

**North Yorkshire County Council**

**Business and Environmental Services**

**Planning and Regulatory Functions Committee**

**31 MARCH 2020**

**C6/19/00988/CMA - PLANNING APPLICATION UNDER SECTION 73 OF THE TOWN AND COUNTRY PLANNING ACT 1990 FOR THE VARIATION OF CONDITION NO'S 1, 2 & 20 OF PLANNING PERMISSION REF. C6/500/63J/CMA FOR THE CONTINUATION OF WASTE DISPOSAL OPERATIONS FOR A FURTHER 6 YEARS FROM 31 DECEMBER 2018 UNTIL 31 DECEMBER 2024 WITH A FURTHER YEAR FOR RESTORATION, TO AMEND THE FINAL RESTORATION LEVELS ACROSS THE SITE AND TO AMEND THE FINAL RESTORATION SCHEME FOR THE SOUTHERN PART OF THE SITE ON LAND AT ALLERTON PARK LANDFILL, MOOR LANE (OFF A168), KNARESBOROUGH, HG5 0SD (BOROUGHBRIDGE, AINSTY ELECTORAL DIVISION – HARROGATE DISTRICT)**

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

**1.0 Purpose of the report**

- 1.1 To determine a planning application without compliance with conditions previously attached (namely condition no.s 1, 2 & 20 of planning permission ref. no. C6/500/63J/CMA, dated 23<sup>rd</sup> May 2002) in order to continue waste disposal operations for a further 6 years from 31<sup>st</sup> December 2018 until 31<sup>st</sup> December 2024 with a further year for restoration, to amend the final restoration levels across the site and to amend the final restoration scheme for the southern part of the site on land at Allerton Park Landfill, Moor Lane (Off A168), Knaresborough, HG5 0SD on behalf of FCC Environment.
- 1.2 This application is subject to an objection from the *Gardens Trust*, the statutory consultee for registered parks and gardens, on the grounds of impacts on heritage assets and is, therefore, reported to this Committee for determination.

**2.0 Background**

Site Description

- 2.1 The Allerton Park Landfill site is an existing and partially completed landfill, located within a former quarry and operating under planning permission C6/500/63J/CMA, dated 23<sup>rd</sup> May 2002. The historic parkland at *Allerton Park* is located within and immediately south of the site. The historic parkland is designated a Grade II *Registered Park and Garden*; however, it is not open to the public. It includes a selection of other listed buildings in its grounds including the *Temple of Victory* (Grade II\*); *Allerton Park Mansion* (also known as *Allerton Castle*) (Grade I); a folly to the north of *Middle Fish Pond* (Grade II); the bridge between *Middle Fish Pond* and *Lower Fish Pond* (Grade II); and the *Church of St Mary* (Grade II\*).
- 2.2 Within a distance of approximately 3.5 kilometres, there are four villages close to the proposal site within which are areas designated as *Conservation Areas*. These include Marton-cum-Grafton, Little Ouseburn, Whixley and Coneythorpe.
- 2.3 The site is located 5 kilometres to the east of Knaresborough and 8 kilometres to the south of Boroughbridge, to the east of the A1(M) and adjacent to the *Allerton Waste Recovery Park*. The areas west of the roads, and north and east of the site are arable

farmland and areas of small woodland. Areas of dense woodland border the site to the north east and east. Belts of tree planting run along the southern boundary with Allerton Park, and along the western boundary with the A168.

- 2.4 The site is 48 hectares in size and is located within a lowland area within the Natural England's *Landscape Character Area*, the '*Southern Magnesian Limestone*' (Character Area 30). As noted in the submitted documents, this area is extensive and therefore not all attributes will be relevant to all specific locations within the *Character Area*. Amongst its key characteristics are intensively farmed arable land with large fields, estates with designed gardens and parklands, woodlands, plantations and game coverts. The *North Yorkshire and York Landscape Characterisation Project* identifies the proposal site as being within the *Landscape Character Type* (LCT) 6: *Magnesian Limestone Ridge*. The site is more locally at the boundaries between Harrogate District *Landscape Character Assessment Landscape Character Areas* (LCAs) LCA69 *East Knaresborough Arable Farmland* and LCA91 *Marton Rolling Arable Farmland*. LCA 95 *Whixley Arable Farmland* is located to the south east.
- 2.5 The *Allerton Park Registered Park and Garden* lies outside of any of the above-mentioned LCAs; although the need to protect the setting of the *Registered Park and Garden* at *Allerton Park* is acknowledged within LCA91. The landform of the general area around the application site undulates between 40-65 metres above ordnance datum (AOD) with some higher points such as *Sand Hill* (at 76m AOD) which lies within the application site to the south of *Claro House*.
- 2.6 The landforms immediately surrounding the application site have been affected by various forms of development over recent years such as the works connected with the highway improvement schemes of the A1(M) and the A168. Such works have included the creation of significant engineered embankments planted up with substantial landscaping. Direct views into the application site by users of these two public highways are generally impeded by these embankments. The embankments, together with the landscaping atop, serve not only as visual screens, but also as environmental improvements with associated aesthetic and biodiversity benefits.
- 2.7 As a former quarry, the areas where waste has not been tipped are significantly below ground level (by up to 15-20 metres along the southern boundary). The northern and central parts of the site have been completed and restored to the approved levels. The southern part of the site has significant landfill void remaining however, and has not been completed. It also contains an area which has not been subject to any waste tipping which contains a surface water lagoon.
- 2.8 The nearest residential properties comprise:
- Keepers Cottage (95 metres east of the application boundary);
  - Walls Close Farm Cottage (110 metres east of the application boundary);
  - Wall Close House (130 metres east of the application boundary);
  - The Fold House (150 metres east of the application boundary);
  - South Farm (110 metres north of the application boundary); and
  - Thornbar Farm (320 metres north of the application site).
- 2.9 The site is adjacent to *Allerton Waste Recovery Park* (AWRP), granted planning permission 14<sup>th</sup> February 2013 and now fully operational. This occupies part of the former Allerton Park Quarry, to the north western part of the site. Whilst included in the submitted drawings accompanying this application, the land which makes up the AWRP site does not form any element of the proposals currently under consideration.
- 2.10 Access to the application site is afforded via Moor Lane which is shared with the existing AWRP. Moor Lane forms a priority controlled T-junction connection to the A168. The Moor Lane/A168 junction has recently been improved as part of the

supporting works for the AWRP scheme. This is also a point from which residents living along Moor Lane and Walls Close Farm gain access to the A-road (the A168).

- 2.11 Access to the operational areas is gained via a haul road which runs along the west of the site from the site access to the operational landfill areas. Whilst access to the A168 is shared, the internal route to the landfill is separate from the AWRP vehicle route.

#### Constraints affecting the application site

- 2.12 There exist two bridleways (ref. no. 15.48/2/3 and ref. no. 15.25/7/1) to the north and east of the application site; both of which are designated public rights of way on the statutory *Definitive Map*. The two bridleways start just off the A168 near the junction of the *Allerton Park Quarry* access road with the former alignment of the old A1, with one following Moor Lane in a north easterly direction and the other following the access road to *Walls Close House* in an easterly direction. Both routes link to other bridleways further to the east of the site, and it is possible to use the A168 north and southwards to form a link westward via road bridges over the A1(M) motorway.
- 2.13 An element of the application's red line boundary (to the north-east) transects a section of *Shepherd's Wood* (a designated *Ancient Woodland*). The *Allerton Park Site of Importance for Nature Conservation* (SINC) also lies within the red line boundary. Part is known as *Allerton Lakes* and part as *Allerton Park SINC*. The latter extends northwards to incorporate the south eastern part of the landfill site and an area known as *Far Park Wood*, which was planted in the 1990s to off-set part of the impact of the original quarry development. *Bog Plantation* (approximately 360 metres to the east of the landfill site) is also a deleted SINC.
- 2.14 The site and its immediate surroundings do not lie within any specified landscape designations. However, the boundary of the site overlaps the boundary of the *Allerton Park Registered Park & Garden* (a mid-19th century terraced garden which provides the setting for a country house, and its surrounding parkland which was enlarged in the 1720s and reworked in the 1770s) and this and surrounding land contains a number of heritage assets of interest, including the *Temple of Victory* (Grade II\* listed); *Allerton Park Mansion* (also known as *Allerton Castle*) (Grade I listed); and *Church of St Mary* (Grade II listed).
- 2.15 The nearest *Sites of Special Scientific Interest* (SSSIs) are located at *Upper Dunsforth Carrs*, approximately 4.7km to the north-east of the site on the south-western edge of Upper Dunsforth and at *Hay-a-Park* approximately 4.7km to the south-west on the edge of Knaresborough.
- 2.16 There are three aquifers underlying the application site. These are situated within the *Upper Magnesian Limestone*, the *Sherwood Sandstone* and the superficial deposits. The site lies within the outermost catchment area for the *Dunsforth-Bog Bridge* and *Dunsforth-Howe Bridge Groundwater Source Protection Zones*. There are no significant surface watercourses on site other than a surface water drain which discharges to *Ouse Gill Beck*. The site lies within *Flood Zone 1* on the Environment Agency's Flood Maps and is therefore at the lowest risk of flooding.
- 2.17 The site lies within the aerodrome height and birdstrike statutory *safeguarding zones* surrounding *RAF Linton-on-Ouse*, lying approximately 8.70km to the west.
- 2.18 A plan showing the application site is attached to this report.

#### Planning History

- 2.19 The *Allerton Park Quarry* site has a long and complex planning history with over 20 consents previously granted variously for mineral, waste and ancillary development:

- **C6/500/63/PA** - planning application, reference C6/500/63/PA, was originally submitted to North Yorkshire County Council on 4<sup>th</sup> June 1987 for the '*extraction of sand and gravel and restoration by controlled landfill*' on land to the south of the access to *Walls Close House*. The application also contained provision for the processing of land-won minerals and the erection of a concrete batching plant. Permission, granted on 18<sup>th</sup> July 1988 for mineral extraction was time limited by condition 2 to 17<sup>th</sup> July 2008, with disposal of waste limited until 17<sup>th</sup> July 2013 and restoration by 17<sup>th</sup> July 2014;
- **C6/500/63/D/CMA** - planning permission C6/500/63/D/CMA was granted on 16<sup>th</sup> May 1997 for a revision to the restoration and landscaping scheme by raising site levels at the site; again this was time-limited, but on this occasion, til 31<sup>st</sup> December 2018;
- **C6/500/63J/CMA** - on the 23<sup>rd</sup> May 2002 planning permission C6/500/63J/CMA was granted to '*carry out development without complying with Conditions 3 and 26 of planning permission C6/500/63/D/CMA*' by revising the final contours. This also allowed for the disposal of waste until 31<sup>st</sup> December 2018;
- **C6/500/63O/CMA** - on the 15<sup>th</sup> December 2010 planning permission was granted for the: development of a proposed leachate facility and application under Section 73 to amend condition no.s 2 and 20 of planning permission C6/500/63J/CMA to enable a revised restoration scheme involving the use of short rotation coppice.' Condition 1 required the leachate facility to be implemented within three years of the date of the decision notice. The permission was not implemented and has lapsed.

2.20 The conditions with which the applicant seeks not to comply comprise that which relates to the time in which to undertake the development (i.e. former condition no.1 authorising the disposal of waste only until 31<sup>st</sup> December 2018), that which relates to the details of the development (i.e. former condition no.2) and the condition relating to landscaping and phased restoration (i.e. former condition no. 20).

### 3.0 The proposal

3.1 Planning permission is sought under *Section 73* of the *Town and Country Planning Act 1990* to continue operations without compliance with the conditions previously attached (namely condition no.s 1, 2 & 20 of planning permission ref. no. C6/500/63J/CMA, dated 23<sup>rd</sup> May 2002) to enable the continuation of waste disposal operations for a further 6 years from 31<sup>st</sup> December 2018 until 31<sup>st</sup> December 2024 with a further year for restoration, to amend the final restoration levels across the site and to amend the final restoration scheme for the southern part of the site on land at the existing *Allerton Park* landfill site.

3.2 Thus, a revised condition no.1 being sought would provide for continued tipping until 31<sup>st</sup> December 2024 and adherence to amended details under a revised condition no.2 and amended landscaping and restoration details, while, at the same time, retaining the five-year period of '*after-care*' under a revised condition no.20.

3.3 In addition to the submitted Planning Statement, the application is accompanied by a formal *Environmental Statement* (including a *Non-Technical Summary*) which includes detailed chapters on impacts relating to:

- Landscape & Visual;
- Traffic & Transportation;
- Ecology & Nature Conservation;
- Cultural Heritage;
- Geology & Hydrogeology;
- Hydrology & Flood Risk;
- Noise; and,
- Air Quality.

Detailed technical appendices have also been submitted in respect of:

- LVIA Methodology;
- Transport Assessment;
- Landscape Strategy;
- Phase 1 Habitat Report;
- Reports on Bats, Birds, Great Crested Newts and Reptiles;
- Heritage Statement;
- PPC Permit;
- Conceptual Model of Environmental Setting and Installation;
- original Hydrogeological Risk Assessment from 2004;
- Hydrogeological Risk Assessment Review from 2015;
- Flood Risk Assessment and Drainage Strategy;
- Basic Acoustic Terminology;
- Noise Survey Details;
- Baseline Sound Survey Results;
- Site Operational Noise Levels;
- Air Quality Assessment Methodology;
- Annual Windroses; and,
- Odour Assessment.

3.4 In summary, the proposed operations would involve the:

- creation of new landfill cells to the south of the existing landfill area;
- waste disposal within the engineered cells;
- over-tipping and re-profiling of the existing landfill cells;
- shaping of the southern areas of the Site with imported soil; and
- restoration of the Site through seeding and planting.

