

North Yorkshire County Council**Business and Environmental Services****Planning and Regulatory Functions Committee****8 SEPTEMBER 2020****C8/2020/0460/CPO - PLANNING APPLICATION FOR THE PURPOSES OF THE VARIATION OF CONDITION NO. 2 OF PLANNING PERMISSION REF. C8/10/3AC/CPO WHICH RELATES TO RAISING LANDFILL LEVELS ON LAND AT THE OLD BRICK AND TILE WORKS, RICCALL ROAD, ESCRICK, YO19 6ED ON BEHALF OF ESCRICK ENVIRONMENTAL SERVICES LTD (SELBY DISTRICT) (ESCRICK ELECTORAL DIVISION)****Report of the Corporate Director – Business and Environmental Services****1.0 Purpose of the report**

- 1.1 To determine a planning application for the variation of condition no. 2 of planning permission ref. C8/10/3AC/CPO which relates to raising landfill levels on land at The Old Brick And Tile Works, Riccall Road, Escrick, YO19 6ED on behalf of Escrick Environmental Services Ltd.
- 1.2 This application is subject to two objections (including one from the Parish Council) having been raised in respect of this proposal on the grounds of restoration timescales, visual impact, highways, need, noise and dust and is, therefore, reported to this Committee for determination.
- 1.3 This application was preceded by application ref. no. NY/2018/0229/73 (which sought to vary condition no. 2 of planning permission ref. C8/10/3AC/CPO). This previous application is now subject to appeal on the grounds of non-determination. In light of this appeal, it was incumbent upon the Authority to come to a view in respect of the application. Thus, a report was presented to Members on 12th November 2019 at which, a resolution that Members were minded to refuse the application was made.

2.0 BackgroundSite Description

- 2.1 The Old Brick and Tile Works is a former clay pit which currently operates as an inert landfill site. The site is located to the west of the A19 and is midway between Selby and York. The villages of Escrick and Riccall are located approximately 2 kilometres to the north and south respectively. Although the site is known as the 'brickworks' the manufacture of bricks and tiles ceased in 1991 and the brick factory was demolished in 2006.
- 2.2 The application site extends to approximately 11.6 hectares and is currently being restored to a mountain bike skills centre. A secondary and recycled aggregates facility has also been established at the site.
- 2.3 Access to the site is gained via the haul road from the A19; the entrance of which is shared with Escrick Business Park.

- 2.4 Prior to the current operations, the site operated as an integrated brick and tile works where clay was extracted and stored pending its use in on-site kilns for the manufacture of bricks and tiles. These operations ceased in 1991 and the site was then used to provide clay feedstock to a light-weight block manufacturing plant situated at Great Heck in North Yorkshire. Clay extraction and restoration activities have now taken place for a number of years and a small amount of clay reserve remains to be worked along the western boundary of the site.
- 2.5 The application site lies in a relatively remote rural setting where surrounding land uses would be categorised as being broadly agricultural in nature with some isolated residential dwellings. Escrick Business Park is located directly to the east of the current Escrick site. The buildings at Escrick Business Park and residential properties adjacent to and north of Escrick Business Park are located approximately 250-300 metres east of the site. Glade Farm is located approximately 230 metres south east of the site. Escrick Business Park is accessed from the A19 via the access to the current Escrick site. The former Stillingfleet Mine buildings are located approximately 1.5 kilometres west of the site. Some industrial style buildings remain at the former Stillingfleet Mine, but aside from a facility for the generation of electricity from mine gas, the remaining buildings are unused.
- 2.6 Approximately 150m to the east of the application site lies the Escrick Business Park, a small business park housing a mixture of light industrial and office uses established at around the same time as the mountain bike skills centre operations on the former site of the old brickworks factory. The Business Centre and application site share the same access from the A19 and have done so for the last 10 years.
- 2.7 Some areas of the site where clay has been extracted have colonised with self-seeded saplings on the unused ground. Lower areas have become quite marshy, and there was thought to be potential to find protected wildlife species on the site. The site is not within any formal wildlife or habitat designated sites, however, the woodland to the west of the site boundary along the cycle track is designated as deciduous broadleaved woodland, within the National Forest Inventory (2014); and is also designated locally (non-statutory) as a Site of Importance for Nature Conservation (SINC).
- 2.8 The site is located within flood zones 2 as defined on the current Environment Agency flood risk maps. The site is approximately 3km from the River Ouse, which is the main source of fluvial flooding in the area. There is also a local drainage stream adjacent to the site, known as the Bentley Park Drain, which runs across the northern boundary of the site, passes underneath the Sustrans Selby to York cycle track which runs parallel to the western site boundary in a North to South direction and a plantation of trees lines the cycle track to the western and northern boundaries of the site.
- 2.9 A plan showing the application site is attached to this report.

Planning History

- 2.10 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -
- C8/2019/0061/CPO – minded decision to refuse at Planning Committee on 12 November 2019 for the variation of Condition No. 2 of Planning Permission Ref. C8/10/3AC/CPO which relates to raising landfill levels following an appeal having been lodged for non-determination.
 - C8/10/3AC/CPO granted 4 November 2013 for the variation of condition no. 6 of planning permission reference C8/10/3AB/PA which relates to the type of waste accepted at the site. This permission does not include an explicit end date for operations;

- C8/10/3AB/PA granted 14 November 2007 for the continuation of clay extraction and infilling of resulting void with inert waste to provide mountain bike skills centre and associated facilities. This permission does not include an explicit end date for operations;
- C8/10/3AA/PA granted 26 October 2007 for the variation of Conditions 3 and 8 of Planning Permission C8/10/3R/PA to extend the time for operations and revise the restoration scheme;
- C8/10/3R/PA granted 27 January 1992 for the Extension of the area of clay extraction and backfilling of the excavations with domestic, commercial and industrial waste by controlled landfill.

2.11 Members will also recall resolving to grant planning permission on 30th July 2020 for a proposed new quarry immediately adjacent (north and west) of this site, to extract approximately 6 million tonnes of clay by 2053 and restoration of the site to agriculture and nature conservation with the importation of up to 2.67 million tonnes of inert materials together with the construction of new internal site access haul road, site compound, car park, site office, wheel washing facility, security fencing and gates and the construction of a temporary bridge crossing over the National Route 65 of the National Cycle Network (NY/2019/0136/ENV).

3.0 The proposal

3.1 This application is the re-submission of an application (NY/2018/0229/73 initially submitted in October 2018) to vary condition no. 2 of planning permission ref. C8/10/3AC/CPO which relates to raising levels at the Old Brick and Tile Works, Riccall Road, Escrick, North Yorkshire YO19 6ED.

3.2 Following a period of discussion between the applicant and Officers, in October 2019 the Applicant submitted an appeal on the basis of non-determination of the application. Following the submission of the appeal, Officers prepared and presented a report to the Planning & Regulatory Functions Committee meeting held on the 12th November 2019. The Officer recommendation was that planning permission be refused on the following grounds:

1. The proposed development would give rise to adverse landscape and visual effects in the local area due to the proposed landraising operations creating a landform height of up to 8 metres above the approved restored levels. It is considered that the proposal would create an incongruous feature in the landscape adversely affecting local landscape character and setting.
2. The prolonging of operations on site by an additional 10 years of operations on site (8 years in addition to the current expected life of the site) would be inconsistent with these policies which seek to ensure that restoration of minerals workings (of which the site is a former mineral working) and waste sites is carried out at the earliest opportunity and to a high standard.

3.3 The supporting statement submitted with the resubmission seeks to directly address those matters raised by Members at the Planning and Regulatory Functions Committee meeting of the 12th November 2019.

3.4 The applicant now proposes a number of changes to the proposed scheme of phasing, landscaping and landscape management. These changes, in summary, comprise:

- the alteration of the phasing of construction to ensure that the external flanks of each phase are completed first to provide improved visual containment;
- the maximisation of on-site opportunities for the generation of biodiversity net gains through the planting of approximately 7.6 hectares of broad leaved woodland (comprising circa 20,000 trees) and the creation of approximately 2.7 hectares of wetland, scrub and grassland; and,

- a proposed 30-year commitment to the long term management of the site under the provisions of a Section 106 Legal Agreement.
- 3.5 The Applicant has since also commissioned House Associates, an environmental planning consultancy to assess the proposed development and provide evidence in respect of the proposed restoration of the landfill in support of this application, as part of the resubmission process.
- 3.6 The proposed development comprises a ten-year programme which would involve the importation, on average, of 90,000m³ of material per annum. The development is proposed to be phased over a ten-year time period, during which time the site would be progressively restored as outlined below.
- 3.7 As referred to earlier in this report (para 2.4), the Applicant affirmed in the supporting information that prior to current operations, the site operated as an integrated brick and tile works where clay was extracted and stored pending its use in on site kilns for the manufacture of bricks and tiles. Clay extraction and restoration activities have now taken place for a number of years and a small amount of clay reserve remains to be worked along the western boundary on the site under the original planning permission ref. C8/10/3R/PA dated 27 January 1992 (since varied). It is proposed to initially extract the remaining residual amount of clay located in the south west corner of the site. This area has yet to be subject to any infilling as working continues (at the time of writing) in Phase 2 of the currently permitted activities. Clay would be worked to a maximum depth of -2.5mAOD in accordance with the currently permitted activities. Extracted clay would be placed in temporary storage around the site for later use in cell construction.
- 3.8 It is proposed that in total, 7.66 hectares of mixed deciduous woodland would be created together with 3.7 hectares of wetland and associated scrub and grassland. It is the intention that the site would still ultimately be used as a mountain bike skills centre. It is proposed that majority of the habitat to be created on the site would be woodland with the creation of the mountain bike trails being undertaken once all the site works are complete. These trails would be designed to ensure that they do not conflict with the wetland and grassland areas. As such there would be no mountain bike trails or recreational access in the designated wetland and grassland areas.

Proposed Phasing

Year 1

- 3.9 The first phase of development would include the construction of the northern and eastern outer flank of landfill cell 1. This would reach a height of 5 metres with a gradient of 1:5. It is envisaged that this part of the outer flank would be completed within 6 months of the recommencement of the development.
- 3.10 It is also proposed that the western flank of the site is strengthened at the north western corner of the site. At this point the land would be raised by 2-3 metres in order to tie in with the existing landform. It would then be planted with the mix specified in the table below.
- 3.11 The outer flank would be constructed of inert material and covered with soil to a depth of 1 metre. The Applicant has suggested that an advantage of this site compared with other infill operations is the availability of composted wastes (permitted to be accepted for restoration purposes in accordance with the approved Environmental Permit) the presence of which would ensure that the trees establish quickly.

Years 1 – 3

- 3.12 Once the construction of the outer flank of Landfill Cell 1 is completed it would be planted with trees in accordance with the planting mix, again contained in the table

below. The landfill operation in this cell would then proceed with final contour levels being graded out to 1:40. At the completion of the landfill of this cell in Year 3, it would be soiled and planted in accordance with the woodland mix.

Years 3 – 6

- 3.13 It is proposed that once the landfill of Cell 1 is complete, the northern and western outer flank of Landfill Cell 2 would be constructed, soiled and planted. Landfill operations would then take place in this cell rising to match the finished contour levels created in Cell 1. At the completion of infilling this Cell, soiling and planting would take place as per Cell 1.

Years 6 – 9

- 3.14 The final phase of landfilling would then take place in Cells 3A and 3B. As before, the western and southern flank of these cells would be constructed and planted prior to landfill taking place. Once final levels are reached, the cell will be soiled and planted as with previous phases. The main plateau would be restored to gradient of 1:40 sloping generally from 14.5metres down to 11.5metres in the south. It is envisaged that two gently rounded 'knolls' would be established, one at the north-west corner of the site and one on the site's eastern edge rising to 17.5metres and 16.5metres respectively. These features are intended to form subtle wooded landmarks and points of reference in the local landscape linking with nearby Hollicarrs Wood and Common Wood to the south-east and Heron Wood situated on a gently rising landform to the north.

Year 10

- 3.15 Following completion of the landfilling operations, a series of wetland features including reed bed, three ponds and scrapes, would be created in Cell 4 together with areas of lowland neutral grassland and scrub.

