting belts to the north and west and remodelling of the existing landform to provide for a comprehensive landscaping scheme on all sides of the site.

- 8.3 The proposed development would have a positive impact upon the local economy in terms of low carbon energy, job creation and retention and local business rate taxes. Paragraph 93 of the NPPF highlights that planning has a key role in *"supporting the delivery of renewable and low carbon energy and associated infrastructure"*. Furthermore, paragraph 98 of the NPPF, in relation to developments for renewable or low carbon energy, advises that *"when determining planning applications, local planning authorities should approve the application if its impacts are (or can be made) acceptable"*. The potential impacts upon the environment, local amenity and the highways network can be controlled through the imposition of planning conditions. The Authority will need to ensure that the proposed mitigation measures are fully implemented and monitored to ensure that the positive benefits of lower carbon energy and local job creation are not outweighed by loss of environmental, landscape and visual amenity or result in a negative impact on the local tourism economy. The proposed development seeks to divert non-recyclable waste up the 'waste hierarchy' and to convert it into low carbon energy. The development is sustainable and gives rise to economic and environmental benefits which outweigh any harm to local landscape character. It is accepted that there are no significant impacts anticipated in respect of the historic environment, archaeology, ecology, interruption of public access or highways matters and the proposed development would be consistent with paragraphs 32, 118 and 128 of the NPPF and the relevant locational criteria (d, e & f) set out in Appendix B of the NPPW. In light of paragraph 14 of the NPPF and the 'tilt' towards granting permission a recommendation for refusal could only be warranted if *"the adverse impacts significantly and demonstrably outweigh the benefits"* and in this instance that is not the case and it is considered that there are no material planning considerations to warrant the refusal of this application and it is recommended that planning permission is granted.

## 9.0 Recommendations

9.1 It is recommended that for the following reasons:

- i) The development is in accordance with 'saved' policies 4/1, 4/15, 4/16, 4/18, 4/19, 4/20 and 5/3 of the North Yorkshire Waste Local Plan (2006), policies SP6, SP12, SP14, SP16, SP17, SP18, SP19 and SP20 of the Ryedale Plan-Local Plan Strategy (2013) and overall is consistent with the NPPF (2012) and NPPW (2014);
- ii) There is an absence of significant conflict with 'saved' policies 4/1(a & e) and 4/3 of the NYWLP (2006) and policy SP13 of the 'Ryedale Plan - Local Plan Strategy' (2013) and the economic benefits arising from the development of the GEF in this location outweigh any adverse impacts on landscape character and visual amenity;
- iii) The proposal does not conflict with the abovementioned policies as it is considered that the existing highway network is capable of handling the volume of traffic generated by the development, the visual impact of the proposed development can be mitigated through condition, the environmental impacts of the proposed development can be controlled, neighbouring residential properties will not be adversely affected and there are no other material considerations indicating a refusal in the public interest;
- iv) The imposition of planning conditions will further limit the impact of the development on the environment, residential amenity and the transport network; and

- v) Having taken into account all the environmental information submitted as part of this planning application included within the Environmental Statement

That, **PLANNING PERMISSION BE GRANTED** subject to the completion of a Section 10 6 legal agreement to secure the retention and extension of the coppice screening belt on the adjacent landfill site and subject to the following conditions:

Commencement Time Limit

1. The development to which this permission relates must be implemented no later than the expiration of three years from the date of this Decision Notice.

Definition of development

2. The development hereby permitted shall be carried out in accordance with the application details dated 29 September 2016 as amended by the further/amended environmental information dated February 2017 and September 2017 and the list of 'Approved Documents' at the end of the Decision Notice and the following conditions which at all times shall take precedence.

Duration of development

3. Upon the cessation of electricity generation for a period of 12 consecutive months the development hereby granted shall be discontinued and all buildings, structures, plant and machinery shall be removed from the site and the site shall be cleared and restored in accordance with the details approved under Condition 35.

Construction Hours

4. No construction works shall take place except between the following times:

08.00 – 18.00hrs Mondays to Fridays

08.00 – 13.00hrs Saturdays.

And at no times on Sundays and Bank (or Public) Holidays.

Construction Environmental Management Plan

5. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the County Planning Authority. The CEMP shall detail the timetable and phasing of site preparation, groundwork and construction work and identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration and dust resulting from the site preparation, groundwork and construction phases of the development. Appropriate measures such as the use of agreed routes to and from site during construction works and allocating arrival times for construction vehicles and supplies should be agreed with the County Planning Authority. Once approved construction shall proceed in accordance with the approved Plan.

Construction Traffic Management Plan

6. Prior to the commencement of the development a Construction Traffic Management Plan [CTMP] shall be submitted to and approved in writing by the County Planning Authority in consultation with the Local Highway Authority and Highways England. The CTMP shall identify the steps and procedures that will be implemented to minimise the impacts of construction traffic. Once approved construction shall proceed in accordance with the approved Plan.

- Power line installation scheme
7. Prior to the commencement of the power line installation a construction method scheme shall be submitted to and approved in writing by the County Planning Authority in consultation with Highways England. The scheme shall relate to the power line elements that cross and are adjacent to the A64 and identify detailed proposals regarding the permanent form of that element of the scheme (including agreement to the deliverability of that element of the scheme) and the steps and procedures that will be implemented to minimise the impacts on the operation of the Strategic Road Network.
- HGV hours
8. No HGVs are permitted to enter or exit the application site or be loaded or unloaded within the application site except between the following hours:-
- 06:30 – 18:30 Monday to Saturday  
09:00 - 17:30 Sundays
- There shall be no HGV movements into or out of the site or loading or unloading of HGVs on Bank/Public Holidays.
- Noise Impact Report
9. Prior to the commencement of above ground construction works a Noise Impact Report shall be submitted to and approved in writing by the County Planning Authority. The report should detail such items as the design and specification of equipment and noise attenuation measures, including any tonal elements and allow for consideration of noise during deliveries, reversing beepers, etc. An assessment should be made as to the impact of the proposals in relation to the nearest noise sensitive receptors.
- Noise monitoring scheme
10. Prior to the development being brought into use, a noise monitoring scheme shall have been submitted to and approved in writing by the County Planning Authority. This scheme shall include day time and night time noise limits at identified noise sensitive receptors and proposals for monitoring from the identified locations and any mitigation deemed necessary to comply with the agreed noise limits. Once approved the development shall proceed in accordance with the approved Scheme.
- Noise monitoring during operation
11. The operator shall monitor noise levels due to operations and background noise levels as requested in writing by the County Planning Authority and shall forward the details of the monitoring to the County Planning Authority within 14 working days of carrying out the monitoring.
- Fire prevention
12. Prior to the development being brought into use, a scheme for the prevention of fire for the application site should be submitted to and approved in writing by the County Planning Authority in consultation with North Yorkshire Fire and Rescue Service. Once approved the scheme shall be implemented before the development hereby approved is brought into use and thereafter maintained in accordance with the approved scheme throughout the lifetime of the development.
- Archaeological WSI
13. No development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the County Planning Authority. The scheme shall include an assessment of significance and research questions; and:
1. The programme and methodology of site investigation and recording
  2. Community involvement and/or outreach proposals

3. The programme for post investigation assessment
  4. Provision to be made for analysis of the site investigation and recording
  5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  6. Provision to be made for archive deposition of the analysis and records of the site investigation
  7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- No development shall take place other than in accordance with the Written Scheme of Investigation approved under this condition.

Archaeological site investigation and post investigation assessment

14. The development shall not be brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 13 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Archaeological identification and evaluation

15. The details submitted in pursuance of Condition 13 above shall be preceded by the submission to the County Planning Authority for approval in writing, and subsequent implementation, of a scheme of archaeological investigation to provide for:
  - (i) The proper identification and evaluation of the extent, character and significance of archaeological remains within the application area; and
  - (ii) an assessment of the impact of the proposed development on the archaeological significance of the remains.

Surface water drainage

16. No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the County Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development. The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document).

Soil management plan

17. Prior to the commencement of development, including site preparation and removal of overburden or excavation into bedrock, a soil management plan shall be submitted for approval by the County Planning Authority, and implemented as approved. No topsoil or subsoil shall be removed from the site.

Landscape scheme

18. Prior to the commencement of ground re-modelling works full details of both hard and soft landscape proposals should be submitted to and approved in writing by the County Planning Authority. These details shall include, as appropriate:

- All existing trees, hedgerows, shrubs, other plants, walls, fences and other features which are to be retained on the site and on adjoining land in the same ownership
- Proposed finished levels or contours, means of enclosure, access and circulation routes for pedestrians and vehicles, materials, services, and structures such as lighting and storage units.
- Proposed planting with details on location, species, size of plant, numbers, density, support and protection, ground preparation, planting method, mulch and aftercare.

Thereafter the scheme shall be implemented as approved.

Replacement of failed planting

19. All planting, seeding or turfing set out in the details approved in Condition 18 shall be carried out in the first planting season following completion of ground re-modelling works and placing of soils in accordance with the approved drawings. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the County Planning Authority gives its written consent to any variation.

Landscape Management Plan

20. Prior to the commencement of ground re-modelling works a detailed Landscape Management Plan shall be submitted to and approved in writing by the County Planning Authority. The Management Plan shall include a scheme for the monitoring, protection and maintenance of existing and proposed vegetation during site preparation, construction and during the operational period. The Plan shall detail measures for ensuring that the site's landscape value is maintained and enhanced for the life of the development. The development shall then proceed only in strict accordance with the approved Plan.

Tree Root Protection

21. The existing woodland and hedgerow planting shown on the Tree Root Protection Areas drawing ref. 16\_1006-DS\_L\_001, dated March 2016 shall be protected and maintained throughout the duration of the development.

Badger Survey

22. Prior to the commencement of development a survey for badger (as referred to in the submitted Environmental Statement (ES)) shall be completed to ensure that any presence can be taken into consideration in line with the relevant legislation. The survey must be undertaken at the appropriate time of year by a suitably qualified ecologist and a report detailing changes in the status of these species and any additional mitigation measures that may be required shall be submitted to the County Planning Authority for written approval.

Biodiversity Enhancement and Management Plan

23. Prior to the commencement of the development a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the County Planning Authority. The plan shall include a scheme for the protection and management of existing and proposed habitats during site preparation, construction and during the operational period. The Plan shall detail measures for ensuring that the sites biodiversity value is maintained and enhanced for the life of the development. The development shall then proceed only in strict accordance with the approved Plan.

- Nesting birds
24. Trees and vegetation which may support nesting birds should not be removed during the bird nesting season, which is generally taken to be 1st March to 31st August. Any vegetation removal necessary during nesting bird season shall first be surveyed for nesting by a suitably qualified ecologist.
- Cable route
25. Prior to the commencement of the development full details of the selected cable route shall be submitted to and approved in writing by the County Planning Authority. Thereafter all such works shall be carried out in accordance with the approved details.
- External Construction Materials
26. Prior to the commencement of aboveground construction work details of materials, colours and finishes (recessive and non-reflective appearance) of the proposed buildings and structures shall be submitted to and approved in writing by the County Planning Authority.
- Lighting scheme
27. No part of the development shall be brought into use until details of the final lighting scheme design has been submitted to and approved in writing by the County Planning Authority. The scheme shall include a layout plan with beam orientation, a schedule of equipment (luminaire type, mounting height, aiming angles and luminaire profiles) and the proposed hours of use. The lighting shall be installed and operated in accordance with the approved details and shall be maintained in working order.
- Limitations
28. All door openings on the GEF building shall be closed during operations except for the entry or exit of staff and vehicles. There shall be no external handling, processing or storage of RDF or waste materials at the site.
- Site Access
29. Access to the site shall be via the existing access (extended) off the A64 and no other access shall be used. The access road from the site to the public highway shall be kept clean and in a safe condition. The access road shall be maintained in a good standard of repair, free of potholes for the duration of the operations.
- HGV movement limit
30. There shall be a maximum of 40 HGV movements associated with the development in any single day entering and leaving the site via the existing junction with the A64. Vehicles entering and leaving the site shall be monitored and the applicant shall be required to provide the County Planning Authority with weighbridge records within 10 days of any written request from the County Planning Authority.
- Vehicle sheeting
31. All vehicles involved in the transport of waste material to and from the site shall be effectively enclosed and/or securely covered in such a manner as no material may be spilled on the public highway.
- Flood Risk and drainage
32. The development hereby approved shall be undertaken in accordance with the approved Flood Risk Assessment and Drainage Strategy ref. 14472-L-FRA-001-R3, dated Sept 2016.

Annual Review

33. Within 12 months of the commencement of development and thereafter annually for the first 5 years from the commencement of development, a review of the previous year's landscaping shall be carried out in conjunction with a representative of the County Planning Authority. The review shall take account of any departure from the schemes approved under Condition and any revised scheme shall be submitted to the County Planning Authority for approval providing for the taking of such steps as may be necessary to continue the satisfactory landscaping of the site including the replacement of any tree or shrub which may have died, been removed or become seriously damaged or diseased. Thereafter all such works shall be carried out in accordance with the approved schemes.

Limitation on permitted development rights

34. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) no buildings or fixed plant shall be erected or areas of hardstanding created [except as provided for in the development hereby permitted] within the application site without the prior grant of planning permission.

Decommissioning Environmental Management Plan (DEMP), Restoration & Aftercare

35. Upon cessation of electricity generation for a period of 12 consecutive months a Decommissioning Environmental Management Plan (DEMP) to address the removal of the development and restoration of the land shall be submitted within 3 months and approved in writing by the County Planning Authority. The DEMP shall be implemented as approved. The DEMP shall include the following details:
- a. The demolition/dismantling and removal of all buildings, structures, plant and machinery in accordance with a detailed method statement;
  - b. a detailed Restoration & Aftercare Plan providing details of restoration to agriculture or nature conservation;
  - c. Site waste management including measures to recycle materials on the Site;
  - d. Hours of working;
  - e. Car parking arrangements;
  - f. Traffic management;
  - g. Decommissioning worker accommodation and support facilities and their means of enclosure;
  - h. Measures to control lighting, noise, dust, odours and fumes in order to minimise the adverse effects on the amenity of neighbours;
  - i. Temporary storage compounds and stockpile areas;
  - j. Measures to prevent mud and debris being deposited on the highway;
  - k. Measures to protect trees and hedgerows;
  - l. Temporary fencing;
  - m. Measures to minimise the pollution of surface and ground water;
  - n. Measures to inform visitors and liaise with neighbours; and
  - o. A programme for implementation with demolition/removal works and restoration to be completed no later than 24 months after the cessation of electricity generation at the GEF site.

Copy of permission

36. A copy of the planning permission and any agreed variations, together with all the approved plans shall be kept available at the site office at all times.

Reasons:

1. To comply with Section 91 of Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.



2. To ensure that the development is carried out in accordance with the application details.
3. To reserve the right of control by the County Planning Authority to ensure the restoration of the land with the minimum of delay in the interests of amenity.
- 4-11. In the interests of amenity.
12. In the interests of site safety.
- 13-15. The site is of archaeological interest.
16. To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.
- 17-21. To safeguard the topsoil and subsoil resources in the interests of achieving a high standard of landscaping to mitigate the impact on the character of the application site and its locality in the interests of visual amenity.
22. In order to prevent disturbance to badgers.
23. In the interest of enhancing the biodiversity value of the site.
24. In order to prevent disturbance to nesting birds which are protected by the Wildlife and Countryside Act 1981 (as amended).
25. To reserve the rights of control by the County Planning Authority.
- 26-28. In the interests of amenity.
- 29-31. In the interests of highway safety and amenity.
32. To reduce the impact of flooding to the proposed development.
33. In the interests of achieving a high standard of landscape mitigation.
34. To reserve the rights of control by the County Planning Authority in the interests of amenity.
35. To avoid harm to the amenity of residents and to achieve successful restoration of the site and reintegrate the land into the local landscape character.
36. To ensure that site personnel are aware of the terms of the planning permission.

**Informatives**

- 1) Environment Agency- see letter dated 5 January 2017 for guidance on pollution control, CHP requirements, energy efficiency requirements, groundwater protection, land contamination and water resources (abstraction licence).
- 2) Public Rights of Way- No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development.

- 3) Highways England informative advice on power cable installation contained in covering email dated 26 September 2017 13:32.

**Approved Documents:**

Ref.	Date	Title
ML/MR/2170le/R003/Vol1_RevA	Oct 2016	Environmental Statement Volume 1: Main Text and Figures
ML/MR/2170le/R003/Vol2_RevA	Oct 2016	Environmental Statement Volume 2: Appendices (as amended)
ML/MR/2170le/R001	Sept 2016	Planning Statement
MR/ML/2170le/R004MR	Feb 2017	Regulation 22 Submission
2170LE/R005MR	Sept 2017	Regulation 22 Submission
16/1006/TH/LVIA/V.2	Sept 2017	Landscape and Visual Impact Assessment: Volume 1
16/1006/TH/LVIA/V.2	Sept 2017	Landscape and Visual Impact Assessment: Volume 2
14472-L-FRA-001-R3	Sept 2016	Flood Risk Assessment and Drainage Strategy
---	21/02/17	SuDs Planning Consultation – Response
R-2592-01.1	Aug 2016	Preliminary Ecological Appraisal
R-2596-02	Oct 2016	Bat Survey
OSA16DT26	Sept 2016	Desk Based Heritage Assessment
OSA14EV33	June 2016	Report on an Archaeological Geophysical Survey
14472-L-GEO1-001-R1	Sept 2016	Phase 1 Geo-Environmental Desktop Study Report
LTP/16/2440	Sept 2016	Transport Statement
---	Sept 2016	Operational Report
1226.001	Feb 2016	existing site plan/survey (1:1000)
1226.002	Feb 2016	existing site plan/survey sheet 1 of 2 (1:500)
1226.003	Feb 2016	existing site plan/survey sheet 2 of 2 (1:500)
1226.050	August 2017	proposed site plan (1:1000)
1226.051	August 2017	proposed site plan sheet 1 of 2 (1:500)
1226.052	August 2017	proposed site plan sheet 2 of 2 (1:500)
1226.053	Sept 2017	proposed GF plan with indicative plant layout (1:200)
1226.054	Sept 2017	proposed FF plan (1:200)
1226.055	Sept 2017	proposed roof plan (1:200)
1226.056	Sept 2017	proposed GF plan (1:200)
1226.057	Sept 2017	existing and proposed site section A – A
1226.058	Sept 2017	proposed site sections B – B and C – C
1226.059	Sept 2017	proposed site sections D – D and E – E
1226.060	Sept 2017	existing and proposed site section F – F
1226.061	Sept 2017	proposed north and east elevations
1226.062	Sept 2017	proposed south and west elevations

1226.019 Rev A	08/09/16	proposed reception building sheet 1 of 2 (elevation and roof plan)
1226.020	Sept 2016	proposed reception building sheet 2 of 2 (elevation and floor plan)
1226.063	Sept 2017	Site Plan Site Sections
1226.064	Sept 2017	Site Sections 1-1 & 2-2
1226.025A	29/11/16	location plan (1:10000)
1226.026	Aug 2016	location plan (1:2500)
1226.065	Sept 2017	proposed south elevation including ACC
1226.066	Sept 2017	Air Cooled Condenser
16_1006-TH_L_004 Rev E	12/09/17	Landscape Proposals
BHA/16/1006/TH/L/010 Rev B	28/09/17	Plan showing relationship to adjacent landfill activities
16_1006-DS_L_001	March 2016	Tree Root Protection Areas
BHA/16/1006/DS/L/003 Rev D	11/09/17	Indicative Cross Sections
p172-635rev3	09/11/16	External Lighting Plan
1226.080	Sept 2017	Proposed Drainage Plan Sheet 1 of 2
1226.081	Sept 2017	Proposed Drainage Plan Sheet 2 of 2
1226.082	Sept 2017	Exceedance Flow Rates

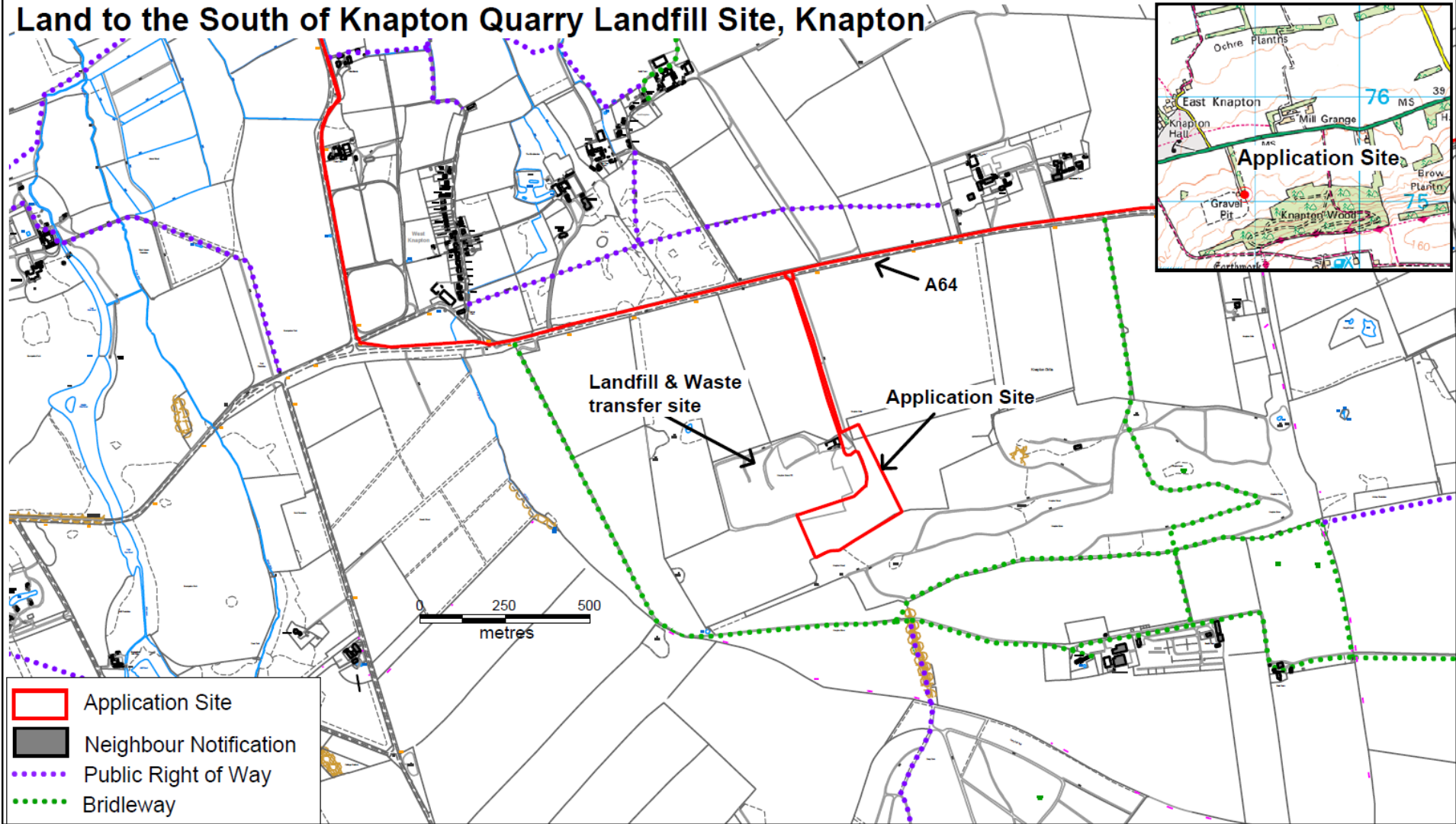
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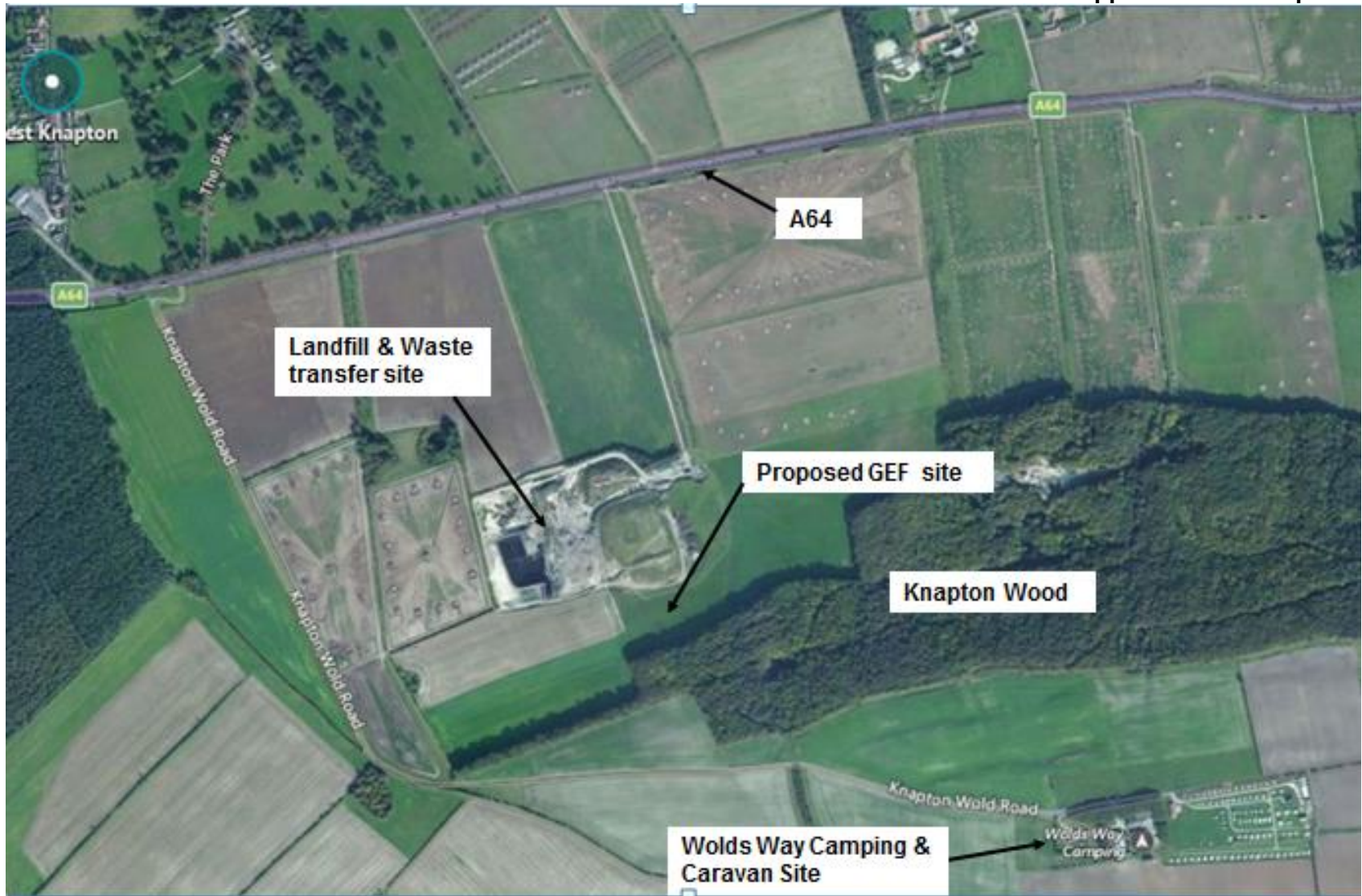
Corporate Director, Business and Environmental Services

Author of report: Alan Goforth

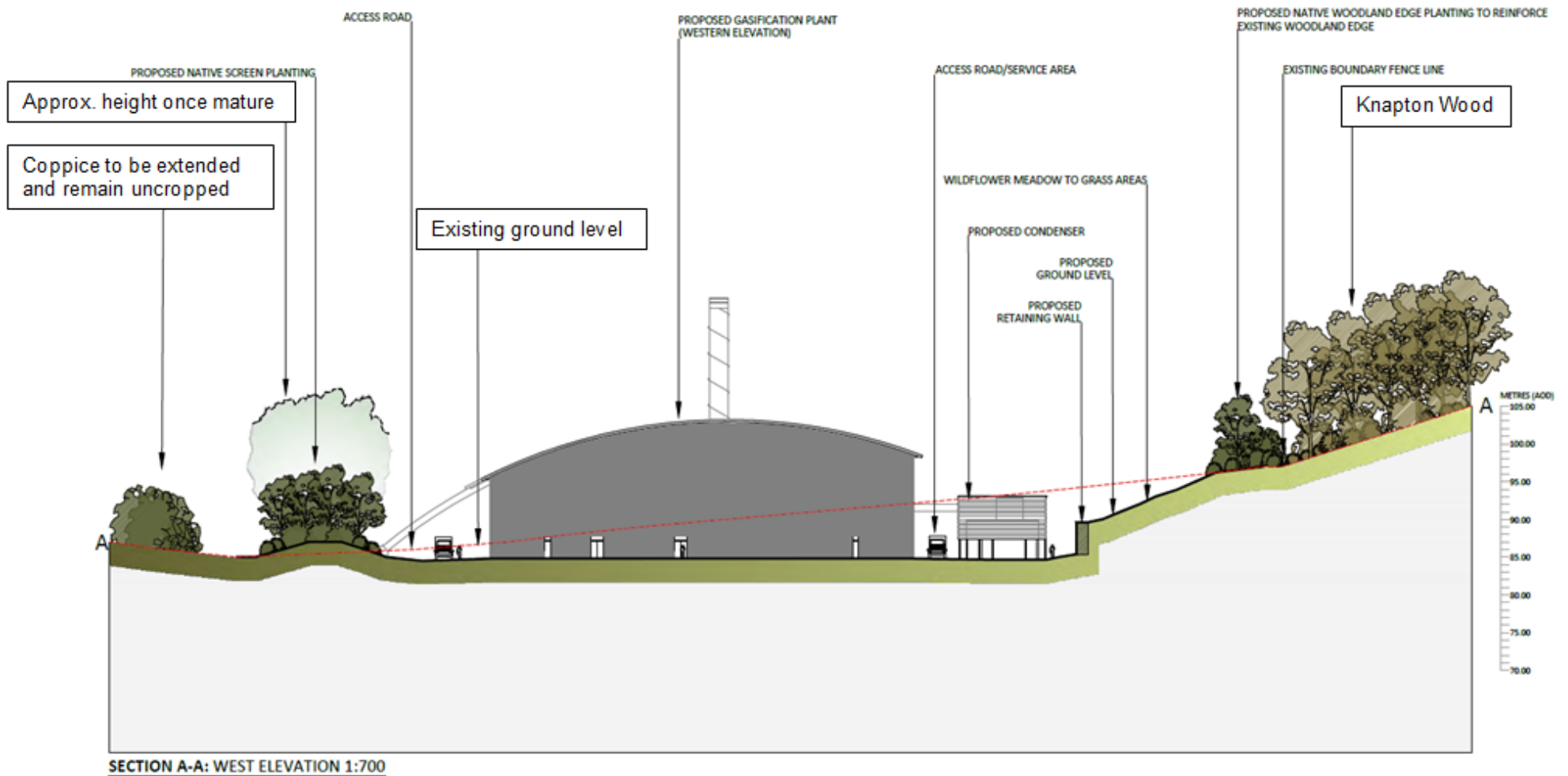
Background Documents to this Report:

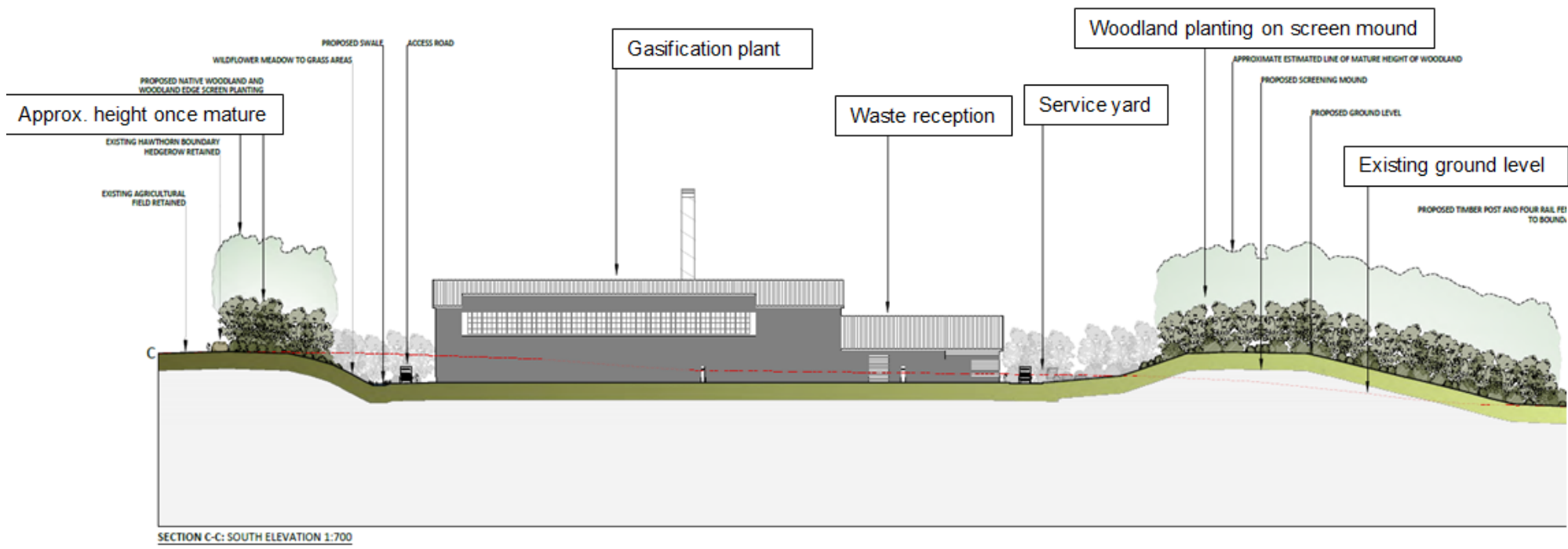
1. Planning Application Ref Number: C3/16/01918/CPO (NY/2016/0194/ENV) registered as valid on 14 November 2016. Application documents can be found on the County Council's Online Planning Register by using the following web link: <https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.



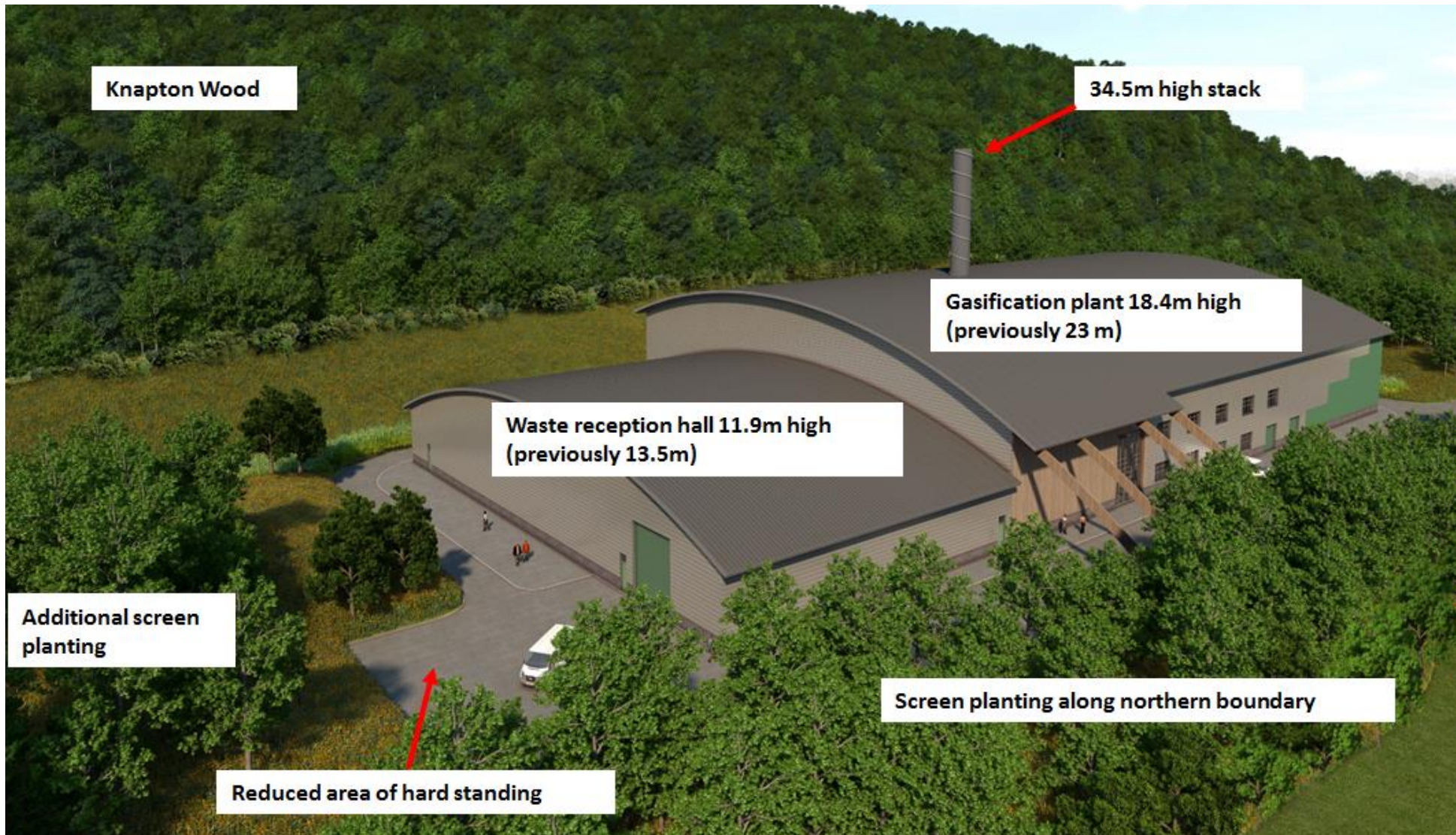


## Appendix C- Site Sections





Appendix D - Visualisations of GEF facility

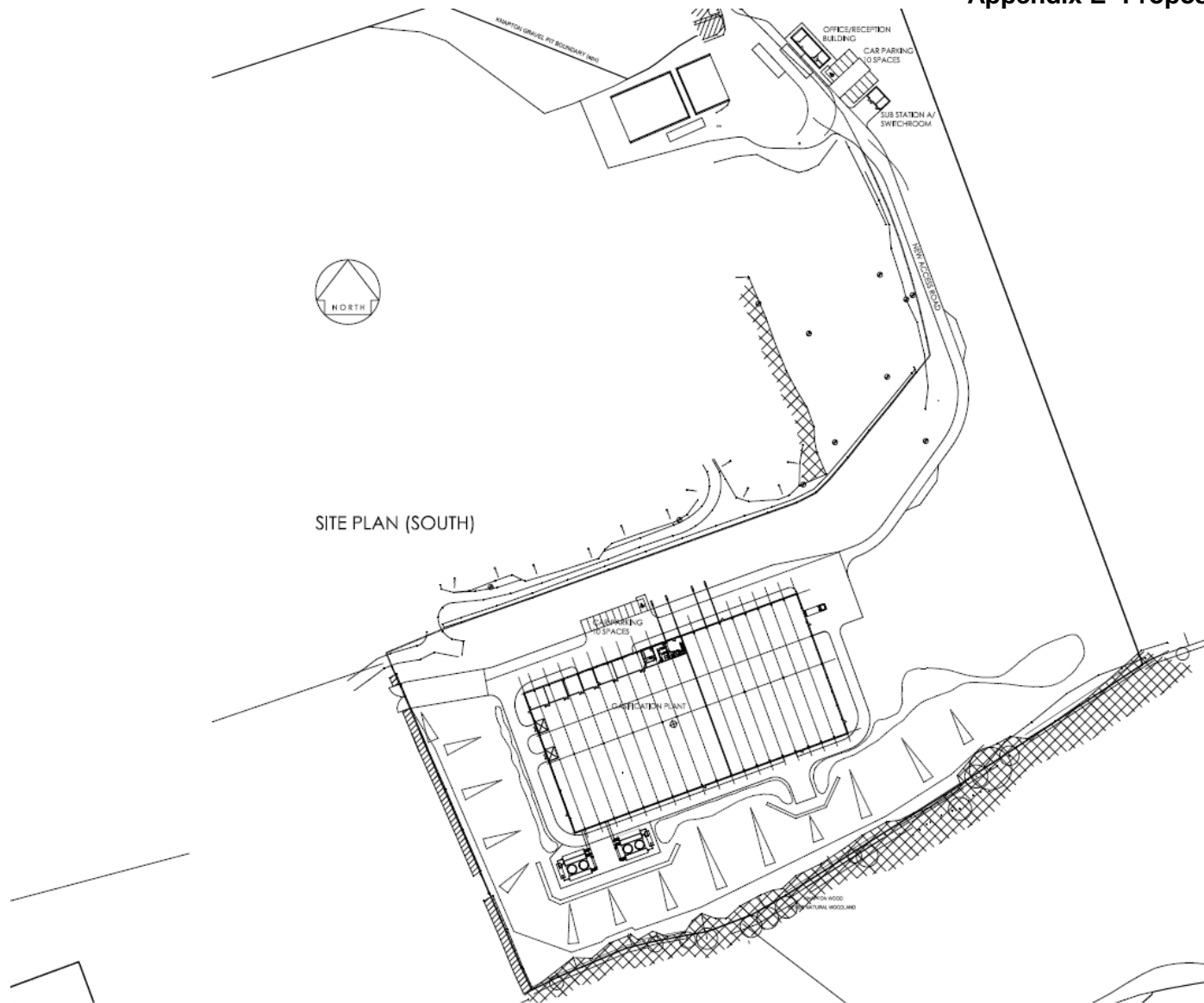






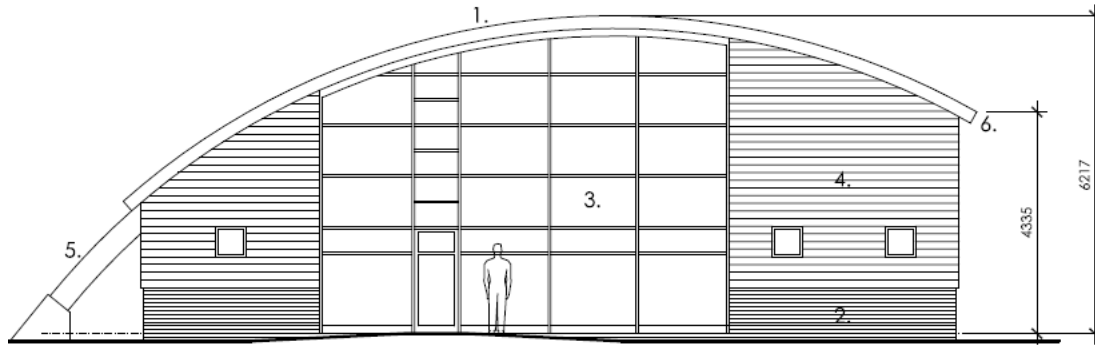


Appendix E- Proposed Site Plan (extract)