3.5 Further supplementary information (submitted under cover of letter dated 13<sup>th</sup> February 2019) compares consented vs existing vs proposed landforms, consented vs proposed vehicle movements and consented vs proposed void space; and provides further details in relation to the haul route and phasing; details of method of working; sources of fill material; and the extent of proposed tipping:

- Figure 3.1 Consented Landform and Extent of Waste Tipping;
- Figure 3.2 Consented and Proposed Landforms;
- Figure 3.3 Cross-Sections;
- Figure 3.8 Method of Working Plan;
- Drawing 2259-01-02 Extent of Proposed Waste Tipping;
- Drawing 2259-01-03 Proposed Landform; and,
- Drawing 2259-01-04 Cross Sections

3.6 The above-mentioned letter confirms,

*“the consented landform (C6/500/63J/CMA) has a maximum height of approximately 76.5m AOD. However, historic overtipping at the Site has resulted in a maximum existing landform of approximate height 81.5m AOD (i.e. approximately 5m greater than the consented maximum) ... The proposed landform would not increase the maximum height of the landfill over and above the existing maximum, albeit there would be a localised increase in levels of up to 9.5m when compared to the consented landform. The highest part of the existing landform is immediately north of the proposed new waste cells, and as such, the proposed restored landform would need to tie-in with this area. The maximum height of the proposed areas of waste tipping would therefore be approximately 81.5m AOD, but would typically be less than this.”*

3.7 Furthermore, it goes on to say,

*“the current scheme represents a further overall reduction in landfill of void of circa 1M m<sup>3</sup>. This is based on circa 2.2M m<sup>3</sup> of void remaining within the approved scheme and the current proposal involving the tipping of 606,000m<sup>3</sup> of non-hazardous waste and 640,000m<sup>3</sup> of soil (i.e. approximately 1.246M m<sup>3</sup>).*

- 3.8 When these volumes are converted into tonnages, these would result in approximately 848,400 tonnes of non-hazardous waste and 1,152,000 tonnes of soil fill material; equating to the importation of some 2M tonnes over 6 years, at 252 days/annum (an average of 1,323 tonnes per day) (a rate of approximately 132 two-way HGV movements per day (66 in & 66 out)).
- 3.9 As a result of requests for *further information*, the following information has been provided to supplement the information supporting the application:
- information under cover of e-mail dated 22<sup>nd</sup> May 2019 responding to matters raised by the *Yorkshire Gardens Trust* and the County Council's adviser on landscape matters;
  - information under cover of e-mail dated 7<sup>th</sup> June 2019 clarifying matters for the *Lead Local Flood Authority*;
  - revised plans under cover of e-mail dated 9<sup>th</sup> July 2019:
    - 2259-01-03\_Proposed\_landform\_revA;
    - 2259-01-04\_Cross\_Sections\_revA; and,
    - 2259-01-05\_Indicative\_Restoration\_Proposals\_revA
  - further information under cover of email dated 30<sup>th</sup> July 2019:
    - 2259-01-03\_Proposed Landform Rev A;
    - 2259-01-04\_Cross Sections Rev A;
    - 2259-01-05\_Indicative Restoration Proposals Rev A;
    - Figure 3.1 Development Areas Rev A;
    - Figure 3.2 Consented & Proposed Landforms Rev A;
    - Figure 3.3 Cross Sections Rev A;
    - Figure 3.4 Development Boundary Rev A;
    - Figure 3.6 Indicative Restoration Proposals Rev A;
    - Figure 3.8 Working and Phasing Plan Rev A;
    - Figure 11.2 Soils Placement Area Rev A;
    - NTS3 Indicative Restoration Proposals Rev A; and,
    - NTS4 Cross Sections Rev A.
- 3.10 The information provided on 30<sup>th</sup> July 2019 gave rise to an amended proposed scheme (the '*Amended Scheme*') that, in the view of the applicant, would result in a substantial reduction in the volume of imported inert fill and, as a consequence, the overall effects would be beneficial including less traffic, operations on a smaller area and overall less disturbance.
- 3.11 The original submission stated that the proposal would provide for the construction of an engineered landfill that would have the capacity for approximately 606,000 m<sup>3</sup> of non-hazardous waste material and would '*help meet essential short term waste disposal requirements and allow the appropriate closure of the Site by delivering an acceptable and sustainable final restoration landform.*' The applicant has explained that it has not been possible to restore the site to the consented landform due to changes in waste management practices and a shortage of material being landfilled. Originally, 640,000m<sup>3</sup> of inert soil would have been used for '*above-cap*' restoration and to shape the southern areas of the landfill.

The '*Amended Scheme*'

- 3.12 The information submitted on 30<sup>th</sup> July 2019 changed the scheme and the new '*Amended Scheme*' provides for revisions to the contours in the south of the site and the avoidance of the infilling of a waterbody; known as '*P1*'. The applicant has explained that while the steepest part of the proposed restored land would remain as previously proposed (approximately 1:3), resulting in steeper slopes to the north and east of the retained waterbody (approximately 1:4), gradients in these areas would be similar to that of the existing southern flank of the landfill. Areas of existing batter

towards the southern and south-western boundaries would continue to be the steepest parts of the site, with a gradient of approximately 1:1.5. While the proposed landform would be steeper in places than the originally submitted scheme in 2018, its footprint would be less, and the extent of new woodland planting (including wet woodland) would be greater. This would bring about a reduction in the volume of inert fill to 406,000 m<sup>3</sup> (equating to approximately 730,800 tonnes); a reduction of 234,000 m<sup>3</sup> compared to the original submission. The overall reduction in landfill void is approximately 1.2 million m<sup>3</sup> from that which was previously consented.

- 3.13 The 'Amended Scheme' would also have a consequential reduction in the numbers of vehicles that would be associated with the scheme i.e. approximately 126 two-way HGV movements per day (63 in & 63 out).
- 3.14 Furthermore, the applicant explains "*the changes to the proposed landform would result in a reduced footprint...allowing the retention of P1 in the south of the Site in its entirety, and allowing the retention of a greater proportion of the existing vegetation to the south-east of the waterbody*". The pre-settlement height of the proposed landform would be higher than the consented landform by up to 9.5 metres in the northern part of the proposed filling area, but would be lower than that consented towards the southern extent of the application site.
- 3.15 The 'Amended Scheme' provides for localised variations to landform to restrict drainage and create seasonally wet ground conditions and addresses the proposed impacts upon heritage assets including the *Allerton Park Registered Park and Garden* in the context of the mitigation landscaping scheme associated with the adjacent AWRP scheme and shared boundaries where land to be restored to a parkland landscape including scattered specimen trees.
- 3.16 In addition, the applicant states "*new areas of wet woodland planting would be provided as part of the restoration proposals. As such, the effects upon the physical landscape fabric of the Site would be incrementally more beneficial*" than the original submission and further that "*whilst the proposed landform would...be steeper in places...its footprint would be less, and the extent of new woodland planting (including wet woodland) would be greater*".
- 3.17 The statement that "*the proposed changes would be well screened by surrounding vegetation and landform. There would be occasional and localised visibility of the tipping of waste and inert materials, and the associated vehicle movements, which would retain the perception of an operational Site present in the landscape for the extended lifespan of the Proposed Development, but these would always be minor background features*", in the view of the applicant, applies equally to the 'Amended Scheme' as it would the scheme as originally submitted.
- 3.18 The proposals do not affect or alter the elements of the development already associated with the operation of the landfill site such as the office/staff welfare facilities, weighbridges, wheel-wash and the leachate and landfill gas management system; nor are there any changes or alterations in respect of access to the site or indeed any changes or alterations to the methods or the hours to which the current operations work (i.e. 0730 to 1730 hours on Mondays to Fridays and 0730 to 1230 hours on Saturdays).

#### **4.0 Consultations**

- 4.1 The consultees responses summarised within this section of the report relate to responses to the initial consultation on 6<sup>th</sup> March 2019 and the subsequent re-consultations (in July and November 2019) following the receipt of '*further information*' relating to the concerns raised in consultation in relation to heritage, landscape and

visual impact. The 'further information' comprising the *Landscape and Cultural Heritage Technical Note* received in November 2019 included amended plans; namely,

- 2259-01-05 Restoration Proposals Rev C;
- Figure 1 Sections through Landfill from within Allerton Park RPG
- Sections through Landfill from within Allerton Park RPG (revA) Sheet 2 of 2; and,
- Photographs from heritage assets and aerial photograph.

4.2 **Environment Agency** - responded on 26<sup>th</sup> March 2019 offering no objection from a groundwater perspective, but commenting,

*'The site lies above the Sherwood Sandstone, a principal aquifer with strategic significance to water supplies on a regional scale... We note the steeper proposed profile especially in the south and west of the waste tipping area (Figures 3.2 & 3.3) this may lead to increased surface water run-off into the retained quarry waterbody to the south west of the waste tipping area. This waterbody infill's the former quarry which has removed a volume of drift deposits which formerly provided additional protection to the underlying principal aquifer. This reduced protection may provide a pathway for pollution from the quarry waterbody into the underlying principal aquifer. As such the effectiveness of surface water interceptors in preventing potentially contaminated run-off from reaching the quarry waterbody should be carefully monitored.'*

On 2<sup>nd</sup> March 2020, confirmation was received from the applicant that a variation to the *Environmental Permit* is proposed to be submitted in the event of the approval of the planning application. Such a variation is likely to include a review of the various risk assessments associated with the permit, including an amended *surface water management plan*.

4.3 **Highway Authority** - responded on 13<sup>th</sup> March 2019 (reiterated on 21<sup>st</sup> November 2019) offering no objection and stating the network has been improved to accommodate traffic from the *Allerton Park Waste Recovery Park* site with a 'ghost island' or right turn lane and,

*'the L.H.A would agree with the conclusions of the transport assessment that if approved the extension of the operational life of the Landfill project would not result in a noticeable impact on the local highway network. It is also agreed that no further mitigation measures are required to enable a safe working conditions for all road users. L.H.A suggests that all previous highway conditions apply to this application.'*

4.4 **Knaresborough Town Council** - responded to consultation on 2<sup>nd</sup> April 2019 offering no objection, but later (on 3<sup>rd</sup> December 2019) adding that they, "neither support nor object to this application but request a condition to provide a S106 agreement to provide an environmental fund, similar to that for the *Allerton Waste Recovery Park*, but to include *Knaresborough*, which the *AWRP* does not".

4.5 **NYCC Adviser on landscape matters** – whilst having 'no general objection' stating in a response dated 12<sup>th</sup> June 2019 that 'further information is needed to explain:

- the long term maintenance and management objectives for the pond areas, the woodland and the species rich grassland (landscape value and purpose, how will this be managed, by who).
- timescales for establishment and maintenance
- strategy for surface water drainage and attenuation
- strategy for maintenance access and boundary fencing
- the purpose of the split woodland and central grassland glade (this does not seem to fit in context of the adjoining estate parkland).'

Following further changes to the scheme in submissions on 9<sup>th</sup> and 30<sup>th</sup> July 2019, this stated position then changed to one of objection on 15<sup>th</sup> August 2019 on the following ground:

*'potential for significant adverse effects to heritage assets and indirect cumulative effects in relation to Allerton Waste Recovery Park (AWRP) which should be assessed.'*



As a consequence, further information including a legal agreement to secure “a *long term maintenance and management plan and maintenance schedule*” was then sought by the landscape adviser.

On 17<sup>th</sup> December 2019, the County Planning Authority was further advised of the adviser’s satisfaction that the ‘*Amended Scheme*’ is capable of providing reasonable protection for the character and setting of *Allerton Park* and as a suitable revised landfill restoration, so long as a detailed landscaping scheme together with details for a five-year period of maintenance ‘*after-care*’ are secured by condition (including a requirement for implementation in the first available planting season).

4.6 **NYCC Public Rights of Way Team** - responded on the 8<sup>th</sup> March 2019 recommending an informative,

*‘No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development.’*

4.7 **NYCC adviser on matters of ecology** - responded on 1<sup>st</sup> April 2019 disputing the conclusions of the *Great Crested Newt* (GCN) report, the effects upon the pond, known as P1, the assessment of other water bodies and the ecological quality of the former quarry, as well as effects on and impacts to breeding birds, namely *little ringed plover* and considering the proposal to be contrary to ‘*saved*’ North Yorkshire Waste Local Plan Policy 4/10. In order to accord with criterion (d) of Paragraph 170 of the NPPF (which seeks impacts upon biodiversity are minimised and net gains are achieved), a detailed restoration plan is recommended to be conditioned to show how new woodland habitat is to be provided for birds of conservation value such as the “*re-creation of standing water, wet woodland and mosaic habitats of at least similar extent and quality to those which would be lost*”. The submission of *further information* in relation to the ‘*Amended Scheme*’ in July 2019 and the ‘*Landscape and Cultural Heritage Technical Note*’ in November 2019, was confirmed by the adviser on 27<sup>th</sup> November 2019 as having overcome a number of previously stated concerns on biodiversity; in particular the avoidance of infilling pond P1 (off-setting the loss of pond P2) and lessening GCN habitat loss, but further commented on the applicant’s submitted *Indicative Restorative Plan* and continued to maintain that a “*combination of good quality habitat creation on the restored landfill and agreement of a Management Plan to ensure long-term sympathetic management of the retained area*” should be secured to offset the loss of around 1.5 hectares.

4.8 **Historic England** - responded on 25<sup>th</sup> March 2019 which, in summary, states that they have previously advised upon the landscape and the park in the context of the AWRP facility and now further advise:

*“the heritage matter for consideration in this case is not whether the proposed re-profiled areas will cause harm to the significance of heritage assets directly, it is the degree to which the revised proposal for the landform will serve to mitigate the harmful impact of the incinerator building on the setting and significance of the heritage assets at Allerton Park. We consider that the proposed landform and contour amendments will result in negligible change to the mitigating effect of the consented scheme.’*

Notwithstanding, Historic England offers “*no objection to the application on heritage grounds*” and offered no further comment in November 2019 during re-consultation.

4.9 **NYCC Waste Management** - responded 16<sup>th</sup> July 2019 to raise concerns on the vehicle movements because the entrance is shared with the AWRP facility. Clarification was, therefore, sought on traffic management proposals, delivery schedules, vehicle types and interface management for the application. The applicant has responded to this point and has advised that the information being referred to by the consultee can be found within the submitted documentation:

- supplemental information dated 30<sup>th</sup> July 2019;
- email of 5<sup>th</sup> December 2019 which shows different routes taken by landfill and AWRP traffic;
- email of 12<sup>th</sup> December 2019 which provided clarification on the shared access with AWRP.

4.10 **The Gardens Trust & the Yorkshire Gardens Trust** - responded on 8<sup>th</sup> April 2019 questioning the applicant's methodology and its findings as well as objecting on the grounds that:

- *the 1980's gravel extraction/land fill has never been completed and now the applicant wants another six-year extension and time to complete final works;*
- *the incinerator has at least a twenty-five-year life so there may well be several more revised schemes;*
- *the Registered Park and Garden and listed buildings and the surrounding community has already been disturbed for over thirty years;*
- *the applicant admits that the current tipping cannot support trees. The necessary steps to facilitate the planting of hedges and trees should have been a condition; and,*
- *the landowner has already had £1m from the community fund and twenty-five years of rental to restore various buildings at risk and lengths of the parkland wall. We are pleased to see this carried out but it is after years of neglect.*

A *Masterplan* for the proposed scheme's integration with the AWRP is sought by the consultee to take into account the historic designed landscape and the lifespan of the incinerator. The applicant has responded to the points raised by the *Gardens Trust* in a submission dated 22<sup>nd</sup> May 2019 in which they advised of the sections of the submitted application documentation that addresses their concerns in addition to commenting that the key question is concerned with "*whether or not the revisions to the consented scheme would retain the same level of mitigation to impacts from the EfW (the AWRP) and the A1 (encompassing visual, movement and noise impacts)*".

4.11 **The Lead Local Flood Authority (SuDS)** – responded on 13<sup>th</sup> March 2019 recommending further information is provided by the applicant as the submitted documents are limited. Further to clarification from the agent, dated 7<sup>th</sup> June 2019, a reply on 13<sup>th</sup> June 2019 stated '*The LLFA have no objection to the proposed variation based on the applicant surface water management and flood risk appraisal outlined within the documents...*'; reiterated again after receipt of further information in relation to the '*Amended Scheme*' and the *Landscape and Cultural Heritage Technical Note*.

