

North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

17 NOVEMBER 2020

C8/2019/0732/CPO - PLANNING APPLICATION FOR THE PURPOSES OF THE EXTRACTION AND EXPORT OF PULVERISED FUEL ASH ('PFA') FROM LAGOONS C AND D AND STAGES II AND III OF THE GALE COMMON ASH DISPOSAL SITE AND ASSOCIATED DEVELOPMENT, INCLUDING THE PROVISION OF PROCESSING PLANT, EXTENDED SITE LOADING PAD, UPGRADED SITE ACCESS ARRANGEMENT AND FACILITIES, ADDITIONAL WEIGHBRIDGES AND WHEEL WASH FACILITY, EXTENDED SITE OFFICE AND OTHER ANCILLARY DEVELOPMENT; HIGHWAY IMPROVEMENT WORKS ON COBCROFT LANE/WHITEFIELD LANE BETWEEN THE SITE AND THE A19 AND AT THE WHITEFIELD LANE JUNCTION WITH THE A19; AND A NEW ACCESS FROM COBCROFT LANE, CAR PARKING AND ANCILLARY DEVELOPMENT IN CONNECTION WITH PROPOSALS FOR PUBLIC ACCESS TO STAGE I. ON LAND AT GALE COMMON ASH DISPOSAL SITE, COBCROFT LANE, CRIDLING STUBBS, KNOTTINGLEY, NORTH YORKSHIRE, WF11 0BB ON BEHALF OF EP UK INVESTMENTS (SELBY DISTRICT) (OSGOLDCROSS ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

Supplementary Report

1.0 Purpose of the report

- 1.1 To provide Members with information required for consideration prior to the determination of the above-mentioned planning application which comprises information that post-dates the publication of the Officer Report dated 22 October 2020.

2.0 Background

- 2.1 This report is supplementary to the Substantive Report that also appears on the Agenda for this meeting.

3.0 The proposal

- 3.1 No changes have been made to the details of the proposal as outlined in the Substantive Report.

4.0 Consultations

- 4.1 Since the publication of the Substantive Report, the Highway Authority has confirmed the consultant undertaking the design for the Applicant has been advised already that if the development is granted planning permission, a check regarding possible mining subsidence will need to form part of the work on the detailed design of the re-alignment of Whitefield Lane. Furthermore, whilst properties may be subject to increased noise levels, the Highway Authority advises it is unlikely the properties will suffer from any damage because of the increase in traffic and re alignment of the highway.

5.0 Advertisement and representations

- 5.1 There has been no further publicity of the application or information received warranting publicity since the Substantive Report's publication before the 22 October 2020.

- 5.2 More representations have, however, been received:
- 8 representations from 8 objectors who had not previously made representations;
 - 6 representation from parties that had already previously raised objections.
- 5.3 Correspondence from Whitley Parish Council (received on 21 October 2020) refers to the Rt Hon Nigel Adams MP having received over 700 objections. However, there appears to have been a misunderstanding around the figures. The Online Planning Register displays information that includes not only those representations received, but also the total number of those properties notified of the application. For the avoidance of doubt, the Authority has received 119 representations in total; of which 96 are objections and 23 are those in support. In the event that any further representations are received, this will be reported orally at the meeting.
- 5.4 Further reference is made by the Parish Council to there being no mention in the Substantive Report to the e-mail received from the MP in August 2020. Members are asked to note that the matters raised within the MP's representation were incorporated within the summary of the objections within paragraph 5.6 of the Substantive Report. A second representation from the MP was received on 21 October 2020. Both letters can be viewed on the County Council's online planning register and it is confirmed that these have been taken into account in the consideration of the application.
- 5.5 With regard to the petition referred to in paragraph 5.10 of the Substantive Report, an updated version was downloaded from the www.change.org.uk website on 5 November 2020. At that time, it had 1,128 signatories and the comments made by individuals accompanying that version of the petition do not raise additional points to those already covered in paragraph 5.6 of the Substantive Report. A further oral update regarding the petition will be provided, should this number change.
- 5.6 No additional letters of support have been received to those reported in paragraphs 5.7 and 5.8 of the Substantive Report.

6.0 Planning policy and guidance

The Development Plan

- 6.1 There have been no changes in respect of local or national planning policy or guidance since the publication of the Substantive Report to Members warranting mention in this Supplementary Report.

7.0 Material Planning considerations

Addendum

- 7.1 There are typographical errors within paragraph 7.74 of the Substantive Report including an erroneous reference to Policy SP3. The final sentence of that paragraph should have read as follows: *'Therefore, in terms of the landscaping issues outlined above, the development is compliant with MWJP Policy M11 part 2), with Policy SP13 of the Selby District Core Strategy and with 'saved' Policy 4/1 criterion (d) of the NYMLP. It is also compliant in terms of the cumulative effects arising from the changes to the landscape with regard to the requirements of Policy 4/1 criterion i of the NYMLP and Policy D06 of the emerging MWJP'.*

Section 106

- 7.2 Members are advised that since the publication of the Substantive Report, negotiations have been ongoing to address the issue of highway improvement works and, in particular, the tonnage per annum and the time period '*triggers*' for the proposed works such that a specific clause has now been changed.

- 7.3 As previously drafted and as advised within the Substantive Report, the ‘triggers’ that would have given rise to the commencement of the submission of a programme for the highway improvement works for the *Whitefield Lane Re-Alignment* were either:
- upon a contract in excess of 400,000 tonnes of PFA extracted from the site in any one year; or
 - a period of 3 years from the implementation of the permission
- whichever would be the sooner of the two ‘triggers’.

- 7.4 However, following negotiations, the applicant company has offered up the following proposed change to the wording of this particular clause in the S106 legal agreement (highlighted in **bold** text with the previous wording struckthrough):

‘Whitefield Lane Re-Alignment Works

EPL must:

- *submit the Whitefield Lane Re-Alignment Programme to the County Council prior to the earlier of:-*
 - ***the extraction of 30,000 tonnes of pulverised fuel ash from the site following commencement of development (but not including any extraction under the existing planning permission) 400,000 Tonne Contract Date; or***
 - ***the date 1 3 years from the date of the Agreement implementation of the new planning permission***
- *following approval of the ~~plans~~ programme, enter into a highways agreement with the County Council that provides for the carrying out of the Whitefield Lane Re-Alignment Works; and*
- *implement the works in accordance with the timescales set out in the highways agreement.’*

Conditions

- 7.5 A revised set of draft planning conditions is attached to this report that supersede the set within Section 9.1 of the Substantive Report. The revisions are substantially the same as previously recommended, but worded in such a way as to improve upon their precision and to give clarity.
- 7.6 Members’ attention is, however, drawn to condition no. 5 within the suite of draft conditions provided within Section 9.0. This specific condition is additional to those previously recommended to Members in order to give an assurance of control over the proposed development in the circumstance prior to the highway works, sought through the abovementioned S106 legal agreement, being implemented.
- 7.7 Negotiations have continued concurrent with the S106 negotiations as outlined in paragraph 7.4 above which have resulted in a significant reduction in the programme of works ‘triggers’ (i.e. 60,000 tonnes per annum exportation figure down from 400,000 tonnes per annum and one year instead of 3 years).
- 7.8 Condition no. 5 as recommended below, comprises a Grampian condition, providing a means of limiting the proposed development prior to the implementation of the proposed highway improvement works. The applicant company have returned with a negotiated position of a ‘ceiling’ or ‘cap’ upon their export of PFA at a level of 200,000 tonnes per annum.
- 7.9 In light of:
- the position taken by the Highway Authority in response to consultation previously accepting a limit of 400,000 tonnes to trigger the commencement of a submission of a programme of works for the *Whitefield Lane Re-Alignment*; and,
 - a negotiated position on the part of the applicant company within the S106 revising this figure down to 60,000 tonnes per annum and 1 year for the ‘triggers’ to commence the submission of a programme of highway improvement works

it is considered that this figure of 200,000 tonnes per annum limitation to PFA exports is reasonable in the circumstance and capable of giving an assurance of control prior to the proposed highway improvement works being implemented.

The proposed condition no. 5 reads as follows:

5. No more than 200,000 tonnes of pulverised fuel ash shall be removed from the site in any one year until the highway improvement works to the junction of Cobcroft Lane and Whitefield Lane, shown on indicative drawing 60589011-D-0000-001, have been constructed in accordance with a scheme and programme to be first submitted to the County Planning Authority for approval in writing. The approved scheme and programme shall thereafter be implemented in full within six months from the date of approval.

Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission.

7.10 Members' attention is also drawn to the addition of a fourth reason for the recommendation which explains the Section 106 Agreement would control the quantities of material exported from the site until the delivery of highway improvement works, ensure public access to the restored site, provide for the construction of a new vehicular access for the public and provide for the aftercare of the restored site for an extended period of 30 years

8.0 Conclusion

8.1 It is considered that there are no material considerations that warrant alteration to the conclusions as outlined in paragraphs 8.1-8.8 of the Substantive Report.

9.0 Recommendation

9.1 For the following reasons:

- i) The development is in accordance with 'saved' Policies 4/1, 4/6A, 4/10, 4/13, 4/14, 4/16, 4/18 and 4/20 of the North Yorkshire Minerals Local Plan (1997); with draft Policies D02, D06, D09, D10, D11 and D12 of the Minerals and Waste Joint Plan; with Policies SP2, SP3, SP12, SP13, SP15, SP18 and SP19 of the Selby District Core Strategy (2013) and with 'saved' policies ENV1, ENV2, ENV9, T1, T2 and T7 of the Selby District Local Plan (2005) and is consistent with the NPPF (2019).
- ii) The proposal does not conflict with the abovementioned policies as it is considered that the highway network as proposed with the Whitefield Lane amendment is capable of handling the volume of traffic anticipated to be generated by the development, the visual impact of the proposed development can be mitigated through conditions, 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 proposed infrastructure, markets and employment at the site along with the final completion of restoration proposals and 30-year aftercare period and there are no other material considerations indicating a refusal in the public interest; and
- iii) 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.
- iv) A Section 106 Agreement will control the quantities of material exported from the site until the delivery of highway improvement works, ensure public access to the restored site, provide for the construction of a new vehicular access for the public and provide for the aftercare of the restored site for an extended period of 30 years.

9.2 That after taking into consideration the environmental information and further information as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 submitted in connection with the application, subject to the applicant first entering into a Section 106 agreement to secure:

- the notification of the County Council prior to the commencement of development; prior to 60,000 tonne exportation date;
- the Localised Highway Improvement Works comprising the road widening on Cobcroft Lane and Whitefield Lane and bend improvements at Whitefield Lane to the west of Whitley village in the vicinity of the Site;
- the Whitefield Lane re-alignment works;
- the Whitley highway safety contributions to the provision of a community speed camera initiative; a signalised crossing on the A19 close to Whitley and Eggborough Community Primary School; and additional signage or traffic calming measures;
- the submission of the Initial Public Access Proposals within three months of commencement of development and the implementation of these within one month of the receipt of their approval;
- the submission of Revised Public Access Proposals prior to the construction of the new public access entrance from Cobcroft Lane; and
- the submission of the Aftercare Plan at the same time the Final Restoration Plan is submitted for approval and the implementation of the approved Aftercare Plan for a total period of 30 years.

PLANNING PERMISSION BE GRANTED subject to the following conditions:

COMMENCEMENT OF DEVELOPMENT

1. The development to which this permission relates shall be begun not later than the expiration of three years from the date of this permission.

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

2. No development shall take place on the site the subject of this planning permission unless written notice has been made to the County Planning Authority of the date proposed for the commencement of the development and which shall be not less than 7 days prior to such commencement.

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.

TIME LIMITS

3. The extraction of pulverised fuel ash shall cease and the site be restored within 25 years from the date of commencement of this permission as confirmed by the requirements of condition 2 above. The site shall thereafter be restored in accordance with the requirements of conditions 36 to 40 when the extraction of pulverised fuel ash has been completed or following the cessation of the extraction of pulverised fuel ash for a period of two years whichever is the sooner.

Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission and to ensure the site is restored at the earliest opportunity.

DEFINITION OF DEVELOPMENT

4. The development hereby permitted shall be carried out in accordance with the application details dated 17 May 2019 and the following approved documents and drawings except where modified by the conditions to this permission:

- a) The letter, planning application, supporting statement and appendices received by the Director of Business and Environmental Services on 17 May 2019 and advertised by the County Council on 4 July 2019 and the further information submitted 20 December 2020 and advertised on 9 January 2020;
- b) The following submitted plans and drawings:

Ref.	Date	Title
60589011-SP-001	25.04.2019	Site location Plan
60589011-DP-SK006C	13.05.2019	Proposed access arrangement plan
60589011-DP-SK007C	13.05.2019	Proposed internal road access plan
60589011-DP-SK010C	15.05.2019	Proposed HGV loading pad plan
60589011-DP-SK016A	14.05.2019	Indicative final stage 1 public access vehicular access and parking plan
60589011-DP-SK021	09.05.2019	Proposed CCTV camera locations and elevation plan
60589011-P-016B	13.05.2019	Proposed indicative Whitefield Lane realignment plan
60589011-D-0000-001	31.07.2019	Proposed Cobcroft Lane/Whitefield Lane Widening Works Plan (Indicative)
60589011/IN/DW/004	09.05.2019	Proposed indicative processing plant and conveyor plan
60589011/IN/DW/005	09.05.2019	Proposed Diesel tank elevations and layout plan
60589011/IN/DW/006	09.05.2019	Proposed driver welfare facility floor plan and elevations plan
60589011/IN/DW/007	09.05.2019	Proposed office floorplan layout and elevations plan
60589011/IN/DW/008	09.05.2019	Proposed security cabin floor plan and elevations plan
60589011/IN/DW/009	09.05.2019	Mobile screener elevations and layout plan
60589011/IN/DW/010	09.05.2019	Proposed wheel wash layout and elevations plan
60589011/IN/DW/012	13.05.2019	Proposed weighbridge plan
60589011-PH-0001	09.05.2019	Gale Common Indicative Phase 1 plan

60589011-PH-0002	09.05.2019	Gale Common Indicative Phase 2 plan
60589011-PH-0003	09.05.2019	Gale Common Indicative Phase 3 plan
60589011-PH-0004	09.05.2019	Gale Common Indicative Phase 4 plan
60589011-PH-0005	09.05.2019	Gale Common Indicative Phase 5 plan
60589011-PH-0006	09.05.2019	Gale Common Indicative Phase 6 plan
60589011-PH-0007	09.05.2019	Gale Common Indicative Phase 7 plan
60589011-PH-0009	09.05.2019	Gale Common indicative cross sections AA-EE plan
60589011-SK-001	15.05.2019	Indicative Interim Stage I Public Access plan- Overall plan
60589011-SK-002	15.05.2019	Indicative Final Stage I Public access plan - Overall plan
60589011-SLP-002	15.05.2019	Short term operational site layout plan (sheets 1-4)
60589011-SLP-003	14.05.2019	Long term operational site layout plan (sheets 1-4)
60589011-SRP-001 Rev 1	02.09.2019	Indicative landscape and biodiversity restoration plan

c) All schemes and programmes approved in accordance with this permission.

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

5. No more than 200,000 tonnes of pulverised fuel ash shall be removed from the site in any one year until the highway improvement works to the junction of Cobcroft Lane and Whitefield Lane, shown on indicative drawing 60589011-D-0000-001, have been constructed in accordance with a scheme and programme to be first submitted to the County Planning Authority for approval in writing. The approved scheme and programme shall thereafter be implemented in full within six months from the date of approval.

Reason: To enable the County Planning Authority to monitor the development to ensure compliance with this permission.

6. Following the completion of the highway improvement works to the junction of Cobcroft Lane and Whitefield Lane, shown on indicative drawing 60589011-D-0000-001, no more than 1,000,000 tonnes of pulverised fuel ash shall be extracted and exported from the site for sale in any one calendar year. The quantities of pulverised fuel ash exported from the site shall be recorded on a monthly basis and the monthly records retained for a period of 12 months; the records shall be made available for inspection by the County Planning Authority on request during normal working hours.

Reason: To protect the amenity of the area, the environment and local residents.

7. The County Planning Authority shall be notified in writing of the date of cessation of the extraction of pulverised fuel ash on the site within one month of such cessation.

Reason: To ensure that the development is carried out in accordance with the application details, as amended and to ensure the landscaping and restoration of the site.

8. Prior to the construction of any new buildings on the site, including those associated with the new site access arrangement and the office extension, details of the materials and colours of all external finishes shall be submitted to the County Planning Authority for approval in writing. Thereafter the buildings shall be constructed and thereafter maintained in accordance with the approved details for their duration on the site.

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

9. A copy of this decision notice together with the approved plans and details of any schemes and programmes subsequently approved pursuant to this permission shall

be kept at the site office at all times and the terms and contents thereof shall be made known to the supervising staff on the site and adhered to for the duration of the development hereby permitted.

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

OPERATIONAL ACCESS

10. There shall be no vehicular access to the site from the public highway other than by the existing access road into the site from Cobcroft Lane as shown on drawing 60589011-DP-SK006C dated 13.05.2019.

Reason: In the interests of highway safety.

11. The new highway access from Cobcroft Lane to the restored Stage 1 area shown on drawing no 60589011-DP-SK016A dated 14.5.19 shall only be used for public access for recreational use and for vehicles to access the restored Stage 1 area for management and maintenance purposes. The only exception to this is for vehicles utilising the new highway access to the restored Stage I area for recreational use or maintenance.

Reason: In the interests of highway safety.

HOURS OF OPERATION

12. No excavation of pulverised fuel ash or associated processing operations, shall be carried out except between the hours of:

- 07:00 – 19:00 Monday to Sunday (except Bank and Public Holidays).

Reason: To protect the amenity of the area, the environment and local residents from noise pollution.

13. No pulverised fuel ash shall be exported out of the site except between the hours of:

- 07:00 – 19:00 Monday to Friday; and
- 07:00 – 13:00 Saturday.

No pulverised fuel ash shall be exported out of the site on Sundays or Bank and Public Holidays.

Within school term time of Whitley and Eggborough Community Primary School, no pulverised fuel ash shall be exported out of the site between the hours of:

- 08:35 – 09:05; and 15:00 – 15:30 Monday to Friday.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution and in the interests of highway safety.

14. No construction activities, including the delivery and collection of plant, equipment and materials shall take place except between the hours of:

- 08:00 – 17:00 Monday to Friday; and
- 08:00 – 13:00 Saturday.

No construction activities including the delivery or collection of plant, equipment and materials shall take place on Sundays, Bank or Public Holidays.

In the event that planned construction activities cannot take place between the permitted hours, the County Planning Authority shall be notified two working days in advance of any planned construction activities. If any proposed unplanned construction activities take place outside the permitted hours, the County Council shall be notified as soon as possible and in any event within two working days of such activities having occurred.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution.

NOISE

15. During the working hours specified in Condition 13 and 14, no operations on the site shall cause the Leq 1hr sound level to exceed 55dB(A) as measured at the boundary of any residential property with the exception of Grange Farm ("the 55dB(A) limit"). During the working hours specified in Condition 13 and 14, no operations on the site shall cause the Leq 1hr sound level to exceed 50dB(A) as measured at the boundary of Grange Farm. In the event that the specified limits are exceeded, those operations at the site causing the excessive noise shall cease immediately and steps shall be taken to attenuate the noise level to be in compliance with the specified limits.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution.

16. During any soil stripping operations, the construction of any soil mounds and bunds and the placement of sub and topsoil for a period of up to eight weeks in a year, noise from the operations on the site shall not cause the Leq 1hr sound level to exceed 70dB(A) ("the 70dB(A) limit") as measured at the boundary of any residential property. In the event that the 70dB(A) limit is exceeded, those operations at the site causing the excessive noise shall cease immediately and steps shall be taken to attenuate the noise level to be in compliance with the 70dB(A) limit.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

17. Prior to undertaking the improvement works to the existing site access and the construction of the new site access to Stage 1 (including any new buildings and structures associated with them), loading pad extension, internal access road upgrade, localised Cobcroft/Whitefield Lane improvements, Whitefield Lane re-alignment works, office extension or any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)), a Construction Environmental Management Plan (CEMP) shall be submitted to the County Planning Authority for approval in writing.

The CEMP shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated.

Measures may include, but are not restricted to:

- on site wheel washing;
- restrictions on the use of unmade roads;
- agreement on the routes to be used by construction traffic;
- restriction of stockpile size (including covering or spraying to reduce possible dust generation or migration);
- targeted mechanical and manual sweeping of roads;
- minimisation of evaporative emissions and prompt clean-up of liquid spills;
- prohibition of intentional on-site fires and avoidance of accidental ones;
- control of construction equipment emissions and proactive monitoring of dust;
- the management of surface water drainage.

The development shall thereafter be implemented in accordance with the approved CEMP.

Reason: To protect the amenity of the area, the environment and local residents from pollution.

18. Prior to the construction or improvement of each of the new site accesses (including any new buildings and structures associated with them), loading pad extension, internal access road upgrade, Cobcroft/Whitefield Lane improvements, Whitefield Lane re-alignment works, office extension or any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)), a scheme for management of the following shall be submitted to the County Planning Authority for approval in writing:

- a) the storage of materials;

- b) the storage of chemicals;
- c) the storage of oil.

The scheme shall include a programme for future maintenance. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or any details as may subsequently be agreed by the County Planning Authority in writing.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

LIGHTING

19. No development shall commence until a scheme and programme identifying existing lighting/floodlighting and proposed lighting/floodlighting of the site has been submitted to the County Planning Authority for approval in writing. The scheme and programme shall include details of:

- a) type and intensity of lights
- b) types of masking or baffle at head
- c) type, height and colour of lighting columns
- d) location, number and size of lighting units per column
- e) light spread diagrams showing lux levels at the site boundary and calculation of the impact of these on nearby residential properties
- f) phasing of the implementation of the approved scheme relative to the phases of development to ensure the minimum lighting necessary is employed throughout the respective phases.

Thereafter the approved floodlighting shall be erected, operated and maintained in accordance with the approved scheme and programme throughout the operational life of the site after which it shall be removed in its entirety in accordance with the approved interim or final restoration plan.

Reason: To protect the amenity of the area, the environment and local residents from light pollution.

DUST

20. The development hereby permitted shall be carried out in accordance with the following documents:

- Environmental Statement Volume II, Appendix 9b Dust Management Plan.
- the Applicant's response (DWD email dated 31 October 2019) to further comments made by Selby District Council's Environmental Health Officer, including the commitment to extending the Dust Management Plan to include actions for addressing dust exceedances of PM₁₀ and PM_{2.5} air quality objective values as set out in Table 9.1 of ES Chapter 9: Air Quality (ES Volume I) and undertaking PM₁₀ monitoring at one location at the boundary of the Site.
- dust monitoring shall be carried out at the location identified by a green dot and labelled 'Proposed PM₁₀ Monitoring Location' on the plan included and forming part of the Applicant's response to further comments made by Selby District Council's Environmental Health Officer (DWD email dated 31 October 2019).

All records of dust monitoring shall be kept for a minimum period of six months and made available for inspection at the request of the County Planning Authority during normal office working hours.

Within one month from the commencement of development, a consolidated Dust Management Plan, including the commitments made in the applicants response by DWD dated 31 October 2019, shall be submitted to the County Planning Authority for approval in writing. The development shall thereafter be carried out in accordance with the consolidated Dust Management Plan throughout the operational life of the site, including restoration.

Reason: To protect the amenity of the area, the environment and local residents from dust pollution.

TRAFFIC

21. The development hereby permitted shall be carried out in accordance with the ES Volume II, Appendix 8A, Annex P 'Operational Traffic Management Plan', including the control and management measures contained therein. The measures include that the designated route for HGVs (east on Cobcroft Lane/Whitefield Lane then north on the A19 to the M62) shall be used at all times, unless the necessary roads are not available for any reason (such as a temporary road closure) or where it is appropriate (given the location of the destination of the materials) to use a different route for local deliveries.

Reason: To protect the amenity of the area, the environment and local residents.

22. HGVs exiting the site shall be released at intervals of not less than 1 per minute. Within 6 months of the commencement of development a CCTV system shall be installed and in operation to monitor HGVs exiting the site. Recordings shall be held for six months and made available for inspection at the request of the County Planning Authority during normal working hours.

During the first six months of operation or in the event that the CCTV cameras are not operating (such as during any maintenance period or as a result of unforeseen circumstances), the site operator will manually log the number of HGVs released from the site and/or retain weighbridge tickets to ensure and be able to demonstrate that HGVs are released at intervals of no less than 1 per minute. The manual recorded records shall be held for a period of six months and made available for inspection at the request of the County Planning Authority during normal working hours.

Reason: To reduce the likelihood of vehicles queuing at the Whitefield Lane/A19 junction in the interests of highway safety and amenity.

23. Within 12 months of the commencement of the development hereby approved a written Sustainable Mineral Transport Plan, which shall include a trigger point for a review of alternative transport options *for each contract agreed exceeds 100,000 tonnes per year of PFA exports* and also a proposed regular review regime of the sustainability of alternative transport options throughout the duration of the development relating to the use of sustainable modes of transport for mineral exportation, shall be submitted to the County Planning Authority for approval in writing. Thereafter, the approved Sustainable Mineral Transport Plan shall be implemented in full throughout the exportation of pulverised fuel ash from the site.

Reason: To protect the amenity of the area, the environment and local residents.

24. Within 3 months of the commencement of the development hereby approved, a travel plan shall be submitted to the County Planning Authority for approval in writing. The approved travel plan shall be implemented in full within one month of its approval and thereafter reviewed at five year intervals from the date of its approval throughout the operational life of the site. The most up to date approved travel plan shall thereafter be implemented in full throughout the operational life of the site including restoration.

Reason: To protect the amenity of the area, the environment and local residents.

WORKS ON WHITEFIELD LANE

25. Prior to the commencement of the construction works on the realignment of Whitefield Lane, an assessment of the noise and vibration from the works together with details of any mitigation measures to be employed, shall be submitted to the County Planning Authority for approval in writing. Thereafter the works shall be carried out in accordance with the approved details.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution and vibration.

DRAINAGE

26. No drainage systems for the infiltration of surface water to the ground shall be installed without the prior written approval of the County Planning Authority. Proposals for such drainage systems must be supported by an assessment of the risks of drainage to controlled waters. The approved drainage systems for the infiltration of surface water to the ground shall be installed and thereafter maintained in accordance with the approved details and maintained for the operational life of the site.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

27. Prior to commencing the construction or improvement of the new site access arrangement (including any new buildings and structures associated with it), loading pad extension, internal access road upgrade, Whitefield Lane re-alignment works, localised Cobcroft/ Whitefield Lane improvements, office extension or any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)) a detailed drainage scheme for the relevant part of the site must be submitted to the County Planning Authority for approval in writing. The approved drainage scheme shall be implemented during the relevant works and thereafter maintained for the operational life of the site.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants and to prevent deterioration of a water quality element to a lower status class in the groundwater body.

CONTAMINATION

28. Prior to the commencement of construction works for the following parts of the development hereby permitted:

- the new site access arrangement (including any new buildings and structures associated with it);
- loading pad extension;
- internal access road upgrade;
- office extension;
- localised Cobcroft/ Whitefield Lane improvements;
- the re-alignment of Whitefield Lane; or
- any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)).

A remediation strategy to deal with the risks associated with contamination of the relevant part of the site in respect of the development hereby permitted shall be submitted to the County Planning Authority for approval in writing. The remediation strategy shall include:

1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways
 - and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete

and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The approved remediation strategy shall thereafter be implemented in full.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

29. Prior to the new site access arrangement (including any new buildings and structures associated with it), loading pad extension, internal access road upgrade, office extension, localised Cobcroft/Whitefield Lane improvements, the re-alignment of Whitefield Lane or any other relevant parts of the development hereby permitted being brought into use following their construction (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)), a verification report for each part of the development demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to the County Planning Authority for approval in writing. The report shall outline the monitoring to be undertaken to demonstrate that the site remediation criteria have been met.

Reason: To prevent deterioration of a water quality element to a lower status class in this groundwater body.

30. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to the County Planning Authority for approval in writing. The approved remediation strategy shall thereafter be implemented in full.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

WATER INFRASTRUCTURE

31. No construction works or earthworks on the site shall commence until details of measures to protect the public water supply infrastructure that falls within the site boundary have been submitted to the County Planning Authority for approval in writing. The measures shall include details of the finished ground levels over and within 6 metres either side of the centre line of the live water mains and the means of ensuring that the water mains are protected and that access to the water mains for the purposes of repair and maintenance by the statutory undertaker shall be retained and made available at all times. The approved measures shall be employed throughout the operational life of the site, including restoration.

Reason: In the interest of public health and maintaining the public water supply.

ECOLOGY

32. The development hereby approved shall be carried out in accordance with the ecological mitigation measures detailed within the ES Volume I, Chapter 7 'Ecology

and Nature Conservation' Section 7.7 – Mitigation and Enhancement and Appendix 7 to the ES Volume II.

Reason: To ensure the protection of the ecology of the site.

LANDSCAPING

33. Within six months of the commencement of development, a detailed landscaping scheme for the site shall be submitted to the County Planning Authority for approval in writing. The scheme shall include details of:

- the location of any existing and proposed screen bunds;
- details of the maintenance of temporary screen bunds;
- the location of all existing trees, shrubs and hedgerows to be retained and proposals for their protection and maintenance, including a commitment to any replacements required throughout the period of pulverised ash extraction;
- details of areas to be seeded and grassed; and
- a programme of phased implementation and maintenance.

Thereafter, the landscaping shall be carried out in accordance with the approved scheme.

Reason: To ensure effective landscaping and restoration of the site.

34. No existing trees or hedgerows within the boundaries of this planning permission relating to Gale Common Ash Disposal Site shall be lopped, topped or felled or removed prior to the approval in writing of the landscaping scheme required for the purposes of condition x unless details of any proposed works to the trees and hedgerows are first submitted to the County Planning Authority for approval in writing.

Reason: To ensure effective landscaping and restoration of the site.

35. All topsoil and subsoil shall be retained for use in the restoration of the site and shall be stored separately from each other in accordance with the Outline Soil Management Plan (ES Volume II Appendix 11B) and the Indicative Landscape and Biodiversity Restoration Strategy (ES Volume II Appendix 6B). Any storage mounds shall be seeded with a grass mix, the specification for which shall be first submitted to the County Planning Authority for approval in writing, and such seeding shall be carried out as soon as practicable and no later than the first growing season after construction of the storage mound.

Reason: To ensure effective landscaping and restoration of the site.

