

North Yorkshire County Council**Business and Environmental Services****Planning and Regulatory Functions Committee****12 NOVEMBER 2019****C8/2019/0061/CPO - PLANNING APPLICATION FOR THE PURPOSES OF THE VARIATION OF CONDITION NO. 2 OF PLANNING PERMISSION REF. C8/10/3AC/CPO WHICH RELATES TO RAISING LANDFILL LEVELS ON LAND AT THE OLD BRICK AND TILE WORKS, RICCALL ROAD, ESCRICK, YO19 6ED ON BEHALF OF ESCRICK ENVIRONMENTAL SERVICES LTD (SELBY DISTRICT) (ESCRICK ELECTORAL DIVISION)****Report of the Corporate Director – Business and Environmental Services****1.0 Purpose of the report**

- 1.1 To determine the Council's position in relation to an application which is now under appeal against non-determination to the Secretary of State, in order that the County Planning Authority's formal view on this matter can be submitted to the Planning Inspectorate.
- 1.2 This application is subject to objections having been raised by Escrick Parish Council and the County Council's Landscape Architect in respect of this proposal on the grounds of impact on amenity, highways, need for the development in terms of the justification for the increase in height and landscape impact and is, therefore, reported to this Committee for determination.

2.0 BackgroundSite Description

- 2.1 The Old Brick and Tile Works is a former clay pit which currently operates as an inert landfill site. The site is located to the west of the A19 and is midway between Selby and York. The villages of Escrick and Riccall are located approximately 2 kilometres to the north and south respectively. Although the site is known as the 'brickworks' the manufacture of bricks and tiles ceased in 1991 and the brick factory was demolished in 2006.
- 2.2 The application site extends to approximately 11.6 hectares and is currently being restored to a mountain bike skills centre. A secondary and recycled aggregates facility has also been established at the site.
- 2.3 Access to the site is gained via the haul road from the A19, the entrance of which is shared with Escrick Business Park.
- 2.4 Prior to the current operations, the site operated as an integrated brick and tile works where clay was extracted and stored pending its use in on site kilns for the manufacture of bricks and tiles. These operations ceased in 1991 and the site was then used to provide clay feedstock to a light-weight block manufacturing plant situated at Great Heck in North Yorkshire. Clay extraction and restoration activities have now taken place for a number of years and a small amount of clay reserve remains to be worked along the western boundary of the site.

- 2.5 The application site lies in a relatively remote rural setting where surrounding land uses would be categorised as being broadly agricultural in nature with some isolated residential dwellings. The Sustrans Selby to York cycle track runs parallel to the western site boundary. There is a plantation of trees lining the cycle track, to the western and northern boundaries of the site.
- 2.6 Approximately 150m to the east of the application site lies the Escrick Business Park, a small business park housing a mixture of light industrial and office uses established at around the same time as the mountain bike skills centre operations on the former site of the old brickworks factory. The Business Centre and application site share the same access from the A19 and have done so successfully for the last 10 years.
- 2.7 Some areas of the site where clay has been extracted have colonised with self-seeded saplings on the unused ground. Lower areas have become quite marshy, and there was thought to be potential to find protected wildlife species on the site. The site is not within any formal wildlife or habitat designated sites, however, the woodland to the west of the site boundary along the cycle track is designated as deciduous broadleaved woodland, within the National Forest Inventory (2014); and is also designated locally (non-statutory) as a Site of Interest to Nature Conservation (SINC).
- 2.8 Flood risk across the site varies from flood zone 1 to flood zone 3. The majority of the site is located within flood zones 1 and 2 with the south western corner of the site found within flood zone 3 as defined on the current Environment Agency flood risk maps. The site is approximately 3km from the River Ouse, which is the main source of fluvial flooding in the area. There is also a local drainage stream adjacent to the site, known as the Bentley Park Drain, which runs across the northern boundary of the site, passes underneath the cycle track then runs southwards, in parallel with the western boundary of the site area.
- 2.9 A plan showing the application site is attached to this report.

Planning History

- 2.10 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -
- C8/10/3AC/CPO granted 4 November 2013 for the variation of condition no. 6 of planning permission reference C8/10/3AB/PA which relates to the type of waste accepted at the site. This permission does not include an explicit end date for operations;
 - C8/10/3AB/PA granted 14 November 2007 for the continuation of clay extraction and infilling of resulting void with inert waste to provide mountain bike skills centre and associated facilities. This permission does not include an explicit end date for operations;
 - C8/10/3AA/PA granted 26 October 2007 for the variation of Conditions 3 and 8 of Planning Permission C8/10/3R/PA to extend the time for operations and revise the restoration scheme;
 - C8/10/3R/PA granted 27 January 1992 for the Extension of the area of clay extraction and backfilling of the excavations with domestic, commercial and industrial waste by controlled landfill.
- 2.11 The County Planning Authority is currently considering an application on adjoining land, which was received as complete on 6 September 2019 for a proposed new commrep/2

quarry to extract approximately 6 million tonnes of clay by 2053 and restoration of the site to agriculture and nature conservation with the importation of up to 2.67 million tonnes of inert materials together with the construction of new internal site access haul road, site compound, car park, site office, wheel washing facility, security fencing and gates and the construction of a temporary bridge crossing over the National Route 65 of the National Cycle Network (NY/2019/0136/ENV).

3.0 The proposal

- 3.1 Planning permission is sought for the Variation of Condition No. 2 of Planning Permission Ref. C8/10/3AC/CPO dated 4 November 2013 which relates to raising landfill levels on land at The Old Brick and Tile Works, Riccall Road, Escrick, YO19 6ED on behalf of the Escrick Environmental Services Ltd.
- 3.2 The Applicant has affirmed in the supporting information that prior to current operations, the site operated as an integrated brick and tile works where clay was extracted and stored pending its use in on site kilns for the manufacture of bricks and tiles. These operations ceased in 1991 and the site was then used to provide clay feedstock to a light-weight block manufacturing plant situated at Great Heck in North Yorkshire. Clay extraction and restoration activities have now taken place for a number of years and a small amount of clay reserve remains to be worked along the western boundary on the site under the original planning permission ref. C8/10/3R/PA dated 27 January 1992 (since varied as explained in point 2.10). It is proposed to initially extract the remaining residual amount of clay located in the south west corner of the site. This area has yet to be subject to any infilling as working continues in Phase 2 of the currently permitted activities. Clay would be worked to a maximum depth of -2.5mAOD in accordance with the currently permitted activities. Extracted Clay would be placed in temporary storage around the site for later use in cell construction.
- 3.3 The site would be subsequently be filled principally within 3 cells (Phase 1 would be split into phases 1a and 1b) working in a clock-wise direction from the south-west to north-east with a fourth, and final cell, in the south-east adjacent to the Biffa Cell, restored to a low-level reed-fringed wetland. Completed cells would be capped with clay material sourced either from the in-situ clays placed in storage around the site or from other suitable local sources. A depth of 1m of soils or compost like output would then be placed on top of the capped cells.
- 3.4 Other than the approved restoration scheme, this planning application does not seek to alter any other aspect of the currently permitted activities. The range of wastes accepted at the site would be in accordance with planning permission C8/10/3AC/CPO dated 4 November 2013 and all operational practices regarding waste acceptance, wheel cleaning, hours of operation etc would remain as currently permitted.
- 3.5 The proposed changes to the approved restoration scheme would provide an additional void space of circa 500,000 cubic metres (equivalent to approximately 900,000 tonnes of additional material). It is proposed that the works would be completed and the site restored over a 10 year period, although this would of course be influenced by a number of factors including the market conditions prevailing over that period of time.
- 3.6 It is proposed that the site would be worked in accordance with current practice to provide a basal layer to a level of approximately 6-7m, this would enable the engineering of the site and ensure that the site was suitably lined. Following on from establishment of the basal layer, materials would then continue to be placed into the engineered cells to construct the proposed amended landform.