4.12 **Ministry of Defence Safeguarding Organisation** - responded on 16<sup>th</sup> December 2019 to say that within the *birdstrike safeguarding zone*, the main concern of the MOD is the creation of new habitats that may attract and support populations of large and/or flocking birds close to the aerodrome. They have requested a condition on the application to prevent the tipping of putrescible or biodegradable wastes; the infilling or management of the pond to remove the islands/vegetation and to fence or otherwise proof the banks to prevent easy access by hazardous feral geese; and the conditioning of a *Bird Hazard Management Plan* to prevent breeding geese and reduce hazard.

A further response was received on the 20<sup>th</sup> December 2019 to retract the previously recommended condition regarding waste types and goes on to request a condition to establish a *Bird Hazard Management Plan* for the site to include the design of the ponds.

4.13 **Forestry Commission** - responded on 5<sup>th</sup> April 2019 providing general advice with regards *Ancient Woodlands* offering neither support or objection.

4.14 **Natural England** - responded 18<sup>th</sup> March 2019 reiterating their comments made at the *EIA screening stage* on 9<sup>th</sup> July 2018 and echoed again at re-consultation in November 2019. Their comments included:

- insofar as Natural England's strategic environmental interests, "*there are no potential significant impacts*";
- though "*there are a number of Sites of Special Scientific Interest (SSSIs) in proximity to the proposal including Hay-a-Park SSSI, Birkham Wood SSSI, Upper Dunsforth Carrs SSSI and*

*Bishop Monkton Ings SSSI...., based on the information provided it is our view that the proposed development is not likely to significantly affect the interest features for which they are notified.*

- 4.15 Those who responded to consultation returning no objection include:
- Highways England (response: 8<sup>th</sup> March 2019);
  - NYCC Archaeology (responses: 6<sup>th</sup> March 2019 & 27<sup>th</sup> November 2019); and,
  - Great Ouseburn Parish Council (9<sup>th</sup> January 2020).
- 4.16 Those who responded to consultation, but who offer no comments include:
- Harrogate Borough Council (Environmental Health Officer) (response: 27<sup>th</sup> March 2019);
  - Harrogate Borough Council (Planning) (responses: 29<sup>th</sup> May 2019 & 20<sup>th</sup> December 2019); and,
  - Yorkshire Water (responses: 6<sup>th</sup> March 2019 & 19<sup>th</sup> November 2019).
- 4.17 Those from whom a response has not been forthcoming include:
- Allerton Mauleverer with Hopperton Parish Council;
  - Arkendale, Coneythorpe & Clareton Parish Council;
  - Goldsborough & Flaxby Parish Council;
  - Leeds Bradford International Airport;
  - British Horse Society;
  - The Victorian Society;
  - Royal Society for the Protection of Birds (North of England);
  - CPRE – Harrogate;
  - Ramblers Association;
  - The Open Spaces Society; and
  - Yorkshire Wildlife Trust.

#### Notifications

- 4.18 County Cllrs James Robert Windass & Andy Paraskos have been informed of the receipt of the application and 'further information' (6<sup>th</sup> March 2019 and 19<sup>th</sup> November 2019 respectively).
- 4.19 In addition, the Secretary of State (SoS, MHCLG) has been provided with a copy of the *Environmental Statement* accompanying the planning application in accord with the provisions of the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017*.

## **5.0 Advertisement and representations**

- 5.1 The proposal has been advertised by means of Site Notices posted on 1<sup>st</sup> March 2019 (responses to which expired on 31<sup>st</sup> March 2019). The Site Notices were posted in the following locations: at the site entrance; on public bridleway up from site entrance. A Press Notice appeared in the Harrogate Advertiser on 14<sup>th</sup> March 2019 (responses to which expired on 13<sup>th</sup> April 2019). The most recent site and press notices were placed 21<sup>st</sup> November 2019 following the submission of further environmental information and expired 21<sup>st</sup> December 2019.
- 5.2 Neighbour Notification letters were sent on 5<sup>th</sup> March 2019 to the following properties:
- Walls Close House Farm, Allerton Park, Knaresborough;
  - Walls Close House Farm Cottage, Allerton Park, Knaresborough;
  - Cherrytree Barn, Allerton Park, Knaresborough;
  - Keepers Cottage, Allerton Park, Knaresborough; and,
  - South Farm, Great North Road, Arkendale.

- 5.3 No representations have been received in response to the afore-mentioned advertisement of the application.
- 5.4 The neighbours previously notified were also notified of the submission of ‘*further information*’ in November 2019 and the period in which to make comment expired on 20<sup>th</sup> December 2019.

## 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 include the:
- extant ‘*saved*’ policies of the *North Yorkshire Waste Local Plan* (‘*saved*’ by SoS Direction in 2009);
  - ‘*saved*’ policies of the *North Yorkshire Minerals Local Plan* (‘*saved*’ by SoS Direction in 2007); and,
  - emerging draft policies *Minerals and Waste Joint Local Plan* (currently in examination).

While the *Harrogate District Local Plan (2014-2035)* (adopted 4<sup>th</sup> March 2020) does not contain policies which are specific to waste management proposals, it nevertheless forms part of the *Development Plan* against which to assess the proposals.

### North Yorkshire Waste Local Plan (‘saved’ by SoS Direction in 2009)

- 6.2 As a waste-related development, the *North Yorkshire Waste Local Plan* (NYWLP) is the most relevant plan containing policies against which to determine the application. The ‘*saved*’ policies of most relevance include:
- Policy 4/1 Waste Management Proposals;
  - Policy 4/3 Landscape Protection;
  - Policy 4/10 Locally Important Sites;
  - Policy 4/14 Historic Environment;
  - Policy 4/18 Traffic Impact;
  - Policy 4/19 Quality of Life;
  - Policy 4/22 Site Restoration; and,
  - Policy 6/1 Landfilling Proposals
- 6.3 ‘*Saved*’ NYWLP Policy 4/1 (‘*Waste management proposals*’) is a criteria-based policy seeking to ensure the consideration of many elements relevant to the proposal:
- a) *the siting and scale of the development is appropriate to the location of the proposal;*
  - b) *the proposed method and scheme of working would minimise the impact of the proposal;*
  - c) *there would not be an unacceptable environmental impact;*
  - d) *there would not be an unacceptable cumulative impact on the local area;*
  - e) *the landscaping and screening has been designed to effectively mitigate the impact of the proposal in a way that is sympathetic to local landscape character;*
  - f) *where appropriate, adequate provision is made for the restoration, aftercare and management of the site to an agreed afteruse;*
  - g) *the proposed transport links are adequate to serve the development; and*
  - h) *other environmental and amenity safeguards would effectively mitigate the impact of the proposal;*
  - i) *it can be demonstrated that the proposal represents the Best Practicable Environmental Option for dealing with the waste;*
  - j) *the location is geographically well located to the source of the waste thereby according with the proximity principle’*

- 6.4 The above 'saved' policy is assessed as broadly consistent with the *National Planning Policy for Waste* (NPPW, October 2014), the *National Planning Policy Framework* (NPPF, February 2019) and with the waste section of the online national *Planning Practice Guidance* (PPG) which for the most part dates to October 2014 (with the exception of the revision of one paragraph in April 2015).
- 6.5 In terms of the consistency of this 'saved' policy with the NPPW and, in particular, criteria *b), c), e), g)* and *h)*, reference is made to NPPW's Paragraph 7 which points to the locational criteria in NPPW's Appendix B (i.e. protection of water quality and resources and flood risk management; land instability; landscape and visual impacts; nature conservation; conserving the historic environment; traffic and access; air emissions, including dust; odours; vermin and birds; noise, light and vibration; litter and potential land use conflict). Criterion *f)* aligns with the last bullet point of Paragraph 7 of NPPW which seeks to "ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary".
- 6.6 With respect to criteria *j)*, the NPPW and PPG are clear that the 'proximity principle' is an important aim in planning for waste developments.
- 6.7 In terms of consistency with the NPPF, criterion *e)* requires that landscaping and screening should mitigate against any impacts and be sympathetic to local landscape character which aligns with NPPF Paragraph 127 (part *c)* and is consequently afforded weight in relation to this planning application.
- 6.8 Criterion *g)*, is considered consistent with the provisions of the NPPF, NPPW and PPG. The third bullet point of NPPW Paragraph 5 requires regard to be had to the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport and largely compliant with the NPPW. With regards the NPPF, this also reflects the requirement for adequate transport links and, as such, given this national policy position, substantial weight is able to be afforded.
- 6.9 Similarly, criteria *c), d), e), f) & h)*, in seeking environmental safeguards, align with the elements of the NPPF discussed the paragraphs that follow in relation to landscape nature conservation and protection, safeguarding of the historic environment and the public rights of way network, minimisation of traffic impacts and impacts upon the quality of life and ensuring appropriate site restoration and 'after-care' as well as the protection of water resources (aligning with NPPF Paragraph 165, which requires the incorporation of sustainable drainage systems into proposals coming forward).
- 6.10 'Saved' NYWLP Policy 4/3 ('*Landscape Protection*') guards against unacceptable effects upon the character and uniqueness of the landscape and, wherever possible, enhancement of the local landscape character; consistent with NPPF Paragraph 127 (part *c)* ensuring proposals are sympathetic to local character and history and, accordingly, affording weight to this particular 'saved' policy'.
- 6.11 'Saved' NYWLP Policy 4/9 ('*National Sites*') seeks to protect *Sites of Special Scientific Interest* (SSSIs) from inappropriate development and is consistent with the principles of NPPF Paragraph 170 which explains how planning decisions should protect, contribute to and enhance the natural environment (criterion *a)*) as well as recognising its intrinsic character and beauty (criterion *c)*), providing net gains for biodiversity (part *d)*) and preventing unacceptable adverse impacts (criterion *e)*); and the principles within Paragraph 175 which, along with other measures, seeks to ensure a continuum ranging, in the first instance, avoidance of harm, mitigation of harm and compensation for unavoidable harm to biodiversity and where that cannot be achieved, a refusal of

permission as well as opportunities for improvements; thereby affording this particular 'saved' policy full weight.

- 6.12 'Saved' NYWLP Policy 4/10 ('*Locally important sites*') seeks to avoid unacceptable impacts upon the '*intrinsic interest*' of local designations (which in this particular case includes *Allerton Park Site of Importance for Nature Conservation* (SINC)) and aligns with NPPF Paragraph 170 seeking contributions and enhancements to natural and local environments ensuring its capability of being afforded weight in decision-taking.
- 6.13 'Saved' NYWLP Policy 4/14 ('*Historic environment*') seeks to avoid unacceptable effects on, *inter alia*, listed buildings and *Registered Parks & Gardens* including their settings which is broadly consistent with NPPF; however, NPPF Paragraph 193 states *great weight should be given to [an] asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance* and Paragraph 194 goes on to say, *'Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional'*.

Consequently, the weight to be afford to this 'saved' policy is more limited.

- 6.14 'Saved' NYWLP Policy 4/18 ('*Traffic Impact*') guides development in situations where the level of vehicle movements likely to be generated can be satisfactorily accommodated and capable of avoiding unacceptable impacts upon local communities; a policy position consistent with NPPF Paragraph 108 (part c)) (i.e. *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree*'). However, the NPPF goes further within Paragraph 109 to stipulate that proposals '*should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'. In addition, NPPF Paragraph 111 requires *Transport Assessments* to be carried out where significant amounts of traffic could be generated. Such an assessment has been undertaken in connection with this particular application and is provided within the submitted Environmental Statement at Appendix 5.1.
- 6.15 'Saved' NYWLP Policy 4/19 ('*Quality of life*') seeks to avoid unacceptable impacts upon the local environment and residential amenity; a policy position consistent with NPPF Paragraph 170 (summarised in paragraph 6.11 above) and Paragraph 180 which seeks to ensure that any likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts are taken into account; the relevant element of which applicable to this application includes mitigating against adverse noise impacts.
- 6.16 There similarly exists consistency with NPPW Paragraph 7 and Appendix B containing criteria on factors such as visual impacts, air emissions including dust, odours, noise, light and vibration; ensuring due weight is capable of being afforded to this 'saved' policy and, in with particular regard to noise, consistent with the *Noise Policy Statement for England* (published 15<sup>th</sup> March 2010).
- 6.17 'Saved' NYWLP Policy 4/20 ('*Open space, Recreation and Public Rights of Way*') seeks to protect *Public Rights of Way* and advises that waste management facilities should not have an unacceptable impact on the recreational value or enjoyment of the

*Public Rights of Way* network; a policy position consistent with NPPF Paragraph 98 (also seeking their protection and enhancement as well as providing opportunities for better facilities) and therefore afforded due weight.

- 6.18 ‘*Saved*’ NYWLP Policy 4/22 (*‘Site Restoration’*) supports restoration schemes where they are capable of enhancing the local environment; a policy position aligning with NPPF Paragraph 205 (part e)) (albeit with its focus upon former mineral sites) i.e. that restoration and aftercare should be provided for at the earliest opportunity and be carried out to high environmental standards. and NPPW Paragraph 7 seeking restoration to *‘high environmental standards’* and thus due weight may be afforded to this *‘saved’* policy.
- 6.19 ‘*Saved*’ NYWLP Policy 4/23 (*‘After-care’*) requires a period of *‘after-care’* to bring the restored land up to an approved standard for the specified after-use which is again a policy position aligning with NPPF Paragraph 205 (albeit with its focus upon former mineral sites).
- 6.20 ‘*Saved*’ NYWLP Policy 6/1 (*‘Landfill proposals’*) provides support for proposals where a need has been identified (criterion a)) involving the restoration of a former mineral void (criterion b)), providing associated vehicle movements are capable of being accommodated (criterion d)) and unacceptable impacts upon local amenity or the environment are avoided (criterion e)) and is generally consistent with NPPF paragraphs 108, 170 and 205.

*North Yorkshire Minerals Local Plan (adopted 1997)*

- 6.21 As the proposal concerns amendments to restoration and *‘after-care’* requirements in respect of the site, the *North Yorkshire Minerals Local Plan* (NYMLP) has relevance.
- 6.22 ‘*Saved*’ NYMLP Policy 4/18 (*‘Restoration to agriculture’*) requires restoration schemes to provide for the *‘best practicable standard of restoration’* and, where possible, *‘include landscape, conservation or amenity proposals’*.
- 6.23 ‘*Saved*’ NYMLP Policy 4/20 (*‘Aftercare’*) requires the imposition of a period of five years of *‘after-care’* and is consistent with NPPF Paragraph 205 and duly afforded weight.