RESTORATION

In conditions 36-40 below, references to –

- (a) a “Stage” means such part of the site as shown on Figure 3.3 Areas of the Site Plan in Volume III of the Environmental Statement (drawing reference number 60589011-001) dated 16/05/2019; and
- (b) an “Interim Restoration Area” mean that part of the site labelled as such on the Indicative Landscape and Biodiversity Restoration Plan (drawing number 60589011-SRP-001 Rev 1) dated 02/09/2019, or such other plan as may be approved in writing by the County Planning Authority

36. Prior to the completion of extraction in Stage III an Interim Restoration Plan setting out the restoration works for the First Interim Restoration Area including –

- (a) details of proposals for the existing buildings within the First Interim Restoration Area; and
- (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site, which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented in full.

Reason: To ensure the progressive effective landscaping and restoration of the site.

37. Prior to any extraction in Stage II below 34 metres Above Ordnance Datum an Interim Restoration Plan setting out the restoration works for the Second Interim Restoration Area including –
- (a) details of proposals for the existing buildings within the Second Interim Restoration Area; and
 - (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site, which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy, shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented in full.
- Reason: To ensure the progressive effective landscaping and restoration of the site.*
38. Prior to the completion of extraction in Stage II an Interim Restoration Plan setting out the restoration works for the Third Interim Restoration Area including –
- (a) details of proposals for the existing buildings within the Third Interim Restoration Area; and
 - (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site, which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented in full.
- Reason: To ensure the progressive effective landscaping and restoration of the site.*
39. Prior to the completion of extraction in Lagoons C and D an interim restoration plan setting out the restoration works for the Final Interim Restoration Area –
- (a) details of proposals for the existing buildings within the Final Interim Restoration Area; and
 - (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site, which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented in full.
- Reason: To ensure the progressive effective landscaping and restoration of the site.*
40. Within twelve months of the date on which extraction of pulverised fuel ash at the site permanently ceases or following the cessation of the extraction of pulverised fuel ash for a period of two years whichever is the sooner as notified to the County Planning Authority for the purposes of condition 3 above a final restoration plan setting out the restoration works for all areas of the site including:
- (a) details of proposals for the existing buildings; and
 - (b) a programme for implementation including public access, subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy (except where extraction has ceased earlier than anticipated in those documents);
- shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented as approved.
- Reason: To ensure the progressive effective landscaping and restoration of the site.*

AFTERCARE

41. The restored site must be subject to a programme of aftercare in accordance with a scheme which has been submitted to the County Planning Authority for approval in writing. The scheme for the whole site or any part of the site must be submitted no later than six months prior to the programmed completion of restoration of any part of the site in accordance with conditions 36 to 40 above. The submitted scheme must provide for such steps as may be necessary to bring the land to the required standard for use for nature conservation/natural regeneration and must include details of: -
- a) In the case of land restored for use for nature conservation/natural regeneration:

- i) habitat development;
 - ii) weed control;
 - iii) watering and draining;
 - iv) pond margins establishment;
 - v) wetland maintenance;
 - vi) maintenance of fencing;
 - vii) the protection measures for planted areas including trees, hedgerows and woodland;
 - viii) The management and maintenance of planted areas to secure an 85% survival rate at the end of the aftercare period.
- b) The 5-year woodland/nature conservation/natural regeneration aftercare period for the site, or each part thereof, must commence on the date of the written certification by the County Planning Authority that the land concerned has been satisfactorily restored.
- c) Records of the nature conservation and amenity aftercare operations must be kept by the operators throughout the period of aftercare. The records, together with an annual review of performance and proposed operations for the coming year, must be submitted to the County Planning Authority between 31 March and 31 May each year, and provision must be made by the operators for annual meetings with the County Planning Authority between June and August each year, to determine the detailed annual programmes of aftercare which must be submitted for each successive year having regard to the condition of the land and progress in its rehabilitation. Separate meetings must be arranged to inspect and evaluate progress in the nature conservation and amenity aftercare respectively.

The approved scheme shall thereafter be implemented in full.

Reason: To ensure that those parts of the site that have been restored are subject to a programme of aftercare that has been approved by the County Planning Authority in the interests of agricultural/forestry/amenity use.

Informatives:

National Grid - Technical Guidance Note 287 - Third-party guidance for working near National Grid Electricity Transmission equipment

K Battersby
Corporate Director, Business and Environmental Services

Background Documents to this Report:

1. Substantive Report to Committee dated 17 November 2020

Author of report: Vicky Perkin

North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

17 NOVEMBER 2020

C8/2019/0732/CPO - PLANNING APPLICATION FOR THE PURPOSES OF THE EXTRACTION AND EXPORT OF PULVERISED FUEL ASH ('PFA') FROM LAGOONS C AND D AND STAGES II AND III OF THE GALE COMMON ASH DISPOSAL SITE AND ASSOCIATED DEVELOPMENT, INCLUDING THE PROVISION OF PROCESSING PLANT, EXTENDED SITE LOADING PAD, UPGRADED SITE ACCESS ARRANGEMENT AND FACILITIES, ADDITIONAL WEIGHBRIDGES AND WHEEL WASH FACILITY, EXTENDED SITE OFFICE AND OTHER ANCILLARY DEVELOPMENT; HIGHWAY IMPROVEMENT WORKS ON COBCROFT LANE/WHITEFIELD LANE BETWEEN THE SITE AND THE A19 AND AT THE WHITEFIELD LANE JUNCTION WITH THE A19; AND A NEW ACCESS FROM COBCROFT LANE, CAR PARKING AND ANCILLARY DEVELOPMENT IN CONNECTION WITH PROPOSALS FOR PUBLIC ACCESS TO STAGE I. ON LAND AT GALE COMMON ASH DISPOSAL SITE, COBCROFT LANE, CRIDLING STUBBS, KNOTTINGLEY, NORTH YORKSHIRE, WF11 0BB ON BEHALF OF EP UK INVESTMENTS (SELBY DISTRICT) (OSGOLDCROSS ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 To determine a planning application for the extraction and export of pulverised fuel ash ('PFA') from Lagoons C and D and Stages II and III of the Gale Common Ash Disposal Site and associated development, including the provision of processing plant, extended site loading pad, upgraded site access arrangement and facilities, additional weighbridges and wheel wash facility, extended site office and other ancillary development; highway improvement works on Cobcroft Lane/Whitefield Lane between the site and the A19 and at the Whitefield Lane junction with the A19; and a new access from Cobcroft Lane, car parking and ancillary development in connection with proposals for public access to Stage I on land at Gale Common Ash Disposal Site, Cobcroft Lane, Cridling Stubbs, Knottingley, North Yorkshire, WF11 0BB on behalf of EP UK Investments.
- 1.2 This application is subject to eighty-six objections having been raised in respect of this proposal on the grounds of a variety of matters. These include: traffic impacts including on pedestrians, cyclists and other road users; proposed scale of extraction per year; impacts upon the residents of Whitley including those living on Whitefield Road and on the A19 and elsewhere (such as the villages of Womersley, Cridling Stubbs, Great Heck); proximity issues, vibration, noise, dust, emissions, light pollution; proposed hours of operation and duration of the development; lack of consideration of/proposal to use alternative means of transport and routing; visual impact; impact on wildlife and cumulative impact. It is therefore, reported to this Committee for determination.

2.0 Background

Site Description

- 2.1 The Gale Common Ash Disposal Site, hereafter referred to as the site, lies within the District of Selby to the south of Cobcroft Lane, Cridling Stubbs. The Applicant (Eggborough Power Limited) owns the site, which is a subsidiary of EP UK Investments Ltd. The site extends to approximately 307 hectares in area and is located approximately 5 kilometres to the south-west of the former Eggborough Power Station. The site is bound to the north by Cobcroft Lane; woodland and arable land to the west; and woodland and arable land to the south and east. A motor-cross track adjoins a section of the site's eastern boundary. The surrounding area largely comprises agricultural land (with the exception of the site itself) and the general topography is relatively flat.
- 2.2 Appendix A to this report provides a plan showing the application site.
- 2.3 The site boundary is approximately 700 metres to the east of the village of Cridling Stubbs; 1 kilometre west of the village of Whitley and 970 metres to the north-east of the village of Womersley respectively. The nearest main settlements near the site are Knottingley approximately 2 kilometres to the north-west, Goole approximately 20 kilometres to the east and Askern approximately 9 kilometres to the south. The site boundary at its nearest point is approximately 25 metres to the south of the M62 motorway as it passes east-west, near to junction 34 of the motorway. The site is approximately 320 metres to the south of the Aire and Calder Navigation; approximately 320 metres to the south of the Knottingley to Goole railway and 500 metres to the north-east of the Doncaster to Knottingley railway.
- 2.4 The nearest residential properties to the proposed works are in Whitley and front onto Whitefield Lane, or lie to either side of the A19 in the near vicinity (to north and south) of where Whitefield Lane meets the A19. Whitley and Eggborough Community Primary School lies approximately 325 metres to the north of the existing junction of Whitefield Lane with the A19. Monaghan Mushrooms and the Rigal Chemical & Process plant lie approximately 580 metres and 675 metres to the east of Stage II, with Whitley Thorpe Farm approximately 800 metres from the south-east corner of Stage II. There are several properties at Grange Farm approximately 150 metres to the edge of the site to the south of Stage II, and Glebe Farm on the edge of Womersley is approximately 1320 metres to the south-west of Stage II. A number of properties lie to the south-west of Stage III including along Northfield Lane (between Womersley and Cridling Stubbs) together with the Blue Lagoon Dive Centre. Grange Meadows is approximately 25 metres to the west of the site, and together with the Little Oaks Donkey Sanctuary on the edge of Cridling Stubbs is the nearest properties to the C and D Lagoons, at approximately 325 metres to the west of the site (see Appendix B)
- 2.5 The following constraints affect the site and the key ones are shown on the plan in Appendix C:
- Agricultural Land Classification – The majority of the Gale Common site is not classified on the grading system to assess and compare the quality of agricultural land. The exceptions are some of the perimeter woodlands to the west and south, and the South Moor Wood on the east side of the Mound where the land is Grade 2, as is the location of the proposed realigned Whitefield Lane.
 - Airfield Safeguard Zone- Robin Hood Airport – The site is more than 20 kilometres from the airport, and, whilst it lies within the 30 kilometre Wind Turbine Development Consultation Area, this constraint is not relevant to the planning application which is under consideration.
 - Private Airfields- Burn (Gliding), Sherburn in Elmet, Thorne, Walton Wood – The site lies within the constraint zone relating to developments likely to attract birds.
 - Internal Drainage Board Area - Shire Group of Internal Drainage Boards

- Environment Agency – Flood Zone 2- The north-western corner of the site near the area of lagoons C and D lies in this zone. The remainder of the site and the proposed route to the A19 lies in Flood Zone 1, which is therefore low risk.
- Environment Agency – Flood Zone 3 – land to the west of Stubbs Bridge which is to the north of the site is in this zone, but is over 500 metres from area of proposed development, and approximately a kilometre-long stretch of the Aire and Calder Navigation lying to the north of the site is also in Flood Zone 3.
- Environment Agency – the site overlies areas of secondary and principal aquifers.
- Scheduled Ancient Monument – Whitley Thorpe Moated Templar Grange site – lies over 500 metres to the south-east of the Site at the edge of Whitley, on the southern side of the junction between Booty Lane and Whitley Thorpe Lane.
- Nottinghamshire Coalfield consultation area – The site is underlain by planning permissions for the extraction of coal via Kellingley Colliery and the application area lies outside the development high risk area identified by the Coal Authority with the exception of two locations on Whitefield Lane on the edge of Whitley.
- Historic Landfill Site – Gale Common – Stage I of the site and C & D Lagoons are identified in respect of their historic use as facilities for the disposal of the power station ash.
- Impact Risk Zones identified by Natural England for several Sites of Special Scientific Interest for certain types of development including landfill or the discharge of water to land or a stream but it does not lie within a zone with respect to quarrying. Forlorn Hope Meadow (to the east of Little Smeaton) is approximately 3.1 kilometres to the south, Brockdale Site of Special Scientific Interest (SSSI) is approximately 3.7 kilometres to the south-west (west of Kirk Smeaton), Wentbridge Ings is approximately 5.8 kilometres to the west, Fairburn & Newton Ings SSSI lies over 7 kilometres to the north-west)
- Site of Importance for Nature Conservation – Four SINC sites lie within the Gale Common Site: ‘Lagoons C & D’; the soil stockpile to the south-east of the Lagoons; part of Grant Spring Wood to the south of Stage III and Great Lawn Rein wood to the east of Stage I. Further SINC sites: Ricketcroft Wood, Clipsall Wood and Broadoak Spring lie between the site and Womersley, whilst Northfield Quarry and part of Womersley Quarry are SINC sites lying to the south of Cridling Stubbs
- Ancient woodland – Great Lawn Rein and Shackleton Spring Woods lie within the Gale Common Site.
- The nearest right of way is approximately 15 m east of the development site within Whitley (footpath off Whitley Farm Close, close to Whitefield Lane) and there is another footpath approximately 350 metres east of the Gale Common Ash Disposal Site, running in a north/ south direction between Whitefield Lane and Booty Lane.
- An electricity pylon tower is located on the western side of C Lagoon and National Grid overhead lines and a fibre optic network line cross the site (north-south) via this tower
- A National Grid Network Live High pressure gas pipe is over 250 metres from area of proposed development in a south-westerly direction
- The Smeaton Ridge Locally Important Landscape Area is over 500 metres from area of the development
- The application site lies wholly within the West Yorkshire Green Belt.

2.6 Five mature woodland blocks lie within the overall site perimeter and were included within the original landscaping design for the site: Shackleton Spring Wood, Grant Spring Wood, Kelseycroft Wood, Southmoor Wood and Great Lawn Rein Wood. To the south of Stage III is an area of farmland that is the position of the former medieval moated Wood Hall which is a non-designated heritage asset, and that was the subject of an archaeological investigation during the 1980s. There are perimeter-planting belts along Cobcroft Lane and around the southern and eastern edges of the site, some of which are comprised of relatively young areas of tree, shrub and hedgerow planting, such as around parts of the outer edges of the Stage II and Stage III ash disposal areas

and Lagoons C and D. Appendix D provides an aerial view of the application site area in context with its surroundings and Appendix E some of the key parts of the site.

- 2.7 Natural England has defined National Character Areas (NCA) based on a combination of landscape, biodiversity, geodiversity and economic activity and these follow natural, rather than administrative, boundaries. NCA Profile: 39 Humberhead Levels covers the majority of the Site and land to the east and comprises a flat, low-lying and large-scale agricultural landscape, with big skies and long open views with vertical elements such as water towers and power stations including Eggborough and Drax and wind turbines. NCA Profile: 30 Southern Magnesian Limestone (NE464) covers the rest of the Site and land to the west as intensively farmed arable farmland with long views over lowland to the east, west and to the south. The area however has no national statutory designations relating to landscape value.
- 2.8 Selby District Council prepared an updated Selby Landscape Character Assessment and published it in November 2019. Gale Common lies within the Southern Farmlands landscape character area with the Smeaton Ridge area lying to the west of approximately the line of the rail between Askern and Knottingley. The Assessment describes the Southern Farmlands as being very flat with the vast majority of the area below 10m above ordnance datum (AOD), only rising slightly near Whitley and that this flat landscape contrasts with the limestone ridge to the west. It refers to *'in recent times, the land has been raised to almost 70 m AOD at the artificial hill formed by the Gale Common ash disposal site'*. It also describes the Southern Farmlands as generally being an open area, with little woodland cover, although *'pockets of broadleaved Ancient Woodland become more common in the west ... including woodland on and around Gale Common'*. The pockets of woodland in this western area, as well as the ash mound and nearby limestone ridge provide an increased sense of enclosure, compared to the openness of the east. Key sensitivities are identified, with Gale Common being referred to several times, and they include that the ash disposal site *'creates a dramatic landform which is highly visible across the area, and changes to its appearance will be widely seen, though it could provide a back-cloth to low level development nearby'*. In addition, the *'new woodland on the man-made hill at Gale Common provides new naturalistic features contributing positively to the landscape'*. Visually Gale Common is described as a key skyline feature, and that changes to its form or land cover would be widely visible'. The Selby Landscape Character Assessment also provides location specific guidelines for this area. This includes that *'Extraction of ash from the Gale Common site should seek to establish long-term gains for the landscape, such as retention of the established landscaping, and securing recreational access to safe parts of the site – areas where ash will be removed should be returned to agriculture or woodland'*.
- 2.9 The existing infrastructure on site includes:
- the main vehicle access from Cobcroft Lane which is approximately 2 kilometres (as the crow flies) from the edge of Whitley to the east and approximately 1.7 kilometres to the west of the edge of Cridling Stubbs;
 - the weighbridge (19.5 metres long, with concrete ramps and 1.7 metres high guard rails) and gatehouse security cabin (6.1 metres by 2.5 metres wide by 2.5 metres high) are approximately 20 metres inside the main gate to the site;
 - a 7.5 metres long wheelwash facility is located approximately 415 metres along the on-site road leading to the site office, with a 6.0 metres long, 2.5 metres wide and 2.5 metres high settlement tank alongside;
 - the existing office building (27 metres by 9.6 metres by 3.8 metres high) is located approximately 445 metres from the nearest site boundary (on the north site of the emergency lagoons C & D) in a landscaped area with trees, shrubs and a car parking area for staff and visitors. It comprises a general office, manager's office, conference room, office workshop/lab, two store rooms, and welfare facilities (mess room, toilets, showers and changing room);

- the pump house, with two electricity substations, adjoins Cobcroft Lane off a subsidiary access approximately 125 metres to the west of the main access to the site. This discharges to the River Aire the surface water collected on site via the perimeter open ditch circuit after passing through drainage settlement ponds. Staff sometimes use the subsidiary access for maintenance purposes.
- a plant yard to the south of the office building is used for vehicle and plant maintenance;
- an HGV loading pad for the transport of PFA from the site;
- the former processing area and plant for dewatering the PFA slurry;
- internal haul roads link to the different parts of the Site, and
- the weldmesh boundary fence with 3-strand barbed wire top surrounding the site with a hedge along the Cobcroft Lane road frontage.

Planning History

2.10 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -

- Planning permission OG/1376 for the disposal of ash, granted 21 January 1963, established the principle of progressive implementation of the permission divided into three stages (Stages I to III). It would receive ash from Eggborough and Ferrybridge 'C' power stations, with Lagoons C & D to the west of Stage I to receive Eggborough power station ash in the event that the main pumps to raise the ash slurry up into the Stage I and II lagoons were not functioning. Lagoons C & D are also called sometimes the emergency (ash disposal lagoons). Appendix F shows the original design for the completed tip contours. It comprised a mainly grass-covered mound, with steep side embankments of gradients between 8 and 30%, and a relatively flat, domed top and the design concept is understood to be modelled on an Iron Age hill fort in Dorset.
- Development commenced in 1967 and there was no specified end-date for the completion of the development, or any Stages within it specified in the decision notice. Pipelines transported the ash as a slurry to the site and deposited direct into lagoons formed within colliery shale bunds where the majority of the PFA settled out and the water was recycled. When full, to provide more capacity the lagoons were raised in height with more colliery shale, repeating until a Stage reached its final approved level. Some of the slurry was routed through a vacuum filtration plant to remove most of the water, prior to disposal on the Stage.
- On 24 April 1986, the CEGB entered into a Section 52 Legal Agreement regarding details for the progressive creation and restoration of Stage II and provisional details regarding what should occur in the event that Stage III was not required in whole, or part.
- Planning permission C8/40/33/PA C8/41/71/PA for the extraction of cenospheres direct from Stage I, granted 24/05/1988; expired 23 May 1993. This recovery from the ash deposited of the cenospheres and their export started in the late 1980s, due to the identification of their physical and chemical properties as having economic value.
- Planning permission C8/40/33A/PA C8/41/71A/PA under Section 73 for the continued removal of cenospheres, granted 15/06/1993; expired 08 March 1994.
- Planning permission C8/40/33B/PA C8/41/71B/PA for the continued removal of cenospheres granted 21 June 1994; expired 31/08/1994.
- Planning permission C8/40/33C/PA C8/41/71C/PA to continue removing cenospheres granted 19 September 1994; expired 28 February 1995.
- Ash disposal in Stage I (lagoons A and B), the northeastern section of the site, ceased in 1994 at the level of approximately 69 metres (AOD) in height and the Stage has been restored to a mix of farmland and nature conservation with hedges, woodland and a wetland.
- Planning permission C8/40/33D/PA C8/41/71D/PA to remove cenospheres from lagoon B via part of lagoon C granted 27 January 1995; expired 27 January 1997.

- Planning permission C8/41/71E/PA under Section 73 application to extend the time for completing permission C8/40/33D/PA C8/41/71D/PA granted 22 April 1997; expired 22 April 2000.
- Planning permission C8/41/106/PA for removing cenospheres from Stage II, granted 30 October 1998; expiry date 23 October 2023
- Planning permission C8/41/71F/PA for removing cenospheres from the western part of Lagoon B via Lagoon C granted 23 March 1999; expired 22 March 2001.
- Planning permission C8/40/57 and C8/41/71G to raise the height of 'C' Lagoon embankment to create additional storage capacity, was granted on 27 July 2000 as a precautionary measure to accommodate the anticipated effects on the Stage I and II lagoon facilities as Kellingley Colliery mined coal beneath of the site.
- In 2002 a specific plant (the Ash Slurry Dewatering Plant (ASDP)) was built with the aim to harvest the cenospheres more efficiently. Planning Permission C8/40/60A/PA to construct a weighbridge was granted on 11 December 2003 to facilitate the removal and sale of PFA of up to 30,000 tonnes of PFA per annum from the stockpile site of the ASDP in order to satisfy ash customers' requirements. Exports of PFA continue to a blockwork factory approximately 7 kilometres away from the Site. The material is exported by road over a six-month period during the spring and summer months via Whitefield Lane, the A19 and A-roads to the factory.
- Eggborough Power Limited as site operator at the time entered into a supplemental planning agreement dated 9 May 2008 (ref: C8/40/29A/PA). This was to vary the terms of the 1986 agreement regarding the development details for Stage III (including for the final maximum height to be 50 metres AOD), and for alterations to the details of Stage II (including a final height of 52 metres AOD). The agreement included revisions to the restoration scheme (see Appendix G) and the monitoring & mitigation requirements relating to surface and ground water quality (including post-closure of the site) and to dust control (using directional and deposit monitoring gauges). The agreement also included a 10-year period of aftercare of the whole of the site.
- The depositing of ash at Gale Common ceased following the closure of Eggborough Power station in 2018. Stage II is restored partially to agriculture with hedges and woodland on the slopes, but is incomplete and unrestored on the top and contains approximately 17 million tonnes of PFA. Stage III ash disposal area is not at final levels and is unrestored; Lagoons C and D are also unrestored. The former ash slurry dewatering plant has yet to be demolished.
- A EIA scoping opinion (ref: NY/2018/0250/SCO) regarding increased extraction of pulverised fuel ash was issued on 17 January 2019 and it concluded that a specific chapter within the Environmental Statement on the topic of cultural heritage was not required in the light of the outcome of the scoping exercise.
- Prior notification for demolition of buildings within the operational site boundary of Gale Common ash disposal site and also encompasses the pipe bridge that carries the ash slurry pipelines over the Aire and Calder Navigation (the Knottingley and Goole Canal) at Whitley Bridge granted on 07 September 2018 (Reference: 2018/0921/DEM). This approval includes the buildings associated with the ASDP.

2.11 At the Planning and Regulatory Functions Committee on 21 January 2020, Members received a brief report about the application. They agreed to visit the site at Gale Common in order to gain a better understanding of the site in its context given the significant issues raised by the proposal. These included the principle of the development occurring within the Green Belt, the landscape impact of removing part of the mound, the scale and duration of the proposed increase in HGV traffic numbers that would travel east along Whitefield Lane to the junction with the A19 in Whitley.

2.12 On 4 February 2020 Members of the Planning and Regulatory Functions Committee, together with representatives from Whitley, Womersley and Cridling Stubbs Parish Councils visited the site. Following a health and safety briefing the Members and

representatives went around the site's perimeter road in the bus with the case officer pointing out aspects of the site. This included the existing Stages I-III, the location of the current built facilities on site including the offices, existing weighbridge, wheelwash and the former ASDP site, together with the proposed area for the loading of PFA onto HGVs. The visit also included a tour of the surrounding area. This included Whitefield Lane and its junction with the A19; the A19/M62 junction and the village of Whitley including, the A19, Fulham Lane; the village of Cridling Stubbs including Cobcroft Lane and Wrights Lane and the village of Womersley including Station Road, Main Street, Cow Lane, Northfield Lane, and Churchfield Lane.

3.0 The proposal

- 3.1 Planning permission is sought for the extraction and export of pulverised fuel ash ('PFA') from Lagoons C and D and Stages II and III of the Gale Common Ash Disposal Site and associated development. It includes the provision of processing plant, extended site loading pad, upgraded site access arrangement and facilities, additional weighbridges and wheel wash facility, extended site office and other ancillary development. Highway improvement works on Cobcroft Lane/Whitefield Lane between the site and the A19 are proposed and at the Whitefield Lane junction with the A19. A new access will be from Cobcroft Lane, car parking and ancillary development in connection with proposals for public access to Stage I. on land at Gale Common Ash Disposal Site, Cobcroft Lane, Cridling Stubbs, Knottingley, North Yorkshire, WF11 0BB on behalf of the EP UK Investments.
- 3.2 An Environmental Statement (ES) accompanies the planning application. This includes chapters relating to the assessments undertaken for the following topics and the conclusions of those assessments are described briefly below:
- Landscape and Visual Amenity – the chapter included a Landscape and Visual Impact Assessment (LVIA). This concluded that the development was likely to result in a significant short term adverse effect on a very limited number of residential receptors along Whitefield Lane and Selby Road, Whitley as a result of the construction of the proposed road realignment. However, potentially this may be reduced to not significant levels during the operation, restoration and post-restoration stages with the use of planting. A significant long term adverse effect on a limited number of visual amenity receptors (users of the right of way and Fulham Lane) was anticipated during parts of the operation stage.
 - Ecology and Nature Conservation – the assessment concluded that no significant adverse effects were predicted for the construction phase, or operation of the proposed development. There would be a long term moderate beneficial effect on ecology and nature conservation, including for most of the protected and notable species currently associated with the Gale Common Ash Disposal Site e.g. great crested newt, bats, badger, breeding birds, grass snake and would allow for a greater enhancement for biodiversity relative to the existing approved restoration scheme.
 - Traffic and Transport – this assessment concluded that the additional HGV traffic on Whitefield Lane would have a major adverse effect on pedestrian amenity but that given the low number of pedestrians using the footway the overall residual effect following the realignment of Whitefield Lane would be minor adverse (not significant). It concluded that the impacts of the proposed traffic on all road links and junctions are considered to be minor/ negligible adverse and not significant.
 - Air Quality and Greenhouse Gases – this chapter concluded that during the construction phases the mitigation measures proposed would be capable of controlling impacts to the extent that the effect would be negligible or minor adverse at worst, which was considered 'not significant'. During the operation phases there would not be an exceedance of the air quality objectives. At the majority of receptor locations there would be negligible effect but at receptors located adjacent to the

A19 north of Whitefield Lane, the change would be a minor adverse effect, both of which were concluded to be not significant. With regard to greenhouse gas emissions the chapter concluded that the HGV transport increase in carbon dioxide (CO₂) emissions would be 1.1% of total CO₂ emissions in the study area. These should be considered in the context of the carbon emissions savings that would arise from reducing carbon from construction materials, but the total CO₂ emissions were likely to be lower as vehicle emissions technology improved. A Dust Management Plan was included and the chapter concluded that the scale of works, level of mitigation and likelihood of dusty winds experienced at the operational dust sensitive receptors (Grange Meadows and Grange Farm) would have a negligible effect that was considered to be 'not significant'.

- Noise and Vibration – this chapter used representative noise sensitive receptors in each direction from the site and along the transport corridors. The representative receptors were Grange Farm, Grange Meadows and three properties near to the junction of Whitefield Lane and Selby Road (10 Whitfield Lane, Whitley House and Grasmere Bungalow). The assessment took account of construction noise and vibration impacts resulting from the works to realign the eastern end of Whitefield Lane; operational noise impacts from extraction activities at the Gale Common Ash Disposal Site; and operational noise impacts from road traffic generated by the Proposed Development on public roads within the study area. The chapter concluded that assuming the implementation of all appropriate mitigation to reduce noise during the construction works to realign Whitefield Lane and operational phases of the Proposed Development the residual effects after mitigation were 'not significant'. No sources of significant vibration were anticipated to be associated with the operation of the proposed Development so an assessment of operational vibration was scoped out of the assessment.
- Geology, Hydrology and Contaminated Land – this chapter examined the construction, operation, restoration and post-restoration activities proposed at the Site that would have the potential to generate effects. It concluded that the avoidance measures proposed such as identification, containment and removal would be employed and any further mitigation measures identified following pre-construction ground investigations for the new site access arrangement, loading pad extension, internal access road upgrade, office extension and realignment of Whitefield Road. The significance of effects related to potential geological, hydrogeological and contamination related risks associated with the Proposed Development during the construction, operation, restoration and post-restoration stages were likely to be minor adverse or negligible, and therefore not significant.
- Cumulative Effects and Interactions – this chapter considered the potential for cumulative impacts from other developments in the vicinity of Gale Common. There was potential for cumulative impacts from Committed Developments in the vicinity including the Eggborough CCGT Project, the Knottingley Power Project, the Southmoor Energy Centre and Kellingley business park at the former Kellingley Colliery. In addition, from the prior notification for demolition of buildings within the operational site boundary of Gale Common ash disposal site including the pipe bridge that carried the ash slurry pipelines over the Aire and Calder Navigation (the Knottingley and Goole Canal) at Whitley Bridge.
(Note: the last development mentioned above, includes the buildings associated with the ASDP and was given approval on 7 September 2018.)

The Development

- 3.3 The application site is 312 hectares which comprises the existing Gale Common site (307 hectares), together with approximately 5 hectares of land along Cobcroft Lane and Whitefield Lane between the Gale Common Ash Disposal Site and the A19 in Whitley. The 5 hectares comprising the relocation of approximately 400 metres of Whitefield Lane approximately up to 25-30 metres to the south of its existing position including a new replacement junction with the A19, with localised widening, bend improvements and repairs to Cobcroft Lane / Whitefield Lane (see Appendix H).