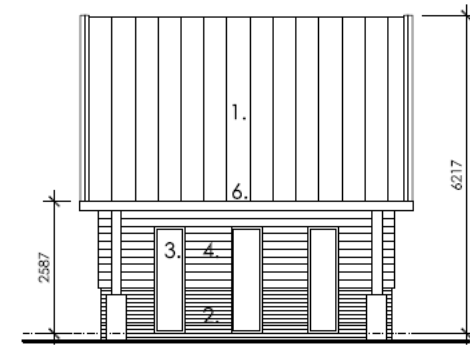


SITE PLAN (SOUTH)

**Appendix F – Elevations of office/reception building**



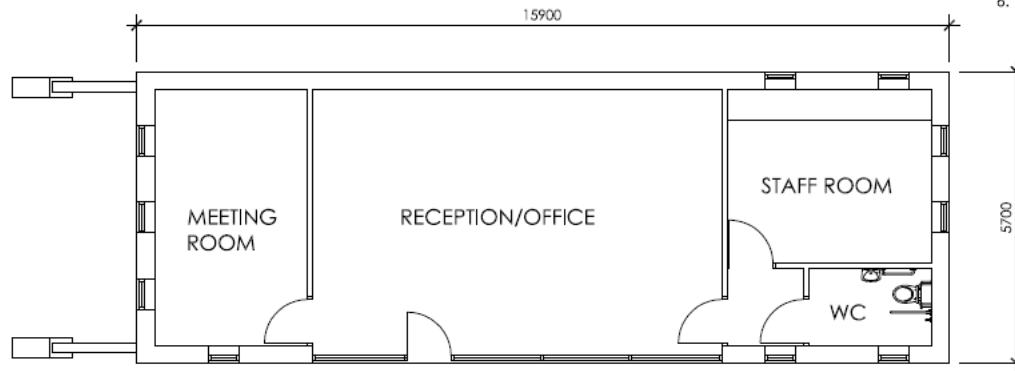
SIDE (SOUTH WEST) ELEVATION



FRONT (NORTH WEST) ELEVATION

**KEY**

- 1. COLOUR COATED PROFILED METAL CURVED ROOF CLADDING, COLOUR LIGHT GREY
- 2. BLUE BRICK PLINTH
- 3. PPC ALUMINIUM FRAMED CURTAIN WALLING AND WINDOWS, FRAMING COLOUR DARK GR
- 4. HORIZONTAL TIMBER (WESTERN RED CEDAR) CLADDING
- 5. EXPOSED GLULAM TIMBER BEAMS
- 6. COLOUR COATED METAL FASCIA/EAVES /SOFFIT PROFILES, COLOUR DARK GREY



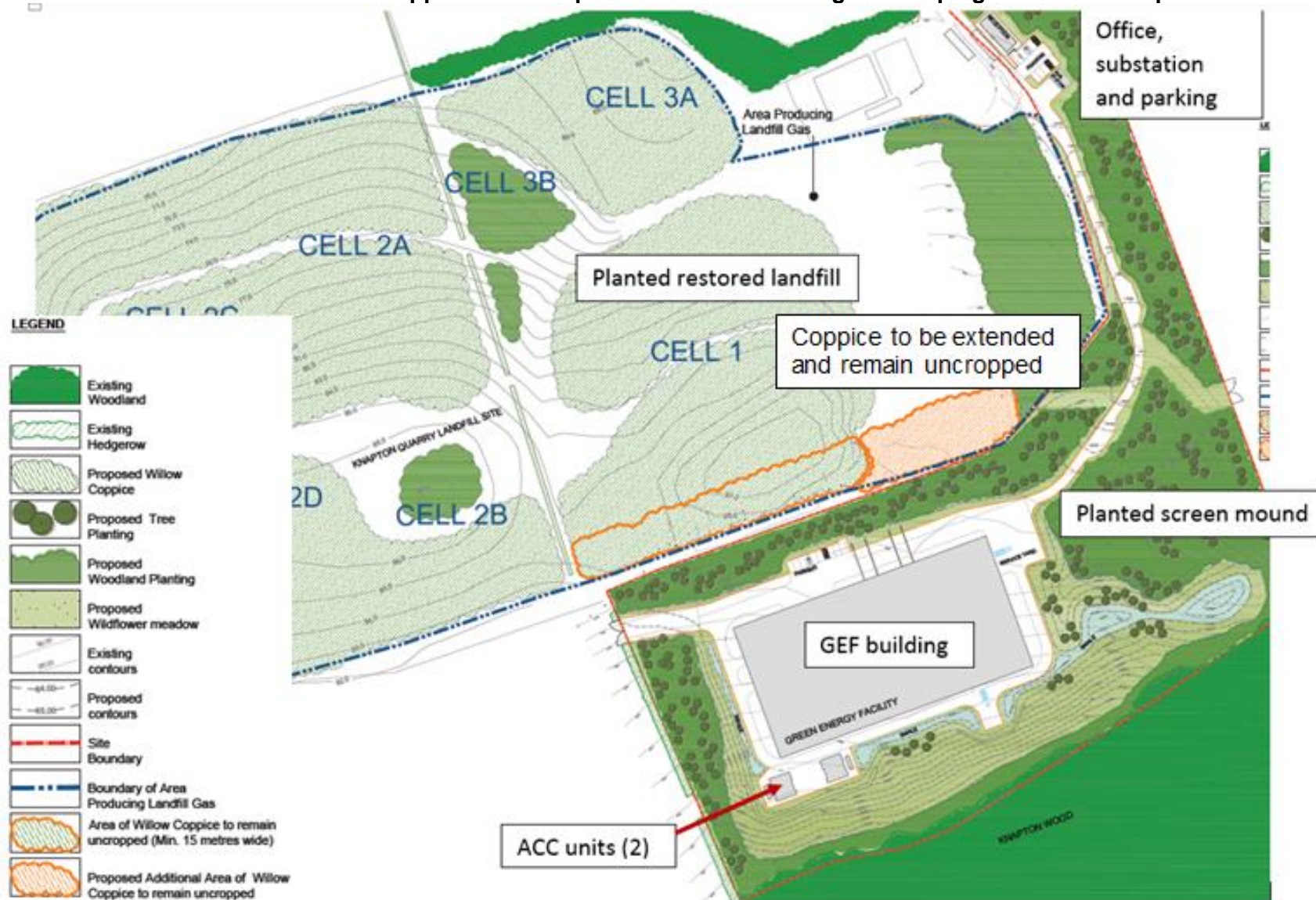
FLOOR PLAN

REV A -  
**TP**

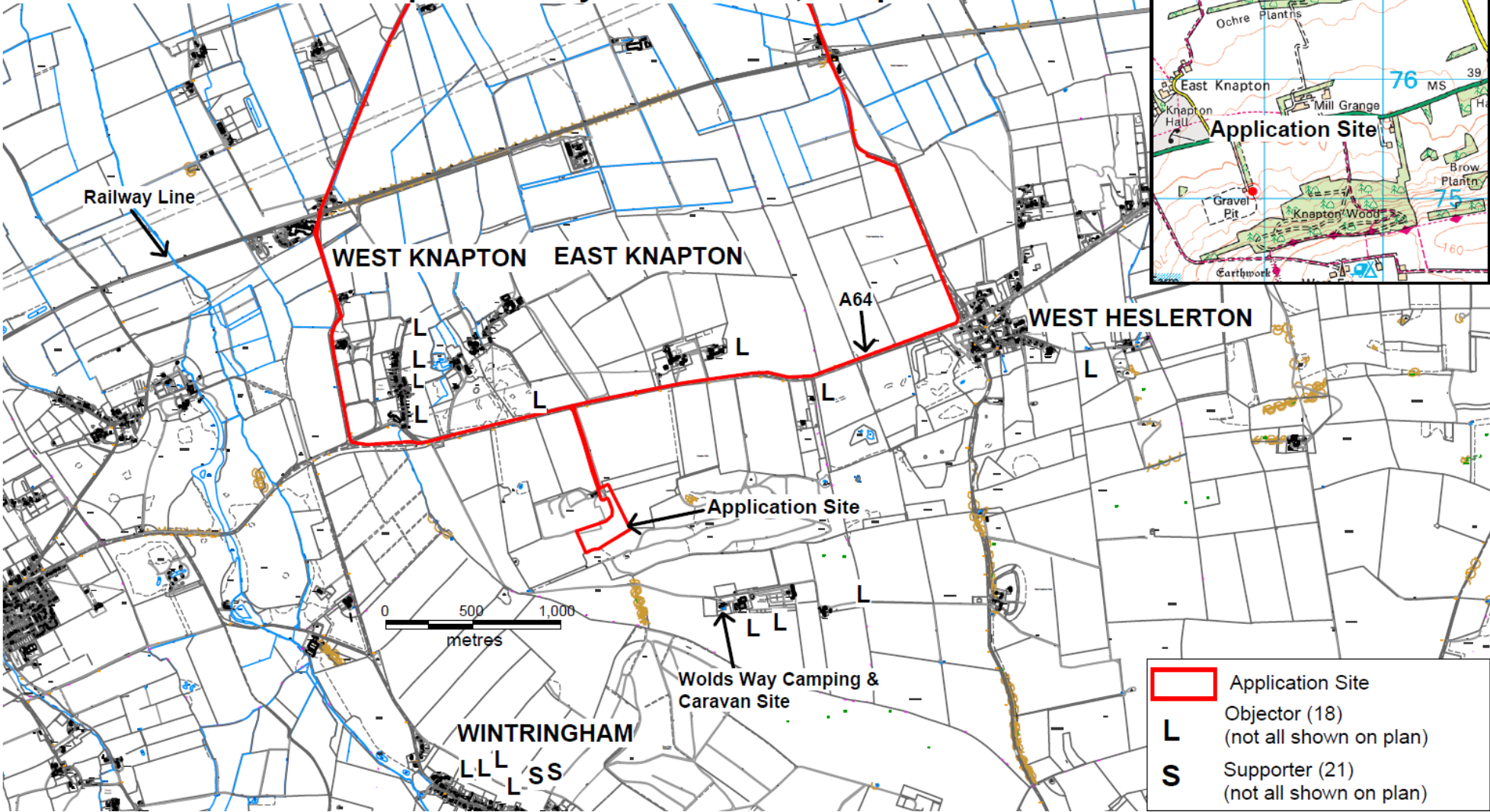
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Appendix G- Proposed Site Plan showing landscaping and relationship to landfill site



# Land to the South of Knapton Quarry Landfill Site, Knapton



**North Yorkshire County Council**

**Business and Environmental Services**

**Planning and Regulatory Functions Committee**

**19 December 2017**

**C3/17/00604/CPO- Planning application for the purposes of the retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling and pre-treatment operations on land at Knapton Quarry Landfill Site, Knapton, YO17 8JA on behalf of FD Todd & Sons Ltd (Ryedale District) (Thornton Dale and the Wolds Electoral Division)**

**Report of the Corporate Director – Business and Environmental Services**

**1.0 Purpose of the report**

- 1.1 To determine a planning application for the retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling and pre-treatment operations on land at Knapton Quarry Landfill Site, Knapton on behalf of FD Todd & Sons Ltd.
- 1.2 This application is subject to objections and concerns raised by two local residents (summarised in paragraph 5.4 of this report) and is, therefore, reported to this Committee for determination.

**2.0 Background**

Members Site Visit

- 2.1 On 14 July 2017 Members conducted a formal Site Visit in advance of the determination of the planning application. The Site Visit related to the development proposed within the application which is the subject of this report and also the planning application ref. NY/2016/0194/ENV for the erection of a Green Energy Facility on land to the South of Knapton Quarry Landfill Site.
- 2.2 The following Members were in attendance at that site meeting: Cllr Hugill, Cllr Clive Pearson, Cllr Jordan and the local member Cllr Sanderson. The Site Visit gave Members the opportunity to gain an understanding of the proposed development in the context of the existing operations and on-site buildings and infrastructure, the surrounding land, buildings and the public highway. At all times during the visit Members were accompanied by Officers. However, in accordance with the County Council's adopted protocol for Members Site Visits, no discussion of the merits of the planning application or decision-making took place.
- 2.3 The application was included on the published agenda for the meeting of the Planning and Regulatory Functions Committee on 18 July 2017. However, due to the late circulation of documents by the Applicant to Members of the Committee, the determination of the application was deferred to allow the County Planning Authority to consider the documents and make them available in the public domain.

- 2.4 The application was included on the published agenda for the meeting of the Planning and Regulatory Functions Committee on 29 August 2017. However, following the circulation of a document by the Applicant which outlined potential changes to the proposed GEF development, Members resolved to defer the determination of both the GEF application and the application that is the subject of this report to allow the Applicant the opportunity to formally submit amendments to the proposed GEF development and to allow consideration and consultation in advance of a future meeting of the Planning and Regulatory Functions Committee.

#### Site Description

- 2.5 The application site lies on the Yorkshire Wolds approximately 10 kilometres to the east of Malton and south of the A64 Malton to Filey trunk road. The application site is 0.49 hectares of land within the active landfill site which is a long established 10 hectare site on the north facing, downhill slope with Knapton Wood at a higher level to the south. The site access road is off the A64 and runs in a north-south direction uphill to the site entrance to the landfill and waste transfer buildings. The application site is bounded to the west by the landfill site.
- 2.6 The existing waste management site is licensed to receive up to 150,000 tonnes of waste per annum and receives residual household waste also referred to as municipal solid waste ('MSW'), commercial and industrial ('C&I') and construction and demolition ('C&D') waste. In recent years the site has received up to 135,000 tonnes of waste per annum, equivalent to an average of 370 tonnes per day. The landfill currently receives 75,000 tonnes of active waste per annum which is deposited within the existing landfill cells. The site also receives circa 25,000 tonnes of waste which is recycled and historically has received circa 35,000 tonnes of inert waste which has been used to restore parts of the landfill. In addition a restored part of the landfill site is used for open windrow composting operations.
- 2.7 The application site forms part of the existing operational waste management site (landfill and waste transfer/recycling) on the north facing scarp of the Yorkshire Wolds on the southern flank of the Vale of Pickering. The dominant land use of the surrounding area is open farmland and woodland. The Knapton Wood plantation occupies an elevated position and extends to the south west, south, south-east and east. The Sands Wood plantation is 780m to the west of the application site. The application site falls within an Area of High Landscape Value (AHLV) as defined by the Ryedale Local Plan (2013).
- 2.8 The application site itself is not located within, or immediately adjacent to a wetland, coastal zone, mountain and forest area, nature reserve and park, a designated area (such as SSSI, SPA/SAC, RAMSAR, AONB), a densely populated area or a landscape of national significance. At its closest point the boundary of the North York Moors National Park is approximately 9km north-west of the application site. Knapton Hall is 1.1km to the north-west of the application site. The nearest listed building is the Church of St Edmund (Grade II) in the village of East Knapton 1km to the north west of the application site. Scampston Hall (Grade II\*) is 2.4km west of the application site and is set within a Registered Park and Garden (Grade II\*) the boundary of which is 1.3km west of the application site at its closest point. There is a Scheduled Ancient Monument (a cross dyke) 250m to the south of the application site beyond Knapton Wood.



- 2.9 The villages of West and East Knapton are 1.1km to the north west, West Heslerton is 1.5km to the east, Wintringham is 1.8km to the south-west and Scampston is 2.5km to the west. There are no residential properties within close proximity of the application site. The nearest residential properties are the residential properties east of the village of East Knapton at Mill Grange and Hartswood Farm (and small campsite) which are 750m to the north-east of the application site on the northern side of the A64. There are residential properties at West Farm beyond Knapton Wood approximately 950 metres to the south east. A caravan and camping site (Wolds Way) is also located approximately 950 metres to the south-east. There is also a telecommunications mast near West Farm 1km south-east of the application site which is visible on the skyline when viewed from the A64 and other positions to the north.
- 2.10 Public bridleway number 25.81/15/1 (along Knapton Wold Road) is approximately 500 metres to the west and public bridleway number 25.81/24/1 runs 450 metres to the south of the application site (separated by Knapton Wood). The Wolds Way National Trail runs in an east-west alignment which at its closest point is approximately 450 metres to the south of the application site (also separated by Knapton Wood).
- 2.11 The site lies in flood zone 1 (low risk) and is located on the Chalk (Principal aquifer) but is close to the boundary with the Speeton Clay Formation (unproductive strata). The site is not located within a Source Protection Zone and there are no licensed abstractions in the vicinity.
- 2.12 A plan showing the application site is attached to this report at Appendix A and an aerial photo at Appendix B.

#### Planning History

- 2.13 Having lain dormant for a number of years Knapton Quarry recommenced mineral extraction in 1966 (originally sand and gravel). In 1979 the first permission was granted for the tipping of waste (inert) and in 1991 permission was granted for an extension to the quarry (underlying chalk) and restoration of the whole site to agriculture by landfill operations. The permission authorised the disposal of non-hazardous domestic, commercial and industrial waste in engineered landfill containment cells.
- 2.14 On 3 February 1998 planning permission ref C3/97/00706 was granted for the demolition of an existing building and construction and operation of a waste transfer and recycling centre at Knapton Quarry, East Knapton.
- 2.15 On 7 January 2002 planning permission ref. C3/114/12G/FA was granted for an extension to the existing chalk quarry with restoration by infilling at Knapton Quarry until 14 March 2035 with restoration by 14 March 2037 (Condition 2 on the planning permission). The planning permission includes 49 planning conditions by a Section 106 legal agreement dated 5 March 2001.
- 2.16 On 18 September 2003 planning permission ref. C3/02/01200/CPO was granted for the demolition of an existing building and construction of a new building for the purposes of the operation of a waste transfer and recycling centre at Knapton Quarry and Landfill site, East Knapton. The permission has been implemented and the waste transfer and recycling centre is operational. Condition 4 on the permission authorised the vehicular movement of waste or soils to or within the site only between 0730 and 1730 hours Mondays to Fridays and 0730 and 1300 hours Saturdays with no working on Sundays or Bank and Public Holidays.

- 2.17 On 6 June 2008 planning permission ref. C3/08/00235/CPO was granted for the erection of a building for the pre-treatment of waste prior to final disposal and provision of new weighbridge at Knapton Quarry, Knapton. The weighbridge was implemented and remains on site, but the new pre-treatment building (which would require the partial demolition of the existing buildings) has not yet been erected. The new pre-treatment building would be a 26 metre by 30 metre steel clad, steel framed building. The building would be used for the screening of all waste, undercover, prior to recycling and disposal. The building would be 7 metres high to the eaves and 9 metres to the ridge level. Condition 2 states that the permission authorises the erection of a building for the pre-treatment of waste prior to final disposal and the provision of a new weighbridge only until the completion of the associated tipping operations after which it shall be discontinued and the development including all plant and machinery shall be removed before that date and the land restored within 12 months.
- 2.18 On 30 September 2009 planning permission ref. C3/09/00833/CPO was granted for the variation of condition 4 of Planning Permission C3/02/01200/CPO to allow for extended hours of operation of the Waste Transfer and Recycling Building on land at Knapton Quarry Landfill Site, East Knapton, Malton. Condition 1 of the permission states that the building shall operate only as a waste transfer and recycling centre until the completion of the tipping operations after which it shall be discontinued and all plant, machinery, vehicles and skips, including the building, shall be removed within 12 months of the completion of tipping operations and the land restored. Condition 3 on planning permission ref. C3/09/00833/CPO authorises vehicular movement of waste or soils to or within the site only between 0730 and 2200 hours Mondays to Fridays and 0730 and 1600 hours Saturdays and Sundays.
- 2.19 On 28 September 2012 approval ref. NY/2012/0287/A30 (C3/12/00795/CPO) was given for the composting (open windrows to maximum height of 3.5m) and storage of green waste to form soil making material for the use in the restoration of the landfill site. The composting takes place on an impermeable pad to the south of the waste reception yard area. A maximum of 2,000 tonnes of green waste is composted at the site per year.
- 2.20 On 24 November 2016 planning permission ref. C3/12/00997/CPO was granted for the variation of condition No. 3 of planning permission reference C3/114/12G/FA to allow for revised final restoration details at Knapton Quarry Landfill, East Knapton, Malton. The planning permission authorises infilling with imported waste until 14 March 2035 and restoration of the land by 14 March 2037. The landfill operator states that they are expected to stop tipping active waste within the engineered landfill cells in 2017 and that landfill capping and restoration works (which involve material classified as waste) will continue at the site until at least 2035. The operator estimates that in excess of 200,000m<sup>3</sup> of inert waste material will be required to complete the restoration of the landfill. The landfill currently generates approximately 250 cubic metres of gas (methane and carbon dioxide) per hour. A micro generation plant at the site currently utilises 40 cubic metres per hour of the gas in order to generate 57kw of electricity. 7kw of this electricity is used locally at the site with the remaining 50kw uploaded to the local grid (max. export capacity). The remaining 210 cu/hr is disposed of through an emissions compliant flare. The permission requires that the landfill site is restored to a long term biomass cropping (short rotation willow coppice) and permanent woodland after use. The permission is subject to a Section 106 legal agreement dated 23 November 2016 in relation to long term restoration management and aftercare (25 years).

- 2.21 The extant permissions are references C3/12/00997/CPO (landfill), C3/12/00795/CPO (composting), C3/08/00235/CPO (pre-treatment of waste building & weighbridge) and C3/09/00833/CPO (waste transfer and recycling building). The planning permissions for the pre-treatment of waste building & weighbridge and the waste transfer and recycling building include conditions which only permit the use of the buildings until the completion of the associated tipping operations after which they shall be removed and the land restored.
- 2.22 On 14 November 2016 the County Planning Authority registered an application ref. NY/2016/0194/ENV for the erection of a Green Energy Facility (6,342 sq. metres) (energy from waste via gasification), office reception building (91 sq. metres), substation & switchroom (39 sq. metres), air cooled condensers (377 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kV grid via a proposed substation at land south of Knapton Quarry/Landfill as well as an underground connection (Option 1: 5.26 km and Option 2: 8.25km) to the 66kV grid via the primary substation at Yedingham on land to the South of Knapton Quarry Landfill Site, Knapton. In light of the linkage between the application which is the subject of this report with elements of the GEF the two cases shall be considered and determined in parallel.

### **3.0 The proposal**

- 3.1 Planning permission is sought for the retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling and pre-treatment operations on land at Knapton Quarry Landfill Site, Knapton on behalf of FD Todd & Sons Ltd.
- 3.2 The application site comprises two portal framed buildings currently utilised for recycling and pre-treatment of waste as part of an existing waste management operation at Knapton Landfill site. The buildings stand back-to-back with outward facing open ends for the receipt of waste (facing west and east). The waste reception building measures 24.3m by 19m and stands 9.5m high and the recycling building measures 13.8m by 19m and stands 8m high. Both buildings have concrete/concrete block work plinths at lower level and olive green profile metal cladding on upper walls and roof. The application proposed no changes to the built form of the existing buildings. These buildings are used for the screening, recovery and recycling of paper, plastic, plastic, steel, aluminium and wood as part of the pre-treatment of waste prior to final disposal.
- 3.3 The Applicant states that the existing planning permissions allow the existing buildings and the associated infrastructure to remain at Knapton Quarry until the completion of restoration tipping at the landfill in 2035; a further 17 years. The Applicant has applied to secure the longer-term use of these buildings for waste recycling and pre-treatment operations beyond 2035, and, if permission is granted for the Green Energy Facility (referred to in paragraph 2.22 of this report), the buildings would be used in the supply of feedstock (refuse derived fuel) for the adjacent proposed energy from waste facility until 2035 and beyond.
- 3.4 The Applicants states that *“The waste management operations on the Site and the associated infrastructure including roads, hardstanding and weighbridge represent a significant financial investment and, given the need for a continued presence at the Site and to spread the burden of continued monitoring and maintenance, it has always been the intention of the Applicant to bring forward an application to regularise and make permanent the presence of the existing buildings for the recycling and pre-treatment of waste beyond their current operational lifespan”*.

- 3.5 There are two main operations proposed as part of this planning application which are summarised below:

#### Recycling Operations

- 3.6 The Applicant states that at present, circa 25,000 tonnes of recyclable materials including plastics, fibres, metals and minerals are received and processed at the Site. The Applicant highlights that all the recyclable wastes received have been generated by local businesses in this part of the County and therefore the operation is in accordance with the 'proximity principle'. Local businesses benefit from the efficiencies arising from the ability to locally 'bulk up' at the Site. It is intended to continue these recycling operations thereby allowing the waste to continue to be moved waste up the 'waste hierarchy'.

#### Pre-Treatment Operations

- 3.7 If permission is granted it is intended that the proposed GEF would receive and consume circa 65,000 tonnes of non-recyclable, primarily non-fossil fuel derived, waste per annum from the existing sorting and treatment facilities at the Site.
- 3.8 In order to serve the GEF, it is anticipated that the Site would accept approximately 80,000 tonnes of waste per annum. This waste would be treated within the existing buildings at Knapton Quarry where it is envisaged that approximately 15,000 tonnes of recyclable material such as glass and metals would be extracted and transported off Site for recycling. These recyclable materials would leave the Site as part of the recycling operation set out above. It should be noted that the 15,000 tonnes of recyclable material referred to above is already accounted for in the recycling operations and is not an additional quantum of material. Furthermore, the Applicant highlights that this is not new waste but the waste that would have previously been deposited in the engineered landfill cells at Knapton Quarry.
- 3.9 The sorted waste would then be passed through shredders to ensure the waste is of optimal consistency (refuse derived fuel) before being delivered to the GEF.
- 3.10 The Applicant states that the proposed development would therefore help to facilitate the creation of 8MW of green electricity (approximately equivalent to powering 16,000 homes) from non-recyclable waste. The Applicant highlights that this represents a more efficient and environmentally sustainable method of disposing of non-recyclable waste than the existing landfill operations at Knapton Quarry, the tipping of waste at other landfill locations and the exportation of waste abroad for incineration.
- 3.11 The Applicant therefore concludes that the *"proposed development can therefore play a vital role in the long-term handling and pre-treatment of waste in buildings that are already present and in turn help secure the creation of green energy from non-recyclable waste"*.

#### Landscape screening

- 3.12 The application details indicate that the existing screen planting along the northern boundary of the Site, which comprises mainly pine but also field maple, sycamore, larch, hawthorn and rowan, would be retained and put under a long-term maintenance regime (selective thinning and lower level/understorey evergreen native planting). The Applicant also draws attention to a recently planted shelter belt of mainly pine and birch trees along the eastern edge of the access road for its full length from the A64 to the Site. To the west the access road is a mature, but in places sporadic, hawthorn hedgerow. Furthermore additional planting in the form of a woodland block on a raised landform (using materials arising from the GEF building cut and fill operation) is proposed within the eastern portion of the Site. The planting would comprise native species growing successfully locally and a high evergreen

content and the Applicant states that the extra soil depth provided by the raised landform would promote more rapid establishment of the screen planting when compared to growth rates on the adjacent shallow chalk soils.

#### Traffic

- 3.13 The Applicant states that in recent years Knapton Quarry Landfill site has generated in the region of up to 235 vehicle movements per day and is therefore a significant traffic generator. The proposed development, even working on the basis of a worst-case scenario, is stated as generating around half of this quantum of traffic. The table below sets out traffic movements and is from the Transport Assessment undertaken as part of the GEF planning application.

Process	Daily Vehicle Arrivals	Daily Vehicle Departures	Total Two-Way Trips
Recycling	18	18	36
GEF	10	10	20
Capping	6	6	12
Staff (GEF and the Site)	30	30	60
Total	64	64	128

#### Hours of deliveries

- 3.14 The Applicant proposes that waste would continue to be delivered to the Site in line with the existing time restriction attached to the extant permissions. The delivery times would remain as follows: -
- Monday to Friday: 7:30 – 17:30
  - Saturday: 7:30 – 13:00

No delivery of waste will be made on Sundays or on Bank/Public holidays.

#### Pollution Control

- 3.15 The Applicant states that litter, noise and odour would continue to be managed in line with those measures already in place by virtue of the extant permission and the environmental permits. Existing measures include roads being swept regularly to ensure they are kept free of dust, litter and other road debris and vehicles delivering the waste would be sheeted to avoid accidental dispersal of litter. The Applicant states that they are not aware of any significant complaints regards pollution generated by the operations at the Site but should permission be granted it provides the opportunity to revise and update the required pollution controls measures by way of planning conditions.

#### Employment and the local economy

- 3.16 The Applicant states it is anticipated that, in conjunction with the GEF (if approved), the proposed development would secure the ongoing employment of a total of 30 full time equivalent staff. If the jobs created by the GEF proposals do not come forward, the proposed development alone, would still secure 10 FTE jobs. In terms of the potential gross value added (GVA) to the local economy over a 5 year period the 10 permanent jobs created by the proposed development have the potential to generate £1.48m of GVA (or £295,000 per annum).

3.17 The Applicant contends that the Site continues to offer a local and efficient disposal point for recyclable and non-recyclable materials and through the payment of landfill tax and local business rates alone, has contribute on average in excess of £80,000 per annum towards national and local taxation. The Applicant anticipates that with the continued operation a similar and significant contribution would continue to be made to local and national tax streams and the proposed development would therefore make a considerable contribution to the local economy.

#### **4.0 Consultations**

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on 17 May 2017.

4.1 **Ryedale District Council (Planning)**- responded on 9 June 2017 and state that providing NYCC are satisfied with the principle of the retention of the buildings and the proposed use there are no objections to the proposal.

4.2 **Environmental Health Officer (Ryedale)**- has not responded.

4.3 **NYCC Heritage – Ecology**- responded on 7 June 2017 and confirmed that there are no ecological constraints relating to the proposals.

4.4 **NYCC Heritage - Principal Landscape Architect**- responded on 6 June 2017 and highlighted that the site is on the edge of the Yorkshire Wolds escarpment within an Area of High Landscape Value and the Wolds have a unique character with the north-facing escarpment being the most northerly occurrence of chalk landscape in the British Isles.

4.4.1 The Principal Landscape Architect commented that the existing landfill site, of which the current buildings form a component, is unsightly from a number of publicly accessible viewpoints within both the Vale of Pickering and the edge of the Wolds. The Principal Landscape Architect acknowledged that the buildings were partly screened and in a recessive colour but industrial in character.

4.4.2 The Principal Landscape Architect highlighted the temporary nature of the existing operations and buildings and the existing planning requirements for the restoration of the site. The Principal Landscape Architect was of the view that the retention of the development was not appropriate in this location; it would continue to have an unacceptable impact upon the landscape character and visual amenity; could have a cumulative impact if the GEF is approved; and the proposed mitigation mounding and evergreen planting would not be in character with, nor enhance, the overall landscape of the Wolds escarpment.

4.4.3 The Principal Landscape Architect stated that the proposal conflicted with national (paragraph 17 of the NPPF) and local policy ('saved' policies 4/1 and 4/3 of the Waste Local Plan and SP13 of the Ryedale Local Plan) in respect of landscape.

4.4.4 On 15 November 2017 the Heritage Manager revisited the previous landscape comments in light the amendments to the GEF development which sought to reduce the overall landscape and visual impact. The Heritage Manager confirmed that the application submission had been reviewed and that a site visit had taken place.

4.4.5 The Heritage Manager confirmed that the policy issues with the development site being set on the edge of the Yorkshire Wolds escarpment within an Area of High Landscape Value are still relevant, as previously outlined.

- 4.4.6 The Heritage Manager agrees that there is merit in the Applicant's argument that the development site is in a transitional zone of this designation meaning that it relates more in character on the ground to the Vale of Pickering which is scattered with isolated farm buildings and hedgerows. The Heritage Manager states that the existing site relates more to this character in that it reads as a farm outbuilding in the landscape which while it can be seen and is a built structure on a natural slope, it is not unduly obtrusive.
- 4.4.7 The Heritage Manager highlights that while the proposed dense evergreen screening is not characteristic of the Wolds landscape (and should be changed should the application be approved) it does show that the edge of the development can be filtered from visual receptors. The Heritage Manager concedes that the application will have a detrimental impact on the landscape due to the partial visibility from visual receptors but subject to conditions being applied is not unacceptable in landscape terms. The Heritage Manager recommends that a fully detailed landscape scheme is implemented with planting mixes and aftercare agreed in advance with the County Landscape Architect.
- 4.5 **NYCC Heritage – Archaeology-** responded on 5 June 2017 and stated that the change of use of existing buildings will not have an impact on below ground archaeological deposits should they be present and there are no objections.
- 4.6 **Scampston Parish Council-** has not responded.
- 4.7 **Heslerton Parish Council-** responded on 1 June 2017 and had concerns that required addressing as follows:-
- “1. There was concern that the proposed changes would increase the number of vehicle movements to/from the site. Can the details be obtained and circulated for public comment?*
- 2. Some environmental issues were raised relating to the smell generated from the operations on this site, both existing and in the future. Litter from the site blowing in the wind, dust being blown about etc. All of which impact on local residents living nearby and from previous experience can affect these up to five or six miles away depending on the prevailing wind. All these issues require properly addressing.*
- 3. The document is loosely worded and requires far more detail in order to make a thorough assessment of the merits of their proposals”.*
- 4.7.1 On 29 June 2017 the Applicant's response to the above queries was forwarded onto Heslerton Parish Council for consideration and no further comments have been received.
- 4.8 **Wintringham Parish Council-** has not responded.
- 4.9 **Highway Authority-** responded on 18 May 2017 and confirmed no objections to the application.
- 4.10 **Highways England-** responded on 7 June 2017 and has no objections to the application.

- 4.11 **Environment Agency-** responded on 6 June 2017 and has no objections in principle from a planning perspective but highlights that obtaining planning permission does not guarantee that the proposals will be acceptable from an environmental permitting perspective. The Environment Agency comments as follows:-

*“The application proposes increasing the annual throughput to 90,000 tonnes. The current environmental permit authorises only 24,999 tonnes per annum. The operator will need to apply to vary the environmental permit prior to the increases in throughput commencing. Any proposed waste activities not currently authorised will also require a permit application/variation. The applicant is reminded that all waste apart from clean inert waste must be stored/treated inside a building. The operator will need to review the environmental management and amenity risk assessments, with infrastructure improvements made and management procedures amended accordingly. The operator is advised to contact the Environment Agency for environmental permit pre-application advice”.*

- 4.12 **North Yorkshire Fire and Rescue Service-** responded on 19 May 2017 and stated *“At this stage in the planning approval process the fire authority have no objections to the proposed development. The fire authority will make further comment in relation to the suitability of proposed fire safety measures at the time when the building control body submit a statutory Building Regulations consultation to the fire authority”.*
- 4.13 **Natural England-** responded on 6 June 2017 and advised the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.
- 4.14 **Yorkshire Water Services Ltd-** has not responded.
- 4.15 **Historic England-** responded on 18 May 2017 and do not wish to offer any comments.
- 4.16 **NYCC Strategic Policy and Economic Growth (SPEG)-** has not responded.

#### Notifications

- 4.17 **County Cllr. Janet Sanderson-** was notified of the application by letter.

### **5.0 Advertisement and representations**

- 5.1 This application has been advertised by means of four Site Notices posted on 18 May 2017 (responses to which expired on 8 June 2017). The Site Notices were posted in the following locations: at the site entrance and in the villages of West Knapton and East Knapton. A Press Notice appeared in the Malton Gazette & Herald on 24 May 2017 (responses to which expired on 7 June 2017).
- 5.2 A total of 22 Neighbour Notification letters were sent on 1 June 2017 and the period in which to make representations expired on 22 June 2017. The following properties received a neighbour notification letter:
1. WEST WOLD FARM, WEST KNAPTON
  2. BARN COTTAGE, WEST KNAPTON
  3. EAST FARM, WEST KNAPTON
  4. HARTSWOOD LODGE, EAST KNAPTON
  5. HARTSWOOD BUNGALOW, EAST KNAPTON
  6. MILL GRANARY, EAST KNAPTON
  7. MILL BARN, EAST KNAPTON
  8. MILL HOUSE, EAST KNAPTON
  9. HARTSWOOD FARM, EAST KNAPTON
  10. BARN COTTAGE, KNAPTON WOLD ROAD, MALTON



11. EAST FARM, KNAPTON WOLD ROAD, MALTON
12. WOLDS WAY LAVENDER, SANDY LANE, WEST KNAPTON
13. ST EDMUND'S CHURCH, MAIN STREET, EAST KNAPTON
14. KNAPTON HALL COTTAGE, MAIN STREET, EAST KNAPTON
15. FLAT 1 KNAPTON HALL, MAIN STREET, EAST KNAPTON
16. ELM TREE FARM, MAIN STREET, EAST KNAPTON
17. CORNER FARM, MAIN STREET, WEST KNAPTON
18. WHITE COTTAGE, EAST KNAPTON
19. MILL GRANGE, EAST KNAPTON
20. SOUTH FARM, KNAPTON WOLD ROAD
21. WOLDS WAY CARAVAN & CAMPING, KNAPTON WOLD ROAD
22. KNAPTON HALL, MAIN STREET, EAST KNAPTON

5.3 A total of 8 letters of representation have been received of which 1 raises objections to the proposed development, 1 raises concerns and 6 are in support. The approximate locations of those who made representations are shown on the plan attached to this report at Appendix A.

5.4 The reasons for objection and concern are summarised as follows:-

- The owners have chosen to fill the old quarry extremely quick by importing waste from all over the country and not processing it through the facility and now want to retain the buildings and transfer station. Had they operated as the local population expected and only landfilled with material that went through their waste transfer station they would still be filling the old quarry and within planning already obtained.
- noise of reversing beepers from vehicles during day time
- odour, litter and smoke from the recent fire at the landfill
- fire risk from being adjacent to landfill
- vehicles blocking laybys and slips roads
- The site is in an area of high landscape value, the buildings are portal frame and will be easy to dismantle and move and this operation would be better suited to an industrial site location rather than in a rural tourist and agricultural location.
- If approved it should only be allowed to operate normal working hours five days per week and to a maximum tonnage of 25,000 tonnes as per the existing licence as this facility is not large enough to cope with the suggested 90,000 tonnes per year
- A fully considered decision for a process 18 years into the future would not seem to be practical or reasonable, as there are so many factors that could affect a decision over that span of time. It would be more practical and prudent to delay/defer a planning decision regarding this facility.

5.5 The reasons for support are summarised as follows:-

- Contribution to local economy from employment and business rate income
- Keeping waste transfer station means the waste produced in the local area is not transported further than is necessary
- Cost effective disposal option for hundreds of local businesses who would otherwise find their waste services in the hands of an effective monopoly
- It has operated without serious inconvenience for many years.

## 6.0 Planning policy and guidance

### National Planning Policy

- 6.1 The policy relevant to the determination of this particular planning application provided at the national level is contained within the National Planning Policy Framework (NPPF) (published March 2012) and also the National Planning Policy for Waste (published October 2014).

### National Planning Policy Framework (NPPF)

- 6.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.
- 6.3 The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay (if plans are up-to-date and consistent with the NPPF). The Government has set down its intention with respect to sustainable development stating its approach as *"making the necessary decisions now to realise our vision of stimulating economic growth and tackling the deficit, maximising wellbeing and protecting our environment, without negatively impacting on the ability of future generations to do the same"*. The Government defines sustainable development as that which fulfils the following three roles:
- **An economic role** – development should contribute 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;
  - **A social role** – development supporting strong, vibrant and healthy communities; and,
  - **An environmental role** – development that contributes to protecting and enhancing the natural, built and historic environment and as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.
- 6.4 The NPPF advises that when making decisions, development proposals should be approved that accord with the Development Plan and when the Development Plan is absent, silent or relevant policies are out of date, permission should be granted unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this framework indicate development should be restricted.
- 6.5 This national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure.

6.6 Paragraph 17 of the NPPF states that core land-use planning principles should underpin both plan-making and decision taking. The 12 principles listed in the NPPF state that land-use planning should:

- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
- not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
- proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating;
- sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
- promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
- conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
- take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.

- 6.7 Paragraph 32 within Section 4 (Promoting sustainable transport) of the NPPF states that plans and decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.8 Paragraph 58 within Section 7 (Requiring good design) of the NPPF identifies 6 objectives that planning policies and decisions should aim to ensure that new developments:
- *“function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
  - *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
  - *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*
  - *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
  - *are visually attractive as a result of good architecture and appropriate landscaping”.*
- 6.9 Within Section 11 of the NPPF it is clear that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.
- 6.10 Paragraph 109 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, minimising impacts on biodiversity, preventing development from contributing to or being adversely affected by unacceptable levels of soil, air, water or noise pollution.
- 6.11 Paragraph 111 states “Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value. Local planning authorities may continue to consider the case for setting a locally appropriate target for the use of brownfield land”.
- 6.12 Paragraph 118 within Section 11 (Conserving and enhancing the natural environment) of the NPPF sets out a number of principles for determining planning applications which aims to conserve and enhance biodiversity. Paragraph 118 states: *“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles (inter alia): if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.*

- 6.13 Paragraph 120 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that to prevent unacceptable risks from pollution, decisions should ensure that the development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area should be taken into account.
- 6.14 Paragraph 122 states that *“In doing so, 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. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities”*.
- 6.15 Paragraph 123 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that *“Planning policies and decisions should aim to:*
- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
  - *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
  - *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
  - *identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”*.