Proposed Woodland Planting and Wetland

- 3.16 The woodland planting to be carried out on the site would be in accordance with the table below:

Species	Planting Size	% Mix
Acer campestre	60 – 90 cm	5
Betula pendula	60 - 90 cm	20
Prunus avium	60 – 90 cm	10
Quercus robur	60 – 90 cm	30
Pinus sylvestris	Container grown	5
Corylus avellana	45 - 60 cm	15
Crataegus monogyna	45 – 60 cm	10
Ilex aquifolium	Container grown	5

- 3.17 This planting mix is derived from the typical composition of adjacent established woodlands. It is envisaged that all transplants would be locally sourced. Each transplant would be planted with granular slow release fertiliser incorporated into each planting pit. All transplants would be protected by tree shelters supported by short tree stakes.
- 3.18 In total it is proposed that some 8.63 hectares of woodland would be planted at Year 1. Following the completion of the landfill operation it is proposed that a network of mountain bike trails would be cut into the developing woodland. This would entail the removal of 0.97 hectares of woodland cover, and would predominantly comprise species such as cherry which are, in any event, planted as a nurse crop. The nurse crop species comprise birch and cherry; both are rapid growing species which create a sheltered environment for slower growing species. Once the nurse species are established, they are removed to allow the principal species the space to grow to their

full potential. The woodland area would, therefore, be reduced to 7.66 hectares. It is proposed that all trees and shrubs would be planted at 2.5 metre centres, thus initially a total of 20,000 trees and shrubs would be planted on the site in a phased manner over a 10-year period.

- 3.19 In addition to the long term creation of 7.66 hectares of woodland, 2.73 hectares of wetland, grassland and scrub would be created immediately to the north of the previously restored landfill site and in the south of the current site. This would comprise 1.74 hectares of lowland neutral grassland and scrub, 0.66 hectares of reedbed and 0.33 hectares of open water (comprising small pools and scrapes). The reedbed will be established largely utilising donor material from adjacent wetlands. Once the pools and scrapes are created, they would be allowed to colonise naturally. In addition, there would be 0.70 hectares of bare ground and 0.27 hectares of grassland around the mountain bike trails which is considered to have some biodiversity benefit for associated fauna such as invertebrates. Overall, the habitat creation would be 11.36 hectares.
- 3.20 The extent of the landscape proposals for the site is such that it is essential that a thorough and comprehensive management plan be drawn up for the site and carefully implemented, taking into account both the landscape and ecological requirements. It is proposed that a 30-year management plan is secured via the provisions of a Section 106 Legal Agreement. The current consent has no requirement for a long term management plan.
- 3.21 During the first ten years of the development, the Management Plan would be primarily focussed on the development and establishment of the mixed deciduous woodland. Following the completion of the infilling, and final woodland planting and wetland creation in Year 10, it is intended to create a network of mountain bike trails within the woodland. These would be created by selectively removing a number of young trees within the site, primarily these will be cherry and birch which are planted as a nursery crop for the oak trees. The Applicant has also affirmed that the bare ground associated with the mountain bike trails is also considered to provide biodiversity benefits, particularly for invertebrates.
- 3.22 Due to the long timescale of the Management Plan, it would be appropriate to review the plan on a five-yearly basis in conjunction with the Local Planning Authority in order to set the objectives for the following five-year period. This review process would ensure that the Management Plan remains relevant for the full 30-year period and achieves the long term objective of creating diverse and species rich woodland, grassland and wetland habitats.
- 3.23 Other than the approved restoration scheme, this planning application does not seek to alter any other aspect of the currently permitted activities. The range of wastes accepted at the site would be in accordance with planning permission C8/10/3AC/CPO dated 4 November 2013 and all operational practices regarding waste acceptance, wheel cleaning, hours of operation etc. would remain as currently permitted.
- 3.24 The proposed changes to the approved restoration scheme would provide an additional void space of circa 500,000 m³ (equivalent to approximately 900,000 tonnes of additional material). It is proposed that the works would be completed and the site restored over a 10-year period; although this would of course be influenced by a number of factors including the market conditions prevailing over that period of time.
- 3.25 It is proposed that the site would be worked in accordance with current practice to provide a basal layer to a level of approximately 6-7m, this would enable the engineering of the site and ensure that the site was suitably lined. Following on from

the establishment of the basal layer, materials would then continue to be placed into the engineered cells to construct the proposed amended landform.

- 3.26 The main plateau would be restored to gradient of 1:40 sloping generally from 14.5 metres down to 11.5 metres in the south. It is envisaged that two gently rounded 'knolls' would be established, one at the north-west corner of the site and one on the site's eastern edge rising to 17.5 metres and 16.5 metres respectively. These features are intended to form subtle wooded landmarks and points of reference in the local landscape linking with nearby Hollicarrs Wood and Common Wood to the south-east and Heron Wood situated on a gently rising landform to the north.
- 3.27 Following the completion of construction activities, the site would be established as a mountain bike skills centre in accordance with the provisions of the previous grant of planning permission. However, it is anticipated that the revised landform will provide a significantly more challenging skills centre. The overall concept is to establish mountain bike trails within an elevated woodland setting with permanent deciduous woodland on site margins. Perimeter landfill cell slopes would be graded to a maximum gradient of 1:5 to promote woodland establishment and minimise, as much as possible, an engineered profile. Within the permanently wooded margins would be areas given over to bio-mass production, selectively coppiced on a phased basis to ensure continuity of cover and therefore maintaining woodland complexity.
- 3.28 It should be noted that the waste recovery operation and secondary and recycled aggregate facility currently operated on-site by Acumen Waste Services would continue to operate unchanged for the duration of the proposed operations. In the absence of a further grant of planning permission, this facility would be closed upon completion of operations under the existing planning permission and the services currently provided transferred to another site.

4.0 Consultations

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on 11 May 2020.

- 4.1 **Selby District Council (Planning)** – responded on 18 May 2020 - confirmed no objections or comments.
- 4.2 **Escrick Parish Council** – responded on 3 June 2020 - objects to the application, reiterating points raised in their objection to the previous application, on the grounds impact on visual amenity through the increased height of the restored area; restoration timescales with regard to the proposal lengthening the time for the site restoration to be completed; impact on highways with regard to road safety concerns in Escrick causing noise and vibration issues; and need for the development in terms of the justification for the increase in height.
- 4.3 **Selby District Council (Environmental Health)** – responded on 9 June 2020 - stating that the applicant has submitted a Noise Impact Assessment which concludes that the proposed scheme is able to operate in accordance with current policy and guidance and that there are not considered to be any significant or unacceptable adverse impacts. Therefore confirming that there are no objections to the proposals from Environmental Health.
- 4.4 **Environment Agency York** – responded on 23 June 2020 - confirmed no objection to the application and confirmed that the 2019 variation to the environmental permit covers the activity that is proposed.

- 4.5 **Highway Authority** – responded on 21 May 2020 - confirmed in a response that the Local Highway Authority “*understands that no additional traffic will be generated per day although the site has no operational limit. The developer has confirmed the timescale of the site to be 10 years which the L.H.A is happy with but should not be extended.*” Therefore, has no objections to the proposed development
- 4.6 **NYCC Heritage - Ecology** – responded on 1 June 2020 - confirmed satisfaction with the approach ecological impacts, and where avoidance of impacts is not possible, mitigation and compensation measures have been proposed to deal with these losses. The biodiversity net gain report demonstrates that the measures proposed can deliver a significant gain for biodiversity and the detail set out in the LEMP will ensure that those compensatory habitats can be created, established and managed for a period of 30 years.
- 4.7 **NYCC Heritage - Principal Landscape Architect** – responded on 5 June 2020 - reiterated comments made under the previous application (as follows) and raised a further objection. Stated that the proposed scheme would create an incongruous feature in the landscape adversely affecting landscape character and setting. There are likely to be additional cumulative landscape and visual effects due to the extended working, delayed restoration period, and association with the proposed clay extraction to the west side (Planning Application NY/20190136/ENV).
- “A number of sensitive receptors around the site are likely to be impacted by the proposed scheme. Of particular concern is the proximity and setting of the long distance cycleway (Sustrans Route 68 between Selby and York) immediately to the west side of the site, where proposed working is likely to be visible (particularly during the winter months) and will impact on tranquility and setting of this part of the cycle route.”*
- 4.8 **NYCC Public Rights of Way Team** – responded on 13 May 2020 - confirmed that they do not consider that the line of any Public Right of Way is likely to be affected by this application.
- 4.9 **Ouse and Derwent IDB** – responded on 28 May 2020 - Initially objected on the grounds of surface water management if the height of the landfill were to increase. However, following confirmation from the Applicant that a revised surface water management strategy would be produced via condition, subject to grant of planning permission, the Board have deemed this appropriate and have asked for a second condition requiring a 9-metre wide strip adjacent to Bentley Park Drain.
- 4.10 **The Lead Local Flood Authority (SuDS)** – at the time of writing this report, no response had been received.
- 4.11 **Natural England** – responded on 14 May 2020 - confirmed no comments.
- 4.12 **Yorkshire Water Services Ltd** – responded on 14 May 2020 - confirmed no observations are required.
- 4.13 **Sustrans** – at the time of writing this report, no response had been received.

Notifications

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

5.0 Advertisement and representations

5.1 This application has been advertised by means of three Site Notices posted on 6 May 2020 (responses to which expired on 2 June 2020). The Site Notices were posted in the following locations:

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

A Press Notice appeared in the Selby Times on 14 May 2020 (responses to which expired on 29 May 2020).

5.2 Neighbour Notification letters were sent on 11 May 2020 and the period in which to make representations expired on 2 June 2020. The following properties received a neighbour notification letter:

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

5.3 It is acknowledged that publicity of the application was undertaken during the time of restrictions on movement due to the Covid-19 Pandemic. However, it is considered that the application has been sufficiently notified, given that a letter of objection was still received following this.

5.4 One letter of representation has been received raising objections on the grounds of restoration timescales, visual impact, highways, noise and dust.

6.0 Planning policy and guidance

The Development Plan

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. In this instance, therefore, the *Development Plan* consists of policies contained within a number of planning documents. These documents include:

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

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

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

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

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

6.3 The Planning and Compensation Act 1991 placed a duty on each County Council in England and Wales to prepare a Minerals Local Plan. The NYMLP was adopted in 1997 under the 1991 Act. In the absence of an adopted Minerals and Waste Joint Plan (MWJP) and in accordance with the provisions of the Planning and Compulsory Purchase Act 2004 as of 27 September 2007 only the 'saved' policies continue to form part of the statutory 'development plan' and provide an important part of the current

local policy framework for development control decisions for minerals related development.

- 6.4 The 'saved' policies of the North Yorkshire Minerals Local Plan (1997) relevant to the determination of this application (the mineral extraction element) are:
- Policy 4/1 - Determination of Planning Applications;
 - Policy 4/6a - Nature Conservation and Habitat Protection – Local;
 - Policy 4/10 – Water Protection
 - Policy 4/13 - Traffic Impact;
 - Policy 4/14 - Local Environment and Amenity;
 - Policy 4/20 – Aftercare.
- 6.5 'Saved' Policy 4/1 '*Determination of Planning Applications*', states, 'In considering an application for mining operations, the Minerals Planning Authority will need to be satisfied that, where appropriate:-
- a. the mineral deposit on the application site has been fully investigated;
 - b. the siting and scale of the proposal is acceptable;
 - c. the proposed method and programme of working would minimise the impact of the proposal;
 - d. landscaping and screening has been designed to effectively mitigate the impact of the proposal;
 - e. other environmental and amenity safeguards would effectively mitigate the impact of the proposals;
 - f. the proposals and programme for restoration are acceptable and would allow a high standard to be achieved;
 - g. a high standard of aftercare and management of the land could be achieved;
 - h. the proposed transport links to move the mineral to market are acceptable; and
 - i. any cumulative impact on the local area resulting from the proposal is acceptable'.
- 6.6 The NPPF does not mention the matters raised in points a), b), c), d).
- 6.7 Where criterion e) is concerned, Paragraph 144 of the NPPF states that when determining planning applications, local planning authorities should ensure that any unavoidable emissions or vibrations are controlled or mitigated (if it is not possible to remove them at source).
- 6.8 With regard to criteria f) and g), Paragraph 144 of the NPPF states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary.
- 6.9 Criterion h) of 'saved' Policy 4/1 does not conflict with the provisions of the NPPF; however, there are differences in the objectives. Criterion h) states that transport links should be acceptable whereas paragraph 32 of the NPPF states that improvements to the transport network should be considered, therefore, the NPPF should be given more weight in this instance.
- 6.10 Criterion i) of 'saved' Policy 4/1 is in compliance with paragraph 144 of the NPPF. Paragraph 144 states that in granting permission for mineral development the cumulative effects of multiple impacts from individual sites and/or from a number of sites in a locality should be taken into account.
- 6.11 'Saved' Policy 4/6A '*Nature Conservation and Habitat Protection – Local*', states that in making decisions on planning applications, the Mineral Planning Authority will protect the nature conservation or geological interest of Local Nature Reserves and of other sites having a nature conservation interest or importance, and will have regard to other wildlife habitats. This Policy is consistent with Paragraph 170 of the NPPF. Paragraph 170 states that that the planning system should conserve and enhance the natural and local environment by minimising impacts on biodiversity.