- 3.4 Revisions to the site access arrangements are proposed to widen the site entrance with improved visibility splays and the installation of CCTV coverage at the access off Cobcroft Lane. The existing weighbridge and security office would be removed and a new access circulation route, complete with a new weighbridge facility (19.5 metres long, 3.1 metres wide and with ramps) and new security gatehouse (12 metres long, 2.5 metres wide and high), which the applicant anticipates would take approximately four months. Other elements are the HGV driver welfare facility (10 metres long, 7 metres wide and 3.8 metres high; containing a mess, toilets, change room and store room). The security barriers with a layby for HGVs. A jetwash facility (12 metre long, 3.5 metres wide with 2 metres high sides and 5.3 metres long and 2 metres wide settlement tank alongside. These would be installed on the exit route from the weighbridge on land to the east of the existing security building and weighbridge and works would occur to widen and repair internal site roads (2 months).
- 3.5 A modular unit extension to the existing office building is proposed (23.6 metres by 12.2 metres by 3.8 metres high) to be located at 90 degrees to and abutting the southern end of that existing building (one month to build and fit out). This building would include three general offices, two store rooms, and welfare facilities comprising toilets, change room and showers. The existing HGV loading pad would be enlarged and an HGV route constructed around the pad for access and loading, plus lighting columns (approximately 3 months). The proposed 50,000 litre diesel tank (2.4 metres high, 2.6 metres wide and 12.2 metres long) would be located on the processing plant area to the south-east of an extended HGV loading pad, which itself would be located at the site of the existing loading pad (one month).
- 3.6 Facilities for public access to Stage I, would initially comprise the construction of new pathways, fencing, gates and signage (accessed via the existing Gale Common site entrance taking approximately three months to construct and commencing early after the receipt of planning permission, if granted). The application also includes the potential for the construction of a new visitor site entrance from Cobcroft Lane, car parking, security and welfare facilities taking approximately three months to construct, which would be undertaken to meet demand as it develops and which, if the application is permitted, the Applicant proposes would be secured as part of a Section 106 agreement. As referred to in 2.10 above, the demolition of existing redundant buildings and structures to the south of the offices is the subject of prior notification approval granted on 07 September 2018 (Reference: 2018/0921/DEM). Demolition has not yet progressed. The timing of demolition is not yet known, but the Applicant has confirmed it will be completed before the end of the operational phases of the Proposed Development, unless any of the buildings are repurposed, such as for visitor facilities, and this would be subject to approval of details by the County Council.
- 3.7 The total quantity of saleable mineral (PFA) proposed to be extracted is approximately 23 million tonnes, to be taken from an area of 108 hectares of the mound area comprising: Stages II and III and Lagoons C and D. The proposed duration is 25 years. The maximum tonnes per annum of material proposed for processing on site is 1,010,000 tonnes per annum with an estimated annual production of 1,000,000 tonnes. The difference in figures is due to the material being processed may include oversize material or colliery shale that needs separation or reprocessing. The end use of the material is construction with various destinations dependent on commercial contracts.
- 3.8 The development is proposed to be in seven phases with work commencing on extracting from Stage III that contains the smallest amount of PFA (around 1.5 million tonnes). The ground levels in Stage III would reduce from over 10 metres to around 8 metres AOD and the applicant anticipates this would take about 2-3 years. Soil stripping would also begin on Stage II during this period. Stage II contains the majority of the PFA to be extracted (around 17 million tonnes). Extraction would be carried out

in stepped sections ('benches'), gradually bringing the level from a maximum of about 55 metres AOD down in layers to between 9 and 13 metres AOD during Phases 2-5, although bunds around the working areas would be maintained at higher levels than the working areas where possible during operations in order to screening the workings. Soil removed from Stages II and III (amounting to 93,800 m³) would be placed in storage. The Phasing Plans and Sections through the site are shown in Appendices I and J to this report.

- 3.9 The colliery shale present in the lower levels of Stage II, which was previously placed for engineering purposes to support the walls of the lagoon system, would be used to re-contour and restore the side of the Stage I landform exposed by the removal of the Stages II and III. Extraction from Stage II is expected to take around 17 to 20 years. Next approximately 24,600m³ of soil stripped from Stage II would be placed directly onto the south-west facing slope of where Stage III abuts Stage I. Then further extraction in Stage II down to 13 metres AOD would occur in engineered cells, and topsoil placement from a soil store would start on Stage II. This would be followed by a continuation of soil placement from the soil stores onto Stage III and the continuation of the restoration of Stage II.
- 3.10 The location of Lagoons C and D is likely to be the last area to be extracted because it contains the wettest material. Around 4.5 million tonnes of PFA would be extracted from this area and would bring the level in that location down from around 25 metres AOD to around 6.5 metres AOD. Extraction of this area is expected to take around five to six years with ash from Lagoon C extracted as Phase 6. Phase 7 would comprise the excavation from Lagoon D and the completion of Stage II.
- 3.11 Once extracted the PFA would be loaded, within the processing area adjacent to the HGV loading area, into a feed hopper for the screener for crushing and from which any overburden would be separated for return for placement as part of the works towards restoration. The maximum height of the processing plant would be 17.5 metres. The screened and crushed material would then be deposited via a radial conveyor into stockpiles of a maximum 10 metres in height on the proposed HGV loading pad, which is the location of the current loading area. The existing high level conveyor belt from the ash slurry dewatering plant to the west would be removed as it is no longer in use/required.
- 3.12 The nearest noise sensitive receptor to Gale Common was identified as Grange Farm and the Applicant's proposed hours of operation, as originally submitted, were:
- 7 days a week, 05:00 – 21.00 for soil stripping and overburden removal/minerals working and mineral processing.
 - Vehicle movements on the public highway to be Monday to Friday 07.00 -19.00 and 07.00-13.00 on Saturdays with no HGV movements on Sundays or Bank Holidays.
 - Construction activities would be confined to 08.00 to 18.00 on weekdays and 08.00 to 13.00 on Saturdays, with no working on Sundays or Bank Holidays.
 - However, in some circumstances (for example concrete pouring), it may be necessary to work outside of these hours.

However, following the receipt of consultation responses and a summary of objections the Applicant advised in *The Applicant's Response to Post-Submission Consultee Comments* (September 2019) that it was willing to reduce construction working hours to 08.00 to 18.00 on Monday to Friday and 08.00 to 13.00 on Saturdays. Furthermore, that no work would be carried out on Lagoons C and D unless between the hours of 07.00 and 21.00. The site opening time will be at 07.00 however the gates would be unlocked at 6am so that any lorries that arrive before the site officially opens will be able to enter and not block Cobcroft Lane. They would not be loaded with product or allowed to leave site until after 7am. It is also proposed to use white noise reversing alarms, instead of beeping alarms, for all plant on site.

- 3.13 The application form states that the estimated number of loaded vehicles likely to enter or leave the site daily is an average of 133 leaving and 133 entering (27 tonne loaded capacity) and a maximum of 150 leaving and 150 entering (29 tonne loaded capacity). However, paragraph 5.25 of the planning statement states that it is anticipated that during the operational phase of the Proposed Development, total HGV movements would be around 266 two-way HGV movements per day (133 movements in and 133 out), or 11 HGV arrivals and 11 HGV departures per hour on average, plus operational staff traffic for up to 47 site staff. The arriving and departing traffic would use the route along Whitefield Lane to/from the site from Whitley as being the most direct route to the Strategic Road Network. The highway assessment within the Environmental Statement also considered (within a Transport – Alternatives Options Report) the impact of a proportion of the HGVs using alternative routes from the such as towards the A1 at Darrington via Cobcroft Lane, Stubbs Lane and Leys Lane or towards the A645 at Knottingley via Beal Lane/ Sudforth Lane, see Appendices A and K below, in order to examine the situation of when alternative routes would be required if the main route to the M62 was not available for any reason (such as a temporary road closure) and also where it might be appropriate to use for local deliveries.
- 3.14 The realignment of the eastern end of Whitefield Lane proposes relocating the lane to the south of its existing junction with the A19; the creation of a new right turn ghost island within the existing site area of the junction from the A19 into the lane, with the existing A19 priority junction with the lane being closed to access by vehicles and the installation of a 1.5m boarded fence and planting approximately 15 metres from the northern kerb-line of the existing Whitefield Lane and a new priority junction of access to the properties off Whitefield Lane and the western end of the existing road being closed off to vehicles where the line of the new road deviates. This would involve approximately 5 hectares of land. The localised works on Cobcroft Lane and Whitefield Lane, referred to in paragraph 3.3, above are anticipated by the Applicant to take approximately two months.
- 3.15 Initially the Applicant proposed that these road works would not take place until contracts for export of material exceeded 400,000 tonnes per annum and that the construction work would take approximately six months. However, in the light of representations, the Applicant subsequently proposed that in December 2019 that if a 400,000 tonnes per annum output had not been not reached within three years, then the road works would be triggered to commence after those 3 years irrespective of the output being lower; and, that this would be secured via a clause within a Section 106 agreement. The Applicant proposed also that the re-examination of the potential for alternative means of transporting the material from the site, would occur once the volume of material leaving the site, reached 100,000 tonnes per annum. Similarly, the Section 106 Agreement would be the means to control the times when lorries leave the site in order to avoid the drop off and pick up times for Whitley and Eggborough Community Primary School; and the frequency with which lorries leave the site would be controlled at the site so as be at intervals of not less than 1 minute in order to reduce vehicles queuing at the Whitefield Lane/ A19 junction. The Section 106 agreement was also proposed as the means to secure the Applicant's contribution to funding for a signalised crossing on the A19 near to Whitley and Eggborough Community Primary School. The installation of additional signage, and/or traffic calming measures in Whitley, and the funding of a community speed camera initiative for the duration of ash extraction from the Gale Common Site were also proposed by the Applicant as means to address some of the impacts of the development.
- 3.16 Management of dust would occur, as has taken place in the past at the site. A Dust Management Plan (Environmental Statement Appendix 9B) is proposed as a site specific methodology to prevent or minimise the release of dust from the site. The

management would include dampening of surfaces during dry weather and dust monitoring, from the commencement of operations.

- 3.17 The application details include a site waste management plan that indicates that areas on the site have been identified for the stockpiling and storage of soils to be removed to enable the extraction of the PFA, and then later re-used during restoration. This would ensure that these soils are not wasted. The colliery shale that was used in the construction of the lagoon embankments when the Gale Common disposal system involved the PFA being deposited in lagoons in a slurry form would also be retained on site for use within the restoration scheme for the site so would be put to a positive use. Vegetation removed during extraction is proposed to be composted on site for later use during restoration. Small amounts of overburden from the PFA screening process, comprising inert waste such as brick or stone, which is estimated to be less than 1% of the total PFA volume extracted would be used also in the restoration of the Gale Common Ash Disposal Site. Domestic waste from arising from staff would be segregated for recycling and disposed off-site by a licensed waste operator.
- 3.18 The Applicant considers that the proposed changes to the landform of Stages 2 and 3 would create a shallower, sinuous landform on the southern slope that will better complement the local landscape character and topography. The Applicant has proposed that a landscaping scheme for existing and proposed screen bunds, trees, shrubs and hedgerows to be retained and areas to be seeded and grassed would be submitted within six months of the implementation of the planning permission.
- 3.19 The application proposes that 51 hectares would be restored to agricultural use, 98 hectares to woodland/scrub, 153 hectares to grassland and 5 hectares to visitor facilities and access roads. Seven days a week, daytime access, to Stage I by the end of 2022 was proposed, to be secured via a Section 106 agreement subject to the obtaining of consent for a new visitor access from Cobcroft Lane/Whitefield Lane to be located approximately 400 metres to the east of the existing site access that would link to a new carpark and welfare/security block, details of which would be confirmed at the time, with a new footbridge across to the perimeter road to a path up onto Stage I of the Mound. The Indicative Landscape and Biodiversity Restoration Plan is shown in Appendix L to this report.
- 3.20 The applicant has also confirmed that it is committed to fully restore the site and create the 'Gale Common Country Park', which will extend to about 740 acres (300 hectares) and to which the public will be given full access and that talks are in progress with an organisation that promotes educational activities for children in outdoor area. Proposals for public access also include a range of measures and facilities, e.g. footpath provision from Womersley and Cridling Stubbs (in addition to Whitley), interpretation boards, signage and marker posts, viewpoint maps, an education centre, welfare facilities and car parking and picnic areas. The Applicant proposes that this would be secured within the terms of a Section 106 agreement (as outlined in paragraphs 3.24-3.26 below).
- 3.21 It is estimated that the proposed development would generate employment for up to forty-seven staff, whereas when fully operational for ash disposal there were about 12 people employed on site. The document entitled 'Interim Operational Travel Plan' as Annex Q to Appendix 8A: Transport Assessment within the Environmental Statement comprised an interim staff travel plan and is intended by the Applicant to promote and encourage the use of sustainable transport modes by staff and reduce reliance on the private car as is interim, because the origins of operational staff are currently unknown. The Applicant proposed that a final travel plan will be produced, via an appointed Travel Plan Co-ordinator, following a detailed baseline staff travel survey that the Applicant proposes will be undertaken within three months of the development becoming operational.

- 3.22 An Operational Traffic Management Plan identifying the measures to control the routing and impact that HGVs would have on the local road network was included as Annex P to Appendix 8A: Transport Assessment within the Environmental Statement. This proposed a number of measures to control the impact that HGVs would have on the local road network. These include an HGV routing plan to be included within contracts; the localised widening of Whitefield Lane, the limiting of export hours; sheeting of vehicles; warning signs about turning traffic on Cobcroft Lane; on-site wheel wash; the new gatehouse facility, visual inspection of vehicles before leaving to ensure clean; CCTC monitoring; site manager details to be available and a community liaison group.
- 3.23 During the progress of the application to determination the Applicant has submitted the information set out in the five bullet points below which has been the subject of re-consultation and publicity:
- Reports dated November 2019 regarding: Green Belt; and a Non-Technical Note on Local Air Quality at Whitley
 - Reports dated 12 December 2019 regarding Transport Alternatives; Restoration and Aftercare Strategy
 - Report dated December 2019: Gale Common - Residential Amenity Measures
 - Applicant's responses dated December 2019 regarding comments from: NYCC Ecology and Landscape; Whitley, Womersley and Heck Parish Councils; and
 - The December 2019 updated version of the Draft Section 106 Agreement.

The Agent has also made responses regarding the representations received from:

- the Commercial Boat Operators Association
- Cunnane Town Planning on behalf a resident of Great Heck
- the Inland Waterways Association Inland Waterway Freight Group.

Proposed Section 106 Agreement

- 3.24 The draft submitted with the application, dated 15 May 2019, related to a variety of matters including what would trigger 'commencement' of the development; the future of the existing Agreements; the trigger points for: (a) the supply of information including about exported tonnage; (b) the works associated with the highway improvement works (road widening on Cobcroft Lane and Whitefield Lane, bend improvements at Whitefield Lane and the Whitefield Lane re-alignment works); (c) the Traffic Regulation Order (TRO) Contribution; (d) Stage I Interim Management and Stage I public access; (e) First Interim Restoration Plan to be submit within 3 months of the completion of extraction in Stage III; (f) Second Interim Restoration Plan to be submitted prior to any Extraction in Stage II below 34 metres AOD; (g) Final Restoration Plan; (h) a 10 year Aftercare Plan; and (i) a proposed Gale Common Community Liaison Group.
- 3.25 In the light of the consultation responses, representations and discussions with officers, a second draft Section 106 was submitted, dated 20 December 2019 and included: additional points such as the revision of the trigger point for the Whitefield Lane works to include a date trigger as well as a tonnage trigger; the revision of the TRO to be a contribution highway safety in Whitley (highway signage and speed reduction); revisions to the proposals for Stage I public access to be initially at designated times and eventually once extraction ceases seven days a week during daylight hours; the First Interim Restoration Plan (to be submitted prior to the completion of extraction in Stage III) and the Second Interim Restoration Plan still to be submitted prior to any Extraction in Stage II below 34 metres AOD; the addition of a Third Interim Restoration Plan prior to the completion of extraction in stage II; the provision of the Final Restoration Plan within 12 months of the date of which extraction at the site permanently ceases; the revision of the period for the Aftercare Plan to be for 30 years; and the addition of a proposal to pay a Permissive Paths Contribution to the County

Council of money for use in creating or improving access in the vicinity of the site to connect with Whitley and the continuation of the proposal for the creation of a Gale Common Community Liaison Group.

- 3.26 Further clarification was received in May 2020 on the scale of the contributions to speed reduction and highway signage in Whitley and a contribution to the provision of a primary school crossing with the trigger points, for each of these, being the earlier of: the 200,000 Tonne Exportation Date; or the date 1 (one) year from the Commencement of Development.

4.0 Consultations

The consultee responses summarised within this section of the report relate to responses to the consultation undertaken on the 12 July 2019, and to the subsequent re-consultation (on 23 December 2019) following the receipt of the further details from the applicant in response to the comments received from consultees as set out in paragraph 3.23 above.

- 4.1 **Selby District Council (Planning)** – responded on 15 August 2019 confirming that it considered the following planning policies from the Council's adopted Core Strategy to be relevant: SP1 – Presumption in Favour of Sustainable Development; SP2 – Spatial Development Strategy; SP3 – Green Belt; SP12 – Access to Services, Community Facilities, and Infrastructure; SP15 – Sustainable Development and Climate Change; SP18 – Protecting and Enhancing the Environment and SP19 – Design Quality. Further details on the content of these policies is given in paragraphs 6.22 – 6.30 below.
- 4.2 It also confirmed that the following planning policies from the Council's Selby District Local Plan were relevant: ENV1 – Control of Development; ENV2 – Environmental Pollution and Contaminated Land; ENV9 – Sites of Importance for Nature Conservation; EMP9 – Expansion of existing employment uses in the countryside; T1 – Development in Relation to Highway; T2 – Access to Roads and T7 – Provision for cyclists. Further details on the content of these policies is given in paragraphs 6.31 – 6.40 below.
- 4.3 The District Council considered that although mineral extraction in certain circumstances could be considered to not to be *inappropriate development*, the proposal was not within this definition because it was the extraction of waste material. Therefore, *very special circumstances* would need to be considered in accordance with paragraph 143 of the National Planning Policy Framework (NPPF), as referred to in Section 6.0 below. The District Council acknowledged the NPPF's aim to facilitate sustainable use of minerals included the contribution that secondary and recycled materials and minerals waste can make. It was a material consideration when evaluating relevant planning applications but considered that *'very special circumstances'* would not exist unless the potential harm to the Green Belt by reason of inappropriateness, and other harm from the proposal, was clearly outweighed by other considerations.
- 4.4 The District Council referred to NPPF paragraph 141 regarding planning authorities planning *'positively to enhance the beneficial use of Green Belt land'* and looking for opportunities to provide access, for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land. The District Council assumed that such opportunities would be fully explored. In particular opportunities that would provide walking and cycling access and connectivity. It wished that approach to be based on restoring the whole site over a planned timescale, identifying suitable opportunities to protect, enhance and better join

up existing Green Infrastructure, as well as creating new Green Infrastructure as required by both the NPPF and Core Strategy policies SP12, SP15 and SP19.

- 4.5 The response on 2 January 2020 confirmed that the additional material that was the subject of the re-consultation did not refer specifically to matters raised by the District Council so there were no further comments to make. The matter of whether the proposal constitutes minerals or waste extraction and how this impacted on considerations of Green Belt Policy was one for the County Council to take a view upon.
- 4.6 **Selby District Council (Environmental Health - EHO)** – initially responded on 30 August 2019 confirming that an Environmental Permit would be required because the process would involve the movement, storage and transportation in bulk of the PFA.
- 4.7 With regard to the work to realign Whitefield Lane, because paragraph 10.5.6 of the Environmental Statement indicated that a detailed construction noise and vibration assessment may be required once the contractor is appointed. The EHO recommended a condition be imposed to require confirmation of the construction methods, together with the noise and vibration impacts before the construction works begin. The EHO considered that the hours should be restricted to 17:00 Monday to Friday and starting at 08:00 on Saturdays. Following the applicant's agreement as stated in *Applicant's response to Post-Submission Consultee Comments Report – September 2019* to reduce the construction hours the EHO advised (26 September 2019) that this reduction should be secured by condition. This document also included clarification for the EHO on the location of the noise sensitive receptors used in the assessment.
- 4.8 The EHO initially questioned the daytime periods used to calculate average daytime noise levels, however following the Applicant's clarification, in the report referred to in 4.7 above, the EHO's 26 September 2019 response confirmed that there was no longer an objection to that. The EHO noted that without the realignment of Whitefield Lane there would be significant impacts due to traffic noise on the noise sensitive receptors and recommended that if the realignment is not approved or would not be created the application should be refused. The EHO advised in September that if the draft Section 106 was amended to progress the realignment after 5 years of operation or when exports exceed 400,000 tonnes per annum, whichever is the sooner, then there was not an objection to such an approach.
- 4.9 With regard to the installation of the fence and hedgerow for noise attenuation, the EHO recommended in August 2019 that this be secured by condition to protect the properties on Whitefield Lane. The EHO (26 September 2019) noted that the applicant did not agree with the retention of the close boarded fence and that it was only intended for aesthetic reasons until the hedgerow matures and so was therefore unlikely to be maintained in the long term and the EHO accepted that the fence was not necessary to reduce the increase in noise levels to an acceptable level.
- 4.10 The EHO's September response to the clarification in the report referred to in 4.7 above advised that the applicant's suggested condition was acceptable subject to some amendments, including reflecting that the working hours proposed included 'night' working and the noise limits should be appropriate for those circumstances at the sensitive receptor locations. However, the proposed start at 05.00am for operations on Lagoons C and D was considered to be likely to have a significant effect on a residence and so it was recommended that therefore work on those lagoons should not start until 07.00 and should be secured by condition given that it was currently not known how certain noise elements such as reversing beepers would be controlled.
- 4.11 The EHO was concerned about dust control and impact on air quality in general as well as on residential receptors close to the site and the preferred haul route but

following the Applicant's September 2019 report the EHO accepted that the assessment was in line with the EIA Scoping Document and industry practice guidance. However, the EHO was concerned that tighter levels stated in the UK Government's Clean Air Strategy 2019 which was not reflected in the assessment. The EHO welcomed, in September 2019, the applicant's proposed dust control condition, but recommended that the Dust Management Plan be extended to detail the action that would be taken if dust levels around the site are shown to exceed relevant particulate levels.

- 4.12 The EHO's September 2019 response noted the applicant's proposal for a planning condition regarding a Construction Environment Management Plan (CEMP), but observed that the Whitefield Lane Realignment might be a need to be the subject of a specific separate condition, although potentially it would be acceptable to the EHO if the Whitefield Lane Realignment details were incorporated within the CEMP and its control by condition. The proposed control measures should be required by condition and the existing dust sampling currently carried out at the site should continue with two additional monitoring points, together with the Dust Management Plan being extended to detail the action that would be taken should levels exceed relevant particulate levels.
- 4.13 On 17 January 2020 the EHO commented on the additional information provided by the Applicant that it was disappointing that all the alternative transport methods had been discounted and the use of a pipeline had not been considered given that that this had been the means by which material was transferred to the site from both Eggborough and Ferrybridge power stations. The EHO suggested that the transport method to any particular site be considered on a case by case basis and the best environmental option taken and required by condition on any permission granted. No further comments were offered regarding the *Non-Technical Note: Local Air Quality at Whitley and Eggborough Community Primary School (November 2019)* or the *Proposed Residential Amenity Measures List*.
- 4.14 **Highway Authority** – noted on 2 August 2019 that the Applicant wished to export ash at a rate of 1 million tonnes per year and that this would impact on the road network in terms of HGV traffic from the site and that the applicant had stated that at full production 266 HGV two-way trips would be generated per day. The Highway Authority considered that the increase in vehicles on Whitefield Lane could not be ignored as the number of additional HGVs would be approximately 36% of the total flow on Whitefield Lane. Further details were requested regarding the use of Whitefield Lane in the past and to say why the impact of the proposed development would not be severe.
- 4.15 In terms of road safety it was advised that the applicant introduce the idea of driver safety training and that it might also introduce a voluntary speed limit agreed with drivers when driving along Whitefield Lane. The widening of the existing access into the site to allow two vehicles to pass one another was supported as it should improve road safety at the entrance.
- 4.16 The Highway Authority considered the proposed mitigation measures to reduce the impact: widening Whitefield Lane and realigning the alignment of the approach to the junction with the A19, were important and should form part of any planning permission is granted. With regard to the 400,000 tonne per year trigger, the Highway Authority considered that figure should be linked to a time limit to trigger the improvements being introduced. The Highway Authority considered the Applicant's proposed route would offer most benefit to the applicant. However, it was considered that the route to the A645 or the A1 (see Appendices A and K), could be used in an emergency situation, but should not be used on a regular basis and requested that the applicant make this a commitment, because of the potential impact of the Gale Common traffic in combination with the existing traffic on the A645 and traffic from committed

development, especially when some of the committed projects are being constructed would impact on Eggborough.

- 4.17 The response of 25 November 2019 confirmed that the Highway Authority considered that some matters could be addressed via the imposition of planning conditions, including as summarised below:
- use of the existing access;
 - the details of works in the highway (comprising both the localised widening of Whitefield Lane from the A19 to the entrance to the development and the re-alignment of Whitefield Lane as it approaches A19 in Whitley) and also the completion of those works prior to excavation of material commencing from the site;
 - the details of the proposed vehicular turning arrangements, manoeuvring arrangements and loading and unloading arrangements, and a requirement for subsequent use;
 - the installation of vehicle wheel cleaning facilities and
 - the submission of a Construction Management Plan and its subsequent implementation as approved.
- 4.18 The Highway Authority response to the re-consultation in December 2019, was on 18 February 2020. It considered that although the Applicant proposed to review the EP UK report on alternative transport options when volumes exceed 100,000 tonnes, a detailed study should be required by condition in order to address concerns of the residents of Whitley if demand for the material from the site increased. Furthermore, that the August 2019 comments also still applied.
- 4.19 **NYCC Heritage - Principal Landscape Architect** – confirmed on 12 August 2019 that the restoration scheme for the whole Gale Common site was welcomed and the Applicant's LVIA methodology/scope was broadly agreed with. However, account of the long-term cumulative landscape and visual effects had not been taken given that Gale Common was already a partly created and restored long-term site, which would be extended for a further 25+ years. Nor did the proposal explain the existing overall landform / landscape design, how it would change and the effects of those changes. The overall scale and duration would be significant and there was potential for adverse landscape and visual effects due to the proposed duration, so phased working and restoration were important.
- 4.20 Clarification was requested on the landscape and visual effects to demonstrate that the impacts were within acceptable limits, that there was a suitable agreed landscape restoration, maintenance and aftercare scheme covering the long-term cumulative effects of the development and that the restoration phasing could be improved so that the time that Stage II would be operational was reduced. In particular:
- the effects on the Green Belt's openness and permanence (spatially and visually), duration and remediability of the effects, and the degree of activity to be generated, such as traffic generation.
 - explaining the site's wider landscape context with proposals to protect / improve green infrastructure and connectivity such providing links to Knottingley, Whitley, Cridling Stubbs, Womersley and Eggborough using public rights of way (PROW) and routes such as the Knottingley and Goole Canal with new pedestrian/cycle links to improve the existing network, rather than visitors driving to the site and providing mitigation of impacts on the footways on Selby Road and Whitefield Lane.
 - for more detail on the 'hard landscape' proposal principles such as internal access roads, visitor centre, footpaths, boundary fencing, drainage, car parking, interpretation and waymarking as these were not in the 'Indicative Landscape and Biodiversity Restoration Strategy'.
 - clarification of landscape, biodiversity and green infrastructure, including the proposed aftercare for the restored area of Stage I and the site's long term maintenance and management.

- the about the proposed long-term community benefits, such as public access and visitor centre, how these are to be secured and implemented.
 - to explain the context of existing buildings and structures as to whether they would be removed and when or not, and considering public access and safety (e.g. former processing buildings, tanks, culverts, drains and pumping stations, etc.).
- 4.21 The Principal Landscape Architect confirmed on 10 February 2020, in response to the re-consultation in December 2019, that the development was likely to have significant adverse landscape and visual effects and impact on Green Belt openness, due to the overall scale and duration and more clarification was requested. Furthermore, that unless residual adverse effects were sufficiently mitigated, offset and reduced, the proposal was likely to be contrary to landscape and Green Belt policy and therefore more detail was required to show the residual significant adverse effects could be mitigated and secured in order for him to raise no objection.
- 4.22 He considered that the site operation and restoration over a further 25+ years would be visible to varying extents at different stages, and would have long-term adverse effects particularly in the local area round the site. The extended working on the site's ridgeline and slopes, delayed restoration and increased vehicle movements to and from the site along Whitefield Lane and Selby Road were likely to impact on residents of Whitley, Cridling Stubbs, Womersley and isolated farms and local road and footpath users.
- 4.23 He also considered that the openness of Green Belt would potentially be adversely affected for a long time so mitigation must address the visual and spatial effects (significant landform alterations, retained buildings and structures) on the openness of the Green Belt due to the long duration of the development and its restoration. The traffic movements were likely to adversely affect Green Belt openness and Whitley village's local character and setting, and the planting associated with the road / junction widening works at Whitefield Lane / A19 Selby Road would only provide a partial screening benefit to local residents taking several years to establish.
- 4.24 The Restoration and Aftercare Strategy's overall aims / objectives were welcomed, such as retaining and enhancing biodiversity; phased restoration to a designed country park providing health and wellbeing opportunities, public access, green infrastructure; increasing climate change resilience; and extended maintenance / aftercare. However, these needed to be clear, achievable and proportionate mitigations to the scale of the impacts and could be secured by condition or legal agreement. For example, submissions in advance of each of the main restoration stages, in-line with the masterplan strategy, to ensure that restoration progresses in accordance with an approved scheme.
- 4.25 The principle of a Gale Common Country Park was welcomed and was considered to provide a suitable after-use but further details were needed regarding the provision including timing, management and maintenance of the visitor facilities (car parking, toilet facilities, office and activity / learning space and interpretation) and regarding long-term maintenance and management. The visitor facilities should be put in place at an early stage to provide sufficient visitor and community facilities to be used in the short and long-term (for local school and community use. It was considered that retaining/re-use of the existing processing buildings was not compatible, so ultimately all existing buildings and structures (such as the former processing buildings, tanks, culverts, drains and pumping stations, etc.) should be demolished to enable the restoration to be completed to a country park. Proposals for the long-term management of the site to be passed to an appropriate body and aftercare period with a defined financial contribution secured by Section 106 agreement were welcomed, but demonstration of this proposal being realistic and achievable were requested.