*Emerging Minerals & Waste Joint Plan (currently in examination)*

- 6.24 The draft MWJP was published in November 2016 for representations; after which consultation commenced on an *Addendum* schedule of proposed changes for an 8-week period over summer 2017. While the *Hearings* into the Local Plan have been held (these took place in 2018 and 2019), the Plan remains currently *‘in examination’* and the next stage will see public consultation on *Main Modifications*. Therefore, policies will continue to be given more weight as the Plan progresses through to adoption.
- 6.25 As the *Joint Plan* has been, and continues to be, produced post-publication of the NPPF, there is no requirement to include herein NPPF-consistency statements in respect of the emerging draft MWJP policies that follow below.
- 6.26 Emerging draft MWJP Policy W01 (*‘Moving waste up the waste hierarchy’*) supports proposals for extensions of time at existing permitted landfill sites with remaining void space where, *inter alia*, capacity needs to be maintained, a high/satisfactory standard of restoration is capable of being achieved, inert waste disposal can be facilitated.
- 6.27 Emerging draft MWJP Policy W03 (*‘Meeting waste management capacity requirements - Local Authority Collected Waste’*) states,

*'Net self-sufficiency in capacity for management of Local Authority Collected Waste will be supported through:*

*1) Identification of the Allerton Park (WJP08) ... as strategic allocations over the Plan period for the management of LACW. Proposals to extend the time period for continued waste management operations ... and the development of other appropriate waste management infrastructure will be permitted. Proposals for development at the allocated sites referred to in 1) and 2) above will be required to take account of the key sensitivities and incorporate the necessary mitigation measures that are set out in Appendix 1.'*

- 6.28 Within this policy's reasoned justification, paragraph 6.52, goes on to explain the role which the site will continue to play in providing strategic landfill capacity over the plan period, stating,

*'As well as providing a strategically important location for recycling and recovery, the wider Allerton Park site (adjacent to the AWRP facility) contains a significant proportion of the remaining permitted capacity for biodegradable landfill in the Plan area, capable of receiving residual LACW and other waste which cannot be diverted from landfill. Although the progress being made in diverting waste from landfill may mean that the landfill capacity within the site is not required to meet needs arising in the Plan area, there is a small potential gap in capacity for landfill at the end of the plan period and it is considered important to support the retention of the facility to cover this eventuality and provide flexibility in the Joint Plan. The Allerton Park complex is therefore likely to remain a strategically important location for the management of LACW and other similar waste during the Plan period and it is appropriate to identify and protect it as such in the Joint Plan. The landfill operation is the subject of a planning permission which is due to expire in 2018 and support in principle for an extension of time for this permission is provided in Policy W03.'*

- 6.29 Emerging draft MWJP Policy W04 (*'Meeting waste management capacity requirements – Commercial and Industrial waste (including hazardous C&I waste'*), the role of which is to assist the county in meeting its requirements to provide for commercial and industrial waste disposal capacity, has within its reasoned justification at paragraph 6.66 an explanation that a large proportion of remaining capacity for landfill of non-inert waste is concentrated in both this site and one other in the county.

- 6.30 Emerging draft MWJP Policy W05 (*'Meeting waste management capacity requirements - Construction, Demolition and Excavation waste (including hazardous CD&E waste'*), particularly part *iv*), in striving to achieve net self-sufficiency in capacity for the management of construction, demolition and excavation (CD&E), supports proposals *"for extending the time allowed to use remaining void space at existing CD&E landfill sites that are the subject of time-limited permissions"*.

- 6.31 Emerging draft MWJP Policy W10 has its focus upon *'Overall locational principles for provision of waste capacity'* stating,  
*"The allocation of sites and determination of planning applications should be consistent with the following principles: [inter alia] ...*

*2) maximising the potential of the existing facility network by supporting the continuation of activity at existing time limited sites with permission, the grant of permission for additional capacity and/or appropriate additional or alternative waste uses within the footprint of existing sites and, the extension to the footprint of existing sites"*.

- 6.32 Emerging draft MWJP Policy D01 (*'Presumption in favour of sustainable minerals and waste development'*) endeavours, wherever possible, to lend support to proposals where they are able to secure economic, social and environmental improvements as well as where they generally accord with the policies of the Plan and the NPPF

- 6.33 Emerging draft MWJP Policy D02 (*'Local amenity and cumulative impacts'*) requires due regard to be had to a number of material considerations (including 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); the effects of which must first sought to be avoided or where this is not possible robustly mitigated.

- 6.34 Emerging draft MWJP Policy D03 (*'Transport of minerals and waste and associated traffic impacts'*) seeks to safeguard against any unacceptable impacts arising from traffic associated with proposed development.
- 6.35 Emerging draft MWJP Policy D06 (*'Landscape'*) seeks to ensure no unacceptable impacts occur on the quality and/or character of the landscape and where impacts cannot be avoided, 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.
- 6.36 Emerging draft MWJP Policy D07 (*'Biodiversity and Geodiversity'*) seeks to avoid unacceptable impacts on biodiversity or geodiversity, including on statutory and non-statutory designated or protected sites and features, Sites of Importance for Nature Conservation, Sites of Local Interest and Local Nature Reserves, local priority habitats, habitat networks and species and where this is not possible securing appropriate measure in mitigation.
- 6.37 Emerging draft MWJP Policy D08 (*'Historic environment'*) seeks the enhancement of *elements which contribute to the significance of the area's heritage assets including their setting*. Proposals that would result in less than substantial harm to the significance of a designated heritage asset (or an undesignated archaeological site of national importance) will be permitted only where this is outweighed by the public benefits of the proposal.
- 6.38 Emerging draft MWJP Policy D09 (*'Water Environment'*) seeks to avoid unacceptable impacts arising in respect of *surface or groundwater quality and/or surface or groundwater supplies and flows*. Furthermore, development which would lead to an unacceptable risk of, or be at an unacceptable risk from, all sources of flooding (i.e. surface and groundwater flooding and groundwater flooding from rivers and coastal waters) will not be permitted and, where necessary or practicable taking into account the scale, nature and location of the development proposed, include measures to contribute to flood alleviation and other climate change mitigation and adaptation measures including use of sustainable urban drainage systems.
- 6.39 Emerging draft MWJP Policy D10 (*'Reclamation and after-use'*) requires restoration and *'after-care'* to have regard to comments of relevant stakeholders, maximise potential overall benefits and minimise overall adverse impacts in addition to the impacts of climate change and demonstrate an understanding of the local context as well as being expected to be carried out to a high standard. In the case of this application, particular regard is to be had to the requirements of criterion *iv)* of Part 2) in relation to airfield safeguarding zones, namely *RAF Linton-on-Ouse*, criterion *v)* of Part 2) in relation to important heritage assets and also criterion *viii)* of Part 2) in relation to biodiversity.
- 6.40 Emerging draft MWJP Policy D11 (*'Sustainable design, construction and operation of development'*) requires proposals minimise greenhouse gas (GHG) emissions, waste generation, water consumption and flood risk, maximize biodiversity and landscape

opportunities and look to generate and utilise renewable or low carbon energy as well as having regards to climate change.

[Harrogate District Local Plan \(2014-2035\) \(adopted 4<sup>th</sup> March 2020\)](#)

- 6.41 This Plan has recently been adopted (negating the need to assess the degree of consistency with the NPPF). Those policies of relevance to the determination of the applications include those identified within the paragraphs that follow.
- 6.42 HDLP Policy CC1 (*'Flood Risk and Sustainable Drainage'*) guards against adverse effects on watercourses or increase the risk of flooding elsewhere.
- 6.43 HDLP Policy CC2 (*'Rivers'*) seeks to protect and improve the quality of water bodies and their ecological systems.
- 6.44 HDLP Policy CC4 (*'Sustainable design'*) requires, *inter alia*, "*all developments to be designed to reduce both the extent and the impacts of climate change*".
- 6.45 HDLP Policy HP2 (*'Heritage Assets'*) directs heritage asset protection and, where possible, their enhancement with particular relevance is part D) of this policy which seeks to safeguard against harm to elements of *Registered Parks & Gardens* "*which contribute to [their] layout, design, character, appearance or setting (including any key views from or towards the landscape), or prejudice its future restoration*".
- 6.46 HDLP Policy HP3 (*'Local Distinctiveness'*) which, amongst others, expects development to incorporate "*landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district's rural and urban environments*".
- 6.47 HDLP Policy HP4 (*'Protecting Amenity'*) ensuring against significant adverse impacts upon residential amenity.
- 6.48 HDLP Policy HP5 (*'Public Rights of Way'*) (PRoWs) seeks the protection of, or satisfactory diversions of, PRoWs (*Part A*) and opportunities for enhancement (*Part B*).
- 6.49 HDLP Policy NE1 (*'Air Quality'*) and, in particular, under *Part B*), requires air quality and/or dust impact assessments to be undertaken where development proposals may give rise to emissions to air.
- 6.50 HDLP Policy NE2 (*'Water Quality'*) requires applicants to undertake thorough risk assessments of surface and groundwater impacts.
- 6.51 HDLP Policy NE3 (*'Protecting the Natural Environment'*) is supportive of proposals that both protect and enhance features of ecological interest and those that provide net biodiversity gain.
- 6.52 HDLP Policy NE4 (*'Landscape Character'*) lends support to proposals that protect, enhance or restore landscape character.
- 6.53 HDLP Policy NE5 (*'Green and Blue Infrastructure'*) and, in particular, *Part A*) thereto, requires development to protect and enhance the social, environmental and economic benefits of existing green infrastructure features and/or incorporate new green infrastructure features within their design.
- 6.54 HDLP Policy NE7 (*'Trees and Woodland'*) seeks, *inter alia*, to protect and enhance existing trees that have wildlife, landscape, historic, amenity, productive or cultural value.

## 7.0 Planning considerations

- 7.1 This application is made under the provisions of *Section 73* of the *Town and Country Planning Act 1990* and this provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. Permission can be granted unconditionally or subject to different conditions, or can be refused if the original conditions are deemed to be justified in remaining unchanged or perhaps in a circumstance where the planning policy context may have changed since the grant of the original permission. While the question concerns the conditions themselves, it is possible to assess the wider considerations affecting the original grant of permission. However, the original permission remains intact and a new decision would be issued if the application to not comply with original conditions was judged to be acceptable in land use planning terms.
- 7.2 Notwithstanding, *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 and, in the case of applications seeking permission to not comply with conditions previously imposed, which is the case in this instance, the County Planning Authority is obliged to focus its attention on national or local policies or other material considerations which may have changed significantly since the original grant of permission, as well as the changes being sought. There have been a number of changes to both national and local planning policy since the previous planning permission was granted on the 23<sup>rd</sup> May 2002; namely, the *National Planning Policy Framework (NPPF)* (published 2019) and the *National Planning Policy for Waste (NPPW)* (2014) as well as the relevant policies previously outlined in Section 6.0 above.
- 7.3 As well as reiterating the requirements of *Section 38(6)*, NPPF Paragraph 11 advises decisions should be made without delay where proposals accord with the *Development Plan*, but if such a Plan were absent, silent or relevant policies out-of-date, then decisions should be made provided that there is no conflict with the policies of the NPPF that protect areas or assets of particular importance or where “*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies*” of the NPPF when taken as a whole. In this instance, however, there exist relevant policies within the documents that comprise the *Development Plan* against which to assess the application; negating the need to rely solely on the assessment of the application against the NPPF.
- 7.4 In light of the policies outlined within Section 6.0 above, the main considerations in this instance are:
- *the principle of the proposed development;*
  - *landscape and visual impacts;*
  - *traffic and transportation impacts;*
  - *impacts upon ecology and nature conservation;*
  - *impacts upon cultural heritage;*
  - *geology and hydrogeology impacts;*
  - *impacts upon hydrology and flood risk;*
  - *noise and air quality impacts;*
  - *cumulative impacts.*

### *Principle of the proposed development*

- 7.5 The principle of the use of the land for the purposes to which this application proposes was first established at the time of the original permission in 1988 and subsequent permissions thereafter as outlined within Section 2.0 of this report. Members are advised to note that while the principle of the development cannot be revisited, attention can focus on the policies of the *Development Plan* and other important

material considerations which may have either been introduced or revised/updated since the original grant of permission such as those found within the NPPF and NPPW (as outlined earlier in this report within Section 6.0 above) as well as the changes being sought in the application itself.

- 7.6 The foremost extant *Development Plan* policies, therefore, against which to assess the proposals and to which regard must be had include 'saved' NYWLP Policy 4/1 which seeks, amongst other locational criteria, in criterion a) i.e. that the development's siting and scale must be appropriate to the location and in criterion j) to ensure that such sites are geographically well located to where waste is generated; thereby according with the NPPW's '*proximity principle*'; criteria a) and b) of 'saved' NYWLP Policy 6/1 is supportive of restoring former mineral workings and emerging draft MWJP Policy W01 which, in turn, is supported by emerging draft MWJP Policy W03 through the site's proposed allocation, emerging draft MWJP Policy W04 in respect of continuing to maintain commercial and industrial (C&I) waste capacity and emerging draft MWJP Policy W05 supporting extensions to the life of construction, demolition and excavation (CD&E) waste disposal sites to secure void space capacity within the county, as well as emerging draft MWJP Policy W10 supporting the extension of life to existing sites and emerging draft MWJP Policy D10 which seeks to ensure a high standard of aftercare and restoration.
- 7.7 The site is an established landfill site, having been worked as a minerals site for sand and gravel and, thereafter, being progressively restored by landfill since the late 1980s. The principle of development and its acceptability has therefore been established by the previous permissions (ref. no. C6/500/63J/CMA, dated 23<sup>rd</sup> May 2002 the conditions of which are the subject of this application, and the original permission ref. no. C6/500/63/PA) for sand and gravel extraction and restoration by landfill, granted 18<sup>th</sup> July 1988). This planning application seeks permission to not comply with the time-limit of the previous permission and to continue landfilling operations for a further 6 years (until 31<sup>st</sup> December 2024) with a further year for restoration, the amendment of the final restoration levels across the site and secure the final restoration scheme for the southern part of the site to allow satisfactory restoration. The site is currently unfinished and there is no current importation of material. It is understood that restoration stopped in 2017 and would re-commence if permission were to be granted.
- 7.8 Permission to continue operations without compliance with the original time limitation is sought as a result of fluctuations and uncertainty in waste flows due to more material being recycled and less availability of materials to restore the site to a satisfactory landform. The scheme proposed would involve a reduction in the quantities of material imported, both of inert fill and of waste when compared to the previously approved scheme. Inert fill constitutes a 234,000 m<sup>3</sup> reduction on the previous scheme. The overall reduction in landfill void is approximately 1.2 million m<sup>3</sup> from that which was consented previously.
- 7.9 The site plays a strategic role in the provision of landfill capacity, which is acknowledged within the MWJP. The continuation of waste disposal operations at the site would enable a more acceptable landform to be achieved; helping to restore a landfill site in line with policy and guidance at the national level. The development is capable of providing capacity for waste which cannot be recycled, re-used or otherwise treated, as well as further capacity for residual waste further afield. This will help ensure net self-sufficiency in the disposal of waste in the county in accord with NPPW, the emerging MWJP and the 'saved' NYWLP policies. The development is considered appropriate in both location and scale being adjacent to an existing waste management facility and providing a proximate means of disposal of residual waste produced from the adjacent facility and beyond and also providing a means of restoring a former mineral working to an acceptable landform as sought within criteria a) and j) of 'saved' NYWLP Policy 4/1. Furthermore, due to the demonstration of continued need for the

void space to accommodate the disposal of waste in the short term together with the demonstrable need to require the restoration of the site through the completion of the landform levels, the proposal also finds support within criteria a) and b) of 'saved' NYWLP Policy 6/1 ('*Landfill Proposals*') where a need has been identified (criterion a)) to meet the county's short-term waste disposal requirements and the fulfilment of an acceptable final restoration landform for the former mineral void (criterion b)); aligning too with 'saved' NYMLP policies 4/18 and 4/20. The proposal also accords with emerging draft MWJP Policy W01; and its allocation in draft MWJP Policy W03 gives support in principle as well as further support provided within draft MWJP policies W04, W05 and W10. Furthermore, the proposal accords with emerging draft MWJP Policy D10 in providing a restoration and after-care scheme which is been accepted as being satisfactory by those consulted.