- 6.12 'Saved' Policy 4/10 'Water Protection', states that proposals for mining operations and the associated depositing of mineral waste will only be permitted where they would not have an unacceptable impact on surface or groundwater resources. Paragraph 143 of the NPPF states that when preparing local plans, local planning authorities should set out environmental criteria, in line with policies in the NPPF, against which planning applications will be assessed so as to ensure that permitted operations do not have unacceptable adverse impacts on the flow and quantity of surface and groundwater and this policy is compliant with paragraph 143 of the NPPF.
- 6.13 'Saved' Policy 4/13 '*Traffic Impact*', states that where rail, waterway or other environmentally preferable modes of transport are not feasible, mining operations other than for coal, oil and gas will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway network. This Policy is consistent with the provisions of paragraphs 102 - 104 of the NPPF which also states that improvements to the transport network should be considered.
- 6.14 'Saved' Policy 4/14 'Local Environment and Amenity', states that proposals for mining operations and the associated depositing of mineral waste will be permitted only where there would not be an unacceptable impact upon the local environment or residential amenity. This Policy is considered to be consistent with paragraph 144 of the NPPF. Paragraph 144 states that when determining planning applications, local planning authorities should ensure that there are no unacceptable adverse impacts on the natural environment and human health and should take into account cumulative impacts of a development in a locality.
- 6.15 'Saved' Policy 4/20 '*After-care*', states that planning permissions which are subject to conditions requiring restoration to agriculture, forestry or amenity (including nature conservation) will additionally be subject to an aftercare requirement seeking to bring the restored land up to an approved standard for the specified after-use. Normally this requirement will run for a period of five years following restoration. Additionally, where forestry and amenity (including nature conservation) after-uses are proposed, the Mineral Planning Authority may seek to secure longer term management agreements. This Policy is considered to be consistent with Paragraph 205 of the NPPF. Paragraph 205 states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards.

North Yorkshire Waste Local Plan

- 6.16 The North Yorkshire Waste Local Plan (adopted 2006) has particular relevance in the determination of this application and the policies most relevant include:
- 4/1 – Waste Management Proposals;
 - 4/3 – Landscape Protection;
 - 4/18 – Traffic Impact;
 - 4/19 – Quality of Life;
 - 4/22 – Site Restoration
 - 5/3 – Recycling, sorting and transfer of industrial, commercial and household waste;
 - 6/1 – Landfill Proposals
- 6.17 'Saved' Policy 4/1 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the nature of the development is for a waste management facility. The policy advises that '*Proposals for waste management facilities will be permitted provided that:-*

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

6.18 Both the NPPF and the NPPW (referred to later in this report from point 6.63) are silent on matters raised in criteria b) and i) of ‘saved’ Policy 4/1. With regard to criteria f), Paragraph 205 of the NPPF states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. However, consideration is given within Appendix B of the NPPW in relation to the testing the suitability of a proposed site in determining planning applications. With regards to criteria a), it is noted that the NPPF is silent on the matters raised, whilst paragraph 7 of the NPPW notes that consideration should be given to the type and scale of a proposed waste management facility. Therefore, only partial weight can be afforded only to criteria a) of this policy in the determination of this planning application.

6.19 Criterion g) ‘Saved’ Policy 4/1, is considered to not conflict with the provisions of the NPPF. However, there are differences in the objectives in that criterion g) states that transport links should be adequate, whereas the NPPF states that improvements to the transport network should be considered as part of proposals. However, Appendix B of the NPPW notes that considerations should be given to the suitability of the of the highway network in the determination of an application and assessing the suitability of a site. Furthermore, consideration should be given in the extent to which a development would rely upon the existing highway network, rail networks and transport links to ports. Therefore, this policy is considered to be largely compliant with the NPPW and as such substantial weight can be afforded to this element of the policy in the determination of this application.

6.20 In terms of criteria c), d) and h) of ‘saved Policy 4/1, the NPPF states that developments should contribute to and enhance the local environment, not give rise to unacceptable risks from pollution and cumulative effects should be taken into account rather than the wording in ‘saved’ Policy 4/1 which states that there should not be unacceptable impacts and that safeguards should mitigate the impacts. Although there is a slight difference in emphasis, the provisions of the Policy are considered to be generally conforming to the NPPF. Furthermore, Paragraph 7 of the NPPW notes that the potential harm to the local environment should be assessed in the determination of a planning application against the criteria set out in Appendix B of the document, the general thrust of which seeks to ensure that the suitability of a proposed site is assessed against a number of environmental criteria. Therefore, partial weight should be given to this element of the policy in the determination of this application.

- 6.21 Criterion e) of 'saved' Policy 4/1 requires that landscaping and screening should mitigate the impact of the development, being sympathetic to local landscape character. Therefore, it is considered that the Policy is consistent with the provisions of the NPPF, in particular paragraphs 124 - 127 of the Framework, and Appendix B of the NPPW, both of which note the importance of developments responding to local character and landscapes. Therefore, this element of the policy should be afforded partial weight in relation to this planning application.
- 6.22 'Saved' Policy 4/3 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development has the potential to impact upon the local landscape. The policy advises that *'Proposals for waste management facilities will only be permitted where there would not be an unacceptable effect on the character and uniqueness of the landscape. Wherever possible, proposals should result in an enhancement of the local landscape character'*. It is considered that this Policy is broadly in line with the principles of the NPPF in conserving and enhancing the natural environment as detailed within Chapter 15 of the Framework which outlines the importance of protecting and enhancing landscapes. The NPPF advises on the importance of the planning system in enhancing biodiversity and encourages biodiversity net gains and paragraph 175 states that opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. This is in part supported by Appendix B of the NPPW which makes reference to considering 'the need to protect landscapes or designated areas of national importance however, the NPPW further notes the importance of considering whether a development respects landscape character in ascertaining the suitability of a site in the determination of planning applications. It is, therefore, considered that full weight can be given to this Policy in the determination of this planning application with regards to the NPPW.
- 6.23 'Saved' Policy 4/18 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development involves the transport of waste materials by vehicles. The policy advises that *'Where rail, waterway or other environmentally preferable modes of transport are not feasible, waste management facilities will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway and trunk road network and would not have an unacceptable impact on local communities'*. It is considered that this policy is generally in compliant with the principles of the NPPF as outlined in Chapter 9 of the Framework. However, it is noted that differences do exist in that the NPPF advises that improvements to the transport network, in addition to the use of sustainable transport methods, should be considered as part of developments that are likely to result in significant amounts of vehicle movements. However, the locational criteria contained within Appendix B of the NPPW notes that the suitability of the road network, the reliance placed upon it, the rail network and transport links all require consideration in testing the suitability of a site in determining a planning application. Therefore, whilst this policy demonstrates some conformity with the NPPW and can be given some weight, it is considered that greater weight be given to the NPPF in this instance.
- 6.24 'Saved' Policy 4/19 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development has the potential to impact upon the local environment and residential amenity. The policy advises that *'Proposals for waste management facilities will be permitted only where there would not be an unacceptable impact on the local environment and residential amenity'*. The NPPF provides guidance in relation to how planning decisions should aim to conserve and enhance the natural environment. Paragraph 170 of the Framework advises that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at

unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.

- 6.25 Furthermore, it is noted that the NPPW confirms that environmental impacts and impacts upon amenity are to be considered against the Locational Criteria set out in Appendix B when determining planning applications. It is noted that Appendix B includes factors such as visual impacts, air emissions including dust, odours, noise, light and vibrations. It is, therefore, considered that 'saved' Policy 4/19 is consistent with the NPPF and NPPW. Therefore, this policy should be given considerable weight in the determination of this planning application.
- 6.26 'Saved' policy 4/22, in relation to site restoration, states that "proposals for waste disposal should demonstrate that the restoration proposals will restore and enhance, where appropriate, the character of the local environment". Paragraph 205 of the NPPF and paragraph 7 of the National Planning Policy for Waste (NPPW) states that when determining planning applications, Local Planning Authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards, through the application of appropriate conditions, where necessary. It is therefore considered that this policy which seeks restoration appropriate to the locality is consistent with the NPPF and NPPW and should be given weight.
- 6.27 'Saved' Policy 5/3 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development involves the sorting and transfer of waste materials. The policy advises that *'Proposals for facilities for recycling, sorting and transfer of industrial, commercial and household wastes will be permitted provided that:*
- a) *The proposed site is suitably located with an existing, former or proposed industrial area of a character appropriate to the development; or*
 - b) *The proposed site is suitably located within a redundant site or building;*
 - c) *The proposed site is appropriately located within or adjacent to active or worked out quarries or landfill sites; and*
 - d) *The operations are carried out in suitable buildings; and*
 - e) *The highway network and site access can satisfactorily accommodate the traffic generated; and*
 - f) *That in appropriate cases it does not prejudice the restoration and afteruse of the quarry or landfill site; and*
 - g) *The proposal will not have an unacceptable impact on local amenity or the environment'.*
- 6.28 In terms of Criterion a), it is considered that both the NPPF and NPPW are silent on the matters raised. However, Paragraph 7 of the NPPW does note that facilities should be designed so as to positively contribute to the character of the area. Therefore, it is considered that partial weight be applied to this Policy.
- 6.29 It is considered that the NPPF is silent in relation to the matters raised in Criterion b), c), d) and f). Furthermore, the NPPW is also silent in relation to the matters raised in Criterion b), c) and d). It is noted that Chapter 7 of the NPPW does make reference to the restoration of landfill sites, but only insofar as applications should ensure that landfill sites are restored appropriately at the earliest opportunity and makes no reference to prejudicing the restoration of quarry or landfill sites. Therefore, limited weight can be given to these elements of the Policy in the determination of this application.
- 6.30 In terms of Criterion e) it is considered that this policy is generally in compliance with the principles of the NPPF as outlined in Chapter 9 of the Framework. However, it is noted that differences do exist in that the NPPF advises that improvements to the

transport network, in addition to the use of sustainable transport methods, should be considered as part of developments that are likely to result in significant amounts of vehicle movements. Additionally, with the NPPW, the locational criteria contained within Appendix B notes that the suitability of the road network and the reliance placed upon it, require consideration in testing the suitability of a site in determining a planning application. Therefore, this element of the policy is considered to be largely compliant with the NPPW and as such, weight can be afforded to this element of the policy in the determination of this application.