- 3.7 The principal restoration after use would be to a mountain bike skills centre established within a woodland setting together with a wetland area for surface water management and nature conservation purposes. Landfill cells 1-3 would be restored to woodland and trails with remaining landfill cell 4 restored to a low-lying wetlands. The sites peripheral vegetated areas i.e.; hedgerows, scrub and wooded areas, excluding the existing restored landfill cell, make-up the remaining area of the Application Site.
- 3.8 The main plateau would be restored to gradient of 1:40 sloping generally from 14.5metres down to 11.5metres in the south. It is envisaged that two gently rounded 'knolls' would be established, one at the north-west corner of the site and one on the site's eastern edge rising to 17.5metres and 16.5metres respectively. These features are intended to form subtle wooded landmarks and points of reference in the local landscape linking with nearby Hollicarrs Wood and Common Wood to the south-east and Heron Wood situated on a gently rising landform to the north.
- 3.9 Following the completion of construction activities, the site would be established as a mountain bike skills centre in accordance with the provisions of the previous grant of planning permission, however, it is anticipated that the revised landform will provide a significantly more challenging skills centre. The overall concept is to establish mountain bike trails within an elevated woodland setting with permanent deciduous woodland on site margins. Perimeter landfill cell slopes would be graded to a maximum gradient of 1:5 to promote woodland establishment and minimise, as much as possible, an engineered profile. Within the permanently wooded margins would be areas given over to bio-mass production, selectively coppiced on a phased basis to ensure continuity of cover and therefore maintaining woodland complexity.
- 3.10 The applicant has affirmed that local provenance planting materials would be utilised wherever possible for all planting works and use of non-native stock minimised. There is also scope to translocate existing marginal wetland vegetation from pond areas within the site, which would be lost due to proposed works, and re-located within the newly established wetland area.
- 3.11 It should be noted that the waste recovery operation and secondary and recycled aggregate facility currently operated on-site by Acumen Waste Services would continue to operate unchanged for the duration of the proposed operations. In the absence of a further grant of planning permission, this facility would be closed upon completion of operations under the existing planning permission and the services currently provided transferred to another site.

4.0 Consultations

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on the 18 January 2019.

- 4.1 **Selby District Council (Planning)** – responded confirming no objections or comments.
- 4.2 **Escrick Parish Council** – object to the proposed development on the ground of impact on visual amenity through the increased height of the restored area; restoration timescales with regard to the proposal lengthening the time for the site restoration to be completed; impact on highways with regard to road safety concerns in Escrick causing noise and vibration issues; and need for the development in terms of the justification for the increase in height.
- 4.3 **Selby District Council (Environmental Health)** – confirmed no objection.

- 4.4 **Environment Agency York** – confirm no objection, but remind the applicant of the need to vary the existing environment permit.
- 4.5 **Highway Authority** – confirmed no objection.
- 4.6 **NYCC Heritage - Ecology** - confirmed that the area of the development site which falls outside of the Extended Phase 1 habitat area is likely to be of low ecological value. In addition, the protection measures recommended in the Ecology Report will be sufficient to deal with any mobile species and/or changes that may take place across the site prior to works commencing. The Ecologist has requested that a condition be added to any grant of planning permission which deals with the habitat creation, establishment and management plan in addition to the species protection measures.
- 4.7 **NYCC Heritage - Principal Landscape Architect** – Initially responded stating that the proposed landform high-point should be below the existing perimeter trees to reduce visibility and that screen planting should be provided to the site boundaries. Requested that the phasing be reviewed in order to provide an early landform/ restoration to the north, east and southern boundaries particularly to reduce visibility of ongoing working from the A19.

Further objected to the proposed development following the points in earlier response being reviewed by the Applicant; because the proposed scheme will create an incongruous feature in the landscape adversely affecting landscape character and setting. The extended working period would also delay restoration. “The proposed landfill height would be visually intrusive, out of character with surrounding landscape and result in an engineered landform incongruous to its surroundings. It constitutes a landfill exercise which is far in excess of a restoration exercise of a clay pit to bring the site up to surrounding levels, or to achieve some modest landform variation necessary for a bike and fitness trail. In reality this is a land-raising exercise and a very different scheme to what has previously been approved”.

- 4.8 **NYCC Public Rights of Way Team** – at the time of writing this report, no response had been received.
- 4.9 **Ouse and Derwent IDB** – reminds the applicant that, in order to protect the Boards ability to maintain and improve watercourses within the Boards district, formal consent (out of the planning process) is needed for any construction, fencing or planting within 9 metres of the landward toe of the bank where there is an embankment or wall, or within 9 metres of the top of the batter where there is no embankment or wall, or where the watercourse is enclosed within 9 metres of the outer edge of enclosing structure.
- 4.10 **The Lead Local Flood Authority (SuDS)** – confirmed no comments.
- 4.11 **Natural England** – confirmed no comments.
- 4.12 **Yorkshire Water Services Ltd** – confirmed no observations are required.
- 4.13 **Sustrans**– at the time of writing this report, no response had been received.

Notifications

- 4.14 **County Cllr. Richard Musgrave** – was notified of the application.

5.0 Advertisement and representations

5.1 This application has been advertised by means of three site notices posted on 23 January 2019 (responses to which expired on 19 February 2019). The Site Notices were posted in the following locations:

- Site entrance
- Escrick village notice board
- Escrick village bus stop

A Press Notice appeared in the Selby Times/Post on 31 January 2019 (responses to which expired on 14 February 2019).

5.2 Neighbour Notification letters were sent on 24 January 2019 and the period in which to make representations expired on 14 February 2019. The following properties received a neighbour notification letter:

- 21 properties on Escrick Business Park;
- 12 properties on Riccall Road, Escrick.

5.3 There have been no letters of representation received raising objections.

6.0 Planning policy and guidance

The Development Plan

6.1 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 this instance, therefore, the *Development Plan* consists of policies contained within a number of planning documents. These documents include:

- any extant planning policies contained within Plan(s) adopted by the County and District (or Borough) Councils 'saved' under direction of the Secretary of State; and,
- any planning policies contained within *Development Plan* Documents adopted under the Local Development Framework regime.

6.2 The *Development Plan* for the determination of this particular application comprises the following:

- The extant 'saved' policies of the North Yorkshire Minerals Local Plan (1997);
- The extant 'saved' policies of the North Yorkshire Waste Local Plan (2006);
- The extant policies of the Selby District Core Strategy Local Plan (2013);
- The 'saved' policies of the Selby District Local Plan (2005).

During discussion of the development plan, reference is made to the National Planning Policy Framework (NPPF) and National Planning Policy for Waste (NPPW) which are referred to and discussed later in this report from point 6.63.

6.3 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 are 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).

- 6.4 The draft MWJP was published in November 2016 for representations, after consultation commenced on an Addendum schedule of proposed changes for an 8-week period over summer 2017. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 and the Examination in Public (EiP) began on 27 February 2018. At present the plan is still in the examination phase with the hearing having been concluded and with main modifications to be consulted upon. Therefore some weight can be given to the MWJP Policies. The most relevant policies in regards to the determination of this application are:

Draft Development Management Policies

- D01 - Presumption in favour of sustainable minerals and waste development
- D02 - Local amenity and cumulative impacts
- D03 - Transport of minerals and waste and associated traffic impacts
- D06 - Landscape
- D10 – Reclamation and afteruse
- W11 - Waste site identification principles

- 6.5 Policy D01 in regards to presumption of sustainable development *states* “*When considering development proposals the Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. The Authorities will always work proactively with applicants 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 this 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 then the Authority will grant permission unless:

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.”*

- 6.6 Policy D02 in regards to Local Amenity and Cumulative Impacts *states* “*Proposals for minerals and waste development, including ancillary development and minerals and waste transport infrastructure, will be permitted where it can be demonstrated that there will be no unacceptable impacts on local amenity, local businesses and users of the public rights of way network and public open space including as a result of:*

- *noise,*
- *dust,*
- *vibration,*
- *odour,*
- *emissions to air, land or water,*
- *visual intrusion,*
- *site lighting,*
- *vermin, birds and litter,*
- *subsidence and land instability,*
- *public health and safety,*
- *disruption to the public rights of way network,*
- *the effect of the development on opportunities for enjoyment and understanding of the special qualities of the National Park,*
- *cumulative effects arising from one or more of the above at a single site and/or as a result of a number of sites operating in the locality.*

Proposals will be expected as a first priority to prevent adverse impacts through avoidance, with the use of robust mitigation measures where avoidance is not practicable.

2) Applicants are encouraged to conduct early and meaningful engagement with local communities in line with Statements of Community Involvement prior to submission of an application and to reflect the outcome of those discussions in the design of proposals as far as practicable.

6.7 Policy D03 in regards to Transport of minerals and waste and associated traffic impacts states:

“1) Where practicable minerals and waste movements should utilise alternatives to road transport including rail, water, pipeline or conveyor.

Where road transport is necessary, proposals will be permitted where:

- There is capacity within the existing network for the level of traffic proposed and the nature, volume and routing of traffic generated by the development would not have an unacceptable impact on local communities, businesses or other users of the highways network, or any such impacts can be appropriately mitigated, for example by traffic controls, highway improvements and traffic routing arrangements; and*
- Access arrangements are appropriate to the volume and nature of any road traffic generated and safe and suitable access can be achieved for all users of the site, including the needs of non-motorised users, where relevant; and*
- There are suitable arrangements in place for on-site maneuvering, parking and loading/unloading.*

Where access infrastructure improvements are needed to ensure that the requirements above can be complied with, information on the nature, timing and delivery of these should be included within the proposals.