National Planning Policy for Waste (published October 2014)

- 6.16 The National Planning Policy for Waste (NPPW) replaced ‘Planning Policy Statement 10: Planning for Sustainable Waste Management’ (PPS 10) published in 2006 and is to be considered alongside other national planning policy for England - such as in the NPPF (2012) and Defra’s Waste Management Plan for England (2013).
- 6.17 Paragraph 1 of the NPPW states that the Government’s ambition is to *“work towards a more sustainable and efficient approach to resource use and management”*. The NPPW sets out the *“pivotal role”* that planning plays in delivering the country’s waste ambitions with those of relevance to this application being as follows:
- *“delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy (see Appendix A of NPPW);*
  - *ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, 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 or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;*
  - *helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and*

- *ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste”.*

6.18 It should be noted that a footnote is included in the National Planning Policy for Waste for the reference in bullet point three to the “proximity principle”. The footnote refers to Schedule 1, Part 1, paragraph 4 of The Waste (England and Wales) Regulations 2011 (S.I 2011/988) for the principles behind the term proximity (as well as self-sufficiency). The reference states the following;

- “(1) To establish an integrated and adequate network of waste disposal installations and of installations for the recovery of mixed municipal waste collected from private households, including, where such collection also covers such waste from other producers, taking into account best available techniques.*
- (2) The network must be designed to enable the European Union as a whole to become self-sufficient in waste disposal and in the recovery of mixed municipal waste collected from private households, and to enable the United Kingdom to move towards that aim taking into account geographical circumstances or the need for specialised installations for certain types of waste.*
- (3) The network must enable waste to be disposed of and mixed municipal waste collected from private households to be recovered in one of the nearest appropriate installations, by means of the most appropriate technologies, in order to ensure a high level of protection for the environment and human health.*
- (4) This paragraph does not require that the full range of final recovery facilities be located in England or in Wales or in England and Wales together”.*

6.19 Paragraphs 2 to 6 of the NPPW relate to the preparation of Local Plans in respect of the evidence base, identification of need in Local Plan making, identifying suitable sites and Green Belt protection and are not directly relevant to the determination of planning applications for waste management facilities.

6.20 In relation to the determination of planning applications, Paragraph 7 of the NPPW states that Waste Planning Authorities should:

- “only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;
- recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants 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;
- consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;
- ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;

- concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;
  - ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary”.
- 6.21 The criteria set out in the first two bullet points are not material to the determination of this application, as the Local Plan (2006) pre-dates current national policy (2014).
- 6.22 Paragraphs 8 and 9 of the NPPW relate to planning applications for non-waste development and the monitoring and reporting of waste and are not directly relevant to the determination of this application.
- 6.23 Appendix A of the NPPW comprises a diagram of the ‘Waste Hierarchy’ which is unchanged from that included in PPS10.
- 6.24 Appendix B of the NPPW sets out the ‘Locational Criteria’ to be assessed by Local Planning Authorities in determining applications for waste management facilities, as follows:-
- a. *“protection of water quality and resources and flood risk management;*
  - b. *land instability;*
  - c. *landscape and visual impacts;*
  - d. *nature conservation;*
  - e. *conserving the historic environment;*
  - f. *traffic and access;*
  - g. *air emissions, including dust;*
  - h. *odours;*
  - i. *vermin and birds;*
  - j. *noise, light and vibration;*
  - k. *litter; and,*
  - l. *potential land use conflict”.*
- 6.25 It is considered that criteria c, d, f, g, h, i, j, k, and l are relevant to the determination of this application and these are set out in full below:
- c. *landscape and visual impacts*  
*Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character; (ii) the need to protect landscapes or designated areas of national importance (National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts) (iii) localised height restrictions.*
  - d. *nature conservation*  
*Considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites), a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves), Nature Improvement Areas and ecological networks and protected species.*
  - f. *traffic and access*  
*Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports.*

- g. *air emissions, including dust*  
 Considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.
- h. *odours*  
 Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.
- i. *vermin and birds*  
 Considerations will include the proximity of sensitive receptors. Some waste management facilities, especially landfills which accept putrescible waste, can attract vermin and birds. The numbers, and movements of some species of birds, may be influenced by the distribution of landfill sites. Where birds congregate in large numbers, they may be a major nuisance to people living nearby. They can also provide a hazard to aircraft at locations close to aerodromes or low flying areas.  
 As part of the aerodrome safeguarding procedure (ODPM Circular 1/20035) local planning authorities are required to consult aerodrome operators on proposed developments likely to attract birds. Consultation arrangements apply within safeguarded areas (which should be shown on the policies map in the Local Plan).  
 The primary aim is to guard against new or increased hazards caused by development. The most important types of development in this respect include facilities intended for the handling, compaction, treatment or disposal of household or commercial wastes.
- j. *noise, light and vibration*  
 Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered.
- k. *litter*  
 Litter can be a concern at some waste management facilities.
- l. *potential land use conflict*  
 Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility”.

6.26 It should be noted that the National Planning Policy for Waste does not contain any guidance on dealing with unallocated sites.

National Planning Practice Guidance (NPPG) (2014)

6.27 On 6 March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (NPPG) web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled. The NPPG supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections of NPPG and detailed in the subsequent paragraphs of this report: -

- Air Quality
- Design
- Health and Wellbeing
- Natural Environment



- Noise
- Travel plans, transport assessments and statements in decision-taking
- Waste

#### Air Quality

- 6.28 In terms of possible mitigation for an impact on air quality, the NPPG states that mitigation options will be *“locationally specific”* and *“proportionate to the likely impact”*, and that these can be secured through appropriate planning conditions or obligations. Suggested examples of mitigation provided in the NPPG include amendments to layout and design to increase distances between sources of air pollution and receptors; the use of green infrastructure to increase the absorption of dust and pollutants; control of emissions and dust during both construction and operation; and the provision of funding towards measures which have been identified to offset any air quality impacts arising from new development.

#### Design

- 6.29 The guidance states *“Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term”*.
- 6.30 When determining applications, the NPPG advises that *“Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies, and other material considerations”*. Where buildings *“promote high levels of sustainability”*, the NPPG advises that planning permission should not be refused on the basis of concerns about whether the development is incompatible with an existing townscape, if good design can mitigate the concerns.
- 6.31 In general, the NPPG states that *“Development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinct patterns of development...while not preventing or discouraging appropriate innovation”*.
- 6.32 In relation to landscape impacts, the NPPG advises that development can be integrated into the wider area through the use of natural features and high quality landscaping. In addition, the NPPG promotes the creation of green spaces and notes that high quality landscaping *“makes an important contribution to the quality of an area”*.

#### Health and Wellbeing

- 6.33 The NPPG advises that health and wellbeing should be taken into consideration by Local Planning Authorities in their decision making, including *“potential pollution and other environmental hazards, which might lead to an adverse impact on human health”*.

#### Natural Environment

- 6.34 This section explains key issues in implementing policy to protect biodiversity, including local requirements. It reiterates that *“the National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution”*.

### Noise

- 6.35 This section advises on how planning can manage potential noise impacts in new development. In terms of decision taking on planning applications its states that Authorities should take account of the acoustic environment and in doing so consider whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved. It also states that “neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development”.

### Travel plans, transport assessments and statements in decision-taking

- 6.36 The NPPG notes that Travel Plans and Transport Assessments can “*positively contribute to:*
- *Encouraging sustainable travel;*
  - *Lessening traffic generation and its detrimental impacts;...and*
  - *Improving road safety”.*
- 6.37 The NPPG sets out the anticipated scope and content for such documents, and notes that Travel Plans should be monitored for a length of time and at a frequency which is appropriate to the scale of the development.

### Waste

- 6.38 With regard to the Waste Hierarchy the guidance states that “driving waste up the Waste Hierarchy is an integral part of the National Waste Management Plan for England and national planning policy for waste” and “all local planning authorities, to the extent appropriate to their responsibilities, should look to drive waste management up the hierarchy”.
- 6.39 The guidance states, in respect of the use of unallocated sites for waste management facilities, that applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the Waste Hierarchy. If the proposal is consistent with an up to date Local Plan, there is no need to demonstrate ‘need’.
- 6.40 With regard to expansion/extension of existing waste facilities the guidance states that “the waste planning authority should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community’s wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant”.
- 6.41 The guidance includes advice on the relationship between planning and other regulatory regimes. On this matter it states “The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity taking into account the criteria set out in Appendix B to National Planning Policy for Waste. 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”.

6.42 The guidance states that “the role of the environmental permit, regulated by the Environment Agency, is to provide the required level of protection for the environment from the operation of a waste facility. The permit will aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health”.

National Waste Management Plan for England (2013)

- 6.43 National waste planning policy in England forms part of a wider national waste management plan to meet the requirements of the Waste Directive. The UK Government adopted the National Waste Management Plan for England (NWMP) in December 2013.
- 6.44 It should be noted that *“This Plan provides an overview of waste management in England... It is not, therefore, 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”*.
- 6.45 The NWMP identifies a commitment to achieving a zero waste economy. It states that: “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”. Later on, it identifies that 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).
- 6.46 The NWMP recognises that it is: “important to make sure that waste is optimally managed, so that the costs to society of dealing with waste, including the environmental costs, are minimised”. It goes on to state: “The key aim of the waste management plan for England is to set out our 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”.
- 6.47 It is noted within the NWMP that “The Environment Agency is the main regulator of waste management in England. Among its responsibilities are the determination of applications for environmental permits required under Article 23 of the revised Waste Framework Directive; and carrying out inspection and other compliance assessment activities” (page 12). In addition, “The waste producer and the waste holder should manage waste in a way that guarantees a high level of protection of the environment and human health. In accordance with the polluter-pays principle, the costs of waste management shall be borne by the original waste producer or by the current or previous waste holders. The distributors of products potentially share these costs. The polluter-pays principle ensures that those responsible for producing and holding waste are incentivised to reduce and/or manage their waste in a way that reduces impacts on the environment and human health”.
- 6.48 The NWMP also refers to the nearest appropriate installation principle, advising that: *“The revised Waste Framework Directive establishes the principle of ‘proximity’. This is within the context of the requirement on Member States to establish an integrated and adequate network of waste disposal installations for recovery of mixed municipal waste collected from private households. The requirement includes where such collection also covers waste from other producers.*

*The network must enable waste to be disposed of, or be recovered, in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.*

*The Directive also requires that the network shall be designed in such a way as to enable Member States to move towards the aim of self-sufficiency in waste disposal and the recovery of waste. However, Member States must take into account geographical circumstances or the need for specialised installations for certain types of waste and the Directive makes it clear that each Member State does not have to possess the full range of final recovery facilities.*

*This principle must be applied when decisions are taken on the location of appropriate waste facilities”.*

- 6.49 In relation to planning decisions, the NWMP states: *“All local planning authorities should have regard to both the waste management plan for England and the national waste planning policy when discharging their responsibilities to the extent that they are appropriate to waste management”.*

#### The Development Plan

- 6.50 Whilst the NPPF is a significant material consideration, under Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning authorities continue to be required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:
- The extant 'saved' policies of the North Yorkshire Waste Local Plan (adopted 2006); and
  - The extant policies of the Ryedale Plan- Local Plan Strategy (2013)
- 6.51 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption. In this respect, it is worth noting that the following document contains emerging local policies that may be of relevance to this application:
- Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority): hereafter referred to as the MWJP.
- 6.52 The existing open windrow composting, transfer, treatment and recycling operations on the adjacent landfill site are proposed as a safeguarded waste site (Plan period up to 31 December 2030). The safeguarded status is not a determining factor in light of the extant planning permissions allowing the use of the buildings until 2035 which is beyond the Plan period (to 31 December 2030). The relevant draft policies relating to this application are considered to be W01 (Moving waste up the waste hierarchy), W10 (Overall locational principles for provision of waste capacity) and W11 (Waste site identification principles) and D06 (Landscape). The draft MWJP was the subject of an 8 week public consultation on an Addendum of Proposed Changes to the Publication Draft (July 2017) over summer 2017 which ended in September 2017. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 for independent examination which is expected to take place in the New Year. At the current stage, it would not be appropriate to give any significant weight to this emerging document in respect of the development proposed in this planning application. However the relevant policies are set out in full below:-

### Draft Policy W01 (Moving waste up the waste hierarchy)

- “1) Proposals will be permitted where they would contribute to moving waste up the waste hierarchy through:
  - i) the minimisation of waste, or;
  - ii) the increased re-use, recycling or composting of waste, or;
  - iii) the provision of waste treatment capacity and small scale proposals for energy recovery (including advanced thermal treatment technologies), which would help to divert waste from landfill.
- 2) Further capacity for the large scale recovery of energy from waste (in excess of 75,000 tonnes annual throughput capacity), including through advanced thermal treatment technologies, will only be permitted in line with Policy W04 and where any heat generated can be utilised as a source of low carbon energy or, where use of heat is not practicable, the efficient recovery of energy can be achieved.
- 3) The provision of new capacity for the landfill of residual non-inert waste will be permitted where it can be demonstrated that it is the only practicable option and sufficient permitted capacity within the Plan area is not available. Proposals for the extension of time at existing permitted landfill sites with remaining void space will be supported in principle, where necessary either;
  - (i) to maintain capacity for disposal of residual waste, or;
  - (ii) to achieve the satisfactory restoration of the site.
- 4) Landfill of inert waste will be permitted where it would facilitate:
  - i) a high standard of quarry reclamation in accordance with agreed reclamation objectives, or;
  - ii) the substantial improvement of derelict or degraded land where it can be demonstrated that the import of the waste is essential to bring the derelict or degraded land back into beneficial use and the scale of the importation would not undermine the potential to manage waste further up the hierarchy”.

### Draft Policy W10 (Overall locational principles for provision of waste capacity)

“The allocation of sites and determination of planning applications should be consistent with the following principles:

- 1) Providing new waste management capacity within those parts of the Plan area outside the North York Moors National Park and the Areas of Outstanding Natural Beauty, unless the facility to be provided is appropriately scaled to meet waste management needs arising in the designated area and can be provided without causing unacceptable harm to the designated area.
- 2) Maximising the potential of the existing facility network by supporting the continuation of activity at existing time limited sites with permission, the grant of permission for additional capacity and/or appropriate additional or alternative waste uses within the footprint of existing sites and, the extension to the footprint of existing sites.
- 3) Supporting proposals for development of waste management capacity at new sites where the site is compatible with the requirements of Policy W11; and the site is located as close as practicable to the source/s of waste to be dealt with. This means:
  - a) For new facilities serving district scale markets for waste, particularly LACW, C&I and CD&E waste, or for facilities which are not intended to serve the specialised needs of particular industries or businesses, giving priority to locations which are within or near to main settlements in the area (identified on the key diagram) or, for facilities which are intended mainly to serve localised needs for waste management capacity in more rural parts

- of the Plan area, including agricultural waste, where they are well-located with regard to the geographical area the facility is expected to serve;
- b) For larger scale or specialised facilities expected to play a wider strategic role (e.g. serving multi-district scale catchments or which would meet specialised needs of particular industries or businesses), these will be located where overall transportation impacts would be minimised taking into account the market area expected to be served by the facility”.

#### Draft Policy W11 (Waste site identification principles)

“The allocation of sites and determination of planning applications for new waste management facilities should be consistent with the following principles:

- 1) Siting facilities for the preparation for re-use, recycling, transfer and treatment of waste (excluding energy recovery or open composting) on previously developed land, industrial and employment land, or at **or adjacent to\*** existing waste management sites, giving preference to sites where it can be demonstrated that co-locational benefits would arise taking into account existing or proposed uses and economic activities nearby. Where the site or facility is proposed to deal mainly with waste arising in rural areas then use of redundant agricultural buildings or their curtilages will also be acceptable in principle and, for agricultural waste, appropriate on-farm locations;
- 2) Siting facilities for the open composting of waste on previously developed land, industrial land, **or adjacent to\*** existing waste management sites and, where the site or facility is proposed to deal with small scale waste arisings in rural areas, the curtilage of redundant agricultural buildings or other appropriate on-farm locations. Where development of new capacity on greenfield land is necessary then preference will be given to sites located on lower quality agricultural land. Sites for the composting of waste where the process may release bioaerosols should be located at least 250 metres from the nearest residential building;
- 3) Siting facilities involving the recovery of energy from waste, including through anaerobic digestion, on previously developed land, industrial and employment land, or at **or adjacent to\*** existing waste management sites, giving preference to sites where it can be demonstrated that co-locational benefits would arise taking into account existing or proposed uses and economic activities nearby, including where the energy produced can be utilised efficiently. For facilities which can produce combined heat and power, this includes giving preference to sites with the potential for heat utilisation. Where the site or facility is proposed to deal mainly with agricultural waste through anaerobic digestion including energy recovery, then use of redundant agricultural buildings or their curtilages and other appropriate on-farm locations will also be acceptable in principle;
- 4) Siting facilities to support the re-use and recycling of CD&E waste at the point of arising (for temporary facilities linked to the life of the associated construction project) and at active mineral workings where the main outputs of the process are to be sold alongside or blended with mineral produced at the site; as well as at the types of sites identified in 1) above, where these are well related to the sources of arisings and/or markets for the end product;
- 5) Siting facilities to provide additional waste water treatment capacity, including for waste water containing Naturally Occurring Radioactive Materials, at existing waste water treatment works sites as a first priority. Where this is not practicable, preference will be given to use of previously developed land or industrial and employment land. Where development of new capacity on greenfield land is necessary then preference will be given to sites located on lower quality agricultural land. Siting of facilities for management of waste

water from hydrocarbons development will also be considered under the requirements of Policy M18 where relevant;

- 6) Providing any additional capacity required for landfill of waste through preferring the infill of quarry voids for mineral site reclamation purposes, giving preference to proposals where a need for infill has been identified as part of an agreed quarry reclamation scheme and where any pollution control concerns can be mitigated to an acceptable level.

In all cases sites will need to be suitable when considered in relation to physical, environmental, amenity and infrastructure constraints including existing and proposed neighbouring land uses, the capacity of transport infrastructure and any cumulative impact from previous waste disposal facilities, in line with national policy”.

*\*text in bold is the wording added as part of the ‘Addendum of Proposed Changes to Publication Draft’ (July 2017).*

#### Draft Policy D06 (Landscape).

- “1) All landscapes will be protected from the harmful effects of development. Proposals will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures.*
- 2) For proposals which may impact on nationally designated areas including the National Park, AONBs, and the adjacent Yorkshire Dales National Park, a very high level of protection to landscape will be required. Development which would have an unacceptable landscape impact on these areas will not be permitted.*
- 3) Protection will also be afforded to the historic character and setting of York and to areas defined as Heritage Coast. Permission will only be granted where it would not lead to an unacceptable impact on the historic character or setting of York or on the undeveloped character of Heritage Coast, unless the need for, or benefits of, the development outweigh the harm caused.*
- 4) Where proposals may have an adverse impact on landscape, tranquillity or dark night skies, schemes should provide for a high standard of design and mitigation, having regard to landscape character, the wider landscape context and setting of the site and any visual impact, as well as for the delivery of landscape enhancement where practicable”.*

6.53 The NPPF states that for the purposes of decision-taking, the policies in the Local Plan should not be considered out of date because they were adopted prior to the publication of the NPPF. However, the policies contained within the NPPF are material considerations which local planning authorities should take into account from the day of its publication.

6.54 If, following the 12 month transitional period given to local planning authorities to ensure compliance of their Local Plans with the NPPF, a new or amended plan has not been adopted, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (paragraph 215 of the NPPF). The closer the policies in the plan are to the policies in the NPPF the greater the weight that may be given. In addition paragraph 216 of the NPPF states that *“From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*

- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.*

6.55 The relevant policies within the NPPF have been set out above and within the next section the relevant ‘saved’ policies from the North Yorkshire Waste Local Plan (adopted 2006) are outlined and the degree of consistency with the NPPF is considered. This exercise is not applicable to the policies contained within the more recently adopted ‘Ryedale Plan: Local Plan Strategy’ (adopted September 2013) as the Local Plan Strategy is a post-NPPF adoption and has been deemed to be in compliance with the general aims of the NPPF.

North Yorkshire Waste Local Plan (NYWLP) (adopted 2006)

6.56 In the absence of an adopted Joint Minerals and Waste Local Plan and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 as of 27 September 2007 only the ‘saved’ policies can be considered as comprising of the Development Plan. The ‘saved’ policies relevant to the determination of this application are:

- 4/1 – Waste Management Proposals
- 4/3 – Landscape Protection
- 4/18 – Traffic Impact
- 4/19 – Quality of Life
- 5/3 – Recycling, sorting and transfer of industrial, commercial and household waste

‘Saved’ Policy 4/1 – Waste Management Proposals

6.57 This Policy states:

*Proposals for waste management facilities will be permitted provided that:*

- the siting and scale of the development is appropriate to the location of the proposal;*
- the proposed method and scheme of working would minimise the impact of the proposal;*
- there would not be an unacceptable environmental impact;*
- there would not be an unacceptable cumulative impact on the local area;*
- the landscaping and screening has been designed to effectively mitigate the impact of the proposal in a way that is sympathetic to local landscape character;*
- where appropriate, adequate provision is made for the restoration, aftercare and management of the site to an agreed afteruse;*
- the proposed transport links are adequate to serve the development; and,*
- other environmental and amenity safeguards would effectively mitigate the impact of the proposal;*
- it can be demonstrated that the proposal represents the Best Practicable Environmental Option for dealing with the waste;*
- the location is geographically well located to the source of the waste thereby according with the proximity principle.*



- 6.58 This 'saved' Policy of the NYWLP is directly relevant to the development currently under consideration. In accordance with paragraph 214 of the NPPF, an analysis of consistency shows the NPPF to be silent on matters raised in criteria a), b), i) and j). With regard to criterion f), Paragraph 144 of the NPPF states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the imposition of appropriate conditions, where necessary.
- 6.59 As the NPPF does not provide specific waste policies, the NPPW has also been reviewed in relation to the proposed development in terms of compliance with criteria a), i) and j). There is nothing specifically related to criteria b) and f) within the NPPW.
- 6.60 With regard to criterion a) this is consistent with the NPPW which sets out locational criteria for waste management facilities and states that the type and scale of the facility should be taken into account when deciding on appropriate locations.
- 6.61 In terms of criterion i), the Best Practicable Environmental Option (BPEO) is a set of procedures with the goal of managing waste and other environmental concerns. BPEO assessment is a method for identifying the option that provides "*the most environmental benefit*" of "*least environmental damage*". The technique is not reflected in NPPW or the NPPF, but the principles of putting forward the most sustainable option i.e. movement of waste up the waste hierarchy is set out in NPPW. Therefore, although criterion i) does not conflict with the provision of NPPW it should be given less weight for this reason. NPPW reflects the proximity principle set out in criterion j), therefore, this point should be given weight.
- 6.62 'Saved' Policy 4/1 g) is consistent with the provisions of the NPPF insofar as supporting the adequacy of transport links, however, there are differences in the objectives that criterion g) states that transport links should be adequate, whereas the NPPF states that improvements to the transport network should be considered. Therefore, the NPPF guidance should be given more weight in this instance because it goes a step further in supporting those developments comprising improvements to transport links.
- 6.63 In terms of criteria c), d) and h) of 'saved' Policy 4/1 the NPPF states that developments should contribute to and enhance the local environment, not give rise to unacceptable risks from pollution, and that cumulative effects should be taken into account. The wording in 'saved' Policy 4/1 states that there should not be unacceptable impacts and that safeguards should mitigate the impacts. Although there is a slight difference in emphasis the provisions of the policy are generally consistent with the NPPF and should be given weight.
- 6.64 Criterion e) of 'saved' Policy 4/1 requires that landscaping and screening should mitigate the impact of the development, being sympathetic to local landscape character. Therefore, it is considered that the policy is consistent with the relevant policies of the NPPF, but more emphasis should be given to protecting and enhancing valued landscapes. Greater weight should therefore be given to the NPPF in this instance because it goes a step further in protecting and enhancing valued landscapes.
- 'Saved' Policy 4/3 – Landscape protection
- 6.65 This 'saved' policy advises that waste management facilities will only be permitted "*where there would not be an unacceptable effect on the character and uniqueness of the landscape. Wherever possible, proposals should result in an enhancement of local landscape character*".

- 6.66 In its reasoned justification, 'saved' Policy 4/3 advises that in considering development proposals, the Authority will expect developers to respect and enhance the special character and distinctiveness of features which make specific landscapes locally important. Where waste management proposals are determined to be compatible with the local landscape by virtue of siting, scale and design, possibilities for the enhancement of the character of the local landscape should also be explored.
- 6.67 This specific 'saved' policy is considered to be relevant and full weight can be given to 'saved' Policy 4/3 as the NPPF makes clear that the effects of development on the landscape, including the potential sensitivity of an area to adverse landscape impacts, should be taken into account.

'Saved' Policy 4/18 – Traffic impact

- 6.68 This 'saved' Policy addresses transport issues and advises that waste management facilities will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway and would not have an unacceptable impact on local communities.
- 6.69 'Saved' Policy 4/18 does not conflict with the aims and objectives of the NPPF, however, there are differences in that the NPPF states that improvements to the transport network should be considered, therefore, the NPPF guidance should be given more weight in this instance.

'Saved' Policy 4/19 – Quality of life

- 6.70 This 'saved' Policy seeks to ensure that waste management facilities will be permitted only where there would not be an unacceptable impact on the local environment and residential amenity.
- 6.71 It is considered that full weight can be given to 'saved' Policy 4/19 as the NPPF makes clear that the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution, should be taken into account.

'Saved' Policy 5/3 – Recycling, sorting and transfer of industrial, commercial and household waste

- 6.72 'Saved' Policy 5/3 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development involves the sorting, bulking up and recycling of waste materials. The policy advises that 'Proposals for facilities for recycling, sorting and transfer of industrial, commercial and household wastes will be permitted provided that:
- a) The proposed site is suitably located with an existing, former or proposed industrial area of a character appropriate to the development; or
  - b) The proposed site is suitably located within a redundant site or building;
  - c) The proposed site is appropriately located within or adjacent to active or worked out quarries or landfill sites; and
  - d) The operations are carried out in suitable buildings; and
  - e) The highway network and site access can satisfactorily accommodate the traffic generated; and
  - f) That in appropriate cases it does not prejudice the restoration and afteruse of the quarry or landfill site; and
  - g) The proposal will not have an unacceptable impact on local amenity or the environment'.

- 6.73 Criterion a), b), c), d) and f) are broadly consistent with national policy in the NPPF and NPPW in terms of new development on previously developed land or appropriate land without prejudicing restoration, and can therefore be afforded full weight in the determination process.
- 6.74 The locational criteria set out in Appendix B of NPPW, which are to be used when determining proposals for waste facilities include considerations relating to traffic and amenity, which criterion e) and g) comply with and can therefore be afforded full weight.
- 'Ryedale Plan: Local Plan Strategy' (Adopted September 2013)
- 6.75 At the local level, regard has to be had to the 'Ryedale Plan- Local Plan Strategy' (2013). The introduction to the 'Ryedale Plan- Local Plan Strategy' (2013) states that *"The purpose of the Ryedale Plan is to encourage new development and to manage future growth whilst ensuring that change across the District is based on a presumption in favour of sustainable development"*.
- 6.76 The Local Plan Strategy (2013) document states that *"the Plan acts as a local expression of national policy. It establishes local policies which comply with national policy (NPPF) but which also provide a specific local policy response which reflects the distinctiveness of this District and best integrates local social, economic and environmental issues"*. The Local Plan Strategy (2013) does not contain any policies specifically related to waste development (also referred to as a 'County Matter') but there are general development management policies which would usually be applicable to development under the jurisdiction of the District Council which, in this instance, are relevant to the determination of this application are: -
- Policy SP10- 'Physical Infrastructure';
  - Policy SP13 - 'Landscapes';
  - Policy SP16- 'Design';
  - Policy SP17 - 'Managing Air Quality, Land and Water Resources';
  - Policy SP19 – 'Presumption in Favour of Sustainable Development'; and
  - Policy SP20 - 'Generic Development Management Issues'.
- 6.77 SP10 'Physical Infrastructure' sets out necessary improvements to Community Facilities and Physical Infrastructure which are critical to support their Strategy. The list of types of infrastructure and related services includes *'Waste Transfer Station - location in Ryedale to be confirmed'*.
- 6.78 SP13 'Landscapes' seeks to protect and enhance the quality, character and value of Ryedale's diverse landscapes. Specifically in relation to 'Landscape Character' the policy states that:  
*"Development proposals should contribute to the protection and enhancement of distinctive elements of landscape character that are the result of historical and cultural influences, natural features and aesthetic qualities including:*
- *The distribution and form of settlements and buildings in their landscape setting;*
  - *The character of individual settlements, including building styles and materials;*
  - *The pattern and presence of distinctive landscape features and natural elements (including field boundaries, woodland, habitat types, landforms, topography and watercourses);*
  - *Visually sensitive skylines, hill and valley sides; and*
  - *The ambience of the area, including nocturnal character, level and type of activity and tranquillity, sense of enclosure/exposure"*.

- 6.79 The policy also refers to consideration of the impact of development proposals upon landscapes which are valued locally, which *inter alia*, includes the Wolds Area of High Landscape Value. The policy states that the Yorkshire Wolds are valued locally for their natural beauty and scenic qualities. The policy acknowledges that the distinctive elements of the landscape character of the area should be protected and that there are particular visual sensitivities given the topography and resulting long distance skyline views within Ryedale and further afield.
- 6.80 SP14 'Biodiversity' states *"In considering proposals for development – Proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them. Proposals for development which would result in loss or significant harm to: Habitats or species included in the Ryedale Biodiversity Action Plan and priority species and habitat in the UK Biodiversity Action Plan; Local Sites of Nature Conservation Importance or Sites of Geodiversity Importance; Other types of Ancient Woodland and ancient/veteran trees, will only be permitted where it can be demonstrated that there is a need for the development in that location and that the benefit of the development outweighs the loss and harm. Where loss and harm cannot be prevented or adequately mitigated, compensation for the loss / harm will be sought. Applications for planning permission will be refused where significant harm cannot be prevented, adequately mitigated against or compensated for. Loss or harm to other nature conservation features should be avoided or mitigated. Compensation will be sought for the loss or damage to other nature conservation features, which would result from the development proposed. Protected sites, including internationally and nationally protected sites and Sites of Importance for Nature Conservation are identified on the adopted Proposals Map."*
- 6.81 Policy SP16 'Design' states, *inter alia*, that *"To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings including:*
- *Topography and landform that shape the form and structure of settlements in the landscape*
  - *The structure of towns and villages formed by street patterns, routes, public spaces, rivers and becks. The medieval street patterns and historic cores of Malton, Pickering, Kirkbymoorside and Helmsley are of particular significance and medieval two row villages with back lanes are typical in Ryedale*
  - *The grain of the settlements, influenced by street blocks, plot sizes, the orientation of buildings, boundaries, spaces between buildings and the density, size and scale of buildings*
  - *The character and appearance of open space and green spaces including existing Visually Important Undeveloped Areas (VIUAs) or further VIUAs which may be designated in the Local Plan Sites Document or in a Neighbourhood Plan. Development proposals on land designated as a VIUA will only be permitted where the benefits of the development proposed significantly outweigh the loss or damage to the character of the settlement*
  - *Views, vistas and skylines that are provided and framed by the above and/or influenced by the position of key historic or landmark buildings and structures*
  - *The type, texture and colour of materials, quality and type of building techniques and elements of architectural detail."*

- 6.82 SP17 'Managing Air Quality, Land and Water Resources' includes policies relevant to the proposed development which state as follows:-
- *"Land resources will be protected and improved by (inter alia) prioritising the use of previously developed land*
  - *Flood risk will be managed by (inter alia) requiring the use of sustainable drainage systems and techniques*
  - *Air Quality will be protected and improved by (inter alia) only permitting development if the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured".*
- 6.83 SP19 'Presumption in Favour of Sustainable Development' carries forward the presumption contained in the NPPF and states that the Council will take a positive approach when considering development proposals and *"always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area".* The policy states that *"planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise".*
- 6.84 SP20 'Generic Development Management Issues', with regard to character states *"New development will respect the character and context of the immediate locality and the wider landscape character in terms of physical features and the type and variety of existing uses. Proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses".*
- 6.85 With regard to amenity and safety SP20 states that *"New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence".*

## **7.0 Planning considerations**

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. In making its decision the Council should focus its attention on national or local policies or other material considerations which may have changed significantly since the original grant of permissions (2008 and 2009). In recent years the material change to planning policy at the national level is the adoption of the NPPF (2012) and the NPPW (2014) and at the local level is the adoption of the 'Ryedale Plan- Local Plan Strategy' (2013). The relevant policies have been outlined above and will be considered in the following paragraphs which set out the main considerations which, in this instance are the principle of the development and need, location, design and landscape and visual impact, the impact upon the environment and local amenity, traffic impact, archaeology, ecology and economic impacts.

### Principle of the development and need

- 7.2 The current Knapton facility deals with both Local Authority Collected Waste (LACW) and Commercial and Industrial waste. The principle of continued recycling and pre-treatment of waste beyond the currently permitted operational lifespan is considered to be broadly in line with NPPW which seeks to drive waste up the waste 'hierarchy'.

- 7.3 In November 2017 the draft Minerals and Waste Joint Plan (MWJP) was submitted to the Secretary of State for Communities and Local Government for independent examination which is expected to take place in the New Year. The MWJP covers the plan period through to 2030. The existing Knapton facilities, having planning permissions through to beyond 2030, form part of the capacity provision for that period. The existing composting, transfer, treatment and recycling operations have been identified in the draft MWJP for safeguarding. However the safeguarded status is not a determining factor in light of the extant planning permissions allowing the use of the land and buildings until 2035 which is beyond the Plan period.
- 7.4 The existing Knapton waste management facilities are recognised as forming part of the capacity provision for the Plan period. However, there have been concerns raised as to whether it would be premature to consider the acceptability of the continued use, beyond the currently permitted period, of these buildings at this stage. The capacity requirements for post-2035 are not known at this point in time, and, therefore it is potentially premature to consider what types of facility, or on what spatial basis, may be required in 2035 and beyond. The draft MWJP has been submitted for examination and therefore weight can be afforded to the draft policies albeit not significant weight. However, whilst prematurity is a material planning consideration, national planning guidance (NPPG) advises that *“refusal of planning permission on grounds of prematurity will seldom be justified”*. The Applicant states that the Site would continue to offer a local disposal point for recyclable and non-recyclable materials in line with the proximity principle, retain jobs and make use of the existing buildings and would support the adjacent GEF (if permitted). In this case the existing buildings and land use is being considered in the context of the proposal for a GEF on the adjacent land and that is a material consideration in support of the retention of the buildings the impacts of which will be considered further in this section of the report.
- 7.5 It should be noted that within the adopted Ryedale Plan – Local Plan Strategy (2013) it sets out the necessary improvements to Community Facilities and Physical Infrastructure which are critical to support their Strategy (SP10 ‘Physical Infrastructure’). The list of types of infrastructure and related services includes *‘Waste Transfer Station - location in Ryedale to be confirmed’*. The current Knapton facility deals with both LACW and Commercial and Industrial waste. Planning permission (ref. C3/14/00005/CPO, dated 26 August 2014) has been granted and part implemented for the development of a waste transfer station at Tofts Road, Kirby Misperton which would deal with LACW generated in the Ryedale area. However, despite other consented waste management facilities in the Ryedale area the Applicant has identified a demand for the continuation of the management of commercial and industrial waste at Knapton using the existing facilities as part of a recycling and recovery operation linked to the operation of an energy from waste facility which moves the waste handled at the site up the ‘waste hierarchy’.
- 7.6 The Applicant has confirmed that tipping of ‘active’ waste is due to cease this year (2017) although further tipping of inert waste, amounting to 200,000m<sup>3</sup>, will be required to complete restoration of the site and it is stated that this will take until 2035 to achieve. Whilst it is noted that the extant permission is a temporary use of land and buildings it should be acknowledged that at the point of the expiry of the permission the land and buildings will have been present in the landscape and in use for in excess of 30 years. It could be argued that the land use and buildings have an established presence in the local landscape and therefore these impacts of the proposed development shall be further explored in the following paragraphs of this report.

#### Location, design and landscape and visual impact

- 7.7 The application site is previously developed, however it is not considered brownfield land by virtue of it being part of a former mineral working and subject to restoration requirements and therefore the proposal cannot rely on policy support from paragraph 111 of the NPPF or SP17 of the Ryedale Plan – Local Plan Strategy (2013). However the design, purpose and location of the existing buildings have previously been deemed acceptable and previous planning approvals have referred to the positive contribution made by the existing landscape screening in minimising the landscape and visual impact of the site.
- 7.8 The proposed development cannot rely on ‘saved’ policy 5/3(a or b) of the NYWLP (2006), which refers to “*industrial areas*” or a “*redundant site or building*” as being suitable locations, on the basis that the extant permission requires the removal of the buildings and restoration of the land. However, it is considered that the existing pre-treatment waste recycling and transfer buildings (proposed to be retained beyond landfill restoration on a permanent basis) in the northern part of the application site for the front end recycling and transfer are appropriately located in accordance with ‘saved’ policy 5/3(c) of the NYWLP (2006). This is in the local context of the adjacent established landfill site that has been operational for a number of years and takes account of the benefits of moving waste up the ‘waste hierarchy’ with recycling being a more sustainable alternative to disposal which aligns with the aims of Draft Policy W01 of the MWJP (Moving waste up the waste hierarchy).
- 7.9 Paragraph 4 of the NPPW refers to opportunities for the co-location of waste management facilities for local plan-making purposes (i.e. the MWJP). It is considered that there are sustainability benefits in having the waste pre-treatment process in the same location as the GEF to create the fuel (RDF) for the energy generation and it would allow for the continuation of the sustainable management of waste within the County. There is support from draft local policies W10 (Overall locational principles for provision of waste capacity) and W11 (Waste site identification principles) of the draft MWJP which seek to maximise co-locational benefits and the operational capacity of an existing waste management site and these policies can be afforded weight albeit not significant weight.
- 7.10 If the buildings and operations are to remain in perpetuity beyond 2035 the acceptability of the impact upon the landscape character and visual amenity of the area should be considered. The application site forms part of the existing operational waste management site on the north facing scarp of the Yorkshire Wolds on the southern flank of the Vale of Pickering. The dominant land use of the surrounding countryside is open farmland and woodland areas. The Knapton Wood plantation occupies an elevated position and extends to the south west, south, south-east and east. The application site falls within an Area of High Landscape Value (AHLV) as defined by the Ryedale Local Plan (2013). However, it has been confirmed that the development site is considered to be within a transitional zone of this local designation and it relates more in character on the ground to the Vale of Pickering (as opposed to the Yorkshire Wolds) which is scattered with isolated farm buildings and hedgerows. It is considered that the scale, materials and colour finishes of the existing buildings are consistent with agricultural buildings in the Vale of Pickering. On this point the Heritage Manager is of the view that the existing site relates more to the Vale of Pickering character in that it reads as a farm outbuilding in the landscape which, while it can be seen and is a built structure on a natural slope, is not unduly obtrusive.

- 7.11 With regard to the visual impact, at present the gable end of the existing recycling building and a section of the roof rise above the shelter belt (which runs parallel to the access road) and are visible from a section of the A64 to the north-east. However, the landform and existing vegetation cover make it unlikely that there would be any significant views from residential properties or public rights of way in the area.
- 7.12 The retained buildings would continue to benefit from the existing landscape screen along the northern boundary which would be further complimented by the additional raised woodland block which would screen views of the site from the A64 to the north-east. The planted mound to the east would add to the landscape resource and aid in further assimilating the buildings into the landscape although the proposed dense evergreen screening is not characteristic of the backdrop of the Wolds landscape and suitable planting and appropriate aftercare would be agreed under condition if permission is granted (Conditions 11-13). Importantly, the County Council's Heritage Manager observes that it *"does show that the edge of the development can be filtered from visual receptors"*. In addition it is proposed that a programme of management of the existing shelter belt woodland would be implemented to ensure its long term effectiveness as a screen throughout the life of the development and this would be secured by Condition 13.
- 7.13 The existing shelter belt of mature planting along the northern boundary, the presence of Knapton Wood on the skyline to the south and the levels of the restored landfill to the west restrict views towards the site. Any views towards the existing buildings would be further screened by the planting that would take place on the restored landfill (short rotation willow coppice and permanent woodland blocks) and the new woodland block to be planted on a contoured landform to the east of the existing buildings. The Applicant asserts that the extra soil depth provided by the landform would also promote more rapid establishment of the screen planting when compared to growth rates on the adjacent shallow chalk soils. In addition, the proposed woodland block would also create a range of new habitats and add to the biodiversity of the area. In line with the requirements of 'saved' policy 4/1(e) of the NYWLP (2006) the landscaping and screening has been designed to effectively mitigate the impact of the proposal in a way that is sympathetic to local landscape character and it is considered that there would not be an unacceptable effect on the character and uniqueness of the landscape and as a result there is no significant conflict with the requirements of 'saved' policy 4/3 of the NYWLP (2006). With regard to emerging local policy (D06 Landscape of the MWJP) it is considered that, having taken into account the proposed mitigation measures in the form of the new woodland block and landscape enhancement comprising continued management of new and existing planting, there will be no unacceptable impact on the quality and character of the landscape.
- 7.14 As referred to above the Applicant states that the Site would continue to offer a local disposal point for recyclable and non-recyclable materials in line with the proximity principle, retain jobs and make use of the existing buildings and would support the adjacent GEF (if permitted). The amendments made to the proposed GEF to reduce the height and increase the landscape and visual mitigation would reduce the overall cumulative landscape and visual impact of the buildings. It is accepted by the County Council's Heritage Manager that there would be partial visibility from visual receptors but subject to the abovementioned landscape planting and management conditions being applied the proposal is not unacceptable in landscape terms. The effect upon the landscape character and visual amenity arising from the proposal can be mitigated to make the impacts acceptable and the suitability of the buildings to serve the GEF (recommended for approval) is a material consideration in support of the permanent retention and change of use. It demonstrates that the existing site and buildings, which are established in the landscape, are in an appropriate location



within this part of the County for a permanent waste management facility and represents sustainable development in the form of ancillary infrastructure for an energy from waste facility and would not result in unacceptable conflict with the requirements of 'saved' policies 4/1(a, d & e) and 4/3 of the NYWLP (2006) and policies SP13, SP16, SP19 and SP20 of the 'Ryedale Plan - Local Plan Strategy' (2013). The retained waste recycling and pre-treatment buildings and the proposed GEF are interdependent and rely on the parallel operation of both facilities to achieve the co-locational and sustainability benefits which weigh in favour of the development. To this end a condition shall be attached to only permit the continued operation of the waste recycling and pre-treatment buildings beyond the extant permission time limit when operated in conjunction with the GEF facility (Condition 20). This would address a scenario in which the GEF is not developed. In addition, as with the GEF development, if permission is granted for the continued use of the existing waste recycling and pre-treatment buildings in conjunction with the GEF then a condition (Condition 21) will be included that requires demolition and site restoration in the event of the cessation of electricity production at the adjacent GEF site.