- 6.31 In terms of Criterion g) it is considered that the Policy is in compliance with the principles of the NPPF as outlined within Paragraph 170 of the Framework. Furthermore, it is also considered to be in-compliance with Paragraph 7 and Appendix B (Locational Criteria) of the NPPW in relation to the restoration of landfill sites and the need to protect landscapes. Therefore, considerable weight can be given to this element of the Policy in the determination of this planning application.
- 6.32 'Saved' policy 6/1 of the North Yorkshire Waste Local Plan provides details of what the County Council would normally view as being appropriate for waste disposal via landfill. The wording of the policy reads:
 "Proposals for additional landfill capacity for the disposal of waste will be permitted provided that:-
- a) It can be demonstrated that there is an over-riding need for the development and there are no available alternative methods for treating the waste; or
 - b) It is required for the restoration of a former mineral void which cannot be satisfactorily reclaimed in any other way; and
 - c) Where appropriate, provision is made for the selective recycling of waste; and
 - d) The highway network and site access can satisfactorily accommodate the traffic generated; and
 - e) The proposal will not have an unacceptable impact on local amenity or the environment."
- 6.33 The NPPF is silent on guidance relative to landfill and waste , however the National Planning Practice guidance (NPPG) as discussed in more detail below, refers to time extensions for landfill sites and how they remain an important part of the network of facilities needed to manage England's waste. As previously set out, more weight can also be given to saved policy 6/1 regarding highways and traffic issues and the points covering impacts on local amenity or the environment, which generally accord with the provisions on the NPPF.

Emerging Minerals and Waste Joint Plan

- 6.34 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption. In this respect, it is worth noting that the following document contains emerging local policies that are of relevance to this application:
- Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority).
- 6.35 The draft MWJP was published in November 2016 for representations, after consultation commenced on an Addendum schedule of proposed changes for an 8-week period over summer 2017. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 and the Examination in Public (EiP) began on 27 February 2018. At present the plan is still in the examination phase with the hearing having been concluded and with main modifications to be consulted upon. Therefore, some weight can be given to the MWJP Policies. The most relevant policies in regards to the determination of this application are:

Draft Development Management Policies

- D01 - Presumption in favour of sustainable minerals and waste development
- D02 - Local amenity and cumulative impacts
- D03 - Transport of minerals and waste and associated traffic impacts
- D06 - Landscape
- D07 - Biodiversity and geodiversity
- D10 – Reclamation and afteruse
- W01 – Moving waste up the waste hierarchy
- W02 – Strategic role of the plan area in the management of waste
- W05 – Meeting waste management capacity requirements – Construction, Demolition and Excavation waste (including hazardous CD&E waste)
- W10 – Overall locational principles for provision of waste capacity
- W11 - Waste site identification principles

6.36 Draft MWJP Policy D01 Presumption in favour of sustainable minerals and waste development states,

“When considering development proposals the Authorities will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date then the Authority will grant permission unless:

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

6.37 Draft MWJP Policy D02 Local amenity and cumulative impacts, states,

“Proposals for minerals and waste development, including ancillary development and minerals and waste transport infrastructure, will be permitted where it can be demonstrated that there will be no unacceptable impacts on local amenity, local businesses and users of the public rights of way network and public open space.

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

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

6.38 Draft MWJP Policy D03, in regards to *Transport of minerals and waste and associated traffic impacts*, states:

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

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

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

- 6.39 Draft MWJP Policy D06 concerns landscape issues and the relevant points include:
"1) All landscapes will be protected from the harmful effects of development. Proposals will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures.
4) Where proposals may have an adverse impact on landscape, tranquillity or dark night skies, schemes should provide for a high standard of design and mitigation, having regard to landscape character, the wider landscape context and setting of the site and any visual impact, as well as for the delivery of landscape enhancement where practicable."
- 6.40 Draft MWJP Policy D07, with regard to biodiversity and geodiversity states:
"Proposals will be permitted where it can be demonstrated that there will be no 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, having taken into account any proposed mitigation measures." and *"Through the design of schemes, including any proposed mitigation measures, proposals should seek to contribute positively towards the delivery of agreed biodiversity and/or geodiversity objectives"*.
- 6.41 Draft Policy D10, in regards to *Reclamation and Aftercare*, states:
Part 1) Proposals which require restoration and afteruse elements will be permitted where it can be demonstrated that they would be carried out to a high standard and, where appropriate to the scale and location of the development, have demonstrably:
- i) Been brought forward following discussion with local communities and other relevant stakeholders and, where practicable, the proposals reflect the outcome of those discussions;*
 - ii) Taken into account the location and context of the site, including the implications of other significant permitted or proposed development in the area and the range of environmental and other assets and infrastructure that may be affected, including any important interactions between those assets and infrastructure;*
 - iii) Reflected the potential for the proposed restoration and/or afteruse to give rise to positive and adverse impacts, including cumulative impacts, and have sought where practicable to maximise potential overall benefits and minimise overall adverse impacts;*
 - iv) Taken into account potential impacts on and from climate change factors;*
 - v) Made best use of onsite materials for reclamation purposes and only rely on imported waste where essential to deliver a high standard of reclamation;*
 - vi) Provided for progressive, phased restoration where appropriate, providing for the restoration of the site at the earliest opportunity in accordance with an agreed timescale;*
 - vii) Provided for the longer term implementation and management of the agreed form of restoration and afteruse (except in cases of agriculture or forestry afteruses where a statutory 5 year maximum aftercare period will apply)"*
- 6.42 Draft Policy W01 (Moving waste up the waste hierarchy) states that landfill of inert waste will be permitted where it would facilitate a high standard of quarry reclamation in accordance with agreed reclamation objectives.
- 6.43 Draft Policy W02 (Strategic role of the plan area in the management of waste) states that support will be given through the allocation of sites and the grant of planning permission for the additional waste management capacity needed to help achieve net self-sufficiency in capacity at a level equivalent to expected arisings in the plan area.
- 6.44 Draft Policy W05 (Meeting waste management capacity requirements – Construction, Demolition and Excavation waste (including hazardous CD&E waste) states that net self-sufficiency in capacity for management of CD&E waste will be supported through permitting proposals for additional landfill capacity for CD&E waste where it would be consistent with the principles set out in Policy W01 parts 3) and 4).
- 6.45 Draft Policy W10 (Overall locational principles for provision of waste capacity) states that determination of planning applications should be consistent with maximizing 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 within the footprint of existing sites and, the extension to the footprint of existing sites.

- 6.46 Draft Policy W11 (Waste site identification principles) of the emerging Minerals and Waste Joint Plan states that determination of planning applications should be consistent with a number of principles, including the provision of any “*additional capacity required for landfill of waste through preferring the infill of quarry voids for mineral site reclamation purposes, giving preference to proposals where a need for infill has been identified as part of an agreed quarry reclamation scheme and where any pollution control concerns can be mitigated to an acceptable level*”.

Selby District Core Strategy

- 6.47 The Selby District Core Strategy is the long-term strategic vision for how the District will be shaped by setting out a number of broad policies to guide development principles for the area.
- 6.48 The Core Strategy (2013) does not contain any policies specific to mineral development ('County Matters'), but there are general development management policies which would usually be applicable to District-scale development which, in this instance, are relevant to the determination of this application. The policies considered relevant to the determination of this application are:
- SP1 - Presumption in Favour of Sustainable Development;
 - SP15 - Sustainable Development and Climate Change;
 - SP18 - Protecting and Enhancing the Environment;
 - SP19 - Design Quality.
- 6.49 Policy SP1 of the Selby District Core Strategy states ‘*When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in the Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date (as defined by the NPPF) at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:*
- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
 - *Specific policies in that Framework indicate that development should be restricted*’.
- 6.50 Policy SP15 of the Selby District Core Strategy relates to Sustainable Development and Climate Change and specifically Part B is of relevance to this application, and states (inter alia):
- “B. *Design and Layout of Development*
In order to ensure development contributes toward reducing carbon emissions and are resilient to the effects of climate change, schemes should where necessary or appropriate:
- d) *Protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilise biodiversity to contribute to climate change mitigation and adaptation;*

- e) *Include tree planting, and new woodlands and hedgerows in landscaping schemes to create habitats, reduce the 'urban heat island effect' and to offset carbon loss;*

6.51 Policy SP18 of the Selby District Core Strategy seeks to sustain the high quality and local distinctiveness of the natural and manmade environment. A number of points within Policy SP18 are of relevance to the proposed development, as follows:

"The high quality and local distinctiveness of the natural and man-made environment will be sustained by (inter alia):

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

6.52 Policy SP19 of the Selby District Core Strategy states *"Proposals for all new development will be expected to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Where appropriate schemes should take account of design codes and Neighbourhood Plans to inform good design. Both residential and non-residential development should meet the following key requirements:*

- *Make the best, most efficient use of land without compromising local distinctiveness, character and form.*
- *Positively contribute to an area's identity and heritage in terms of scale, density and layout;*
- *Incorporate new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate;*
- *Preventing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability.*

Selby District Local Plan

6.53 Notwithstanding the adoption of the Selby District Core Strategy Local Plan in 2013, referred to above, some of the policies in the existing Selby District Local Plan (adopted in 2005 and saved in 2008 by Direction of the Secretary of State) remain extant following the adoption of the Core Strategy.

6.54 Within the Selby District Local Plan, the 'saved' policies relevant to the determination of this application are:

- ENV1- Control of Development;
- ENV2 - Environmental pollution and Contaminated land;
- T1- Development in Relation to the Highway network;

- 6.55 'Saved' Policy ENV1, advises that *'proposals for development will be permitted provided a good quality of development would be achieved.'* The plan further advises that when considering proposals, considerations will take into account of *'the effect upon the character of the area or amenity of adjoining occupiers'; 'the potential loss, or adverse effect upon significant buildings, related species, trees, wildlife habitats, archaeological or other features important to the character of the area'; the 'relationship of the proposal to the highway network, the proposed means of access and arrangements to be made for car parking'; and the 'standard of layout, design and materials in relation to the site and its surroundings and associated landscaping'.* This policy is consistent with the NPPF's objectives of presumption in favour of sustainable development, as outlined in paragraph 17 of the Framework, which relates to the importance of achieving a good quality of design to ensure a good quality and standard of amenity for all existing and future occupants and therefore some weight is given to this policy in the determination of this application.
- 6.56 This policy ENV1- Control of Development sets out a number of points which the District Council will take account of in considering proposals for development:
1. The effect upon the character of the area or the amenity of adjoining occupiers;
 2. The relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements to be made for car parking;
 3. The capacity of local services and infrastructure to serve the proposal, or the arrangements to be made for upgrading, or providing services and infrastructure;
 4. The standard of layout, design and materials in relation to the site and its surroundings and associated landscaping;
 5. The potential loss, or adverse effect upon, significant buildings, related spaces, trees, wildlife habitats, archaeological or other features important to the character of the area; and
 6. Any other material considerations".
- 6.57 It is considered that limited weight can be attached to 'saved' Policy ENV1 as the NPPF and NPPW makes clear that the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution, should be taken into account. However, with regards to transport, the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe and, therefore, only limited weight may be given in this instance.
- 6.58 'Saved' Policy ENV2 - Environmental pollution and contaminated land states that
- "A) Proposals for development which would give rise to, or would be affected by, unacceptable levels of noise, nuisance, contamination or other environmental pollution including groundwater pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme. Such measures should be carried out before the use of the site commences.*
- B) Where there is a suspicion that the site might be contaminated, planning permission may be granted subject to conditions to prevent the commencement of development until a site investigation and assessment has been carried out and development has incorporated all measures shown in the assessment to be necessary".*

This Policy is generally considered to be compliant with Chapters 11 and 15 of the NPPF. It is also considered consistent with the NPPG for waste which discusses that there exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system is on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health

and safety issues or emissions themselves where these are subject to approval under other regimes

- 6.59 'Saved' Policy T1- Development in Relation to the Highway network states that development proposals should be well related to the existing highways network and will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer. It is considered that 'saved' Policy T1 is consistent with the NPPF and should be given full weight in the determination of this application. This is because the objectives in the NPPF state that improvements to the transport network should be considered, and paragraph 109 of the NPPF states that development 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.