2) For all proposals generating significant levels of road traffic, a transport assessment and green travel plan will also be required to demonstrate that opportunities for sustainable transport and travel have been considered and will be implemented where practicable.”

6.8 Policy D06 in regards to Landscape relevant points state:

“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.

4) Where proposals may have an adverse impact on landscape, tranquility 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.”

6.9 Policy D10 states that “proposals which require restoration and afteruse elements will be permitted where it can be demonstrated that they would be carried out to a high standard and, where appropriate to the scale and location of the development, have demonstrably:

- i.) Been brought forward following discussion with local communities and other relevant stakeholders and, where practicable, the proposals reflect the outcome of those discussions;

- ii.) Taken into account the location and context of the site, including the implications of other significant permitted or proposed development in the area and the range of environmental and other assets and infrastructure that may be affected, including any important interactions between those assets and infrastructure;
- iii.) Reflected the potential for the proposal restoration and/or afteruse to give rise to positive and adverse impacts, including cumulative impacts, and have sought where practicable to maximise potential overall benefits and minimize overall adverse impacts
- iv.) Taken into account potential impacts on and from climate change factors;
- v.) Made best use of onsite materials for reclamation purposes and only rely on imported waste where essential to deliver a high standard of reclamation;
- vi.) Provided for progressive, phased restoration where appropriate, providing for the restoration of the site at the earliest opportunity in accordance with an agreed timescale;
- vii.) Provided for the longer term implementation and management of the agreed form of restoration and afteruse (except in cases of agriculture or forestry afteruses where a statutory 5 year maximum aftercare period will apply)."

6.10 Draft Policy W11 (Waste site identification principles) of the emerging Minerals and Waste Joint Plan states that determination of planning applications should be consistent with a number of principles, including the provision of 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"*.

North Yorkshire Minerals Local Plan 'saved' policies (NYMLP)

- 6.10 The Planning and Compensation Act 1991 placed a duty on each County Council in England and Wales to prepare a Minerals Local Plan. The NYMLP 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.
- 6.11 The 'saved' policies of the North Yorkshire Minerals Local Plan (1997) relevant to the determination of this application (the mineral extraction element) are:
- Policy 4/1 - Determination of Planning Applications;
 - Policy 4/6a - Nature Conservation and Habitat Protection – Local;
 - Policy 4/10 – Water Protection
 - Policy 4/13 - Traffic Impact;
 - Policy 4/14 - Local Environment and Amenity;
- 6.12 'Saved' Policy 4/1 'Determination of Planning Applications', states that: *'In considering an application for mining operations, the Minerals Planning Authority will need to be satisfied that, where appropriate:-*
- (a) *the mineral deposit on the application site has been fully investigated;*
 - (b) *the siting and scale of the proposal is acceptable;*
 - (c) *the proposed method and programme of working would minimise the impact of the proposal;*
 - (d) *landscaping and screening has been designed to effectively mitigate the impact of the proposal;*
 - (e) *other environmental and amenity safeguards would effectively mitigate the impact of the proposals;*

- (f) *the proposals and programme for restoration are acceptable and would allow a high standard to be achieved;*
- (g) *a high standard of aftercare and management of the land could be achieved;*
- (h) *the proposed transport links to move the mineral to market are acceptable; and*
- (i) *any cumulative impact on the local area resulting from the proposal is acceptable'.*

- 6.13 The NPPF does not mention the matters raised in points a), b), c), d).
- 6.14 Where criterion e) is concerned, Paragraph 144 of the NPPF states that when determining planning applications, local planning authorities should ensure that any unavoidable emissions or vibrations are controlled or mitigated (if it is not possible to remove them at source).
- 6.15 With regard to criteria f) and g), 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 application of appropriate conditions, where necessary.
- 6.16 Criterion h) of 'saved' Policy 4/1 does not conflict with the provisions of the NPPF; however, there are differences in the objectives. Criterion h) states that transport links should be acceptable whereas paragraph 32 of the NPPF states that improvements to the transport network should be considered, therefore, the NPPF should be given more weight in this instance.
- 6.17 Criterion i) of 'saved' Policy 4/1 is in compliance with paragraph 144 of the NPPF. Paragraph 144 states that in granting permission for mineral development the cumulative effects of multiple impacts from individual sites and/or from a number of sites in a locality should be taken into account.
- 6.18 'Saved' Policy 4/6A 'Nature Conservation and Habitat Protection – Local', states that in making decisions on planning applications, the Mineral Planning Authority will protect the nature conservation or geological interest of Local Nature Reserves and of other sites having a nature conservation interest or importance, and will have regard to other wildlife habitats.
- 6.19 This Policy is consistent with paragraph 109 of the NPPF. Paragraph 109 states that that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity.
- 6.20 'Saved' Policy 4/10 'Water Protection', states that proposals for mining operations and the associated depositing of mineral waste will only be permitted where they would not have an unacceptable impact on surface or groundwater resources. Paragraph 143 of the NPPF states that when preparing local plans, local planning authorities should set out environmental criteria, in line with policies in the NPPF, against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable adverse impacts on the flow and quantity of surface and groundwater and this policy is compliant with paragraph 143 of the NPPF.
- 6.21 'Saved' Policy 4/13 'Traffic Impact', states that where rail, waterway or other environmentally preferable modes of transport are not feasible, mining operations other than for coal, oil and gas will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway network.

- 6.22 This Policy is consistent with the provisions of paragraph 32 of the NPPF which also states that improvements to the transport network should be considered.
- 6.23 'Saved' Policy 4/14 'Local Environment and Amenity', states that proposals for mining operations and the associated depositing of mineral waste will be permitted only where there would not be an unacceptable impact upon the local environment or residential amenity.
- 6.24 This Policy is considered to be consistent with paragraph 144 of the NPPF. Paragraph 144 states that when determining planning applications, local planning authorities should ensure that there are no unacceptable adverse impacts on the natural environment and human health and should take into account cumulative impacts of a development in a locality.

North Yorkshire Waste Local Plan

- 6.25 The North Yorkshire Waste Local Plan (adopted 2006) has particular relevance in the determination of this application and the policies most relevant include:
- 4/1 – Waste Management Proposals;
 - 4/3 – Landscape Protection;
 - 4/18 – Traffic Impact;
 - 4/19 – Quality of Life;
 - 4/22 – Site Restoration
 - 5/3 – Recycling, sorting and transfer of industrial, commercial and household waste;
 - 6/1 – Landfill Proposals
 - 6/3 – Disposal of Waste by Landraising
- 6.26 'Saved' Policy 4/1 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the nature of the development is for a waste management facility. The policy advises that *'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;*
 - 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'.*
- 6.27 Both the NPPF and the NPPW (referred to later in this report from point 6.63) are silent on matters raised in criteria b), i) and j) of 'saved' Policy 4/1. With regard to criteria f), Paragraph 205 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 application of appropriate conditions, where necessary. However, consideration is given within Appendix B of the NPPW in relation to the testing the suitability of a proposed site in determining planning applications. With regards to criteria a), it is noted that the NPPF is silent on the matters raised, whilst paragraph 7 of the NPPW notes that consideration should be given to the type and scale of a proposed waste management facility. Therefore, only partial can be afforded only to criteria a) of this policy in the determination of this planning application.

- 6.28 Criterion g) 'Saved' Policy 4/1, is considered to not conflict with the provisions of the NPPF. However, there are differences in the objectives in that criterion g) states that transport links should be adequate, whereas the NPPF states that improvements to the transport network should be considered as part of proposals. However, Appendix B of the NPPG notes that considerations should be given to the suitability of the of the highway network in the determination of an application and assessing the suitability of a site. Furthermore, consideration should be given in the extent to which a development would rely upon the existing highway network, rail networks and transport links to ports. Therefore, this policy is considered to be largely compliant with the NPPW and as such substantial weight can be afforded to this element of the policy in the determination of this application.
- 6.29 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 cumulative effects should be taken into account rather than the wording in 'saved' Policy 4/1 which 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 considered to be generally conforming to the NPPF. Furthermore, Paragraph 7 of the NPPW notes that the potential harm to the local environment should be assessed in the determination of a planning application against the criteria set out in Appendix B of the document, the general thrust of which seeks to ensure that the suitability of a proposed site is assessed against a number of environmental criteria. Therefore, partial weight should be given to this element of the policy in the determination of this application.
- 6.30 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 provisions of the NPPF, in particular paragraphs 124 - 127 of the Framework, and Appendix B of the NPPW, both of which note the importance of developments responding to local character and landscapes, however more emphasis should be given to protecting and enhancing valued landscapes. Therefore, this element of the policy should be afforded partial weight in relation to this planning application.
- 6.31 'Saved' Policy 4/3 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development has the potential to impact upon the local landscape. The policy advises that *'Proposals for 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 the local landscape character'*. It is considered that this Policy is broadly in line with the principles of the NPPF in conserving and enhancing the natural environment as detailed within Chapter 15 of the Framework. However, whilst the Framework outlines the importance of protecting and enhancing landscapes, this relates to those described as 'valued landscapes' and therefore, does not relate to all landscapes. The NPPF does advise on the importance of the planning system in enhancing biodiversity. This is in part supported by Appendix B of the NPPW which makes reference to considering 'landscapes or designated areas of

national importance however, the NPPW further notes the importance of considering whether a development respects landscape character in ascertaining the suitability of a site in the determination of planning applications. It is, therefore, considered that full weight can be given to this Policy in the determination of this planning application with regards to the NPPW.