#### Other considerations

- 7.15 There are no significant impacts anticipated in respect of ecology, archaeology or the historic environment and therefore the proposed development would be consistent with paragraphs 118 and 128 of the NPPF and the relevant locational criteria set out in Appendix B of the NPPW. The proposal involves an increase in throughput of waste and the use of shredders to produce the RDF, but it is noted it would no longer be not 'black bag' waste and processing and treatment would take place within the buildings (Condition 14) and as a result no significant impacts relating to odour or vermin are anticipated which is in accordance with the locational criteria (h & i) set out in Appendix B of the NPPW. The controls on hours of HGV movements, dust, noise and lighting would continue to apply to the buildings and operations if retained permanently and associated vehicle movements would continue to be satisfactorily accommodated by the local highway. It is therefore considered that the development would not result in unacceptable impacts upon the environment, highway or amenity in respect of these matters beyond those previously deemed acceptable and there is no conflict with 'saved' policies 4/1, 4/18 and 4/19 of the NYWLP (2006).
- 7.16 The planning application proposes the continued use of the facilities at the site as a permanent waste recycling and pre-treatment facility beyond the life of the adjacent landfill disposal site as part of a wider waste management operation involving recycling and energy from waste. The ongoing contribution to employment and the forecasted economic benefits (summarised on paragraphs 3.16 & 3.17) arising from the co-location of waste management and energy generation facilities in this location weigh in favour of the development and any residual harm to landscape character and visual amenity is outweighed by the economic benefits.

## **8.0 Conclusion**

- 8.1 The principle of continued recycling and pre-treatment of waste beyond the currently permitted operational lifespan is considered to be in line with NPPW which seeks to drive waste up the waste 'hierarchy' and also national and emerging local policy which seek to maximise co-locational benefits arising at existing waste management sites. The suitability of the existing buildings to serve the adjacent GEF is a material consideration in support of the permanent retention and change of use and the application has been considered on this basis.

- 8.2 The site is on the edge of the Yorkshire Wolds escarpment within an Area of High Landscape Value, but it is considered that it is a transitional zone more in keeping with the various isolated agricultural buildings within the Vale of Pickering. It is considered that subject to securing the proposed mitigation in the form of ground remodelling to create a planted mound with appropriate tree species and aftercare the landscape feature would correspond with the existing natural undulations of the scarp slope and would not have an unacceptable impact upon the landscape character and visual amenity in the area.
- 8.3 The proposed development would have a positive impact upon the local economy in terms of supporting low carbon energy generation at the adjacent site, job creation and retention and local business rate taxes. Paragraph 93 of the NPPF highlights that planning has a key role in “*supporting the delivery of renewable and low carbon energy and associated infrastructure*”. In this case the associated infrastructure would be the retained land and buildings which would continue to serve as front end recycling and pre-treatment facilities. The potential impacts upon the environment, local amenity and the highways network can be controlled through the imposition of planning conditions. As with the GEF development the Authority will need to ensure that the proposed mitigation measures are fully implemented and monitored to ensure that the positive benefits of lower carbon energy and local job creation are not outweighed by loss of environmental, landscape and visual amenity. The proposed development seeks to divert non-recyclable waste up the ‘waste hierarchy’ and the development is considered sustainable when operated alongside the GEF, giving rise to economic and environmental benefits which outweigh any harm to local landscape character. It is accepted that there are no significant impacts anticipated in respect of the historic environment, archaeology, ecology, or highways matters and the proposed development would be consistent with paragraphs 32, 118 and 128 of the NPPF and the relevant locational criteria set out in Appendix B of the NPPW. It is considered that there are no material planning considerations to warrant the refusal of this application and it is recommended that planning permission is granted.

## **9.0 Recommendation**

9.1 It is recommended that for the following reasons:

- i) The development is in accordance with ‘saved’ policies 4/1, 4/18, 4/19 and 5/3 of the NYWLP (2006), policies SP10, SP14, SP16, SP19 and SP20 of the Ryedale Plan- Local Plan Strategy (2013) and overall is consistent with the NPPF (2012) and NPPW (2014);
- ii) There is an absence of significant conflict with ‘saved’ policies 4/1(a & e) and 4/3 of the NYWLP (2006) and policies SP13 and SP17 of the ‘Ryedale Plan - Local Plan Strategy’ (2013) and the economic benefits arising from the permanent retention of the development in this location outweigh any adverse impacts on landscape character and visual amenity;
- iii) The proposal does not conflict with the abovementioned policies as it is considered that the existing highway network is capable of handling the volume of traffic generated by the development, the visual impact of the proposed development can be mitigated through condition, the environmental impacts of the proposed development can be controlled, neighbouring residential properties will not be adversely affected and there are no other material considerations indicating a refusal in the public interest; and
- iv) The imposition of planning conditions will further limit the impact of the development on the environment, residential amenity and the transport network.

That, **PLANNING PERMISSION BE GRANTED** subject to the following conditions:

Conditions:

Commencement Time Limit

1. The development to which this permission relates must be implemented no later than the expiration of three years from the date of this Decision Notice.

Definition of development

2. The development hereby permitted shall be carried out in accordance with the application details dated 12 May 2017 and the list of 'Approved Documents' at the end of the Decision Notice and the following conditions which at all times shall take precedence.

HGV hours

3. There shall be no HGVs permitted to enter or exit the application site or be loaded or unloaded within the application site except between the following hours:-  
07:30 – 17:30 Monday to Friday  
07:30 - 13:00 Saturdays  
There shall be no HGV movements into or out of the site or loading or unloading of HGVs on Sundays or Bank/Public Holidays.

Dust Control

4. Dust Control measures shall be employed to minimise the emission of dust from the site. Such measures shall include the spraying and cleaning of roadways and the discontinuance of the screening, sorting, processing and movement of materials during periods of high winds.
5. No materials shall be burned on the site.

Storage of fuels

6. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compounds shall be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse land, or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Lighting

7. No internal and external lighting shall be provided within the application site without the prior written approval of the County Planning Authority. For the avoidance of doubt, details of any proposed lighting scheme to be considered by the County Planning Authority shall include a layout plan with beam orientation, a schedule of equipment (luminaire type, mounting height, aiming angles and luminaire profiles) and the proposed hours of use. The approved scheme shall be implemented in full prior to the external lighting being brought into operation.

Noise monitoring scheme

8. Within 3 months of the date of planning permission a noise monitoring scheme shall have been submitted to the County Planning Authority for approval in writing. This scheme shall include day time and night time noise limits at identified noise sensitive receptors and proposals for monitoring at identified noise sensitive receptors and

any mitigation deemed necessary to comply with the agreed noise limits. Once approved the development shall proceed in accordance with the approved Scheme.

#### Noise monitoring during operation

9. The operator shall monitor noise levels due to operations and background noise levels as requested in writing by the County Planning Authority and shall forward the details of the monitoring to the County Planning Authority within 14 working days of carrying out the monitoring.

#### Fire prevention

10. Within 3 months of the date of planning permission a scheme for the prevention of fire for the application site should be submitted to and approved in writing by the County Planning Authority in consultation with North Yorkshire Fire and Rescue Service. Once approved the scheme shall be implemented before the development hereby approved is brought into use and thereafter maintained in accordance with the approved scheme throughout the lifetime of the development.

#### Landscape scheme

11. Within 3 months of the date of planning permission full details of both hard and soft landscape proposals shall be submitted and approved in writing by the County Planning Authority. These details shall include, as appropriate:
- All existing trees, hedgerows, shrubs, other plants, walls, fences and other features which are to be retained on the site and on adjoining land in the same ownership
  - Proposed finished levels or contours, means of enclosure, access and circulation routes for pedestrians and vehicles, materials, services, and structures such as lighting and storage units.
  - Proposed planting with details on location, species, size of plant, numbers, density, support and protection, ground preparation, planting method, mulch and aftercare.
- Thereafter the scheme shall be implemented as approved.

#### Replacement of failed planting

12. All planting, seeding or turfing set out in the details approved in Condition 11 shall be carried out in the first planting season following the commencement of development. Any trees, plants or shrubs which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the County Planning Authority gives its written consent to any variation.

#### Landscape Management Plan

13. Within 3 months of the date of planning permission a detailed Landscape Management Plan shall be submitted to and approved in writing by the County Planning Authority. The Management Plan shall include a scheme for the monitoring, protection and maintenance of existing and proposed vegetation during the operational period. The Plan shall detail measures for ensuring that the site's landscape value is maintained and enhanced for the life of the development. The development shall then proceed only in strict accordance with the approved Plan.

#### Limitations

14. There shall be no external storage, treatment or processing of RDF or waste materials at the site.

#### Site Access

15. Access to the site shall be via the existing access off the A64 and no other access shall be used. The access road from the site to the public highway shall be kept

clean and in a safe condition. The access road shall be maintained in a good standard of repair, free of potholes for the duration of the operations.

HGV movement limit

16. There shall be a maximum of 40 HGV movements associated with the development in any single day entering and leaving the site via the existing junction with the A64. Vehicles entering and leaving the site shall be monitored and the applicant shall be required to provide the County Planning Authority with weighbridge records within 10 days of any written request from the County Planning Authority.

Vehicle sheeting

17. All vehicles involved in the transport of waste material to and from the site shall be effectively enclosed and/or securely covered in such a manner as no material may be spilled on the public highway.

Limitation on permitted development rights

18. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) no buildings or fixed plant shall be erected or areas of hardstanding created [except as provided for in the development hereby permitted] within the application site without the prior grant of planning permission.

Copy of permission

19. A copy of the planning permission and any agreed variations, together with all the approved plans shall be kept available at the site office at all times.

Limitation on operation

20. Upon completion of the restoration of the adjacent landfill or from 14 March 2035 whichever is sooner the retained waste recycling and pre-treatment buildings shall only be operated in conjunction with the adjacent GEF. In the event that the GEF is not operational at that point in time then the development hereby permitted shall be discontinued and all buildings, plant, machinery, vehicles and skips shall be removed within 12 months of the completion of the restoration of the adjacent landfill and the application site shall be restored in accordance with a scheme to be submitted to and approved in writing by the County Planning Authority. Such restoration shall be completed within a period of 24 months from the date of completion of the restoration works at the adjacent landfill site.

Decommissioning Environmental Management Plan (DEMP), Restoration & Aftercare

21. No later than 6 months prior to the permanent cessation of electricity generation at the adjacent GEF site and prior to the decommissioning of the development, a Decommissioning Environmental Management Plan (DEMP) to address the removal of the development and restoration of the land) shall be submitted to and approved in writing by the County Planning Authority. The DEMP shall be implemented as approved. The DEMP shall include the following details:
- a. The demolition/dismantling and removal of all buildings, structures, plant and machinery in accordance with a detailed method statement;
  - b. a detailed Restoration & Aftercare Plan providing details of restoration to agriculture or nature conservation;
  - c. Site waste management including measures to recycle materials on the Site;
  - d. Hours of working;
  - e. Car parking arrangements;
  - f. Traffic management;
  - g. Decommissioning worker accommodation and support facilities and their means of enclosure;

- h. Measures to control lighting, noise, dust, odours and fumes in order to minimise the adverse effects on the amenity of neighbours;
- i. Temporary storage compounds and stockpile areas;
- j. Measures to prevent mud and debris being deposited on the highway;
- k. Measures to protect trees and hedgerows;
- l. Temporary fencing;
- m. Measures to minimise the pollution of surface and ground water;
- n. Measures to inform visitors and liaise with neighbours; and
- o. A programme for implementation with demolition/removal works and restoration to be completed no later than 24 months after the cessation of electricity generation at the adjacent GEF site.

**Reasons:**

1. To comply with Section 91 of Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To ensure that the development is carried out in accordance with the application details.
- 3-9. In the interests of amenity.
10. In the interests of site safety.
- 11-13. In the interests of achieving a high standard of landscaping to mitigate the impact on the character of the application site and its locality in the interests of visual amenity.
14. In the interests of amenity.
- 15-17. In the interests of highway safety and amenity.
18. To reserve the rights of control by the County Planning Authority in the interests of amenity.
19. To ensure that site personnel are aware of the terms of the planning permission.
20. To reserve the right of control by the County Planning Authority in the interests of amenity.
21. To avoid harm to the amenity of residents and to achieve successful restoration of the site and reintegrate the land into the local landscape character.

**Approved Documents:**

Ref.	Date	Title
2170le/R005mr	May 2017	Planning Statement
16/1006/TH/LA/V.0	May 2017	Landscape Appraisal
003	May 2017	Proposed Site Plan
004	May 2017	Existing/Proposed Floor Plans and Elevations
005	May 2017	Existing/Proposed Elevations

**Statement of Compliance with Article 35(2) of the Town and Country Planning  
(Development Management Procedure) (England) Order 2015**

*In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.*

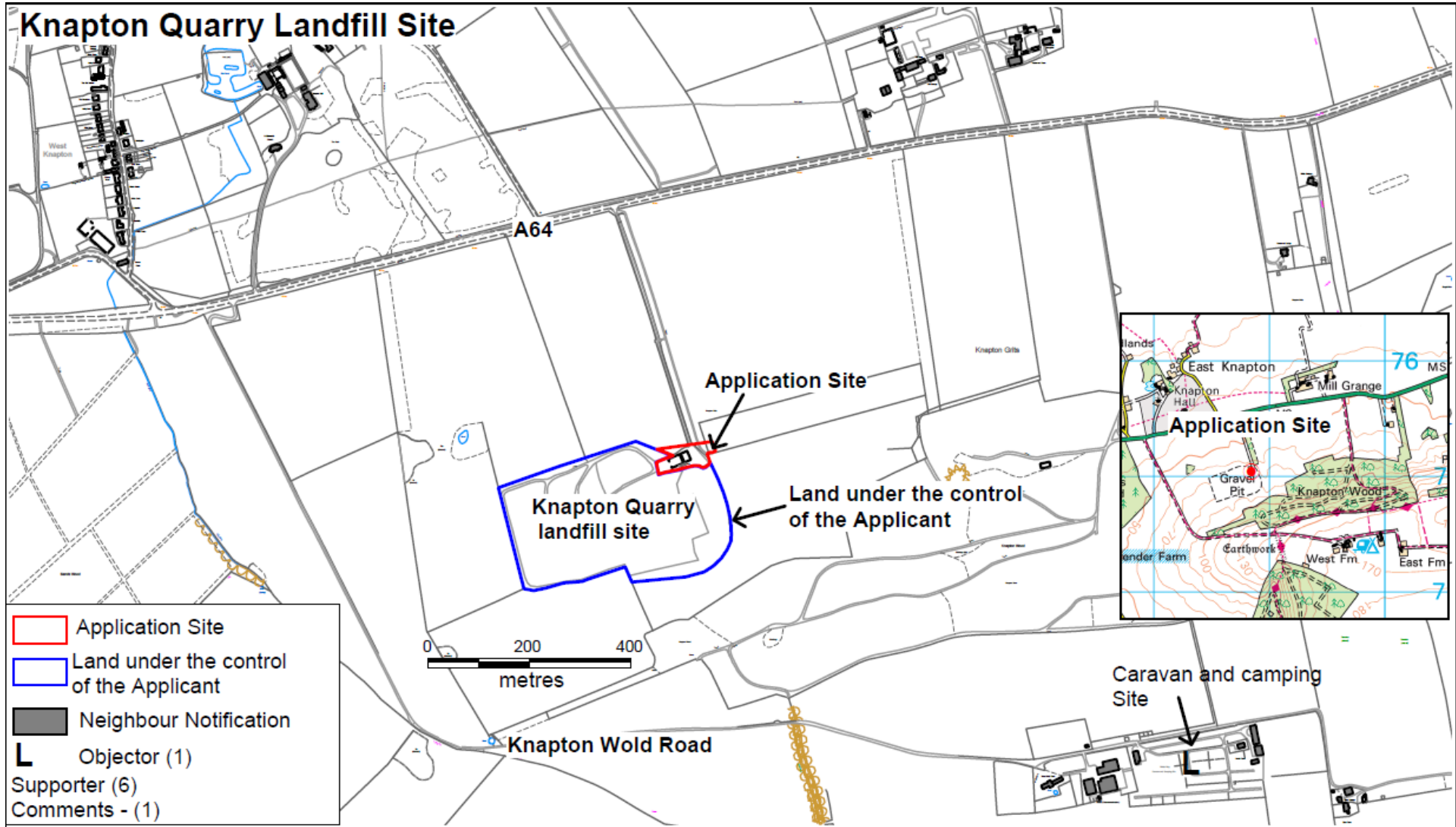
DAVID BOWE  
Corporate Director, Business and Environmental Services

Author of report: Alan Goforth

Background Documents to this Report:

1. Planning Application Ref Number: C3/17/00604/CPO (NY/2017/0129/FUL) registered as valid on 15 May 2017. Application documents can be found on the County Council's Online Planning Register by using the following web link:  
<https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.

Appendix A - Site Location, constraints and representations

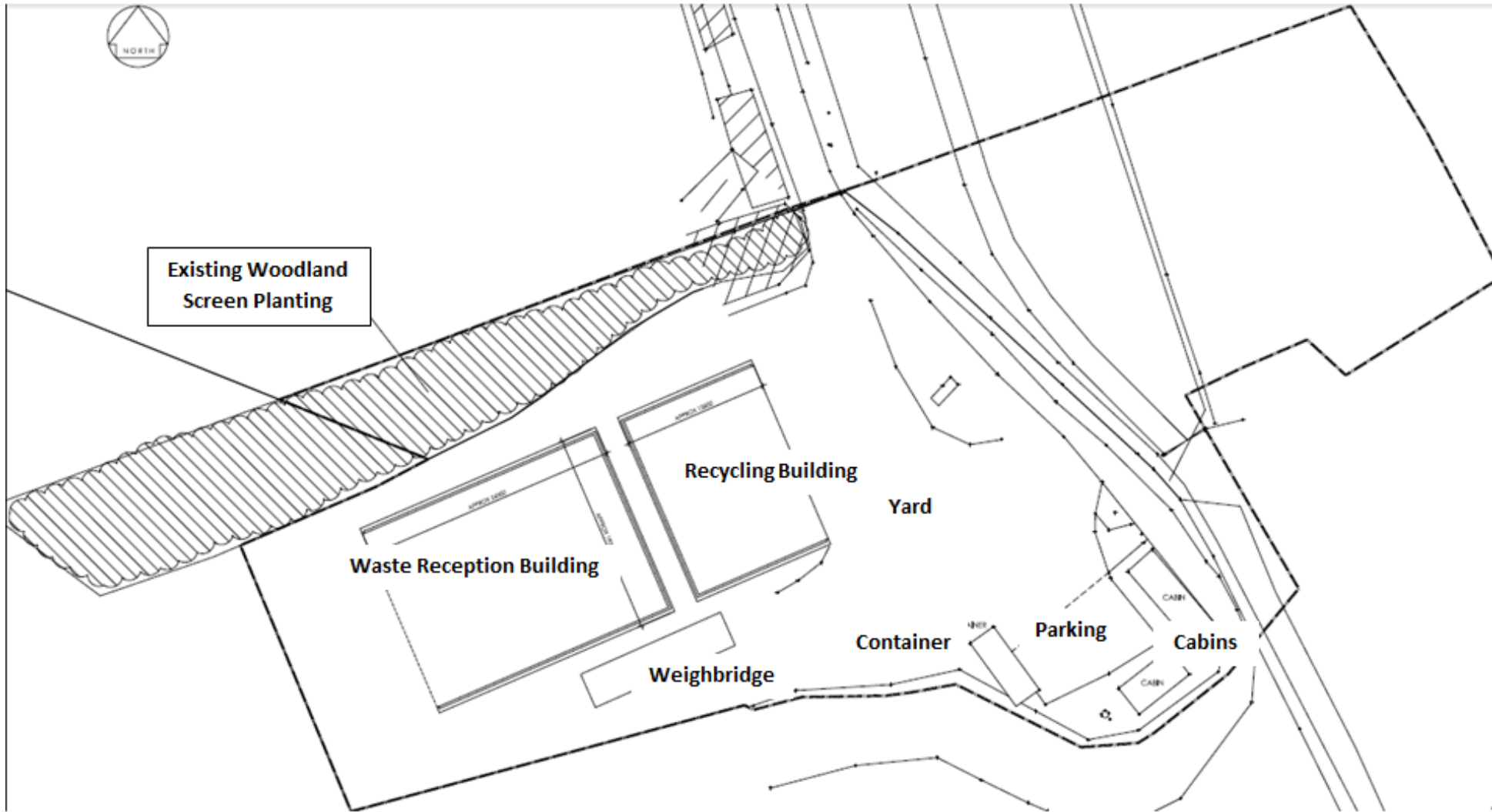




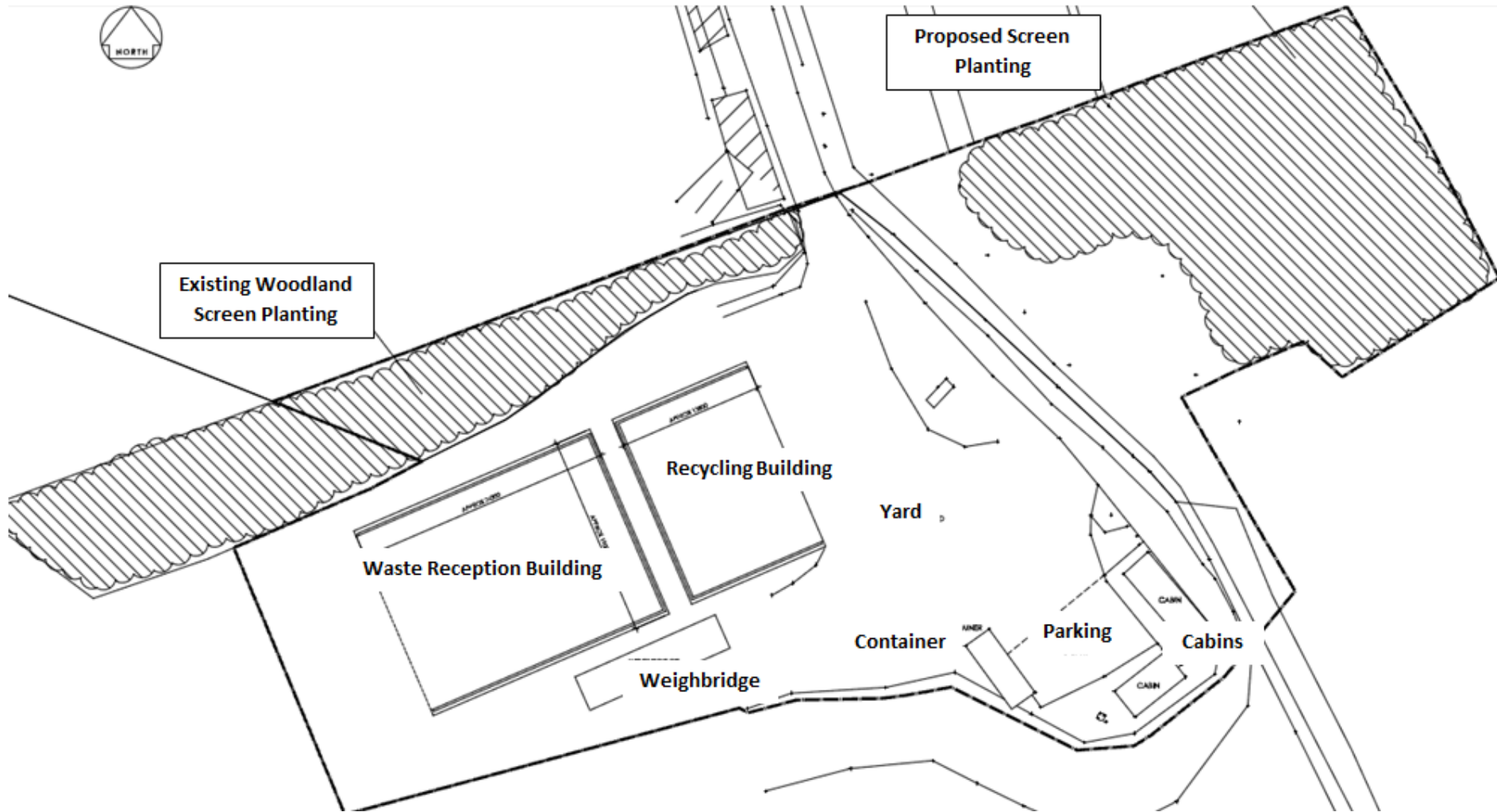
Appendix B - Aerial photo



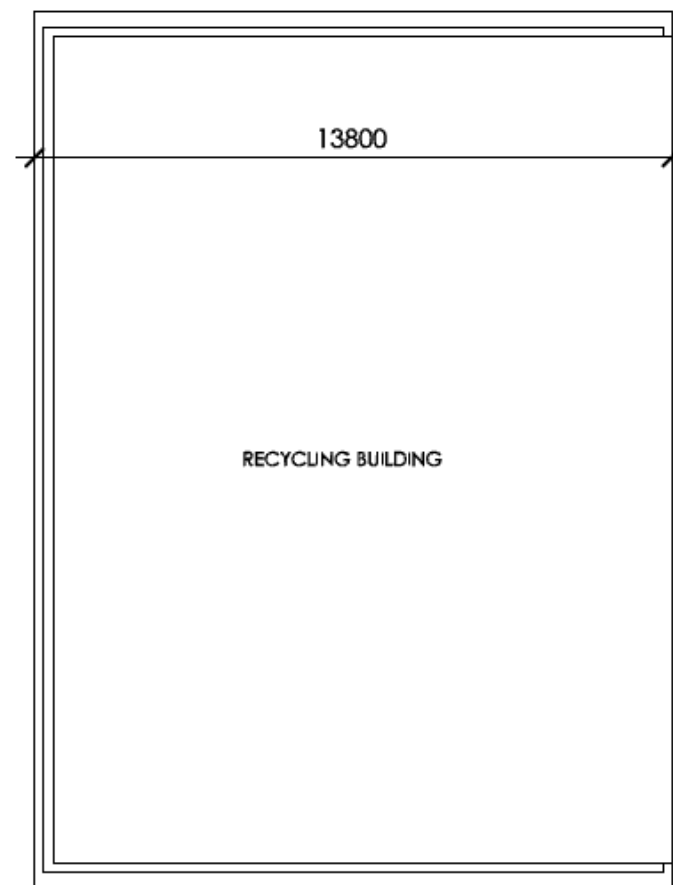
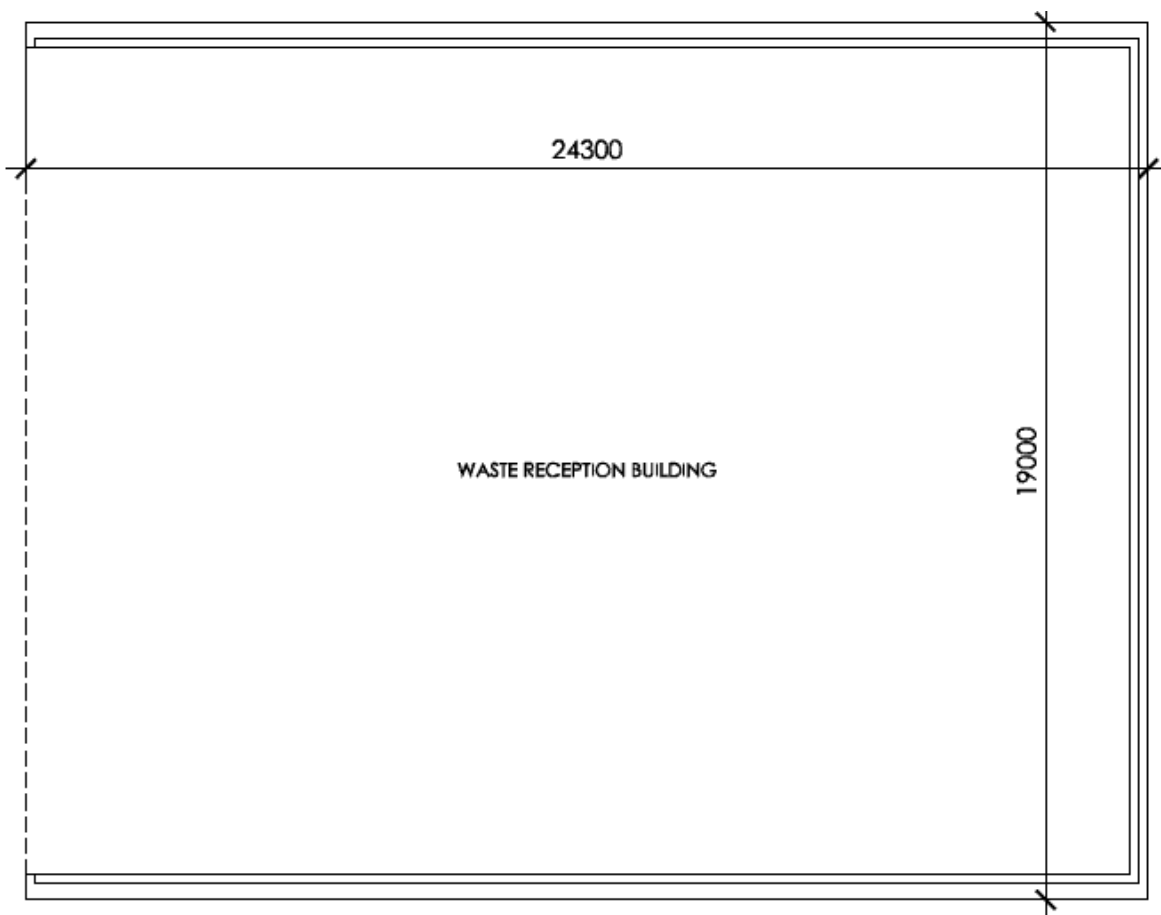
Appendix C- Existing Site Plan



Appendix D- Proposed Site Plan

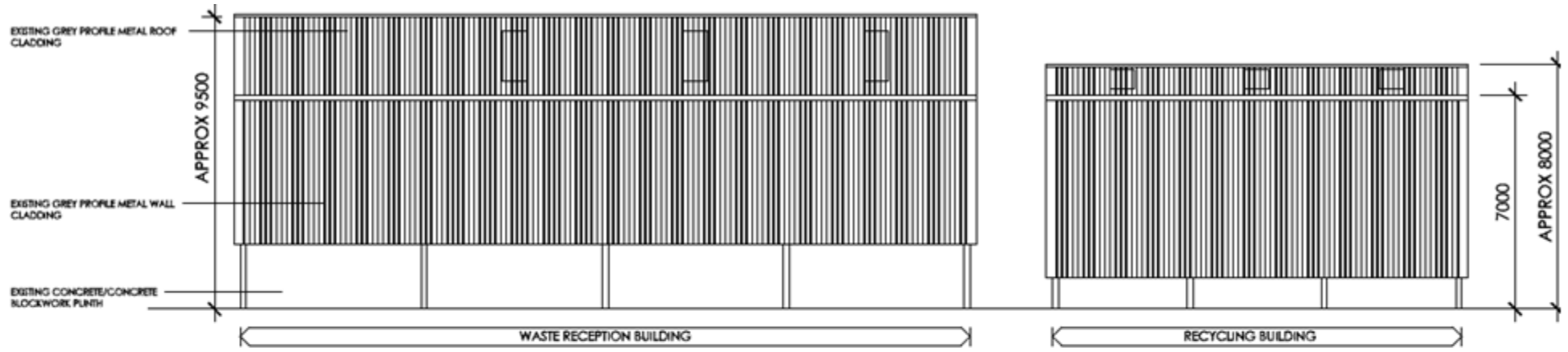


Appendix E- Existing /Proposed Floor Plan

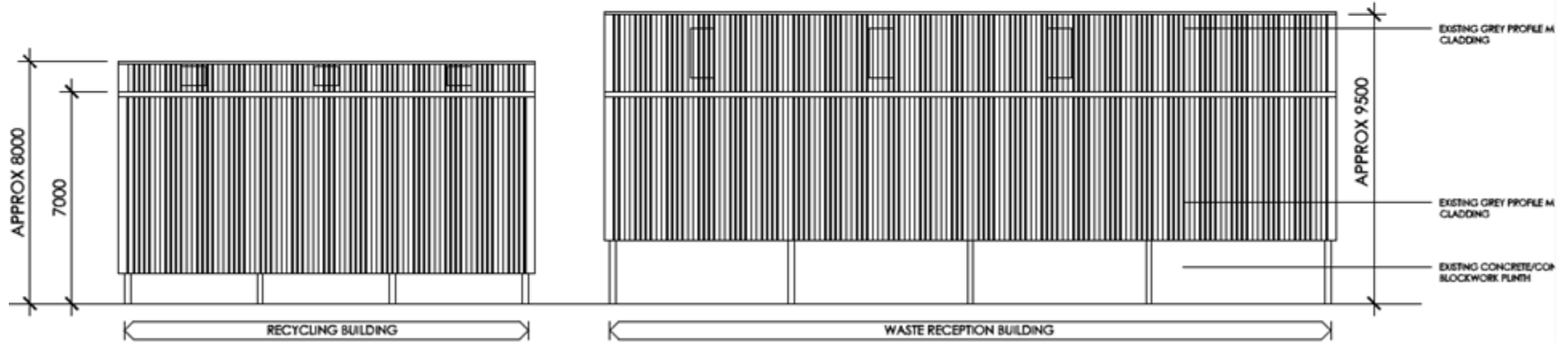


EXISTING/PROPOSED FLOOR PLANS

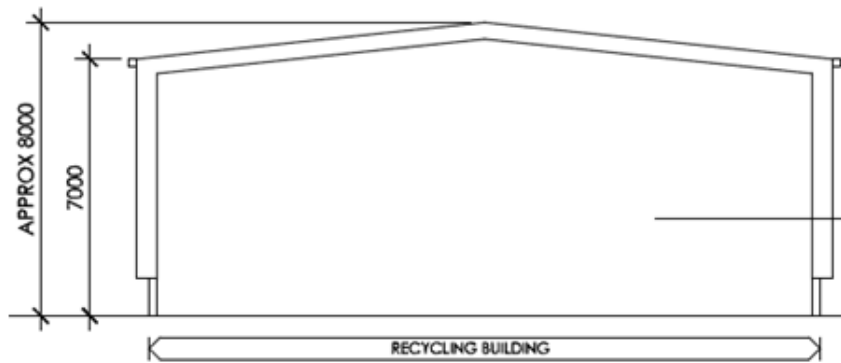
Appendix F- Existing/Proposed Elevations



EXISTING/PROPOSED SOUTH ELEVATION

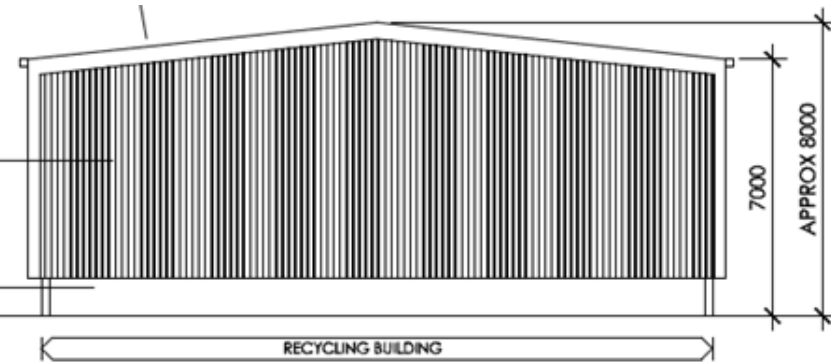


EXISTING/PROPOSED NORTH ELEVATION

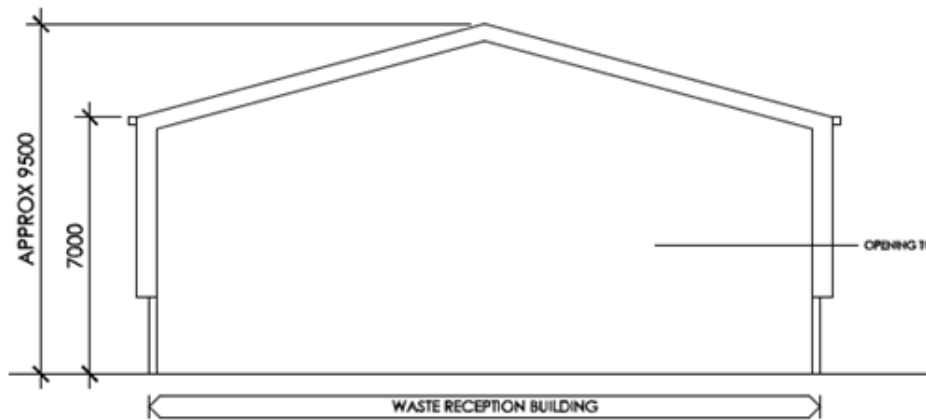


EXISTING/PROPOSED EAST (FRONT) ELEVATION

EXISTING GREY PROFILE METAL WALL CLADDING  
 OPENING TO FRONT ELEVATION  
 EXISTING CONCRETE/CONCRETE BLOCKWORK FINISH

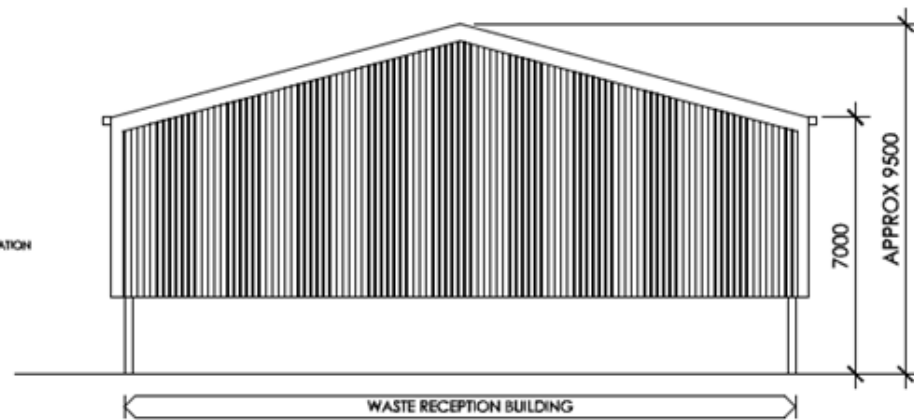


EXISTING/PROPOSED WEST (REAR) ELEVATION



EXISTING/PROPOSED WEST (FRONT) ELEVATION

OPENING TO FRONT ELEVATION



EXISTING/PROPOSED EAST (REAR) ELEVATION

**North Yorkshire County Council**

**Business and Environmental Services**

**Planning and Regulatory Functions Committee**

**19 December 2017**

**C8/41/107A/PA - Planning Application for the purposes of the variation of Condition No's 1, 2, 3, 5, 6, 14, 18 & 20 of Planning Permission Ref. C8/2012/0035/CP dated 4 September 2012 for the continuation of tipping of colliery waste from Kellingley Colliery and soil materials from other locations for a further two years until 13 May 2018, revised tipping materials and revisions to the vehicle route, revised restoration scheme and landscaping on land at Womersley Quarry, Off Stubbs Lane, Womersley, DN6 9BB On Behalf Of Harworth Estates Mines Property Ltd (Selby District) (Osgoldcross Electoral Division)**

**Report of the Corporate Director – Business and Environmental Services**

**1.0 Purpose of the report**

- 1.1 To determine a planning application for the variation of condition No's 1, 2, 3, 5, 6, 14, 18 & 20 of Planning Permission ref. C8/2012/0035/CP dated 4 September 2012 for the continuation of tipping of colliery waste from Kellingley Colliery and soil materials from other locations for a further two years until 13th May 2018, revised tipping materials and revisions to the vehicle route, revised restoration scheme and landscaping on land at Womersley Quarry, off Stubbs Lane, Womersley, DN6 9BB on behalf of Harworth Estates Mines Property Ltd.
- 1.2 This application is subject to three objections having been raised by local members of the public and local businesses (summarised in paragraphs 5.3 and 5.5 of this report) and is, therefore, reported to this Committee for determination.

**2.0 Background**

Site Description

- 2.1 The application site is a former magnesian limestone quarry and part restored colliery spoil disposal site and is approximately 4.5km to the south of Knottingley and approximately 5km south-east of Pontefract. The 94.6 hectare site is located to the north-west of Womersley village, to the south of Cridling Stubbs village and to the south-east of Darrington Quarry, all in Selby District. The District boundary with Wakefield MDC is 1.2km to the west of the site.
- 2.2 Access to the site is gained off Stubbs Lane to the north of the site. The M62 runs east-west approximately 1 kilometre to the north and the A1(M) is located approximately 2 kilometres to the west. Northfield Lane runs along the eastern boundary of the application site and Bank Wood Road is to the south west of the site. A branch line of the East Coast mainline is located to the immediate east of the northern part of the site. The Gale Common Ash Disposal site, which received ash from the Eggborough and Ferrybridge power stations, is 1.3 km to the north-east of the site.

- 2.3 The application site is set within a predominantly rural area with much of the surrounding land comprising arable farmland, punctuated by areas of wood and coppice. The site is located on the eastern edge of the Southern Magnesian Limestone ridge, an area of undulating landscape that falls gradually from 70 – 80 metres AOD in the west to between 35 – 40 metres AOD near to the site. To the east of the site, the topography is flat and low lying being between 5 – 20 metres AOD and Gale Common Ash Disposal site to the north east of the site, forms a man-made hill rising to approximately 70 metres AOD.
- 2.4 The broad 'lozenge' shape of the existing tipping site is punctuated by two distinct areas of land. In the northern section, a roughly rectangular 2.2 hectare area of land known as the former Womersley and Cridling Stubbs Quarry is a Site of Importance for Nature Conservation (SINC) (outside the application site boundary but under Applicant's ownership) and on the east side, and more centrally located, the former Northfield Quarry which is approximately 9 hectares and outside the application site boundary.
- 2.5 The site includes active tipping and restoration working areas within the majority of the central section of the site and restored areas to the central batter east (adjacent to the SINC) and the north and south. At the northern end of the site the restored areas are found to the east and west of the haul road which runs from Stubbs Lane through the centre of the site to the tipping areas. The restored areas include grassland and trees which are now reaching maturity and waterbodies at the south-eastern end of the site. The eastern flank of the central area has been built up to final levels and limestone fines were spread as part of the existing approved restoration plan.
- 2.6 In the southern part of the site are areas that have been restored. The restored areas are found to the south of two overhead power lines which cross the site north-east to south-west. The restored areas include grassland and pond/wetland after-uses. A water easement for the Yorkshire Derwent Aqueduct also crosses the southern section of the site. The site is entirely underlain by the Permian Magnesian Limestone principal aquifer, the top of which is exposed within a lagoon associated with former quarry workings to the east of Northfield Lane, now the home of the Blue Lagoon Diving Centre (operated by Above & Below (UK) Ltd) which is 220 metres from the application site.
- 2.7 The village of Womersley lies to the south east of the application site with some properties within 100 metres of the southern boundary of the application site. Cridling Stubbs is found to the north east and the nearest properties within the main settlement are approximately 350 metres from the site.
- 2.8 Aside from the residential properties within the main settlements of Cridling Stubbs and Womersley there are a number of residential properties in close proximity to the application site. The nearest being those properties found on Northfield Lane which runs along the eastern boundary of the application site. Spring Lodge Cottage (Crossing), east of the site and adjacent to the rail crossing on Northfield Lane is approximately 20 metres from the site at the nearest point.
- 2.9 The property known as Innisfree is to the south of Spring Lodge Cottage (Crossing) and is located directly adjacent to the former Northfield Quarry. The house itself is approximately 80 metres from the application boundary.