Other policy considerations:

National Planning Policy

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

National Planning Policy Framework

- 6.61 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied. As referred to above, the Framework should be read in conjunction with the Government's planning policy for waste. When preparing plans or making decisions on applications for these types of development, regard should also be had to the policies in this Framework, where relevant.
- 6.62 The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay (if plans are up-to-date and consistent with the NPPF). The Government defines sustainable development as that which fulfils the following three roles:
- a) 'an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*
- c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'*
- 6.63 Within the NPPF, paragraph 11 of the Framework advises that when making decisions, development proposals that accord with the development plan should be approved without delay and when the development plan is absent, silent or relevant policies are out of date, permission should be granted unless:

- i.) *'the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- i.) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'.*
- 6.64 This national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure.
- 6.65 Paragraph 127 within Chapter 12 (Achieving well-designed places) of the NPPF identifies objectives that planning policies and decisions should aim to ensure that new developments:
- "function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
 - are visually attractive as a result of good architecture and appropriate landscaping."
- 6.66 Within the NPPF, paragraph 149 of the Framework confirms that Local Planning Authorities should adopt proactive strategies to *'mitigate and adapt to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes'*.
- 6.67 Paragraph 155 of the Framework notes that inappropriate development within areas at risk of flooding should be avoided however where development is necessary in such locations it should be made safe *'without increasing flood risk elsewhere.'*
- 6.68 Paragraph 163 of the NPPF advises that in determining planning applications, Local Planning Authorities should *'ensure flood risk is not increased elsewhere'* and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, *'it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;*
 - b) *development is appropriately flood resistant and resilient;*
 - c) *It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
 - d) *Any residual risk can be safely managed; and*
 - e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.'*
- 6.69 Within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF it is clear that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.
- 6.70 Paragraph 170 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and

other benefits of the best and most versatile agricultural land, and of trees and woodland

- 6.71 Paragraph 175 of the NPPF seeks to protect habitats and biodiversity in the form of:
d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 6.72 Paragraph 180 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF states that planning policies and decision should ensure that new development is appropriate for its location, taking into account the likely effects of pollution on health, living condition and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
 - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
 - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 6.73 Paragraph 183 within Chapter 11 states that “the focus of planning policies and decision should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities”.
- 6.74 Furthermore, when determining the application consideration needs to be given to the bullet points in Paragraph 205 of the NPPF relevant to the proposed development, which states that “*When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy*). In considering proposals for mineral extraction, minerals planning authorities should:
e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances”

National Planning Policy for Waste (published October 2014)

- 6.75 The National Planning Policy for Waste (NPPW) replaced ‘Planning Policy Statement 10: Planning for Sustainable Waste Management’ (PPS 10) published in 2006 and is to be considered alongside other national planning policy for England - such as in the NPPF (2012) and Defra’s Waste Management Plan for England (2013).
- 6.76 Paragraph 1 of the NPPW states that the Government’s ambition is to “work towards a more sustainable and efficient approach to resource use and management”. The NPPW sets out the “pivotal role” that planning plays in delivering the country’s waste ambitions with those of relevance to this application being as follows:
- “delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate

change benefits, by driving waste management up the waste hierarchy (see Appendix A of NPPW);

- ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities;
- providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;
- helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment; and
- ensuring the design and layout of new residential and commercial development and other infrastructure (such as safe and reliable transport links) complements sustainable waste management, including the provision of appropriate storage and segregation facilities to facilitate high quality collections of waste”.

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

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

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

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

- *“consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;*
- *ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;*
- *concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced;*

- *ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary*”.

National Planning Practice Guidance (PPG) (2014)

6.80 On 6th March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG) web-based resource. The NPPG supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections: -

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

Air Quality

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

Design

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

6.83 When determining applications, the NPPG advises that “*Local planning authorities will assess the design quality of planning proposals against their Local Plan policies, national policies, and other material considerations*”. Where buildings “*promote high levels of sustainability*”, the NPPG advises that planning permission should not be refused on the basis on concerns about whether the development is incompatible with an existing townscape, if good design can mitigate the concerns.

6.84 In general, the NPPG states that “*Development should seek to promote character in townscape and landscape by responding to and reinforcing locally distinct patterns of development... while not preventing or discouraging appropriate innovation*”.

6.85 In relation to landscape impacts, the NPPG advises that development can be integrated into the wider area through the use of natural features and high quality landscaping. In addition, the NPPG promotes the creation of green spaces and notes that high quality landscaping “*makes an important contribution to the quality of an area*”.

Health and Wellbeing

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

Noise

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

Waste

- 6.88 With regard to the Waste Hierarchy the guidance states that “*driving waste up the Waste Hierarchy is an integral part of the National Waste Management Plan for England and national planning policy for waste*” and “*all local planning authorities, to the extent appropriate to their responsibilities, should look to drive waste management up the hierarchy*”.
- 6.89 The guidance states, in respect of the use of unallocated sites for waste management facilities, that applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the Waste Hierarchy. If the proposal is consistent with an up to date Local Plan, there is no need to demonstrate ‘need’.
- 6.90 With regard to expansion/extension of existing waste facilities the guidance states that “*the waste planning authority should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community’s wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant*”. The guidance does however, state that waste planning authorities should be aware that the continued provision and availability of waste disposal sites, such as landfill, remain an important part of the network of facilities needed to manage England’s waste. The continued movement of waste up the Waste Hierarchy may mean that landfill sites take longer to reach their full capacity, meaning an extension of time limits to exercise the planning permission may be needed in some circumstances, provided this is in accordance with the Local Plan and having taken into account all material considerations.
- 6.91 The guidance includes advice on the relationship between planning and other regulatory regimes. On this matter it states “The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity taking into account the criteria set out in Appendix B to National Planning Policy for Waste. There exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes”.
- 6.92 The guidance states that “the role of the environmental permit, regulated by the Environment Agency, is to provide the required level of protection for the environment from the operation of a waste facility. The permit will aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health”.

7.0 Planning considerations

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. In light of the abovementioned policies the main considerations in this instance are titled below.

Principle of the proposed development

- 7.2 The principles of a landfill operation and extraction of clay at the site have been established through the existing operations under the extant planning permission reference C8/10/3AC/CPO dated 4 November 2013 and a number of historical planning permissions at the site. The proposed variation of conditions is to raise the existing approved levels by importing additional waste, and therefore amending the restoration scheme. The site has been used during the landfill operation as a waste management site with waste arriving at the site, being screened and then split into that used for fill and that which was exported as secondary aggregates. This proposed variation seeks to allow the continuation of operations at the site, albeit with amendments as proposed. The proposed development, if granted, and unlike the extant planning permission, would include an 'end date' for operations to cease and restoration to be completed via planning condition.
- 7.3 Planning permission was originally granted for the infilling of the former clay quarry void with inert waste to provide an end use of a mountain bike skills centre and associated facilities, once restored. The landfilling was expected to take approximately 10 years, after which the site would have been restored to create the mountain bike skills centre and nature trail. The end use of the land once restored and the time taken to reach that outcome were both material considerations at the time of determination of the original planning permission. At present the remaining life of the site is currently expected to be less than two years based on the void space and topography as per the approved scheme. There is no explicit end date of the current extant planning permission (ref. C8/10/3AC/CPO dated 4 November 2013) and therefore the cessation of operations on site is currently determined by the completion of the final landform and restoration. This planning application seeks to extend the waste management operations at the site for another 10 years (so 8 years on current operations) before restoring the land to be used as a mountain bike trail with steeper slopes. NPPF paragraph 170 requires planning authorities to make decisions which contribute to and enhance the natural and local environment by protecting landscapes, recognising the character of the countryside, minimising impacts on biodiversity, preventing pollution and remediating despoiled land. The proposed amendment of the approved restoration scheme through the resubmission would see the continuation of activities and that have and would continue contribution to those matters above, specifically biodiversity, in which a greater net gain is proposed, therefore consistent with paragraph 170 of the NPPF in terms of contribution. The design of the scheme has been undertaken to ensure that it will not give rise to unacceptable pollution risks and will bring about demonstrable benefits to the landscape and biodiversity.
- 7.4 The proposed amendment of the approved restoration scheme would result in the continuation of waste management activities at the site, and would result in a substantial increase to the approved contours. The current approved scheme would see the site restored to approximately 8.5 metres AOD, whereas the revised proposals would take this level to approximately 15-16 metres AOD, with other levels forming an elevated plateau typically 8 metres above existing perimeter levels (6 metres above currently approved levels). A theoretical zone of visibility assessment was undertaken as part of this application within the Landscape and Visual Impact Assessment, which states that 'potentially within a 2 kilometre radius of the site there would be a high degree of inter-visibility particularly to the east and west. Field observations have proved however that there are no major/prominent viewpoints within the locality and

that views of the site and the proposed development are likely to be limited, particularly in summer when intervening hedgerows and trees are in full-leaf.' The County Council's Landscape Architect broadly agrees with the Landscape and Visual Assessment (LVIA) that there is likely to be moderate adverse effect on landscape character due to its sensitivity and magnitude, and major/ moderate adverse visual effects on local receptors such as the A19 and Sustrans cycle path. It is noted that the Applicant made some adjustment to the phasing and restoration proposals in order to try and reduce potential impacts, and as a result of this, 'some adverse effects may be reduced over 15 years as the restoration scheme becomes established, however, the adverse effects are likely to remain significant'. The landfilling operation has almost been completed under the terms of the previous planning permission and it was the expectation of the Waste Planning Authority that it would be completed within the next two years as advised by the Applicant.

- 7.5 The proposed development would provide the County Planning Authority with the opportunity to agree and update existing conditions, including appropriate restoration and landscaping conditions which are also proposed to be secured via the mechanism of a Section 106 Legal Agreement which would see a 30-year management scheme following completion of the landfill, and an 'end date' for operations, as discussed above, which currently does not exist on the extant planning permission. It is considered that inert landfilling is established at the Old Brick and Tile Works and the principle of continuing these operations in this location is acceptable subject to appropriate environmental controls in accordance with the development plan. It is also in compliance with 'Saved' Policy 5/3 of the North Yorkshire Waste Local Plan in terms of location within an existing site. As the proposal is considered in line with the Development Plan in these respects, it is also consistent with point c) of NPPF paragraph 11. However, any potential adverse impacts on the environment and amenity arising from the proposed development need to be considered in detail and the main considerations are addressed in the subsequent sections of this report.

Need

- 7.6 It is noted that Escrick Parish Council reiterated points raised in their objection to the previous application, on the grounds impact on visual amenity through the increased height of the restored area. The Applicant has affirmed that it is proposed to initially extract the remaining residual amount of clay located in the south west corner of the site to make full use of the extant permission and void space. This area has yet to be subject to any infilling as working continues in phase 2 of the site. Clay would be worked to a maximum depth of -2.5 metres AOD in accordance with the currently permitted activities. The area would be subsequently filled and restored to a low-level reed fringed wetland.
- 7.7 The proposed changes to the approved restoration scheme would provide an additional voidspace of circa 500,000 cubic metres (equivalent to approximately 900,000 tonnes of additional material). It is proposed that the works would be completed and the site restored over a ten-year period, although this would be influenced by market conditions prevailing over that period of time.
- 7.8 Draft Policy W01 (Moving waste up the waste hierarchy) states that landfill of inert waste will be permitted where it would facilitate a high standard of quarry reclamation in accordance with agreed reclamation objectives. It is considered that the proposal would accord with this in terms of restoring the site with an additional net gain of biodiversity.
- 7.9 Draft Policy W02 (Strategic role of the plan area in the management of waste) states that support will be given through the allocation of sites and the grant of planning permission for the additional waste management capacity needed to help achieve net

self-sufficiency in capacity at a level equivalent to expected arisings in the plan area. The emerging joint plan indicates that, in 2014, there were around 800,000 tonnes of construction, demolition and excavation wastes generated in the plan area. Paragraph 6.73 of the emerging plan predicts a shortfall in capacity for landfill of non-hazardous CD&E wastes from around 2022 with an annual gap in inert landfill capacity of around 186,000 tonnes per annum by 2030 based upon this rate of waste generation.