- 4.26 The Principal Landscape Officer however considered that, in mitigation of residual adverse effects and to strengthen green infrastructure and improved access, clear offsite mitigations were needed as these were not sufficiently resolved / secured in the scheme. This mitigation should be proportionate to the scale of the effects and duration and give benefit to the communities most likely to be affected (Whitley, Cridling Stubbs, and Womersley). It should be implemented at an early stage to offset and compensate for the likely long-term effects of until the site is fully restored as a country park. Footpaths and access links should be part of green corridors with new enhanced landscape and biodiversity habitat connectivity as a strategy for offsetting and compensatory improvements such as community woodland planting, landscape and visual enhancements beyond those needed to mitigate the immediate impact of the proposal and natural capital, new or enhanced walking and cycle routes and improved access to new, enhanced or existing recreational and playing field provision or community playing fields. The Principal Landscape Officer considered that where mitigation offsetting was not fully resolved that the Applicant might wish to consider a mitigation fund that was accompanied by a clear strategy for the mitigation proposals and their delivery, together with a mechanism to secure it.
- 4.27 Although welcoming the principle of improved access through temporary permissive and permanent dedicated PROW, the Principal Landscape Architect considered that the Applicant should resolve all agreements, capital works and funding for the necessary creation orders and long term maintenance of the routes and that as a minimum the new PROW should be to bridleway status (ideally restricted Byway status) with sufficient connections to the PROW network.
- Officer note: the requests for clarification in the August 2019 consultation response were responded to by the Applicant in the Applicant's responses dated December 2019 referred to in paragraph 3.23 and the points raised are addressed in the relevant parts of Section 7.0 below.*
- 4.28 **NYCC Heritage - Ecology** – confirmed on 8 August 2019 that the ecological assessment in the Environmental Statement as supported by the habitat and species surveys was satisfactory. The species surveys completed following the application's submission were in line with the Environmental Statement's conclusions and so no additional mitigation or protection measures were required other than those set out in the ecology chapter of the ES.
- 4.29 The restoration concept was suitable for the site in terms of the habitats and species which it is intended to support on site but there were areas where further consideration and information were required, including:
- Separating out the slope section of the restoration as a standalone restoration phase, so it that could be restored in advance of the full extraction of the Stage II area of the site and would therefore benefit the detailed plans being submitted and agreed at an earlier stage.
 - The need to set the restoration masterplan of the site within its surroundings in terms of connecting ecological habitats and multifunctional green infrastructure (including public access links) which could take the form of an annotated plan of the wider area.
 - There were multiple areas of the site which were not proposed for extraction but were within the red line boundary which included existing habitats and species of value that were to be retained, but no proposals for management of these areas had been submitted and provision should be made for submitting detailed management plans for these areas.
- 4.30 In addition, measures proposed on site to mitigate or compensate for development impacts and to provide net gain for biodiversity in accordance with national policy would need to be secured in the long term. The Defra consultation outcome on net gain recommends that net gain is secured for a period of 30 years and so it was recommended that a long term management scheme for the site should be included in

a revised Section 106 agreement as the applicant's original proposal of 10 years of management was insufficient.

- 4.31 On 6 February 2020 the Principal Ecologist confirmed that the December 2019 '*Gale Common Country Park: Restoration and Aftercare Strategy*' was welcomed as a high level strategy as it provided much more detail with regards to the habitat restoration and management within the site. However, the Principal Ecologist considered that with regards to the wider area there were opportunities being missed to improve the ecological networks by extending and buffering habitats off site. Undertaking management, restoration or creation of habitats off site would compensate for the delay in habitats being restored on site and would contribute to biodiversity net gain in the wider landscape. These benefits could be delivered in conjunction with footpath improvements offsite or as part of a community and environment project. In relation to the proposals on site, the increased detail on the access arrangements on site and the proposal to secure the site as a long term Country Park was welcomed. However, the Principal Ecologist cautioned that there was no guarantee that an organisation such as the Wildlife Trust would take on management of the site, therefore further clarification was required from the applicant.

Officer note: the requests for clarification in the August 2019 consultation response were responded to in the Applicant's response dated December 2019 referred to in paragraph 3.23 and the points raised are further addressed in the relevant parts of Section 7.0 below.

- 4.32 **NYCC Heritage - Archaeology** – confirmed on 30 July 2019 that the development boundary includes sites of archaeological interest, including Wood Hall medieval moated manor and an extensive later prehistoric and Romano-British landscape between this and the Stage III proposed working area but these were completely outside of the working areas and no impact is anticipated. However, whilst it was possible that similar archaeological deposits may underlie the PFA deposits elsewhere on the site, excavation work in advance of Stage III's development had been published and in the light of that publication, no objection was raised to the proposal. This was because archaeological remains such as pits, post-holes and ditches cut into the natural deposits were vulnerable to truncation and, on the evidence to date, it was unlikely that they would have survived in the Stage II and Lagoons working areas given the level of disturbance anticipated from the original topsoil stripping, stockpiling, vehicle movements, compaction, etc.
- 4.33 **NYCC Public Rights of Way Team** – confirmed 15 July 2019 that it was not considered that the line of any Public Right of Way was likely to be affected by the application. It was further confirmed on 25 July 2019 that it was not considered that there would be any significant impacts such as on the visual amenity of PROW users, over and above the impact which already exists.
- 4.34 **NYCC Arboricultural Officer** – As at 29 July 2020 no comments have been received.
- 4.35 **Cridling Stubbs Parish Council** – responded on 3 February 2020 requesting the application be refused. The basis was that any arguments in favour of the development were not significantly outweighed by: the negative impact that the proposals would have on the surrounding landscape and countryside beyond the period agreed for restoration of the site under the original permission for the disposal of PFA in 1963; and, on the basis of the long term impact of the proposals on the Green Belt.
- 4.36 However, it requested the imposition of appropriate conditions if planning permission was granted, to ensure the applicant's proposals addressed noise and light pollution impacts and the negative impacts of the proposed transport routes and highway safety implications. The Parish Council further commented that it thanked the committee in

advance for the careful consideration of the holistic picture surrounding this application and trusted the committee to protect appropriately the safety and general wellbeing of the local community and environment versus the commercial benefits sought by the applicant.

- 4.37 **Whitley Parish Council** – objected on 20 November 2019, considering that a detrimental impact on the surrounding landscape/countryside would occur and that the proposals did not meet the NPPF tests for granting planning permission for such a use in a Green Belt. It considered the restoration plans did not provide connections or further access to the countryside for residents/visitors to the area, particularly by walking or cycling and further Green Infrastructure opportunities. The Parish Council considered the proposal is based on a ‘potential’ rather actual ‘need’ for the material so did not meet policy requirements and was inappropriate development as the proposal was not minerals extraction but waste extraction and therefore that ‘very special circumstances’ needed to be satisfied.
- 4.38 The Parish Council considered work commencing at 07.00hrs on a Saturday morning for transporting would cause nuisance and disturbance to residents closest to the site and that a 09:00hr commencement would be more suitable, particularly when working at lagoons C and D. It also considered the night-time operation noise levels were not sufficiently reduced for the properties at Grange Meadows and Grange Farm and had reservations as to what extent the proposed noise mitigation measures would be effective.
- 4.39 The Parish Council accepted that a principle of PFA extraction was already established for part of the site, but that substantial HGV traffic movements would occur. It strongly opposed the application in its entirety as all movements to the strategic road network would be through Whitley and would cause disturbance, nuisance and an accident risk for other road users and it considered that impact should be spread onto different routes and not concentrate emissions in one localised area. It considered that the Whitefield Road realignment was vital to protect the residents closest to the site and those situated on the A19 and must ensure the road is of a suitable width with safe passing points. However, this would not mitigate the impacts on access/egress from properties, on users of the footways and arising from noise from the vehicular movements per day. It felt that the transport impacts including the realignment should be a priority rather than waiting until exports reached 400,000 tonnes per annum and should be a pre-commencement condition. Mention was made to Policy D03 of the emerging MWJP and saved Policies T1 and T2 of the Selby Local Plan in respect of network capacity, appropriate access arrangements and suitable on-site arrangements.
- 4.40 The Parish Council acknowledged that the applicant had considered using existing waterway and railway infrastructure and welcomed the condition proposed in the Planning Statement. However, it believed that further discussion with relevant rail authorities should occur and that given the proposed duration of the development a review of transportation every 5 years of operation should be required by condition in order to ensure adaptations in order to combat climate change.
- 4.41 Pupils/parents/siblings use the footpaths and cross the busy A19 to access the primary and nursery school and the Parish Council considered that increased vehicle movements past the schools would have an impact and raise highway safety concerns and potential congestion at peak times. The route was also busy at these times with commuters. Furthermore, the school was set down steep slopes from both the A19 and M62 and fumes from vehicle exhausts would collect in this area and impact on the children’s health.

- 4.42 The Parish Council also mentioned that the A19 junction with Whitefield Lane was already subject to flooding due to the limited capacity of existing drains. The proposed realignment of Whitefield Lane would increase the hard-surfaced area, increase surface run-off and pressure on the drainage systems, and exacerbate the potential flood risk so if development occurs the risk to land and properties by way of flooding must be minimised and properly mitigated against.
- 4.43 **Womersley Parish Council** – objected to the application on 13 October 2019 on the grounds of roads/traffic, noise, working hours, legal constraints, wildlife and environmental concerns and landscape.
- 4.44 A subsequent response was submitted on 16 December 2019 following a site meeting by representatives of the Parish Council to Gale Common with the Applicant. The Parish Council considered that access/egress via Cobcroft Lane was completely unsuitable for the volume and weight of traffic. The proposed junction re-alignment of Whitefield Lane with the A19 was welcomed, but it was considered that this should be undertaken at the commencement of the development and not after reaching a set tonnage or period of time. Concern was expressed about mud/ash being deposited on the road (based on the Parish's experience with UK Coal lorries visiting the Womersley tip site where mitigation was ineffective). The Parish was also concerned that if vehicles went to the A1 via Cobcroft Lane, it was an unsuitable route with an accident black spot crossing Northfield Lane and Stubbs Lane had sharp bends, dips and rises and was popular for cycling. The junctions with the A1 in Darrington were unsuitable and if the Stubbs Lane rail crossing was closed then vehicles would use routes through Womersley (ignoring the 7.5 tonnes weight limit for example from Bank Wood Road onto Valley Road in Darrington). It was queried if feasibility studies had been undertaken to assess the feasibility of moving the ash using rail or canal routes. Vehicle particulate pollution was also a concern.
- 4.45 The Parish Council observed that the noise testing done had left a large area of Womersley outside its scope. Although, assurances had been given that residents would not hear vehicle movements, residents already did hear activities at Gale Common when the wind was from the north and east. The Parish Council was also concerned that in high winds dust and other particulates would be deposited on its community.
- 4.46 The working hours proposed in the application including the 05.00am start and 21.00 finish seven days a week, were considered to be a lifetime huge intrusion on all the adjacent communities and the Parish Council considered that the hours should not exceed 07.00 -17.00 Monday to Friday and 08.00 -12.00 Saturday with no Sunday working. The Parish Council noted (December 2019) some assurances regarding the proposed use of wheel washes, but considered that the proposal for no lorries at school times in the mornings/afternoons would result in a queue of lorries waiting to leave the site and a risk that the wheel washing would be not be as thorough.
- 4.47 Whilst the Parish Council had been assured that conditions and any legal constraints would be adhered to, it was concerned that over a 25-year period personnel would change and that successors might ignore the requirements of a decision. The Parish Council also considered that a permission for 25 years would not be judicious and queried if the planning authorities had the workforce and budget to ensure enforcement if conditions are breached.
- 4.48 The Parish Council considered that the site was predominantly restored and contained a wide variety of wildlife, fauna and flora. The site has become a haven for wildlife and their habitat, together with that of other fauna and flora would be majorly affected by the development.

- 4.49 The Parish Council noted, that the Environment Agency had categorised the potential pollution of groundwater as medium risk. The Parish Council is aware that Womersley Tip breached its Environmental Permit and requested evidence that such risks would, if the development were permitted, be managed prior to commencement and through robust planning conditions application. It requested that the permit being tied into the planning application with effective collaborative working between the Environment Agency and the planning department.
- 4.50 The Parish Council considered that the huge scale and duration would have long term cumulative effects on the landscape and surrounding communities. There would be effects on the openness and permanence of the Green Belt that were considered to be unacceptable. The Parish Council requested that, if permitted, consideration be given to systematic timely scheme of phased restoration of the site with effective conditions and also to a restoration bond (given recent evidence from the Womersley tip site) to ensure that the site would be restored regardless of future changes in ownership, etc. The proposal to open Stage I to the public was welcomed but the Parish Council is concerned that antisocial behaviour may result, so it would need appropriate security in place, including regarding any open water bodies on site (again given experience at a former quarry in the near vicinity). The proposal for a community liaison group was welcomed to include County and District Councillor and enforcement representation from the County Council.
- 4.51 **Environment Agency - Leeds Office** – advised on 1 August 2019 that the previous use of the site presented a medium risk of contamination that could be mobilised during construction that would pollute controlled waters. The controlled waters were particularly sensitive because the Gale Common site was located upon both secondary and principal aquifers but the Agency considered that the application’s supporting evidence demonstrated that risks posed to controlled waters by the development could be managed. However, further detailed information would be required before ‘built development is undertaken’, but the Agency considered that it would be ‘*an unreasonable burden on the developer to ask for it prior to the granting of planning permission*’. However, it did recommend the imposition of 6 planning conditions: a remediation strategy to deal with the risks associated with contamination of the site; a verification report to demonstrate the works undertaken; a further remediation strategy in the event of contamination not previously known being found; the control of drainage systems and a scheme for the storage of materials/chemicals/oil/method of working and a Construction Environmental Management Plan.
- 4.52 The Groundwater and Contaminated Land Team of the Environment Agency confirmed on 9 October that there were no objections to the proposals within *The Applicant’s Response To Post-Submission Consultee Comments* (September 2019) which included proposals for draft conditions.
- 4.53 On 4 February 2020, the Environment Agency confirmed that it had no objection and no further comments to make on the proposal.
- 4.54 **Highways England** – confirmed on 22 July 2019 that it raised no objection to the proposal.
- 4.55 **National Grid (Plant Protection)** – initially confirmed on 30 July 2019 that the application was in close proximity to National Grid’s Transmission assets and that it required further detailed assessment prior to responding. However, on 13 February 2020 it confirmed that it had no objections to the proposal which is in close proximity to a High Voltage Transmission Overhead line and Electricity tower but enclosed guidance about working in the vicinity of these features.

- 4.56 **Natural England** – confirmed on 22 July 2019 that it had no objection, and that, based on the plans submitted, it considered that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Natural England offered the generic advice regarding landscape matters: including that NPPF Paragraph 170 highlights the need to protect and enhance valued landscapes and applications may present opportunities to protect and enhance locally valued landscapes, including local landscape designations. Where the impacts of development are likely to be significant a Landscape & Visual Impact Assessment should be provided. Natural England advised with regard to best and most versatile agricultural land and soils, that planning authorities should ensure they have sufficient agricultural land classification details to apply NPPF Policies paragraphs 170 and 171 and use the available guidance on soil protection.
- 4.57 With regard to protected species, standing advice was available and the impacts on local wildlife or geodiversity sites should be considered in line with paragraphs 171 and 174 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity and consideration should also be given to the potential environmental value of brownfield sites. The impacts on ancient woodland and ancient and veteran tree should be considered in line with paragraph 175 of the NPPF. The development provides opportunities for net biodiversity gains and wider environmental gains as outlined in the NPPF. The mitigation hierarchy in paragraph 175 of the NPPF should be followed so that retained or enhanced or new features are incorporated into the development and where onsite measures are not possible, offsite measures considered. Natural England encourages proposals to incorporate measures to help improve people's access to the natural environment. It advised that development should, in accordance with paragraphs 98 and 170 of the NPPF, consider the potential impacts on access land, common land, rights of way and the scope to mitigate any adverse impacts. It observed that the authority had a duty to have regard to conserving biodiversity as part of the decision making and this could include restoration or enhancement to a population or habitat.
- 4.58 Natural England confirmed on 7 January 2020 that its advice applied equally to the amended details, due to there being unlikely to be significantly different impacts on the natural environment to those arising from the original proposal.
- 4.59 **Yorkshire Water Services Ltd** – confirmed on 2 September 2019 that two live water mains and an abandoned water main were located within/adjacent to the site. The live mains were part of their regional strategic water supply network and must be protected at all times and that works may be required to the abandoned main to ensure it is safe. Therefore, if planning permission were granted, a condition should be included to protect the water mains infrastructure and the public water supply. On 3 January 2020 Yorkshire Water confirmed that it had provisionally agreed to the demolition of conveyors over the top of the Yorkshire Derwent aqueduct and in the easement area, subject to the approval of a method statement.
- 4.60 NYCC Lead Local Flood Authority - was consulted 23 August 2019 and re-consulted on 23 December 2019, and, as at 29 July 2020 no comments have been received.
- 4.61 **Danvm Drainage Commissioners** – As at 29 July 2020 no comments have been received in respect of the consultations.
- Notifications**
- 4.62 **Planning Casework Unit** – was notified of the application on 12 July 2019., and confirmed on 16 July 2019 that it had no comments on the Environmental Statement. It also confirmed, on 31 December 2019 that it had no comments with respect to the Environmental Statement following the December 2019 re-consultation.

- 4.63 **County Cllr. John McCartney** – was notified of the application on 12 July 2019 and no comments have been received to date.

5.0 Advertisement and representations

- 5.1 This application has been advertised by means of 8 Site Notices posted on 10 July 2019 (responses to which expired on 9 August 2019). The Site Notices were posted in the following locations:

- The entrance to the existing Gale Common ash disposal site (the application site)
- On the south side of Cobcroft Lane approximately where the new access to the Gale Common site is proposed
- On the lamppost on the east side of the A19 to the north of the junction with Whitefield Lane.
- On the lamppost by the bus-stop to the north of the George & Dragon pub in Whitley;
- On the footpath sign at the junction of Booty Lane/Gravelhill Lane/Whitley Thorpe Lane on the southwest edge of Whitley;
- On the footbridge to the west of Fulham Lane, Whitley at the eastern end of the footpath which goes east from the northern end of Bradley Lane, Womersley;
- On a lamppost near to the church on Park Lane in Womersley; and
- On a telegraph post, next to the post box and red telephone box on Wrights Lane, in Cridling Stubbs.

A Press Notice appeared in the Selby Times on 4 July 2019 (responses to which expired on 3 August 2019).

- 5.2 With respect to Neighbour Notification, in accordance with the County Council's adopted Statement of Community Involvement, it was considered initially that the posting of Site Notices, rather than wider neighbour notification was an effective means of drawing the attention of local residents to the existence of the planning application for the following reason. The eight site notices were considered an effective means of drawing local attention to the application.

- 5.3 However, notwithstanding the above, in the light of comments received from local residents and the three local parish councils, 50 Neighbour Notification letters were sent on 10 July 2019 to properties in Whitley, Cridling Stubbs and Womersley. A further 445 Neighbour Notification letters were sent on 13 August 2019 to additional properties in Whitley, Cridling Stubbs and Womersley in order to expand the awareness of the existence of the application in those communities. The period in which to make representations in response to this notification expired on 23 September 2019.

- 5.4 In addition, following the receipt of further information from the applicant in the form of responses to consultation responses, this information was advertised by means of a Press Notice in the Selby Times on 9 January 2020 and 12 Site Notices posted on 9 January 2020 (responses to all of which expired on 8 February 2020). The Site Notices were posted in the same locations as listed in paragraph 5.1 above and at the following locations:

- On the lamppost on the south side of Gravelhill Lane by the 30mph signpost at the western edge of Whitley
- On the post of the give-way sign by the Parish Council notice board at the north-west corner of the junction at the east end of Silver Street with the A19 in Whitley
- On the footpath sign at the southern end of the underpass leading under the M62, on the east side of Learning Lane, Whitley, opposite Whitley and Eggborough Primary School

- 5.5 A total of one hundred and ten letters/emails of representation have been received. These are mostly from individuals, but also include a representation each from: Whitley and Eggborough Community Primary School; Cridling Stubbs Village Hall Committee;

Heck Parish Council; the Commercial Boat Operators Association; the Inland Waterway Freight Group of the Inland Waterways Association, and a number of firms that use or would transport PFA.

5.6 Of this correspondence, eighty-seven representations raise objections on the grounds of: -

- Traffic impacts:
 - Volume of traffic on all roads including Cobcroft Lane, Whitefield Road, A19, roads to Great Heck
 - road safety including
 - width and bends on whole length of Cobcroft Lane/Whitefield Road and capability of road to withstand the additional use
 - existing structure of the Whitefield Road/A19 junction and proposed alteration including associated vehicles queuing, people crossing the road and that only to happen if output exceeds 400,000 tonnes per year
 - impact on cyclists and pedestrians using Cobcroft Lane/Whitefield Road, given the absence of footways
 - proximity to bus stops including use by school/college students (both during construction of the new junction arrangements and while the development takes place);
 - lack of pedestrian crossings on A19 and Whitefield Road
 - absence of mitigation for residents opposite the Whitefield Road/A19 junction
 - impact of traffic in Great Heck including the narrowness of the bridge over the railway on the Heck and Pollington Lane (C Class road)
 - impact on properties/people, businesses, care home, school and nursery in Whitley and impact in Womersley, Cridling Stubbs, Great Heck and Hensall, including via proximity issues, vibration, noise, dust, emissions including of CO₂
 - cumulative impact of traffic with local quarry lorries and other businesses
 - impact on emergency vehicles (ambulances, fire & police)
 - impact on wildlife
 - Dust/mud on the road and from traffic and lack of effectiveness of use of wheel washing
 - Duration of the traffic movements
- Lack of consideration of /proposal to use alternative means of transport and routing (and potential carbon emission savings), for example:
 - using existing pipeline to take material to Eggborough power station and to build a manufacturing plant there with road, or at an existing rail facility
 - using existing rail or canal infrastructure for removal/transport including via for example an aerial cableway, or new rail branch line
 - creating a new link road direct to the M62
 - banning or re-routing of lorries from the Whitefield Road/A19 junction at school arrival and leaving times
 - having a one-way system for lorries
 - directing traffic via route other than via Whitley
 - manufacturing the blocks on site or nearby
- Impact on the Green Belt
- Increase in hours of operation
- Light pollution
- Duration of development 25 years in addition to past 50 years of site receiving ash.
- Health impacts on local communities, including:
 - Air pollution – e.g. traffic emissions, dust, CO₂
 - Noise
 - Quality of life
- Visual impact of:
 - revised Whitefield Road/A19 junction

- removal of part of the hill landscape
 - Impact on wildlife of removal of hedgerows and trees from the existing site
 - 25 year delay in replacement of the vegetation to be removed from the existing site
 - Impact on watercourses
 - Existing issues with flooding and its increased risk, including from consequences of alteration of the Whitefield Road/A19 junction
 - Loss of tranquillity
 - Impact on listed buildings in local villages and on areas of historic importance
 - Cumulative impact of vibration with effects of previous coal mining in the locality
 - Cumulative impact with other developments e.g. Kellingley colliery re-development and infilling of Womersley Quarry, Power Stations
 - Absence of legacy funding.
- 5.7 Twenty-two letters/emails of support have been received. Nine have been from individual people, and these give support to the application on the following grounds:
- Potential loss of existing employment
 - Support for the use of the ash as an existing and potential sustainable resource including in the use of breeze blocks
 - Lack of local ash supply would increase environmental costs associated with alternative sources abroad
 - Impact on existing industries which use the ash supply
 - Potential for growth in local employment (in the development on site, in the industries receiving the ash and as part of educational or recreational facilities on site)
 - Potential to become a public park for use by the local and wider community, schools and visitors including Stage I and views of the local area
 - Potential contribution to achieving healthy and sustainable communities, emotional health and wellbeing, combating social isolation and its impact on mental and wider aspects of peoples' health
 - Improvements to local roads
 - Concerns regarding impacts arising from traffic, noise and air quality can be managed
 - Sustainability benefits as a secondary aggregate source, rather new quarries being required
 - Woodlands on the site are already subject to a budgeted 20-year aftercare maintenance programme
 - Stage I will remain intact as an established part of the local landscape, which is grazed and includes 10 hectares of wildflower meadow which is important to wildlife
 - The proposal would provide for public access to the site with designated footpaths and viewing points
 - Stages II and III will be restored and landscaped once used for ash reclamation albeit at a lower contour
 - Carbon savings from ash use as a cement substitute or instead of freshly dug sand
 - Contribution to the UK policy in respect of more sustainable construction and addressing the Government's greenhouse gas emissions.
- 5.8 A total of thirteen letters of support have been received from businesses that use PFA, raising support on the grounds of: -
- The PFA is a potential resource for use in a variety of businesses including block making, grouting, cement replacement and lightweight structural fill (including for infilling below ground voids due to old mine working).
 - PFA has useful properties: it is relatively light, well-graded, is capable of being pumped over distances; has pozzolanic properties (meaning limited addition of cement is required); is relatively inert; can meet permitting requirements; can be delivered in bulk.

- The available source of PFA direct from power stations around the country has reduced due the closure of a number of coal fired power stations around the country (e.g. none remain in Scotland) and shortages of supply has resulted in supplies that can be inconsistent and increased haulage costs (including potentially from overseas).
- Using PFA reduces the use of raw materials such as sands.
- Scope (as a source of construction materials) for helping deliver the government's commitments regarding house building
- A reduction in the CO₂ impact of concrete and other products manufactured using it (which would assist in meeting government CO₂ emission targets).
- Generation of jobs in the local community
- Potential for use of rail facilities at Eggborough Power Station and the former Kellingley colliery, which would result in minimal road transport.

5.9 It should be noted that some of the objection representations as received do support the principle of recycling, including, in some cases, a basic support for the reuse of the Gale Common PFA (as a substitute for excavated minerals), but raise objections to the proposed mechanism for doing it.

5.10 A link to an online petition in opposition to the planning application was received on 13 July 2020 and as at 14 September 2020 it had 1103 signatories.

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

The policy matters relating to these Local Plans are referenced in paragraphs 6.4 to 6.40 below.

6.3 Weight in the determination process may also be afforded to emerging local policies, 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); hereafter referred to as the MWJP. The policy matters relating to the MWJP are referenced in paragraphs 6.41 to 6.59 below.

- 6.4 North Yorkshire Minerals Local Plan (adopted 1997) has ‘saved’ policies of relevance to the determination of this application and these are:
- 4/1 – Determination of Planning Applications
 - 4/6A – Nature Conservation and Habitat protection – Local
 - 4/10 – Water Protection
 - 4/13 – Traffic Impact
 - 4/14 – Local Environment and Amenity
 - 4/15 – Public Rights of Way
 - 4/16 – Ancillary and Secondary Operations
 - 4/18 – Restoration to Agriculture; and
 - 4/20 - Aftercare
- The policy matters relating to this Local Plan are referenced in paragraphs 6.5 to 6.18 below in accordance with the compatibility with current national policy.
- 6.5 ‘Saved’ Policy 4/1 Determination of Planning Applications, states that: ‘... 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). Where criterion e) is concerned, Paragraph 205 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). Therefore, the NPPF should be given more weight in this instance.
- 6.7 With regard to criteria f) and g), 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. Therefore, these elements of Policy 4/1 are consistent with the NPPF and can be given great weight.
- 6.8 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 102 of the NPPF states that improvements to the transport network should be considered, therefore, the NPPF should be given more weight in this instance.
- 6.9 Criterion i) of ‘saved’ Policy 4/1 is consistent with the NPPF as paragraph 205 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 and therefore this element Policy 4/1 can be given great weight.

- 6.10 '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 regarding protecting the local environment by minimising impacts on biodiversity. This would therefore include impacts on sites of nature conservation interest such as those referred to in paragraph 2.5 above and therefore this Policy can be given great weight.
- 6.11 'Saved' Policy 4/10 (Water Protection), states that proposals for mining operations will only be permitted where they would not have an unacceptable impact on surface or groundwater resources and is relevant in the light of the Environment Agency's reference to the aquifers in paragraph 4.52 above. Paragraph 205 b) of the NPPF states that mineral planning authorities should ensure that there are no unacceptable adverse impacts on natural environment, which would therefore include the flow and quantity of surface and groundwater, and 'Saved' Policy 4/10 is consistent with this paragraph and therefore can be given great weight.
- 6.12 'Saved' Policy 4/13 Traffic Impact includes that where rail, waterway or other environmentally preferable modes of transport are not feasible, operations will only be permitted where the likely vehicle movements to be generated can be satisfactorily accommodated by the local highway network and would not cause undue disturbance to local communities. This Policy is consistent with the provisions of paragraph 102, 108 and 111 of the NPPF that includes that improvements to the transport network should be considered; transport proposals should be assessed and be sustainable and safe. Moreover, paragraph 109 of the NPPF confirms 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, and, therefore this policy can be given great weight.
- 6.13 'Saved' Policy 4/14 Local Environment and Amenity, states that 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 205 of the NPPF as that 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 that the cumulative impacts of a development on a locality should take into account and it can therefore be given great weight.
- 6.14 'Saved' Policy 4/15 Public Rights of Way includes that proposals for mining operations which would interrupt, obstruct or conflict with use of a public right of way will only be permitted where satisfactory provision has been made in the application for protecting the existing right of way or for providing alternative arrangements both during and after working. Whereas, paragraph 98 of the NPPF includes that decisions should protect and enhance public rights of way and access, and take opportunities to provide better facilities such as adding links to existing rights of way networks. Therefore, the NPPF should be given more weight in this instance as such opportunities would contribute to the social objective within paragraph 8 of the NPPF of having accessible open spaces.
- 6.15 'Saved' Policy 4/16 entitled Ancillary and Secondary Operations expects such activities to be sited, designed and maintained to minimise the impact of the environment and local amenity. In addition that the use of plant, machinery and buildings will be restricted to processes primarily using minerals produced from the site and that permission will normally be limited to the permitted life of the site for mineral extraction. This Policy is considered to be consistent with paragraph 8 of the NPPF in that it considers the economic objective for providing infrastructure necessary to undertake an overall development and it can therefore be given great weight.

- 6.16 'Saved' Policy 4/18 entitled Restoration to agriculture is considered relevant to the determination of this application as the realignment of Whitefield Lane would affect land which is Grade 2 and therefore best and most versatile land, but also because the proposal is for a significant proportion of the site to be restored to agriculture once operations have ceased. The policy requires when agriculture is the primary after use, that the proposed restoration scheme should provide for the best practicable standard of restoration, also that the scheme should, where possible, include landscape, conservation or amenity proposals provided that these do not result in the irreversible loss of best and most versatile land. The NPPF Paragraph 205 also considers that planning authorities should seek restoration and aftercare at the earliest opportunity and for it to be to high environmental standards, through the application of appropriate conditions, where necessary. It is considered that 'saved' Policy 4/18 is therefore consistent with the NPPF and should be afforded full weight in the determination of this application.
- 6.17 'Saved' Policy 4/20 After-care states that where conditions require agricultural, forestry or amenity (including nature conservation) restoration then there will also be an aftercare requirement to bring the restored land up to an approved standard for the specified after-use and that 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 consistent with paragraph 205 of the NPPF as that includes 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.
- 6.18 Although not a specific planning policy in North Yorkshire Minerals Local Plan, Section 5.5 of this Plan includes commentary regarding Alternative Aggregate Sources. It states in paragraph 5.5.2 with respect to Power Station Ash, effectively an expression of policy, that in volumes terms, the most important source of secondary aggregates within the County is power station ash. This PFA is used for block making, cement replacement, blended cements, grouting, bulk fill and other purposes and the County Council will continue to fully encourage and support the use of ash waste products.
- 6.19 With respect to the 'saved' policies of the North Yorkshire Waste Local Plan (adopted 2006) Policy 7/3 Re-working of Deposited Waste is the relevant one. This states that proposals to re-work deposited waste will be permitted only where the proposals represent the Best Practicable Environmental Option; and re-working would achieve material planning benefits that would outweigh any environmental or other planning harm that might result.
- 6.20 Paragraph 7.17 accompanies that Policy within the Waste Local Plan. It includes the need to balance encouraging re-use, with the impact that re-working would have on the site and its surroundings, and so it should be demonstrated that the proposal was the Best Practicable Environmental Option available in the context of the policies of the Plan. However, whilst the Best Practicable Environmental Option was national waste policy in 2006, it is not part of the National Planning Policy for Waste (2014). Hence, it is not considered that part a) of this policy can be given any weight in determining this application. However, it is considered that, because part b) relates to the consideration of the whether the benefits of re-working of a deposited waste outweigh any 'environmental or other planning harm', then moderate weight can be given to this policy. This is because the compliance with through consistency with NPPF paragraph 170 principle e) for determining planning applications and NPPF paragraph 180 regarding taking into account the effects of a development, the sensitivity of an area and the proposed mitigations.