- 6.32 'Saved' Policy 4/18 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development involves the transport of waste materials by vehicles. The policy advises that *'Where rail, waterway or other environmentally preferable modes of transport are not feasible, 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 trunk road network and would not have an unacceptable impact on local communities'*. It is considered that this policy is generally in compliant with the principles of the NPPF as outlined in Chapter 9 of the Framework. However, it is noted that differences do exist in that the NPPF advises that improvements to the transport network, in addition to the use of sustainable transport methods, should be considered as part of developments that are likely to result in significant amounts of vehicle movements. However, the locational criteria contained within Appendix B of the NPPW notes that the suitability of the road network, the reliance placed upon it, the rail network and transport links all require consideration in testing the suitability of a site in determining a planning application. Therefore, whilst this policy demonstrates some conformity with the NPPW and can be given some weight, it is considered that greater weight be given to the NPPG in this instance.
- 6.33 'Saved' Policy 4/19 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development has the potential to impact upon the local environment and residential amenity. The policy advises that *'Proposals for waste management facilities will be permitted only where there would not be an unacceptable impact on the local environment and residential amenity'*. The NPPF provides guidance in relation to how planning decisions should aim to conserve and enhance the natural environment. Paragraph 170 of the Framework advises that the planning system should contribute to and enhance the natural and local environment by 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.
- 6.34 Furthermore, it is noted that the NPPW confirms that environmental impacts and impacts upon amenity are to be considered against the Locational Criteria set out in Appendix B when determining planning applications. It is noted that Appendix B includes factors such as visual impacts, air emissions including dust, odours, noise, light and vibrations. It is, therefore, considered that 'saved' Policy 4/19 is consistent with the NPPF and NPPW. Therefore, this policy should be given considerable weight in the determination of this planning application.
- 6.35 'Saved' policy 4/22, in relation to 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". Paragraph 205 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 application of appropriate conditions, where necessary. It is therefore considered that this policy which seeks restoration appropriate to the locality is compliant with the NPPF and should be given weight.
- 6.36 '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 and

transfer 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’.*

- 6.37 In terms of Criterion a), it is considered that both the NPPF and NPPW are silent on the matters raised. However, Paragraph 7 of the NPPW does note that facilities should be designed so as to positively contribute to the character of the area. Therefore, it is considered that partial weight be applied to this Policy.
- 6.38 It is considered that the NPPF is silent in relation to the matters raised in Criterion b), c), d) and f). Furthermore, the NPPW is also silent in relation to the matters raised in Criterion b), c) and d). It is noted that Chapter 7 of the NPPW does make reference to the restoration of landfill sites, but only insofar as applications should ensure that landfill sites are restored appropriately at the earliest opportunity and makes no reference to prejudicing the restoration of quarry or landfill sites. Therefore, limited weight can be given to these elements of the Policy in the determination of this application.
- 6.39 In terms of Criterion e) it is considered that this policy is generally in compliance with the principles of the NPPF as outlined in Chapter 9 of the Framework. However, it is noted that differences do exist in that the NPPF advises that improvements to the transport network, in addition to the use of sustainable transport methods, should be considered as part of developments that are likely to result in significant amounts of vehicle movements. Additionally, with the NPPW, the locational criteria contained within Appendix B notes that the suitability of the road network and the reliance placed upon it, require consideration in testing the suitability of a site in determining a planning application. Therefore, this element of the policy is considered to be largely compliant with the NPPW and as such substantial weight can be afforded to this element of the policy in the determination of this application.
- 6.40 In terms of Criterion g) it is considered that the Policy is in compliance with the principles of the NPPF as outlined within Paragraph 170 of the Framework. Furthermore, it is also considered to be in-compliance with Paragraph 7 of the NPPW in relation to the restoration of landfill sites. Therefore, considerable weight can be given to this element of the Policy in the determination of this planning application.
- 6.41 ‘Saved’ policy 6/1 of the North Yorkshire Waste Local Plan provides details of what the County Council would normally view as being appropriate for waste disposal via landfill. The wording of the policy reads:
 “Proposals for additional landfill capacity for the disposal of waste will be permitted provided that:-
- a) It can be demonstrated that there is an over-riding need for the development and there are no available alternative methods for treating the waste; or
 - b) It is required for the restoration of a former mineral void which cannot be satisfactorily reclaimed in any other way; and

- c) Where appropriate, provision is made for the selective recycling of waste; 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.”

- 6.42 The NPPF is silent on guidance relative to landfill and waste and, therefore, as previously set out, more weight can be given to saved policy 6/1 regarding highways and traffic issues and the points covering impacts on local amenity or the environment, which generally accord with the provisions on the NPPF.
- 6.43 Policy 6/3 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the proposed development involves the disposal of waste by landraising to create the mountain bike skills centre. The policy states that “proposals for the disposal of waste by landraising will be permitted provided that:-
- a) It can be demonstrated that the need for landfill capacity cannot be met by the infilling of mineral workings, and no suitable alternative methods for treating or disposing of the waste are available; and
 - b) The proposal will not have an adverse visual impact and the final landform will not have a detrimental impact on the surrounding landscape; and
 - c) The highway network and site access can satisfactorily accommodate the traffic generated; and
 - d) The proposal will not have an unacceptable impact on local amenity or the environment; and
 - e) Where appropriate, provision is made for the selective recycling of waste.”
- 6.44 The NPPF provides guidance in relation to how planning decisions should aim to conserve and enhance the natural environment. Paragraph 170 of the Framework advises that the planning system should contribute to and enhance the natural and local environment by 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.

Selby District Core Strategy

- 6.45 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 principles for the area.
- 6.46 The Core Strategy (2013) does not contain any policies specific to mineral development (‘County Matters’), but there are general development management policies which would usually be applicable to District-scale development which, in this instance, are relevant to the determination of this application. The policies considered relevant to the determination of this application are:
- SP1 - Presumption in Favour of Sustainable Development;
 - SP15 - Sustainable Development and Climate Change;
 - SP18 - Protecting and Enhancing the Environment;
 - SP19 - Design Quality.
- 6.47 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’.*

6.48 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;*

6.49 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”.*

6.50 Policy SP19 of the Selby District Core Strategy states *“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 complement 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”.*

Selby District Local Plan

- 6.51 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 following the adoption of the Core Strategy.
- 6.52 Within the Selby District Local Plan, the ‘saved’ policies relevant to the determination of this application are:
- ENV1- Control of Development;
 - ENV2 - Environmental pollution and Contaminated land;
 - ENV21- Landscaping Requirements;
 - T1- Development in Relation to the Highway network;
- 6.53 ‘Saved’ Policy ENV1, advises that *‘proposals for development will be permitted provided a good quality of development would be achieved.’* The plan further advises that when considering proposals, considerations will take into account of *‘the effect upon the character of the area or amenity of adjoining occupiers’*; *‘the potential loss, or adverse effect upon significant buildings, related species, trees, wildlife habitats, archaeological or other features important to the character of the area’*; *‘the relationship of the proposal to the highway network, the proposed means of access and arrangements to be made for car parking’*; and *‘the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping’*. This policy is consistent with the NPPF’s objectives of presumption in favour of sustainable development, as outlined in paragraph 17 of the Framework, which relates to the importance of achieving a good quality of design to ensure a good quality and standard of amenity for all existing and future occupants and therefore full weight is given to this policy in the determination of this application.
- 6.54 This policy ENV1- Control of Development 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”.

6.55 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.

6.56 ‘Saved’ Policy ENV2 - Environmental pollution and contaminated land 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”.*

This Policy is generally considered to be compliant with Chapter 11 of the NPPF.

6.57 ‘Saved’ Policy ENV21 – Landscaping Requirements 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”.*

6.58 This Policy is generally considered to be compliant with Chapter 15 of the NPPF (conserving and enhancing the natural environment).