- 7.10 The 2017 Environment Agency Waste Data Interrogator (WDI) was consulted to provide an update position, given that the data in the emerging plan is now six years old. The WDI identifies that in 2018, just under 990,000 tonnes of those waste types managed at Escrick were dealt with in North Yorkshire and York, and the existing facility accounted for approximately 24% of that total. It also indicates that of the total wastes managed at the site, over 90% arises in York, Selby and Harrogate. It is therefore considered that the management of wastes at Escrick complies with the proximity principle and the sustainable management of wastes.
- 7.11 Draft Policy W05 (Meeting waste management capacity requirements – Construction, Demolition and Excavation waste (including hazardous CD&E waste) states that net self-sufficiency in capacity for management of CD&E waste will be supported through permitting proposals for additional landfill capacity for CD&E waste where it would be consistent with the principles set out in Policy W01 parts 3) and 4).
- 7.12 Draft Policy W10 (Overall locational principles for provision of waste capacity) states that determination of planning applications should be consistent with maximizing 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 within the footprint of existing sites and, the extension to the footprint of existing sites. The supporting text of this draft policy goes on to state that in some cases it may also be *“practicable for additional waste management capacity, and or additional or alternative waste uses which are compatible with the location of the site and any relevant constraints, including the potential for impact on local communities, to be provided within the footprint of existing sites”*. It is considered that the proposal would maximize the existing facility network, by allowing continuation of site operations for up to ten years, providing for the additional capacity as sought in this policy.
- 7.13 Draft Policy W11 (Waste site identification principles) of the emerging Minerals and Waste Joint Plan states that determination of planning applications should be consistent with a number of principles, including the provision of any *“additional capacity required for landfill of waste through preferring the infill of quarry voids for mineral site reclamation purposes, giving preference to proposals where a need for infill has been identified as part of an agreed quarry reclamation scheme and where any pollution control concerns can be mitigated to an acceptable level”* and it is considered that the continuing need for further void space through the extraction of the small remaining clay reserve and the subsequent restoration of the voids following the extraction of the clay resource is consistent with this emerging policy.
- 7.14 A drawing submitted as part of the application indicates the location of all those sites within North and East Yorkshire which have permits issued by the Environment Agency for operation as an inert landfill site. Of the total number of sites shown, only a maximum of 9 (including Escrick) are operational. Of this total number of sites, 4 are located outside North Yorkshire. Of the 5 operational sites in North Yorkshire all, except Escrick, have time limited permissions which will expire over the course of the plan period. Those sites are identified as:
- Asenby Quarry Landfill (Thirsk);
 - Flixton Quarry Landfill (Scarborough);
 - Escrick;

- Eggborough Sandpit (South Selby District); and
- Hensall Quarry (South Selby District).

It is considered that clearly, that those sites above (with the exception of Escrick) are capable of serving other areas both inside and outside the county; whereas Escrick would serve the Selby, Harrogate and York areas. It is therefore considered that there is an identified need for the provision of additional capacity throughout the plan period. In light of this, Policies W10 and W11 of the emerging MWJP establish “Overall locational principles for provision of waste capacity” and “Waste site identification principles” respectively.

Landscape and visual impact

- 7.15 An assessment of the potential impact upon the landscape as a result of the proposed development was undertaken and identifies that the site falls within the Vale of York Character Area as defined by the Countryside Agency, however there are no landscape designations associated with the site. The report concludes that the magnitude of change on landscape character is assessed as medium due to the introduction of an elevated landform increasing in height by up to eight metres above the current permitted development. The assessment also concludes that effects on landscape character would however be limited to the local area.
- 7.16 The report also concludes that all of the key characteristics of the site and surrounding area would be unaffected by the proposed development. The proposal would introduce a visibly recognisable new topographic feature that would be assimilated within a deciduous woodland and consistent with the wooded character of the area and likely not be considered substantially uncharacteristic when set within the attributes of the receiving landscape. With a medium sensitivity and a medium magnitude of effect, the proposal has been assessed as having a moderate/minor level of effect on landscape character.
- 7.17 It is noted that Escrick Parish Council object on the basis of the impact upon visual amenity, stating that there is no valid justification for the additional height proposed, which is out of character in the flat area of the Vale of York around Selby and that this is excessive. The County Council’s Landscape Architect confirmed in a consultation response that the proposed scheme would create an incongruous feature in the landscape adversely affecting landscape character and setting. It was stated in the consultation response that there are likely to be additional cumulative landscape and visual effects due to the extended working, delayed restoration period, and association with the proposed clay extraction to the west side (Planning Application NY/20190136/ENV). One particular concern is the proximity and setting of the long distance cycleway (Sustrans Route 68 between Selby and York) immediately to the west side of the site, “*where proposed working is likely to be visible (particularly during the winter months) and would impact on tranquillity and setting of this part of the cycle route.*”
- 7.18 As discussed in more detail in section 3 of this report, the Applicant has proposed mitigation measures in the form of the alteration of the phasing of construction to ensure that the external flanks of each phase are completed first to provide improved visual containment. The first phase of development would include the construction of the northern and eastern outer flank of landfill cell 1. This would reach a height of 5 metres with a gradient of 1:5. It is envisaged that this part of the outer flank would be completed within 6 months of the recommencement of the development. It is also proposed that the western flank of the site is strengthened at the north western corner of the site. At this point the land would be raised by 2-3 metres in order to tie in with the existing landform. It would then be planted with the mix specified in section 3 of this report.

- 7.19 The outer flank would be constructed of inert material and covered with soil to a depth of 1 metre. The Applicant has suggested that an advantage of this site compared with other infill operations is the availability of composted wastes (permitted to be accepted for restoration purposes in accordance with the approved Environmental Permit) the presence of which would ensure that the trees establish quickly, therefore creating a visual mitigation for the duration of the works and beyond.
- 7.20 Whilst acknowledging that raised elevations remain part of the proposals, the current application has provided an opportunity to reassess this element of the proposal in the context of the revisions made by the applicant to this resubmission, and regard has been had to the effects when taken as a whole. On balance, taking into account the proportion of the raised landform capable of being obscured through the design of the earthworks and the proposed additional landscaping (over and above that which had been previously proposed), it is considered that the proposal is capable of providing overall benefits (including the continuation of the provision of available void space for the disposal of waste) together with the possibility of securing a 30-year management agreement to deliver long-term aftercare and biodiversity net gains (discussed in more detail below) which collectively all now serve to weigh heavier in the planning balance.
- 7.21 The revised Landscape and Visual Impact Assessment which was commissioned as part of the resubmission, concludes that the proposed development within the site and immediate vicinity would cause some initial impact on the landscape, as discussed above. However, when considered within the context of the existing consent, the assessment concludes that there is little discernible difference between this impact and that of the consented scheme either during the operational phase or in the early stages of restoration i.e. whilst the tree cover is established. Furthermore, the height of the landfill when at the highest point would still remain below the existing tree line, and once the initial woodland planting is established there would be a beneficial effect from the proposed development in terms of additional tree planting. The existing and proposed landscaping provide the site with the benefit of being visually contained and would not negatively impact the local landscape character to any significant extent. Furthermore, the substantive woodland planting on site would make a major contribution to the character area similar to the size and scale of Heron Wood which lies adjacent.
- 7.22 With regard to the cycle path (National Route 65), the potential for impacts arising from the proposed operations to affect users of Route 65 of the National Cycle Network (NR65) which is also the Trans Pennine Trail (TPT), have been considered. Throughout the life of the proposed development, the use of the TPT would not be removed or prevented. It is considered that, as at present, effective mitigatory measures are capable of being implemented to control the generation of dust at the site including during the movement of HGVs on site. The mitigation measures which are implemented at the existing site have been found to be successful and effective and it is considered that applying these same methods would be just as effective in controlling dust emissions from the site boundary. The organisation, Sustrans, has been consulted on the application and no response has been forthcoming.
- 7.23 It is considered that the mitigation measures proposed, in terms of planting, visual mitigation and landscaping, are acceptable and are in accordance with the principles of the NPPF. Paragraph 110 refers to priority being given to pedestrian and cycle movements, and it is considered that this is the case with the proposed mitigation put forward by the applicant in this instance.
- 7.24 For the reasons detailed above, while acknowledging that some landscape effects are likely to occur through changes, it is nevertheless considered that the proposed development would not result in any long-term significant adverse impact upon the character of the area and would continue to achieve a suitable final restored landform

which, once the new planting becomes established, together with the existing perimeter landscape screening (of which the height would still exceed the height of the landfill), would not be unsympathetic in the context of the surrounding landscape. Any impacts that have been identified as potentially arising from the proposed development are capable of being appropriately mitigated and controlled through the imposition of suitable conditions should planning permission be forthcoming. Therefore, the proposed development is considered to be consistent with the principles of the NPPF in relation to local landscape character as outlined within Chapter 15 of the framework including paragraphs 118, 170, 175, 180 and the PPG in regards to the natural environment. It is also not in significant conflict with the landscape and character protection elements of 'saved' policies 4/1, 4/14, and 4/20 of the North Yorkshire Minerals Local Plan (NYMLP), draft policies D01 and D06 of the emerging MWJP; policies 4/1, 4/3, 4/22 and 6/1 of the NYWLP, Policy SP15, SP18 and SP19 of the Selby District Core Strategy and 'saved' Policy ENV1 and ENV2 of the Selby District Local Plan; all of which seek to ensure that the restoration of minerals sites and developments generally, would include landscape requirements to enhance the character and appearance of the site and local area, adding further weight in support of the application.

Ecology

- 7.25 The application is accompanied by an Ecology Report, undertaken by BSG Ecology on behalf of the Applicant. The report comprises the results and assessment of an Extended Phase 1 Habitat Survey and subsequent further survey work.
- 7.26 The report identifies that there are no statutory sites of nature conservation recorded within 2 kilometres of the application site. The report does note though that there are four non-statutory sites recorded within 1 kilometre of the application site. The report also identifies that the application site lies within the impact risk zone for Skipwith Common Site of Special Scientific Interest (SSSI). Inert landfill operations are included under the Skipwith Common SSSI as development types for which Natural England would need to be consulted. Consequently, Natural England have confirmed in their consultation response that they have no comments to make in respect of the proposed development.
- 7.27 The surveys assessed the suitability of the application site to support protected species, focussing particularly upon Great Crested Newts, Badger, Bats, Water Voles and Birds. The report concluded with recommendations for protection measures, which the County Council's Ecologist has confirmed are sufficient to deal with any mobile species and/or changes that may take place across the site prior to works commencing and has asked that a condition be included on any grant of planning permission to deal with these. The Ecologist has also requested that a condition be added to any grant of planning permission which deals with the habitat creation, establishment and management plan in addition to the species protection measures. Policy SP15 (part d) of the Selby District Core Strategy relates to Sustainable Development and Climate Change and requests that schemes should be resilient to the effects of climate change and should 'Protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilise biodiversity to contribute to climate change mitigation and adaptation'. It is considered that the imposition of a condition to any grant of planning permission to deal with habitat creation would be compliant with this policy.
- 7.28 In order to understand the effectiveness of the proposed restoration scheme in terms of biodiversity benefits, the DEFRA Biodiversity Metric 2.0 has been applied to the site. The DEFRA Biodiversity Metric has been run for both the 2007 consented restoration proposals for the site and the current proposals. The biodiversity net gain for the consented scheme is 16.3% compared to the proposed scheme which delivers a net

gain of 29.2%. This significantly (55%) higher figure in turn makes a far greater contribution to the delivery of specific habitat targets set out within the Selby Biodiversity Action Plan (BAP).