- 7.10 The proposal would also result in slightly less traffic movements. It is considered that the proposal is capable of being acceptable in land use planning terms, provided appropriate mitigatory measures, discussed in the paragraphs that follow, are implemented and planning conditions which are capable of providing appropriate control of the development to safeguard against impacts upon local amenity and the environment are imposed. The changes outlined in Section 3.0 are not accompanied by any other changes to the operational aspects of the site as previously permitted.
- 7.11 It is acknowledged that the proposal constitutes a continued existence of landfilling in this locality over a further extended period with potential associated impacts on the area. Notwithstanding, the continued operations at this site beyond the time limitations imposed upon the previous grant of consent, it is considered that, with appropriate mitigation measures in place, the temporary nature of the proposed development, the reduction in quantity of fill material compared to the previously approved scheme, as well as the provision of a full and final restoration of the site render the proposals capable of being acceptable in land use planning terms.
- 7.12 While the '*in principle*' acceptability has already been established, any potential adverse impacts on the environment and amenity arising from the continuation of tipping and restoration operations do need to be considered and these are addressed in the paragraphs that follow relating to landscape and visual impact; traffic and transportation; ecology and nature conservation; cultural heritage; geology and hydrogeology; hydrology and flood risk; noise and air quality.

#### Landscape and visual impacts

- 7.13 It is important, for the sake of clarity and understanding, to distinguish that *landscape impacts* are distinct from *visual impacts* in that they relate to changes in the fabric character and quality of the landscape; whereas *visual impacts* relate to specific changes in views and the attendant impacts therefrom upon others such as those living in the vicinity of a site or those enjoying the outdoors along public footpaths for instance.
- 7.14 Within this context, a detailed *Landscape and Visual Impact Assessment* (LVIA) has been submitted as part of the application and the relevant chapter within the ES outlines the assessment against two baseline scenarios; the first being the consented landform for the site and the second being the realistic post-2018 landform.
- 7.15 An important consideration of the assessment has been the presence of *Allerton Park Grade II Registered Park and Garden* and associated heritage assets within the landscape. The baseline of the LVIA takes into account the presence of *Allerton Park Grade II Registered Park and Garden*, the boundary of which overlaps part of the site and, in the main, lies immediately south of the site and associated listed buildings, notably the '*The Mansion*' (*Grade I listed*), relatively distant from the landfill and the

'*Temple of Victory*' (Grade II\* listed). These are also considered in the assessment in relation to cultural heritage.

- 7.16 The assessment explains the landfilling operations within the northern and central parts of the site have been completed and restored and the north west of the site is now occupied by the AWRP. The area proposed to be affected by the changes comprises a body of water, areas of regenerated vegetation and the temporary capped '*batter*' (slope of wall in the earthworks) at the southern edge of the existing landfill area. The LVIA explains that planting is so extensive that screening is likely to be effective even during winter; with the exception that there are areas along the north-eastern boundary where only a narrow belt of trees separates the site from public rights of way, and hence views could be more clear in winter in these locations. Views from *public rights of way* tend to be well screened by vegetation (particularly to the east) and phasing of the development would assist in mitigating the effects of the proposal on the environment and the landscape. In the main, there are limited opportunities for views to be obtained from publicly accessible locations within the surrounding landscape and, the historic parkland is not open to the public. While the proposals would give effect to a smaller footprint and would involve a loss of vegetation, this is balanced against the creation of new woodland and restoring historic parkland character within the '*Amended Scheme*'.
- 7.17 The ES explains that the assessment of the '*susceptibility to change*' of the landscape type in which this application site is situated has been concluded as '*low*' and any adverse landscape and visual effects from the proposals assessed as '*not significant*', with no further mitigation measures proposed. The overall effects upon landscape character and visual effects have been assessed by the applicant as '*not significant*'.
- 7.18 Both national and local planning policy strive to encourage, in the first instance, the avoidance of significant effects and, where this is not feasible, the mitigation of effects to minimise the magnitude and significance of adverse impacts. Having had the application subject to both public consultation and consultation with statutory consultees and discretionary consultations, the County Planning Authority received comments in the form of a '*holding*' objection from the County Council's expert adviser on the matter of landscape and an objection from *The Gardens Trust*. The ground being the "*potential for significant adverse effects to heritage assets and indirect cumulative effects in relation to Allerton Waste Recovery Park*" on the part of the former and, on the part of the latter, the prolonged impact of the development on the *Registered Park & Garden*.
- 7.19 In seeking to address the concerns of those in objection, the applicant has revised the proposals and is of the view that the reduced footprint (as a result of no longer filling in the pond, known as P1) and the retention of a greater proportion of existing vegetation to the south east of the waterbody, the effects upon the physical landscape fabric of the site would be incrementally more beneficial than the originally submitted scheme in 2018. The submission goes on to explain that revised restoration proposals would result in a more diverse range of landscape features within the restored site, including new native woodland, and new and retained waterbodies and grassland/scrub. The applicant acknowledges that while activity would continue for a longer period, the total loss of vegetation would be less than that of the scheme as previously consented and the effects would be neutral. In the longer term, the view is expressed by the applicant that there would be a beneficial effect arising from the introduction of additional new woodland, the partial retention of the existing waterbody and regenerated vegetation and the introduction of new waterbodies, none of which formed part of the previously consented restoration scheme. The applicant has explained that, from a visual perspective, the revisions to the landform profiles would be undertaken at a low elevation and, therefore, capable of being screened from views outside of the site

resulting in a reduced ability to discern such changes and, thereby, safeguarding against any adverse visual impacts or adverse impacts upon amenity.

- 7.20 The objections on landscape grounds, earlier summarised, have given rise to the applicant's submission of '*further information*' in July 2019 as well as the submission of the *Landscape & Cultural Heritage Technical Note* in November 2019 which explained more fully the relationship between and effects upon the *Registered Park & Garden* and heritage assets to the south. Both the '*further information*' and the *Note* confirm that the proposal would be no higher in elevation than the surrounding landform and the applicant also argues that the proposed operations are unlikely to be any more visible than previous waste tipping operations. Indeed, the adjacent AWRP development is argued to be more prominent and '*eye-catching*' than the landfill and generally visible over a much wider area. The proposed development would not alter, in any way, the visibility of the adjacent AWRP development.
- 7.21 Importantly, the submitted *Landscape & Cultural Heritage Technical Note* in seeking to address the objections that had been raised on landscape grounds, re-assessed the landscape and visual effects of the '*Amended Scheme*' and drew the conclusion that, with specific regard to the *Allerton Park Mansion*, the originally submitted LVIA had over-estimated the visibility of the landfill from the *Mansion*; instead concluding that only the very top of the landfill would, in the view of the applicant, be visible from this heritage asset and the *Amended Scheme* would not alter this. The effects, therefore, were re-assessed as '*minor adverse*' as opposed to '*moderate adverse*' as had been previously assessed.
- 7.22 Both the '*further information*' submitted by the applicant and the *Note* were also consulted upon by the County Planning Authority. As a result of the re-consultation exercise, the County Council's expert adviser on landscape matters has advised of satisfaction that the '*Amended Scheme*' is capable of providing reasonable protection for the character and setting of *Allerton Park* as well as a suitable revised landfill restoration so long as a detailed landscaping scheme is submitted together with details for a five-year period of maintenance and '*after-care*', secured by condition, (including a requirement for implementation in the first available planting season).
- 7.23 Having consulted upon, publicised and assessed the application and '*further information*' received, there is no reason to counter the conclusions of the evidence submitted by the applicant that the effects will not be significant. The revised '*further information*' has demonstrated that the effect upon the *Registered Park and Garden* and associated heritage assets and indirect cumulative effects in relation to *Allerton Waste Recovery Park* (AWRP) are acceptable and that the agreed landscape restoration, maintenance and '*after-care*' scheme will lead to the improvement of the landscape character which will also lead to the enhancement of the setting of the heritage assets. The '*further information*' has explained the relationship of the AWRP facility and how the intervening landform would be changed and the resulting cumulative effects with the AWRP. The submitted documents now include drawings to show how the landfill restoration would sit with both the consented landscape scheme for the AWRP facility and the consented restoration scheme that would be implemented once the AWRP facility is removed. As part of the proposed development, the revised restoration scheme (the '*Amended Scheme*') has been necessary to overcome the concerns raised in opposition. This takes into account both changes in the final restored landform at the site and also changes to the proposed landscaping at the site to reflect both the proposed landform itself and the presence of separate landscape proposals for the adjacent AWRP.
- 7.24 The foremost extant policies of the *Development Plan* against which to assess the landscape and visual effects of the proposals include criteria e) and f) of '*saved*' NYWLP Policy 4/1 and '*saved*' NYWLP policies 4/3 and 4/22, '*saved*' NYMLP policies

4/18 and 4/20 as well as HDLP policies HP3, NE4, NE5 and NE7 in addition to emerging draft MWJP Policy D06. In assessing the development, these policies have been satisfied in that the proposal has been designed in such a way as to both effectively mitigate the impacts and be sympathetic to the character of the local landscape sufficient to overcome the concerns raised in objection; thereby safeguarding against unacceptable effects upon both landscape and visual amenity, having received the expert advice of the County Council's landscape adviser that the revised proposals are capable of providing a "reasonable protection for the character and setting of Allerton Park and as a suitable revised landfill restoration".

#### Traffic & transportation impacts

- 7.25 The applicant's assessment has reviewed traffic levels against baseline conditions and included an analysis of the traffic-related environmental and operational impacts likely to be generated by the proposal. The submitted *Transport Assessment* has taken into account *Allerton Waste Recovery Park* (AWRP) traffic flows combined with data from previous years' operations of the landfill (including leachate collection vehicles) to assess traffic impact. It also considered the developments which could have a cumulative impact with the extension of life proposals. The assessment concluded that the extension to the life of the development is not anticipated to give rise to any perceptible increase in traffic on the local highway network. This is especially so when taking into account that the 'Amended Scheme' would result in fewer trips (i.e. 126 two-way vehicle movements (63 in/63 out)). There is, therefore, proposed to be no change to the applicant's original conclusion that there would be *negligible* impact.
- 7.26 The foremost extant *Development Plan* policies against which to assess the traffic and transportation impacts of the proposals include criterion g) of 'saved' NYWLP Policy 4/1, 'saved' NYWLP Policy 4/18 which favours development that can be satisfactorily accommodated on the local highway network and emerging draft MWJP Policy D03.
- 7.27 The submission has been scrutinised by the relevant experts within the Highway Authority agreeing, in the first instance, with the conclusions of the *Transport Assessment* that, if approved, the extension of the operational life of the landfill would not result in any perceptible adverse impact on the local highway network and, in the second, agreeing that no further mitigation measures are required to enable a safe working conditions for all road users. Thus, while conditions have been recommended to be imposed to safeguard the interest of highway safety, no objection to the proposed development has been returned on the basis of the highway and traffic impacts which are acknowledged to be limited in their extent.
- 7.28 In light of the absence of objection on this specific element of the proposed development and, taking into account that improvements have been made to the Moor Lane/A168 junction to provide a high standard ghost island T-junction with southbound left turn deceleration lane have ameliorated conditions and that the scheme is temporary in nature for a further six years, the impacts are considered to be acceptable subject to the imposition of the original conditions. It is therefore considered that the proposals accord with criterion g) of 'saved' NYWLP Policy 4/1, 'saved' NYWLP Policy 4/18 and emerging draft MWJP Policy D03 while, at the same time, avoiding any inconsistency with the policies of the NPPF and NPPW as outlined earlier within Section 6.0 of this report.

#### Impacts upon ecology and nature conservation

- 7.29 The *Environmental Statement* that the applicant prepared in support of the application considered biodiversity and the environment within its Chapter 6, its figures and accompanying appendices. The submission's supporting reports are outlined in Section 3.0 of this report. At the local level of designated sites, there are three *Sites of Importance for Nature Conservation* (SINCs) and one deleted SINC (Bog Plantation,



350m to the east). *Allerton Park SINC* is partly within the site and *Allerton Park Lakes SINC* is 20 metres south. *Broadfield Wood* is 800 metres east of the site and is an *ancient woodland*. There are no statutory sites either within, or close to, the application site and it is considered that the distance (some several kilometres) to *Kirk Deighton Special Area of Conservation (SAC)* is sufficient to rule out direct impacts upon the interests of the SAC. The assessment also acknowledges that there are three blocks of *ancient woodland* close to the site, *Shepherds Wood* adjacent to the north west boundary of the site. Direct impacts on existing important ecological features, associated with the proposals for continued landfilling, re-profiling and restoration have been considered; recognising that the site has a variety of habitats and that some of these will be affected by the proposals. However, overall, the assessment of the impacts of the proposed development upon interests of nature conservation value has found an absence of any significant adverse effect to any material degree during the operational phase of the development.

- 7.30 The foremost extant *Development Plan* policies against which to assess the effects of the proposals upon interests of ecological and nature conservation include criteria c) & h) of 'saved' NYWLP Policy 4/1, 'saved' NYWLP policies 4/9, 4/10 and 4/19, criterion e) of 'saved' NYWLP Policy 6/1, HDLP Policy NE3 as well as emerging draft MWJP Policy D07 and these are largely consistent with the thrust of policy expressed within the NPPF (particularly Paragraph 170) as well as the locational criteria set down within the NPPW at Paragraph 7 and Appendix B.
- 7.31 The application has been the subject of consultation with those who are experts in their particular fields and, in the instance of the assessment of ecological and nature conservation impacts, the County Council's in-house adviser on ecology, the Forestry Commission, Natural England and the Environment Agency have all been consulted. Comments received from consultees resulted in the submission of '*further information*' which too has also been subject to consultation. Having undertaken a reassessment of the relevant important ecological features, the applicant explains within this '*further information*' where the changes would result in changes to the outcome of the *Ecological Impact Assessment* at the time of the submission of this current application (presented in the 2018 ES). The '*further information*' states that, as well as the avoidance of the water body (known as P1), the other significant change was two large areas of wet woodland had been added to the proposed *Restoration Plan* as compensation.
- 7.32 While acknowledging the scheme would result in the loss of 0.9 hectares of wet woodland habitat, the applicant has proposed compensation in the form of the inclusion of 0.9 hectares of wet woodland habitat in the revised '*Amended Scheme*'. The *Indicative Restoration Proposals* (drwg ref. no. 2259-01-05 Rev D, dated 13<sup>th</sup> December 2019) which includes the 0.9 hectares of compensatory wet woodland is considered, by those the County Planning Authority has consulted, to be sufficient to compensate for the initial loss and residual effect. This would be created with localised variations to the landform to restrict drainage and create seasonally wet conditions. While the applicant has not proposed to retain water body (known as P2), the retention of water body, P1, has resulted in the County Council's adviser being able to confirm satisfaction with this element of the proposal, particularly, in light that the standing water habitat loss, while adverse, has not been assessed as significant and, with mitigation, its effects are able to be considered as localised.
- 7.33 Furthermore, should planning permission be forthcoming, the applicant proposes the submission of a *Restoration Environmental Management Plan (REMP)* that would ensure against adverse effects upon the *Great Crested Newt* population through pollution protection measures included therein. In providing three new ponds (within a distance of 50 metres of the existing water body known as P1), the intention is that

their ecological value would be maximised and sufficient to compensate for the loss of water body, P2.