- 2.10 To north of Spring Lodge Cottage (Crossing) are Spring Lodge, The Paddock and Shepherds Cottage which are found to the east of Northfield Lane, an agricultural field and the railway line which bounds the site to the north east. The track has mature deciduous trees on each side. The distance between these properties and the application site is approximately 110 to 160 metres. The property known as Lanswood is further north of the other properties and stands approximately 100 metres from the site and is separated from the site by the railway line. There are a number of mature deciduous trees adjacent to the railway as well as within the garden of the property itself.
- 2.11 To the west of the site on Banks Wood Road are the properties comprising: Stapleton Cottages, Stonewall Cottage and Spinneys Edge. The closest cottage being approximately 190 metres from the site. To the south of the site also on Banks Wood Road is Rock House which shares a southern access with the Womersley site and also West Lodge, and Manor Farm which are approximately 20-60 metres from the site.
- 2.12 A Public Right of Way (Bridleway no. 35.25/5/1) follows the western site boundary to Stubbs Lane in the north and Bank Wood Road in the south. As shown on the attached plan, despite the Public Right of Way having been diverted on the ground and it functioning appropriately, the official records still identify the old route of the Public Right of Way crossing Womersley Quarry in the north.
- 2.13 The application site is within land designated as Locally Important Landscape Areas in the Selby Local Plan, 2005 ('saved' Policy ENV 15). This designation is related to landscape quality and characteristics of the Southern Magnesian Limestone Ridge. The whole of the site is located within the Selby Green Belt.
- 2.14 The former Womersley and Cridling Stubbs Quarry is designated as a Site of Importance for Nature Conservation (SINC) which was last surveyed in 2009 and records state that it *'contains vitally important original calcareous grassland, which is essential for natural regeneration of adjacent quarry areas when restored'*. The former Northfield Quarry was previously designated as a SINC until it was deleted in 2005. There are also areas of woodland along the western boundary of the application site adjacent to the bridleway which are deleted SINC's. The nearest site designated for its ecological value is Brockdale Site of Special Scientific Interest, which is located approximately 2.4 kilometres to the south west of the site.
- 2.15 The boundary of the Womersley Conservation Area is immediately to the south of the application site. All of Womersley village is within the Conservation Area, but the section of the Conservation Area adjacent to the application site, at its north western extent, is a wooded area. There are also a number of Grade II Listed structures within approximately 200 metres of the site to the south east, namely the Village Pump and Trough and Village Cross. Womersley Village has a number of other Grade I, II, II\* Listed Buildings centrally within the village. The nearest site designated for cultural heritage or archaeological value is the Scheduled Ancient Monument 200 metres to the south of the site known as the Womersley medieval settlement remains and Victorian ice house in Icehouse Park (schedule date 28 September 1998).
- 2.16 A plan showing the application site is attached to this report at Appendix A.
- Planning History
- 2.17 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -

- 2.18 Planning permission ref. C/8/41/23.G/PA was originally granted for colliery spoil disposal (from Kellingley Colliery) at Womersley Quarry on 14 May 1987. The Applicant was the National Coal Board and the permission included 34 planning conditions. Colliery spoil was produced in two forms which have very different properties and require different disposal solutions: (1) Coarse discard – solid lumps of spoil that can be excavated and moved by machine and which will support itself to form a stable landform when placed and compacted in layers; and (2) MRF cake – a paste of fine discard and water which can be contained within lagoons or cells or co-disposed in alternate layers with coarse discard. The spoil disposal scheme at Womersley accommodated both types of colliery spoil waste. Under the terms of Condition 2 tipping was permitted to be carried out until 13 May 2012. Revisions were then requested to the existing eastern storage bund and for the formation of a new soil making material storage bund on the western boundary, which was granted planning permission on 11 August 1999.
- 2.19 The application was then amended by a written submission by RJB Mining (UK) Ltd dated 4 November 1999 (relating to an amended restoration scheme) and subsequent written undertakings dated 1 March and 8 March 2000 (relating to highway improvements, an updated management plan, phasing and water protection). The amendments were approved on 18 April 2000 subject to the completion of a Legal Agreement (under Section 39 of the Wildlife and Countryside Act 1981) dated 17 May 2000 relating to the long term management of the site (up to 50 years) following restoration in the interests of ecology and biodiversity enhancement. It was confirmed by the County Planning Authority on 19 May 2000 that the Section 39 Legal Agreement (referring to the ‘RJB Mining (UK) Ltd, Womersley Quarry- Management Plan’ (version 3 dated 5 April 2000)) was complete and the amendments subsequently approved.
- 2.20 Planning permission ref. C8/2012/0035/CP was then granted on 4 September 2012 for the continuation of tipping of colliery waste at the site until 16 May 2016, without complying with condition No. 2 of planning permission ref. C/8/41/23.G/PA. The Applicant was UK Coal Mining Ltd and the permission included 27 planning conditions.
- 2.21 On 4 May 2012 planning application ref. C8/2012/0491/CPO (NY/2012//0100/ENV) was registered for an extension to the existing Womersley Quarry spoil disposal scheme involving the importation of colliery spoil including an increase in the height of the existing tip and creation of an altered landform, and extension of the landfill operations into two adjoining former limestone quarries (Womersley/Cridling Stubbs Quarry and Northfield Quarry) on land at Womersley Quarry, off Stubbs Lane, Womersley. The application was made on behalf of UK Coal Mining Ltd (UK Coal). The application was the subject of a Planning and Regulatory Functions Committee Members site visit on 11 October 2013 and was reported to Committee on 22 October 2013 and 25 March 2014. However the application was not determined and on 23 June 2015 the Applicant requested the withdrawal of the application which was subsequently confirmed by the County Planning Authority on 7 August 2015.
- 2.22 Kellingley Colliery, the source of the spoil used in the restoration of the former quarry, closed in December 2015 and the importation of colliery spoil into Womersley Quarry temporarily ceased until ownership of both sites reverted to Harworth Estates.

- 2.23 It should be noted that this planning application was registered with the Authority on 12 May 2016 prior to the expiry of planning permission ref. C8/2012/0035/CP on 16 May 2016. Due to the time that has passed since that date the proposal to extend the timescale for the completion of tipping and restoration for 2 years to 13 May 2018 is largely retrospective with the exception of the final 5 months of operations (Dec 2017-May 2018). The Applicant has advised that it would not be practical to cease works at the site whilst the application remains undetermined and therefore, current works at the site are unauthorised and the operating company are therefore in breach of condition 2 of the original permission, which is liable to enforcement action. Due to concerns with regard to the delay in restoration (the need for early re-vegetation of the tip surface) and drainage issues emanating from the site the County Planning Authority along with the Environment Agency, the local Parish Councils and local residents were made aware that restoration work was ongoing on site prior to the revised restoration scheme being approved. The matter before the Council is therefore to consider whether to grant planning permission to regularise the site and allow the development to be completed within the newly proposed timescale. Should the application to extend the length of time be refused, the operator would be required to cease works at the site and restore it to a new restoration landform, which would need to be agreed.
- 2.24 There have been no complaints to the County Council's Monitoring and Compliance Officer in relation to noise, odour, highways matters or drainage during the period the application has been under consideration by the Authority.

### **3.0 The Proposal**

- 3.1 Planning permission is sought for the variation of condition No's 1, 2, 3, 5, 6, 14, 18 & 20 of Planning Permission ref. C8/2012/0035/CP dated 4 September 2012 for the continuation of tipping of colliery waste from Kellingley Colliery and soil materials from other locations for a further two years until 13th May 2018, revised tipping materials and revisions to the vehicle route, revised restoration scheme and landscaping on land at Womersley Quarry, off Stubbs Lane, Womersley on behalf of Harworth Estates Mines Property Ltd. The application is accompanied by an Environmental Statement.
- 3.2 This application relates to condition No's 1, 2, 3, 5, 6, 14, 18 & 20 of Planning Permission ref. C8/2012/0035/CP dated 4 September 2012. The full wording of the relevant conditions is contained within Appendix B attached to this report. It is proposed to vary the planning conditions which impose a time constraint on tipping and restoration operations at the site and those which determine the landscaping and restoration schemes. There are no proposals to increase the overall footprint of the site or tip spoil beyond that which has been previously consented. In summary the Applicant proposes the variation of conditions as follows:-

Condition No. 1 - To be varied to reflect the revised date for cessation of tipping, at 13th May 2018.

Condition No. 2 - To be varied to reflect the revised scheme as set out in this application and accompanying Environmental Statement.

Condition No. 3 - To be varied to reflect the revised scheme as set out in this application and accompanying Environmental Statement.

Condition No. 5 - To be varied to reflect the revised tipping materials to be imported to the site, and the revisions to the vehicle route.

Condition No. 6 - To be varied to reflect the revised materials to be imported to the site for tipping purposes.

Condition No. 14 - To be varied to reflect the revised restoration scheme / final landform proposals.

Condition No. 18 - To be varied to reflect the revised restoration scheme / final landform proposals.

Condition No. 20 - To be varied to reflect the revised restoration scheme / final landform proposals.

- 3.3 The closure of Kellingley Colliery in 2015 resulted in a shortfall of 1 million cubic metres of colliery discard required to achieve the approved final restoration landform which has generated a requirement for this proposed amendment of the restoration scheme for Womersley Quarry. The application seeks approval for an extension to the time required to complete restoration of the site until May 2018 and also approval of the restoration scheme to include the importation of soil forming materials as well as colliery spoil from Kellingley.
- 3.4 The Applicant proposes to complete the restoration of Womersley Quarry “to a safe and acceptable landform” and to achieve this it is proposed to reduce the volume of materials to be imported in order to restore the site.
- 3.5 To achieve the approved restoration scheme it would require 1,000,000m<sup>3</sup> of entirely Kellingley Colliery spoil which cannot be achieved in light of the Colliery closure. At the time of the application submission (May 2016) it was confirmed that there was a significant part of the site which remained unrestored and required coarse colliery spoil discard to be imported and mixed with the existing MRF cake on site to enable the landform to be safely capped, drained and then restored. The planning application submitted in May 2016 proposed to import 300,000m<sup>3</sup> (which equates to approximately 405,000 tonnes) of the colliery spoil remaining at Kellingley, but the Applicant later amended the proposal (in July 2017) to import only 30,000 tonnes of coarse colliery discard from Kellingley and this was completed in late Summer 2017. The remaining coarse colliery discard from Kellingley has been transported to Immingham, Lincolnshire for use in a land raising development.
- 3.6 The reason for this reduction was due to on site works that managed to create a landform and drainage contours using the material already on site at Womersley. However, the Applicant has confirmed that the reduced amount of coarse colliery discard material was still required to raise a low spot of the western side of the site, which would have resulted in standing water.
- 3.7 The order of working is generally in a south to north direction working out of site along with early restoration of eastern flanks. The works do not include any further importation of MRF cake. The dry coarse colliery discard was imported for use in the capping of existing areas of MRF cake and operational lagoon areas in order to provide a safe working area with effective drainage to enable the restoration of the site to be completed.
- 3.8 In addition to colliery spoil the proposal also includes the importation of 130,000 tonnes of soil forming materials comprising approximately 80,000 tonnes of organic based soil improver and 50,000 tonnes of lime rich substrates to assist in delivering the restoration of the site. The treatment of the surface layer with lime/organic material counters the onsite acidification arising from the colliery spoil substrate and enables quick establishment of vegetation on the spoil. The aim is to further stabilise the tip surface and buffer any potential for acid leachate production as water percolates through the mineral surface. This would reduce the acidity levels in the surface water run-off and the potential for polluting the surface water environment.

- 3.9 Prior to the spreading of soil forming materials the underlying spoil surface is scarified to 300mm depth to provide a key for soils and prevent the formation of a pan at the soil/spoil interface. The soil forming materials are then spread using bulldozer or tractor pulled incorporation equipment to incorporate lime directly to approximately 40cm depth. In addition heavy duty cultivation equipment is used to mix the materials in to the spoil substrate and in areas of tree planting greater depths are provided to ensure a large uncompacted zone for tree rooting. Once the restoration materials have been mixed in to the surface of the tip and subsequent levelling works completed the areas would be planted at the first appropriate season.
- 3.10 The revised restoration landform comprises a single, undulating ridge landform with a high point located within the western central sector adjacent to Rows Wood. The revised restoration scheme is shown at Appendix C. The highest point also reaches an elevation of approximately 40m AOD, slightly lower than the permitted scheme. The longitudinal slope gradients vary from the permitted scheme in that there is more of a plateau below 30m AOD to the north adjacent to the former Womersley and Cridling Stubbs Quarry. There is no second peak to the south but a continuous fall that is more gradual and sinuous in alignment leaving shallower “scarp” slopes on the west side. The reduction of colliery spoil into the site would result in a lowering of the final restoration contours and would enable the creation of two seasonal wet grassland areas along the western boundary of the site which would enhance the biodiversity interest.
- 3.11 The proposed restoration land cover is now a mixture of woodland, scrub and amenity grassland with the proposed calcareous grassland removed because of the issues with increased surface water run-off and the washed off fines blocking drainage channels. The woodland and scrub areas would form irregular belts around all the margins of the site. The proposed restoration scheme also includes a permissive bridleway (previously footpath) following a similar alignment along the ridge and apart from some minor amendments in the southern part of the site (following the comments of the local resident) provides the same access as the permitted scheme. The progress made to date and the phasing plan for completion is shown on the drawing attached to this report at Appendix D.

#### Site Drainage

- 3.12 The revised restoration scheme includes updated surface drainage proposals. The recommendations contained within the Applicant’s DAB Geotechnics report have now been implemented on site and the clay lined drains along the eastern boundary of the site and under the route of the overhead power cables have been completed. The four clay lined settlement ponds have also all been completed and linked with outfall pipes as shown on the aerial photo attached to this report at Appendix E. The Applicant states that these works have all been carried out in consultation with the Environment Agency and been inspected at numerous points throughout the works including visits by Officers of the County Council. The Applicant proposes that management works will be carried out between September and October (to minimise disturbance to wildlife) and will involve general operations such as de-silting and clearance of leaf fall.

#### HGV movements

- 3.13 The colliery spoil at Kellingley was transported to the Womersley site by HGVs along public roads (Sudforth Lane, Beal Lane, Cobcroft Lane and Stubbs Lane) to the site entrance on Stubbs Lane.
- 3.14 In the application details submitted in May 2016 the Applicant proposed that the transportation of colliery spoil would take place during the drier summer months between March and October. The Applicant has confirmed that each HGV carried 18 tonnes and the HGV movements importing material from Kellingley were completed in late Summer - early Autumn 2017.

- 3.15 The imported soil forming material, which is spread over the top of the colliery discard, is sourced from various off-site locations. The HGVs carrying the non-colliery soil forming materials travel off the A1 onto Leys Road leading onto Stubbs Lane and onto the site entrance. This comprises the importation of approximately 80,000 tonnes of organic based soil improver and 50,000 tonnes of lime to counter act the existing acidity. In terms of numbers, the materials are split 50:50 between articulated HGVs (capacity 27 tonnes) and HGV rigid tippers (18 tonne payloads). The organics were imported at around 1,000 tonnes per week and for the lime at around 715 tonnes per week over 70 weeks (deliveries in 26 tonne payloads). The material imports were completed in their entirety by the end of October 2017.
- 3.16 The Applicant has confirmed that a wheel wash has remained in operation to ensure vehicles are clean and highways are not burdened by mud/detritus from the site. In addition a 'sheep dip' wheel washing facility is used to pre-treat HGVs leaving the Womersley site before they enter the existing wheel wash and exit onto public roads and also there is continued use of road sweepers on the haul route as and when required.

#### Hours of operation

- 3.17 The hours of working are as per those permitted for the existing operations. Spoil transport, tipping and restoration operations take place between 0730-1830 hours from Monday to Friday and 0730-1200 hours on Saturday, with no operations on Sundays or Bank/Public Holidays except in cases of emergency.

## **4.0 Consultations**

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on 25 May 2016 at which time the Applicant proposed the importation of 405,000 tonnes of colliery spoil. It also summarises the responses to the subsequent re-consultation (on 3 August 2017) following the receipt of further/amended information relating to a revised restoration scheme arising from the proposed reduction of colliery spoil imports to 30,000 tonnes. As required by the Regulations, notification of the Secretary of State (National Planning Casework Unit) of the planning application was undertaken on 13 May 2016.

- 4.1 **Selby District Council (Planning)**- responded on 22 June 2016 and confirmed that they have no objections or comments to make in respect of this application. Selby District Council have not responded to the reconsultation on the amended information.
- 4.2 **Selby District Council (Environmental Health)**- responded on 28 June 2016 and acknowledged the continued use of road sweepers and the sheep dip wagon washing facility to pre-treat wagons before they enter the existing wheel wash facility but did state a concern about the washing facilities used at the colliery site.
- 4.2.1 With regard to noise the EHO noted that the predicted noise levels at Stapleton Cottages cannot meet the Minerals Planning Guidance lower level for noise during the period of 7am to 7pm of the background level plus 10dBA. The EHO accepted that this activity is fundamental to the operation of the site and given that the scheme is now in its restoration phase, there is no opportunity to provide acoustic screening in the form of earth-bunding or create a larger buffer zone between site activity and the residential dwelling. The EHO requested confirmation of the time frame involved in the restoration of this area of the site and advised the Applicant to inform residents at Stapleton Cottages when the noise levels are to increase and over what time frame. With regard to peak or impulsive noise the EHO confirmed that if white noise reversing sirens are used on the mobile plant no further information is required in respect to this aspect.

- 4.2.2 With regard to air quality the EHO notes that a Dust Action Plan (DAP) was previously agreed and is presented in the application submission. The EHO acknowledges that the Dust Action Plan will not be implemented in full due to the reduced scale of the operations but requests to be consulted on any revision to the DAP.
- 4.2.3 On 9 August 2017, in response to reconsultation on the amended information, the EHO states that the document considers the issue of the noise level at Stapleton Cottages and informs that importation of colliery discard will take around 10 weeks and a further month to restore the site with soil forming materials. The EHO notes that the document suggests a noise limit of 51 dB Laeq1hr to be conditioned and agrees to this for the period of work in this area. The EHO states that if white noise sirens are to be used on mobile plant that is acceptable.
- 4.3 **Environment Agency (EA)**- on 7 June 2016 the Environment Agency's Land and Water Team responded to set out their position regarding the material that is to be used to cap the completed areas.
- 4.3.1 The response explains that Environment Agency Officers have previously investigated the cause of the pollution in the Blue Lagoon and concluded that the most likely source was contaminated groundwater from the tip site migrating into the Blue Lagoon due to the direction of groundwater flow.
- 4.3.2 The EA initially worked with UK Coal to find ways of preventing the impact from the tip site and to this end, lined toe drains were installed at the base of the tip heap between the tip and the Blue Lagoon in order to intercept contaminated surface water run-off, thus preventing it from reaching groundwater.
- 4.3.3 However, although the EA have seen some success using this method, the Blue Lagoon is still suffering pollution. The EA believe a major factor contributing to the problem is the requirement to use only limestone fines under the current planning consent. The limestone fines are physically unstable when it rains, leading to large quantities of material being washed off the slopes, exposing the spoil and settling in the toe drains. The drains fill with sediment causing blockages that cause contaminated water to spill over the sides and ultimately into groundwater.
- 4.3.4 The EA view is that the real key to preventing the contaminants reaching groundwater is the re-vegetation of the flanks on the tip so that rain cannot penetrate so easily into the spoil below. The EA *"feel it is imperative that this happens as quickly as possible, but the current approved limestone fines will take many years to re-vegetate, partly because they are nutrient poor and partly because there is no topsoil to prevent it being washed away when there is a rainfall event. This means that the re-vegetation process has to start from scratch each time there is such an event and is therefore, not a practical way forward"*.
- 4.3.5 The EA note that in order to address this issue, Harworth Estates propose to supplement the current approved limestone fines with a compost that will produce a material that is less likely to suffer from erosion and will re-vegetate significantly more quickly. For these reasons, the EA do not support the use of limestone fines alone, but do support the proposal by Harworth Estates to change the condition in the planning consent and allow them to supplement the limestone fines with a nutrient-rich compost.

- 4.3.6 On 29 June 2016 a response was received from the EA's Planning Advisor which states that the proposed use of soil making materials for restoration will require a new Environmental Permit and advises that the planning application and permit application are parallel tracked. The EA response includes advice on the permit requirements and highlights that further information will be required on the ratio of lime required to neutralise the acidification in the colliery spoil layer and details of the quantities and locations of spoil, limestone and compost like outputs (CLO).
- 4.3.7 On 1 September 2017 in response to reconsultation on the amended information, the EA confirmed no objections to the proposed continuation of activity. The EA states that the revised restoration plan takes into account discussions with Harworth Estates with respect to surface water and groundwater management. The EA highlight that ongoing management of the drainage system and monitoring of groundwater will be required to ensure performance is maintained as intended. The EA also draw attention to the additional advice provided in the previous response dated 29 June 2016.
- 4.4 **Natural England-** responded on 6 June 2016 with no objections. Natural England highlighted that the site is in close proximity to Brockadale Site of Special Scientific Interest (SSSI). However, Natural England were satisfied that the proposed development will not damage or destroy the interest features of the site and therefore the SSSI does not represent a constraint in determining the application. Natural England did not wish to comment in detail on the soils and reclamation issues arising from this proposal. Natural England stated that the application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. Natural England advised that the Authority should consider securing measures to enhance the biodiversity of the site from the Applicant (in accordance with paragraph 118 of the NPPF), if it is minded to grant permission for this application.
- 4.4.1 On 17 August 2017 in response to reconsultation on the amended information, Natural England confirmed that the development would not have significant adverse impacts on the designated site Brockadale Site of Special Scientific Interest (SSSI) and has no objection.
- 4.5 **Womersley Parish Council-** responded on 8 August 2016 and welcomed the intention to restore the tip site and to limit the importation of colliery spoil. The Parish Council also highlighted the benefits of continued restoration activity and observed that during periods of no activity there were instances of trespass, illegal bikes on site and malicious damage to the toe drains.
- 4.5.1 However, the Parish Council would prefer that no further importation of colliery spoil takes place and that the tip site is restored utilising the spoil currently on site and without further spoil importation for the following reasons:-
- “1. *The tipping of spoil at Womersley has already continued for many more years than was initially intended, numerous extensions to planning permissions and variations have been submitted and granted, despite the community objecting to this.*
  2. *There are serious pollution issues caused by the tipping of colliery spoil at Womersley and although some progress has been made, the Emissions Management Plan still does not fully control the pollutants from entering ground and surface water or the aquifer. The Environment Agency CAR form of January this year identifies failures of the drainage on the site and the Emissions Management Plan (EMP), this was identified as a category 3 breach and has still not been resolved, there was a further category 3 breach also at this time. These drains are a crucial part of the EMP and are currently non-*



*functional and therefore allowing pollutants to enter the limestone and aquifer and ultimately the Blue Lagoon.*

3. *Adequate lined collection ponds are still not in place despite the EA's recommendations.*
4. *Further delay in restoration, exacerbates the pollution, thereby allowing contaminated effluent to run off the surface of the tip site. The EA have determined that a key mitigating factor to the pollution is the prompt restoration of the tip site. There has been a failure to ensure that progressive restoration has taken place throughout the life of the tip site. There should be no further delay and restoration should be completed ASAP.*
5. *The neighbouring Northfield Lane Quarry continues to flood following heavy rain and no functional perimeter drains have been put in to prevent this.*
6. *Throughout the life of the tip site we have been requesting a restoration bond for the tip site; we are pleased that Harworth Estates as Landowners are taking on the restoration of the site, but feel a bond should have been put in place. We need a written, legally binding guarantee that this site will be fully restored within the two year planning permission applied for with no further extensions.*
7. *The monitoring/regulation of this site is very problematic and fragmented, with the Environment Agency, Planning enforcement, the Mines and Quarries inspectorate and Health and Safety legislation, all having different elements to monitor/enforce with no one body taking overall responsibility. This must be rectified prior to any determination.*
8. *The tip site suffers from illegal activity, which is made possible by inadequate perimeter fencing and security; this must be rectified prior to determination.*
9. *Inadequate conditions lacking rigorousness have made enforcement action very difficult to date; any planning extension must have new rigorous and enforceable conditions.*
10. *Throughout the life of the tip site there has been pollution of the water, surface and groundwater, noise pollution, air pollution and highways contamination, the community has had enough of this. These issues must be resolved”.*

4.5.2 The Parish Council also commented that a new set of rigorous conditions should be applied and, whilst they would prefer for the site to be restored as soon as possible, had concerns about the projected timescales for completion. The Parish Council also observed that the details on restoration of the site were vague and would benefit from more detail and note that a Section 39 agreement exists for the site which should be taken into account.

4.5.3 On 26 September 2017 in response to reconsultation on the amended information, Womersley Parish Council state that they appreciate Harworth Estate's efforts to keep the Parish updated and note that good progress has been made to restore the site and limit the importation of colliery spoil. The Parish Council comment that there has been an improvement visually and hope that the fast re-vegetation of the site will prevent further pollution impregnating the soil and ground water. The Parish Council support the recommendations made by the Environment Agency to consider alternative covering materials such as soil making materials. The Parish Council make the following comments on the supplementary information:-

1. The current bridle path has been diverted away from the site; any future reinstatement should be sited away from neighbouring quarries etc. to avoid trespass and illegal activity on private land. We are concerned that any footpath/bridle path does not run near to the water body (see 2 below)
2. The water body created to collect run off from the toe drains, which sits between the back of Northfield Quarry and the tip site is of concern as this area could be a dangerous attraction, resulting in potential for antisocial behaviour and risk of drowning. Although the water is not deep, any unprotected water body does create an attraction. We would like to see measures put in place to protect this area by whatever means are necessary in addition to diverting the

path away from this area and ensuring that the path does not allow access to this area.

3. Access to the site, via the 3 points will need to be managed to prevent unauthorised access to the tip site, there is a history of quad and motocross bikes on the site. We appreciate that this is difficult, balancing access for horses via the bridle path, whilst preventing bikes etc. access, but a solution needs to be found. In addition any path without fencing would allow unbridled access to the whole of the site, rather than access being constrained to the pathway which would be preferable. The consultation responses from highways, note only one access point, when there appear to be 3. Each access point creates a potential for unauthorised access which must be managed.
  4. Security, since Harworth have taken over management of the site, the security company K9 have monitored the site which we believe has reduced the antisocial behaviour, we would welcome a similar system continuing indefinitely.
  5. We welcome the potential for collaboration with Yorkshire Wildlife Trust, and hope that they may be willing to adopt appropriate areas of the tip site.
  6. There will need to be some form of ongoing management of the site moving forward to ensure that the installed drainage system remains patent and functioning effectively and continued monitoring of the water bodies.
  7. It is understood a Section 39 agreement will be put in place. Would this agreement incorporate the long term management of fences, access points and site security?
  8. Pollution and monitoring, presumably the borehole monitoring would require a condition?
  9. Perimeter fencing, despite a condition to this effect the perimeter fencing around the site has deteriorated and is none existent in places, this will need replacing and maintaining for the life of the tip site.
  10. Future use of the site, discussions have taken place regarding possible future uses, it is understood that any future use, would require a full planning application.
  11. It is understood that discussions between the owner of the neighbouring Northfield Lane Quarry continues with Harworth Estates to prevent flooding of the quarry.
  12. Who will monitor the site and undertake the future management beyond May 2018?
- 4.5.4 On 2 December 2017 the Parish Council made additional comments welcoming the future involvement of the Yorkshire Wildlife Trust. The Parish Council have stated that they would welcome further information on the future management of the site, the subsequent financial implications and the potential for future use. The Parish Council state that *"it would be wonderful to see the site restored as an area of nature conservation"* and ask that the principles outlined by YWT are adopted as part of the future plans for the site and as part of this planning application.
- 4.6 **Cridling Stubbs Parish Council-** responded on 1 July 2016 with no objection to the planned restoration and wished to see it completed as quickly as possible. The Parish Council were pleased to note that the number of lorry journeys per day will be reduced and that the lorries will not operate during the winter months. The Parish Council highlighted that there were problems with the previous operator and that the surface of the road became dangerous as a result of the road-washing. The Parish Council stated that the road must remain safe and would hope that this matter will be kept under review. The Parish Council requested conditions to cover the following:-
- lorries should be washed before proceeding onto the highway to remove any excess dirt and coal dust –the proposal is to hand-wash the lorries rather than simply drive them through a wheel wash
  - the wagons should be covered to reduce the dust polluting the atmosphere

- if there is a need to wash the highway it should be done in such a way as not to saturate the road surface and allow excess water containing coal dust to be washed into the roadside ditches.
- 4.6.1 Cridling Stubbs Parish Council has not responded to the reconsultation on the amended information.
- 4.7 **Stapleton (Selby) Parish Council**- has not responded to consultation or the reconsultation on the amended information.
- 4.8 **Network Rail - Minerals & Waste Apps**- responded on 21 July 2016 and had no comments to make but noted that the route of HGVs goes over two crossings, Sudforth Lane (WAG1 61/08) and Cridling Stubbs (KWS 60/45). Network Rail stated that the lorries should be covered when full of spoil and that a water run-off ditch within the site should catch the run off from the vehicle washing to prevent run off to the crossing track bed.
- 4.9 **NYCC Heritage - Principal Landscape Architect (PLA)**- responded on 2 August 2016 following a meeting with the Applicant on 25 July 2016. The PLA confirmed no objections in principle to an extension of time to allow for restoration and had no objections to the new landform proposed. The PLA requested more information on the nature and quantities of the imported recycled soil/compost materials and lime. The PLA also recommended that consideration be given to the control of surface water through increasing the number and length of contour drains or other methods to reduce erosion before the vegetation cover has been fully established.
- 4.9.1 The PLA also stated a concern that the proposals for re-vegetation would conflict with the key nature conservation objective of establishing calcareous grassland based on using nutrient poor limestone fines already on site. This would conflict with the key landscape aim of restoring local landscape character as the site is located within the Magnesian Limestone ridge and adjoins former limestone quarries.
- 4.9.2 The PLA acknowledged the need to establish a vegetation cover as quickly as possible including the use of soil ameliorants and/or nurse species to promote faster growth. The PLA advised that a short term compromise may be necessary to speed up stabilisation but the long term objectives should still be achievable through an integrated programme of establishment, aftercare maintenance and appropriate management.
- 4.9.3 The PLA requested further details of the future land uses and management and observed that arable use of the restored tip would not be appropriate, and currently this is underlined by the need to ensure long term stabilisation of the surface. The PLA notes that 41 hectares of mixed woodland and scrub are now proposed, an increase over the approved scheme, and would have no objections to also varying the layout if there were benefits e.g. increasing the amount of woodland on steeper slopes particularly those facing the Blue Lagoon to provide increased stability and reduction in the rate of runoff.
- 4.9.4 On 24 August 2017 in response to reconsultation on the amended information, the Principal Landscape Architect confirmed that as the tipping is at a very advanced stage and can be completed by May 2018 it is recommended that this aspect of the application is approved.

- 4.9.5 The PLA acknowledges the urgency of creating a vegetation cover to avoid acceleration of the erosion and gullyng over the winter which has previously occurred and so to reduce silting of drains and potential wider pollution. The PLA accepts that the application is now largely retrospective with changes to landform, drainage, capping of colliery spoil, soil forming materials and seeding already taken place on a large scale and continuing.
- 4.9.6 The PLA states that the proposed reduction in maximum height compared with the previously permitted height is acceptable in principle, but there is a more noticeable break of slope between the existing steep east slopes and the gentler slopes above which is less satisfactory.
- 4.9.7 The PLA also confirmed that the proposed additional drainage scheme and new water bodies are clearly necessary and are welcomed.
- 4.9.8 The PLA acknowledges that the majority of the work has now taken place so the best approach would be to identify, protect and enhance those areas of existing species rich habitat or with potential for improvement under the right management, and make the most of those. They would include the southern part of the site, the area of spread topsoil within Northfield Quarry and the smaller quarry to the north, areas of earlier restored grassland and the peripheries of the site.
- 4.9.9 The PLA observes that although dealing with finalising landfill, dealing with drainage problems and stabilising bare ground have been priorities, attention also needs to be given to amenity since the site lies within a Locally Important Landscape Area in the Selby Local Plan. The PLA states that conditions should be included to cover detailed landscape proposals needed in future together with details of aftercare and managing access.
- 4.9.10 The PLA states that proposed permissive footpath within the site is acceptable but it seems likely that in practice many users would follow a route along the top of the ridge. The PLA states that the Section 39 agreement needs to be revised and no future land use has been identified and it appears that the use of municipal green waste now precludes grazing.
- 4.10 **NYCC Heritage - Ecology**- responded on 3 August 2016 following a meeting with the Applicant on 25 July 2016. The County Ecologist noted that the proposal is due to be revised and resubmitted for consideration prior to determination and endorsed the comments made by the Principal Landscape Architect.
- 4.10.1 The County Ecologist stated concerns relating to biodiversity as the Applicant's approach appears to be moving away from nature conservation objectives and would necessitate a revision of the existing Section 39 Agreement. The County Ecologist confirmed that more detailed comments would be provided once the revised details are submitted.
- 4.10.2 On 11 September 2017, in response to reconsultation on the amended information, the County Ecologist highlighted the long-standing agreement (Section 39 agreement) that the quarry would be restored to a mixture of woodland and limestone grassland, with higher ground safeguarded for potential agricultural use in future. Limestone fines stockpiled from the original quarrying operation were to be used in the creation of new species-rich grassland. The County Ecologist acknowledges that due to ongoing problems with ground-water contamination from colliery spoil leachate, it is proposed to revise this approach and restoration to species-rich grassland or grassland with potential for more productive agricultural use are no longer objectives.

- 4.10.3 The County Ecologist understands that the Applicant proposes capping the site with a suitable growing medium to achieve rapid vegetation cover, thereby reducing infiltration of the colliery spoil by rainwater. Combined with construction of a clay-lined surface-water drainage system (now in place), this is expected to minimize contamination of the neighbouring Blue Lagoon diving lake. The majority of the site will be restored to species-poor amenity grassland with irregular belts of broadleaved woodland and scrub.
- 4.10.4 The County Ecologist notes that the revised scheme represents a loss of opportunity for nature conservation. In this context, the County Ecologist emphasises that it is important to ensure that remaining ecological assets are protected and restored.
- 4.10.5 The County Ecologist notes that the new amenity grassland is likely to have limited value for biodiversity, at least in the near-future. However, this may change over time and management should be subject to periodic review such as the annual aftercare meetings. In addition the woodland scrub proposals are acceptable subject to minor changes to the tree and grass seed mix (removal of Ash).
- 4.10.6 The County Ecologist also suggested the submission of up-to-date information on the status of Protected Species on the site and the requirement for a Biodiversity Enhancement and Management Plan (secured via a legal agreement) setting out how relevant areas will be conserved, restored or re-created. The County Ecologist has identified four existing or potential nature conservation assets which represent approximately 12 hectares, some of which could be restored to magnesian limestone grassland or a mosaic of grassland and scrub.
- 4.10.7 The County Ecologist also highlights that the existing biodiversity assets should not be damaged by encroached upon by current operations as securing favourable long-term management of these areas will depend on maintaining viable and accessible areas of habitat.
- 4.11 **NYCC Heritage – Archaeology-** responded on 15 June 2016 and confirmed that the proposed development has no known archaeological constraint.
- 4.11.1 On 15 August 2017 in response to reconsultation on the amended information, the County Archaeologist confirmed no objection to the proposal and has no further comments make.
- 4.12 **Coal Authority-** responded on 14 June 2016 and observe that whilst the application site falls within the defined coalfield, it is located outside of the defined Development High Risk Area. The Coal Authority confirmed that there is no requirement for the Applicant to submit a Coal Mining Risk Assessment, or equivalent, in support of this application and the Authority has no objection to this proposal. The Coal Authority requested that an ‘unrecorded coal mining related hazards’ informative is included on any permission granted.
- 4.12.1 On 18 August 2017 in response to reconsultation on the amended information, the Coal Authority repeated their previous request for the inclusion of their Standing Advice on the decision notice.
- 4.13 **Highway Authority-** responded on 14 June 2016 and requested confirmation that appropriate visibility splays were currently provided which was subsequently confirmed by the Applicant.

- 4.13.1 On 18 August 2016 the LHA provided a further response which requested the inclusion of conditions to cover a restriction on access to only via the existing access at Stubbs Lane which shall be reconstructed with a drainage system installed, maintenance of visibility splays, highway improvement works to verges, road markings and signage, installation of wheel wash facilities, a highway condition survey and an agreement on the route of HGV traffic.
- 4.13.2 On 15 August 2017, in response to reconsultation on the amended information, the LHA repeated the conditions previously requested and state that *“the agreed vehicle route has become somewhat damaged by use of the existing operation and the LHA would seek a contribution to improving the condition of the existing route towards the A1. The 90 degree bend on the Stubbs Lane west of the quarry access shows signs heavy use. The kerb line and carriageway edge has been damaged by over running vehicles and will need repair to allow the operation to continue”*.
- 4.13.3 On 17 October 2017 the LHA were informed that, in light of the stage of the development, only the conditions that are relevant and necessary to the remaining works up to the end of May 2018 will apply such as the standard conditions on use of the existing access only and wheel cleaning for the remaining vehicles movements. No further comments have been received.
- 4.14 **NYCC Public Rights of Way Team-** responded on 8 August 2017 and comment that an informative is included advising that existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990.
- 4.15 **Yorkshire Water Services Ltd-** responded on 21 June 2016 and commented that a large diameter strategic water mains crosses through the application site boundary. YW requested that no obstruction encroaches within 6 metres on either side of the mains i.e. protected strip widths of 12 metres. YW state that from the details shown on the 'Proposed Restoration Plan' compared to the 'Approved Restoration Plan', it appears the water mains are unlikely to be affected by levels, however, to be certain, YW request the line of the water mains is shown on the proposed restoration plan drawing, with requested stand-off distance shown at each side of the pipes. Additionally, there should be no new tree planting within the stand-off.
- 4.15.1 On 23 August 2017 in response to reconsultation on the amended information, YW highlighted that in their original response they requested that the water supply infrastructure located towards the south of the site was shown on the revised restoration plan.
- 4.16 **Yorkshire Wildlife Trust-** responded to consultation on 9 November 2017 and confirmed that they had met with representatives of Harworth Estates at Womersley Quarry and discussed restoration and the potential recreational uses of the quarry. The YWT made the following comments:-
- “The Trust understands that the first stage of the restoration is necessary in order to stabilise the slopes of the spoil piles as rapidly as possible to reduce sediment runoff. The Trust supports the comments by Martin Hammond (NYCC Ecologist) of NYCC on the restoration.*
- The Trust is supportive of the suggested approach for the initial restoration. However there are some issues which have not been resolved, some of which are very important. Some brief comments follow:*

- *There may be potential for increasing the value of the amenity grassland to give a more diverse sward. Even if the area cannot be restored to magnesian limestone grassland as originally planned, grassland made up of more than a few species of common grasses would be more valuable for biodiversity than what is proposed.*
- *There may also be potential for improving the value of the new ponds for biodiversity.*
- *Due to the way in which the quarry has been infilled and is to be restored, species rich grassland will not be created. This means that there will be a major loss of potential biodiversity on a very large portion of the site. It is therefore vital that the remaining areas of high quality grassland are maintained and managed correctly into the future. The Trust did not see sufficient detail in the present application to give confidence that this will be the case. At 1.1.12 in the Supplementary Environmental Information from July 2017 it is stated that: 'The Applicant is currently reviewing long term management of the site and any after use opportunities for the site which may have implications on the restoration of the site. However, these would be subject to a separate grant of Planning permission and are not considered further in this submission.'*  
*The Trust would like to see more detail of how management of the areas of high quality grassland will be carried out and funded. This will need to be secured either within this planning application, if further information is provided, or within a separate application. The Trust does not want the issue of long term management of the high quality areas of habitat to be delayed as this could lead to scrubbing over of grassland and the loss of species richness.*
- *Womersley quarry does have potential in the long term to provide a resource for involving people in nature conservation, environmental education, and outdoor exercise using the lower grade habitat areas as well as the biodiverse grassland. The Trust's Potteric Carr reserve for example <http://www.ywt.org.uk/potteric-carr> provides a wide range of activities for all ages, although there are constraints due to the high environmental value of the SSSI. Womersley quarry with adequate planning and funding could be a remarkable resource for the surrounding community and also support wildlife and biodiversity.*

*The Trust would consider being involved in management of the site although this would need to be financially viable and after a suitable restoration was in place. The Trust would want to be involved in the detail of the final restoration as issues such as access for machinery or grazing animals, and public use of the site would all need to be resolved at an early date".*

4.17 **National Grid-** has not responded to consultation.

#### **Notifications**

4.18 **County Cllr. John McCartney-** has been notified of the application by letter.

#### **5.0 Advertisement and representations**

5.1 This application has been advertised by means of six Site Notices posted on 24 May 2016 (responses to which expired on 14 June 2016). The Site Notices were posted in the following locations: the main entrance; adjacent to the Blue Lagoon, the Colliery entrance, Womersley, Cridling Stubbs and Stapleton. A Press Notice appeared in the Selby Times/Post on 2 June 2016 (responses to which expired on 16 June 2016).

5.2 A total of 119 neighbour notification letters were sent in June 2016. The neighbour notification letters were sent to properties on the following roads/streets in Womersley, Cridling Stubbs and Stapleton: Northfield Close, Northfield Lane, Cobcroft Lane, Croft Lea, Hanover Green, Wrights Lane and Banks Wood Road.