- 7.29 The proposed scheme ultimately creates 7.66 hectares of lowland mixed deciduous woodland which would contribute 15% towards the overall target of 50 hectares of new native woodland for Selby District. The development plan lends considerable weight in favour of proposals which meet and significantly contribute to the BAP, specifically Policy 4/22 of the North Yorkshire Waste Local Plan, policies SP15 and SP18 of the Selby District Core Strategy 2013 and Draft Policy D10 of the emerging Joint Waste Local Plan. As such, it is considered that the proposed development is supported by these policies.
- 7.30 Within the Selby BAP, there is a target to enhance 0.5 hectares of lowland neutral grassland but no target for creation. The proposed development would create 1.74 hectares of semi-improved neutral grassland, representing a significant windfall contribution to this habitat type in the Selby District. The creation of 1.0 hectare of reedbed contributes 5% to the total target of 20 hectares. The BAP 5-year target is to create 10 ponds, thus the creation of three ponds on the site will contribute 30% of that total.
- 7.31 The extent of the landscape proposals for the site is such that it is essential that a thorough and comprehensive management plan is drawn up for the site and carefully implemented, taking into account both the landscape and ecological objectives. As above, and in accordance with DEFRA guidance, it is proposed that a 30-year management plan is drawn up for the site which would be secured under section 106 Legal Agreement. The current consent has no requirement for a long term management plan. It is considered that the obligation for the management plan secure under the legal agreement would also meet the criteria set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) as it is considered that:-
- The long term management plan is necessary to make the development acceptable in planning terms, ensuring the long term management and sustainability of the site and restoration;
 - The management plan is directly related to the development; and
 - It is fairly and reasonably related in scale and kind to the development.
- 7.32 It is envisaged that during the first ten years of the development, the Management Plan would be primarily focussed on the development and establishment of the mixed deciduous woodland. Following the completion of the infilling, and final woodland planting and wetland creation in Year 10, it is intended to create a network of mountain bike trails within the woodland. These would be created by selectively removing a number of young trees within the site, primarily these would be cherry and birch which are planted as a nursery crop for the oak trees. The bare ground associated with the mountain bike trails is also considered to provide biodiversity benefits, particularly for invertebrates. It is considered that this method of working would be beneficial in terms of establishing the new and replacement planting.
- 7.33 It is also proposed that due to the long timescale of the Management Plan, it would be appropriate to review the plan on a five-yearly basis in conjunction with the County Planning Authority in order to set the objectives for the following five-year period. This review process would ensure that the Management Plan remains relevant for the full 30-year period and achieves the long term objective of creating diverse and species rich woodland, grassland and wetland habitats.

- 7.34 For the reasons detailed above, it is therefore considered that the proposed development would not have an adverse impact upon ecological matters in the locality and that any mobile species found prior to commencement of any further development may be dealt with correctly through the imposition of a condition. It is considered that there would be a great benefit to biodiversity, as further affirmed by the County Ecologist, and therefore, the proposed development is considered to be compliant with the environmental protection elements of 'saved' NYMLP policies 4/1 and 4/14 and the wildlife habitat protection element of 'saved' NYMLP Policy 4/6A, 'saved' Policy 4/10 of the NYWLP as well as draft Policy D07 of the emerging NYMWJP, Policy ENV1 of the Selby District Local Plan in terms of consideration towards habitats and the protection of locally protected nature conservation element of Policy SP18 of the Selby District Core Strategy.
- 7.35 Furthermore, 'saved' NYMLP Policy 4/6a includes the requirement for the County Council as the Mineral Planning Authority, to protect the nature conservation or geological interest or importance. It is considered that the requirements of 'saved' NYMLP Policy 4/6a have been met through the proposals and associated restoration which have been proposed.

Local amenity (noise) and air quality (emissions, odour and dust)

- 7.36 In terms of local amenity and air quality, it is not envisaged that there would be an increase in levels of noise, dust or odour from the existing operations. The site currently operates as a facility for the receipt and management of inert wastes and non-hazardous soils without giving rise to significant effects on the environment and/or amenity.
- 7.37 As a result it is not proposed to change any of the current operating practices including hours of operation or methods of working. It is acknowledged that the works to the outer flanks of the landfill cells as discussed earlier in this report in the earlier stages of development could result in increased noise levels, however this would be for a temporary period only and would further result in mitigation in respect of visual, dust and noise. The only change to operational practice has, following discussion with local residents and representatives of Escrick Parish Council, been that the applicant has purchased a street sweeper to maintain the public highway outside of the site entrance. It has been informally agreed with the Parish Council that the sweeper will also maintain the highway up to the village.
- 7.38 It is noted that Escrick Parish Council and one local resident object on the basis of the impact upon restoration timescales, noise, dust, vibration of vehicles and highways and that the proposed operations will extend the use of the site for much longer than originally anticipated. The proposed development, as stated above, would allow continuation of operations on site for approximately ten years (a further eight years on current timescales). However, as acknowledged in this report, the extant planning permission does not include a condition which restricts the date for completion of operations and restoration of the site, and therefore although estimates can be given based on the current market and material availability, operations on site could continue until the approved levels are reached, which as it stands is predicted between 1-2 years, with final restoration to follow this. Whilst a number of policies seek restoration to be carried out at the earliest opportunity, it is considered that an improved afteruse can be achieved under the current proposals, in terms of the biodiversity net gain and the improved mountain bike skills centre. As discussed earlier in this report, the NPPG for Waste refers to time extensions for landfill sites and how they remain an important part of the network of facilities needed to manage England's waste.
- 7.39 The Applicant has affirmed that contact is maintained with Escrick Parish Council in terms of dealing with any concerns arising and maintaining the highway. There have

been no complaints received regarding highways matters since January 2018, at which time the condition of the highway had become an issue and the Applicant subsequently purchased a road sweeper. However, a more recent complaint received in July 2019, at the time of determination of the previous application, raised concerns regarding noise and dust issues occurring due to operations at the site. The complaint noted that since operations have been progressing towards the void being full, and therefore reaching ground level, noise and dust issues are becoming prominent. The Applicant was made aware of this complaint and following investigation into site operations, affirmed that every measure is taken on site to alleviate issues such as dust and noise. The consultation response from the local Environmental Health Officer however, confirms no objection to the proposed development.

- 7.40 Consideration has also been given to the TPT as a Public Right of Way (PROW), which is recognised as a receptor in respect of a wide range of potential impacts including visual effects, noise and dust that could potentially affect its enjoyment. It is considered, however, that there would not be potentially odorous activities at the site; hence, it is not necessary to consider impacts associated with 'smell', mitigation measures are applied on site with regard to noise and dust, and the proposed outer flank works would be an additional measure to this. Furthermore, when considering the likelihood of the timings of use of the TPT and the operational hours of the proposed development, the effects of noise and dust and visual impacts are not considered to be significantly adverse to warrant a reason for refusal on this ground alone.
- 7.41 Whilst acknowledging that a further ten years of operation of the could prolong any amenity concerns, on balance it is considered that the proposed development is in accordance with the amenity protection elements of the development plan, and on the basis that such mitigation and controls are secured by the imposition of new and updated planning conditions, it is considered that the proposed development would not result in any adverse amenity impacts. As such, it is considered that this is unlikely to result in an adverse impact upon the amenity of local residents living in proximity to the site or to the nearby village of Escrick, as affirmed by no objection responses from the Environmental Health Officer and Environment Agency. Furthermore, if complaints are received and this does become an issue, the site can be investigated through the County Council's Enforcement and Complaints procedure, along with other regulatory regimes. On the basis that such measures are secured through condition and continue to be implemented at the site, it is considered that the proposal is compliant with the amenity protection elements of 'saved' NYMLP Policy 4/14, 'saved' Policy 4/19 of the North Yorkshire Waste Local Plan and 'saved' Policy ENV1 of the Selby District Local Plan and Policy SP18 of the Selby District Core Strategy. It also accords with the requirements regarding amenity in draft emerging Policy D02 of the MWJP and Paragraph 205 of the NPPF. All of these seek to protect amenity, ensuring that there are no significant effects upon amenity arising from developments, adding further weight in support of the application.

Flood risk and drainage

- 7.42 An assessment of the potential impacts of the proposed development upon hydrology and flood risk has been undertaken in support of this application, and the report identifies that the site falls within flood zone 2 as defined on the current Environment Agency flood risk maps. While the landfill element of the proposal is classified as being 'more vulnerable' within the National Planning Practice Guidance, its presence within Flood Zone 2 does not render it inappropriate. Furthermore, the proposed development will have raised surface levels above the current topographical levels within the site, which should reduce the fluvial flood risk.
- 7.43 The report also confirms that there is no sewer network present on site and there are no historical flood records. The report concludes that the proposed development of a

network of mountain bike trails within the woodland is a water compatible development and is deemed appropriate. The development's effect on flood risk elsewhere is estimated to be insignificant and it is anticipated that a detailed scheme of surface water management could be submitted should planning permission be forthcoming (this is proposed as condition 15). This is further supported by the consultation response from the Environment Agency which confirms no objection to the proposed development.

- 7.44 For the reasons detailed above, it is considered that the proposed development would not have an adverse impact upon flood risk or drainage in the locality and that the development would therefore not increase the risk of flooding, and furthermore that the proposal is consistent with the general thrust of the relevant policies within the NPPF and compliant with 'saved' NYMLP Policy 4/10, Policy SP18 of the Selby District Core Strategy and 'saved' Policy ENV1 of the Selby District Local Plan.

Highways matters - Traffic and transport

- 7.45 It is noted that Escrick Parish Council object on the basis of the impact on highways and state that the majority of lorries deliver to the site via the A19 through Escrick; however, it is acknowledged the A19 is a key strategic public highway carrying significant amounts of traffic. The Parish Council also commented with regard to this contributing to road safety concerns in the village and causing noise and vibration for residents along the A19. This was also echoed in the one letter of representation from a local resident. As discussed above, it is not proposed to change any of the current operating practices including hours of operation or methods of working. The only change to operational practice has, following discussion with local residents and representatives of Escrick Parish Council, been that the applicant has purchased a road sweeper to maintain the public highway outside of the site entrance. It has been informally agreed with the Parish Council that the sweeper will also maintain the highway up to the village, which spans up to three kilometres north of the site. The County Planning Authority has not received any complaints in relation to highways as a result of existing operations at the site since January 2018, at which time the condition of the highway had become an issue and the Applicant subsequently purchased a road sweeper which has since alleviated cleanliness issues.
- 7.46 There is no operational limit on vehicle movements to and from the site under the extant planning permission, and it is not proposed under this application to amend this to restrict the movements. The consultation response received from the Highway Authority confirms no objection on this basis, stating that "*The developer has confirmed the timescale of the site to be 10 years which the Local Highway Authority (LHA) is happy with but should not be extended. Therefore, the L.H.A has no objections to the proposed development*". It is therefore affirmed that the local highway network would have enough capacity to accommodate the continuation of operation for the ten-year period, and this would be cumulative with the operation of the quarry adjacent. This would ensure that the proposed development does not result in any adverse impacts upon the local highway network in line with the principles of the NPPF paragraph 102-104 and 109 in relation to sustainable highway networks, and the highway protection elements of 'saved' Policies 4/1 and 4/13 of the NYMLP, and 'saved' Policies ENV1 and T1 of the Selby District Local Plan; all of which seek to ensure that vehicle movements generated by developments are both capable of being accommodated by, would not have an adverse effect upon the local highway network or prejudice the safety of the highways, adding further weight in support of this application.
- 7.47 For the reasons detailed above, notwithstanding the objection from Escrick Parish Council which referred to Highways in respect of this application, it is considered that the proposed development would not have an adverse impact upon the local highway network, which is capable of continuing to accommodate the proposed vehicle

movements. Therefore, it is considered that the proposed development is not in conflict with 'saved' Policy 4/1 and 'saved' Policy 4/13 of the NYMLP, 'saved' policies 4/18, 4/19, 5/3 and 6/1 of the North Yorkshire Waste Local Plan, draft policies D01 and D03 of the emerging NYMWLP and 'saved' Policy T1 of the Selby District Local Plan (2005) and consistent with paragraphs 108 and 109 of the NPPF.

Section 106 Legal Agreement

- 7.48 As discussed earlier in this report, it is proposed that a Section 106 Legal Agreement would be sought and this would secure a 30-year Landscape and Ecological Management Plan (LEMP) following restoration. The Legal Agreement would ensure annual site reviews and monitoring are carried out in accordance with the LEMP, along with 5-yearly reviews of the LEMP requirements over the 30-year period.