6.59 ‘Saved’ Policy T1- Development in Relation to the Highway network 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.

Other policy considerations:

National Planning Policy

- 6.60 The policy relevant to the determination of this particular planning application provided at the national level is contained within the following documents:
- National Planning Policy Framework (NPPF) (revised February 2019)
 - National Planning Policy for Waste (NPPW) (published October 2014)

National Planning Policy Framework

- 6.61 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.
- 6.62 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 defines sustainable development as that which fulfils the following three roles:
- a) 'an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'*
- 6.63 Within the NPPF, paragraph 11 of the Framework advises that when making decisions, development proposals that accord with the development plan should be approved without delay and when the development plan is absent, silent or relevant policies are out of date, permission should be granted unless:
- i.) 'the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- i.) 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'.*
- 6.64 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.
- 6.65 Paragraph 127 within Chapter 12 (Achieving well-designed places) 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.”
- 6.66 Within Chapter 15 (Conserving and enhancing the natural environment) 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.
- 6.67 Paragraph 170 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland
- 6.68 Paragraph 175 of the NPPF seeks to protect habitats and biodiversity in the form of:
- a) *if significant harm to biodiversity 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;*
 - b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
 - c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁵⁸ and a suitable compensation strategy exists; and*
 - d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*
- 6.69 Paragraph 180 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF states that planning policies and decision should ensure that new development is appropriate for its location, taking into account the likely effects of pollution on health, living condition and the natural environment, as well as

the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 6.70 Paragraph 183 within Chapter 11 states that “the focus of planning policies and decision should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions 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”.
- 6.71 Within the NPPF, paragraph 149 of the Framework confirms that Local Planning Authorities should adopt proactive strategies to *‘mitigate and adapt to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes’*.
- 6.72 Paragraph 155 of the Framework notes that inappropriate development within areas at risk of flooding should be avoided however where development is necessary in such locations it should be made safe *‘without increasing flood risk elsewhere.’*
- 6.73 Paragraph 163 of the NPPF advises that in 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, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, *‘it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;*
 - b) *development is appropriately flood resistant and resilient;*
 - c) *It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - d) *Any residual risk can be safely managed; and*
 - e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.’*
- 6.74 Furthermore, when determining the application consideration needs to be given to the bullet points in Paragraph 205 of the NPPF relevant to the proposed development, which states that *“When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy).* In considering proposals for mineral extraction, minerals planning authorities should:
- e) *provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances”*

National Planning Policy for Waste (published October 2014)

- 6.75 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).
- 6.76 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".
- 6.77 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".*
- 6.78 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.

- 6.79 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”.

National Planning Practice Guidance (PPG) (2014)

- 6.80 On 6th March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG) 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: -

- Air Quality
- Design
- Health and Wellbeing
- Noise
- Waste

Air Quality

- 6.81 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

- 6.82 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*”.
- 6.83 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 on concerns about whether the development is incompatible with an existing townscape, if good design can mitigate the concerns.
- 6.84 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*”.
- 6.85 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

- 6.86 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*”.

Noise

- 6.87 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

- 6.88 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*”.
- 6.89 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’.
- 6.90 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".

- 6.91 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".
- 6.92 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".

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 light of the abovementioned policies the main considerations in this instance are the principle of the proposed development, the need, landscape and visual impact, local amenity, flood risk and drainage, ecology and highways matters.

Principle of the proposed development

- 7.2 The principles of a landfill operation and extraction of clay at the site have been established through the existing operations under the extant planning permission reference C8/10/3AC/CPO dated 4 November 2013 and a number of historical planning permissions at the site. The current proposed variation of conditions however is to raise the existing approved levels by importing additional waste, and therefore amending the restoration scheme substantially by land raising. The site has been used during the landfill operation as a waste management site with waste arriving at the site, being screened and then split into that used for fill and that which was exported as secondary aggregates. This proposed variation seeks to allow the continuation of operations at the site, albeit with amendments as proposed.
- 7.3 Planning permission was originally granted for the infilling of the former clay quarry void with inert waste to provide an end use of a mountain bike skills centre and associated facilities, once restored. The landfilling was expected to take approximately 10 years, after which the site would have been restored to create the mountain bike skills centre and nature trail. The end use of the land once restored and the time taken to reach that outcome were both material considerations at the time of determination of the original planning permission. At present the remaining life of the site is currently expected to be less than two years based on the void space and topography as per the approved scheme. There is no explicit end date of the current extant planning permission (ref. C8/10/3AC/CPO dated 4 November 2013) and therefore the cessation of operations on site is currently determined by the completion of the final landform and restoration. This planning application seeks to extend the waste management operations at the site for another 10 years (so 8 years

on current operations) before restoring the land to be used as a mountain bike trail with steeper slopes.

- 7.4 The proposed amendment of the approved restoration scheme would result in the continuation of waste management activities at the site, and would result in a substantial increase to the approved contours. The current approved scheme would see the site restored to approximately 8.5 metres AOD, whereas the revised proposals would take this level to approximately 15-16 metres AOD, with other levels forming an elevated plateau typically 8 metres above existing perimeter levels (6 metres above currently approved levels). It is therefore considered that the proposed development constitutes a land raising operation, rather than landfilling. A theoretical zone of visibility assessment was undertaken as part of this application within the Landscape and Visual Impact Assessment, which states that *'potentially within a 2 kilometre radius of the site there would be a high degree of inter-visibility particularly to the east and west. Field observations have proved however that there are no major/prominent viewpoints within the locality and that views of the site and the proposed development are likely to be limited, particularly in summer when intervening hedgerows and trees are in full-leaf.'* The County Council's Landscape Architect broadly agrees with the Landscape and Visual Assessment (LVIA) that there is likely to be moderate adverse effect on landscape character due to its sensitivity and magnitude, and major/moderate adverse visual effects on local receptors such as the A19 and Sustrans cycle path. It is noted that the Applicant made some adjustment to the phasing and restoration proposals in order to try and reduce potential impacts, and as a result of this, *'some adverse effects may be reduced over 15 years as the restoration scheme becomes established, however, the adverse effects are likely to remain significant'*. The landfilling operation has almost been completed under the terms of the previous planning permission and it was the expectation of the Waste Planning Authority that it would be completed within the next two years as advised by the Applicant.
- 7.5 Regarding Landraising, Policy 6/3 of the North Yorkshire Waste Local Plan states that *"proposals for the disposal of waste by landraising will be permitted provided that it can be demonstrated that the need for landfill capacity cannot be met by the infilling of mineral workings, and no suitable alternative methods for treating or disposing of the waste are available"*. However, this application has not explored alternative methods for the disposal of waste in the area and there is insufficient justification proposed in the application to support the case particularly as the proposed land raising would be a significant variation to the existing approved levels, up to 8 metres higher than the approved scheme. An acceptable approved restoration scheme is currently in place for a mountain bike skills centre to be created at a significantly lower level than proposed in this application (by 6 - 8 metres) and the Applicant's justification to create a more diverse mountain bike skills centre at a higher level is considered to not carry sufficient weight to outweigh other issues. It is therefore considered that the proposal is contrary to draft policy D01 of the emerging MWJP in regards to presumption of sustainable development which seeks to secure development that improves the economic, social and environmental conditions in the area.
- 7.6 It is considered that the principle of inert landfilling has been established at the Old Brick and Tile Works site through the existing operations, however land raising has not been established and has not taken place on this planning application site. Potential adverse impacts on the environment and amenity arising from the proposed development therefore need to be considered in detail and the main considerations are addressed in the subsequent sections of this report. NPPF paragraph 170 requires planning authorities to make decisions which contribute to and enhance the natural and local environment by protecting landscapes, recognising the character of

the countryside, minimising impacts on biodiversity, preventing pollution and remediating despoiled land.