- 6.21 Appendix A of the National Planning Policy for Waste provides a positive indication that in terms of moving waste management up the waste hierarchy, where there is waste that can be recovered which *'can serve a useful purpose by replacing other materials that would otherwise have been used'*.
- 6.22 The Selby District Core Strategy Local Plan (2013) 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. The Core Strategy does not contain any policies specific to mineral development, but there are general development management policies that are applicable to District-scale development and which, in this instance, are also relevant to the determination of this application (summarised in paragraphs 6.23-6.30 below). The Core Strategy post-dates the 2011 NPPF, as adoption was in 2013, and it is considered that the Core Strategy can be given full weight as the relevant policies to the determination of this application are still in accordance with the relevant parts of NPPF 2019:
- SP1 – Presumption in Favour of Sustainable Development
 - SP2 – Spatial Development Strategy
 - SP3 – Green Belt
 - SP12 – Access to Services, Community Facilities, and Infrastructure
 - SP13 – Scale and Distribution of Economic Growth
 - SP15 – Sustainable Development and Climate Change
 - SP18 – Protecting and Enhancing the Environment
 - SP19 – Design Quality
- 6.23 Policy SP1 (Presumption in Favour of Sustainable Development) includes that a positive approach will be taken that reflects the NPPF's presumption in favour of sustainable development. Applicants will be worked with proactively 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.
- 6.24 Policy SP2 (Spatial Development Strategy) sets out the principles guiding the location of all forms of new development in Selby and includes a statement that is relevant to the determination of this application. It states that the location of future development within Selby District will be based on certain principles. This includes (c) that development in the countryside would be limited to replacing or extending existing buildings, reuse of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, that would contribute to and improve the local economy, in accordance with Policy SP13 or other special circumstances. Paragraph (d) states that in Green Belt, including villages washed over by Green Belt, development must conform to Policy SP3 and national Green Belt policies.
- 6.25 Policy SP3 (Green Belt) states that within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted.
- 6.26 The application includes proposals for public access to initially part of the Gale Common site, and potentially as a country park in the longer term. Therefore, Policy SP12 (Access to Services, Community Facilities, and Infrastructure) is relevant because it includes that, where community facilities are to be implemented in connection with new development, these should be in place, or provided in phase with development. In addition, opportunities to enhance and better join up existing Green Infrastructure, as well as creating new Green Infrastructure will be strongly encouraged,

in addition to other measures to mitigate or minimise the consequences of development. These will be secured through conditions or through planning obligations.

- 6.27 Policy SP13 (Scale and Distribution of Economic Growth) states that support will be given to developing and revitalising the local economy in all areas. In rural areas development which brings sustainable economic growth through local employment opportunities or expansion of businesses will be supported, including within part C 2 of the Policy, the redevelopment of existing and former employment sites. However, in part D, it emphasises that in all cases, development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 6.28 Policy SP15 (Sustainable Development and Climate Change) is relevant. Specifically Part B Design and Layout of Development which states (inter alia) that to ensure development contributes toward reducing carbon emissions and resilience to the effects of climate change, schemes should, where necessary or appropriate protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilise biodiversity to contribute to climate change mitigation and adaptation. Schemes also should 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 and by minimising traffic growth by providing sustainable travel options through Travel Plans and Transport Assessments.
- 6.29 Policy SP18 (Protecting and Enhancing the Environment) seeks to sustain the high quality and local distinctiveness of the natural and manmade environment. A number of points in the policy are relevant, including that the high quality and local distinctiveness of the natural and man-made environment will be sustained by, as point 1: safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledged importance. Point 3 by promoting effective stewardship of wildlife by safeguarding national and locally protected sites for nature conservation, including SINC's, from inappropriate development; ensuring developments retain, protect and enhance features of biological and geological interest and appropriately manage these features with unavoidable impacts being appropriately mitigated and compensated for, on or off-site. In addition, by ensuring development seeks to produce biodiversity net gains by designing-in wildlife and retaining the natural interest of a site where appropriate, and ensuring any unavoidable impacts are appropriately mitigated, and compensated for, on or off-site. The Policy supports the creation and restoration of habitats that contribute to habitat targets in the biodiversity strategies including a local Biodiversity Action Plan, and, as point 4 takes a strategic approach to increasing the District's Green Infrastructure connectivity via a network of linked open spaces and green corridors. As point 6, it seeks to ensure that development protects soil, air and water quality from all pollution and that developments minimise their amount of waste.
- 6.30 Policy SP19 (Design Quality) includes that proposals will be expected to have regard to the local character, identity and context of the surroundings and the open countryside and meet key requirements. These include the best, most efficient use of land without compromising local distinctiveness, character and form. The creation of or improvement of rights of way, facilitating of sustainable access. The incorporation of new and existing landscaping as integral parts of any scheme design and the promotion of access to open spaces and green infrastructure to contribute to the health and social well-being of the local community whilst preventing contributions to, or effects by, unacceptable levels of soil, air, water, light or noise pollution or land instability.
- 6.31 Some of the existing Selby District Local Plan policies (adopted in 2005 and saved in 2008 by Direction of the Secretary of State) remain extant. As these policies pre-date the adoption of the NPPF, the weight given to them depends on their consistency with

the NPPF. Those of relevance to this application and the weight that can be attached to them are set out in turn below in paragraphs 6.32 to 6.40 below.

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- ENV9 – Sites of Importance for Nature Conservation
- ENV15 – Conservation and Enhancement of Locally Important Landscape Areas
- EMP9 – Expansion of existing employment uses in the countryside
- T1 – Development in Relation to Highway
- T2 – Access to Roads
- T7 – Provision for cyclists.

6.32 'Saved' Policy ENV1 (Control of Development) includes that: development will be permitted provided a good quality of development would be achieved. The Policy further advises that there are number of points to take account of:

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, ... means of access, the need for road/junction improvements in the vicinity of the site, and... arrangements ... made for car parking;
4. ... to the site and its surroundings and associated landscaping;
5. The potential loss, or adverse effect upon, ... trees, wildlife habitats, archaeological or other features important to the character of the area;
8. Any other material considerations'.

6.33 It is considered that great weight can be attached to 'saved' Policy ENV1 as the NPPF is clear that the effects on the natural environment (NPPF paragraphs 170, 175, 178 and 180) or general amenity (NPPF paragraphs 127 and 180), and the potential sensitivity of an area to adverse effects (NPPF paragraph 180), should be taken into account. With regards to transport, Policy ENV1 is consistent with the provisions of paragraph 102, 103, 108 and 111 of the NPPF which include that improvements to the transport network should be considered; transport proposals should be assessed, be sustainable and safe. However, NPPF paragraph 109 confirms that development should only be prevented or refused on highways grounds, where there would be an unacceptable impact on highway safety; or the residual cumulative impacts on the road network would be severe.

6.34 'Saved' Policy ENV2 (Environmental Pollution and Contaminated Land) includes within Part 'A) that 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 in the scheme. Such measures should be carried out before the use of the site commences. It is considered that Policy ENV2 A) is consistent with NPPF paragraph 170 principles e) and f) for determining planning applications and NPPF paragraph 180 regarding taking into account the effects of a development, the sensitivity of an area and the proposed mitigations therefore can be given full weight.

6.35 'Saved' Policy ENV9 (Sites of Importance for Nature Conservation) includes that if a development would harm a site of local importance for nature conservation it will not be permitted unless there are no reasonable alternative means of meeting the need and it can be demonstrated that there are reasons that outweigh the need to safeguard the intrinsic local nature conservation value of the site or feature. It is considered that Policy ENV9 is consistent with NPPF paragraph 170 principles a) and b) for determining planning applications and therefore can be given full weight.

6.36 'Saved' Policy ENV15 (Conservation and Enhancement of Locally Important Landscape Areas) states that within locally important landscape areas, as defined on

the policies map, priority will be given to the conservation and enhancement of the landscape's character and quality with particular attention paid to the development's design, layout, landscaping and use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area. This policy is considered to be consistent with NPPF paragraph 170 principles a) and b) for determining planning applications and therefore can be given full weight.

- 6.37 'Saved' Policy EMP9 (Expansion of existing employment uses in the countryside) includes that proposals for expansion and/or redevelopment of existing industrial uses outside development limits and established employment areas will be permitted provided proposals would not prejudice highway safety or have a significant adverse effect on local amenity and that the nature and scale would not have a significant adverse effect on the character and appearance of the area, or harm acknowledged nature conservation interests. The policy also requires that a proposal should achieve a high standard of design, materials and landscaping and be well related to existing development and well screened and/or landscaped. Therefore, it is considered that this policy is consistent with paragraph 80 of the NPPF as it seeks circumstances in which businesses can invest, expand and adapt and can therefore be given full weight.
- 6.38 'Saved' Policy T1 (Development in Relation to the Highway network) includes that 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 great weight in the determination of this application, because NPPF paragraph 109 confirms 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.
- 6.39 'Saved' Policy T2 (Access to Roads) includes that proposals resulting in the creation of a new access or the intensification of the use of an existing access will be permitted provided:
- 1) There would be no detriment to highway safety; and
 - 2) The access can be created in a location and to a standard acceptable to the highway authority.
- Proposals which would result in the creation of a new access onto a primary road or district distributor road will not be permitted unless no feasible access onto a secondary road and the highway authority is satisfied that the proposal would not create conditions prejudicial to highway safety. It is considered that 'Saved' Policy T2 is consistent with NPPF paragraph 108 b) in that it requires a safe and suitable access to the site to be achieved and should be given full weight in the determination of this application.
- 6.40 The relevant parts of 'Saved' Policy T7 (Provision for cyclists) are that the District Council will seek to promote the objectives of the national cycling strategy by:
- 1) Encouraging the development of a quality cycle route network ...
 - 2) Having particular regard to the creation/improvement of safe cycle routes to schools; and
 - 5) In assessing all development proposals, special regard will be given to the opportunity of improving/creating cycle routes and providing cycle parking'.
- It is considered that 'Saved' Policy T7 is consistent with the NPPF and should be given full weight in the determination of this application, because NPPF paragraph 96 is clear that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. In addition, NPPF paragraph 98 is clear that decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.

Paragraph 102 c) also states that opportunities to promote walking, cycling and public transport use should be identified and pursued.

- 6.41 The Minerals and Waste Joint Plan (MWJP) was published in November 2016 for representations. Consultation took place 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 Examination in Public (EIP) hearing sessions took place between 27 February and 13 April 2018. At present the plan is still in the examination phase as the main modifications are still to be consulted upon. Therefore, in accordance with paragraph 48 of the NPPF, weight can be given to the MWJP policies on the basis that it is at examination and the Inspector indicated at the EIP that she accepted that the Addendum formed part of the Joint Plan for examination purposes as it had been subject to consultation. Draft main modifications were discussed during the hearing sessions, notably on 13 April 2018. Two further hearing sessions took place on 24 and 25 January 2019 but as these sessions related to matters to do with fracking and the safeguarding of potash neither topic of which is considered to be relevant to the consideration of this application. The weight that is given to the emerging MWJP policies is set out in the paragraphs below.

Strategic policies for minerals

- M11 Supply of alternatives to land-won primary aggregates

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
- D05 Minerals and Waste Development in the Green Belt
- D06 Landscape
- D07 Biodiversity and geodiversity
- D08 Historic Environment
- D09 Water Environment
- D10 Reclamation and afteruse
- D11 Sustainable design, construction and operation of development
- D12 Protection of agricultural land and soils

Minerals and Waste Safeguarding

- S01 Safeguarding mineral resources
- S02 Developments proposed within Minerals Safeguarding Areas
- S03 Waste management facility safeguarding.

- 6.42 Emerging Policy M11 in regards to the supply of alternatives to land-won primary aggregates includes that proposals which facilitate the supply and use of secondary materials as an alternative to primary land-won aggregates will be permitted including, specifically within parts 1) and 2):

- 1) The development of appropriately scaled new ancillary infrastructure, including ancillary manufacturing facilities, using secondary aggregate as the primary raw material, at sites where secondary aggregates are produced, or marine aggregates imported;
- 2) The supply of secondary aggregate from waste disposal sites provided it would not involve disturbance to restored ground or a landscaped feature which has become assimilated into, or is characteristic of, the local landscape, or is of archaeological value.

This Policy is subject to an objection regarding the potential use of marine aggregate as an alternative to primary land-won aggregates. However, given that the subject of this report relates to the use of a secondary aggregate as an alternative to land-won primary aggregates it is considered that moderate weight can be given to this policy as

it is proposed for main modifications, especially as within Chapter 17 paragraph 204 of the NPPF reference is made to planning policies should 'b) so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously' and 'e) safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material'.

- 6.43 The relevant parts of emerging Policy D01 in regards to presumption of sustainable development are that in considering proposals a positive approach reflecting NPPF the presumption in favour of sustainable development will be taken and that applicants will be worked with proactively to find solutions which mean that proposals can be approved wherever possible and secure development that improves the economic, social and environmental conditions in the area. This Policy is subject to objections regarding the presumption in favour of sustainable development in particular with reference to climate change and the oil and gas industry. However, as the subject of this report relates to the supply of alternatives to land-won primary aggregates it is considered that moderate weight can be given to this policy.
- 6.44 Emerging Policy D02 in regards to Local Amenity and Cumulative Impacts includes within Part 1) that proposals for minerals development, including ancillary development and 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 with proposals expected as a first priority to prevent adverse impacts through avoidance, with the use of robust mitigation measures where avoidance is not practicable. In Part 2) Applicants are encouraged to conduct early and meaningful engagement with local communities and to reflect the outcome of those discussions in the design of proposals as far as practicable. This Policy is subject to objections with regard to the details of the wording, but during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address these. It is therefore considered, that limited weight can be given to this Policy until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved.
- 6.45 Emerging Policy D03 in regards to the transport of minerals and associated traffic impacts states that where practicable minerals movements should utilise alternatives to road transport including rail, water, pipeline or conveyor. Where road transport is necessary, access and existing road network capacity should be appropriate and the nature, volume and routing of traffic not have an unacceptable impact on local communities, businesses or other users, or any such impacts can be appropriately mitigated, for example by traffic controls, highway improvements and traffic routing arrangements; and suitable arrangements for on-site manoeuvring, parking and loading/unloading. Any access infrastructure improvements needed to ensure compliance should have information on the nature, timing and delivery of these included in the proposals. All proposals generating significant levels of road traffic, a transport assessment and green travel plan will also be required to demonstrate that opportunities for sustainable transport and travel have been considered and will be implemented where practicable. Whilst this Policy is subject to a specific objection by the oil and gas industry regarding the principle of green travel plans applying to hydrocarbon development, and during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address these. Furthermore, the application which is the subject of this report, is not for a hydrocarbon development and NPPF paragraph 111 is clear that developments generating significant movements should provide a travel plan. It is considered therefore, that moderate weight can be

given to this Policy until it is demonstrated through the Main Modifications consultations that the objections to this policy are resolved.

- 6.46 Emerging Policy D05 in regards to minerals and waste development in the Green Belt includes that minerals development within the West Yorkshire Green Belt will be supported where it would preserve the openness of the Green Belt and that where minerals extraction in the Green Belt is permitted, then reclamation and afteruse will be required to be compatible with Green Belt objectives.
- 6.47 An amendment to the wording of Policy D05 was published within the Addendum of Proposed Changes to Publication Draft in July 2017 as proposed change PC92. This Policy is subject to objections regarding the clarity of the wording and during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address these. Therefore, it is considered that limited weight can be given to this Policy until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with the NPPF are resolved.
- 6.48 Emerging Policy D06 in regards to Landscape the relevant parts are Parts 1) and 4), with Part 1 requiring demonstration that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any proposed mitigation measures. Part 4) requires where any adverse impact on landscape or tranquillity is likely then schemes should provide a high design and mitigation with regard to landscape character, the wider landscape context and setting and any visual impact and with landscape enhancement where practicable. This Policy is subject to objections regarding perceived inconsistencies and ambiguities in the phrasing. However, paragraph 48 of the NPPF 2019 states that local planning authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; which in this case is it is advanced through being in the examination stage. With regard to the degree of consistency with the emerging plan to the Framework, footnote 22 states that during the transitional period for emerging plans submitted for examination (being those submitted on or before 24 January 2019, – which includes the MWJP) consistency should be tested against the previous Framework published in March 2012).
- 6.49 NPPF 2012 paragraph 109 included that the planning system should contribute to and enhance the natural and local environment including by protecting and enhancing valued landscapes. NPPF 2012 paragraph 113 required local planning authorities to include criteria based policy against which proposals for any development on landscape areas will be judged. Within Green Belts, paragraph 81 advised that planning should be positively to enhance the beneficial use of the Green Belt such as retaining and enhancing landscapes. It is considered therefore that Policy D06 can be given moderate weight in the determination of this application.
- 6.50 The relevant parts of emerging Policy D07 in regards to Biodiversity and geodiversity are Parts 1) and 5); with part 1) requiring proposals to demonstrate that there will be no unacceptable impacts on biodiversity, including on statutory and non-statutory designated or protected sites and features, local priority habitats, habitat networks and species, having taken into account proposed mitigation measures. Part 5) includes that scheme designs, including any proposed mitigation, should to seek to contribute positively towards delivering agreed biodiversity, including those set out in local Biodiversity Action Plans, and support resilient ecological networks. This Policy is subjected to objections regarding the clarity of the wording and during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address these. It is therefore considered, that limited weight can be given to this Policy until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved.

- 6.51 The relevant parts of emerging Policy D08 are that proposals will be permitted where it is demonstrated that they will conserve and, where practicable, enhance those elements which contribute to the significance of the area's heritage assets including their setting; and, in the last paragraph of Policy D08, where proposals affect an archaeological site of less than national importance and which will be permitted where they would conserve those elements which contribute to its significance in line with the importance of the remains. When in situ preservation is not justified, adequate provision should be made for excavation and recording and subsequent analysis, publication and archive deposition before or during development. Hence it is considered that this policy can be given moderate weight as it does enable consideration of the impacts on the historic environment such that there are no unacceptable adverse impacts in accordance with Paragraph 144 of the NPPF 2019.
- 6.52 Within emerging Policy D09 in regards to Water Environment, the relevant parts are parts 1, 2, and 4. These require proposals for minerals extraction to demonstrate that no unacceptable impacts will arise on surface or groundwater quality and/or surface or groundwater supplies and flows. That a very high level of protection will be applied to principal aquifers so development leading to an unacceptable risk of pollution, or harmful disturbance to groundwater flow, will not be permitted, and that, where necessary or practicable, account should be taken of the scale, nature and location of the development and include measures to contribute to flood alleviation and other climate change mitigation and adaptation measures. Policy D09 is subject to objections regarding the phrasing, therefore in accordance with, paragraph 48 of the NPPF 2019 the weight that can be given to this policy is indicated through consideration in relation to paragraph 109 of NPPF 2012. This stated that the planning system should contribute to and enhance the natural and local environment by, amongst other things, preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution and therefore it is considered that moderate weight can be given to Policy D09.
- 6.53 Within emerging Policy D10 in regards to Reclamation and Aftercare, the relevant parts in Part 1 of the policy are that proposals for restoration and afteruse should demonstrate that they would be carried out to a high standard that is appropriate to the development's scale, location and context. The proposals should also show that they reflect, where possible, the outcome of discussions with local communities and other relevant stakeholders and address impacts, including cumulative impacts and climate change factors, such that potential overall benefits are maximised and adverse ones minimised. Best use of onsite materials should be made. A progressive, phased approach should lead to the site's restoration at the earliest opportunity in accordance with an agreed timescale; with subsequent management of the agreed form of restoration and afteruse.
- 6.54 The relevant parts in Part 2 of the policy are that mineral site restoration and afteruse should be targeted to contribute towards the MWJP objectives. For example, in areas of best and most versatile agricultural land through prioritising the protection and enhancement of soils and long term potential to create areas of best and most versatile land during the site's reclamation. In addition, by promoting delivering significant net gains for biodiversity and a coherent and resilient ecological network that contributes where practicable to creating Biodiversity Action Plan habitats, and seeks to deliver benefits at a landscape scale. Policy D10 is subject to objections regarding the phrasing, however, as no Main Modifications were proposed during the hearings, limited weight can be given to this policy.
- 6.55 Within Emerging Policy D11 which relates to Sustainable design, construction and operation of development, Part 1 includes that minerals development proposals will be permitted where it is demonstrated that appropriate and proportionate measures to the development's scale and nature are incorporated in its design, construction and

operation in relation to minimisation of greenhouse gas emissions and operational practices including those relating to bulk transport of materials and minimisation of waste generated the development and mitigation of the impacts arising from any predicted mining subsidence or land instability. This Policy is subject to objections regarding the clarity of the wording and during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address these. It is therefore considered, that limited weight can be given to this Policy until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved.

- 6.56 Emerging Policy D12 Protection of agricultural land and soils includes that Best and Most Versatile agricultural land will be protected from unnecessary and irreversible loss and that proposals should protecting soils including via aftercare requirements to ensure that a high standard of restoration can be achieved. It also requires proposals to demonstrate that all practicable steps will be taken to conserve and manage on-site soil resources in a sustainable way. This Policy is subject to objections regarding the clarity of the wording and during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address these. It is therefore considered, that limited weight can be given to this Policy until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved.
- 6.57 Emerging Policy S01 Safeguarding mineral resources includes that surface minerals resources and associated buffer zones will be safeguarded from other forms of surface development to protect the resource for the future: including all crushed rock resources with an additional 500m buffer; all sand and gravel and clay resources with an additional 250m buffer; and building stone resources with an additional 250m buffer. The principle of safeguarding mineral resources by defining and adopting policies for Mineral Safeguarding Areas is contained within paragraph 204 of the NPPF so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided. This Policy is subject to objections regarding the clarity of the wording and during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address that issue. Therefore, it is considered, that limited weight can be given to this Policy, until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved.
- 6.58 Emerging Policy S02 Developments proposed within Minerals Safeguarding Areas includes within Part 1) - Surface mineral resources: Within Surface Minerals Safeguarding Areas shown on the Policies Map, permission for development other than minerals extraction will be granted where: i) ... vi) It constitutes 'exempt' development (as defined in the Safeguarding Exemption Criteria list). This application involves the extraction of PFA and this Policy is subject to objections regarding the clarity of the wording and during the hearing sessions in 2018 it was agreed that Main Modifications would be proposed that would address these. It is therefore considered, that limited weight can be given to this Policy until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved.
- 6.59 Emerging Policy S03 Waste management facility safeguarding includes that Waste management sites identified on the Policies Map, with a 250m buffer zone, will be safeguarded against development which would prevent or frustrate the use of the site for waste development, unless the need for the alternative development outweighs the benefits of retaining the site; or, where the site is not in use and there is no reasonable prospect of it being used for waste management in the foreseeable future and where the benefits of the proposed use outweigh any safeguarding considerations. This Policy is subject to objections regarding the clarity of the wording and during the hearing

sessions in 2018 it was agreed that Main Modifications would be proposed to address these. It is therefore considered, that limited weight can be given to this Policy until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved.

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) (published 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. 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, in paragraph 8, as that being which fulfils the following three roles: an economic objective; a social objective or an environmental objective.
- 6.62 NPPF Paragraph 11 advises that when making decisions, 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 the policies protecting areas or assets of particular importance provide a clear reason for refusal; or adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole. This national policy seeks to ensure that positive improvements in people's quality of life occur including improving the conditions in which people live, work, travel and take leisure.
- 6.63 NPPF Paragraph 47 confirms that planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 48 states that local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given); b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 6.64 NPPF Paragraphs 54-56 regarding 'planning conditions and obligations' requires local planning authorities to consider if development can be made acceptable by using conditions or planning obligations with planning obligations only used where it is not possible to address impacts through planning conditions. Planning conditions should be kept to a minimum and only imposed where they are met the test for condition and likewise planning obligations must only be sought where they meet all the tests for being necessary to make the development acceptable in planning terms; being directly related to the development; and fairly and reasonably related in scale and kind to the development.

- 6.65 Paragraph 80 includes decisions should help create circumstances where businesses can invest, expand and adapt with significant weight placed on supporting economic growth, taking account of local business needs and wider development opportunities. Thereby allowing areas to build on strengths, counter weaknesses and address the challenges of the future.
- 6.66 Within *Chapter 9 (Promoting sustainable transport)* NPPF 2019 paragraph 102 includes that potential impacts on transport networks should be considered from the earliest stages of development proposals including b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised for example in relation to the scale, location or density of development that can be accommodated and that: d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account including appropriate opportunities for avoiding and mitigating any adverse effects and for net environmental gains. Paragraph 103 refers to focusing on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.
- 6.67 Paragraph 108 requires ensuring appropriate opportunities to promote sustainable transport modes can be/have been taken up; and that any significant capacity and congestion impacts on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 confirms 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. Paragraph 111 states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.
- 6.68 Paragraph 118 of the NPPF includes that planning policies and decisions should, amongst a range of things, encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains, such as those that enable new habitat creation or improve public access to the countryside; recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production.
- 6.69 Within Chapter 12 (achieving well designed places), paragraph 127 includes that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are visually attractive with appropriate and effective landscaping; are sympathetic to local character and history, including the landscape setting and do not undermine the quality of life or community cohesion and resilience. Paragraph 130 goes on to state permission should be refused for development of poor design.
- 6.70 Under the heading Protecting Green Belt land, NPPF Paragraph 133 attaches great importance to Green Belts and the fundamental aim being to prevent urban sprawl by keeping land permanently open so the essential characteristics of Green Belts are their openness and their permanence.
- 6.71 Paragraph 134 states that Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and

- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 6.72 Paragraph 141 states that once Green Belts have been defined local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.
- 6.73 NPPF paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 goes on to state that *'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'*.
- 6.74 Paragraph 145 states that authorities should regard the construction of new buildings as inappropriate in the Green Belt, but that there are exceptions including c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and, d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
- 6.75 Paragraph 146 states that some 'forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it' and continues by listing 'a) mineral extraction' and 'd) the re-use of buildings provided that the buildings are of permanent and substantial construction'. Although a proposal may not conflict with the purposes of including land in the Green Belt, it could still represent inappropriate development if deemed to have a greater impact on the openness of the Green Belt than the site does at present. It is necessary to consider the visual effect of the proposed development upon the openness of the Green Belt.
- 6.76 Paragraph 170 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF includes that planning policies and decisions should contribute to and enhance the natural and local environment by:
- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (... commensurate with their statutory status or identified quality in the development plan);*
 - 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; ...*
 - d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
 - e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
 - f) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate'.*
- 6.77 Paragraph 175 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF includes various principles to be applied when determining planning applications: that if significant harm to biodiversity cannot be avoided through locating elsewhere with less harmful impacts, it should be adequately mitigated, or compensated for as a last resort. Otherwise planning permission should be refused

and also that development on land outside a Site of Special Scientific Interest which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest. Opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 6.78 Paragraph 178 includes that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and, in NPPF paragraph 179 it states that where contamination or land stability issues affect a site, responsibility for securing a safe development rests with the developer and/or landowner.
- 6.79 Within paragraph 180 of the Framework decisions should ensure new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site, or wider area, to impacts that could arise from the development. In doing so, they should 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. They should also protect tranquil areas that are relatively undisturbed by noise and prized for their recreational and amenity value for this reason; and c) to limit the impact of artificial light pollution on local amenity, intrinsically dark landscapes and nature conservation.
- 6.80 Under the heading 'Proposals affecting heritage assets' paragraph 189 includes that local planning authorities should require applicants to describe the significance of heritage assets affected, including any contribution made by their setting with the detail proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Paragraph 190 includes that local planning authorities should assess the particular significance of any heritage asset that may be affected by a proposal (including where it would affect the setting of a heritage asset and take this into account when considering the impact on a heritage asset, to avoid or minimize any conflict between the heritage asset's conservation and any aspect of the proposal.
- 6.81 Paragraph 194 states that any harm to, or loss of, a designated heritage asset's significance (from alteration or destruction, or from development within its setting), should be clearly and convincingly justified. Paragraph 196 continues with where a proposal will lead to less than substantial harm on a designated heritage asset's significance, this harm should be weighed against the public benefits of the proposal.
- 6.82 Paragraph 197 states the effect on a non-designated heritage asset's significance should be taken into account in determining an application and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 6.83 The setting of a heritage asset is defined in the NPPF's Glossary as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

- 6.84 The Government's ambition set out in the NPPW includes that positive planning plays a pivotal role in delivering the country's waste ambitions through delivery of sustainable development and resource efficiency, including by driving waste management up the waste hierarchy. The hierarchy given in Appendix A to the NPPW defines as 'other recovery' waste which can serve a useful purpose by replacing other materials that would otherwise have been used.

National Planning Practice Guidance (PPG) (2014)

- 6.85 On 6th March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG) web-based resource. This was accompanied by a *Written Ministerial Statement* that included a list of the previous planning practice guidance documents cancelled. The PPG supports the national policy contained within the NPPF and guidance relevant to the determination of this application is contained within the following paragraphs.

Air Quality

- 6.86 This guides how planning can take account of the impact of new development on air quality and the degree of relevance depends on the proposed development and its location, for example does it change vehicle-related emissions in the immediate vicinity or further afield or expose people to harmful concentration of air pollutants, including dust or have a potential adverse effect on biodiversity. Where dust emissions are likely to arise, mineral operators are expected to prepare a dust assessment study undertaken by a competent and experienced person/organisation. Mitigation options need to be locationally specific, relate to the proposed development and need to be proportionate to any likely impact. It is important that local planning authorities work with applicants to consider appropriate mitigation so as to ensure new development is appropriate for its location and unacceptable risks are prevented. Planning conditions and obligations can be used to secure mitigation where the relevant tests are met.