- 5.3 A total of three representations (locations shown on plan attached at Appendix F) were received in June 2016 in response to the original proposal which, whilst being supportive of the principle of site restoration, raised objections on the grounds of:-
- Further years of disruption and a further 400,000 tonnes of waste
  - Noise, dust and hazards that the tipping
  - Dangerous roads
  - Loss of the varied flora and fauna
  - Flooding of adjacent lower land from rainwater run-off and inadequate drainage
  - Contamination and pollution from the material being deposited and the leach through the ground, contaminating the strata beneath and potentially also the aquifer
  - Inadequate boundary fence and relocation of footpath adjacent to neighbouring land could allow public to access private land
  - A stringent water management strategy is needed to prevent further pollution to the Blue Lagoon
  - Planning conditions should back up the Environment Permit requirements
  - the capture and treatment of water should be via lined lagoons and discharged at the South-Eastern end of the site in the original 'settlement and sedimentation' pond with all areas prior to this discharge point being adequately constructed and lined to prevent any leakage, and associated groundwater contamination.
  - Due to the size of the site and the inclusion of all the additional toe drains that surround the site into one water body it should be ensured that this body can cope with the heavy rainfall events. If the final settlement pond floods the lagoons further back up the chain there is considerable risk of groundwater contamination, resulting in further pollution and discolouration of the Blue Lagoon, even during a single flooding event.
  - The restoration plan of the site should include the clean-up and restoration of the Blue Lagoon back to its water quality prior to tipping. This should include removing the sediment that has accrued over the previous years of tipping and its own water management plan to deal with the contaminants that have already been deposited in the water body as a receptor to the tip site. The plan should also include ongoing water management issues such as further water treatment, flooding from the tip site and responsibilities for remedial works well into the future.
- 5.4 In accordance with Regulation 22 of the Town and County Planning (Environmental Impact Assessment) Regulations 2011 (EIA Regs. 2011) following the receipt of further environmental information relating to the Environmental Statement (revised restoration scheme dated July 2017) the County Planning Authority re-publicised the application by way of six Site Notices posted on 10 August 2017 (responses to which expired on 31 August 2017) and a Press Notice which appeared in the Selby Times/Post on 10 August 2017 (responses to which expired on 31 August 2017). In addition the members of the public previously notified and also those who made representations to the Authority on the application were notified of the further environmental information.
- 5.5 A total of three representations were received in response to reconsultation in the further environmental information. The representations were from the owners/occupants of the former Northfield Quarry (objection), the Blue Lagoon Diving Centre/Spring Lodge Lake (objection) and Innisfree (observations). The following is a summary of the responses received:-
- It is noted that a mid-level drain has been installed adjacent to the southern boundary of the former Northfield Quarry but there are no proposals to install a toe drain or other method of preventing water ingress and flooding from below the new mid-level drain or to prevent any water which may overtop the new mid-level drain;



- no steps have been taken to clean up the Blue Lagoon from the last spoil tipping;
- there has been no reduction in the pollution levels either within the Blue Lagoon or from the borehole readings between the sites;
- The waters in the Blue Lagoon are still too toxic to support aquatic life and visibility has been reduced from around 14 metres to approximately 30 cm;
- There has been job losses and financial loss to the Blue Lagoon diving business;
- There should be penalties if pollution levels not rectified and a bond to ensure they are completed satisfactorily;
- There has been some odour from the soil making materials but it is understood that it is necessary for quick re-vegetation of the site;
- partnerships with Yorkshire Wildlife and other conservation bodies may be beneficial to the long term management of the site;
- pollution of the groundwater (and therefore the Blue Lagoon) has been an ongoing issue, which is understood may be improving slowly (bore hole monitoring data) but long term measures should be put in place to ensure that this improvement continues that the drainage system is maintained and that there is no further deterioration in the groundwater quality; and
- perimeter fencing should be considered and the new path could be bordered by a hedge or fence.

## 6.0 Planning policy and guidance

### National Planning Policy

- 6.1 The policy relevant to the determination of this particular planning application provided at the national level is contained within the National Planning Policy Framework (NPPF) (published March 2012) and also the National Planning Policy for Waste (published October 2014).

### National Planning Policy Framework (NPPF)

- 6.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.
- 6.3 The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay (if plans are up-to-date and consistent with the NPPF). The Government has set down its intention with respect to sustainable development stating its approach as "*making the necessary decisions now to realise our vision of stimulating economic growth and tackling the deficit, maximising wellbeing and protecting our environment, without negatively impacting on the ability of future generations to do the same*". The Government defines sustainable development as that which fulfils the following three roles:
- An economic role – development should contribute 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;
  - A social role – development supporting strong, vibrant and healthy communities; and,
  - An environmental role – development that contributes to protecting and enhancing the natural, built and historic environment and as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.

- 6.4 The NPPF advises that when making decisions, development proposals should be approved that accord with the Development Plan and when the Development Plan is absent, silent or relevant policies are out of date, permission should be granted unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this framework indicate development should be restricted.
- 6.5 This national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure.
- 6.6 Paragraph 17 of the NPPF states that core land-use planning principles should underpin both plan-making and decision taking. The 12 principles listed in the NPPF state that land-use planning should:
- be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency;
  - not simply be about scrutiny, but instead be a creative exercise in finding ways to enhance and improve the places in which people live their lives;
  - proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating
  - sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;
  - always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
  - take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
  - support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
  - contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
  - encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value;
  - promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas, recognising that some open land can perform many functions (such as for wildlife, recreation, flood risk mitigation, carbon storage, or food production);
  - conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;

- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable; and
  - take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.
- 6.7 Paragraph 32 within Section 4 (Promoting sustainable transport) of the NPPF states that plans and decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.8 Paragraph 58 within Section 7 (Requiring good design) of the NPPF identifies 6 objectives that planning policies and decisions should aim to ensure that new developments:
- *“function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - *establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;*
  - *optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;*
  - *respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;*
  - *create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and*
  - *are visually attractive as a result of good architecture and appropriate landscaping.”*
- 6.9 Section 9 of the NPPF sets out the planning guidance aimed at protecting Green Belt Land. The fundamental aim of the Green Belt Policy is to prevent urban sprawl by keeping land permanently open and its openness and permanence which are the essential characteristics of the Green Belt (Paragraph 79 NPPF).
- 6.10 Paragraph 80 of the NPPF defines the five purposes of Green Belt which are:
- to check the unrestricted sprawl of large built up areas;
  - to prevent neighbouring towns merging into one another;
  - to assist in safeguarding the countryside from encroachment;
  - to preserve the setting and special character of historic towns; and,
  - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 6.11 Paragraph 87 states “inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”. “Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations” (Paragraph 88). Substantial weight is therefore to be given to the Green Belt. Paragraph 90 of the NPPF (2012) states that *“Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:*

- *Mineral extraction;*
  - *Engineering operations;*
  - *Local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
  - *The re-use of buildings provided that the buildings are of a permanent and substantial construction; and*
  - *Development brought forward under a Community Right to Build Order”.*
- 6.12 Within Section 11 of the NPPF it is clear that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.
- 6.13 Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where.
- 6.14 Paragraph 109 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that the planning system should contribute to and enhance the natural and local environment by:
- protecting and enhancing valued landscapes, geological conservation interests and soils;
  - recognising the wider benefits of ecosystem services;
  - minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
  - preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and
  - remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
- 6.15 Paragraph 118 within Section 11 (Conserving and enhancing the natural environment) of the NPPF sets out a number of principles for determining planning applications which aims to conserve and enhance biodiversity. Paragraph 118 states: *“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles (inter alia): if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”.*
- 6.16 Paragraph 120 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that *“To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner”.*

- 6.17 Paragraph 121 states that *“Planning policies and decisions should also ensure that:*
- *the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation including land remediation or impacts on the natural environment arising from that remediation;*
  - *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
  - *adequate site investigation information, prepared by a competent person, is presented”.*
- 6.18 Paragraph 122 states that *“In doing so, 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. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities”.*
- 6.19 Paragraph 123 within Section 11 (Conserving and enhancing the natural environment) of the NPPF states that *“Planning policies and decisions should aim to:*
- *avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;*
  - *mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;*
  - *recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
  - *identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason”.*
- 6.20 Section 13 of the NPPF is titled ‘Facilitating the Sustainable Use of Minerals’. Within Section 13 it states at paragraph 144 that *“When determining planning applications, local planning authorities should (inter alia): provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards”.* Paragraph 147 within Section 13 states that *“Minerals planning authorities should also (inter alia) indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable”.*

National Planning Policy for Waste (published October 2014)

- 6.21 The National Planning Policy for Waste (NPPW) replaced ‘Planning Policy Statement 10: Planning for Sustainable Waste Management’ (PPS 10) published in 2006.
- 6.22 Paragraph 1 of the NPPW states that the Government’s ambition is to *“work towards a more sustainable and efficient approach to resource use and management”.* The NPPW sets out the *“pivotal role”* that planning plays in delivering the country’s waste ambitions with those of relevance to this application being as follows:
- *“delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy (see Appendix A of NPPW);*

- *ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, 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 or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;*
  - *helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and*
  - *ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste”.*
- 6.23 Paragraphs 2 to 6 of the NPPW relate to the preparation of Local Plans in respect of the evidence base, identification of need in Local Plan making, identifying suitable sites and Green Belt protection and are not directly relevant to the determination of this planning application.
- 6.24 In relation to the determination of planning applications, Paragraph 7 of the NPPW states that Waste Planning Authorities should:
- *“only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;*
  - *recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants 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;*
  - *consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;*
  - *ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;*
  - *concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;*
  - *ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary”.*
- 6.25 The criteria set out in the first two bullet points are not material to the determination of this application, as the Local Plan (2006) pre-dates current national policy (2014). Paragraphs 8 and 9 of the NPPW relate to planning applications for non-waste development and the monitoring and reporting of waste and are not directly relevant to the determination of this application.
- 6.26 Appendix A of the NPPW comprises a diagram of the ‘Waste Hierarchy’ which is unchanged from that included in PPS10.

6.27 Appendix B of the NPPW sets out the 'Locational Criteria' to be assessed by Local Planning Authorities in determining applications for waste management facilities, as follows:-

- a. *“protection of water quality and resources and flood risk management;*
- b. *land instability;*
- c. *landscape and visual impacts;*
- d. *nature conservation;*
- e. *conserving the historic environment;*
- f. *traffic and access;*
- g. *air emissions, including dust;*
- h. *odours;*
- i. *vermin and birds;*
- j. *noise, light and vibration;*
- k. *litter; and,*
- l. *potential land use conflict”.*

6.28 It is considered that criteria a, b, c, d, e, f, g, h, j and l are relevant to the determination of this application and these are set out in full below:

- a. *protection of water quality and resources and flood risk management*  
*Considerations will include the proximity of vulnerable surface and groundwater or aquifers. For landfill or land-raising, geological conditions and the behaviour of surface water and groundwater should be assessed both for the site under consideration and the surrounding area. The suitability of locations subject to flooding, with consequent issues relating to the management of potential risk posed to water quality from waste contamination, will also need particular care.*
- b. *land instability*  
*Locations, and/or the environs of locations, that are liable to be affected by land instability, will not normally be suitable for waste management facilities.*
- c. *landscape and visual impacts*  
*Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character; (ii) the need to protect landscapes or designated areas of national importance (National Parks, the Broads, Areas of Outstanding Natural Beauty and Heritage Coasts) (iii) localised height restrictions.*
- d. *nature conservation*  
*Considerations will include any adverse effect on a site of international importance for nature conservation (Special Protection Areas, Special Areas of Conservation and RAMSAR Sites), a site with a nationally recognised designation (Sites of Special Scientific Interest, National Nature Reserves), Nature Improvement Areas and ecological networks and protected species.*
- e. *conserving the historic environment*  
*Considerations will include the potential effects on the significance of heritage assets, whether designated or not, including any contribution made by their setting.*
- f. *traffic and access*  
*Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports.*

- g. *air emissions, including dust*  
*Considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.*
- h. *odours*  
*Considerations will include the proximity of sensitive receptors and the extent to which adverse odours can be controlled through the use of appropriate and well-maintained and managed equipment.*
- j. *noise, light and vibration*  
*Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed particularly if night-time working is involved. Potential light pollution aspects will also need to be considered.*
- l. *potential land use conflict*  
*Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility”.*

6.29 It should be noted that the National Planning Policy for Waste does not contain any guidance on dealing with unallocated sites.

National Planning Practice Guidance (NPPG) (2014)

6.30 On 6 March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (NPPG) web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled. The NPPG supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections of NPPG and detailed in the subsequent paragraphs of this report: -

- Air Quality
- Design
- Flood Risk and Coastal Change
- Health and Wellbeing
- Natural Environment
- Noise
- Waste

Air Quality

6.31 In terms of possible mitigation for an impact on air quality, the NPPG states that mitigation options will be “*locationally specific*” and “*proportionate to the likely impact*”, and that these can be secured through appropriate planning conditions or obligations.

Design

6.32 The guidance states “*Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term*”.



- 6.33 When determining applications, the NPPG advises that *“Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies, and other material considerations”*. Where buildings *“promote high levels of sustainability”*, the NPPG advises that planning permission should not be refused on the basis of concerns about whether the development is incompatible with an existing townscape, if good design can mitigate the concerns.
- 6.34 In general, the NPPG states that *“Development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinct patterns of development...while not preventing or discouraging appropriate innovation”*.
- 6.35 In relation to landscape impacts, the NPPG advises that development can be integrated into the wider area through the use of natural features and high quality landscaping. In addition, the NPPG promotes the creation of green spaces and notes that high quality landscaping *“makes an important contribution to the quality of an area”*.

#### Flood Risk and Coastal Change

- 6.36 The guidance states *“Developers and applicants need to consider flood risk to and from the development site, and it is likely to be in their own best interests to do this as early as possible, in particular, to reduce the risk of subsequent, significant additional costs being incurred. The broad approach of assessing, avoiding, managing and mitigating flood risk should be followed”*.

#### Health and Wellbeing

- 6.37 The NPPG advises that health and wellbeing should be taken into consideration by Local Planning Authorities in their decision making, including *“potential pollution and other environmental hazards, which might lead to an adverse impact on human health”*.

#### Natural Environment

- 6.38 This section explains key issues in implementing policy to protect biodiversity, including local requirements. It reiterates that *“the National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution”*.

#### Noise

- 6.39 This section advises on how planning can manage potential noise impacts in new development. In terms of decision taking on planning applications its states that Authorities should take account of the acoustic environment and in doing so consider whether or not a significant adverse effect is occurring or likely to occur; whether or not an adverse effect is occurring or likely to occur; and whether or not a good standard of amenity can be achieved. It also states that *“neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development”*.

#### Waste

- 6.40 With regard to the Waste Hierarchy the guidance states that *“driving waste up the Waste Hierarchy is an integral part of the National Waste Management Plan for England and national planning policy for waste”* and *“all local planning authorities, to the extent appropriate to their responsibilities, should look to drive waste management up the hierarchy”*.

- 6.41 The guidance states, in respect of the use of unallocated sites for waste management facilities, that applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the Waste Hierarchy. If the proposal is consistent with an up to date Local Plan, there is no need to demonstrate 'need'.
- 6.42 With regard to expansion/extension of existing waste facilities the guidance states that "the waste planning authority should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community's wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant".
- 6.43 The guidance includes advice on the relationship between planning and other regulatory regimes. On this matter it states "The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity taking into account the criteria set out in Appendix B to National Planning Policy for Waste. 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".
- 6.44 The guidance states that "the role of the environmental permit, regulated by the Environment Agency, is to provide the required level of protection for the environment from the operation of a waste facility. The permit will aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health".

#### The Development Plan

- 6.45 Whilst the NPPF is a significant material consideration, under Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning authorities continue to be required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:
- The extant 'saved' policies of the North Yorkshire Minerals Local Plan (adopted 1997);
  - The extant 'saved' policies of the North Yorkshire Waste Local Plan (adopted 2006);
  - The extant policies of the Selby District Core Strategy Local Plan (2013); and
  - The 'saved' policies of the Selby District Local Plan (2005).
- 6.46 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption. In this respect, it is worth noting that the following document contains emerging local policies that may be of relevance to this application:
- Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority) ; hereafter referred to as the MWJP.
- 6.47 The application site is neither proposed, nor included, as a preferred allocated or safeguarded site. The most relevant emerging policy is Policy M20: Deep coal and disposal of colliery spoil which states that "*Proposals to remediate and restore the Womersley Spoil Disposal Site will be permitted where they would be consistent with the development management policies in the Joint Plan*". The draft MWJP was

published in November 2016 for representations and public consultation on a schedule of proposed changes took place over the summer 2017 prior to the submission of the Minerals and Waste Joint Plan for Examination in Public (in November 2017). The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 for independent examination which is expected to take place in the New Year. At the current stage, it would not be appropriate to give any significant weight to this emerging document in respect of the development proposed in this planning application.

6.48 The NPPF states that for the purposes of decision-taking, the policies in the Local Plan should not be considered out of date because they were adopted prior to the publication of the NPPF. However, the policies contained within the NPPF are material considerations which local planning authorities should take into account from the day of its publication.

6.49 If, following the 12 month transitional period given to local planning authorities to ensure compliance of their Local Plans with the NPPF, a new or amended plan has not been adopted, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (paragraph 215 of the NPPF). The closer the policies in the plan, to the policies in the NPPF, the greater the weight that may be given. In addition paragraph 216 of the NPPF states that *“From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);* and
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.*

6.50 The relevant policies within the NPPF have been set out above and within the next section the relevant ‘saved’ policies from the North Yorkshire Minerals Local Plan (adopted 1997), North Yorkshire Waste Local Plan (adopted 2006) and the Selby District Local Plan (adopted 2005) are outlined and the degree of consistency with the NPPF is considered. This exercise is not applicable to the policies contained within the ‘Selby District Core Strategy Local Plan’ (adopted 2013) as the Local Plan Strategy is a post-NPPF adoption and has been deemed to be in compliance with the general aims of the NPPF.

#### North Yorkshire Minerals Local Plan (NYMLP) (adopted 1997)

6.51 The Planning and Compensation Act 1991 placed a duty on each County Council in England and Wales to prepare a Minerals Local Plan. The North Yorkshire Minerals Local Plan was adopted in 1997 under the 1991 Act. In the absence of an adopted MWJP and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 as of 27 September 2007 only the ‘saved’ policies continue to form part of the statutory ‘development plan’ and provide an important part of the current local policy framework for development control decisions for minerals related development.

6.52 The ‘saved’ policy relevant to the determination of this application is set out below:

- 6/4 – Colliery Spoil Disposal

'Saved' Policy 6/4 – Colliery Spoil Disposal

- 6.53 This Policy states:  
*"The Mineral Planning Authority will require proposals for the disposal of colliery spoil to:-*
- i) utilise voids or, if not available, derelict or degraded land, wherever possible;*
  - ii) provide a detailed justification for proposals which, in exceptional circumstances, seek to utilise agricultural land;*
  - iii) demonstrate that waste arising from the development and requiring surface disposal is kept to a minimum;*
  - iv) be designed to comprise a compatible landscape feature, or features, upon restoration; and*
  - v) incorporate detailed measures to mitigate the impact of operations on local amenity and the environment.*

6.54 This 'saved' Policy is consistent with the NPPF and NPPW.

North Yorkshire Waste Local Plan (NYWLP) (adopted 2006)

6.55 In the absence of an adopted MWJP and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 as of 27 September 2007 only the 'saved' policies can now be considered as comprising of the Development Plan. The 'saved' policies relevant to the determination of this application are:

- 4/1 – Waste Management Proposals
- 4/3 – Landscape Protection
- 4/10- Locally Important Sites
- 4/18 – Traffic Impact
- 4/19 – Quality of Life
- 4/20 - Open Space, Recreation and Public Rights of Way
- 4/21- Progressive Restoration
- 4/22- Site Restoration
- 4/23- Aftercare

'Saved' Policy 4/1 – Waste Management Proposals

- 6.56 This Policy states:  
*Proposals for waste management facilities will be permitted provided that:*
- a) the siting and scale of the development is appropriate to the location of the proposal;*
  - b) the proposed method and scheme of working would minimise the impact of the proposal;*
  - c) there would not be an unacceptable environmental impact;*
  - d) there would not be an unacceptable cumulative impact on the local area;*
  - e) the landscaping and screening has been designed to effectively mitigate the impact of the proposal in a way that is sympathetic to local landscape character;*
  - f) where appropriate, adequate provision is made for the restoration, aftercare and management of the site to an agreed afteruse;*
  - g) the proposed transport links are adequate to serve the development; and,*
  - h) other environmental and amenity safeguards would effectively mitigate the impact of the proposal;*
  - i) it can be demonstrated that the proposal represents the Best Practicable Environmental Option for dealing with the waste;*
  - j) the location is geographically well located to the source of the waste thereby according with the proximity principle.*

- 6.57 This 'saved' Policy of the NYWLP is directly relevant to the development currently under consideration. In accordance with paragraph 214 of the NPPF, an analysis of consistency shows the NPPF to be silent on matters raised in criteria a), b), i) and j). With regard to criterion f), Paragraph 144 of the NPPF states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the imposition of appropriate conditions, where necessary.
- 6.58 As the NPPF does not provide specific waste policies, the NPPW has also been reviewed in relation to the proposed development in terms of compliance with criteria a), i) and j). There is nothing specifically related to criteria b) and f) within the NPPW.
- 6.59 With regard to criterion a) this is consistent with the NPPW which sets out locational criteria for waste management facilities and states that the type and scale of the facility should be taken into account when deciding on appropriate locations.
- 6.60 In terms of criterion i), the Best Practicable Environmental Option (BPEO) is a set of procedures with the goal of managing waste and other environmental concerns. BPEO assessment is a method for identifying the option that provides "*the most environmental benefit*" of "*least environmental damage*". The technique is not reflected in NPPW or the NPPF, but the principles of putting forward the most sustainable option i.e. movement of waste up the waste hierarchy is set out in NPPW. Therefore, although criterion i) does not conflict with the provision of NPPW it should be given less weight for this reason. NPPW reflects the proximity principle set out in criterion j), therefore, this point should be given weight.
- 6.61 'Saved' Policy 4/1 g) is consistent with the provisions of the NPPF insofar as supporting the adequacy of transport links, however, there are differences in the objectives that criterion g) states that transport links should be adequate, whereas the NPPF states that improvements to the transport network should be considered. Therefore, the NPPF guidance should be given more weight in this instance because it goes a step further in supporting those developments comprising improvements to transport links.
- 6.62 In terms of criteria c), d) and h) of 'saved' Policy 4/1 the NPPF states that developments should contribute to and enhance the local environment, not give rise to unacceptable risks from pollution, and that cumulative effects should be taken into account. The wording in 'saved' Policy 4/1 states that there should not be unacceptable impacts and that safeguards should mitigate the impacts. Although there is a slight difference in emphasis the provisions of the policy are generally consistent with the NPPF and should be given weight.
- 6.63 Criterion e) of 'saved' Policy 4/1 requires that landscaping and screening should mitigate the impact of the development, being sympathetic to local landscape character. Therefore, it is considered that the policy is consistent with the relevant policies of the NPPF, but more emphasis should be given to protecting and enhancing valued landscapes. Greater weight should therefore be given to the NPPF in this instance because it goes a step further in protecting and enhancing valued landscapes.
- 'Saved' Policy 4/3 – Landscape protection
- 6.64 This 'saved' policy advises that waste management facilities will only be permitted "where there would not be an unacceptable effect on the character and uniqueness of the landscape. Wherever possible, proposals should result in an enhancement of local landscape character".

6.65 In its reasoned justification, 'saved' Policy 4/3 advises that in considering development proposals, the Authority will expect developers to respect and enhance the special character and distinctiveness of features which make specific landscapes locally important. Where waste management proposals are determined to be compatible with the local landscape by virtue of siting, scale and design, possibilities for the enhancement of the character of the local landscape should also be explored.

6.66 This specific 'saved' policy is considered to be relevant and full weight can be given to 'saved' Policy 4/3 as the NPPF makes clear that the effects of development on the landscape, including the potential sensitivity of an area to adverse landscape impacts, should be taken into account. The NPPF (paragraph 109) promotes the protection and enhancement of valued landscapes and Appendix B (Locational Criteria) of the NPPW encourages development to respect landscape character.

'Saved' Policy 4/10 Locally Important Sites

6.67 'Saved' Policy 4/10 Locally Important Sites, states that proposals for waste management facilities will only be permitted where there would not be an unacceptable effect on the intrinsic interest and, where appropriate educational value of Local Nature Reserves, Sites of Importance for Nature Conservation (SINC), UK Biodiversity Action Plan priority species or key habitats, other wildlife habitats and the habitat of any animal or plant species protected by law. The NPPF does not have specific guidance in relation to SINCs, however, it states that impacts on biodiversity should be minimised. The 'saved' Policy is, therefore, considered consistent.

'Saved' Policy 4/18 – Traffic impact

6.68 This 'saved' Policy addresses transport issues and advises that waste management facilities will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway and would not have an unacceptable impact on local communities.

6.69 'Saved' Policy 4/18 does not conflict with the aims and objectives of the NPPF, however, there are differences in that the NPPF states that improvements to the transport network should be considered, therefore, the NPPF guidance should be given more weight in this instance.

'Saved' Policy 4/19 – Quality of life

6.70 This 'saved' Policy seeks to ensure that waste management facilities will be permitted only where there would not be an unacceptable impact on the local environment and residential amenity.

6.71 It is considered that full weight can be given to 'saved' Policy 4/19 as the NPPF makes clear that the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution, should be taken into account.

'Saved' Policy 4/20- Open space, Recreation and Public Rights of Way

6.72 The Policy states that *"The development of waste management facilities will not be permitted where there would be an unacceptable impact on recreational amenity of the area, on open spaces with recreational value or on the enjoyment of the Public Rights or Way network. Proposals for waste management facilities which would interrupt, obstruct or conflict with use of a public right of way will only be permitted where satisfactory provision has been made, in the application, for protecting the existing right of way or for providing acceptable alternative arrangements both during and after working"*.

6.73 It is considered that full weight can be given to 'saved' Policy 4/20 as the NPPF makes clear that planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users.

'Saved' Policy 4/21- Progressive Restoration

6.74 'Saved' Policy 4/21 Progressive Restoration, states that planning applications for waste disposal should demonstrate that wherever possible and practicable, progressive restoration will be undertaken to a high standard to achieve a prescribed after-use or combination of after-uses.

'Saved' Policy 4/22- Site Restoration

6.75 'Saved' Policy 4/22 Site Restoration, states that proposals for waste disposal should demonstrate that the restoration proposals will restore and enhance, where appropriate, the character of the local environment.

'Saved' Policy 4/23- Aftercare

6.76 'Saved' Policy 4/23 Aftercare, states that planning permissions which are subject to conditions requiring restoration to agriculture, forestry or amenity uses will additionally be subject to an aftercare requirement seeking to bring the restored land up to an approved standard for the specified after-use.

Selby District Core Strategy (2013)

6.77 The Selby District Core Strategy is the long-term strategic vision for how the District will be shaped by setting out a number of broad policies to guide development. The policies relevant to the determination of this application are:

- SP1 - Presumption in Favour of Sustainable Development
- SP3 – Green Belt
- SP15 - Sustainable Development and Climate Change
- SP18 - Protecting and Enhancing the Environment
- SP19 - Design Quality

Policy SP1: Presumption in Favour of Sustainable Development

6.78 Policy SP1 of the Selby District Core Strategy states *'When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in the Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date (as defined by the NPPF) at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:*

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *Specific policies in that Framework indicate that development should be restricted'.*

Policy SP3: Green Belt

6.79 Policy SP3 of the Selby District Core Strategy states *"In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted".*

### Policy SP15: Sustainable Development and Climate Change

6.80 Policy SP15 of the Selby District Core Strategy relates to Sustainable Development and Climate Change and specifically Part B is of relevance to this application, and states (inter alia):

#### *"B. Design and Layout of Development*

*In order to ensure development contributes toward reducing carbon emissions and are resilient to the effects of climate change, schemes should where necessary or appropriate:*

- d) Protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilise biodiversity to contribute to climate change mitigation and adaptation;*
- e) Include tree planting, and new woodlands and hedgerows in landscaping schemes to create habitats, reduce the 'urban heat island effect' and to offset carbon loss"*

### Policy SP18: Protecting and Enhancing the Environment

6.81 Policy SP18 of the Selby District Core Strategy seeks to sustain the high quality and local distinctiveness of the natural and manmade environment. A number of points within Policy SP18 are of relevance to the proposed development, as follows:  
*"The high quality and local distinctiveness of the natural and man-made environment will be sustained by (inter alia):*

- 1. Safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance...*
- 3. Promoting effective stewardship of the District's wildlife by:*
  - a) Safeguarding international, national and locally protected sites for nature conservation, including SINCS, from inappropriate development.*
  - b) Ensuring developments retain, protect and enhance features of biological and geological interest and provide appropriate management of these features and that unavoidable impacts are appropriately mitigated and compensated for, on or off-site*
  - c) Ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate...*
- 7. Ensuring that new development protects soil, air and water quality from all types of pollution".*

### Policy SP19: Design Quality

6.82 *"Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside.*

*Where appropriate schemes should take account of design codes and Neighbourhood Plans to inform good design. Both residential and non-residential development should meet the following key requirements:*

- a) Make the best, most efficient use of land without compromising local distinctiveness, character and form.*
- b) Positively contribute to an area's identity and heritage in terms of scale, density and layout;*
- c) Be accessible to all users and easy to get to and move through;*
- d) Create rights of way or improve them to make them more attractive to users, and facilitate sustainable access modes, including public transport, cycling and walking which minimise conflicts;*
- e) Incorporate new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate;*



- f) *Promote access to open spaces and green infrastructure to support community gatherings and active lifestyles which contribute to the health and social well-being of the local community;*
- g) *Have public and private spaces that are clearly distinguished, safe and secure, attractive and which complement the built form;*
- h) *Minimise the risk of crime or fear of crime, particularly through active frontages and natural surveillance;*
- i) *Create mixed use places with variety and choice that compliment one another to encourage integrated living, and*
- j) *Adopt sustainable construction principles in accordance with Policies SP15 and SP16.*
- k) *Preventing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability.*
- l) *Development schemes should seek to reflect the principles of nationally recognised design benchmarks to ensure that the best quality of design is achieved”.*

‘Saved’ Policies of the Selby District Local Plan (2005)

6.83 Notwithstanding the adoption of the Selby District Core Strategy Local Plan in 2013, referred to above, some of the policies in the existing Selby District Local Plan (adopted in 2005 and saved in 2008 by Direction of the Secretary of State) remain extant. As these policies pre-date the adoption of the NPPF, weight can be afforded to them depending on their consistency with the NPPF. Those of relevance to this application and the weight that can be attached to them are discussed in turn below. The ‘saved’ policies considered relevant to the determination of this application are:

- ENV1- Control of Development
- ENV2 - Environmental pollution and Contaminated land
- ENV9- Sites of Importance for Nature Conservation
- ENV15- Conservation and Enhancement of Locally Important Landscape Areas
- ENV21- Landscaping Requirements
- T1- Development in Relation to the Highway network
- T8- Public Rights of Way

‘Saved’ Policy ENV1- Control of Development

- 6.84 This policy states that “...development will be permitted provided a good quality of development would be achieved” and sets out a number of points which the District Council will take account of in considering proposals for development:
- 1) *The effect upon the character of the area or the amenity of adjoining occupiers;*
  - 2) *The relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements to be made for car parking;*
  - 3) *The capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure;*
  - 4) *The standard of layout, design and materials in relation to the site and its surroundings and associated landscaping;*
  - 5) *The potential loss, or adverse effect upon, significant buildings, related spaces, trees, wildlife habitats, archaeological or other features important to the character of the area;*
  - 6) *The extent to which the needs of disabled and other inconvenienced persons have been taken into account;*
  - 7) *The need to maximise opportunities for energy conservation through design, orientation and construction; and*
  - 8) *Any other material considerations”.*

- 6.85 It is considered that limited weight can be attached to 'saved' Policy ENV1 as the NPPF makes clear that the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution, should be taken into account. However, with regards to transport, the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe and, therefore, only limited weight may be given in this instance.

'Saved' Policy ENV2 - Environmental pollution and Contaminated land

- 6.86 This policy states that
- A) *Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme. Such measures should be carried out before the use of the site commences.*
  - B) *Where there is a suspicion that the site might be contaminated, planning permission may be granted subject to conditions to prevent the commencement of development until a site investigation and assessment has been carried out and development has incorporated all measures shown in the assessment to be necessary".*

- 6.87 This Policy is generally considered to be compliant with Section 11 of the NPPF.

'Saved' Policy ENV9- Sites of Importance for Nature Conservation

- 6.88 This policy states that "Proposals for development which would harm a local nature reserve, a site of local importance for nature conservation or a regionally important geological/geomorphological site, will not be permitted unless there are no reasonable alternative means of meeting the development need and it can be demonstrated that there are reasons for the proposal which outweigh the need to safeguard the intrinsic local nature conservation value of the site or feature".

- 6.89 This policy is considered broadly consistent with the NPPF's objectives or protecting Conserving and Protecting the Natural Environment as outlined within Chapter 11 of the NPPF. Therefore, full weight is given to this policy in the determination of this application.

'Saved' Policy ENV15- Conservation and Enhancement of Locally Important Landscape Areas

- 6.90 This policy states that "Within the locally important landscape areas, as defined on the proposals map, priority will be given to the conservation and enhancement of the character and quality of the landscape. Particular attention should be paid to the design, layout, landscaping of development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area".

- 6.91 This policy is considered broadly consistent with the NPPF's objectives or protecting Conserving and Protecting the Natural Environment as outlined within Chapter 11 of the NPPF, specifically in relation to paragraph 109 which outlines the importance of protecting valued landscapes. Therefore, full weight is given to this policy in the determination of this application.

'Saved' Policy ENV21 – Landscaping Requirements

This policy states that

*“A) Where appropriate, proposals for development should incorporate landscaping as an integral element in the layout and design, including the retention of existing trees and hedgerows, and planting of native, locally occurring species.*

*B) The District Council may make tree preservation orders, impose planting conditions, or seek an agreement under Section 106 of the Town and Country Planning Act 1990 to ensure the protection and future maintenance and/or replacement of existing trees, hedgerows and proposed new planting”.*

6.92 This Policy is generally considered to be compliant with Section 11 of the NPPF.

6.93 ‘Saved’ Policy T1- Development in Relation to the Highway network  
‘Saved’ Policy T1 of the Selby District Local Plan (2005), states that development proposals should be well related to the existing highways network and will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer. It is considered that ‘saved’ Policy T1 is consistent with the NPPF and should be given full weight in the determination of this application. This is because the objectives in the NPPF state that improvements to the transport network should be considered.

6.94 ‘Saved’ Policy T8, states that development which would have a significant adverse effect on any route in the district’s Public Rights of Way network will not be permitted unless the following can be achieved:

- 1) Satisfactory and attractive alternative routes are provided; and
- 2) Adequate sign posting is provided; and
- 3) As far as is reasonable, the new route can make provision for walkers, horse riders, cyclists and people with sight or mobility problems; and
- 4) In the case of new reasonable development, such development must replace extinguished rights of way with attractive highway infrastructure which is equally capable of accommodating appropriate users of the original Right of Way.

6.95 This Policy is considered to be consistent with the NPPF as it states that Public Rights of Way should be protected and enhanced.

## **7.0 Planning considerations**

7.1 Section 73 of the Town and Country Planning Act 1990 provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue.

7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. In light of the abovementioned policies the main considerations in this instance are the principle of the development and the need, the landscape, visual impact, and the Green Belt, the impact upon local amenity (noise and air quality/dust), flood risk, site drainage and groundwater quality, ecology, highways impact, public access and site security.

### Principle of the proposed development and the need

- 7.3 The principle of developing a colliery waste tip at the former quarry site was first established under the original planning permission (ref. C/8/41/23.G/PA) for the site in 1987 and the permission was extended by four years in 2012. Therefore the principle of the development has been previously established over the last 30 years and it is a highly material planning consideration that there is permission for spoil disposal at the application site, which has been implemented but not yet completed. Therefore, Members are advised that it would be inappropriate to revisit the principle of the entire development. Members are advised to focus their attention on national (NPPW & NPPG), development plan policies and guidance or other material considerations that may have changed since the original grant of permission, as well as the changes sought.
- 7.4 The site remains incomplete and with the closure of Kellingley colliery will not be restored to the levels originally envisaged due to the shortfall of colliery spoil. Presently there is no planning permission for tipping at the site (since expiry on 16 May 2016) and therefore the operator is carrying out operations without the benefit of planning permission.
- 7.5 This planning application made under Section 73 of the Town and Country Planning Act 1990 seeks consent for the continuation of tipping at the site until May 2018. This would result in the completion of site restoration and create an amended landform compared to that previously approved. There are no proposals to increase the overall footprint of the site or tip spoil beyond that which has been previously consented.
- 7.6 The majority of the remaining coarse colliery discard at Kellingley is being moved up the 'waste hierarchy' through its use in a land raising development in Immingham, Lincolnshire. It is acknowledged that the disposal of coarse colliery discard at the Womersley site is the least preferred option in so far as the 'waste hierarchy', but it represents the only reasonable option to achieve completion of the site to an acceptable landform. This application involved the importation of only 30,000 tonnes of coarse colliery discard from Kellingley which was completed in late Summer 2017.
- 7.7 In respect of local planning policy, whilst the need for waste management facilities is acknowledged, there are no specific 'saved' policies in the NYWLP (2006) that address the principle of providing waste disposal facilities for colliery spoil. 'Saved' policy 6/4 of the NYMLP (1997) relates to colliery spoil disposal and the proposal complies with the aims of the policy in that it relates to a former void and degraded land, the waste disposed of has been kept to a minimum and will create a compatible landscape feature without having a detrimental impact upon local amenity and the environment.
- 7.8 The proposed development is consistent with national planning policy contained within the NPPF (paragraphs 144 & 147) which advise MPAs to provide for restoration and aftercare at the earliest opportunity and to be carried out to high environmental standards and also indicate areas where disposal of colliery spoil may be acceptable as per the emerging draft policy M20 of the MWJP. Similarly paragraph 7 of the NPPW states that Waste Planning Authorities should ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards.
- 7.9 Since the closure of Kellingley in 2015 the tipping site at Womersley has entered a post operational phase of the development which centres on final restoration works to complete the site to a satisfactory landform. Without the extension of time and continued restoration operations the majority of the site would remain unrestored with open lagoons and wet colliery discard remaining on-site in an unsatisfactory state. It is considered that the extension of time is needed to complete the works to create a safe and acceptable landform within an appropriate timeframe.

- 7.10 The acceptability in principle has already been established, however, any potential adverse impacts on the environment and amenity arising from the continuation of tipping and restoration operations need to be considered in detail and the main considerations are addressed in the subsequent sections of this report.

Landscape, visual impact and the Green Belt

- 7.11 The site comprises areas of deposited colliery spoil and restored areas, a mixture of woodland/scrub, grassland, and waterbodies. The magnesian limestone ridge is designated as a Locally Important Landscape Area which is to be conserved and enhanced within the Selby District Local Plan and the site falls within the Green Belt.
- 7.12 It is noted that the site is located within the locally important limestone ridge and adjoins former limestone quarries and the Principal Landscape Architect highlighted a degree of conflict with the nature conservation objective of establishing calcareous grassland. However the revised proposal has been assessed to have a “*slight beneficial effect due to the lower landform*” which is further enhanced by the quicker establishment of grass cover and ‘greening-up’ through the use of soil forming materials and any adverse effect on local landscape character is outweighed by the benefits of establishing an improved drainage system (considered later in this report). There have been short term visual impacts arising from the HGV movements importing material and earth moving machinery during tipping and levelling work but in the long term the completed landform would integrate appropriately with the wider landscape.
- 7.13 The visual envelope is relatively closed but there are isolated residential properties and visual receptors close to the site although the impact would not change significantly compared to the scheme previously approved and in the long term is likely to result in visual improvements once the final landform and features are established. The phased progress made to date and the phasing plan for completion is shown on the drawing attached to this report at Appendix D.
- 7.14 The final restoration of the site would enable safe public access to/across the site, as well as areas of amenity and woodland. The Principal Landscape Architect is satisfied with the proposal to complete tipping and the revised landform subject to the inclusion of conditions to cover detailed final landscape proposals and aftercare (Conditions 15, 17, 18 & 20) and also a mechanism for an annual review throughout the aftercare management period (Condition 23).
- 7.15 It is considered that if the site was left as an unrestored landform it would have a detrimental effect upon the local landscape character and an adverse impact upon local visual amenity including that of the Green Belt. The NPPF and Selby District Core Strategy attach importance to Green Belts and inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
- 7.16 When considering applications within the Green Belt, in accordance with the NPPF (2012), paragraph 90 states that engineering operations are not inappropriate providing that development preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt. The current application does not include any built development proposals. The principle of the operations at the site within the Green Belt have been established for a number of years and there are no proposals to increase the overall footprint of the site or tip beyond that which has been previously consented. It is considered that the proposed engineering operations to complete final restoration of the site would allow the land to return to a use, form and appearance in keeping with the landscape character of the area and would create amenity grassland with public access. It is considered that the proposed development is not inappropriate development within the Green Belt due to the development comprising temporary engineering works to complete the final

restoration of the tip. It is considered that the proposed development would not materially harm the character and openness of the Green Belt and would not conflict with the purposes of including the land in the Green Belt, and would, therefore, be in accordance with the NPPF (2012) and would comply with Policy SP3 of the Selby District Core Strategy Local Plan (2013).

- 7.17 The final restored landform would comprise a mosaic of woodland, scrub, grassland and wetland whose species composition reflects the character of semi-natural habitats in the vicinity. The site would be visually compatible with the local landscape and would not result in any unacceptable adverse visual impact or detrimental effect on the character and uniqueness of the Locally Important Landscape Area in compliance with 'saved' policies 4/1(a, b, e & f), 4/3 and 4/22 of the NYWLP (2006), policies SP15 and SP19 of the Selby District Core Strategy (2013) and 'saved' policies ENV1, ENV15 and ENV21 of the Selby District Local Plan (2005).