Need

- 7.7 Escrick Parish Council and the County Council's Landscape Architect both object on the basis that there are no exceptional circumstances, in their view, to justify the additional waste operations at the site. The site has an approved restoration scheme to restore the landfill to a lower-level mountain bike skills centre to that which has been applied for. The Applicant has affirmed that it is proposed to initially extract the remaining residual amount of clay located in the south west corner of the site to make full use of the extant permission, this receives support in 'saved' policies 4/1, 4/10, 4/13 and 4/14 of the North Yorkshire Minerals Local Plan in terms of the siting and scale of the proposal to extract the remaining reserve being acceptable in relation to the protection of water sources, traffic impact and amenity, due to the extraction element of this proposal already having an extant planning permission in place. This area has yet to be subject to any infilling as working currently continues in phase 2 of the site. Clay would be worked to a maximum depth of -2.5 metres AOD in accordance with the currently permitted activities and this area of the site would be subsequently filled and restored to a low-level reed fringed wetland.
- 7.8 The proposed changes to the approved restoration scheme would add a further circa 500,000 cubic metres of inert waste (equivalent to approximately 900,000 tonnes of additional material). It is proposed that the works would be completed and the site restored over a ten-year period, although this would be influenced by market conditions prevailing over that period of time. The scheme would look to increase the approved height of the landfill by up to 8 metres. The current approved scheme would see the site restored to approximately 8.5 metres AOD, whereas the revised proposals would take this level to approximately 15-16 metres AOD, with other levels forming an elevated plateau typically 8 metres above existing perimeter levels (6 metres above currently approved levels).
- 7.9 Draft Policy W11 (Waste site identification principles) of the emerging Minerals and Waste Joint Plan states that determination of planning applications should be consistent with a number of principles, including the provision of 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*".
- 7.10 In this planning application, it is considered that the proposal is to import additional waste in excess of that which has already had planning permission to infill the existing quarry void. The agreed quarry restoration scheme for this site requires no further infill than that permitted in the previous permission. 'Saved' policy 6/1 of the North Yorkshire Waste Local Plan (Landfill proposals) provides details of what the County Council would normally view as being appropriate for waste disposal via landfill. Proposals for additional landfill capacity for the disposal of waste will be permitted provided that it can be demonstrated that there is an over-riding need for the development and there are no available alternative methods for treating the waste. It is not considered that an over-riding need for this proposal is warranted, nor have alternative methods of treating waste, or alternative sites been considered and therefore the proposal is contrary to this policy and draft policy W11 of the emerging MWJP.

Landscape and visual impact

- 7.11 An assessment of the potential impact upon the landscape as a result of the proposed development was submitted with the application and identifies that the site falls within the Vale of York Character Area as defined in 1999 by the Countryside

Agency, but that there are no landscape designations associated with the site. The report concludes that the magnitude of change on landscape character is assessed as medium due to the introduction of an elevated landform increasing in height by up to 8 metres above the current permitted development.

- 7.12 The County Council's Landscape Architect broadly agrees with the Landscape and Visual Assessment (LVIA) that there is likely to be moderate adverse effect on landscape character due to its sensitivity and magnitude, and major/ moderate adverse visual effects on local receptors such as the A19 and Sustrans cycle path. It is noted that the Applicant made some adjustment to the phasing and restoration proposals in order to try and reduce potential impacts, and as a result of this, *'some adverse effects may be reduced over 15 years as the restoration scheme becomes established, however, the adverse effects are likely to remain significant'*. It is considered that the proposal would introduce a visibly recognisable new topographic feature that would likely be considered substantially uncharacteristic when set within the attributes of the receiving landscape and that this would have a significant effect on landscape character. The NPPF seeks to ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting. Furthermore, it indicates that planning decisions should contribute to and enhance the natural and local environment by, amongst other things; protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside. The area of countryside within which the site is located is not the subject of any statutory landscape designations, which attract the highest levels of protection, however, policy 4/3 of the North Yorkshire Waste Local Plan requires that proposals for waste management facilities will only be permitted where, amongst other things, there would be no unacceptable effect on the character of the landscape, and it is therefore considered that the proposal to conflicts with this policy.
- 7.13 Escrick Parish Council object to the application on impact upon visual amenity. They consider that no valid justification for the additional height proposed has been put forward and that the proposal is out of character in the flat area of the Vale of York around Selby and that the proposed landraising is excessive. The County Council's Landscape Architect also objects to the proposed development for similar reasons because it would create an incongruous feature in the landscape adversely affecting landscape character and setting. *"The surrounding land is typically flat agricultural fields with isolated farms and residential dwellings, and isolated blocks of woodland... at its highest point levels would be 10 metres above existing perimeter levels (8 metres above currently approved levels) with other levels forming an elevated plateau typically 8 metres above existing perimeter levels. The proposed landfill landform would have regular engineered outer slopes"*.
- 7.14 'Saved' Policy 6/3 of the North Yorkshire Waste Local Plan 2006 also states that proposals *"will not have an adverse visual impact and the final landform will not have a detrimental impact on the surrounding landscape; and the proposal will not have an unacceptable impact on local amenity or the environment"*. It is considered however that this proposal would have an adverse impact on the surrounding landscape, therefore contrary to policy 6/3.
- 7.15 Draft Policy D06 of the emerging Minerals and Waste Joint Plan (publication draft, 2016), although afforded limited weight at this stage, indicates that all landscapes will be protected from the harmful effects of development. Proposals will not be permitted where it is demonstrated that there will be unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures. Given the comments of the County Council's Principle Landscape Architect, it is clear that the proposed development would have harmful effects on the local landscape.

- 7.16 Policy SP19 of the Selby District Core Strategy states “*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.*”. ‘Saved’ Policy ENV1 of the Selby District Local Plan, states that considerations will take into account of the effect upon the character of the area or amenity of adjoining occupiers. It is considered that the proposed development has not been designed with regard to the local character and context of its surroundings.
- 7.17 The NPPF requires planning decisions to aim to conserve and enhance the natural environment. Paragraph 170 of the Framework advises that the planning system should contribute to and enhance the natural and local environment by 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. It is considered that prolonging the operations on site for a further ten years could give rise to the potential for noise and dust issues. As discussed later in this report (7.23), a recent complaint received by the County Planning Authority in July 2019 raised concerns regarding noise and dust issues occurring due to operations at the site. The complaint noted that since operations have been progressing towards the void being full, and therefore reaching ground level, noise and dust issues are becoming prominent. This is evidence that operations as they stand at present are giving rise to complaints regarding noise, dust and amenity, and that any further prolonged operations on this site, and an increase in height of the approved scheme could result in further adverse effect on local amenity. The continuation of operations for this further length of time could therefore prolong any impacts on the local community and the environment.
- 7.18 For the reasons detailed above, it is considered that the proposed development would result in an unacceptable adverse impact upon the character of the area and surrounding landscape and would create an incongruous feature which would not constitute a suitable final restored landform. The proposed development would also be contrary to the aims of the principles of the NPPF in relation to local landscape character as outlined within Chapter 15 of the framework including paragraphs 170, 175, 180 and the PPG in regards to the natural environment. It also conflicts with the landscape and character protection elements of ‘saved’ policies 4/1, 4/14 of the North Yorkshire Minerals Local Plan (NYMLP), ‘saved’ policies 4/18, 4/19, 4/22, 5/3 of the North Yorkshire Waste Local Plan (NYWLP), Policies, SP18 and SP19 of the Selby District Core Strategy and ‘saved’ Policy ENV1, ENV21 of the Selby District Local Plan, all of which seek to ensure that the restoration of minerals sites and developments generally, would include landscape requirements to enhance the character and appearance of the site and local area. It is considered however, that this proposal would not enhance the character and appearance of the site or the local area.

Local amenity (noise and dust)

- 7.19 The application states that there would not be an increase in levels of noise, dust or odour generated by the continuation of the operation. The site has however been operating as a facility for the receipt and management of inert wastes and non-hazardous soils under the terms of the existing permission with resultant impacts on local amenity. As the original proposal is nearly complete, the waste management operation on the site will cease within the near future.
- 7.20 This planning application does not propose to change any of the current waste management operating practices at the site, including hours of operation or methods of working. The only change to operational practice has, following discussion with local residents and representatives of Escrick Parish Council, been that the applicant has purchased a street sweeper to maintain the public highway outside of the site

entrance. It has been informally agreed with the Parish Council that the sweeper would also maintain the highway up to the village.