Climate Change

- 6.87 The Climate Change Act 2008 establishes a legally binding target to reduce the UK's greenhouse gas emissions by at least 80% in 2050 from 1990 levels.

Environmental Impact Assessment

- 6.88 The aim of Environmental Impact Assessment is to protect the environment by ensuring that a local planning authority when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process.

Flood Risk

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

Green Belt

- 6.90 When assessing, where it is relevant, the impact of a proposal on Green Belt's openness, a judgment based on the case's circumstances is required. The courts have identified a number of matters which may need to be taken into account in making this assessment. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects so the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and

- the degree of activity likely to be generated, such as traffic generation.

Healthy and safe communities

- 6.91 The design and use of the built and natural environments, including green infrastructure are major determinants of health and wellbeing. Planning and health need to be considered together in two ways: in terms of creating environments that support and encourage healthy lifestyles.

Historic Environment

- 6.92 Where changes are proposed, the NPPF is clear that heritage assets should be conserved, and where appropriate enhanced, consistent with their significance to achieve sustainable development.

Land Stability

- 6.93 Advises that an appraisal of slope stability should be based on existing information to identify potential hazards to people, property and environmental assets and identify any features which could adversely affect the stability of the working.

Light Pollution

- 6.94 Matters to be considered regarding the effects of light pollution include, will a proposed change be likely to materially alter light levels around the site, and/or, have the potential to adversely affect the use or enjoyment of nearby buildings or open spaces and is a proposal likely to have a significant impact on a protected site or species.

Minerals

- 6.95 This guidance focuses on significant environmental impacts a mineral planning application with environmental statement should address in order to ensure that the mineral planning authority has sufficient information on all environmental matters at the time the planning decision is made. The issues include: noise, dust, air quality, lighting, visual impact on the local and wider landscape, landscape character, archaeological and heritage features, traffic, risk of land contamination, soil resources, geological structure, impact on best and most versatile agricultural land, flood risk, land stability/subsidence, internationally, nationally or locally designated wildlife sites, protected habitats and species, and ecological networks, site restoration and aftercare.

Natural Environment

- 6.96 This reiterates the NPPF encouragement of obtaining biodiversity net gains in decisions by creating or enhancing habitats on-site, off-site or through a combination of on-site and off-site measures including Green Infrastructure this is a natural capital asset that provides multiple benefits, at a range of scales. These benefits can include enhanced wellbeing, outdoor recreation and access, enhanced biodiversity and landscapes, food and energy production, and the management of flood risk. These benefits are also known as ecosystem services and need considering early in development preparation, taking into account existing natural assets and the most suitable locations and types of new provision and that such green infrastructure will require sustainable management and maintenance if it is to provide long term benefits, including appropriate funding of required. Local community engagement can assist with management and tailoring provision to local needs.

Noise

- 6.97 This states how noise needs to be considered when development may create additional noise or would be sensitive to the prevailing acoustic environment. The subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation. Decision taking should take account of the acoustic environment and in doing so consider: whether or not a significant adverse effect is 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. In addition, it offers guidance on identifying whether the overall effect of noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level (when noise exposure gives rise to detectable adverse effects on health and quality of life) and the lowest observed effect level for the given situation, below which no effect at all on health or quality of life can be detected.

- 6.98 The PPG paragraphs advise that those making mineral development proposals should carry out a noise impact assessment and give guidance regarding the control or mitigation of noise emissions including:
- ‘consider the main characteristics of the production process and its environs, including the location of noise-sensitive properties and sensitive environmental sites;
 - assess the existing acoustic environment around the site of the proposed operations, including background noise levels at nearby noise-sensitive properties;
 - estimate the likely future noise from the development and its impact on the neighbourhood of the proposed operations;
 - identify proposals to minimise, mitigate or remove noise emissions at source;
 - monitor the resulting noise to check compliance with any proposed or imposed conditions’ and it may be appropriate to set specific limits to control reversing beepers that are independent of background noise.

Open space, sports and recreation facilities, public rights of way and local green space

- 6.99 It is for local planning authorities to assess the need for open space and opportunities for new provision in their areas. Public rights of way are an important part of sustainable transport links and should be protected or enhanced. The Defra Rights of Way circular (1/09) provides local authorities with advice on managing, maintaining, protecting and changing public rights of way and guidance on considering the effects on rights of way of development.

Water supply, wastewater and water quality

- 6.100 Water quality is only likely to be a significant planning concern when a proposal would indirectly affect water bodies, for example as a result in runoff into surface water sewers that drain directly, or via combined sewers, into sensitive water bodies with local, national or international habitat designations, or through a lack of adequate infrastructure to deal with wastewater.

Waste

- 6.101 With regard to the waste hierarchy, the PPG stresses that the movement of waste up the hierarchy is not just the responsibility of waste planning authorities but all local planning authorities, to the extent appropriate to their responsibilities, should look to drive waste management up the hierarchy.

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 as set out below.

Principle of the proposed development

- 7.2 The planning policies relevant to this topic in this report include ‘saved’ Policy 7/3 of the North Yorkshire Waste Local Plan that relates to the re-working of deposited waste. ‘Saved’ Policy 4/1 of the North Yorkshire Minerals Local Plan regarding factors relevant to the determination of applications. Policies SP2 and SP13 Selby District Core

Strategy Local Plan in respect of the overall location of development and of development in rural areas and, within the MWJP, Policy M11 regarding the supply of alternatives to land-won aggregates, and Policy D01 in terms of the presumption in favour of sustainable minerals development. Policy matters such as nature conservation and habitat protection, water protection, traffic impact, local environment and amenity, public rights of way, restoration and aftercare are addressed later in the report.

- 7.3 The NPPF and NPPG provide no definition of ‘mineral extraction’ however both indicate that it involves a mineral such as a rock or sand deposited by natural forces, and which can only be worked where it is found, and that is a material consideration. A ‘natural’ force did not create or deposit the PFA at Gale Common, rather its formation was due to human activity (combustion of coal for the creation of electricity). Its deposition was also via human activity at Gale Common. Therefore, it is not a ‘mineral’ for the purposes of the NPPF and NPPG. However, the proposed extraction of PFA does come within the definition of ‘mining operations’ under the terms of Section 55 (4)(a)(ii) of the Town and Country Planning Act 1990. This is because it involves removing material from a deposit of pulverised fuel ash. Hence, ‘mining operations’ therefore includes the proposed removal of the material that came from Eggborough and Ferrybridge Power Stations that is the pulverised fuel ash deposit at Gale Common, and although it was deposited as a waste, it is its importance as a material that can be used as a secondary aggregate which is primarily relevant in this case.
- 7.4 Ash exports from the power station ash disposal sites within North Yorkshire to use as a secondary aggregate date back at least 30 years. The first grant of permission for recovery and sale of ash material sourced from Gale Common was in 1988. Recovery and sale of furnace bottom ash was also already taking place from the Brotherton Ings ash disposal site by the late 1980s, and commercial export operations at Drax Power Station commenced in the late 1990s through the removal of PFA from the unrestored part of the Barlow Ash Mound. Drax’s current operator continues in 2020 to source PFA from Barlow and to supply it to the market. As stated in paragraph 2.x above the Gale Common 1988 permission was for the removal of a particular type of the ash deposited at the site, namely the cenospheres as their physical and chemical properties made them of economic value at the time. Extraction was by suction to remove the cenospheres from the surface layer of the lagoon system. Eight further time-limited planning permissions were granted to recover from Stage I, and, subsequently from Stage II, so there is a history of a ‘mining operation’ at the site. In 2002, a specific plant was built at the site with the aim of harvesting the cenospheres more efficiently, although that process ultimately was less efficient than originally envisaged and ceased to be used. However, in 2003 the principle of recovering ash for sale, using the stockpile on the ASDP’s recovery pad, located on the western edge of Stage III, was authorised to enable Eggborough Power Station to satisfy the ash requirements of its customers when the power station’s generation did not produce enough PFA to supply to the direct sale contracts. Although, in 2003, it was envisaged that the primary source would continue to be direct from Eggborough and Ferrybridge power stations as that would avoid double handling the ash.
- 7.5 Policy 7/3 of the North Yorkshire Waste Local Plan is a saved policy and, whilst the supporting paragraph 7.15 of that policy states the County Council will continue to fully encourage and support the use of ash waste products. The use of the ash has to weighed relative to the impact that such re-working will have on the site and the surrounding area. There is also no longer a requirement in national waste planning policy to establish whether a proposal represents the ‘*Best Practicable Environmental Option*’ so, as stated in paragraph 6.20 above, no weight can be given to part a) of Policy 7/3. However, in considering the balance between use of the waste and points relating to ‘environmental or other planning harm’, moderate weight can be given to part b) of Policy 7/3. In addition to matters addressed in the consideration of other

current extant policy, including 'saved' Policies 4/1, 4/6A, 4/10, 4/13, 4/14, 4/16, 4/18 and 4/20 of the Minerals Local Plan. Furthermore, as stated in paragraph 6.84 above, the NPPW supports the use of material that can replace other materials that would otherwise be used, such as in the case of the use of PFA as a substitute for primary-won aggregate. The representations received, regarding this application, from firms that use PFA indicate that there is an existing and potential demand for the material as an alternative to land-won aggregates that would be in accordance with the principle of Policy M11 of the emerging MWJP.

- 7.6 Draft Policy M11 of the emerging MWJP provides support for proposals that facilitate the supply and use of secondary aggregate as an alternative to primary land-won aggregates. It is therefore in accordance with the requirements of paragraph 204 b) of the NPPF to, so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously. This Policy M11 support is subject to several provisos of which Parts 1) and 2) are relevant. With regard to Part 1 of Policy M11, the new ancillary infrastructure proposed within this planning application is limited to new ancillary infrastructure of appropriately scale of the development proposed. In this case, the new processing plant, extended site loading pad, upgraded site access arrangement, security cabin and welfare facilities, an additional weighbridge and wheel wash facility, diesel tank and an extended site office. Therefore if permitted, in terms of Policy M11 part 1), the proposed built development would be proportionate to the development proposed.
- 7.7 In terms of the waste hierarchy the *recycling* of PFA waste materials through reprocessed into products, materials, or substances and *its other recovery*, by replacing other materials that would otherwise have been used serves a useful purpose as sort by the waste hierarchy. This reflects Gale Common's shift from a site that received the PFA by pipeline since the 1970s to one where excavated PFA has left the site since the 1980s for a positive purpose. That potential for Gale Common remains, to supply to a variety of destinations with excavated PFA and contribute that secondary aggregate to facilitate the sustainable use of minerals envisaged in NPPF paragraph 204 e), although it is not specifically identified as such through safeguarding in the MWJP. This would contribute to a potential reduction in demand for primary-won aggregate by business through the use of the PFA as a secondary aggregate from what was a waste disposal site as referred to in draft Policy M11 Part 2 of the emerging MWJP. However, with regard to Part 2 there is also the need to consider the balance as to whether the development would disturb restored ground or a landscaped feature now assimilated into the local landscape and this balance is undertaken later in this report, within paragraphs 7.67 – 7.68. Therefore, although there is no longer extant policy support for use of the PFA via the 1997 North Yorkshire Minerals Local Plan, as Policy 3/8 which related to secondary and recycled aggregates was not 'saved' in 2007. There is, as outlined above, a principle of policy support for the supply and use of secondary aggregate as an alternative to primary land-won aggregates continuing through the emerging MWJP via draft Policy M11. Moderate weight may be given to this as the Policy is proposed for main modifications and supports the use of sources of secondary aggregate, which is in turn supported within paragraph 204 of the NPPF.
- 7.8 The Applicant undertook a Sustainability and Carbon Review as part of this application. This described the key markets for PFA as including those where PFA use occurs within aerated concrete blocks as an additive, where the alternative component would be primary-won mineral in the form of sand and screened PFA has better performance characteristics because of its chemical and physical properties. Grouts for ground stabilisation may also use PFA. PFA also can be used to partially (up to 5%) replace shale or clay in clinker manufacture for the cement industry and after some additional processing to remove some of its moisture and carbon content, PFA can also replace

cement for use in concretes and mortars (up to 35% PFA). Certain high performance (durable) concretes use it where there is a need for chloride or sulphate resistance, the alternative being blast furnace slag for which the UK is now a net importer. Businesses have commented in their representations regarding this specific planning application about PFA's potential for use in a variety of products and processes including those mentioned earlier in this paragraph, as blasting grit, as bound component in tiles/bricks/paints/plastics and bitumen-bound material and for lightweight structural/engineering fill. This illustrates the range of possible options to use a material that might otherwise remain on site at Gale Common. This movement of the PFA from site is in accordance with the aims of the waste hierarchy in NPPW Appendix A.

- 7.9 The Applicant's Review states that the United Kingdom is a significant net importer of secondary aggregates such as PFA and the PFA tonnage imported has increased by approximately five times since 2014 according to the UK Quality Ash Association (UKQAA), and UKQAA also estimates that there could be up to 100 million tonnes of PFA available from landfill. PFA has been and is used currently as a secondary aggregate in the manufacture of a variety of products including building blocks in North Yorkshire. Representations from firms, regarding this application, have referred to the power station closures in Great Britain, and elsewhere, as having reduced the direct availability of material that for use in certain manufacturing processes. There is currently now only Drax and two sites in Nottinghamshire out of the 18 coal-fired power stations remaining active in Great Britain, with another active in Northern Ireland. By 2025, all are expected to close, or to stop using coal as a fuel source and therefore there will potentially in future no longer be a fresh supply of PFA from power stations that would strengthen the case for the use of former ash disposal sites as a PFA source subject to compliance with all other relevant policies. Hence, with regard to emerging MWJP Policy D01, this is, in principle, a sustainable development in terms of enabling the use of the deposited PFA as a secondary aggregate with potential for approval, unless material considerations indicate otherwise, and therefore the remaining paragraphs of Section 7.0 examine these other considerations.
- 7.10 There is a justification for continuing using the PFA resource at the site, albeit via a different process (being excavation from a previous deposit, rather than a specific stockpile), as it would be the redevelopment of an existing former employment site and is therefore compliant with Policy SP13 part C2 of the Selby District Core Strategy Local Plan. However, with respect to part D of Policy SP13 the assessment of whether the development would be sustainable, appropriate in scale and type to its location, not harm the character of the area and seek a good standard of amenity, is discussed within paragraphs 7.45 – 7.60 below.
- 7.11 The proposed increase in the volume of PFA available for export from Gale Common would contribute to the 'waste' recovery as envisaged in Appendix A of the National Planning Policy for Waste (NPPW). It would also serve the environmental objective envisioned within NPPF paragraph 8 by minimising waste by extracting the PFA in order for use as a secondary aggregate, thereby reducing the need for the extraction of naturally occurring resources, in the form of primary minerals.
- 7.12 Policy SP2 sets the Spatial Development Strategy of the Selby District Core Strategy Local Plan. The policy sets principles intended to guide the location of all forms of new development. The implications of an expansion to the tonnage of PFA to be removed and the associated changes and impacts associated with that are addressed in the remainder of this section of the report. However, in respect of Policy SP2(c) with regards to the proposed built development, it is a development in the countryside, which, proposes the removal of some of the existing buildings (as described in paragraph 3.4 above) and the building of replacements and an extension to the offices and will result in a net increase in built development. This will be for use in employment

purposes that is within the specified limitations in the Policy in accordance with Policy SP13 and would be associated with the wider development of the site (the ash extraction) that would contribute to the local economy. Furthermore, the Restoration and Aftercare Strategy includes a commitment to remove all operational infrastructure and buildings, associated with PFA extraction and the historic waste management use, as part of the site restoration. On balance, it is therefore considered that the development would be in accordance with Policy SP2(c), but SP2(d) requires that in the Green Belt it must conform with Policy SP3 and national Green Belt Policies and that issue is addressed in paragraphs 7.19 – 7.30 below.

- 7.13 According to 'Saved' Policy ENV1 (Control of Development) of the Selby District Local Plan development will be permitted provided it is and achieves good quality. The topics in which this needs to be achieved include effect on the character of the area and amenity, highway issues, impact on local services and infrastructure, landscaping and the potential loss, or adverse effect upon, spaces, trees, and wildlife habitats, archaeological or other features important to the character of the area. Likewise, it is also necessary to consider whether the proposed method and programme of working would minimise the impact of the proposal in accordance with Policy 4/1 of the NYMLP. The proposed method of extraction and programme of working both have potential implications for a range of topics to differing degrees and therefore will be individually considered in context with those topics prior to coming to a conclusion on overall compliance with Policy ENV1 and Policy 4/1 in Section 8.0 below. The topics include the site being located within the Green Belt; the impact on the current landscape of the area and arising from the proposed landscaping; the impacts on the environment and amenity; the transport implications, the proposals for restoration and aftercare and the cumulative effect on the local area.

Waste

- 7.14 When the material was originally permitted in 1963 for deposit at Gale Common it was regarded as being a waste, whereas, as explained in respect of the 'principle of the development' above, PFA is no longer regarded as being always a waste material rather it is perceived as a source of secondary aggregate. Indeed, while the screening of the PFA process will generate a small volume of waste, this will likely be less than 1% of the total volume screened. Furthermore, that is likely to include inert, uncontaminated material for use beneficially as part of the restoration of the Site and so is unlikely to result in significant effects on local or regional waste management. The site waste management plan would ensure the appropriate handling of any soils removed in order to extract the PFA, and their storage for re-use so that they are not wasted. Domestic waste from arising from staff segregated for recycling would be disposed of off-site. Therefore, with regard to the minimisation of waste generation at the site and it is considered that, if permitted, the site would be capable of operation in accordance with the principles of Policy D11 Part 1) ii) of the emerging MWJP as the scope to recycle on-site waste generated would be used.

Green Belt

- 7.15 The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. The relevant development plan policies with regard to the Gale Common site lying within the West Yorkshire Green Belt are Selby District Core Strategy Local Plan Policies SP2 part (d), and SP3 and Policy D05 of the emerging MWJP.
- 7.16 There are 19,240 hectares of the West Yorkshire Green Belt identified on Figure 5 of the Selby District Core Strategy Local Plan as a 'Key Asset' and amongst the Core Strategy's objectives are 'safeguarding the open character of the Green Belt and preventing coalescence of settlements'. Section 3 of the Selby District Council Local Plan (2005) states that this Green Belt was established in the 1960s with the principal

objective of checking further growth of the West Yorkshire Conurbation. The construction of the mound over the past 50 years has created a hill feature within the generally flat landscape of the valley of the River Aire, with the rising ground of the Magnesian limestone ridge to the west and south-west that is a Locally Important Landscape Area. Given that the height and scale of the new landform meant no planting could, or would, completely obscure the development, the Central Electricity Generating Board (CEGB) 1960s design envisaged the mounds of PFA landscaped as a terraced hill, with tree belts planted around much of the perimeter and on the slopes. Over the years the hill, its slopes and planting have developed and been managed, together with hedgerows as a visual effect. This design was principally with the intention of the restoration being to agriculture.

- 7.17 However, as paragraphs 6.73 and 6.74 above state, the NPPF position is that inappropriate development is by definition harmful to the Green Belt. Such development should not be approved except in very special circumstances and that substantial weight is given to any harm to the Green Belt and that these circumstances 'will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'. The extraction of PFA is a 'mining operation', and, as acknowledged by the District Council, it is an aim of the NPPF policy stated in paragraph 204 b) to, in so far as is practicable, facilitate the sustainable use of minerals including the contribution that secondary and recycled materials can make. However, although PFA exports from Gale Common continue within the current 30,000 tonne a year limit, in terms of paragraph 204 e) of the NPPF Gale Common is not, in policy terms, a safeguarded site for 'the handling, processing and distribution of substitute, recycled and secondary aggregate material'. Rather, in the emerging MWJP, the proposal is for safeguarding the site as a 'landfill (restricted/specialised)'. Therefore, it is necessary to consider whether very special circumstances exist.
- 7.18 As stated in paragraph 6.71 above, NPPF paragraph 134 states that Green Belt serves five purposes. With regard to these, the development would not contribute to, and therefore will not conflict with purpose a) regarding any sprawl of any built-up area, or purpose b) regarding merging of towns. This is because, whilst the development, does involve approximately 1281m² of built development (compared to the existing amount of approximately 1128m²), it does not represent a sprawl of a large built-up area, and would not result in towns or villages merging into one. Indeed, the two figures for the area of built development above do not factor in the approval of demolition of buildings as given by Selby District Council, such as the ASDP and the pipe bridges which will, once undertaken, reduce the overall built impact of development previously associated with Gale Common in the wider landscape.
- 7.19 The nearest town to the site is Knottingley which is just over 2 kilometres to the north-west where the old A1 (Dere Street) crossed the river Aire. The villages of Womersley, Whitley and Cridling Stubbs are closer. The majority of the works (with the exception of the removal of C & D Lagoons) will be on the opposite (southern) side of the mound. Therefore, it is not considered that the proposed development would have an impact on the historic town centre of Knottingley, because those parts of the town nearest to Gale Common have been built more recently and the landmark formed by Stage I is to remain. Consequently, there is unlikely to be a significant impact on any special character or setting of that town thereby conflicting with NPPF Paragraph 134 d) with the purposes of the land being within the Green Belt. NPPF paragraph 134 e) regarding assisting in urban regeneration through the recycling of derelict and other urban land is not relevant to the consideration of this application as the land is not derelict, nor urban and therefore the proposal does not undermine the inclusion of any land within the Green Belt in terms of that purpose.

- 7.20 NPPF Paragraph 145 advises new building constructions be regarded as inappropriate in the Green Belt subject to certain *exceptions*. The buildings proposed do not fall within *exception a)* as they not are for agriculture or forestry or within *exception e)* limited infilling in villages, *or f)* limited affordable housing. With regard to *exception b)* the buildings proposed do not come within the types of uses identified. *Exception c)* is the extension or alteration of a building, provided it does not result in disproportionate additions over and above the size of the original building. *Exception d)* is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Therefore, with regard to the proposed new and replacement buildings, although the new extension to the existing office building is not considered to be a disproportionate to the original offices. The new weighbridge and gatehouse proposed are larger than the ones existing on site. The HGV driver welfare facilities will be a new facility. Therefore, these do not come within the exceptions c) or d) of paragraph 145 of the NPPF but would comprise a limited redevelopment of previously developed land that would not have a greater impact on the openness of the Green Belt than then existing development and so would come within exception g) of paragraph 145 of the NPPF. Furthermore, in terms of Policy SP2 of the Selby District Core Strategy Local Plan, the proposed built development would be limited to replacing or extending existing buildings, and the reuse of buildings for employment purposes thereby enabling the site to contribute further to the local economy.
- 7.21 The concept of ‘openness’ is the state of being free from built development, as distinct from there being an absence of impact. The 1960s designated Green Belt’s openness has altered during, and because of, the construction and landscaping of the ‘man-made’ hill of PFA at Gale Common. Furthermore, there does not appear to have been any conclusion that the creation of the hill would be harmful to the Green Belt and the site has not been free from *built development* since construction started in the 1960s. The activity now proposed is effectively a new chapter in the life of the site, because rather than being the continued deposition of the PFA, it is for the removal of a physical part the mound of PFA that is of the *built development* created since the 1960s. This development will have an impact but in terms of paragraph 145 g) of the NPPF it is considered that the redevelopment of the site will not have a greater impact on the openness of the Green Belt than the existing development.
- 7.22 The existing perimeter landscaping will largely screen the buildings and so is not considered to cause any existing harm, or likely to cause any additional harm to amenity or the purposes of the land on which they are situated being included in the Green Belt. They, together with the plant and machinery used, will be ancillary to the principal development of extracting the PFA from the site and therefore temporary, and reversible, in their effects as with any mineral related development. They are effectively a modernisation of the existing onsite facilities in order, as sought within Policy 4/16 of the NYMLP, to have the infrastructure necessary to undertake the overall development that enables the PFA extraction and removal from the site. In 2018, the Applicant secured approval from Selby District Council for the demolition of existing redundant buildings and structures to the south of the offices including the ASDP. Once that is complete, the plant, machinery and buildings will be restricted to processes relating to the production from the site and would be in accordance in that respect with the principles of Policy 4/16. Nonetheless, that the proposed development does not come within the forms of development considered appropriate in the Green Belt, although they would contribute to the site being used as a source of secondary aggregate.
- 7.23 However, Policy 4/16 also states that this permission will normally be limited to the permitted life of the site for mineral extraction. As stated in paragraph 3.19 above, it is proposed that a new carpark and welfare/security block would be installed with a new access off Whitefield Lane for the long-term use of visitors to the restored ‘country

park'. Hence the principle should be, in order to comply with the full terms of Policy 4/16 that from the outset all built development be removed on completion of restoration of the site. Unless, it is required, and can be used on sustainability grounds, for a long-term afteruse of the site that would not be inappropriate under paragraph 145 b) of the NPPF. This, including any new carpark and welfare/security block proposal, is addressed through the inclusion of an appropriate condition in any planning permission, if granted, that required the details of any buildings to be retained upon the completion of extraction to be agreed (see Condition 37 in Section 9.1 below). On such basis, it is considered therefore, that the built infrastructure associated with the current application would comply with the terms of Policy 4/16. Furthermore, in terms of Policy SP2 of the Selby District Core Strategy Local Plan, the proposed built development in the countryside would be limited to replacing or extending existing buildings and the reuse of buildings for employment purposes appropriately designed for the proposed uses. That would enable the site to contribute further to the local economy and would not involve a disproportionate increase in the scale of the on-site built development.

- 7.24 Hence, in terms of Policy SP3, it is not considered that the proposed built development would be harmful to the Green Belt given that the proposed locations within the site for this new built development are in the same two parts of the site that currently have existing buildings. The approval already secured from Selby District Council for the demolition of various buildings would have a greater impact on the openness of the Green Belt, albeit a positive one, than the existing built development does at present. Therefore, it is not considered that the built element of this application represents inappropriate development and it is therefore not in conflict with Policy SP3. It is considered also that the building element of the development does not conflict with NPPF paragraph 133, as whilst change will occur on site, including with respect to the built development on site and changes to the shape of the 'artificial' landform, the land will essentially remain open.
- 7.25 Although only limited weight can be given to Policy D05 of the emerging MWJP, as stated in paragraph 6.47 above until further progress towards adoption of the MWJP occurs, it does nonetheless support the principle of minerals development within the West Yorkshire Green Belt where the openness of the Green Belt would be preserved. The development would effectively be in accordance with Policy D05 Part 2) viii) by being a continuation of activities within the footprint of the established Gale Common site which has operated for more than 50 years as a waste site. Furthermore, as stated above it is considered that on balance, the openness of the Green Belt will be preserved. As, notwithstanding the change to the landscape that would result from the proposed extraction due to the mound's reduction in the height and mass, it would be closer to the appearance of that area of the Green Belt as originally designated in the 1960s. Policy D05 also requires that such extraction should include reclamation and an afteruse that is compatible with the Green Belt objectives of keeping land permanently open and safeguarding the countryside from encroachment and it is considered that the proposed reclamation and afteruse are compatible with those objectives.
- 7.26 With regard to the purpose of NPPF Paragraph 134 c) concerning safeguarding the countryside from encroachment, the Gale Common facility has been developed for ash disposal within a site boundary that was granted in 1963. The existing 'hill feature' at Gale Common, comprising Stages I and II with the subsidiary smaller 'hill feature' formed by the lagoons C & D, has been developed over the past 50 years. It has changed the appearance and characteristics of this part of the county from what was previously a relatively flat area. When permitted in the 1960s, the landscape architect for the applicant at the time envisaged that the landscape plan of artificial landforms formed from the ash would complement the industrial nature of the Eggborough power station towers whilst 'harmonizing with the agricultural landscape'.

- 7.27 The overall area of the Gale Common application site (including the proposed road realignment at Whitley) is 312 hectares. The proposal would not affect much of this area, as no works are to occur on the land to the south of Stage III, or to most of the existing woodlands. Although some trees near the current gatehouse would be removed in order to access the area proposed for the new gatehouse and weighbridge. An area of about 30% would be affected by a temporary use of land and would be restored on completion of extraction, via an agreed detailed restoration and management plan. As stated in paragraph 2.7 above, Gale Common lies within two National Character areas. It is mostly within the Humberhead Levels area of a flat, low-lying and large-scale agricultural landscape, with big skies and long open views and vertical elements such as water towers and power stations with and the Southern Magnesian Limestone area intensively farmed arable farmland with long views over lowland to the east, west and to the south. It is considered that if the proposal is permitted it will not encroach further into the area and will not compromise the character of the area of the Humberhead Levels or the Southern Magnesian Limestone as the National Character designations took account of the existence of the Gale Common and to there being activity on the site.
- 7.28 The application does involve the escalation spatially in scale, relative to the current permitted removal of PFA from the area solely by the loading pad and there is limited variation in topography in the surrounding area to reduce the visual impact of removing the proposed areas of ash, in particular Stage II. Although the NPPF Paragraph 146 indicates that some development is not inappropriate in the Green Belt PFA is not considered to be a 'mineral', for the purposes of the NPPF or NPPG. Therefore, the PFA extraction does not fall within the exception for 'mineral extraction' deemed in NPPF Paragraph 146 as being not inappropriate. Therefore, as inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances, it is necessary therefore to consider whether 'very special circumstances' actually do exist. These special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 7.29 The Gale Common mound has become, and is, a **significant** distinctive feature in the landscape as is acknowledged in the updated Selby Landscape Character Assessment. Furthermore, as discussed later in respect to landscape impact, the incorporation of new landscaping for Stages II and III, and the Lagoons C & D, and the maintenance of the existing landscaping on Stage I into the overall project design, will maintain the dominant feature created by Stage I and will not therefore compromise the local distinctiveness, character and form.
- 7.30 With regard to the consideration of openness, Gale Common lies 500 metres outside the Local Important Landscape Area designated within the Selby District Core Strategy Local Plan. The wider Gale Common Site benefits from the mature woodland and boundary vegetation that already provides screening from many views of the site including the proposed PFA loading area. The maturing planting on the restored Stage I part of the site assists in integrating the site into the surrounding landscape and does not detract from the openness of the area. The Applicant proposes to retain screening bunds around the working areas in order to reduce to a minimum the workings being visible from the surrounding area. The existing site has some lighting that has historically been adequately managed and not given rise to complaints. However, the proposed extended hours of operation on site would necessitate, at certain times of year, lighting use for safety reasons, in an area that is essentially rural. The Applicant proposes that the lighting design will be to appropriate lighting standards, angled inwards to the site and the use of the bunds will assist with screening. In the absence of a detailed lighting scheme, there is a potential for a future negative impact on the

Green Belt. However, this will be avoided by the imposing a planning condition requiring any proposed lighting to be submitted within a scheme for approval that includes details of the height of any proposed column, the angle of the lighting and its power (lux) as set out in Condition 14 in Section 9.1 below.