- 7.34 It is noted that the Forestry Commission in commenting on the application recommended a condition to protect *ancient woodland*. However, this particular *ancient woodland* would lie to the north-eastern area of the site and at the site's furthest point from the area of landfill operations, the subject of this application, rendering the proposals having minimal impact upon this area of *ancient woodland*; thereby, safeguarding against any conflict with policies which seek to protect this *ancient woodland*. Notwithstanding, appropriate levels of control through the imposition of planning conditions to limit deposition of any dust emitted from the landfilling operations and other protection measures to ensure the protection of the *ancient woodland* are considered prudent in the circumstance.
- 7.35 The proposed development has been assessed against relevant policies that comprise the 'development plan' with particular regard for both ecology and nature conservation. Criteria c) & h) of 'saved' NYWLP Policy 4/1 require the avoidance of unacceptable impacts upon the environment and, where safeguards have been deemed to be required to protect the environment, they are effective in their ability to mitigate against any effects which have been demonstrated to have been satisfied in this particular instance. 'Saved' NYWLP policies 4/9 and 4/10 have also been satisfied in that the proposed development has been demonstrated as being capable of avoiding adverse impacts upon designated sites at both the national and local level. With particular regard to criterion e) of 'saved' NYWLP Policy 4/19 and criterion e) of 'saved' NYWLP Policy 6/1, impacts in general upon the environment have been shown to be capable of being avoided; a position echoed insofar as HDLP Policy NE3 and emerging draft MWJP Policy D07 are concerned.

#### Historic Environment

- 7.36 The development has the potential to affect a number of heritage assets and their settings (including designated and non-designated assets) as a result of the changes within the local topography of the landfill site. The assessment which accompanied the application identified heritage assets with the potential to be affected; namely *Allerton Park Registered Park & Garden*, the *Temple of Victory* (Grade II\* listed); *Allerton Park Mansion* (also known as *Allerton Castle*) (Grade I listed); and *Church of St Mary* (Grade II listed). The effect on the *Registered Park & Garden* and associated heritage assets and their settings is an important material consideration. The designation acknowledges that "*the northern Far Park is now (late C20) intensively farmed and all the trees within it have been felled; some quarrying has encroached into the northern end*". However, of particular note in this instance, is the date of designation of the *Registered Park & Garden* at *Allerton Park* which was made in 1989; the year following the grant of permission for mineral working and restoration by landfill.
- 7.37 The applicant has undertaken a *Heritage Assessment* and submitted a written *Heritage Statement*, explaining that in the applicant's view, while *Allerton Park* is considered to be of high heritage significance, the proposal would "*result in no harm to the contribution of setting to the heritage significance of the [...] assets*". It is noted that the *Heritage Statement* explains the effects on the setting of *Allerton Park Mansion* were 'scoped out' of the process of environmental impact assessment due to the absence of any potential impacts being identified. However, with regards to views away from and toward *The Mansion*, the assessment confirms the existence of "*extremely limited visibility*" and the proposals present a *negligible change*; therefore, the significance of *The Mansion* in terms of any inter-visibility is not harmed.
- 7.38 As earlier referred, the applicant submitted '*further information*' and a '*Landscape & Cultural Heritage Technical Note*'; the latter of which explained that the character of

*Far Park* has changed significantly over time, and that, since the 1970s, it has lost much of the distinctive parkland features which would identify it as historic parkland due to the development of large arable fields, planted copses and pheasant pens. It explains that if the consented restoration scheme were to be implemented, it would lead to further diminishing the experience of *Far Park* as former parkland as it would be restored to agriculture and would blend into the wider agricultural landscape setting of the area. This is compared to the realistic post-2018 landform which would retain a sharp interface between the landfill site and the remainder of *Far Park*, as it would not allow for any agricultural use of the site, contrasting with the current use of *Far Park*. This could be seen as beneficial to the significance of *Far Park*, by offering the opportunity to experience it as former parkland.

- 7.39 The area of the site which falls within the *Registered Park & Garden* is proposed to be restored to a parkland landscape of grassland and scattered tree cover and the *Park's* boundary reinforced by woodland planting to the north and north-west assisting in the demarcation the former park boundary which is considered to both enhance the experience and understanding of this part of the *Park* and present a beneficial impact.
- 7.40 The area of the site lying outwith the *Park* boundary would have originally, once restored, represented a significant change, primarily in relation to the retention of the waterbody, a much lower-lying landform and differences in proposed land use (semi-natural opposed to agricultural). However, the contribution made to the significance of the *Park* and other designated heritage assets by this parcel of land through forming part of its setting is such that it would remain unchanged. The proposals in the current application are considered, on balance, therefore, to present a beneficial impact.
- 7.41 The foremost extant *Development Plan* policies against which to assess the effects of the proposals upon the historic environment include 'saved' NYWLP Policy 4/14 and HDLP Policy HP2 and emerging draft MWJP Policy D08. Furthermore, the NPPW requires that waste development should not harm the countryside or places of special interest. NPPF Paragraph 194 is clear that impact can arise from development within an asset's setting too, obliging authorities to have regard to the desirability of preserving or enhancing the setting and, where there exists '*less than significant harm*' that should be weighed against the public benefit that the development brings (Paragraph 196 refers).
- 7.42 In addition to the statutory duty to have regard to the policies that comprise the '*development plan*' and, in particular respect to the consideration of applications affecting designated heritage assets such as listed buildings, there is also the statutory duty to which regard must be had under the provisions of the *Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990* which requires special regard to be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.
- 7.43 In assessing effects, an asset's significance is an important consideration. NPPF Paragraph 189 requires applications to be accompanied by descriptions of the heritage assets likely to be affected (including any contribution made by their setting) and their significance. This is a heritage asset's value to both this generation and future generations by virtue of its heritage interest. It is derived not simply from its physical presence, but also from its setting. Significance can arise from different aspects related to an asset's value e.g. evidential; aesthetic designed; historic associative etc. (*Guidance GPA2 'Managing Significance in Decision-Taking in the Historic Environment'* (Historic England, 2015).
- 7.44 Setting, however, is defined more broadly than purely visual terms, and "*embraces all of the surroundings ... from which the heritage asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and*

cannot be definitively and permanently described as a spatially bounded area or as lying within a set distance of a heritage asset” (Historic England guidance GPA3 ‘The Setting of Heritage Assets’ 2017). Development, the guidance advises, will always have an impact. Harm is always harm, but an impact may not be harmful. The key is whether the harm is ‘less than substantial harm’. Another consideration, where there is substantial harm, is whether it is outweighed by public benefit (NPPF Paragraph 195 refers).

- 7.45 Substantial harm or loss of a Grade II Historic Park and Garden should be exceptional and to a *Grade II\** or *Grade I* should be wholly exceptional (NPPF Paragraph 194 refers); neither of which apply in this particular instance.
- 7.46 Any harm to significance that is ‘less than substantial’ is, nevertheless, still harm and requires convincing justification. NPPF Paragraph 200 requires proposals within the setting of heritage assets “to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably”.
- 7.47 Historic England, as the statutory advisor on heritage matters, have offered no objections in the instance of this application currently under consideration. They returned comment that have previously advised upon proposals for both the Allerton Park landfill and for the AWRP facility; further that they consider the proposed revisions would have a *negligible* change to the mitigating effect of the consented scheme. They advise that the key heritage issue in relation to the proposal “...is not whether the proposed re-profiled areas will cause harm to the significance of heritage assets directly, it is the degree to which the revised proposal for the landform will serve to mitigate the harmful impact of the incinerator building on the setting and significance of the heritage assets at Allerton Park”. They go on to explain that, in their expert view, the proposed landform and contour amendments would “result in negligible change to the mitigating effect of the consented scheme”.
- 7.48 In consulting upon this application, this has given rise to an objection from the *Gardens Trust* on the grounds, *inter alia*, that, in their view, the *Registered Park & Garden*, listed buildings and the surrounding community “has already been disturbed for over thirty years”. Notwithstanding, the comments of the *Gardens Trust* must be balanced against the acknowledgement that, in order to secure a satisfactory restoration scheme for the former mineral working, a further extension to the life of the development would be necessary. The remodelling and landscaping that forms a major part of the mitigation is understood to aim to remove any views of the landfill as far as possible.
- 7.49 The *Gardens Trust* also questioned the assessment of the impacts on heritage assets only using 1km (opining that instead it should cover a 3km radius) and questioned the findings of the assessment. The *Gardens Trust* have also provided recommendations of a masterplan to take into account the historic designed landscape and the lifespan of the AWRP facility and have provided details of the listed features. However, on balance, the further operations, as now proposed, are not considered to pose a significant adverse impact upon the focus of concerns as expressed within the objection submitted by the *Gardens Trust*. While acknowledging the AWRP facility has a longer ‘life’ than the proposed development and that there could potentially be the submission of revised schemes in the future, each proposal must be determined on its individual merits. The question of whether there would be further scheme alterations cannot be speculated upon and it is considered that, as a final restoration scheme, this proposal is acceptable in the circumstance.
- 7.50 In addition to the objection from the *Gardens Trust*, the County Council’s in-house adviser on landscape matters initially also objected. However, ‘further information’ and the submission of the *Landscape and Cultural Heritage Technical Note* in November

of last year sought to address the concerns that had been raised. The applicant explained within the 'further information' that both Historic England and the Conservation Officer at Harrogate Borough Council had not raised any concerns about the methodology proposed to be used. Furthermore, clarification, provided by the applicant, has shown that the visibility of the AWRP which is affected by the existing landform would not increase as a result of the 'Amended Scheme'. Whilst the proposed restoration is lower in level than the approved 'domed' scheme, the landform shows that the visibility even from the roof of *The Mansion* is such that intervening landform affects the view and the assets are not negatively affected by the changes to the restoration in between. The applicant has also clarified that there will be no fencing in the south east corner of the landfill site and no fencing (existing or proposed) along the section of the site which is included within the boundary of the *Registered Park & Garden*.

- 7.51 Continuing in the assessment of the effects of the development in terms of potential impacts the historic environment, but turning to the subject matter of archaeology, the County Council's adviser, in responding to consultation, acknowledged the site's planning history as a quarry and landfill and, on that basis, finding it "extremely unlikely" that any deposits of archaeological interest remain within the development boundary and, as such, concurs with the approach of screening out archaeological interest.
- 7.52 Taking the expert views of consultees into account, while acknowledging the existence of some localised effects, the heritage impacts are limited in their scale and duration and it is considered that, upon restoration, the proposals will lead to enhancement. On balance, taking into consideration the responses to consultation from experts within the national and local agencies, the information as submitted by the applicant is considered to be both adequate and sufficient upon which to determine the planning application whilst having regard to the statutory obligations placed upon the County Planning Authority.
- 7.53 In assessing the proposed development in terms of its land use acceptability, the temporary nature of the proposed development is a factor to be weighed in the 'planning balance', together with the effects of the proposed final restoration. In the view of the applicant, the 'Amended Scheme' represents one which is more aligned with the character of the historic parkland; a view which has not been disputed by those consulted on the proposals. The restoration scheme has the potential to enhance the 'setting' and better reveal the significance of the heritage assets; thereby, according with both national (including the requisite considerations of *Section 66(1)* of the *Planning (Listed Buildings and Conservation Areas) Act 1990*) and local relevant planning policy including 'saved' NYWLP Policy 4/14 and HDLP Policy HP2 as well as emerging draft MWJP Policy D08 and, furthermore, consistent with NPPF Paragraphs 194 & 196 as well as Paragraph 7 of the NPPW.

#### Geology & hydrogeology

- 7.54 The application has been accompanied by a *Hydrogeological Risk Assessment* (2004 & 2015 review) both of which characterised the geological and hydrogeological setting of the landfill site. The applicant, is of the view that the proposed scheme represents an improvement upon that which was previously consented. The proposed scheme presents lower risks compared with the consented scheme due to the reduction in the amount of void space proposed to be infilled. The area to the south of the site is consented for landfilling of domestic waste with a volume of circa 2.2M m<sup>3</sup>. The proposal would comprise circa 602,000 m<sup>3</sup> of domestic waste (i.e. approximately 1.6M m<sup>3</sup> less than the consented scheme) and some 640,000m<sup>3</sup> of inert fill which means a reduction of approximately 1M m<sup>3</sup> of the overall consented waste input.

- 7.55 Furthermore, assurances have been given by the applicant that the leachate management and engineering measures are ones that would fall within the jurisdiction of the Environment Agency in conjunction with submission of construction quality assurance procedures contained within the extant *Environmental Permit*.
- 7.56 The applicant also proposes the submission of a *Restoration Environmental Management Plan* (REMP) which would include measures to prevent pollution events on-site and to provide a robust contingency for preventing spread into ground water and water body P1 should a pollution event occur.
- 7.57 The foremost policies against which to assess the proposed development in respect of geological and hydrogeological impacts include criteria *c) & h)* of 'saved' NYWLP Policy 4/1, criterion *e)* of 'saved' NYWLP Policy 6/1, HDLP Policy NE2 and emerging draft MWJP policies D02 & D09 as well as the locational criteria set down within Appendix B of NPPW which, *inter alia*, obliges authorities to consider the proximity of vulnerable surface and groundwater or aquifers and, especially in respect of developments such as the one subject to this current application, the assessment of geological conditions and the behaviour of surface water and groundwater both under the site and the area within the vicinity of the site.
- 7.58 The assessments accompanying the application satisfactorily address the matters of geology and hydrogeology and the conclusions drawn therein those assessments has not given rise to the receipt of objections being returned from those with whom the County Planning Authority has consulted for their technical expertise. The analysis of the proposals against relevant policies that comprise the '*Development Plan*' concludes that their requirements have been satisfied in that the proposals are capable of avoiding unacceptable impacts upon both local amenity and the environment and have been assessed as not giving rise to unacceptable environmental impacts upon surface and groundwater quality and/or groundwater supplies and flows on the *proviso* that the environmental and amenity safeguards to effectively mitigate against potential impacts that have been incorporated into the proposals are implemented; thereby safeguarding against any conflict with the policies relevant to these particular material considerations; namely, criteria *c) & h)* of 'saved' NYWLP Policy 4/1, criterion *e)* of 'saved' NYWLP Policy 6/1 and HDLP Policy NE2 as well as emerging draft MWJP policies D02 & D09.