- 7.21 Conditions 17-19 inclusive of the extant planning permission (ref. C8/10/3AC/CPO dated 4 November 2013) limit the permissible noise levels at the nearest residential properties and the Applicant has affirmed that these controls would remain in place following any further grant of planning permission. No further noise assessment has been undertaken by the applicant or discussed within the application submission in relation to the proposed development.
- 7.22 It is acknowledged that operation of the site can give rise to dust, particularly during periods of dry weather or wind. The applicant has affirmed that the proposed development would continue to be undertaken in accordance with the current practice, including the requirements of the Environmental Permit relating to the control of fugitive emissions. Access and haul roads would continue to be maintained and vehicle leaving the site would be expected to continue using the wheel washing facilities on site. Speed limits are enforced on site and stockpiles are suppressed with water in dry conditions.
- 7.23 It is noted that the County Planning Authority has received numerous complaints over the last few years regarding mud on the highway, and a more recent complaint received in July 2019 raised concerns regarding noise and dust issues occurring due to operations at the site. The complaint noted that since operations have been progressing towards the void being full, and therefore reaching ground level, noise and dust issues are becoming prominent. This is evidence that operations as they stand at present are giving rise to complaints regarding noise, dust and amenity (whilst appropriate conditions are in place), and that any further prolonged operations on this site, and an increase in height of the approved scheme could result in further adverse effect on local amenity. It is considered possible that conditions could be imposed in order to alleviate issues occurring, however the continuation of operations for this further length of time could therefore prolong any impacts on the local community and the environment.
- 7.24 It is noted that Escrick Parish Council object on the basis of the impact upon restoration timescales, that the proposed operations would extend the restoration of the site for much longer than originally anticipated. The proposed development, subject of this planning application, as stated above, proposes continuation of operations on site for approximately another ten years (8 years on current predicted site life). It is acknowledged that there is no definitive end date for the existing extant planning permission, although operations are assessed as being towards the final stages currently.
- 7.25 Notwithstanding the possibility of imposing appropriate planning conditions onto any grant of planning permission, it is considered that the proposed development would not be in accordance with the amenity protection elements of the development plan and would result in an impact upon the amenity of local residents living in proximity to the site or to the nearby village of Escrick. Current practice on site is causing issues as noted through the receipt of a complaint regarding noise and dust, so to prolong this could cause further issues to occur. The proposed development is therefore considered to be inconsistent with the Planning Practice Guidance, along with the principles of the NPPF paragraph 180 in relation to the protection of local amenity, and saved policies ENV1 and ENV2 of the Selby District Local Plan, which seek to ensure that there is no significant effect upon amenity arising from developments.
- 7.26 Paragraph 205 of the NPPF refers to the restoration of mineral extraction sites, and that decisions should provide for restoration and aftercare at the earliest opportunity. Paragraph 7 of the NPPW also refers to restoration of landfill at the earliest

opportunity and 'saved' policy 4/22 of the NYWLP seeks to ensure that restoration of waste management facilities will restore and enhance, where appropriate, the character of the local environment. The application site is a former clay quarry, what has not yet been restored via the approved method of landfilling which would further result in the creation of a mountain bike skills centre; therefore, it is considered that prolonging waste management operations at the site and to a height which would impact on the local environment would be contrary to paragraph 205 of the NPPF, paragraph 7 of the NPPW and 'saved' policy 4/22 of the NYWLP as restoration of the site at the earliest opportunity would not be the case if operations were to continue on the application site, nor would the restoration enhance the character of the local environment.

- 7.27 Draft Policy D10 of the emerging Minerals and Waste Joint Plan, although afforded limited weight at this stage, states that proposals which require restoration and afteruse elements will be permitted where it can be demonstrated that they would be carried out to a high standard and, where appropriate to the scale and location of the development, have demonstrably reflected the potential for the proposal restoration and/or afteruse to give rise to positive and adverse impacts, including cumulative impacts, and provided for progressive, phased restoration where appropriate, providing for the restoration of the site at the earliest opportunity in accordance with an agreed timescale. Again and as stated above, restoration of the site at the earliest opportunity would not be achieved if operations were to continue for another 10 years, therefore contrary to this draft policy.
- 7.28 'Saved' Policy 5/3 of the NYWLP seeks to ensure that proposals '*will not have an unacceptable impact on local amenity or the environment*'. The proposal development therefore conflicts with this in terms of impact on local amenity and the character of the local environment.

Flood risk and drainage

- 7.29 An assessment of the potential impacts of the proposed development upon hydrology and flood risk was undertaken as part of this application, and the report identifies that the entire site and immediate surrounding area is located in Flood Zone 2 and the proposed development and restoration to mountain bike skills centre is a water-compatible development and a low fluvial flood risk is deemed acceptable according to Planning Practice Guidance. Furthermore, the proposed development would have raised surface levels above the current topographical levels within the site, which should reduce the fluvial flood risk.
- 7.30 The report also confirms that there is no sewer network present on site and there are no historical flood records. The report concludes that the proposed development is a water compatible development and is deemed appropriate. The development's effect on flood risk elsewhere is estimated to be insignificant and it is anticipated that a detailed scheme of surface water management would be requested following any grant of planning permission. This is further endorsed by the consultation response from the Environment Agency which confirms no objection to the proposed development.
- 7.31 For the reasons detailed above, it is considered that the proposed development would not have an adverse impact upon flood risk or drainage in the locality. Therefore, the proposed development is considered to be consistent with the paragraphs 149, 155 and 163 of the NPPF with regard to flood risk and drainage.

Ecology

- 7.32 The application is accompanied by an Ecology Report, undertaken by BSG Ecology on behalf of the Applicant. The report comprises the results and assessment of an Extended Phase 1 Habitat Survey and subsequent further survey work.

- 7.33 The report identifies that there are no statutory sites of nature conservation recorded within 2 kilometres of the application site. The report does note though that there are four non-statutory sites recorded within 1 kilometre of the application site. The report also identifies that the application site lies within the impact risk zone for Skipwith Common Site of Special Scientific Interest (SSSI). Inert landfill operations are included under the Skipwith Common SSSI as development types for which Natural England will need to be consulted. Furthermore, Natural England confirmed in their consultation response that they had no comments to make in respect of the proposed development.
- 7.34 The surveys assessed the suitability of the application site to support protected species, focussing particularly upon Great Crested Newts, Badger, Bats, Water Voles and Birds. The report concluded with recommendations for protection measures, which the County Council's Ecologist has confirmed are sufficient to deal with any mobile species and/or changes that may take place across the site prior to works continuing. It has been asked that a condition be included on any grant of planning permission to deal with these. The Ecologist has also requested that a condition be added to any grant of planning permission which deals with the habitat creation, establishment and management plan in addition to the species protection measures. Policy SP15 (part d) of the Selby District Core Strategy relates to Sustainable Development and Climate Change and requests that schemes should be resilient to the effects of climate change and should 'Protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilise biodiversity to contribute to climate change mitigation and adaptation'. It is considered that the imposition of a condition on any grant of planning permission to deal with habitat creation would be compliant with this policy.
- 7.35 It is therefore considered that the proposed development would not have an adverse impact upon ecological matters in the locality. Therefore, the proposed development is considered to be consistent with paragraphs 175 of the NPPF, 'Saved' Policy 4/6A of the NYMLP and Policy SP15 of the Selby District Core Strategy in terms of ecological matters.

Highways matters - Traffic and transport

- 7.36 Escrick Parish Council object on the basis of the impact on highways and state that the majority of lorries deliver to the site via the A19 through Escrick, contributing to road safety concerns in the village and causing noise and vibration for residents along the A19. The planning application does not propose to change any of the current operating practices including hours of operation or methods of working, and HGV lorries would continue to travel through Escrick village causing further impact on the condition of the highway and on the residential amenity of those who live in Escrick village. The only change to operational practice has been that the applicant has purchased a road sweeper to maintain the public highway outside of the site entrance. It has been informally agreed with the Parish Council that the sweeper would also maintain the highway up to the village, which spans up to three kilometres north of the site. Prior to the submission of this application, the County Planning Authority had not received any complaints regarding existing operations at the site since January 2018, whereby the condition of the highway became an issue and the Applicant subsequently purchased the road sweeper. Since the submission and publicity of this application, one complaint has been received regarding noise and dust issues occurring due to operations at the site which are causing disturbance in the locality.
- 7.37 The Highway Authority has no objection to the planning application in highways terms as it is considered that the local highway network would have enough capacity to accommodate the proposed vehicle movements during continuation of the works,

which is sought in 'Saved' Policy 4/18 (Traffic Impact) of the North Yorkshire Waste Local Plan and 'saved' policy T1 of the Selby District Local Plan (Development in Relation to the Highway network) in terms of vehicles numbers being accommodated on the highway. However, it is considered that it has not been demonstrated that there would not be unacceptable impacts on local amenity and local businesses in the area from the continuation of vehicle movements at the site and through Escrick village for another 10 year period. 'Saved' Policy 4/18 also seeks to ensure that there would be no unacceptable impact on local communities resulting in traffic from waste developments, and as such, it is considered that the proposed development would be contrary to 'Saved' Policy 4/18 of the NYWLP and emerging MWJP Policy D02 (Local Amenity and cumulative impacts) and national policy.

- 7.38 It is considered that the proposed development would not have an adverse effect on the local highways network, in capacity terms, however, the proposed extension of time, effectively doubling the time period for restoration could have the potential to impact upon amenity through further noise, dust and vibration of the vehicle movements from the site.
- 7.39 Given the assessment regarding adverse impact on the local landscape character that would occur as a result of this proposal, together with the potential for impact on restoration of the site it is considered on balance that the proposed development would not be acceptable. The applicant has not demonstrated that there is any other good reason that this development should be granted planning permission other than the continued use of a waste management operation. Therefore, the proposed development is considered to be inconsistent with paragraphs 170 and 180 of the NPPF. It also conflicts with the landscape and character protection elements of 'saved' policies 4/1, 4/14 of the North Yorkshire Minerals Local Plan (NYMLP), 'saved' policies 4/19, 4/22, 5/3, 6/1 of the North Yorkshire Waste Local Plan (NYWLP), policies SP18 and SP19 of the Selby District Core Strategy, 'saved' policies ENV1 and ENV21 of the Selby District Local Plan and draft policies D01, D10, W11 of the emerging Minerals and Waste Joint Plan.