- 7.31 The applicant proposes to regulate the rate at which HGVs leave the site in order to address the potential for lorry queueing at the junction of Whitefield Lane and the A19 and thereby avoid any potential impact on the openness of the Green Belt at that junction. However, as mentioned in Section 3.0 of this report, the proposal is that, although Stage I would remain; both Stage II and Lagoons C & D will be removed over a period of 25 years. This would partially reinstate some of the openness that existed prior to the Gale Common mound being created and which has been altered within the Green Belt as the site has developed over the period of the past fifty years. That past period included phases during construction when some of the slopes of the ash mound were not vegetated. Therefore, whilst vegetation and soil removal from raised parts of the site in phases will occur, and part of the mound will cease to exist, that removal will not itself have a greater impact on the openness of the Green Belt than the existing development has had over the past 50 years. Selby District Council referred to NPPF paragraph 141 regarding planning authorities planning 'positively to enhance the beneficial use of Green Belt land' and this point is addressed in the landscape, visual amenity, public access, and biodiversity sections below.
- 7.32 As stated in paragraph 6.25 above, Policy SP3 of the Selby District Core Strategy Local Plan states inappropriate development in the Green Belt will not obtain planning permission unless the applicant has demonstrated that very special circumstances exist that justifies the grant of permission. The Applicant in the November 2019 Summary of Applicant's Position Green Belt Report considers that the very special circumstances are
- use, including the positive properties of PFA;
 - sustainability, including avoidance of use of virgin material and reduced CO₂ emissions through the replacement of virgin materials in building products;
 - the significant need for PFA;
 - the limited remaining supplies of PFA;
 - significantly improved restoration, including public access and biodiversity benefits; and
 - job creation and economic benefits.
- 7.33 As outlined in paragraph 7.9 above the available sources of PFA direct from power stations around the country has reduced due the closure of a number of coal fired power stations around the country so the availability of fresh supplies has already diminished and is rapidly decreasing towards zero. Since the 1950s, PFA has been used as a building product, and, as outlined in paragraph 7.9 above, and as outlined in paragraph 7.4 and 7.8, and identified in representations by industry in Section 5, it has properties that positively assist in it being used in building. For example its lightness, its chemical and physical properties and chloride or sulphate resistance. It has scope to enable avoidance of use of primary aggregate (virgin material) as outlined in paragraphs 7.2-7.11 above and identified by the Applicant and in representations by industry in Section 5, thereby also contributing to reducing CO₂ emissions through the replacement of virgin materials in building products. Paragraphs 7.69-7.74 below discuss the improvement potential within restoration. In addition, the development will provide additional jobs relative to currently at the site and have wider economic benefits including the potential supply of material to existing businesses in the local area. Consequently, in combination these features support that very special circumstances do exist because of the potential that the PFA has as a source of secondary aggregate. This outweighs any potential harm to the Green Belt because of inappropriateness, and

any other harm resulting from the proposal such that there is no conflict with Policy SP2 (d) and SP3 or with the national Green Belt policies as set out in the NPPF.

Highways matters

- 7.34 The policy considerations relevant to this section are ‘saved’ Policy 4/13 of the North Yorkshire Minerals Local Plan, ‘saved’ Policies T1 and T2, and ENV1 part 2 of the Selby District Local Plan that include matters relating to developments in relation to the highway network, access to roads and junction improvements. Furthermore, ‘saved’ Policy 4/1 of the North Yorkshire Minerals Local Plan aims to ensure that the proposed transport links are acceptable. Draft MWJP Policy D03 requires the consideration of alternatives to road transport, the capacity of the existing network, volume and routing of traffic and impact on other users and on local communities, mitigation measures and demonstration of opportunities for sustainable transport. NPPF paragraphs 102 and 108 address the potential impacts of development, including environmental ones, on transport networks, using opportunities to avoid and mitigate any adverse effects and for transport to be sustainable.
- 7.35 As stated in paragraph 6.67, Paragraph 111 of the NPPF requires all developments generating significant amounts of movement to be required to provide a travel plan, with an application supported by a transport statement or transport assessment to enable assessment of the likely impacts of the proposal. The travel plan in Annex Q of the Environmental Statement, relates solely to staff and the applicant proposes that the final version would not be finalised by the Travel Plan Co-ordinator until after a survey of staff occurs within three months of the development becoming operational. Therefore, a planning condition will secure this, including with respect to implementation of the travel plan. The Applicant proposes that the use of the Operational Traffic Management Plan will mitigate and control HGV movements to the site and the key elements are set out in paragraph 3.22 above. It is proposed that all HGV traffic will continue to use the most direct route to the motorway network by turning right out of the Gale Common Ash Disposal Site on to Cobcroft Way, Whitefield Lane and the A19 to M62 Junction 34 except in the event of a road closure or for local deliveries.
- 7.36 The submitted Planning Statement refers to Whitefield Lane as having a capacity for 13,000 vehicles per day and the Highway Authority supports the widening of the existing access into the Gale Common site in order to allow two vehicles to pass one another, as it should improve road safety at the site entrance. The Highway Authority considers that the number of additional HGVs would be approximately 36% of the total flow on Whitefield Lane. In terms of road safety, the Highway Authority advised that the applicant should introduce driver safety training and agree a voluntary speed limit with drivers for driving along Whitefield Lane. In response, the Applicant advised that permanently reducing the speed limit on Cobcroft Lane and Whitefield Lane had been discussed with local residents during the Applicant’s pre-application consultation process. The Applicant proposed an allowance within the revised draft Section 106 (December 2019) for a financial contribution towards the implementation of a Traffic Regulation Order (TRO) to effect a reduction from 60 miles per hour to 40 miles per hour but this is now to be secured through the TRO. The direction of travel from the site is a matter that is possible to condition, by requiring that no HGVs turn left out of the site as set out in Section 9.1 Condition 16).
- 7.37 The site is permitted to export up to 30,000 tonnes of PFA under the terms of the existing Planning Permission C8/40/60A/PA, although the original stockpile on the recovery pad that arose from the ASDP has long since been exported. Therefore, more recently the PFA supply, via the recovery pad, has been from ash deposited on Stage III. Consequently, in this particular instance, it is not appropriate to impose a ‘Grampian’ style condition that would require the works to the highway to be undertaken prior to any further exports of PFA from the site. Initially in the application,

the works to Whitefield Lane and the realignment works at the junction with the A19 in Whitley was to commence upon the volume of material leaving the site reaching 400,000 tonnes per annum. In December 2019 the Applicant did submit a Transport Alternatives Report outlining the reasons why alternatives including a direct connection to the M62, other road routes, conveyor, pipeline, wharf and rail. That confirmed that these were currently ruled out by the Applicant on the basis of, amongst other things, non-compliance with national road design standards, the level of capital expenditure required, lack of flexibility and general complexity at the current stage of the project (i.e. where no contracts have been signed and delivery destinations are not known). However following the consultation responses and representations, in December 2019 the Applicant altered the proposal to: the realignment commencing in any event after three years of operation, irrespective of whether that date was sooner than the output reaching 400,000 tonnes. In December 2019, re-worded text relating to the works to Whitefield Lane to this effect proposed that this be secured in the Section 106. However notwithstanding this, such a proposal would mean that there would be a period of up to 3 years with a high traffic volume occurring on an unimproved Whitefield Lane, and at the unimproved junction of Whitefield Lane/A19 in Whitley. That would potentially, unless mitigated, conflict with 'saved' Policy 4/13 of the NYMLP, and Policies T1 and T2 of the Selby District Local Plan.

- 7.38 There is a substantial difference between 30,000 and 400,000 tonnes during which there would be a potentially significant impact inadequately mitigated on the highway until the works to Whitefield Lane were completed. Therefore, in recognition of this, the Applicant has proposed that once the volume of material leaving the site reaches 100,000 tonnes per annum to re-examine the consideration of the potential alternative means of transporting the material from the site. However, mitigation would not be in place during the period whilst the Applicant was preparing the report on the results of the consideration of alternatives, and it is not guaranteed that the conclusion would be that a feasible alternative does exist or at present known how long a period it would take to implement any alternative. Nonetheless, a mechanism exists to ensure that such mitigation is brought forward as soon as possible as described in paragraphs 7.40 and 7.43 below.
- 7.39 The Applicant proposes to prevent HGVs from leaving the Gale Common Site and travelling to the strategic road network via Whitley/ A19, during two 30 minute periods to coincide with the main drop off and pick up times for Whitley and Eggborough Community Primary School. This is a matter, which the Applicant would be able control physically, because of the barrier control at the exit to the site, which would prevent vehicles from leaving the Gale Common Site. The Applicant has also offered that HGVs do not travel to the Gale Common Site during these periods and proposes control via a contractual clause relating to HGVs coming to the site. The Applicant would furthermore only release HGVs from the Gale Common Site at intervals of no less than 1 minute, to reduce vehicles queuing at the Whitefield Lane/ A19 junction as much as possible. This frequency is based on the Applicant's analysis of the predicted timing that should avoid queueing and which takes into account that vehicles would not be leaving during the drop off and pick up times for the Primary School, and which Condition 8 would control. It could be monitored the County Council by the provision of the CCTV records by the Applicant to the County Council for review on request as proposed in Condition 17.
- 7.40 The Applicant also proposes to fund the installation of a signalised crossing on the A19 located close to the Whitley and Eggborough Community Primary School as part of the Section 106 Agreement made with the County Council and discussions are continuing with the Applicant about funding to be provided relative the cost of implementing such a crossing. The Applicant would also fund the installation of additional signage and/or traffic calming measures in Whitley within one month of the commencement of development, again as part of the Section 106 Agreement, and provide funding to the

County Council for a community speed-camera initiative for the duration of ash extraction at the Gale Common Site. These initiatives would, potentially as implemented, address the cumulative impacts of the development on the road network particularly in Whitley as required by paragraph 108 of the NPPF. Therefore, on this basis, it is considered that the proposal goes beyond the point of ensuring that the transport links are acceptable as sought by NYMLP Policy 4/1 h), as it would provide via the Whitefield Lane works and the Whitefield Lane/A19 junction re-positioning, improvements to the network as sought by NPPF paragraph 102. Consequently, there is insufficient justification for refusal of the development on grounds relating to highway safety and residual cumulative impacts on the road network. Based on this it is also considered that the proposal would not prejudice highway safety. Therefore, it would accord with that element within the Selby District Local Plan Policy EMP9 and would be compliant with Policies T1 and T2 of the Selby District Local Plan with NNPF paragraph 109.

- 7.41 There are several existing block making plants, including those at Great Heck, which are within 5.5 kilometres of Gale Common. The applicant considers that it is more sustainable to supply the material direct to the market rather than to build a new block making plant at Gale Common. As part of the application details, the applicant has given consideration to the potential alternatives to the transport of the material from the site, including direct connection to the M62, alternative road routes and the use of a pipeline, conveyor, canal barge or rail sidings at this stage of the project. The Applicant considers that, where a customer is less than 30 miles by road from the site, the most viable transport method will be by road based on the double handling of material that would be required in order to use barge or rail transport. The use of a pipeline, conveyor, canal barge, or rail sidings has been ruled out by the Applicant initially because of, amongst other things, the level of capital expenditure required. Together with lack of flexibility and general complexity at the current stage of the project, with no contracts having been signed and delivery destinations unknown, or whether an existing railhead/ wharf already exists at the customer's location. There is no existing wharf or rail connection at Gale Common and any such new facility would itself require an application for planning permission.
- 7.42 As stated above, the Applicant is nonetheless, committed to further evaluating the potential for future development of alternative transport methods depending on customer contracts and locations. Therefore, if output was to rise above 100,000 tonnes per year, the Applicant's study would assess comparative costs and economic benefits across road/ rail/ canal as well as the environmental benefits of using sustainable modes to in order to determine feasibility. The Commercial Boat Operators Association and the Inland Waterway Freight Group of the Inland Waterways Association have requested deferral of the determination of the planning application pending the review of the most sustainable mode of transport, and at a minimum a condition specifying when the review should occur. Theoretically, such a study may conclude that there are no feasible alternative means of transport. At the end of June 2020 the Applicant reiterated that the road use for all exports be viewed as the worst-case scenario. The Applicant commitment was to establishing alternatives, where possible, including the use of waterborne transport where that were achieved sustainably, but that any permission should allow flexibility to use road transport, where it is not possible to use rail, water or other such methods. The undertaking of this assessment is a matter to secure via an appropriately worded planning condition. That could also include a requirement for the implementation and review of the most sustainable mode of transport as time progresses (see Condition 19 below in Section 9.1) when the potential destinations and contracts are more clear and realistic but with the inclusion of a trigger for the review when export reach 100,000 tonnes per year.
- 7.43 The site is within three kilometres of the current junction 34 on the M62. The exit from the site is onto Whitefield Lane that is a 'C' Class road, rather than an A Class road

and that is approximately 2.5 kilometres from the A19 in Whitley. Whilst there is existing theoretical capacity on Whitefield Lane, the proposed mitigation measures to reduce the impact by widening Whitefield Lane and realigning the alignment of the approach to the junction with the A19 are necessary to reduce the impact of the proposal. They are capable of being conditions should planning permission be granted (see conditions 12 and 13 in Section 9.1). In the interests of sustainability, the Applicant's review of alternative transport options when volumes exceed 100,000 tonnes is essential. Therefore, the securing as part of planning condition 19, in order to ensure that if demand for the material from the site increases, the consideration of impacts on the amenities of the residents and measures put into action to ameliorate the impact is important.

- 7.44 However as indicated by the Highway Authority, whilst the route to the A645, or the A1, could be used in an emergency; it should not be used on a regular basis. Therefore, such plans would need to form part of the Construction Environmental Management Plan for the site, because of the potential impact upon the Eggborough and Hensall areas of the Applicant's development traffic and existing traffic along the A645 including that already to occur as committed development traffic arising from other projects that are being constructed by other developers. Although not specifically mentioned by the Environmental Health Officer in the consultation response it would also enable the consideration, through consultation with the EHO, of any potential amenity matters, that might arise if routes using A645 or A1 were to be used in an emergency.
- 7.45 Therefore as described in paragraph 7.31, the proposal is for a different scale of tonnage of PFA exports from the site than has previously taken place. The development would have impacts on the local communities and environment by virtue of the volume and frequency of HGV movements. However, the Highway Authority is not raising objections to the development, and considers that the imposition of suitable (conditions 16-21 in Section 9.1 below) will control the impacts on the highway together with the matters proposed for securing through a Section 106 agreement. Consequently, a refusal on highways grounds is not justified. Nonetheless, a planning condition requiring consideration of alternative transport options in the future is essential, in order that the means of transport is re-examined (Condition 19) at a time when contracts may be clearer and are being negotiated and the location(s) of customers are more understood. If it concludes that alternatives to road-borne transport are feasible that these should form part of the implementation of the approved Sustainable Mineral Transport Plan.
- 7.46 Therefore, the proposal would only be acceptable in planning terms with regard to highway safety in respect of 'saved Policy 4/13 of the North Yorkshire Mineral Local Plan, 'saved' Policy ENV1 part 2 and 'saved' Policies T1 and T2 of the Selby Local Plan, if the following is implemented in full. The works to the access and the updating of the on-site arrangements in the vicinity particularly of the weighbridge and vehicle parking; together with proposed offsite highway improvement works to Whitefield Lane; the controlling of the release of the HGVs from the site and implementation of the Sustainable Mineral Transport Plan as discussed above. Furthermore, subject to the above controls, the development would be also in accordance with the requirements of Policy D03 of the emerging MWJP. Although, only limited weight be given to that compliance in the overall determination of the application.

Local amenity

- 7.47 The relevant policies include Part e) of Policy 4/1 and Policies 4/13 and 4/14 of the NYMLP regarding if the amenity safeguards effectively mitigate the impact and that the operations would not be an unacceptable impact upon residential amenity. Within the Selby District Core Strategy Local Plan: Policy SP13 point D emphasises a good standard of amenity is sought, and, Policy SP19 refers to proposals contributing to

local community health and social well-being whilst preventing contributions to, or effects by, unacceptable levels of soil, air, water, light or noise pollution. Within Policy ENV1 of the Selby District Local Plan Part 1 refers to the amenity of adjoining occupiers and Policy ENV2 Part A includes that development giving rise to unacceptable levels of noise/nuisance will not be permitted unless satisfactory remedial or preventative measures are incorporated. Whilst emerging MWJP Policy D02 only has minimal weight at present, Part 1) does emphasise the need for there to be no unacceptable impacts on local amenity, local businesses and users of the public rights of way.

- 7.48 There are a number of issues which come within the scope of this heading including, the potential impacts of the proposed hours of operation; noise associated with the development on the Gale Common site and the works to Whitefield Lane; dust and cleanliness of the road; emissions from the HGVs and other traffic. The paragraphs below cover these matters.
- 7.49 *Hours of operation* - Under the current permission the site's operational hours are 07.00 – 17.00 Monday to Friday and 07.00 – 12.00 on Saturday. To achieve a rate of extraction up to 1 million tonnes per annum, the Applicant originally proposed the following. That the site working hours would increase to seven days per week 05:00 – 21:00; with the hours of HGV movements more limited through materials exports taking place between 07:00 and 19:00 Monday to Friday and 07:00 to 13:00 Saturday and no HGV movements on Sundays or Bank Holidays. These hours were subject to objections. The considerations are the principle of the site operating. The additional impact that the extended onsite hours would have on amenity by virtue of noise and other disturbance arising from on-site vehicle movements. The extended two hours of potential exports in the evening for five days a week, the additional hour each Saturday afternoon and the proposed working on Public Holidays.
- 7.50 Selby District Council's EHO response in August 2019 welcomed that activities would take place behind a retained bund of material where practicable. In addition, that when works were to be close to noise sensitive receptors (Grange Meadows, Grange Farm and the properties near to junction of Whitefield Lane and the A19) and all mobile plant used on site would be fitted with white noise reversing alarms. However, the EHO considered that the effect on the nearest noise sensitive receptor would be significant if operations on work on Lagoons C and D started at 05:00. The EHO recommended that work on those Lagoons should not start until 07:00, which the Applicant has agreed, and planning condition 7 secures this as proposed in Section 9.1. Furthermore, planning conditions 8 and 9 provide additional amenity safeguards to ensure mitigation of the hours of operation. Including, no activities commencing on any part of the site before 07.00 in the morning, and no activities on Public Holidays and that, in accordance with paragraph 205 of the NPPF, there will be monitoring and control of the activities.
- 7.51 'Saved' Policy 4/13 of the NYMLP seeks that the vehicle movements likely to be generated do not cause undue disturbance to local communities. With regard to the impact of the traffic hours along Whitefield Lane into and through Whitley, a key point is the impact of the significant increase in HGV movements from the site during the times when proposed for taking the PFA off-site. Whilst it is not proposed to open the site gates until 07.00 in the morning, the Applicant's opinion is that if any HGVs arrive before that time then it would be better to allow them onto the site rather than have them queuing on the highway. However, whilst there is an element of logic in that proposition, it would potentially to encourage HGVs to arrive sooner in order to load sooner and be back on the road to avoid some of the morning traffic when making deliveries. Therefore, early opening on the site is not appropriate. Appropriate measures within the Construction Environmental Management Plan and the Operational Traffic Management Plan should manage HGV arrivals.

- 7.52 Consequently, given that hours of operation can be controlled by condition in order to avoid disturbances to the local community as referred to in paragraph 7.44 above. Including that, the opening of the site should not occur in advance of the onsite hours. The proposed development is capable of being compliant with the requirements of 'saved' Policy 4/1 part e), Policy 4/13 and Policy 4/14 of the NYMLP, Policy SP13 point D of the Selby District Core Strategy Local Plan Policy and the requirements of Policy D02 of the emerging MWJP.
- 7.53 *Noise* - Policy SP19 and Policy ENV2 Part A both make specific reference to noise and the HGV traffic associated. The development will affect residents in Whitley, particularly those close to the eastern end of Whitefield Lane and at the junction with the A19, and those living adjacent to the A19 on the route north to the junction with the M62. Whilst this would be passage on a public highway, the proposal involves a potentially significant increase in traffic numbers (relative to the up to 30,000 tonnes per year that is currently permitted). The Applicant has proposed mechanisms to try and mitigate this including the review of alternatives to road transport once the threshold of 100,000 tonnes of exports is reached, whereas as originally this review of alternatives was not going to occur until 400,000 tonnes. The proposed re-alignment of the eastern end of Whitefield Lane is in order to increase the distance between the properties along the part of the road nearest to the junction. Whilst the realignment may benefit the residents alongside the part of lane to be re-routed in the longer term (by the HGVs being further from the properties), they would still be affected during the period of the road construction works themselves. Changing the location of the junction with the A19 approximately up to 25-30 metres to the south of its existing position would also have an impact on those in the immediate vicinity of the proposed new junction location as it would bring the junction further towards different properties namely those to the south of the existing junction and, including those to the north and south for the period of the works occurring and in the longer term because the sounds associated with turning vehicles, including HGVs, would be closer to their properties than previously. These properties are likely to be adversely affected by that noise.
- 7.54 The Environmental Statement concluded that only one property, on the edge of Cridling Stubbs would be affected by the extended hours of operation. Following consultation with Selby District Council's Environmental Health Officer and consideration of the responses from other consultees and in representations, the Applicant has proposed the shortening of working hours whilst Lagoons C and D are being excavated. The Applicant also considers that retaining embankments around areas being excavated would provide further mitigation of the impact of the operation. The overall outcome of the consultation process, is that alterations have been made to the proposals that are generally acceptable to the EHO, subject to conditions regarding control of on-site operations and the submission of an assessment of the noise and vibration from the works to Whitefield Lane, and including the provision of details of any mitigation measures to be employed including consideration of the impact on those residents in the vicinity of the new road alignment (as set out in conditions 10-12 below). It is therefore considered that subject to the conditions proposed it would be possible for the site and the new road alignment to be operated in such a manner that it would not result if residents being adversely affected by unacceptable levels of noise and it would mitigate and minimise adverse impacts on health and quality of life and would comply with the requirements of 'saved' Policy 4/1 part e), Policy 4/13 and Policy 4/14 of the NYMLP, Selby District Core Strategy Local Plan Policy SP19 and of Policy ENV1 Part 1 and Policy ENV2 Part A of the Selby District Local Plan and the requirements of Policy D02 of the emerging MWJP and NPPF paragraphs 170 and 180.
- 7.55 *Lighting* - Representations have been received from the Cridling Stubbs area regarding the potential impacts of external lighting during hours of darkness. The proposed on-site hours of operation are longer than those currently permitted and would require at certain times of year some on-site lighting for health and safety reasons, as well as for

operational reasons. However, the Applicant proposes that all lighting would be designed to appropriate lighting standards and angled inwards to the site to prevent spillage and the potential for adverse impacts. This is a matter which if the development were permitted, could be addressed by means of a planning condition (as set out in condition 14 below) to ensure that the impact of such lighting was minimised in the locality in order to comply with 'saved' Policy 4/1 part e) and Policy 4/14 of the NYMLP and Selby District Core Strategy Local Plan Policy SP19 and NPPF paragraph 180 c).

- 7.56 *Air Quality and airborne emissions including dust* - Historically, prior to the restoration and landscaping of the top of Stage I and the eastern side of Stage II was restored and planted, there were complaints about dust from the construction of Gale Common. Six directional gauges and one deposit gauge were installed around the ash disposal site at locations agreed with the County Council and the Environment Agency. The purpose of those monitoring points around the site was to check the operations in order ensure that the development did not have a detrimental effect on the surrounding communities and enabled monitoring of air quality that was reported annually to the Eggborough Joint Consultative Committee and reports were also made via the operator's liaison process with local communities. The application details include an assessment of the potential dust impacts and as identified in the application and referred to by the EHO, if this development were to be permitted then air quality and emissions (both in terms of dust, but also vehicle emissions), would need to be regulated and monitored, and appropriate mitigation steps in place to ensure the site is operated such that it does not create a nuisance. It is a matter which can be controlled by planning conditions 12 and 15 as set out in Section 9.1 below)
- 7.57 As stated in paragraph 6.5 above, 'Saved' Policy 4/1 of the NYMLP includes that the Mineral Planning Authority needs to be satisfied that environmental and amenity safeguards would effectively mitigate the impact of the proposals and this would include with regard to dust and other airborne emissions. However, the phrasing in NPPF paragraph 205 is more emphatic stating that authorities should ensure that any unavoidable emissions or vibrations are controlled or mitigated (if it is not possible to remove them at source). Therefore, in order for the development to be compliant with paragraph 205, it is considered that if the development is permitted then the implementation of the dust management plan and construction environmental management plan must be robust and comprehensive to ensure that action is taken by the operator if monitoring of dust levels around the site are shown to exceed relevant particulate levels and the conditions proposed will achieve that. It is therefore considered that, subject to the conditions referred to in paragraphs 7.44, and 7.48-7.50 above the development would be able to operate in a manner that satisfies 'saved' Policy 4/1 (c) & (e) and Policy 4/14 of the NYMLP regarding the method and programme of working minimising the impact on amenity and also mitigating the impact on the local environment. Furthermore, although this proposal involves PFA, rather than a naturally deposited mineral it is considered that the proposed conditions are suitable to ensure there are no unacceptable adverse impacts on the natural environment and human health in accordance with the requirements of paragraph 205 b) and c) with any unavoidable dust and particle emissions controlled, mitigated or removed at source.
- 7.58 *Cleanliness of the road* – There used to be complaints relating to cleanliness of the roads due the delivery of colliery shale waste from Kellingley Colliery to Gale Common for use in forming the embankments to the lagoons. However, those deliveries ceased more than 10 years ago when the shale ceased to be used at the site. Investigations into more recent complaints regarding colliery shale movements and the state of Cobcroft Lane were established as being related to the movements from Kellingley Colliery to the Womersley shale disposal site and therefore did not relate to any of the

operations at Gale Common and are therefore also not relevant to the determination of this application.

- 7.59 Wheel cleaning is an established practice at the site and there is no current history of complaints arising from the use of the current wheel cleaning facility. However, a new additional wheelwash facility forms part of the application details, which it is considered, should ensure that no material leaving the site is deposited on the public highway. Notwithstanding the above, the proposed works to Whitefield Lane will need to be managed by the Applicant in order to ensure that whilst these works are taking place the road is kept clean and that there is no increased risk to other users of the road and it is considered that this will be covered through the implementation of the Construction Environmental and the Operational Management Plans. It is therefore considered that, subject to such controls the development would be able to operate in a manner that satisfies 'saved' Policy 4/1 (c) & (e) and Policy 4/14 of the NYMLP regarding the method and programme of working minimising the impact on amenity and also mitigating the impact on the local environment.
- 7.60 *Pedestrian amenity* – Traffic section of the Environment Assessment refers in paragraph 8.3.17 to pedestrian amenity being broadly defined as the relative pleasantness of a journey, and that it is considered to be affected by traffic flow, traffic composition, pavement width and separation between vehicles and pedestrians with the impact manifesting itself through fear and intimidation, exposure to noise and exposure to vehicle emissions. Paragraph 8.3.18 continues by referring to the Institute of Environmental Assessment IEA Guidelines suggesting that a doubling or halving of total traffic flow or the HGV composition could lead to perceptible negative or positive impacts upon pedestrian amenity. The hours of operation would affect the impact and the assessment considered that, at the point of application, the change in total traffic (or HGV component) associated with the proposal was greater than 151% so would be a high impact on Whitefield Lane, but it concluded that on the evidence of the assessment there were a low number of pedestrians using the footway who would experience a change in pedestrian amenity and an alternative pedestrian route was already provided between Whitefield Lane and the A19 via Whitefield Bungalows so it concluded that the impact on pedestrian amenity would be minor adverse and not significant. Nevertheless, this has been the subject of objections.
- 7.61 The Applicant has proposed as part of the application a variety of steps to limit and help address any potential impacts on amenity and this includes a proposal for a Gale Common community liaison group and it is considered that regular meetings of such a group would enable a building of trust and understanding with the communities to the benefit of the local communities and those operating the site.
- 7.62 Therefore on balance, it is considered that subject to conditions numbers 7-21 in Section 9.1 below and the additional proposed terms that were contained within the 19 December 2020 version of the draft Section 106 agreement (regarding the primary school crossing contribution, the Whitley highway signage contribution and the Whitley speed reduction contribution and the contribution to permissive paths), the development would be compliant with both local and national policy, including Policies 4/1 parts c and e), 4/13 and 4/14 of the NYMLP, Policy SP13 point D and Policy SP19 of the Selby District Core Strategy Local Plan, Policy ENV1 Part 1 and Policy ENV2 Part A of the Selby District Local Plan and Policy D02 of the emerging MWJP and Paragraphs 180 and 205 of the NPPF, by ensuring that the development does not contribute to the amenity of adjoining occupiers being adversely affected by the hours of operation or the potential levels of air, dust, noise or lighting pollution.

Landscape and visual impact

- 7.63 The policies relevant to this section include 'saved' Policy 4/14 of the North Yorkshire Minerals Local Plan where proposals will be permitted only if there would not be an

unacceptable impact on the local environment or residential amenity. Selby District Core Strategy Local Plan Policy SP13 refers to not harming the character of the area. Policy SP18 regarding safeguarding and, where possible, enhancing the natural environment including the landscape character; Policy SP19 regarding high quality design, the local character and form. The matters relevant to 'saved' Policies ENV1 and ENV15 of the Selby District Local Plan are change on the character of the area and landscape of the area. Within the emerging MWJP Policy M11 Part 2 regarding the supply of secondary aggregate requires that it would not disturb restored ground or a landscaped feature.