*Impacts upon hydrology and flood risk*

- 7.59 A *Flood Risk Assessment* and *Sustainable Drainage Strategy* have accompanied the application. The site currently drains via a combination of discharges into a tributary of *Ouse Gill Beck* and via infiltration at the site's '*low spot*' to the Sherwood Sandstones formation underground. The site is split into three catchments areas; two of which cover the restored part of the site and the third, the area to the south. The only change to the approved surface water scheme relates to this southern area.
- 7.60 The technical expertise in respect of hydrology and flood risk is that provided by the Environment Agency and the Lead Local Flood Authority. They have returned no objections to the proposed works provided that, in the case of the comments of the Agency, they are in accordance with the submitted *Flood Risk Assessment*. The proposals are not considered to give rise to any conflict with relevant policies that comprise the '*Development Plan*' including criteria *c) & h)* of 'saved' NYWLP Policy 4/1, criterion *e)* of 'saved' NYWLP Policy 6/1 and HDLP policies CC1, CC2, CC4 & NE2 as well as emerging draft MWJP policies D02 & D09 and align with the requirements of the NPPW drawing attention to the need to give prior consideration to consequent issues relating to the management of potential risk posed to water quality from waste contamination.

Noise and air quality (including dust and odour) impacts

- 7.61 With respect to noise, Chapter 10 of the Environmental Statement details the baseline noise monitoring positions that formed part of the assessment. Six *Noise Sensitive Receptors* (NSRs) have been identified and the assessment has been carried out having regard to the *Noise Policy Statement for England* (published 15<sup>th</sup> March 2010) and the different effect levels therein. The assessment has considered site operations, cumulative noise effects and the effects from the landfill gas plant onsite. It also has also assessed vibration, mitigation and site management. The conclusions of the assessment have been considered and the approach has been found to be acceptable.
- 7.62 The proposals do not seek to alter the approved hours of working; mitigation in relation to odour or dust; or to increase noise levels at the site.
- 7.63 In responding to consultation on this application, Harrogate Borough Council's Environmental Health Officer (EHO) has not returned any comments; instead deferring to the controls within the jurisdiction of the Environment Agency through the relevant site *Environmental Permit*. This aligns with NPPF Paragraph 183 which advises against the duplication of controls of other regulatory regimes and planning authorities should assume that other regulatory regimes would operate correctly.
- 7.64 The foremost *Development Plan* policies against which to assess the proposals in respect of noise impacts include criterion *h*) of 'saved' NYWLP Policy 4/1, 'saved' NYWLP Policy 4/19, criterion *e*) of 'saved' NYWLP Policy 6/1, HDLP policies HP4 and NE1 as well as emerging draft MWJP Policy D02.
- 7.65 In respect of air quality (including both dust and odour impacts), this is covered in Chapter 11 of the Environmental Statement and Appendix 11. It includes background air quality information on particulates and nitrogen oxides and acknowledges that the two *Air Quality Management Areas* (AQMAs) in the borough of Harrogate are not within the vicinity of the site. An *Odour Assessment* and *Dust Assessment* have accompanied the application.
- 7.66 In response to consultation, the EHO observed that the applicant's assessment has acknowledged the potential for increased odour emissions from the site and that this has been assessed as having *moderate adverse* effects at some of the closest sensitive receptors and, as a result, the *Odour Management Plan* would require refinement.
- 7.67 In relation to the issue of dust, there have been sixteen potentially sensitive receptors identified by the applicant and that the overall significance for dust amenity impact has been assessed as *not significant*. An additional assessment has been undertaken in relation to ecological impacts on the three SINC's and the *ancient woodland* and this included PM<sub>10</sub> particulate matter (particles of 10 micrometres or less in diameter). The assessment concluded a potential for *slight adverse* effects at the *Allerton Park SINC* and the *Shepherds Wood Ancient Woodland* due to dust deposition as a result of their proximity and downwind locations. Any potential adverse effects at *Bog Plantation SINC* and *Allerton Lakes SINC* have been assessed as *negligible*. It is noted that the overall significance on dust deposition on ecological receptors is *not significant*.
- 7.68 The foremost *Development Plan* policies against which to assess the proposals and their impacts in respect of air quality (including both dust and odour) include criteria *c*) & *h*) of 'saved' NYWLP Policy 4/1 and 'saved' NYWLP Policy 4/19 and criterion *e*) of 'saved' NYWLP Policy 6/1 and HDLP policies HP4 and NE1 as well as emerging draft MWJP Policy D02. In that the proposals have been assessed as having limited and/or minimal adverse effects in respect of noise and air quality impacts which are capable of being subject to measures to mitigate their effects and also capable of being controlled through the imposition of appropriate planning conditions, should planning

permission be forthcoming, the proposals are considered unlikely to result in an adverse impact upon the amenity of local residents living in proximity to the site or to any nearby villages and avoid giving rise to conflict with the relevant policies of the 'development plan' which, in this instance, include the aforementioned extant policies of the NYWLP and the HDLP as well as Policy D02 of the emerging MWJP; consistent with NPPF Paragraph 180.

### Cumulative impacts

7.69 As part of the submission, the applicant has had regard to the *Town and County Planning (Environmental Impact Assessment) Regulations 2017* which require the assessment of cumulative impacts. The assessment process identified schemes which, together with the proposed development, could potentially pose cumulative effects. These include:

- Outline Planning Permission (17/05234/EIAMAJ) to provide a new settlement, comprising up to 2,750 residential units, 2,000 m<sup>2</sup> of retail floorspace, up to 1,700 m<sup>2</sup> of financial and professional services, restaurants, cafes etc, 5,200 m<sup>2</sup> of non-residential institutions and up to 8,500 m<sup>2</sup> of leisure facilities at Flaxby Golf Club;
- Outline application (16/05647/EIAMAJ) for development of business park at land at Flaxby South West of the Junction of the A59 and A1M; and,
- Permission (17/00919/FULMAJ) for the erection of 3 warehouse buildings (use Class B8) including formation of new vehicular access and hardstanding at Green-tech Rabbit Hill Park, Braimber Lane to Allerton Park Interchange, Allerton Park.

7.70 However, the findings of the assessment undertaken by the applicant consultants indicate against any conclusion of significant adverse cumulative impacts arising in respect of landscape and visual impacts (due to the 'enclosed' context in which the site exists), traffic (due to indiscernible impacts in the quantum of other traffic movements in the vicinity of the site), ecology (due to separation distance) and noise and air quality (due to the absence of predicted exceedances even in combination) such that the proposed development is capable of being regarded as compliant with criterion d) of 'saved' NYWLP Policy 4/1 and 'saved' NYWLP Policy 4/19 as well as emerging draft MWJP Policy D02.

### Other considerations

#### Public rights of way

7.71 Although there are *Public Rights of Way* in the vicinity of the site, it is considered that there would be no significant impact on users as a result of the development. The effects have been assessed in relation to visual impact on users in the submitted documents and it is not proposed to close any of the bridleways or public rights of way. The proposals have not given rise to any objection from the County Council's Public Rights of Way team; although they have advised of an informative to ensure that such routes are maintained free from obstruction. It is considered, therefore that the proposals generally accord with 'saved' NYWLP Policy 4/20 and HDLP Policy HP5; consistent with NPPF Paragraph 98.

#### Ministry of Defence – airfield safeguarding

7.72 With regard to the Ministry of Defence comments in relation to the issue of birdstrike, this is able to be addressed by the addition of more trees and the requirement for the submission of a *Bird Hazard Management Plan* by planning condition. It is also noted that the existing waterbodies are well-established and, therefore, it is not considered that the retention of the waterbody will increase the risk of birdstrike. This aligns with criterion iv) of Part 2) of emerging draft MWJP Policy D10 (paragraph 6.39 refers).

### Section 106 legal agreement



- 7.73 Notwithstanding Knaresborough Town Council's call for a *S106 legal agreement* to provide for an environmental fund to cover Knaresborough, in the case of this particular application, this is not considered to satisfy the circumstances necessary to deem a S106 legal agreement to be warranted on this occasion. Such circumstances would require the demonstration that the planning obligation (in the form of a S106 legal agreement) was necessary to render the development acceptable in land use planning terms or, in other words, assist in mitigating the impact of unacceptable development to make it acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development; all of which are not considered to apply in this particular circumstance.
- 7.74 On the matter of legal agreements however, the original planning permission (from which the previous S73 applications take benefit) was granted subject to a *Section 52 Legal Agreement* which, *inter alia*,  
 (v) *...not to fell any trees in the area known as Shepherd's Wood...;*  
 (viii) *....maintain all...boreholes;*  
 (x) *...in circumstances where....there is a shortfall in the flow of water to any or all of the lakes at Decoy Plantation and High Middle and Lower Fish Pond...to make good such shortfall by pumping...;*  
 (xiii) *...submit...detailed schemes for the long-term continuation of maintenance of all leachate containment works and monitoring arrangements and for the long-term continuation of maintenance works and monitoring arrangements for the safe control of landfill gas*
- 7.75 Should a decision be made to grant planning permission in the instance of this particular application, it is noted that such a decision does not supersede the above-mentioned previously completed *Section 52 legal agreement*. The *Section 52 agreement* is registered as a local land charge and until such time as the agreement is released, it will continue to take effect.
- 7.76 Paragraphs 54-57 of the NPPF (*'Planning conditions and obligations'*) enable authorities to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations and such obligations can only be used where possibility of addressing unacceptable impacts cannot be achieved through a planning condition provided that the such obligations meet the defined tests i.e.:  
 a) *necessary to make the development acceptable in planning terms;*  
 b) *directly related to the development; and*  
 c) *fairly and reasonably related in scale and kind to the development'*
- 7.77 Notwithstanding the advice provided above in paragraph 7.76, it is not considered that either a variation to, or an additional legal agreement, is warranted in this particular instance in light of the fact that the relevant considerations, i.e. securing a period of *'after-care'* and management of restored land, are capable of being provided for under appropriate planning conditions.

## 8.0 Conclusion

- 8.1 The proposal seeks permission to secure a final restoration scheme for the existing, partly finished, landfill which is considered acceptable subject to the measures proposed in mitigation and the capability of appropriate controls through planning conditions that may be imposed. The principle of the development and its acceptability in land use planning terms are considered to have been satisfied and the proposed alterations to the finalised restoration represent an acceptable solution, on balance. Furthermore, the proposals present the restoration of a landfill to a beneficial after-use in a timely manner.
- 8.2 Whilst acknowledging that policies of the *'development plan'* and national policy place greater emphasis upon the circular economy and the drive to move waste *'up the waste*

*hierarchy*, there is also support for the continued use of the site for landfill within the emerging MWJP through its draft policies W01 and W03 as some landfill is required in order to achieve a satisfactory restoration. The continued use of the site for landfill is supported by emerging draft MWJP policies W04 and W05, and the PPG acknowledges that landfill will always be required as part of the provision for waste and also that changes in the management of waste may mean that extensions of time are required due to shortages of material. In this particular case, further time is required due to changes in the availability of material for restoration, the amounts being lower than originally anticipated. The applicant has addressed key sensitivities of the site in relation to the mitigation as required by the emerging MWJP.

8.3 It is also acknowledged that the scheme has been improved by the applicant, working positively with the County Council to ensure that the scheme is an effective sustainable development which achieves a satisfactory restoration of the site. It is considered that the amendments have addressed the concerns of those consulted on the application as well as those who have made representations, and that effects on the interests of acknowledged importance, as outlined in Section 7.0 above, have either been demonstrated to not arise or are capable of being effectively mitigated or controlled through the potential to control the development through the imposition of appropriate planning conditions.

8.4 For the reasons mentioned above, it is therefore considered that the proposed development either avoids giving rise to conflict with or demonstrates compliance with the policies which comprise the *Development Plan* currently in force for the area, consistent with the relevant aims, objectives and policies of national policy documents and guidance found within the NPPF, NPPW and NPPG and all other relevant material considerations.

## 9.0 Recommendation

9.1 For the following reasons:

- i. the principle of the proposed development has already been established through the previous grant of planning permissions;
- ii. the proposed development would not result in an adverse impact upon local amenity, visual or otherwise;
- iii. the proposed development is considered to result in only a negligible change in its impact upon the surrounding heritage assets when compared to the previously consented scheme;
- iv. the site is strategically important in the management of waste from the county and from other areas supported by policies in the emerging MWJP;
- v. the proposed development does not give rise to conflict with relevant '*development plan*' policies i.e. '*saved*' NYWLP policies 4/1, 4/3, 4/10, 4/14, 4/18, 4/19, 4/22 & 6/1, '*saved*' NYMLP policies 4/18 and 4/20 and HDLP policies CC1, CC2, CC4, HP2, HP3, HP4, HP5, NE1, NE2, NE3, NE4, NE5 & NE7; consistent with the principles of the NPPF and NPPW

it is recommended that **PLANNING PERMISSION BE GRANTED** for the purposes of the variation of condition no's 1, 2 & 20 of planning permission ref. no. C6/500/63J/CMA for the continuation of waste disposal operations for a further 6 years from 31<sup>st</sup> December 2018 until 31<sup>st</sup> December 2024 with a further year for restoration, to amend the final restoration levels across the site and to amend the final restoration scheme for the southern part of the site on land at Allerton Park Landfill, Moor Lane (Off A168), Knaresborough, HG5 0SD subject to the conditions below:

(Please see attached *draft Schedule of Conditions*)

**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 not 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

Background Documents to this Report:

1. Planning Application ref number: NY/2018/0280/ENV registered as valid on 21<sup>st</sup> December 2018. The 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/PlanAppDisp.aspx?recno=10745>
2. Consultation responses received.
3. Representations received.