8.0 Conclusion

- 8.1 As referred earlier within this report, under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting position for the determination of this planning application must be the 'Development Plan' and it must be made in accordance with the extant policies of that plan, unless there are material considerations, including any impacts upon interests of acknowledged importance that would indicate that planning permission should not be forthcoming. The assessment of material considerations within the overall 'planning balance' has been conveyed within Section 7.0 above.
- 8.2 In this particular instance, there are a range of policies in the 'Development Plan' to which due regard must be had, as well as a number of other material considerations. In considering the relationship of the proposals to the 'development plan', Members should note that proposals should be judged against the 'development plan' as a whole rather than against individual policies in isolation and acknowledge that it is not necessary for proposals to comply with all policies to be found compliant. Members will also need to bear in mind the relative weight to be attached to the applicable policies in the various elements of the 'development plan' relevant to this proposal against that which is laid down within national planning policy (Section 6.0 refers).
- 8.3 Following the considerations set out in Section 7.0 above, it is considered that the proposal complies with the development plan in terms of what the relevant policies set out in Section 6.0 of this report seek to achieve. It is considered that whilst there may exist impacts upon landscape, along with the adjustment to the continuation of the site operations, that the impacts would be minimal in the long term once the proposed planting is established and therefore it is considered that there is no evidence to suggest that the proposal significantly conflicts with policies of the development plan, nor does it run contrary to national policy; particularly that contained within NPPF and NPPW when read as a whole. As discussed above, various mitigation measures and planning conditions are capable of being imposed to control the development in a manner which would render it acceptable in land use planning terms.
- 8.4 The proposed development represents an existing landfill site (former clay quarry), ensuring continuation of a means of disposal of inert waste material with beneficial restoration to a mountain bike skills centre, albeit an improved trail on the current approved scheme, along with landscape and biodiversity net gain.
- 8.5 Other material considerations that must weighed in the '*planning balance*' have been considered in the preceding section of this report such as impacts upon the environment and the amenity enjoyed by the local community, including the use of the

National Cycle Network Route 65 which is also the Trans Pennine Trail. These, while acknowledged to be impacts arising from the proposed development and understandably of concern to local residents living near the proposed site, are not considered to be significantly material so as to outweigh the identified benefits of the sustainable development and the waste hierarchy and to be so sufficient as to warrant a determination that the application lies in conflict with the '*development plan*' to such a degree as to justify refusal of the application.

8.6 It is therefore considered that there are no material planning considerations to warrant the refusal of this application for the variation of condition No. 2 of Planning Permission Ref. C8/10/3AC/CPO which relates to raising landfill levels.

8.7 For the reasons mentioned above, it is therefore recommended that the application be granted subject to a Section 106 Agreement.

Obligations under the Equality Act 2010

8.8 The County Planning Authority in carrying out its duties must have regard to the obligations placed upon it under the Equality Act and due regard has, therefore, been had to the requirements of Section 149 (Public Sector Equality Duty) to safeguard against unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act. It also requires public bodies to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. It is considered that the proposed development would not give rise to significant adverse effects upon the communities in the area or socio-economic factors, particularly those with '*protected characteristics*' by virtue that the impacts of the proposal can be mitigated so that they would not have a significant impact on groups with '*protected characteristics*'.

Obligations under the Human Rights Act

8.9 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

8.10 Having had due regard to the Human Rights Act, the relevant issues arising from the proposed development have been assessed as the potential effects upon those living within the vicinity of the site namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering the limited interference with those rights is in accordance with the law, necessary and in the public interest.

9.0 Recommendation

9.1 For the following reason(s):

1. The development is not in conflict with 'saved' policies 4/1, 4/6a, 4/10, 4/13, 4/14 and 4/20 of the North Yorkshire Minerals Local Plan (1997), with 'saved' policies 4/1, 4/3, 4/18, 4/19, 4/22, 5/3 and 6/1 of the North Yorkshire Waste

Local Plan, with draft policies D01, D02, D03, D06, D07, D10, W01, W02, W05, W10 and W11 of the draft Minerals and Waste Joint Plan, with policies SP1, SP15, SP18 and SP19 of the Selby District Core Strategy (2013) and with 'saved' policies ENV1, ENV2 and T1 of the Selby District Local Plan (2005) and is consistent with the NPPF (2019) and NPPW (2014);

2. The proposal does not conflict with the abovementioned policies as it is considered that the existing highway network is capable of handling the volume of traffic generated by the development, the visual impact of the proposed development can be mitigated through conditions which seek the proposed screen planting to be undertaken, the environmental impacts of the proposed development can be controlled by conditions, the impact on any neighbouring residential properties can be mitigated and any adverse impacts are outweighed when considered against the existing infrastructure, need and biodiversity net gain at the site along with the final completion of restoration proposals and 30-year landscape and ecological management plan period and there are no other material considerations indicating a refusal in the public interest; and
3. The imposition of planning conditions will further limit the impact of the development on the environment, residential amenity the transport network and restoration and aftercare.

That, subject to prior completion of a Section 106 Legal Agreement to secure a Detailed Restoration and Aftercare Scheme and a 30-year aftercare period, **PLANNING PERMISSION BE GRANTED** subject to the following conditions:

Conditions:

Time limit and commencement of development

1. Within 7 days of the commencement of the development hereby approved, the operator shall notify the Council in writing of the date of commencement of the approved operations. The development hereby approved shall be completed and the site restored in accordance with conditions 17 and 18 no later than ten years from the date of commencement notified in accordance with this condition.

Reason: 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.

Definition of development

2. The development hereby permitted shall be carried out in accordance with the application details dated 17 April 2020 and those previously approved under the terms of planning permission C8/10/3AB/PA and the following approved documents and drawings:

Ref.	Date	Title
		Written Statement & Appendices
OBE.001		Location Plan
OBE.002		Landscape Character Areas and Surrounding Footpaths

OBE.003		Phase 1 Cell Development
OBE.004		Phase 2 Cell Development/ Phase 1 Restoration
OBE.005		Phase 3A/B Cell Development/Phase 2 Restoration
OBE.006		Phase 4 Cell Development/ Restoration of 3A/B
OBE.007		Cross Sections through viewpoint Nos 2 and 4
OBE.008		Final Restoration
OBE.009		Cross sections AA-CC
OBE.010		Cross sections DD-FF
OBE.011		Phased Restoration: Cells 1-4
OBE.012		Final Restoration and Cross sections
EES/ELF/JH/001 Rev 1		Existing Layout & Levels

Reason: To ensure that the development is carried out in accordance with the application details.

Waste types and handling

3. No material as defined by The Hazardous Waste (England and Wales) Regulations 2005 or any legislation that may subsequently supersede this legislation as hazardous waste shall be imported onto or deposited within the site.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

4. Except in accordance with the application details no waste which has been deposited at the site shall be removed from the site without prior grant of planning permission.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

5. Except in accordance with the application details and those processes already permitted for the site no imported waste shall be sorted, stockpiled or processed at this site without the prior grant of planning permission.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

Noise

6. The Mountain Bike Skills Centre and Fitness Trail shall be used for the purposes outlined in the original application details dated 12 April 2007. The tracks shall be used for no other purpose and shall be restricted to the use by non-motorised vehicles at all times.

Reason: To ensure that the development is carried out in accordance with the approved documents and application details.

7. At no residential property shall the noise levels resulting from the permitted operations during the working hours specified in condition 16 above exceed LAeq, 1h = LA90 + 10 dB or LAeq, 1h = 55 dB whichever is the higher.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

8. Notwithstanding the provisions of Condition 7 above, noise due to temporary operations for the construction and removal of baffle mounds shall not exceed 70dBLAeq.1h as measured at any noise sensitive location.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

9. Within the 7 days of receiving written notice from the County Planning Authority, such noise monitoring as may be required by the County Planning Authority to assess compliance with the limits stated in conditions 7 and 8 above shall be undertaken. If the limits stated in conditions 7 and 8 above are exceeded, operations at the site causing the excessive noise shall cease with immediate effect and will be modified to ensure compliance with the limits specified by these conditions, within 1 month.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

10. All machinery and vehicles shall be well maintained and fitted with effective silencers.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

Dust

11. Dust control measures shall be employed to minimise the emission of dust from the site. Such measures shall include the spraying of the access roads, the spraying of dusty loads in the operational area and the discontinuance of soil movements during periods of high winds.

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

Hours of operation

12. No clay extraction or disposal of waste or associated activities nor any transportation of materials to or from the site shall be carried out except between the following times:-

- a. 0700 to 1700 hours Monday to Friday
- b. 0700 to 1300 hours Saturday
- c. No operations shall be carried out on Sundays, Bank Holidays or Public Holidays

Reason: In the interests of safeguarding the amenity of nearby residential and commercial properties.

Highways and access

13. There shall be no access or egress between the highway and the application site by any vehicles other than via the existing access with the public highway. The access shall be maintained in a safe manner which shall include as necessary the cutting back of the vegetation at the access to ensure the necessary visibility splays onto the A19.

Reason: In the interests of both vehicle and pedestrian safety and the visual amenity of the area.

14. All vehicles involved in the transport of waste to the site shall be securely sheeted in such a manner as no material may be spilled onto the public highway.

Reason: In the interests of highway safety, amenity and convenience of highway users.

Drainage and pollution

15. Within three months of the commencement of the development hereby approved, a detailed surface water drainage strategy shall be submitted to and approved in writing by the County Planning Authority. The development shall then proceed only in strict accordance with the approved strategy.

Reason: This is a pre-commencement condition and one which is considered warranted in the interests of water management.

16. Effective steps shall be taken to prevent the pollution of any adjoining land or watercourse by the overspilling or blowing of loose material or by the entry of leachate polluted water or any other pollutant. If pollution occurs, as defined by this condition, the effects of that pollution shall be rectified and further measures taken to ensure that pollution shall be prevented.

Reason: In the interests of pollution control.

Landscaping and restoration

17. Within three months of the date of this permission, a detailed scheme of working, restoration and aftercare (including a scheme of monitoring and management) in Phase 1 as shown on drawing OBE.011 Phased Restoration: Cells 1-4 shall be submitted to and approved in writing by the County Planning Authority.

Reason: In the interests of amenity and in the interests of achieving a high standard of landscaping and restoration.

18. Prior to the commencement of development in Phases 2-4 no development shall take place until a detailed scheme of mineral working, restoration and aftercare (including a scheme of monitoring and management) shall be submitted to and approved, in writing, by the County Planning Authority.

Reason: In the interests of amenity and in the interests of achieving a high standard of landscaping and restoration.

19. Within 12 months of the completion of clay extraction and tipping operations hereby permitted, the whole of the site shall be restored in accordance with the submitted details under condition 17. By this date all buildings, plant machinery, other installations, stockpiles, tracks and roadways shall be removed to the satisfaction of the County Planning Authority and the land restored in accordance with the revised scheme.

Reason: In the interests of amenity and in the interests of achieving a high standard of landscaping and restoration.

Other

20. No materials shall be burned on the site.

Reason: In the interests of amenity.

21. Clay extraction shall not take place below -2.5 metres AOD.

Reason: To ensure that the development is carried out in accordance with the application details.

22. No new or additional fixed lighting shall be installed without first having obtained the written approval of the County Planning Authority.

Reason: In the interests of amenity.

23. Every 12 months from the date of this permission or at such other times as may be agreed in writing with the County Planning Authority (but not more than 12 month intervals), a review of the previous year's landscaping, working, restoration and aftercare shall be carried out in conjunction with a representative of the County Planning Authority. The review shall take account of any departure from approved schemes and where appropriate revised schemes shall be submitted to the County Planning Authority for approval providing for the taking of such steps as may be necessary to continue the satisfactory landscaping, working, restoration and aftercare of the site including the replacement of any tree or shrub which may have died, been removed or become seriously damaged or diseased. Thereafter all such works shall be carried out in accordance with the approved schemes.

Reason: In the interests of amenity, monitoring site operations and in the interests of achieving a high standard of landscaping and restoration.

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

Reason: To ensure that site personnel are aware of the terms of the planning permission.

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

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

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

Background Documents to this Report:

1. Planning Application Ref Number: C8/2020/0460/CPO (NY/2020/0064/73) registered as valid on 5 May 2020. Application documents can be found on the County Council's Online Planning Register by using the following web link: <https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.

Author of report: Amy Taylor