8.0 Conclusion

- 8.1 It is considered that the material planning considerations considered above warrant the refusal of this application for the variation of Condition No. 2 of Planning Permission Ref. C8/10/3AC/CPO dated 4 November 2013 which relates to raising landfill levels.
- 8.2 The proposed development is considered to not be compliant with the policies which comprise the Development Plan currently in force for the area and taking account of all other relevant material considerations. On balance, it is considered that the proposed development would result in a level of harm to the local landscape character which would not be appropriate for the location of which the development is proposed and that the harm that could be caused would outweigh any potential economic benefits. There would also be likely continued adverse impacts on local amenity.

9.0 Recommendation

- 9.1 That, the County Council submits to the Secretary of State that **PLANNING PERMISSION BE REFUSED** for the following reasons:
1. The proposed development would give rise to adverse landscape and visual effects in the local area due to the proposed landraising operations creating a landform

height of up to 8 metres above the approved restored levels. It is considered that the proposal would create an incongruous feature in the landscape adversely affecting local landscape character and setting. As such the proposal is inconsistent with Paragraphs 170 and 180 of the NPPF. It also conflicts with the landscape and character protection elements of 'saved' policies 4/1, 4/14 of the North Yorkshire Minerals Local Plan (NYMLP), 'saved' policies 4/19, 4/22, 5/3, 6/1 of the North Yorkshire Waste Local Plan (NYWLP), policies SP18 and SP19 of the Selby District Core Strategy, 'saved' policies ENV1 and ENV21 of the Selby District Local Plan and draft policies D01, D10, W11 of the emerging Minerals and Waste Joint Plan.

2. The proposed development is considered to be inconsistent with paragraph 205 of the NPPF and paragraph 7 of the NPPW and conflicts with 'Saved' policy 4/22 of the North Yorkshire Waste Local Plan (NYWLP) and draft Policy D10 of the emerging Minerals and Waste Joint Plan. The prolonging of operations on site by an additional 10 years of operations on site (8 years in addition to the current expected life of the site) would be inconsistent with these policies which seek to ensure that restoration of minerals workings (of which the site is a former mineral working) and waste sites is carried out at the earliest opportunity and to a high standard.

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.

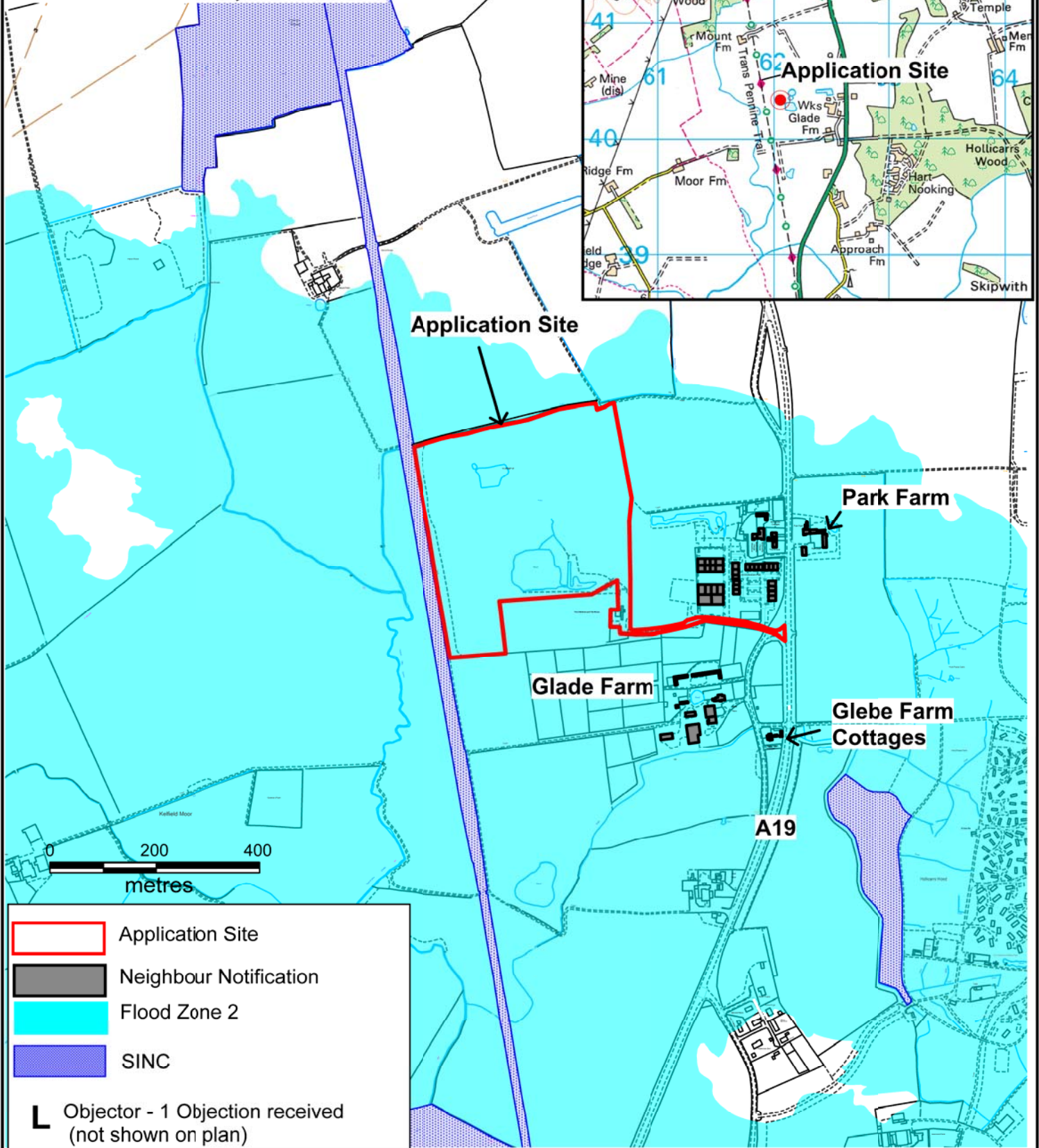
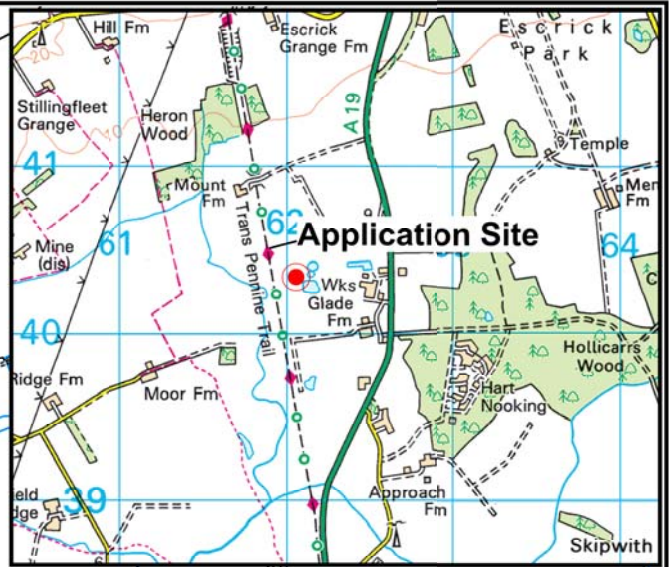
D BOWE
Corporate Director, Business and Environmental Services
Growth, Planning and Trading Standards

Background Documents to this Report:

1. Planning Application Ref Number: C8/2019/0061/CPO (NY/2018/0029/73) registered as valid on 18 January 2019. 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.

Author of report: Amy Taylor

The Old Brick And Tile Works, Riccall Road, Escrick



	Application Site
	Neighbour Notification
	Flood Zone 2
	SINC
	Objector - 1 Objection received (not shown on plan)

Application No : C8/10/3AC/CPO

Title: Variation of Condition No. 2 of Planning Permission Ref. C8/10/3AC/CPO which relates to raising landfill levels at Escrick Environmental Services Ltd, Brickworks Riccall Road, Escrick, York



Business and Environmental Services
North Yorkshire County Council
County Hall, Northallerton,
North Yorkshire. DL7 8AH

Scale : 1:10,000
Date : July 2019
Filename : Escrick
Compilation & Analysis : AT/JB