Local amenity (noise)

- 7.18 The application includes an assessment of the noise impact which details the background and predicted noise levels at four receptor locations. The EHO highlighted that the nearest residents that may be impacted by noise from the operations are at Stapleton Cottages to the west of the site. The Applicant's assessment indicates that the most significant source of potential site noise at Stapleton Cottages is from the bulldozer activity spreading the colliery discard and levelling the material to final restoration levels which is a fundamental part of the latter phase of the development. The EHO notes that the predicted noise levels at Stapleton Cottages cannot meet the Planning Practice Guidance lower level for noise during the period of 7am to 7pm of the background level plus 10dBA.
- 7.19 The Applicant acknowledges that due to the phase of the work (final restoration) it is not feasible to construct acoustic screening bunds between the site activity and the residential receptors. However, the Applicant has highlighted that machinery is regularly maintained and fitted with silencers to limit the noise impact.
- 7.20 The Authority has received no noise related complaints from any of the local residents during the latter phase of the operational period. If permission is granted a condition will set the noise limits at each of the four nearby residential receptors (Condition 6). The EHO noted the short time scales involved to complete the importation of colliery discard and restore the site with soil forming materials and recommended the inclusion of a noise limit of 51 dB Laeq1hr to be conditioned (Condition 6) for the period of work near to Stapleton Cottages.
- 7.21 It is concluded that, subject to appropriate planning conditions, the proposed development is not likely to have an adverse impact at nearby noise sensitive receptors. In light of the above it is considered that it is in accordance with 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006), and complies with policy SP18 of the Selby District Core Strategy Local Plan (2013) and 'saved' policies ENV1 and ENV2 of the Selby District Local Plan (2005).

Local amenity (dust)

- 7.22 The primary air quality impact which arises from the tipping and quarry restoration operations is the generation of mineral dusts. These typically arise at mineral sites through excavation, transportation, tipping and processing activities. The latter phase of the development has involved the continuation of the importation of colliery spoil and to import other soil forming materials to complete the revised restoration scheme for the site.

- 7.23 The EHO acknowledges that within the application it confirms that the previously agreed Dust Action Plan will not be implemented in full due to the reduced scale of the operations. The Applicant's Air Quality and Dust Assessment states that the nearest sensitive receptors to the site are unlikely to experience any increase in dust levels from the continued operations. If permission is granted a condition shall be included to require continued dust monitoring and management (Condition 7) to be carried out in accordance with Section 2.5 of the Air Quality Assessment dated April 2016 and dust control measures employed including the use of a wheel wash, water cannon and mobile bowser to damp down materials, open areas and access routes when required.
- 7.24 It is considered that with the continued implementation of the abovementioned existing dust control measures, secured by planning condition, dust emissions from the site can be controlled to a standard that ensures that the proposed development will not result in a significant impact with respect to nuisance relating to dust. In light of the above, it is considered that it is in accordance with paragraph 120 of the NPPF, and complies with 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006), policy SP18 of the Selby District Core Strategy Local Plan (2013) and 'saved' policies ENV1 and ENV2 of the Selby District Local Plan (2005).

Flood risk, Site drainage and groundwater quality

- 7.25 The site is within the Environment Agency's Flood Zone 1 (annual flood probability of less than 0.1%) which is land at the lowest risk of flooding. The proposed extension of time for tipping and the revised restoration scheme does not increase the current flood risk vulnerability of flooding downstream. The restoration scheme, including establishing vegetative cover, would reduce the risk of flooding downstream and on the site itself.
- 7.26 At the time planning application ref C8/2012/0035/CP was determined at Planning Committee in August 2012 it was reported on site drainage that there was no evidence or record of any pollution events having occurred at or as a result of the tipping operations of the site. However, in recent years, concerns have been raised by the owners of the adjacent Blue Lagoon Diving Centre and the former Northfield Quarry about poor drainage and pollution to ground water. The monitoring boreholes around the tip site have shown that colliery spoil has been impacting upon groundwater.
- 7.27 The Applicant has submitted a technical hydrological report to inform the proposed drainage scheme for the final landform. The report took the issues of off-site discharges, flooding and groundwater pollution into consideration. The Environment Agency have previously confirmed that investigations into the potential cause of pollution in the adjacent Blue Lagoon have concluded that the most likely source was contaminated groundwater from the tip site migrating into the diving centre due to the direction of groundwater flow (generally in an easterly direction). The behaviour of surface water and groundwater is now better understood and has been assessed and the Applicant has incorporated mitigation measures into the design of the scheme.
- 7.28 The previous operator installed plastic lined toe drains at the base of the tip in order to intercept contaminated surface water runoff, thus preventing it from reaching the groundwater. However there was only limited success with this method and the drains were subject to vandalism. As stated by the Environment Agency a major factor contributing to the issue was the requirement to use limestone fines as part of the approved restoration scheme. It was found that the limestone fines were physically unstable when it rained, leading to large quantities of material being washed off the slopes, exposing the spoil and settling in the toe drains. Subsequently the drains filled with sediment causing blockages that caused contaminated water to spill over the sides and eventually into groundwater.

- 7.29 The Applicant states that addressing the drainage problems and stabilising bare ground through early re-vegetation have been the priorities in the last year and the remedial work, informed by the Hydrological and Hydrogeological Assessment, had to commence prior to the application being determined. There was a need for vegetation cover to stabilise the surface, particularly the flanks, to avoid acceleration of the erosion and gulying which had previously occurred and so to reduce silting of drains and potential wider pollution. The previously placed bare limestone fines were exposed and would take many years to vegetate, partly because they are nutrient poor and partly because there was no topsoil to prevent it being washed away when there was a rainfall event. In response the Applicant has amended the previously approved scheme so that areas containing limestone fines are mixed with soil making materials that will produce a material that is less likely to suffer from erosion and will re-vegetate significantly more quicker.
- 7.30 In response to ongoing concerns about drainage issues at the site the Applicant has completed on-site work comprising the construction of a clay-lined surface-water drainage system (now in place and shown in the aerial photo at Appendix E) including the lining of lagoons with clay to at least 1 metre above the intended final water level to prevent uncontrolled infiltration or overspill. The remedial drainage measures are expected to minimise contamination of the neighbouring Blue Lagoon diving lake. The proposed improved drainage scheme and new water bodies are justified and supported and are in line with the Environment Agency recommendations.
- 7.31 It was concluded that by completing the proposed restoration works, improving the drainage system, establishing early vegetative cover and reducing infiltration the impact of the previously tipped colliery spoil from Kellingley upon the quality of groundwater can be curtailed. If permission is granted it would include mechanisms to secure the continuation of on-site drainage maintenance and management (Condition 22) which would continue through the extended after care period (10 years) to ensure performance is maintained as intended in line with the Environment Agency's recommendation. The scheme would also include monitoring of groundwater and the taking of any steps as may be necessary to prevent the pollution of adjoining land, groundwater or watercourse. It is considered that subject to the inclusion of the abovementioned condition and legal agreement the development is consistent with the national planning policy contained within paragraph 103 of the NPPF and Appendix B(a) of the NPPW.

Biodiversity, habitats, nature conservation and protected species

- 7.32 The site is not immediately adjacent to any Site of Special Scientific Interest (SSSI) or similar international/national-level protective designations. The closest is Brockdale SSSI which is 2.4 kilometres south-west of the site. The former Womersley and Cridling Stubbs Quarry is designated as a Site of Importance for Nature Conservation (SINC) which was last surveyed in 2009 and records state that it *'contains vitally important original calcareous grassland, which is essential for natural regeneration of adjacent quarry areas when restored'*.
- 7.33 It is acknowledged that restoration to species-rich grassland or grassland with potential for more productive agricultural use are no longer objectives. This alteration has resulted from the ongoing problems with ground-water contamination from colliery spoil leachate and the need to urgently revise the approach to site restoration. As identified by the Environment Agency there was a pressing need to stabilise the surface of the tip and curtail the use of limestone fines. The limestone fines were being washed off the slopes, exposing the spoil and settling in the toe drains leading to overspills of contaminated water eventually reaching groundwater. This has meant the revised proposal no longer includes the creation of further limestone grassland areas.



- 7.34 The County Ecologist supports the creation of a Biodiversity Enhancement and Management Plan (BEMP), to be secured by Condition 21, setting out how relevant areas will be conserved, restored or re-created. The County Ecologist has identified four existing or potential nature conservation assets (including the existing SINC) which represents approximately 12 hectares, some of which could be restored to magnesian limestone grassland or a mosaic of grassland and scrub and these would be included in the BEMP. The four areas are shown on the drawing attached to this report at Appendix D. The Applicant has submitted an outline Ecological Management Plan the purpose of which is to manage and improve the conservation interests of the habitats within each of the four areas. The Plan presents the outline management prescription for each area with recommendations for further surveys to inform the detailed BEMP. The detail management plan would guide management of the site during the 10 year aftercare period (to be secured by legal agreement).
- 7.35 The Applicant has assessed the habitat and species on-site and it has been established that the proposals are not expected to impact on protected species. In the medium to long term the final restored site will provide habitats of value at a local level which will support existing populations of protected species and will significantly increase the proportion of the site covered by habitats suitable for protected species.
- 7.36 There is unlikely to be an impact on any statutory designated sites, protected species or notable habitats. Whilst some concerns have been expressed about the change in the restoration scheme the reasons for the amendments are understood and there are no ecological objections to the development. It is considered that the proposed development would not result in loss or significant harm to any sites of ecological value or be detrimental to existing nature conservation interests.
- 7.37 There is a degree of conflict with paragraph 109 of the NPPF in that the revised restoration will not offer the previously approved habitat and biodiversity enhancements arising from the limestone grassland, however, this is outweighed by the need to stabilise the tip surface and 'green up' the site in the interests of improved site drainage and pollution control. There are some limited opportunities for management and preservation of existing areas of habitat and areas of nature conservation as identified by the County Ecologist (shown at Appendix D) and this will be secured by condition and legal agreement.
- 7.38 It is considered that subject to securing the detailed BEMP for the previously restored areas of magnesian limestone grassland there is no significant conflict with the aims of 'saved' policies 4/1 (b & c) and 4/10 of the NYWLP (2006), policies SP15 and SP18 of the Selby District Core Strategy (2013) and 'saved' Policy ENV9 of the Selby District Local Plan (2005) and the national planning policy contained within Appendix B(d) of the NPPW.
- Highways impact
- 7.39 The on-site importation works are largely complete and work is now in a post operational restoration phase. As of October 2017 HGV movements were down to two HGVs per day which travel to the site from the A1. The HGV movements carrying the colliery spoil from Kellingley (via Sudforth Lane, Beal Lane, Cobcroft Lane and Stubbs Lane) were completed in August- September 2017 so there will be no more HGV movements associated with this development using that route.
- 7.40 The transportation of colliery spoil took place during the drier summer months between March and October and the wheel wash and the 'sheep dip' wheel washing facility have been, and continue to be, utilised to ensure vehicles are clean and highways are not burdened by mud/detritus from the site. In addition there has been continued use of road sweepers on the haul route as and when required and the Authority has received no complaints about the condition of the public highway during the period the application has been under consideration by the Authority.

- 7.41 The recommendations of the Local Highway Authority are noted however it would only be lawful to apply the planning conditions that are relevant and necessary to the remaining works up to the end of May 2018 and beyond for aftercare management matters. The original permission was granted with no controls limiting the number of HGV movements and during its peak the colliery spoil disposal operation generated between 600-1000 HGV trips per week. The number of HGVs has reduced significantly in light of the early closure of Kellingley and it would not be reasonable to require highway improvement works at this stage of the development as the route and access is no longer used by HGVs associated with colliery spoil disposal, prior to which only 30,000 tonnes was imported from Kellingley as part of this application. It is considered that the standard conditions on the use of the existing access only and wheel cleaning for the remaining vehicles movements should apply to any permission granted and the Local Highway Authority has raised no objections to this approach.
- 7.42 It is considered that the development would not result in any adverse impact to the surrounding highway network nor would it have a detrimental effect on highway safety and capacity. The NPPF, at paragraph 32, advises that development should only be prevented on transport grounds where the impacts are 'severe' and it is considered that there are no reasons to refuse the application on such grounds. The traffic generated can be satisfactorily accommodated in compliance with 'saved' policies 4/1(g) and 4/18 of the NYWLP (2006), 'saved' Policy T1 of the Selby District Local Plan (2005) and the national planning policy contained within Appendix B(f) of the NPPW and paragraph 32 of the NPPF.

#### Public Access

- 7.43 The existing bridleway which links Stubbs Lane to the north with Bank Wood Road to the south would not be directly affected any more than has occurred historically. The bridleway is located within the site boundary, much of which is along the boundary itself and therefore on the periphery of tipping and restoration operations.
- 7.44 The route of the proposed permissive footpath was amended early this year in response to concerns from adjacent landowners. The proposed permissive footpath would be formed with 200mm compacted limestone fines laid directly onto compacted overburden or colliery spoil. The completion of restoration and the creation of public access via a permissive footpath along the ridge on the western side of the site would enhance and complement the existing path network in the area.
- 7.45 The County Public Rights of Way department, in their response, have requested that the existing public right of way is protected and kept clear of any obstruction and if permission is granted an informative will be included to ensure that the nearby PRoW is not obstructed. There are no objections from the County Public Rights of Way department and, in light of the above, it is considered that the potential for conflict is limited and would not give rise to any unacceptable adverse impacts upon users of public rights of way in the area and complies with the NPPF, 'saved' policy 4/20 of the NYWLP (2006) and 'saved' Policy T8 of the Selby District Local Plan (2005).

#### Site security

- 7.46 It is noted that concerns have been raised by the Parish Council and local residents about site security and access. It is proposed to retain the existing access track to the north of the site for future management of the site. The Applicant proposes that the site entrances would be secured by a combination of stock proof fencing and farm access gates. The final detail would be secured by planning condition (Condition 24).

### Legal Agreement

- 7.47 It is proposed that the existing Section 39 agreement, which related to the previously approved landform and nature conservation after use, shall be terminated and a new Section 106 agreement shall be completed. The new agreement would secure a restoration and aftercare management period (statutory 5 years plus 5 years additional), a programme of Biodiversity Enhancement and Management and the management and maintenance of the drainage system and monitoring of groundwater.

### Planning conditions

- 7.48 With reference to the existing planning conditions as listed in Appendix B of this report it should be noted that Condition numbers 3, 7, 10, 14, 22, 25 and 26 are to be deleted on the basis of no longer being relevant to the development as amended. All other remaining conditions have been subject to updates to incorporate the amended details or set out requirements for updated or new schemes.

## **8.0 Conclusion**

- 8.1 The principle of the development is already established and this variation seeks to complete the restoration of the site to a revised landform which arises from the cessation of the disposal of spoil from Kellingley Colliery. Once established the vegetation cover across the site will increase infiltration of water, decrease run-off, increase the water holding capacity, reduce soil erosion and the vegetation cover will improve the visual appearance of the site. Whilst there are opportunities for management and preservation of existing areas of habitat and areas of nature conservation it is acknowledged that there is a degree of conflict with paragraph 109 of the NPPF in that the revised restoration will not offer the previously approved habitat and biodiversity enhancements arising from the limestone grassland. However, this is outweighed by the need to stabilise the tip surface and 'green up' the site in the interests of improved site drainage and pollution control. The revised proposal is considered necessary and would create an acceptable afteruse within an appropriate timeframe. It is considered that given the limited extension period proposed together with the reduction in on site activity and HGV movements and in light of the controls to manage the final development of this site, it would be difficult to justify a reason for refusal.
- 8.2 There are no material planning considerations to warrant the refusal of this application for the variation of condition No's 1, 2, 3, 5, 6, 14, 18 & 20 of Planning Permission ref. C8/2012/0035/CP dated 4 September 2012 for the continuation of tipping of colliery waste from Kellingley Colliery and soil materials from other locations for a further two years until 13th May 2018, revised tipping materials and revisions to the vehicle route, revised restoration scheme and landscaping.

## **9.0 Recommendation**

- 9.1 For the following reasons:

- i) The development is in accordance with 'saved' Policy 6/4 of the North Yorkshire Minerals Local Plan (1997), 'saved' policies 4/1, 4/3, 4/10, 4/18, 4/19, 4/20, 4/21, 4/22 and 4/23 of the North Yorkshire Waste Local Plan (2006), policies SP1, SP3, SP15, SP18 and SP19 of the Selby District Core Strategy Local Plan (2013), the 'saved' policies ENV1, ENV2, ENV9, ENV15, ENV21, T1 and T8 of the Selby District Local Plan (2005) and overall is consistent with the NPPF (2012) and NPPW (2014);
- ii) The proposed extension of time would facilitate the completion of the restoration of the site to an acceptable landform in accordance with paragraph 144 of the NPPF (2012) and paragraph 7 of the NPPW (2014);

- iii) The proposal does not conflict with the abovementioned policies as it is considered that the existing highway network is capable of handling the volume of traffic generated by the development, the visual impact of the proposed development can be mitigated through condition, the environmental impacts of the proposed development can be controlled, neighbouring residential properties will not be adversely affected and there are no other material considerations indicating a refusal in the public interest;
- iv) The imposition of planning conditions will further limit the impact of the development on the environment, residential amenity and the transport network; and
- v) Having taken into account all the environmental information submitted as part of this planning application included within the Environmental Statement

That, subject to prior completion of a Legal Agreement for a restoration and aftercare management period, a programme of Biodiversity Enhancement and Management and the management and maintenance of the drainage system and monitoring of groundwater **PLANNING PERMISSION BE GRANTED** subject to the following conditions:

#### Conditions

1. The development hereby permitted is valid only until 13th May 2018 by which date all tipping of waste materials shall have ceased, all surface installations together with mobile and fixed plant removed and the land shall enter final restoration and aftercare in accordance with the approved scheme of restoration and landscaping, as specified at conditions 15 & 17.
2. The development hereby permitted shall be carried out in accordance with the revised method statement dated October 1986, Environmental Statement submitted 21 May 2012 and the application details and Environmental Statement dated 4 May 2016 as amended by the Supplementary Environmental Information (revision to the restoration scheme) dated July 2017, the list of 'Approved documents' at the end of this Decision Notice and the following conditions which shall at all times take precedence.
3. There shall be no access or egress between the highway and the application site by any vehicles other than via the existing access with the public highway at Stubbs Lane. The access shall be maintained in a safe manner throughout the course of the development.
4. The materials to be disposed of at the site shall be transported to the site via the prescribed route identified on the application drawing number PB/274/JB/8 dated October 1986 or with regard to soil forming materials travelling from the A1 onto Leys Road and Stubbs Lane. Vehicles involved in the transportation of materials shall be thoroughly cleaned so that no mud, dust or waste is deposited on the public highway.
5. The materials to be disposed of at the site shall consist of mineral waste arising from the extraction of coal from Kellingley Colliery together with the waste products arising from the coal preparation plant at Kellingley Colliery and soil forming materials.
6. At all times, noise mitigation measures shall be employed at the site in accordance with the details set out in Section 6 of Technical Appendix C 'Assessment of the Environmental Impact of Noise', dated 15 April 2016 and noise from the site shall not exceed the limits set out as follows:-.

Location	Recommended Site Noise Limit (dB LAeq,1h) Free-Field
Stapleton Cottages	51
Quarry Bungalow	47
Garthdale	51
Innisfree	46

7. Dust monitoring and management shall be carried out in accordance with Section 2.5 of the Air Quality Assessment dated April 2016 and dust control measures shall include the use of a wheel wash, sheeting of HGVs, water cannon and mobile bowser to damp down materials, open areas and access routes when required.
8. No scrap materials or other non-mineral waste or disused equipment shall be allowed to accumulate on site.
9. No vehicles involved in the transport of waste to the site shall be allowed to park overnight on any part of the site.
10. Precautions, including if necessary the provision of additional vehicle cleaning (wheel washing) facilities, shall be taken and maintained to ensure that all vehicles leaving the site are in a clean condition such that no dirt and/or mud are deposited on the public highway by vehicles travelling from the site. Should it be determined by the County Planning Authority, in consultation with the County Highways Authority, that vehicles exiting the site are causing mud, debris or other detritus to foul the highway, the transport of material to the site shall cease until the matter has been remedied to the satisfaction of the County Planning Authority, in consultation with the County Highways Authority.
11. Unless detailed on the Environmental Statement dated May 2016, the processed cells shall be constructed in accordance with Drawing No. P.B.64/274/JB/4 (as amended April 1987). In the floor of the cells the construction materials shall consist of pressed tailings, quarry waste, marl, or other materials with properties similar to those detailed in the British Coal Yorkshire Regional Laboratory Report Nos. 13393 (dated March 1981) and 13694 (dated June 1981) and the compacted thickness will be not less than 1 metre. The cell walls will be formed from coarse colliery discard or colliery waste. All of the above materials shall be compacted so as to reduce the air void of the material to less than 10% when tested in accordance with BS1377.
12. Except for those already constructed, planted or established no building, hardstanding, tree planting or other obstruction shall encroach within 6 metres either side of the Yorkshire Water mains (i.e. protected strip widths of 12 metres) as shown on the 'Revised Restoration Scheme' drawing ref. W12\_LAN\_001\_REV Edated July 2017 and the plan attached to the letter from Yorkshire Water Ltd dated 21 June 2016. The stand-offs shall be maintained at all times.
13. No materials shall be burned on site.
14. No tipping, site preparation works or transportation of materials to the site for tipping for restoration purposes shall be carried out except between the following times:-  
7.30 am to 6.30 pm Monday to Friday  
7.30 am to 12.00 midday Saturday  
No such operations shall take place on Sundays or Bank Holidays except in cases of emergency when the physical well-being of persons or property may be at risk.

15. Landscaping of the site shall be carried out in accordance with the landscaping scheme contained within the Supplementary Environmental Information (revision to the restoration scheme) dated July 2017 and the 'Revised Restoration Scheme' drawing ref. W12\_LAN\_001\_REV E dated July 2017. All tree and shrub planting shall take place during the first planting season following restoration. Such planting shall take place into the ground that has previously been prepared to the satisfaction of the County Planning Authority. Such preparation shall as necessary include the following: (a) Ripping, (b) Topsoil or other approved organic material spreading, (c) Cultivation, (d) Herbicide application, (e) Green manuring and (f) scraping/screening/strimming of vegetation.
16. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compounds shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank or the combined capacity of the inter-connected tanks plus 10%. All filling points, vents and gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.
17. Restoration of the site shall be completed in progressive phases as soon as reasonably practicable in the following manner: the surface of the colliery waste shall be levelled and graded in accordance with the details contained within the Environmental Statement dated May 2016 as amended by the Supplementary Environmental Information (revision to the restoration scheme) dated July 2017 and the 'Revised Restoration Scheme' drawing ref. W12\_LAN\_001\_REV E dated July 2017.
18. Restoration of the site shall be completed in progressive phases in accordance with the 'Phased restoration and nature conservation plan' ref. 007/WOM/NAT/A1 dated 17/11/17.
19. All operations involving soil handling and cultivation shall be carried out when the soil is in a dry, friable condition.
20. Within 3 months from the date of this permission a detailed aftercare scheme shall be submitted to the County Planning Authority for approval. Aftercare of the site shall be carried out in accordance with the approved scheme which shall provide for such steps as may be necessary to bring the land restored in accordance with conditions 15 & 17 to the required standard for the approved after use. The submitted scheme shall provide for, among other matters, the following:-
  - (a) an initial five year aftercare period commencing 14 May 2018 (plus further 5 year period as per legal agreement)
  - (b) the type of crops to be established
  - (c) regular soil analysis immediately following restoration and during the course of the aftercare period
  - (d) the application of appropriate fertilizers resulting from the soil analyses
  - (e) cultivation methods
  - (f) stone picking of the restored land
  - (g) subsoiling of the restored land
  - (h) the drainage of the restored land
  - (i) crop management
  - (j) weed control
  - (k) the provision of fences, gates, hedgerows, field access points and field water supply

21. Within 3 months from the date of this permission a detailed Biodiversity Enhancement and Management Plan, based on the Ecological Management Plan produced by Applied Ecological Services Ltd, dated 20/11/17 shall be submitted to the County Planning Authority for approval. Aftercare of the site shall be carried out in accordance with the approved Plan which shall provide for such steps as may be necessary to restore the land shown on the 'Revised Restoration Scheme' drawing ref. W12\_LAN\_001\_REV E dated July 2017 and the 'Phased restoration and nature conservation plan' ref. 007/WOM/NAT/A1 dated 17/11/17 to the required standard for natural conservation purposes.
22. Within 3 months from the date of this permission a detailed scheme for the ongoing management and maintenance of the drainage system and monitoring of groundwater shall be submitted to the County Planning Authority for approval. The scheme shall set out the monitoring locations and frequency of monitoring. The development shall be carried out in accordance with the approved scheme which shall provide for such steps as may be necessary to prevent the pollution of adjoining land, groundwater or watercourse by the entry of leachate, polluted water or any other pollutant. If pollution occurs, the effects of that pollution shall be rectified and further pollution shall be prevented.
23. During the first week of October every year during the aftercare period (or at such other times as may be agreed with the County Planning Authority) a review of the previous 12 months restoration works (including fencing and drainage), seeding, planting and aftercare shall be carried out in conjunction with a representative of the County Planning Authority. The review shall take account of any departure from the phases of restoration shown in the submitted drawings, any areas of seeding that have failed to establish, any trees that have failed to survive or any unforeseen occurrence having taken place on the site and shall provide for the taking of such steps as might be necessary to continue with the satisfactory restoration and landscaping of the site including re-seeding and re-planting with whatever species appear appropriate at the time of each review and the taking of additional soil samples and treatment with required nutrients. The agreed steps shall be implemented to the satisfaction of the County Planning Authority.
24. Within 3 months from the date of this permission a detailed scheme for site access management and security shall be submitted to and approved in writing by the County Planning Authority. The scheme shall include the erection and maintenance of (where necessary) secure perimeter fencing. Once approved, any fencing deemed necessary shall be erected within 2 months from the date of the approval, in accordance with the approved details and maintained in accordance with the approved maintenance details and retained until the end of the aftercare period as a minimum.

#### Reasons

1. To reserve the rights of control by the County Planning Authority to ensure restoration of the land with the minimum of delay in the interests of amenity.
2. To reserve the rights of control of the County Planning Authority and to ensure that the development is carried out in accordance with the application details.
- 3 & 4. In the interests of highways safety and amenity.
5. In the interests of amenity and to prevent pollution.
- 6-9. In the interests of amenity.
10. In the interests of amenity and highways safety.

11. In the interests of amenity, to prevent pollution and to ensure the satisfactory restoration of the site.
12. To safeguard the Yorkshire Derwent Aqueduct.
- 13 & 14. In the interests of amenity.
15. In the interests of amenity, to prevent pollution and to ensure the satisfactory restoration of the site.
16. In the interests of amenity and to prevent pollution.
17. In the interests of amenity, to prevent pollution and to ensure the satisfactory restoration of the site.
18. In the interests of amenity and to secure a satisfactory and prompt restoration of this site.
19. To safeguard the soil resource at the site in the interests of amenity.
20. In the interests of amenity and to ensure the satisfactory restoration of the site.
21. In the interests of nature conservation and enhancement.
22. To prevent pollution and maintenance of appropriate drainage.
23. To ensure a satisfactory restoration of the site.
24. In order to secure the site and prevent unauthorised access.

#### Informatives

##### Coal Authority

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk) Property specific summary information on past, current and future coal mining activity can be obtained from the Coal Authority's Property Search Service on 0345 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

##### Landscaping (Condition 15)

The amenity grassland mix of bent and two fescues could be more diverse and beneficial to wildlife, and include a percentage of wildflower species. Ash should not be included in the woodland mix and specification for trees and shrubs. It is suggested to move Aspen (*Populus tremula*) from the Woodland Edge Mix into the Woodland Mix and add grey willow (*Salix cinerea*) to the Woodland Edge Mix instead. This would also help with the rapidity of vegetation establishment.

##### Public Rights of Way

The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990. Applicants are advised to contact the County Council's Access and Public Rights of team at County Hall, Northallerton via [paths@northyorks.gov.uk](mailto:paths@northyorks.gov.uk) to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.



## Approved Documents

<u>Ref.</u>	<u>Date</u>	<u>Title</u>
---	May 2016	Environmental Statement & Appendices
005/WOM/NAT/A0	10/05/16	Location Plan
001/WOM/NAT/A0	18/04/16	Figure 2 – Location Plan
W12_LAN_001_REV E	July 2017	Revised Restoration Scheme
---	July 2017	Supplementary Environmental Information: Further Revision to the Restoration Scheme
007/WOM/NAT/A1	17/11/17	Phased restoration and nature conservation plan
---	20/11/17	Ecological Management Plan produced by Applied Ecological Services Ltd

### **Statement of Compliance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015**

*In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.*

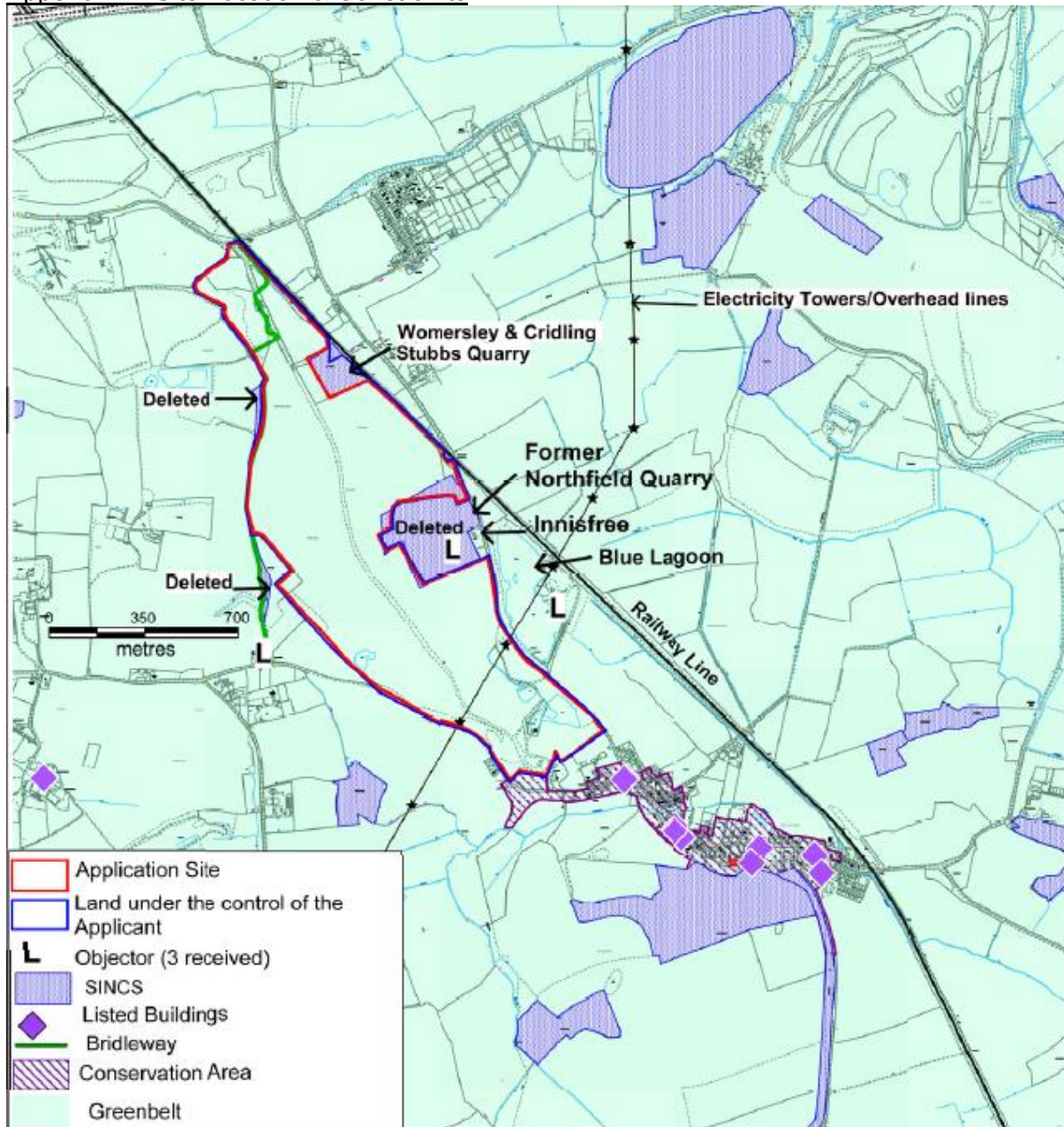
DAVID BOWE  
Corporate Director, Business and Environmental Services

Author of report: Alan Goforth

#### Background Documents to this Report:

1. Planning Application Ref Number: C8/41/107A/PA (NY/2016/0073/ENV) registered as valid on 12 May 2016. Application documents can be found on the County Council's Online Planning Register by using the following web link:  
<https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.

Appendix A- Site Location & Constraints



Appendix B- Relevant conditions on permission ref. C8/2012/0035/CP dated 4 September 2012

Conditions:

1. The development hereby permitted is valid only until 13th May 2016 by which date all tipping of waste materials shall have ceased, all surface installations together with mobile and fixed plant removed and the land restored in accordance with the approved scheme of restoration and landscaping, as specified at condition 18.
2. The development hereby permitted shall be carried out entirely in accordance with the application details dated 6 January 2012 and Environmental Statement received 21st May 2012, as supplemented by the application details dated 27th October 1986.
3. The development hereby permitted shall be carried out in accordance with the revised method statement dated October 1986 and Environmental Statement submitted 21st May 2012, together with the included application drawings and except as those details may be modified by this schedule of conditions which in all cases shall take precedence.
4. Access to the site shall be via the access shown on application drawing number PB/274/JB/2 dated September 1986 and no other access shall be used for any purpose connected with the development hereby permitted without the prior written approval of the County Planning Authority.
5. The materials to be disposed of at the site shall be transported to the site via the prescribed route identified on the application drawing number PB/274/JB/8 dated October 1986. Vehicles involved in the transportation of waste leaving Kellingley Colliery shall be thoroughly cleaned such that no mud, dust or waste is deposited on the public highway; such vehicles having discharged their loads at the application site shall return to the colliery by the prescribed route.
6. The materials to be disposed of at the site shall consist only of mineral waste arising from the extraction of coal from Kellingley Colliery together with the waste products arising from the coal preparation plant at Kellingley Colliery.
7. Soil Storage shall only occur on site in accordance with drawing no. 2284.03 (Dated May 2012).
8. At all times, noise mitigation measures shall be employed at the site in accordance with the details set out in paragraph 9.9 of the Environmental Statement.
9. Effective measures shall be taken to prevent the occurrence of windblown dust as a result of the operations hereby permitted, as set out in detail in paragraphs 10.14 to 10.26 of the submitted Environmental Statement accompanying this application.
10. Within 3 months from the date of this planning permission, an updated 'Dust Action Plan' shall be submitted to and approved in writing by the County Council. Thereafter, operations associated with the approved development shall be carried out at the site entirely in accordance with the approved Dust Action Plan.
11. No scrap materials or other non-mineral waste or disused equipment shall be allowed to accumulate on site.

12. No vehicles involved in the transport of waste to the site shall be allowed to park overnight on any part of the site.
13. Precautions, including if necessary the provision of additional vehicle cleaning facilities, shall be taken and maintained to ensure that all vehicles leaving the site are in a clean condition such that no dirt and/or mud are deposited on the public highway by vehicles travelling from the site.
14. The proposed cells shall be constructed in accordance with drawing No. P.B. 64/274/JB/4 (as amended April 1987). In the floor of the cells the construction materials shall consist of pressed tailings, quarry waste, marl, or other materials with properties similar to those detailed in British Coal Yorkshire Regional Laboratory Report Nos. 13393 (dated March 1981) and 13694 (dated June 1981) and the compacted thickness will be not less than 1 metre. The cell walls will be formed from coarse colliery discard or waste and the cells will be capped with pressed tailings, coarse colliery discard or colliery waste. All of the above materials shall be compacted so as to reduce the air void of the material to less than 10% when tested in accordance with BS1377.
15. No permanent works shall be carried out within the 32 metre-wide easement of the Yorkshire Derwent Aqueduct and all crossings of the easement by plant and equipment shall be via the agreed route.
16. No materials shall be burned on site.
17. No tipping, site preparation works or transportation of materials to the site for tipping shall be carried out except between the following times:-
- 7.30 am to 6.30 pm Monday to Friday  
7.30 am to 12.00 midday Saturday
- No such operations shall take place on Sundays or Bank Holidays except in cases of emergency when the physical well-being of persons or property may be at risk.
18. Landscaping of the site shall be carried out in accordance with the landscaping scheme indicated on application drawing PB 64/274/JB/3 dated September 1986.
- All tree and shrub planting shall take place during the first planting season following restoration. Such planting shall take place into the ground that has previously been prepared to the satisfaction of the County Planning Authority. Such preparation shall as necessary include the following:-
- (a) Ripping
  - (b) Topsoil or other approved organic material spreading
  - (c) Cultivation
  - (d) Herbicide application
  - (e) Green manuring
  - (f) scraping/screefing/strimming of vegetation
19. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compounds shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank or the combined capacity of the inter-connected tanks plus 10%. All filling points, vents and gauges and sight glasses must be located within the

bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

20. Restoration of the site to a condition suitable for agricultural use shall be completed in progressive phases as soon as reasonably practicable in the following matter:-
- (a) The surface of the colliery waste shall be levelled and graded in accordance with the 'Revised Restoration Masterplan' drawing 2096.3 (dated July 1999) such that the restored site shall conform with the contours of the surrounding land and shall be free from any risk of ponding or erosion
  - (b) The top 150mm of colliery waste shall be chemically tested and appropriate chemical ameliorants applied
  - (c) The upper 400mm depth of colliery waste shall be ripped with a heavy duty ripper such that there is:-
    - (1) no stones or boulders or other material capable of preventing or impeding normal agricultural or land drainage operations including further ripping or ploughing
    - (2) No wire, rope, cable or other non-mineral waste
    - (3) No excessively compacted zone
    - (4) A graded, uncompacted surface suitable for receiving subsoil
  - (d) All stones and other deleterious material shall be removed from site or buried on site at a depth in excess of 2 metres
  - (e) Subsoil/overburden shall be spread to achieve a total thickness of material overlying the colliery waste, including topsoil, of 1 metre after settlement. No layer of replaced soil to be over 450mm before ripping takes place which shall penetrate at least 150mm into the underlying layer
  - (f) The subsoil/overburden shall be ripped in accordance with (c) above
  - (g) All stones and other deleterious material shall be removed from site or buried on site at a depth in excess of 2 metres
  - (i) After the satisfactory spreading and replacement of subsoil, a minimum thickness of 150mm of topsoil shall be spread evenly over the land to be restored to agriculture
  - (j) The topsoil shall be ripped in accordance with (c) above
  - (k) The replaced topsoil shall be chemically tested and appropriate chemical ameliorants applied.
21. Within 6 months of the date of this permission, details showing a phased scheme of progressive restoration shall be submitted to the County Planning Authority for Approval. Once approved, the restoration at the site shall be carried out in accordance with the approved scheme, including its timeframe.
22. All operations involving soil handling and cultivation shall be carried out when the soil is in a dry, friable condition.
23. Not later than six months before topsoil is replaced on any part of the site a detailed aftercare scheme shall be submitted to the County Planning Authority for approval. Aftercare of the site shall be carried out in accordance with the approved scheme which shall provide for such steps as may be necessary to bring each phase of the land restored in accordance with condition 20 to the required standard for arable

agricultural use. The submitted scheme shall provide for, among other matters, the following:-

- (a) a five year aftercare period commencing with the date that any phase of the land restored in compliance with condition 20
- (b) the type of crops to be established
- (c) regular soil analysis immediately following restoration and during the course of the aftercare period
- (d) the application of appropriate fertilizers resulting from the soil analyses
- (e) cultivation methods
- (f) stone picking of the restored land
- (g) subsoiling of the restored land
- (h) the drainage of the restored land
- (i) crop management
- (j) weed control
- (k) the provision of fences, gates, hedgerows, field access points and field water supply

24. During the first week of October every year (or at such other times as may be agreed with the County Planning Authority) a review of the previous 12 months tipping, restoration (including fencing and drainage), seeding, planting and aftercare shall be carried out in conjunction with a representative of the County Planning Authority. The review shall take account of any departure from the phases of restoration shown in the submitted drawings, any areas of seeding that have failed to establish, any trees that have failed to survive or any unforeseen occurrence having taken place on the site and shall provide for the taking of such steps as might be necessary to continue with the satisfactory restoration and landscaping of the site including re-seeding and re-planting with whatever species appear appropriate at the time of each review and the taking of additional soil samples and treatment with required nutrients. The agreed steps shall be implemented to the satisfaction of the County Planning Authority.
25. In the event of tipping ceasing on the site for a period in excess of 12 months before the completion of the development hereby permitted, a scheme showing the final restoration contours shall be submitted to the County Planning Authority for approval within six months of such cessation. The scheme shall also include a revised programme of restoration, seeding, planting, and fencing. Once approved, all further works of restoration and landscaping shall be carried out in accordance with the agreed scheme to an agreed timescale.
26. Should it be determined to the satisfaction of the County Planning Authority, in consultation with the County Highways Authority, that vehicles exiting the site are causing mud, debris or other detritus to foul the highway, the transport of material to the site shall cease until the matter has been remedied to the satisfaction of the County Planning Authority, in consultation with the County Highways Authority.
27. Within 6 months from the date of this permission a detailed scheme for the maintenance and erection of (where necessary) secure fencing around the site shall be submitted to and approved in writing by the County Planning Authority. Once approved, the fencing shall be erected around the site in within 3 months from the date of the approval, in accordance with the approved details and maintained in accordance with the approved maintenance details and retained until restoration and aftercare is complete.