Author of report: Vicky Perkin

## **Draft Schedule of Conditions**

<b><i>Duration of permission</i></b>	
1	<p>The permission hereby granted authorises the disposal of waste and soils until 31<sup>st</sup> December 2024. The development hereby permitted shall be discontinued and all plant and machinery associated with the development shall be removed from the site before that date and the site shall be restored in accordance with the application details dated December 2018, or as varied by the conditions below, by 31<sup>st</sup> December 2025.</p> <p><i>Reason:</i> To comply with Section 91 of Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
<b><i>Definition of permission</i></b>	
2	<p>The development hereby permitted shall be carried out in accordance with the application details dated December 2018 and the following approved drawings and conditions, which at all times shall take precedence:</p> <p>Drwg ref. no.s: 2259-01-01 Application Boundary (December 2018); 2259-01-02 Extent of Proposed Waste Tipping (December 2018); 2259-01-03 Rev A Proposed Landform (30.07.19); 2259-01-04 Rev A Cross Sections (30.07.19); 2259-01-05 Rev D Indicative Restoration Proposals (13.12.19); 2259-01-06 Landfill Cell Formation (December 2018); and, Figure PS3.1 Rev A Development Areas (30.07.19).</p> <p><i>Reason:</i> To ensure that the development is carried out in accordance with the application details</p>
<b><i>Limitations to the permission</i></b>	
3	<p>The materials disposed of at the site shall consist only of those materials indicated in the Application dated December 2018.</p> <p><i>Reason:</i> <i>In the interests of amenity and to prevent pollution.</i></p>
4	<p>Except for soils to be used for restoration purposes, no waste shall be sorted, stockpiled or processed at the site.</p> <p><i>Reason:</i> <i>To reserve the rights of control by the County Planning Authority in the interests of amenity</i></p>
5	<p>Access to the site shall be via the existing access and no other access shall be used.</p> <p><i>Reason:</i> <i>In the interests of highway safety and amenity.</i></p>
6	<p>Precautions, including the provision of vehicle cleaning facilities, shall be taken and maintained to ensure that all vehicles leaving the site are in a clean condition such that no dirt and/or mud are deposited on the public highway by vehicles travelling from the site. Such facilities shall be kept available and in full working order and used until such time as the County Planning Authority agrees in writing to their withdrawal.</p> <p><i>Reason:</i> <i>In the interests of highway safety and amenity.</i></p>
7	<p>The vehicular movement of waste or soils to, or within, the site shall take place only between the following times: 0730 - 1730 hours Monday to Friday 0730 – 1230 hours Saturday No operations shall take place on Sundays and Bank/Public Holidays.</p> <p><i>Reason:</i> <i>To reserve the rights of control by the County Planning Authority in the interests of amenity.</i></p>
<b><i>Noise control</i></b>	
8	<p>All plant, machinery and vehicles used on any part of the site shall be fitted with effective noise attenuating equipment which shall be regularly maintained. Where earthmoving plant is operating in proximity to residential properties, non-audible reverse warning alarm systems shall be deployed.</p> <p><i>Reason:</i> <i>To reserve the rights of control by the County Planning Authority in the interests of amenity.</i></p>
9	<p>At no residential property shall the noise levels resulting from the site operations, during the working hours specified in condition no.7, exceed <math>L_{Aeq,1h} = LA90 + 10dB</math> or <math>L_{Aeq,1h} = 45 dB</math>, whichever is the higher.</p> <p><i>Reason:</i> <i>In the interest of amenity.</i></p>

10	In the event that the noise level specified in condition no. 9 is exceeded, those operations at the site causing the excessive noise shall cease immediately and steps be taken to attenuate the noise level to be in compliance with the requirements of condition no.9. <i>Reason:</i> <i>In the interest of amenity.</i>
<b>Dust control</b>	
11	Dust control measures shall be employed to minimise the emission of dust from the site. Such measures shall include the spraying of roadways and discontinuance of soil movements during periods of high winds. <i>Reason:</i> <i>In the interest of amenity.</i>
12	In the event that an assessment of dust emissions and/or the results of formal monitoring indicate that additional control measures are required to minimise emissions, proposals for such measures shall be submitted in writing to the County Planning Authority. The measures subsequently approved in writing by the County Planning Authority shall be implemented within such period as may be required by the County Planning Authority. <i>Reason:</i> <i>In the interest of amenity.</i>
<b>Pollution prevention</b>	
13	Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the banded compounds shall be at least equivalent to the capacity of the largest tank or the combined capacity of the inter-connected tanks plus 10%. All filling points, vents and gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund. <i>Reason:</i> <i>To prevent pollution.</i>
14	Steps such as the use of litter fencing and drainage control shall be taken to prevent the pollution of any adjoining land or watercourse by the over-spilling or blowing of loose material or by the entry of leachate, polluted water or any other pollutant. <i>Reason:</i> <i>In the interest of amenity and to prevent pollution.</i>
15	If pollution occurs, as defined by condition no. 14 above, the effects of that pollution shall be rectified and further pollution shall be prevented. <i>Reason:</i> <i>In the interest of amenity and to prevent pollution.</i>
<b>Protection of soil resources</b>	
16	The stripping, movement, replacement or cultivation of topsoil and subsoil shall only be carried out when the soils are sufficiently dry and friable to avoid soil smearing and compaction. <i>Reason:</i> <i>To safeguard the topsoil and subsoil resources in the interest of achieving a high standard of restoration of the site</i>
17	Topsoil and subsoil shall be stored separately from each other in such locations as first shall be approved in writing by the County Planning Authority. <i>Reason:</i> <i>To safeguard the topsoil and subsoil resources in the interest of achieving a high standard of restoration of the site</i>
18	No topsoil or subsoil shall be removed from the site. <i>Reason:</i> <i>To safeguard the topsoil and subsoil resources in the interest of achieving a high standard of restoration of the site</i>
19	During soil movement and handling operations, machinery shall be routed to avoid the compaction of soils. <i>Reason:</i> <i>To safeguard the topsoil and subsoil resources in the interest of achieving a high standard of restoration of the site.</i>
<b>Landscaping &amp; 'after-care'</b>	
20	Within 6 months of the date of this decision, details of a <i>Landscaping and After-care Management Plan</i> for a minimum period of five years from final restoration of an individual Phase shall first be submitted and agreed in writing with the County Planning Authority. Where

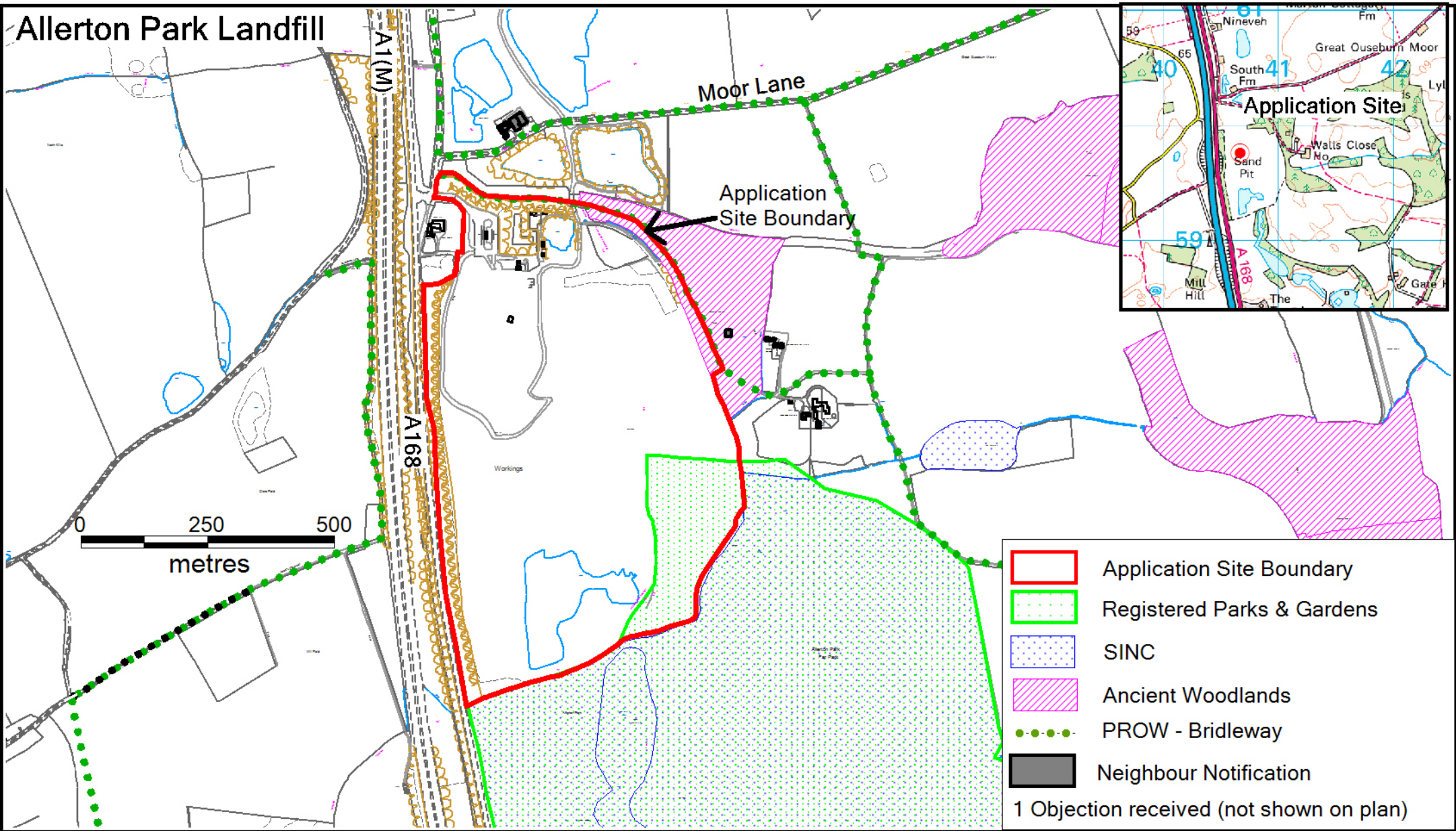
	<p>a Phase has already been restored, the period of 'after-care' shall be deemed to commence on the date of this decision and shall run for five years thereafter. The scheme of landscaping and aftercare shall include long term design and habitat objectives, method statements for site preparation and establishment of key habitats, management responsibilities and maintenance schedules and provide a combination of good quality habitat creation on the restored landfill and ensure long-term sympathetic management of the retained area. The scheme shall also include details and provision for:</p> <p>i) Soil preparation;</p> <p>ii) Application of fertiliser;</p> <p>iii) Sowing and establishment of green cover;</p> <p>iv) Tree hedgerow and scrub planting, inclusive of sources, species, sizes, planting density mix and number;</p> <p>v) Grassland planting, inclusive of sources, species, sizes, planting density mix and number;</p> <p>vi) Wetland margin and aquatic planting, inclusive of sources, species, sizes, planting density mix and number;</p> <p>vii) Maintenance/aftercare provisions which shall include a scheme which ensures that if within a period of five years from the date of the planting of any tree or shrub, that tree or shrub or any tree or shrub planted in replacement for it, is removed, uprooted or destroyed or dies (or becomes, in the opinion of the County Planning Authority, seriously damaged or defective), another tree or shrub of the same species, size and maturity as that originally planted shall be planted at the same place, unless the County Planning Authority gives its written consent to any variation.</p> <p><i>Reason:</i> <i>To ensure effective restoration of the site</i></p>
	<p><b>Restoration</b></p>
21	<p>Within 6 months of the date of this decision, details of a <i>Restoration Environmental Management Plan</i> shall be submitted and approved in writing by the County Planning Authority. Such a Plan shall include details of measures in respect of the following:</p> <ul style="list-style-type: none"> <li>• control measures for Himalayan balsam, New Zealand pygmyweed and montbretia;</li> <li>• prevention of dust deposition on habitats;</li> <li>• protection of wet woodland; and</li> <li>• fencing and buffers to retained habitats.</li> </ul> <p><i>Reason:</i> <i>To ensure effective restoration of the site and to prevent pollution</i></p>
22	<p>The restoration of the land shall include the submission of an efficient scheme of drainage for the area of land covered by this permission and serving any adjoining land where drainage is affected by the tipping, details of which shall first be agreed in writing with the County Planning Authority within 24 months of the completing of tipping. Thereafter, the approved drainage system shall be installed at a time when the reinstated land has settled sufficiently for the work to be undertaken and, in any event, not later than five years from the time when tipping is completed. In any event, provision shall be made as necessary, to the satisfaction of the County Planning Authority, to maintain the existing drainage of the site and any adjoining land where drainage is affected by the tipping.</p> <p><i>Reason:</i> <i>To ensure effective restoration of the site to a condition suitable for agricultural use and in the interests of amenity.</i></p>
	<p><b>Submission of a Bird Hazard Management Plan</b></p>
23	<p>Within 6 months from the date of this permission, a <i>Bird Hazard Management Plan</i> shall be submitted to and approved in writing by the County Planning Authority. The approved <i>Bird Hazard Management Plan</i> shall include details regarding the ponds which should be designed to have steep/vertical bank sides and to be as deep as possible to both minimise the surface area of water bodies and the nutritive value of the water as well as measures to prevent breeding geese and control all problem bird species, namely gulls/corvids and wildfowl, shall be reviewed annually and shall be implemented in full throughout the life of the operations permitted by this permission to ensure that the attraction is minimal and does not increase as the surrounding habitat is restored and disturbance is reduced.</p> <p><i>Reason:</i> <i>In the interest of aerodrome safeguarding</i></p>
	<p><b>In the event of cessation of tipping</b></p>
24	<p>Upon the resumption of tipping in accordance with this permission and, thereafter, if authorised tipping has ceased or if the deposit of materials shall cease for a period of not less than 12 months, the site shall be restored in accordance with condition no. 20 or a new scheme</p>

	<p>submitted for the prior written approval of the County Planning Authority and all plant and machinery shall be removed from the site. All such works shall be completed to the satisfaction of the County Planning Authority within 12 months of the date of cessation of authorised tipping or the date of termination of the 12-month period referred to above.</p> <p><i>Reason:</i> <i>In the interest of amenity.</i></p>
25	<p>On completion of waste disposal operations all existing buildings and structures shall be removed from the site.</p> <p><i>Reason:</i> <i>In the interest of amenity</i></p>
<b>Other matters</b>	
26	<p>An annual meeting shall be held between the operator and the County Planning Authority to review schemes of working, restoration, landscaping and aftercare issues. This meeting shall include all interested parties and technical advisers as required.</p> <p><i>Reason:</i> <i>To secure an orderly pattern of working, restoration and after-use of the site.</i></p>
27	<p>A copy of the planning permission and any agreed variations, together with all the approved plans, shall be kept at the site office at all times. A copy of the planning permission and any agreed variations, together with all the approved plans, shall be kept at the site office at all times.</p> <p><i>Reason:</i> <i>To ensure that site personnel are aware of the terms of the planning permission</i></p>
<b>Informative:</b>	
	<p><i>The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as any alternative route has been provided and confirmed under an Order made under the Town and Country Planning Act 1990. Applicants are advised to contact the County Council's Access and Public Rights of team at County Hall, Northallerton via <a href="mailto:paths@northyorks.gov.uk">paths@northyorks.gov.uk</a> to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.</i></p>





# Allerton Park Landfill



- Application Site Boundary
  - Registered Parks & Gardens
  - SINC
  - Ancient Woodlands
  - PROW - Bridleway
  - Neighbour Notification
- 1 Objection received (not shown on plan)

**Application No : C6/19/00988/CMA**

Title: variation of Condition No's 1, 2 & 20 of Planning Permission Ref. C6/500/63J/CMA for the continuation of waste disposal operations for a further 6 years from 31 December 2018 until 31 December 2024 with a further year for restoration, to amend the final restoration levels across the site and to amend the final restoration scheme for the southern part of the site at Allerton Park Landfill, Moor Lane (Off A168), Knaresborough, HG5 0SD



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

Scale: 1:10,000  
Date: March 2020

Filename: Allerton Park

Compilation & Analysis: VP/JB