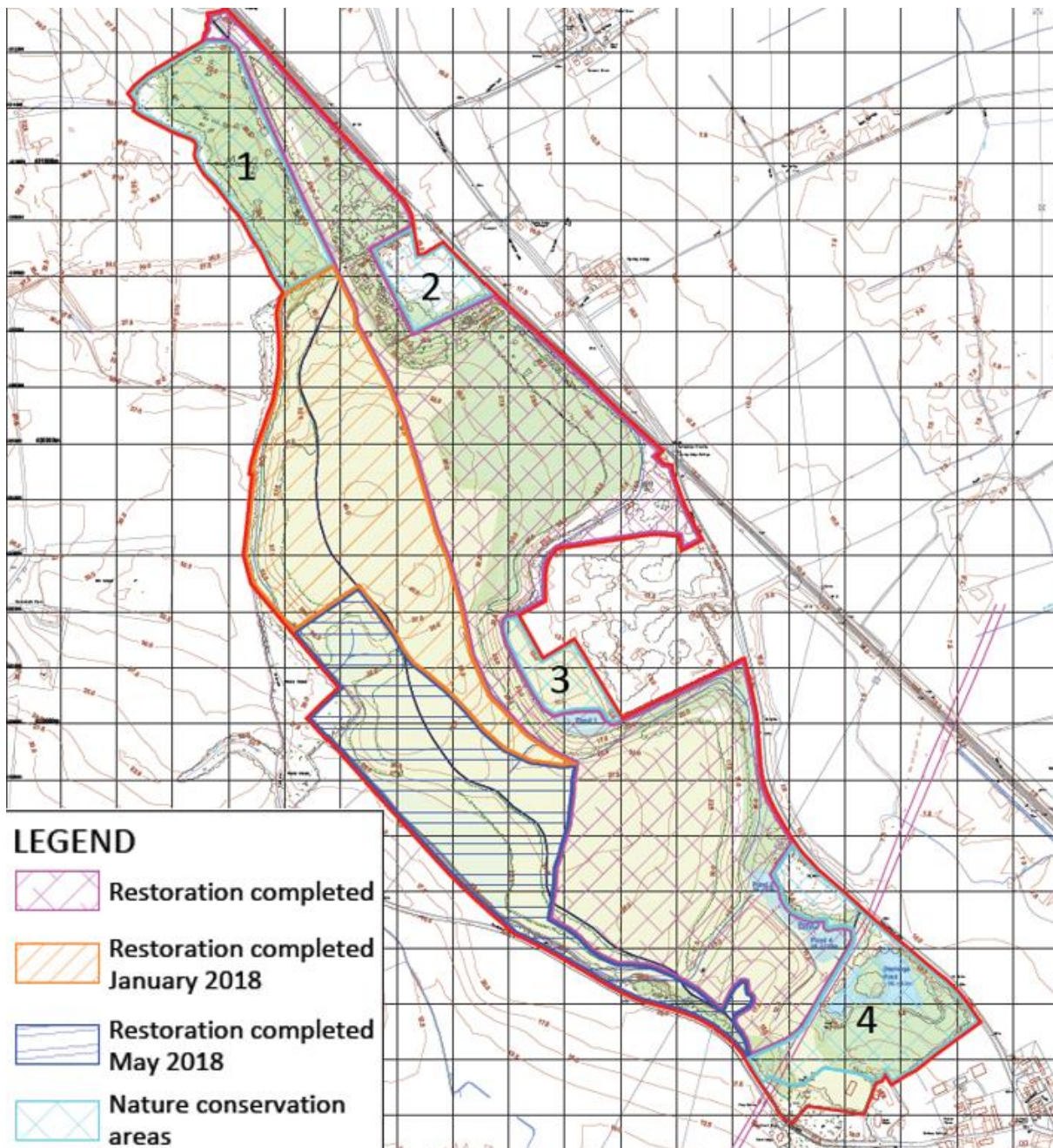
Appendix C- Revised Restoration Scheme



**LEGEND**

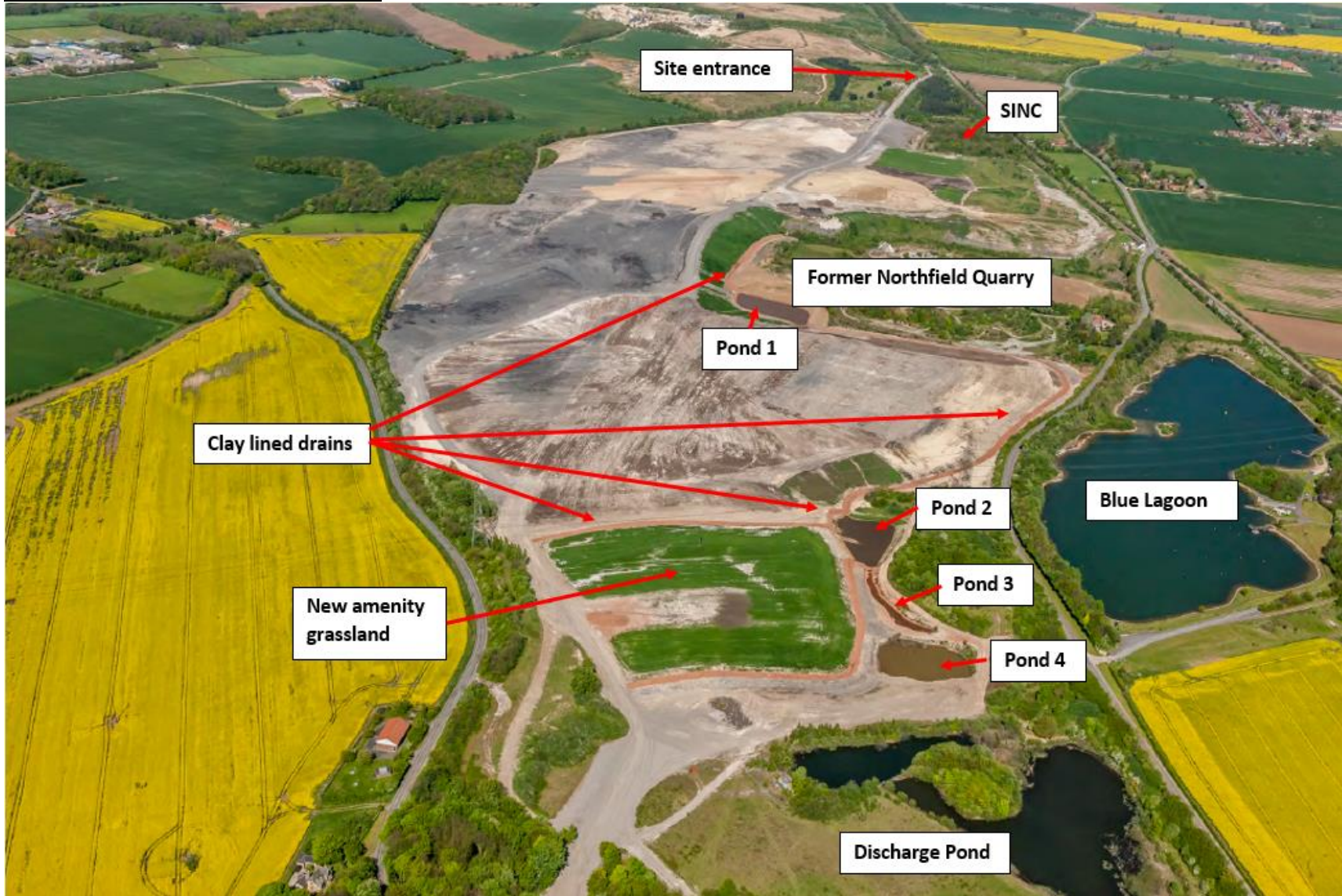
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|--|--|
|  Application Area Boundary                  |  Proposed permissive bridleway                                |
|  Existing and proposed contour              |  Existing and proposed contour                                |
|  Existing tree, shrub and woodland          |  Proposed wet grassland                                       |
|  Existing restored grassland                |  Proposed woodland planted into previously restored grassland |
|  Existing and proposed water body and ditch |  Proposed woodland planted into new restoration profile       |
|  Existing public footpath/bridleway         |  Yorkshire Water Mains  |

Appendix D- Phased restoration and nature conservation plan (Nov 2017)

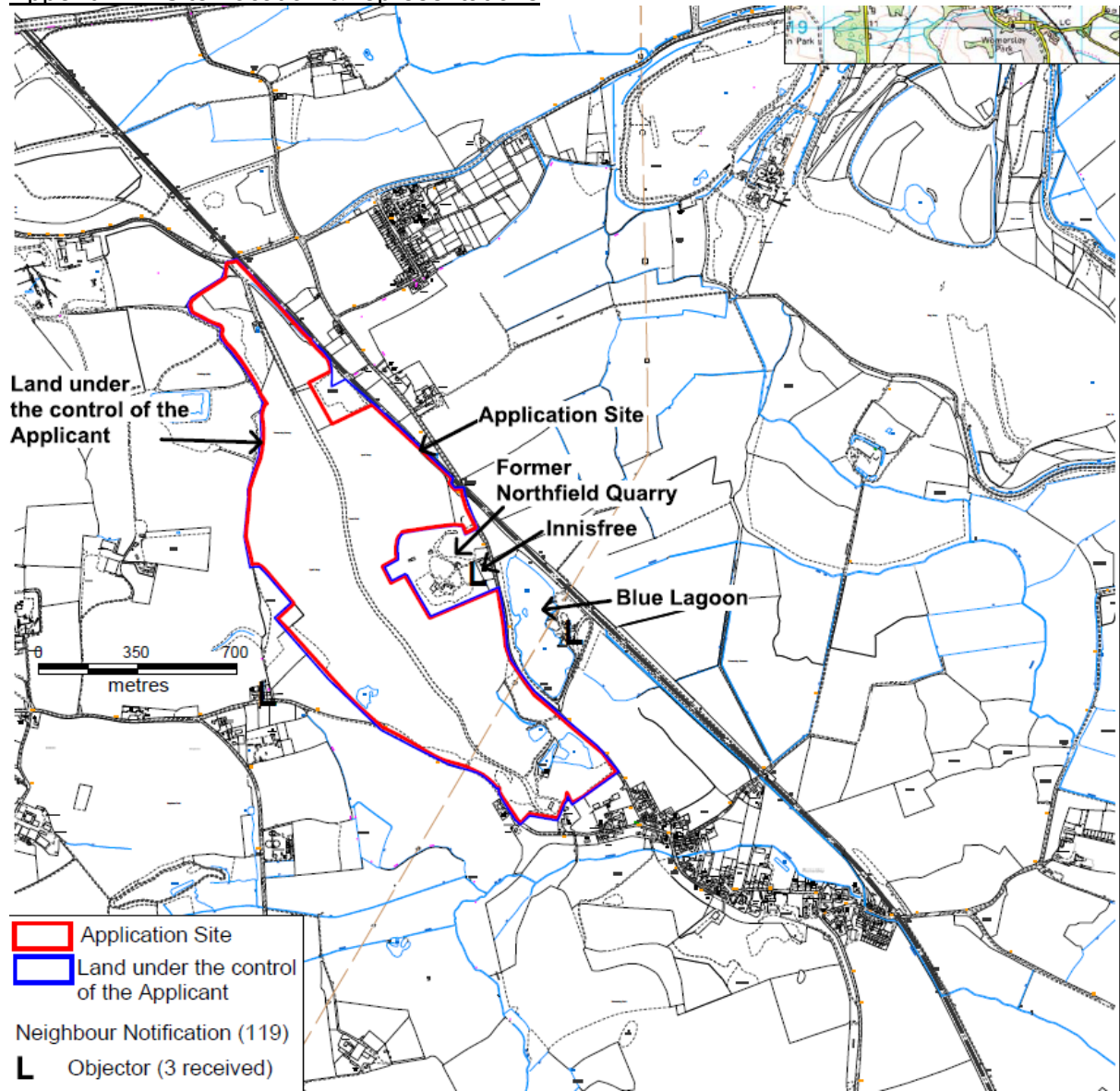




Appendix E- Aerial photo (May 2017)



Appendix F- Site Location & representations



## North Yorkshire County Council

## Planning and Regulatory Functions Committee

19 December 2017

## Items Dealt With Under The Scheme Of Delegation

## Report of the Corporate Director – Business and Environmental Services

The Items reported below have been determined between:  
26 September to 20 November Inclusive

**A. COUNTY COUNCIL DEVELOPMENT****NY/2017/0271/A27****Gilling Bridge, High Street, Gilling West,  
Richmond, North Yorkshire**

Decision Notice: 09 November 2017

(Part retrospective) Application for the approval of details reserved by condition No's 3 & 4 of Planning Permission Ref. C8/17/00314/CM which relates to a Method Statement and samples for the replacement stone

Details APPROVED

**C5/2017/18565/NYCC (NY/2017/0244/CLW)****Settle Bridge, Bridge End, Settle, North  
Yorkshire, BD24 9JN**

Decision Notice: 27 October 2017

Application for a Certificate of Lawfulness for masonry and parapet repairs and road surfacing to Settle Bridge (Grade II\* Listed). Existing stone to be re-used where practicable and any new stone will match the existing stone in texture, density and colour PLANNING

PERMISSION GRANTED subject conditions Certificate of Lawfulness Issued.

**C2/17/02272/CCC (NY/2017/0243/FUL)****Knayton Church of England VC Primary  
School, Oaktree Bank, Knayton, YO7 4AN**

Decision Letter 07 November 2017

Erection of a single storey extension (24 sq. metres) to create additional classroom space

PERMISSION GRANTED subject conditions

**C6/17/03979/CMA (NY/2017/0234/73A)****Willow Tree CP School, Wetherby Road,  
Harrogate, North Yorkshire, HG2 7SG**

Decision Letter 5 October 2017

Retention of prefabricated classroom units 1225 & 1226 (298 sq. metres) for a further 1 year

Details APPROVED

**C4/17/0228/FUL (NY/2017/0228/FUL)****Graham Upper School, Woodlands Drive,  
Scarborough, YO12 6QW**

Decision Notice: 06 November 2017

demolition of two temporary classroom units (198 sq. m), construction of a detached two storey building (860 sq. metres) to provide eight classrooms, toilets, plant and electrical room, 11 No. external wall mounted lighting, creation of paving linking into existing footpaths (198sq.m), removal of existing trees, tree replacement and soft and hard landscaping works

PLANNING PERMISSION GRANTED subject conditions

**C3/17/01121/CPO (NY/2017/0222/FUL)**

**Ryedale School, Gale Lane, Nawton,  
Helmsley, YO62 7SL**

Decision Notice: 27 October 2017  
creation of tarmac hardstanding for tennis and netball courts (810 sq. metres)

PLANNING PERMISSION GRANTED subject conditions

**C6/40/14A/CLB (NY/2017/0218/CLW)**

**Hewick Bridge, Boroughbridge Road,  
Ripon, North Yorkshire**

Decision Notice: 24 October 2017  
Application for a Certificate of Lawfulness for masonry and parapet repairs to existing bridge (Grade II Listed). Existing stone to be reused where practicable and any new stone to match existing in texture, density and colour

PLANNING PERMISSION GRANTED subject conditions Certificate of Lawfulness Issued.

**C6/17/03818/CMA (NY/2017/0216/73A)**

**Killinghall Church of England Primary  
School, Crag Lane, Killinghall, HG3 2DW**

Decision Notice: 26 October 2017  
variation of condition No. 5(i) of planning permission ref C6/16/01468/CMA which relates to the provision of a pedestrian crossing facility on Otley Road and associated road widening to be dealt with under condition 16 with the wording post-occupancy, within 12 months of occupancy of the development

PLANNING PERMISSION GRANTED subject conditions

**C317/00979/CPO (NY2017/0203/FUL)**

**Ryedale School, Gale Lane, Nawton,  
Helmsley, YO62 7SL**

Decision Notice: 26 September 2017  
Erection of single storey infill extension to create toilet block and lobby (52 sq. metres)

PLANNING PERMISSION GRANTED subject conditions

**C4/17/01860/CC (NY/2017/0197/FUL)**

**Filey Junior School, West Road, Filey,  
YO14 9LU**

Decision Notice: 25 October 2017  
erection of a single storey 3 classroom extension (270 sq. metres), 9 No. external wall mounted lighting, demolition of 3 No. prefabricated classroom units (220 sq. metres) erection of glazed entrance canopy (30 sq. metres) extension to existing roof of single storey classroom on north elevation, creation of tarmac surfacing (417 sq. metres), paving surfacing (64 sq. meters) hard and soft landscaping works

PLANNING PERMISSION GRANTED subject conditions

**C6/17/02751/CMA (NY/2017/0162/FUL)**

**Long Marston C of E Primary School,  
Angram Road, Long Marston, York, North  
Yorkshire, YO26 7LR**

Decision Notice: 06 October 2017  
Erection of a timber storage shed (2.23 sq. metres)

PLANNING PERMISSION GRANTED subject conditions

**C5/2017/18259/NYCC (NY/2017/0146/FUL)**

**Sutton-in-Craven Community Primary School, Bridge Road, Sutton-in-Craven, Keighley, BD20 7ES**

Decision Notice: 28 September 2017

Demolition of existing classroom (91 sq. metres), erection of double pre-fabricated classroom unit (200 sq. metres), electrical kiosk (3.6 sq. metres), bin store and 6 no wall mounted external lighting and removal of shed

PLANNING PERMISSION GRANTED subject conditions

**C2/17/02271/CCC (NY/2017/0133/FUL)**

**The Dales School, Morton on Swale, Northallerton, DL9 9QW**

Decision Notice: 08 November 2017

Retrospective planning application for the replacement of existing 2.9 metre high mesh fencing on western boundary

PLANNING PERMISSION GRANTED subject conditions

**C1/17/00314/CM (NY/2017/0110/LBC)**

**Gilling Bridge, High Street, Gilling West, Richmond**

Decision Notice: 17 October 2017

Dismantling and rebuilding of all sections of parapet mainly using existing stone, raking and hand pointing of other areas of parapet, vegetation removal, rake out loose mortar and repoint areas requiring works on cutwaters

LISTED BUILDING CONSENT GRANTED

**C6/17/02517/CMA (NY/2017/0086/FUL))**

**Green Hammerton Church of England Primary School, York Road, Green Hammerton, YO26 8BN**

Decision Notice: 06 October 2017

demolition of an existing external wall to the North West elevation of school building (kitchen) and the erection of a single storey kitchen extension (14.6sqm) electrical kiosk (2.7sqm) creation of a footpath (6.7sqm), external steps, removal and replacement of a tree

PLANNING PERMISSION GRANTED subject conditions

## **B. COUNTY MATTER DEVELOPMENT**

**NY/2017/0274/SCR**

**Melsonby Quarry, Barton, North Yorkshire**

SCREENING OPINION ISSUED: 07 November 2017

Request for a formal Screening Opinion to vary condition No. 2 of Planning Permission C1/93/169B/CM to allow the continuation of the extraction of blockstone for a further period of 15 years

**SCREENING OPINION ISSUED-** The development has been considered on its own merits and on the basis of what is being proposed by Lawson Farms. The proposed development is not listed in Schedule 1 of the above Regulations. With regard to Schedule 2 of the above Regulations the County Council is of the opinion that the proposed development falls within the description provided within Schedule 2 paragraph 2(a) Extractive Industries and 13(b) Changes and Extensions of the above Regulations. Having taken into account the criteria in Schedule 3 of the above Regulations the characteristics of the proposed development, the environmental sensitivity of the location; and the types and characteristics of the potential impact have been assessed and based on the scale, nature and location of the development it is considered that the proposed variation of condition No. 2 of Planning Permission C1/93/169B/CM to allow the continuation of the extraction of blockstone for a further period of 15 years at Melsonby Quarry, Barton, North Yorkshire **WOULD NOT** have

significant impacts upon the environment. Further details are provided in the attached 'Screening Opinion Checklist'.

**NY/2017/0239/SCR**

**Crossgates Quarry, Brimham Moor Road,  
Fellbeck, North Yorkshire, HG3 5EU**

Decision Letter: 12 October 2017

Request for a formal Screening Opinion for part retrospective planning application for proposed deposit of 66,000 metric tonnes of inert materials to achieve restoration of final restoration by 30 November 2018

SCREENING OPINION ISSUED

**NY/2017/0237/A27**

**Tofts Road, Kirby Misperton, YO17 6BG**

Decision Letter: 26 October 2017

Application for the approval of details reserved by condition No. 4 of Planning Permission Ref. C3/16/00874/CPO which relates to a Construction Method Statement

PLANNING PERMISSION GRANTED subject conditions

**C1/17/00704/CM (NY/2017/0191/A27)**

**Barton Quarry, Barton Quarry Industrial  
Estate, Barton, Richmond, DL10 6NF**

Decision Letter: 25 October 2017

Application for the approval of details reserved by condition No. 28 of planning permission ref. C1/13/00751/CM which relates to the re-location of the existing concrete plant, install a second weighbridge, replace the existing two storey quarry manager's office and weighbridge office with a single storey weighbridge office (36 sq. metres)

Details Approved

**C6/17/01234/CMA (NY/2017/0029/FUL)**

**Percyfields, Low Moor Lane, Lingerfield,  
Scotton, Knaresborough, HG5 9JB**

Decision Letter: 06 November 2017

Deposit of 24,000 tonnes of inert subsoil and topsoil to level land (including drainage) for the creation of 2 No. football pitches

PLANNING PERMISSION GRANTED subject conditions

To access the planning application details, consultation responses and a copy of the report and decision notice containing any planning conditions relevant to the development please access the County Council's Online Planning Register at the following web address:

<https://onlineplanningregister.northyorks.gov.uk/register/PlanAppSrch.aspx>

(Please enter the planning application reference number (NY/...) into the 'Application Reference' field).

DAVID BOWE

Corporate Director – Business and Environmental Services

Author of Report: Rebecca Sherwood-Smith

Background Documents: None

**North Yorkshire County Council**  
**Business and Environmental Services**  
**Planning and Regulatory Functions Committee**

**19 December 2017**

**Publication by Local Authorities of Information about the handling of Planning Applications**

**Report of the Corporate Director – Business and Environmental Services**

This report outlines the County Council's performance in the handling of 'County Matter' and County Council development planning applications for Quarter 2 (the period 1 July 2017 to 30 September 2017).

Information on Enforcement Cases is attached as an Appendix.

**Recommendation:** That the reported be noted.

DAVID BOWE  
Corporate Director, Business and Environmental Services

Authors of Report: Jo Brownless & Amy Taylor

Background Documents to this Report: Application Files

Information on planning applications can be accessed via the County Council's Online Planning Register at the following web address:

<https://onlineplanningregister.northyorks.gov.uk/register/PlanAppSrch.aspx>

(Please enter the planning application reference number (NY/...) into the 'Application Reference' field).

## County Matter' Planning Applications (i.e. Minerals and Waste related applications)

**Table 1:** 'County Matter' planning applications determined during quarter2 (the period 1 July 2017 to 30 September 2017).

<b>Total number of applications determined</b>		3	
<b>Number of delegated/committee decisions</b>		Delegated: 0	Committee: 3
<b>Speed of decisions</b>			
Under 13 weeks	13- 16 weeks (if major, 13 and if EIA 16 weeks)	Over 13/16 weeks within agreed Extension of Time (EoT)*	Over 13/16 weeks without or outside of agreed EoT
0	0	3	0

\*Article 34 of the Town and Country Planning (Development Procedure Order) 2015 provides for authorities to agree with the applicant to determine the planning application beyond the statutory 8/13/16 week period. This is referred to as an agreement for the extension of time (EoT) for the determination of the planning application. In instances where the application is determined within the agreed period the application is counted as satisfying the timeliness requirement.

**Table 1a:** Performance on 'County Matter' planning applications (NYCC Service Plan target - 60%)

<b>2017/18</b>	<b>Quarter 1 (Apr-Jun)</b>	<b>Quarter 2 (Jul-Sept)</b>	<b>Quarter 3 (Oct-Dec)</b>	<b>Quarter 4 (Jan-Mar)</b>
No. of 'County Matter' applications determined within 13/16 weeks or within agreed Extension of Time (EoT)	100% (no.5/5)	100% (no. 3/3)	% (no./)	(no. /)
No. of 'County Matter' applications determined within 13/16 weeks discounting Extension of Time agreements (EoT)	40% (no. 2/5)	0% (no. 0/3)		

**Table 1b:** "Special measures" \*\* performance on 'County Matter' planning applications

<b>2017/18</b>	<b>Quarter 1</b>	<b>Quarter 2</b>	<b>Quarter 3</b>	<b>Quarter 4</b>
"Special Measures" stat. No. of 'County Matter' applications determined within 13/16 weeks or within agreed Extension of Time (EoT) over rolling two year period	(01/07/14- 30/06/16) : 88.2% (30/34)	01/10/14- 30/09/16) 87.1% (27/31)	01/01/15 – 31/12/17) % (/)	1/04/15– 31/03/17 2017): % (/)

\*\* Under section 62A of the TCPA 1990 LPAs making 50% or fewer of decisions on time are at risk of designation ("Special Measures")



## County Council's own development' Planning Applications

**Table 2:** County Council's own development planning applications determined during quarter 1 (the period 1 July 2017 to 30 September 2017)

<b>Total number of applications determined</b>		21		
<b>Minor<sup>1</sup>/Major<sup>2</sup>/EIA<sup>3</sup></b>		Minor: 21	Major: 0	EIA: 0
<b>Number of delegated/committee decisions</b>		Delegated: 21		Committee: 0
<b>Speed of decisions</b>				
Under 8 weeks	8- 13 weeks (if Major)	13- 16 weeks (if EIA)	Over 8/13/16 weeks within agreed Extension of Time (EoT)	Over 8/13/16 weeks without or outside of agreed EoT
12	0	0	8	1

<sup>1</sup>A 'minor' development application is one where the floor space to be built is less than 1,000 square metres or where the site area is less than one hectare.

<sup>2</sup>A 'major' development application is one where the floor space to be built is more than 1,000 square metres or where the site area is more than one hectare. All minerals and waste related applications fall within the definition of major development.

<sup>3</sup>An EIA development application is one considered likely to have significant environmental effects and is accompanied by an Environmental Statement.

**Table 2a:** Performance on County Council's own development minor planning applications (NYCC Service Plan target - 65%)

<b>2017/18</b>	<b>Quarter 1 (Apr-Jun)</b>	<b>Quarter 2 (Jul-Sept)</b>	<b>Quarter 3 (Oct-Dec)</b>	<b>Quarter 4 (Jan-Mar)</b>
No. of County Council's own development minor applications determined within 8 weeks or within agreed Extension of Time (EoT)	100% (no. 15/15)	95.2% (no.20/21) Cumulative total 77.7% (no. 28/36)	% (no./) Cumulative total % (no. /)	% (no./) Cumulative total % (no. /)
No. of County Council's own development minor applications determined within 8 weeks discounting Extension of Time agreements (EoT)	53.3% (no. 8/15)	57.1% (no.12/21) Cumulative total 55.5% (no.20/36)	% (no./) Cumulative total % (no. /)	% (no./) Cumulative total % (no. /)

**Table 3: List of all ‘County Matter’ planning applications in hand for more than 13 weeks and awaiting decision as at the end of Q2 i.e. 30 September 2017**

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Killerby Sand and Gravel Quarry, Killerby, North Yorkshire  NY/2010/0356/ENV (C2/10/02487/CCC)	Extraction and processing of sand and gravel including the construction of a site access, conveyors, bridges, associated plant and machinery with restoration to agriculture, nature conservation and wetland	22.9.10	Committee	Reported to Members at the meeting of the Committee which took place on 4 <sup>th</sup> April 2017.	Yes - further EoT secured 'til 30 <sup>th</sup> November 2017 due to awaiting the signing of a Section 106 Legal Agreement.
Blubberhouses Quarry, Kex Gill  NY/2011/0465/73	Variation of condition 2 of planning permission reference C6/105/6A/PA to allow extraction of silica sand and erection of processing plant at the site until 2036	6.12.11	Committee	Additional information was received from applicant company in January of last year and, amongst others, the Highway Authority, responding to consultation, stated their comments were to be held in abeyance awaiting discussions with regard to the ‘corridor of interest’ along the A59. It is understood that further progress is being made with proposals for a major re-alignment of the A59 at Kex Gill.	No - further EoT to be requested.
Ripon Quarry, North Stainley  NY/2011/0429/ENV (C6/500/95/D/CMA)	Extension to existing sand and gravel workings	07.12.11	Committee	Reported at the meeting on 29 <sup>th</sup> August 2017. Members resolved to grant permission subject to a legal agreement.	No

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Darrington Quarry, Darrington Leys, Knottingley  NY/2012/0020/73 (C8/40/8AH/PA)	Application to vary condition no's 1, 2, 29, 30, 31 and 32 of Planning Permission C8/40/8AF/PA for a new restoration scheme, retain the existing plant and to extend the time period in which to implement the restoration scheme	20.01.12	Committee	Awaiting revised details.	No
Ripon Quarry, North Stainley, Ripon, North Yorkshire, HG3 3HT  NY/2015/0306/ENV (C6/500/277/CMA)	Planning Application accompanied by an Environmental Statement for the variation of condition No's 10 (duration of development), 11 (definition of development), 43 (maintenance) & 44 (landscape and restoration) of Planning Permission Ref. No. C6/500/95B & C2/99/045/0011 for the continuation of sand & gravel extraction for a further 4 years after 31 December 2015 and the submission of a revised restoration scheme	11.11.15	Committee	Committee Report in preparation.	No
Forcett Quarry, East Layton, Richmond, North Yorkshire  NY/2016/0042/ENV (C1/16/00174/CM)	variation of condition no's 1 & 15 of planning permission ref. C1/29/15P/CM dated 7 September 2011 to allow the continuation of limestone extraction for a further 10 year period until 31 August 2026	03.03.16	Committee	The application was reported to Committee on 25 <sup>th</sup> October 2016. Members resolved to grant planning permission subject to prior completion of Legal Agreement. Awaiting completion of Legal Agreement before planning permission is issued. Engrossments circulated for signature.	No- Extension of time until 2 June 2017 agreed further extension to be requested once S106 signed

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Womersley Quarry, off Stubbs Lane, Womersley, DN6 9BB  NY/2016/0073/ENV (C8/41/107A/PA)	variation of condition No's 1, 2, 3, 5, 6, 14, 18 & 20 of Planning Permission ref. C8/2012/0035/CP dated 4 September 2012 for the continuation of tipping of colliery waste from Kellingley Colliery and soil materials from other locations for a further two years until 13th May 2018, revised tipping materials and revisions to the vehicle route, revised restoration scheme and landscaping	12.05.16	Committee	Further environmental information received proposing revised restoration scheme- which has been subject of re- consultation exercise.  Item will be reported to Committee on 19 December 2017	Yes- until 12 January 2018.
Scorton Quarry, Richmond, North Yorkshire  NY/2016/0094/ENV (C1/16/00507/CM)	variation of condition No's 1, 20, 23 & 52 of planning permission ref. C1/39/34G to allow the continuation of sand and gravel extraction for a further 4 year period until 31 December 2020 with final restoration by 31 December 2021 and removal of the plant site by 31 December 2022 and amendments to the phasing and direction of working and a reconfigured layout for the conveyor	21.06.16	Committee	The application was reported to Committee on 4 April 2017 Members resolved to grant planning permission subject to prior completion of Deed of Variation Legal Agreement.  Deed of Variation signed off on 21 November 2017 and permission issued on 23 November 2017.	Yes agreed until 24 Nov 2017
Brotherton Quarry, Byram Park, York Road, Knottingley, Brotherton NY/2016/0087/73A (C8/50/0220/PA)	variation of condition No. 6 of Planning Permission Ref. C8/2013/1064/CPO to refer to an updated Dust Monitoring Scheme which removes the requirement to actively monitor for fugitive dust	29.06.16	Delegated	Awaiting completion of a legal agreement.	No – (to be requested, once draft legal agreement is in circulation)

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Went Edge Quarry, Went Edge Road, Kirk Smeaton, Selby NY/2016/0185/ENV (C8/2016/1471/CPO)	8 hectare extension to the existing limestone quarry into Area 5 & 6 from the current working Area 4 and east in Area 7 to 20 metres AOD to provide 4.4 million tonnes of limestone and restore the site with engineering fill from the existing waste treatment facility to create 1 in 2.5 slopes against the exposed face	28.11.16	Committee	The application was reported to Committee on 29 August 2017 Members resolved to grant planning permission subject to prior completion of Legal Agreement. Awaiting completion of a legal agreement.	No – further extension to be requested once S106 signed
Land to the South of Knapton Quarry Landfill Site, Knapton NY/2016/0194/ENV (C3/16/01918/CPO)	erection of a Green Energy Facility (6,342 sq. metres) (energy from waste via gasification), office reception building (91 sq. metres), substation & switchroom (39 sq. metres), air cooled condenser (195 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kV grid via a proposed substation at land south of Knapton Quarry/Landfill as well as an underground connection (Option 1: 5.26 km and Option 2: 8.25km) to the 66kV grid via the primary substation at Yedingham	14.11.16	Committee	Item will be reported to Committee on 19 December 2017	Extension of time requested until 21 July 2017 but not agreed. Further extension to be requested.

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Middleton Lodge, Kneeton Lane, Middleton Tyas NY/2016/0220/73	variation of condition No's. 1, 6, 7, 10, 12, 14, 20, 24, 26, 27, 29, 30 & 33 of Planning Permission Ref. No. C1/14/00747/CM which relates to phasing and restoration	18.11.16	Committee	Awaiting further information from the applicant prior to re-consultation.	No – (to be requested upon receipt of the further information)
Former Stillingfleet Mine Site, Escrick Road, Stillingfleet NY/2016/0251/FUL - C8/999/16U/PA -	change of use of part of the former coal mine site to create a waste transfer for construction and demolition wastes, installation of a weighbridge, a skip storage area, portable amenity cabin (30 sq. metres) and the provision of car parking spaces	1.2.17	Committee	Awaiting further information from applicant on how to move forward with the application.	No – (to be requested upon receipt of the further information)
High Rails Farm, Ripley, Harrogate, HG3 3DL NY/2016/ 0255/73A - (C6/17/00322/CMA)	Application to vary condition No. 1 of Planning Permission Ref. No. C6/6/93/592/A/CMA for the extension of time for the purpose of crushing and screening for recycling purposes of builder's waste/road sweeper waste for a further 6 years until 17 April 2023	13.1.17	Committee	Further information received and Re-consultation completed. Committee report to be completed.	No – (to be requested upon confirmation of being placed on committee agenda)
Former Kellingley Colliery, Turvers Lane, Kellingley, Selby, WF11 8DT NY/2017/0018/ENV– (C8/2017/0455/CPO)	variation of condition No's. 2, 17, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41 & 61 of Planning Permission Ref. No. C8/2013/0677/CPO which relates to the omission of the domestic coal area, rearrangement of the internal access routes and revised layout of the rail handling facility at Former Kellingley Colliery, Turvers Lane, Kellingley, Selby, WF11 8DT	24.1.17	Delegated	Delegated report in preparation.	No

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
NY/2017/0028/FUL (C8/2017/0515/CPO)F ormer Kellingley Colliery, Turvers Lane, Kellingley, Selby, WF11 8DT	construction of a road to access the Southmoor Energy Centre (engineering operation)	27.3.17	Delegated	Delegated report in preparation.	[Linked application to the above]
Percyfields, Low Moor Lane, Lingerfield, Scotton, Knaresborough, HG5 9JB NY/2017/0029/FUL - (C6/17/01234/CMA)	deposit of 24,000 tonnes of inert subsoil and topsoil to level land (including drainage) for the creation of 2 No. football pitches	14.3.17	Delegated	Approved 6.11.17	Yes
NY/2017/0129/FUL (C3/17/00604/CPO) Knapton Quarry Landfill site, Knapton	retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling and pre-treatment operations	15.5.17	Committee	Item will be reported to Committee on 19 December 2017	requested until 12 Jan 2018 – no response received
NY/2017/0155/COU (C1/17/00470/CM) Kiplin Hall Quarry, Kiplin Hall, North Yorkshire, DL10 6AT	change of use of former quarry to a waste recycling facility for the treatment of waste wood by use of mobile plant and machinery, importation and temporary stocking of waste wood and finished products prior to removal off site	22.6.17	Committee	Awaiting further information from applicant	No – (to be requested upon confirmation of being placed on committee agenda)

\* The Development Management Procedure Order 2015 (Part 9, Article 40, Paragraph 13) allows for Local Authorities to “*finally dispose*” of applications for which the statutory period for determination has elapsed and the subsequent period for appealing against non-determination has passed.

**Monitoring & Compliance Statistics Report – Quarter 2 (the period 1 July 2017 to 30 September 2017) 2017/2018**

**Table 1 – Complaints/alleged breaches of planning control received this quarter**

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved ?
<b>County Matters</b>						
Whitewall Quarry	Ryedale	7 (2 complainants)	Noise, speed of vehicles and dust on highway	Dates between 06/07/17 & 25/08/17	Speed of vehicles on public highway not a planning matter, referred to Police. Operator reminded to keep public highway leading from site access in a clean condition. Investigations ongoing with regard to noise complaints.	Partially
Former Greens Of Skipton Ltd, Ings Lane, Skipton	Craven	1	Alleged unauthorised processing of waste wood	02/08/17	Joint investigation between NYCC and Craven DC ongoing.	No
Scorton Quarry	Richmondshire	1	Alleged non-compliance with planning permission reference C1/39/34G/CM with regard to the site boundary and storage of soils	22/09/17	Following investigation, it was concluded that all works that had been carried out were in compliance with the planning permission.	Yes
<b>County Council Development</b>						
Brooklyn House, Norton	Ryedale	1	Alleged non-compliance with planning permission reference C3/16/00147/CPO with regard to the location and height of a bin store	18/07/17	Complaint investigated. Bin store relocated to correct position and re-built to correct height.	Yes
Athelstan School	Selby	1	Alleged non-compliance with planning permission reference C8/58/69AB/PA and unauthorised installation of new hardstanding	26/09/17	Complaint investigated. Planning application is forthcoming at the time of writing, to regularise those works which are currently not authorised.	Yes



**Table 2 – Updates on ‘live’ complaints/alleged breaches of planning control received prior to this quarter**

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved?
<b>County Matters</b>						
Crossgates Quarry	Harrogate	1	Alleged disposal of waste in quarry void	12/04/17	Planning application was submitted to regularise works and is currently being determined by the County Planning Authority.	Partially
Whitewall Quarry	Ryedale	2	Noise and blasting	15/05/17 & 05/06/17	County Planning Authority confirmed in writing on 22 March 2017 to all complainants, that there would be no further prior notification of blasting operations. Complainants were advised to contact site operator directly to arrange for notifications from them direct (to date none have requested this). Blasting records show vibration levels well within permitted limits. Investigations ongoing with regard to noise complaints.	Partially
<b>County Council Development</b>						
None.						

**Table 3 – Number of complaints/alleged breaches of planning control received by quarter**

<b>2017/18</b>	<b>Quarter 1 (Apr-Jun)</b>	<b>Quarter 2 (Jul-Sept)</b>	<b>Quarter 3 (Oct-Dec)</b>	<b>Quarter 4 (Jan-Mar)</b>
No. of complaints/alleged breaches of planning control received	12	11 Cumulative total no. 23	Cumulative total no.	Cumulative total no.

**Table 4 – Number of complaints/alleged breaches of planning control resolved by quarter**

<b>2017/18</b>	<b>Quarter 1 (Apr-Jun)</b>	<b>Quarter 2 (Jul-Sept)</b>	<b>Quarter 3 (Oct-Dec)</b>	<b>Quarter 4 (Jan-Mar)</b>
Number of complaints of the total number of 'live' complaints resolved	83% (no. 10/12)	27% (no.3 /11)  Cumulative total 57% (no. 13/23)	% (no. /) Cumulative total % (no. /)	% (no. /) Cumulative total % (no. /)

**Table 5 – Number of complaints/alleged breaches of planning control resolved by quarter**

<b>2017/18</b>	<b>Quarter 1 (Apr-Jun)</b>	<b>Quarter 2 (Jul-Sept)</b>	<b>Quarter 3 (Oct-Dec)</b>	<b>Quarter 4 (Jan-Mar)</b>
Number of resolved complaints resolved within 20 days of receipt	80% (no. 8/10)	100% (no. 3/3)  Cumulative total 85% (no. 11/13)	% (no. /) Cumulative total % (no. /)	% (no. /) Cumulative total % (no. /)

**Existing Enforcement Issues**

**Formal Enforcement notices served by the County Council**

No notices were served during this period.

**Table 6- Monitoring and Compliance Visits undertaken in Quarter 2 (Minerals and Waste Sites only)**

Site	District	Date Visited
Skipton Rock Quarry	Craven	03/07/17
Nosterfield Quarry	Hambleton	04/07/17
High Rails Farm	Harrogate	04/07/17
Gebdykes Quarry	Hambleton	19/07/17
Potgate Quarry	Harrogate	19/07/17
Pallett Hill Quarry	Richmondshire	24/07/17
Black Quarry	Richmondshire	02/08/17
Barton Quarry/Middleton Lodge Quarry	Richmondshire	03/08/17
Copley Lane Landfill	Selby	08/08/17
Grey Yaud Quarry	Richmondshire	09/08/17
Allerton Park Landfill Site	Harrogate	25/08/17
Ripon Quarry	Harrogate	06/09/17
Wath Quarry	Ryedale	20/09/17
Hensall Sand Quarry	Selby	28/09/17

## NORTH YORKSHIRE COUNTY COUNCIL

## PLANNING AND REGULATORY FUNCTIONS COMMITTEE

19 December 2017

**Appointment of Planning and Regulatory Functions Sub-Committee****1.0 PURPOSE OF THE REPORT**

- 1.1 For the Committee to consider the appointment of a Planning and Regulatory Functions Sub-Committee

**2.0 Background**

- 2.1 The County Council previously agreed that applications relating to the registration of common land and town and village should be considered by the Planning and Regulatory Functions Committee by means of a Sub-Committee.
- 2.2 Members of the Planning and Regulatory Functions Committee who are to be involved in dealing with these matters would receive appropriate training to assist assessment against the legal criteria.
- 2.3 Wherever possible, the Sub-Committee dealing with applications will meet at a location in the area of the application.

**3.0 Planning and Regulatory Functions Sub-Committee**

- 3.1 Currently no Sub-Committee has been appointed, and the responsibility for that lies with the Planning and Regulatory Functions Committee.

- 3.2 The Sub-Committee will consist of five Members from the existing Planning and Regulatory Functions Committee.

- 3.3 To reflect proportionality the Sub-Committee will be divided as follows:-

4 Conservative Members  
1 NY Independent Member

The remaining Members of the Committee, and substitute Members to the Committee, will be eligible to sit as substitutes on the Sub-Committee.

- 3.3 The Sub-Committee will meet on an, as and when required basis, and Members will be provided with plenty of notice in respect of when a Meeting is required.
- 3.4 Appropriate training will be provided for all Members and Substitute Members of the Sub-Committee, as soon as this can be arranged.

**4.0**     **RECOMMENDATION**

- 4.1     That the Committee appoints five Members to sit on the Planning and Regulatory Functions Sub-Committee, in line with paragraphs 3.2 and 3.3 above.

Barry Khan  
Assistant Chief Executive (Legal and Democratic Services)

County Hall  
NORTHALLERTON

December 2017

Author of Report:             Steve Loach  
Background documents:     None