- 7.64 Within the section relating to Policy 4/14 (Local Environment and Amenity) of the NYMLP paragraph 4.2.24 includes several points relevant to this section of the report. They are that the ability of the landscape to accommodate mineral workings varies with the character of the site and surrounding land, and, that during a site's operational life, the location and operation of heavy fixed and mobile plant within areas of rural landscape can have a significant element of disturbance. Therefore, it is essential to incorporate and fully integrate ameliorative measures within the design and layout to minimise visual impact and disturbance, and to fully integrate any proposals into the surrounding landscape. This includes matters such as the visual impact as a result of a large number of HGVs travelling past the properties which the applicant intends to address through the regulation of the rate at which loaded vehicles leave the site in order to reduce the chance of potentially HGVs queuing to use the Whitefield Lane/A19 Junction and the visual impact associated with that. Although, it is acknowledged that there would be no control over the level and nature of other traffic that would be travelling along the A19 at any time, it is considered that subject to the appropriate controls by conditions 7-21 in Section 9.0 below and the legal agreement, it would be possible to enable the development to take place in a manner that would accord with Policy 4/14 of the NYMLP.
- 7.65 Policy SP13 of the Selby District Core Strategy Local Plan, supports revitalising the local economy in rural areas including the redevelopment of former employment sites that is sustainable and appropriate in scale and type to its location that is discussed in paragraph 7.9 above. The policy also states that development should not harm the character of the area. The proposal would involve the re-development (through extraction of the previously deposited PFA) of a significant part of the 'artificial' hill at the site, although the surrounding woodlands on the original ground level would remain and would be maintained within planning controls for a longer period than is currently provided for within the approved scheme from 2008. Within Chapter 6 of the Environmental Statement it was acknowledged that the development had the potential to affect the landscape character 'within a localised area', but the LVIA concluded that this would result in no significant effects on landscape character. However, it is considered that the height and dimensions of Stage II are such that the development would change the character of the area whilst the development was taking place because, unlike the current recovery of ash from Stage III which is screened from the east by Stage II, the removal of Stage II would, albeit over time, visibly take away a substantial part of the existing hill feature at Gale Common. This would be particularly when viewed from: residences on and by users of Whitefield Lane; properties that look west from Whitley towards the site including those along Gravelhill Lane and Booty Lane; from Whiteley Thorpe and the A19; from properties on Fulham Lane and from the right of way to between Womersley and Whitley and from Gravehill Lane to Whitefield Lane.
- 7.66 The Principal Landscape Architect still considered in February 2020 that this was likely to include significant adverse landscape effects that, unless residual adverse effects were sufficiently mitigated, offset and reduced, were likely to be contrary to landscape policy. He considered that the residual effects with regard to Stage II would essentially not be mitigated until restoration commences and therefore there would be, albeit

temporarily, a negative impact on the localised character of the area during the period until restoration has begun. The change over the 17-20 years in terms of the reduction in the height of Stage II would be gradual and soil replacement on Stage II would begin in Phase 5. It is considered that the temporary negative impact on the localised character of the area during the significant period until restoration is complete means that the development as proposed is contrary to Policy SP13.

- 7.67 Policy SP19 of the Selby District Core Strategy Local Plan also focuses on the points of high quality design, regard for local character, and context including the open countryside. Policy SP19 states that a key requirement is making the best, most efficient use of land without compromising local distinctiveness, character and form. The Gale Common mound has become, and is, a distinctive feature in the landscape as acknowledged in the updated Selby Landscape Character Assessment (paragraph 2.8 above). The Assessment describes the locality as being generally an open area, with little woodland cover, but with the site being a 'dramatic landform which is highly visible across the area' with woodland pockets including on and around Gale Common. Some limited landscaping is also proposed as part of the road re-alignment work in Whitley but no additional off-site landscaping is proposed within the wider landscape. It is considered that the proposal's incorporation of new (for Stages II and III and the Lagoons C & D area) landscaping and the maintenance of the existing landscaping on Stage I as integral parts of the overall project design will maintain the dominant feature created by Stage I. It will not therefore compromise the local distinctiveness, character and form and that the shallower, sinuous landform to the south of Stage I will provide a better transition into the wider local landscape character and topography to the west and south. The Applicant has proposed that a landscaping scheme for existing and proposed screen bunds, trees, shrubs and hedgerows to be retained and areas to be seeded and grassed would be submitted within six months of the implementation of the planning permission.
- 7.68 With regard to Saved' Policy ENV1 of the Selby District Local Plan, the development would partially change the character of the area by the removal of part of a significant feature (the Gale Common Mound) from the landscape and that effect would vary depending on the angle at which the Mound is viewed or approached. For example, when driving east along the M62 Stage I largely screens Stage II and therefore the removal of Stage II from that direction would have a more limited effect of 'change'. Whereas the removal of the Lagoons C and D would be more visible from the west, although Stage I would remain behind. However, when driving west past Stage I, the removal of those Lagoons would have a greater impact when viewed from Cobcroft Lane as the lagoons are visible over the roadside hedge. Conversely, when driving west along the M62, or along the A19 or local roads in the vicinity of Whitley or Cridling Stubbs or Womersley it would be the works to remove the landscape feature that is Stage II that would have the greatest effect of 'change'. As stated above with respect to Green Belt this impact would also be in terms of a change to the openness of the character of the landscape. It potentially is a matter of perspective and preference as to whether the removal of these features reinstates the flatter landform more characteristic of the land to the north and east of the site and of the site prior to its original development (so at the time of designation as Green Belt). Alternatively, there is the perspective that the removal of these features creates a loss to the wider landscape of part of the now distinctive mound and is an unnecessary change which is not justified by the supply of the PFA to the economy. However, the LVIA conclusion in the Environmental Statement was that, once restored, the effects would not be significant, but, as stated in paragraph 7.64 above, the Principal Landscape Architect for the County Council does consider that significant adverse landscape effects are likely and that unless residual adverse effects were sufficiently mitigated, offset and reduced, are likely to be contrary to landscape policy. Therefore, on balance it is considered that, whilst there has already been a change to that character since the 1960s not only through the creation of the ash disposal site at Gale Common, but also

through the construction of the M62, and the development of housing in the local villages and there would be a change to the landscape character of the area should the application be permitted in the short to medium term, it is not considered that the proposal would have in a negative effect on the landscape character in the long-term such as to be contrary to part 1 of 'saved' Policy ENV of the Selby District Local Plan.

- 7.69 With regard to Policy M11 part 2) of the emerging MJWP, the site is mid-development relative to the site's approved scheme of 2008 for the final restoration and landscaping of the site. As stated in paragraph 2.10 above, the closure of Eggborough Power Station and the cessation of imports of materials means that a revised restoration scheme needs to be agreed in the interests of the proper planning of the site because the development cannot now comply with the Integrated Land Management Scheme which was a requirement within the approval granted in 2008 and which was duly received within the timescale specified in the Supplemental Planning Agreement of May 2008. The Supplemental Planning Agreement of May 2008 and Integrated Land Management Scheme were silent on what should occur in the event that the Integrated Land Management Scheme was not implemented in full. Although, paragraph 2.52 of the Integrated Land Management Scheme acknowledged that it was not possible to accurately assess what impact, if any, the potential PFA processing and mineral extraction proposals, that were being considered and trialled at by a different developer at the time, might have on the future rate of ash disposal onto the Mound, if the proposals were found to be technically and commercially viable.
- 7.70 Stage I is fully assimilated into the landscape and is to be retained. The proposal would involve disturbance to the fields and hedgerows on the eastern and southern sides of Stage II which are assimilated into the landscape but the western side of Stage II is unrestored, as is the top of Stage II and all of Stage III and hence these areas are not fully assimilated into the landscape although, as described earlier in this report, the overall Mound is not of a natural character for the landscape. The height and dimensions of Stage II are such that the development would change the character of the area whilst the development was taking place because, unlike the current recovery of ash from Stage III which is screened from the east by Stage II, the removal of Stage II would, albeit over time, visibly take away a substantial part of the existing hill feature at Gale Common. The removal of the grassed sloped C & D Lagoons would also be noticeable as described in paragraph 7.31 above, but to a lesser extent because the Lagoons are lower in height and Stage I forms a backdrop, and the period of time for the works involved is only anticipated to be 5-6 years. Therefore, there is an inherent conflict with Policy M11 part 2) of the emerging MWJP in connection with the changes proposed to Stage II and the C & D Lagoons. However, there is no likely source of further imports of PFA as the original suppliers are no longer producing it and the next nearest power station, Drax, has its own disposal site for use, and is maximising direct sale of PFA to customers without any interim placement on the Barlow Ash Mound. Therefore, a suitable solution to the future of the site has to be found such that the site can ultimately be restored. At present though the conclusion with respect to the aims of MWJP Policy M11 part 2) has to be that that the temporary negative impact upon the localised character of the area during the significant period until restoration is complete means that the development as proposed is contrary to the aims of MWJP Policy M11 part 2).
- 7.71 In its July 2019 consultation response Natural England offered generic advice regarding landscape matters: including that NPPF Paragraph 170 highlights the need to protect and enhance valued landscapes and that applications may present opportunities to protect and enhance locally valued landscapes, including local landscape designations. The Magnesian Limestone ridge, which is a designated locally important landscape area (LILA) as defined on the proposals map for the Selby District Local Plan, lies over 500 metres from the Gale Common site with a boundary along Northfield Lane to the west of Cridling Stubbs south through Womersley towards

Little Smeaton, and, therefore the site doesn't directly impact upon the LILA by change within its designated area. However, Gale Common and the development would be visible from parts of the LILA. The priority within Selby District Local Plan 'Saved' Policy ENV15 is within the LILA and it is silent regarding any implications arising from developments taking place outside the LILA and it is considered that there is therefore no conflict with the terms of that policy.

- 7.72 Whilst Policy D06 of the emerging MWJP can be given limited weight at present, due to it being subject to objections that have yet to be resolved, it does include that all landscapes will be protected from the harmful effects of development and that it should 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. The LVIA concluded that the development would have a significant short term adverse effect on some residents along Whitefield Lane and Selby Road, Whitley as a result of the construction of the proposed road realignment, but that these might reduce during the operation, restoration and post-restoration stages, with the use of planting. However, a significant long term adverse effect on a limited number of visual amenity receptors (users of the right of way and Fulham Lane) was anticipated during parts of the operation stage.
- 7.73 Furthermore, draft MWJP Policy D06 also envisages that where proposals may have an adverse impact on the landscape, then 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. It is considered that, as at now, a scheme for the overall restoration of the site has been provided to give a baseline for how the development is envisaged to be completed (Appendix L below). The Applicant originally proposed the submission of interim restoration schemes would be made via the terms of Schedule 3 of the Section 106 agreement (both as originally submitted and in the 20 December 2019 version), however it is considered that these should be submitted as requirements within any grant of planning permission as set out in Conditions 32-37 of Section 9.1 below). This would enable a check of progress within the development's programme, and which would need to be approved and implemented with regular monitoring by the County Council and via the mechanism of reports to, and visits by, the members of the proposal Community Liaison Group to be formed.
- 7.74 Although no details have been submitted regarding the proposed visitor amenity facilities by the carpark proposed to the north of Stage I or in the location to the west of Stages I and III in the vicinity of the current office building. As stated in paragraph 2.10 above, the Applicant has secured approval to demolish various structures including the ASDP plant and, as stated in paragraph 3.18 above, the applicant has proposed that the landscaping scheme would be submitted once the development has commenced. It is no longer possible to implement the intended restoration scheme of 2008 as there is no longer the supply of PFA to complete the design through the creation of the approved landform and the current application presents an opportunity to reappraise the landscape consequences of that situation through a revised restoration scheme. However, given the duration of the proposed landscape change, relative to the site being restored under the terms of a revised landscaping and restoration scheme in the light of the cessation of PFA disposal at the site following the closure of the power stations supplying material, it is considered that the proposal is capable of being designed with landscaping and screening to effectively mitigate the impact of the proposal, subject to the control of the development by means of planning conditions, and the terms of a Section 106 agreement. Therefore, in terms of policy compliance with the landscaping issues outlined with respect to compliance with MWJP Policy M11 part 2) and Policy SP3 above, it is also not considered to be in accordance with 'saved' Policy 4/1 criterion (d) of the NYMLP and is not compliant in

terms of the cumulative effects arising from the changes to the landscape with regard to the requirements of Policy 4/1 criterion i of the NYMLP and Policy D06 of the emerging MWJP.

Cultural Heritage

- 7.75 Selby District Core Strategy Local Plan Policy SP18 (Protecting and Enhancing the Environment) is the most relevant to this topic, as it includes within the policy's Part 1 the need for the safeguarding and, where possible, enhancing of the historic environment and setting of areas of acknowledged importance.
- 7.76 Although, as mentioned in paragraph 2.10 above, the topic of cultural history was 'scoped out' of being a specific chapter within the Environmental Statement when the EIA scoping opinion (ref: NY/2018/0250/SCO) was issued on 17 January 2019, the Applicant did include a cultural heritage section within the Planning Statement that accompanied the planning application. It included an assessment on the topic that there were no designated cultural heritage sites or assets within or immediately adjacent to the Site.
- 7.77 The nearest scheduled monument to the site is the Whitley Thorpe Moated Templar Grange site which lies more than 500 metres to south-east of Stage II. A second scheduled monument 'Womersley medieval settlement remains and Victorian ice house in Icehouse Park' is just beyond 1 kilometre from the south west of the Site. The Principal Archaeologist has made no comments regarding there being any potential detrimental impact on the setting of these monuments and none have been raised by other parties. With regard to listed buildings, there are no designated Listed Buildings within Cridling Stubbs or Whitley, and, the nearest are within Womersley, of which the village cross, pump and trough on the north-west side of the junction between Northfield Road, Bank Wood Road and Main Street are the closest to the site, at approximately 1 kilometre away; and the other 8 listed properties in the village, including St Martin's Church, are within 1.5 kilometres of the site. Womersley also has a designated Conservation Area which is approximately 1 kilometre from the site. There are no proposals for traffic transporting the PFA from the site to go through Womersley and the edge of the operational development would be more than 1.7 kilometres from the village.
- 7.78 The Gale Common site includes a number of non-designated areas of archaeological interest including the site of the Wood Hall medieval moated manor and an extensive later-prehistoric and Romano-British landscape between this and the Stage III working area. As these areas are outside the proposed working areas for the current application, no detrimental impact upon them is anticipated. However, whilst it is possible that similar archaeological deposits might underlie the PFA deposits elsewhere on the site, the Principal Archaeologist has raised no objection because it is unlikely that the deposits would have survived in the Stage II and Lagoons working areas, given the level of disturbance anticipated to have occurred as the original topsoil stripped, stockpiled with associated vehicle movements, and potential compaction, etc. as the site was developed.
- 7.79 Therefore, it is considered that the development would not affect historic assets which contribute most to the distinct character of the Selby District, such as the listed buildings in Womersley, nor would it have an impact upon the setting of areas of acknowledged importance. The Principal Archaeologist has not requested the imposition of any planning conditions. The development is therefore in accordance with Part 1 of Policy SP18 of the Selby District Core Strategy Local Plan and with Part 2 of Policy D08 of the merging MWJP in respect of the archaeological resource of the Southern Magnesian Limestone Ridge and there are no conflicts with paragraph 205 of the NPPF as no unacceptable adverse impacts on the historic environment are anticipated.

Nature conservation and green infrastructure

- 7.80 The policies relevant to this topic include North Yorkshire Minerals Local Plan Policy 4/6A that includes that in making decisions on planning applications, the sites with a nature conservation interest or importance will be protected and regard will be had to other wildlife habitats. Policy 4/14 of the same Plan states that operations will be permitted only where there would not be an unacceptable impact upon the local environment. Policy SP18 Selby District Core Strategy Local Plan includes a range of relevant points such as safeguarding sites from inappropriate development; enhancing national and locally protected sites, including SINCs; retaining/protecting and enhancing biological and geological interest and appropriately managing these features and ensuring biodiversity net gains with appropriate mitigation and compensation for, on or off-site, to meet habitat targets including in local Biodiversity Action Plans, and increasing the District's Green Infrastructure connectivity via a network of linked open spaces and green corridors.
- 7.81 An ecological impact assessment formed part of the environmental statement which established that there were no international statutory nature conservation designations, or potential/ candidate international statutory nature conservation designations (Special Areas of Conservation (SAC), Special Protection Areas (SPA), Ramsar sites) within the 5 kilometre study area. No likely significant effects were anticipated on the two SSSI within the study area (Forlorn hope Meadows and Brockadale). However, habitats would be affected by construction of the realignment of Whitefield Lane (including a permanent loss of 0.9 hectares of Grade 2 arable farmland) and from the construction and upgrade works associated with the internal access route. However, no significant adverse effects were predicted for the construction phase or operation of the development and the most sensitive habitats and species identified were those dependent on the early succession open space conditions being present in the operational areas of the Gale Common Ash Disposal Site. The provision of the proposed Country Park as part of the Restoration and Aftercare Strategy was considered by the Applicant to provide a substantial asset that would be benefit for the local community.
- 7.82 There are various definitions of green infrastructure, but essentially it is a network of multi-functional green space and other green features, urban and rural, which can deliver quality of life and environmental benefits for communities and it includes rivers, streams, canals and other water bodies. The assessment within the Environmental Statement concluded that no significant adverse effects were predicted for the construction phase, or operation of the proposed development, and that there would be a long term moderate beneficial effect on ecology and nature conservation, including for most of the protected and notable species currently associated with the Gale Common Ash Disposal Site e.g. great crested newt, bats, badger, breeding birds, grass snake and would allow for a greater enhancement for biodiversity relative to the existing approved restoration scheme. Measures proposed by the Applicant include ensuring wildlife is protected from entrapment within excavations and ensuring that the operation complies with the legal requirements to protect breeding birds (such as those with regard to vegetation clearance) and the requirements to protect great crested newts and grass snakes; but also the legal requirements relating to controlled weed species and through the ecological enhancement proposed in the restoration scheme.
- 7.83 With respect to 'Saved' Policy 4/6A of the North Yorkshire Minerals Local Plan (1997) and 'Saved' Policy ENV9 of the Selby District Local Plan (2005), there is no proposal to disturb either of the woodland SINC sites as part of the development. However, Policy 4/6A also requires regard to be had to other wildlife habitats and Policy ENV9 also refers to a need to demonstrate that there are reasons for the proposal which outweigh the need to safeguard the intrinsic local nature conservation value of the site or feature. Policy D07 of the emerging MWJP also requires demonstration that there

will be no unacceptable impacts on biodiversity, including statutory, non-statutory designated sites and features, Sites of Importance for Nature Conservation, habitat networks and species, having taken into account any proposed mitigation measures. Furthermore, D07 seeks the inclusion of mitigation measures that contribute positively towards the delivery of biodiversity aims including those set out in an agreed local Biodiversity Action Plan and there is an approved Selby Biodiversity Action Plan dating from 2004.

- 7.84 The development would, if permitted, provide a wider range of habitats than that currently approved within the existing restoration scheme and therefore there is potential for the development to provide a biodiversity net gain as sought by NPPF Paragraph 118 Part a). The Applicant considers that the existing site, including the non-operational areas, supports a range of habitats and species, some of which are present to the nature of the existing operations on site and are would currently be lost due to habitat succession or the currently approved restoration and so the development will result in ecological habitat gains that are of higher value than any losses of habitat that will occur during construction and operation. The Applicant considers that this approach is reasonable and proportionate on the basis that it would provide significant improvements over and above the currently approved scheme and be a long-term asset to biodiversity which were proposed to be secured within Clauses 1 to 7 of Schedule 3 of the original draft of the Section 106 and that therefore no proposals for further habitat creation beyond that proposed within the significant land holding at Gale Common should be required from the Applicant. The Applicant also considers that the proposal, via the draft Clause 8 of Schedule 3 of the December 2019 version of the Section 106, for a financial contribution to rights of way provides funds to potentially enhance the connectivity of green infrastructure and, therefore, that a separate or larger funder for wider community benefit is not justified and it is considered that this is proportionate to the development and the locality.
- 7.85 Natural England raises no objection and considers that the development would not have significant adverse impacts on statutorily protected nature conservation sites and also that it provides opportunities for biodiversity and wider environmental gains in accordance with paragraph 170, 174 and 175 of the NPPF. However, the County Council's Principal Ecologist observed in February 2020 that it was still considered that there are missed opportunities in relation to improving the ecological networks by extending and buffering habitats off site and such actions would compensate for the delay in habitats being restored on site and would contribute to biodiversity net gain in the wider landscape. Representations from the general public and other parties including Womersley Parish have also raised the impact on wildlife of removal of hedgerows and trees from the existing site and the delay of 25 years in the replacement of vegetation.
- 7.86 As stated in paragraphs 3.22 and 3.23 above, the Applicant originally in May 2019 proposed in the draft Section 106 Schedule 3 to produce a Stage I Interim Management Plan (clause 1), a First Interim Restoration Plan (clause 3); a Second Interim Restoration Plan (clause 4); a third Interim Restoration Plan was added within the December 2019 draft and both draft Section 106's proposed a Final Restoration Plan. The Aftercare Plan now proposed covers a period of thirty years post restoration, rather than the ten years that was part of the previous scheme approved for the restoration of Gale Common and that formed part of the original draft Section 106 in May 2019. NPPF Paragraph 171 refers to authorities taking a strategic approach in their plans to maintaining and enhancing networks of habitats and green infrastructure. It is considered that, the inclusion of proposals for the submission of these interim plans in the Section 106 and of course subject to its completion, this would enable the Applicant to work with the County Council through those plans which would need *approval* to ensure that the development is controlled as it progresses with scope to address matters that arise during the progress of the site. This is not a new idea at this site as

it happened in the past when parts of the restoration detail of Stage I were altered in the late 1990s/early 2000s with approval from the County Council, to take advantage of the wetland area which had occurred on the top of the hill. Hence, it is considered that this strategic, staged approach is necessary to make the development acceptable in planning terms, and is directly related to the development and fairly and reasonably relating in scale and kind to the development in accordance with paragraph 122 of The Community Infrastructure Levy Regulations 2010 and will enable the development of a good quality of site restoration during development and in the long term. In addition, it enables the planning authorities to continue to plan 'positively to enhance the beneficial use of Green Belt land' as sought by paragraph 141 of the NPPF.

- 7.87 The Applicant has considered the potential impact of the development and recognised that the development will have an impact on the natural and local environment and has taken steps in the application and in response to comments received in consultations and representations to seek to address the minimising of impacts on biodiversity sought in NPPF Paragraph 170. It is considered that in determining this application the County Council as Mineral Planning Authority is aiming to protect the existing nature conservation interest of the site and to enhance the potential for future habitat creation at the site. Therefore, it is considered that by minimising the impacts on biodiversity there will be compliance with 'saved' Policy 4/6A of the Minerals Local Plan and Policy ENV9 of the Selby District Local Plan, and, that this can be secured where appropriate by planning condition 28 as set out in Section 9.1 below, and via the terms of Schedule 3 of the draft Section 106 Legal Agreement.
- 7.88 With regard to Policy SP18 of the Selby District Core Strategy Local Plan it is also considered that the submissions to be received with respect to the matters within Schedule 3 of the Section 106 agreement would enable a strategic approach to the development to continue due the life of the site and for increased connectivity to the green infrastructure that would be developed on the site through improving the network of linkages and public access to the site and hence the proposal does accord with the requirements of Policy SP18. The proposal therefore includes opportunities for net environmental gains through new habitat creation (the wet grassland with seasonal ponds) as referred to in Policy SP18 of the Selby District Core Strategy Local Plan, Part 2iv) of Policy D10 of the emerging MWJP, and is in accordance with 'Saved' Policy 4/6A of the Minerals Local Plan (1997) and 'Saved' Policy ENV9 of the Selby District Local Plan (2005) and paragraph 118 of the NPPF.

Soils and agricultural land use

- 7.89 Policies relevant to this section are: the Selby District Core Strategy Local Plan Policy SP18 part 6 which includes ensuring that development protects soil resources and Policy SP19 of the same Plan refers to preventing development from contributing to, amongst other things, unacceptable levels of soil pollution. Emerging MWJP Policy D12 also seeks to ensure that soils are protected from loss and managed sustainably. With regard to policy in the NPPF as mentioned by Natural England, paragraph 170 a) does include reference to protecting and enhancing a number of features, including soils and in sub-paragraph e) to preventing development for contributing to unacceptable soil pollution so material to this application. With regards to paragraph 171 of the NPPF, which was referred to by Natural England in its July 2019 response the design of the development has taken into account the potential losses and gains of habitats associated with the proposed development and the potential for the proposed restoration to provide enhanced opportunities both for flora and fauna within the restored site that are currently not present as the site is at the moment or via the existing approved restoration scheme.
- 7.90 Natural England's advice in its consultation response on the application was to ensure that there was sufficient agricultural land classification information to apply the NPPF Policies and guidance on soil protection. Due to the age of the original grant of

planning permission for the development of Gale Common, the County Council has no digital records of the soil quality at the site prior to development of the site. However, the Gale Common area is shown on DEFRA's *magic.defra.gov.uk* website Soilscape (England) data as being loamy soils with naturally high groundwater and this detail generally agrees with the soil types found within the 'Gale Common Ash Disposal Site Landscape Restoration report (November 1984 (revised)). Moreover, the land surrounding the Gale Common site, and along Whitefield Lane, is of Grade II quality as indicated in paragraph 2.5 above, and is therefore best and most versatile agricultural land. Although the 1984 Landscape Restoration report did not specifically refer to agricultural land classification, it did involve a detailed soil survey of the area of Stage II and subsequently as the site has developed that information has been used to inform matters such as the quantities and nature of the soil available, soil stripping, storage and replacement. Consequently, as the site has been developed, the soils have been stored for use in restoration, so has been protected for unnecessary and irreversible loss, and some of has already been used on Stage I and part of Stage II. The existing site development has also been subject to aftercare requirements to ensure that the standard of agricultural restoration is high even on the steep slopes of Stage I.

- 7.91 The Applicant proposes that Stage I would not be affected and so its soils and agricultural uses would remain undisturbed. Soil that has already been placed on the eastern and southern slopes of Stage II would be removed in an appropriate manner and stored for use on site for restoration purposes with the topsoil being kept separate from subsoil as illustrated on the Phasing Plans in Appendix I. The proposal includes a Soil Management Plan as Appendix 11B to the Environmental Statement and therefore, it is considered that the Applicant is proposing to ensure that the soils on the Gale Common Site and associated with the land affected by the development of the Whitefield Lane realignment are handled, stored and reused in an appropriate manner.
- 7.92 Therefore, it is considered that, the development does comply with the principle of protecting the existing soil resources at the main Gale Common Site and associated with the realignment of Whitefield Lane site, including during periods of storage and final placement in accordance with the requirements of paragraph 170 a) and e) of the NPPF 2019. This can be secured through the use of an appropriate planning condition to require the submission of a detailed soil management plan, that includes that no soil should be exported from the development site, and its implementation as approved as set out in Condition 30 in Section 9.1 below). With regard to Policies SP18 part 6 and SP19 of the Selby District Core Strategy Local Plan, which can be given full weight, the proposal does accord with the principle of protecting the soil resources including from loss and the effects of pollution and also of managed them sustainably, and the position with regard to emerging MWJP Policy D12 is similar except that the accordance with the policy can be only given limited weight.

Water issues: including quality, groundwater pollution, flood risk and drainage

- 7.93 With regard to this topic, the relevant policies include the North Yorkshire Minerals Local Plan Policy 4/10 and Policy D09 of the emerging MWJP and Policy ENV2 A) of the Selby District Local Plan.
- 7.94 Environmental Assessment considered the potential for the proposed construction, operational, restoration and post-restoration phases to give rise to any ground contamination or soil quality related impacts. Ground investigation will occur prior to the construction of the new site access arrangement, loading pad extension, internal access road upgrade, office extension and realignment of Whitefield Road. The Applicant proposes to minimise adverse land contamination effects on sensitive receptors by implementing good operational practices, for example: good maintenance of plant and machinery to avoid leaks and spillages the control and drainage of excavations, the stockpiling of extracted materials and the use of suitable surface water

drainage controls and the storage of liquid fuel in appropriately bunded areas). It was concluded that provided the impact avoidance measures such as the above were employed and any additional measures identified through pre-construction ground investigations for the new site access arrangement, loading pad extension, internal access road upgrade, office extension and realignment of Whitefield Road, the significance of effects related to potential geological, hydrogeological and contamination related risks associated with the Proposed Development during the construction, operation, restoration and post-restoration stages are likely to be minor adverse or negligible, and therefore not significant.

- 7.95 The Environment Agency has advised, as stated in paragraph 4.51 above, that waters in this area are particularly sensitive, because it is located above secondary and principal aquifers. The Environment Agency considered any the risks posed to the aquifers could be managed, but that it would be unreasonable to ask the Applicant to provide details of the measures to manage those risks prior to any grant of planning permission. The Agency considered that if a planning condition were included within any permission that required the submission of a remediation strategy, it would have to be undertaken by a competent person in line with paragraph 178 of the NPPF, otherwise the Agency would object. Furthermore, the Agency recommended that planning conditions be imposed for a phased approach to the development involving a preliminary risk assessment before each phase, a site investigation scheme, verification plans and a remediation strategy. Conditions were also requested regarding the control of drainage and a Construction Environmental Management Plan.
- 7.96 Subsequently the Environment Agency confirmed that it had no objection following *The Applicant's Response To Post-Submission Consultee Comments* (September 2019) which included the applicant's revised proposals for draft conditions. It is therefore considered that subject to the imposition of appropriate planning conditions as set out in Conditions 13 and 23-28 in Section 9.1 below to ensure that the implementation of the development would not have an unacceptable impact on surface or groundwater resources, it would be compliant with the requirements of Policy 4/10 of the North Yorkshire Minerals Local Plan and Policy ENV2 A) of the Selby District Local Plan. In addition, although this can be given less weight, be compliant with the Policy D09 of the emerging MWJP.
- 7.97 Only the north-western corner of the site near the area of lagoons C and D on the Gale Common site lies within flood Zone 2. The remainder of the site and the proposed route to and the land at the junction of Whitefield Lane with the A19 lies within an area identified as Flood Zone 1 and is therefore considered by the Environment Agency to be at low risk of flooding. However, a number of representations by residents have raised concerns that there has been flooding at the junction with the A19 due to the limited capacity of the existing drains in the vicinity and that the proposed realignment would increase the risk. The Highway Authority has not raised this as a specific issue, but it is considered that it is a matter that could be addressed through the Construction Environmental Management Plan such that the detailed road design ensures that the risk to land and properties by way of surface water flooding is minimised and properly mitigated against. Therefore, subject to the control of the detail in the CEMP by planning condition 13, the development would be compliant regarding flooding matters with 'saved' Policy 4/10 of the North Yorkshire Minerals Local Plan and, although with less weight, with Policy D09 of the emerging MWJP and it will be compliant with paragraph 163 of the NPPF by ensuring that flood risk is not increased elsewhere in the vicinity of the development.
- 7.98 Yorkshire Water has confirmed that a planning condition would be required in order to ensure the protection of its pipeline assets, including the abandoned water main, which crosses the site. It is considered that it is a reasonable request by this company to

ensure the maintenance and security of the water supply which can be secured as set out in Condition No. 26 of Section 9.1 below.

- 7.99 NPPF states that planning applications will be assessed to ensure that permitted operations do not have unacceptable adverse impacts the natural environment and this includes the flow and quantity of surface and groundwater. Both Yorkshire Water and the Environment Agency have raised no objections subject to the imposition of conditions protecting their interests. It is therefore considered that, if planning permission were to be granted subject to relevant conditions as set out in Conditions 23-27 of Section 9.1 below, then the development would be capable of being operated and controlled via conditions requiring for the approval of relevant details prior to commencement and then prior to entry into subsequent phases in order to ensure that there is no potential risk to sensitive waters in the area so as to comply with the requirements of 'saved' Policy 4/10 of the NYMLP, 'Saved' Policy ENV2 of the Selby District Local Plan, Policy D09 of the emerging MWJP and paragraph 205 of the NPPF.

Climate Change

- 7.100 The policies relevant to this section include Policy SP15 (Sustainable Development and Climate Change) of the Selby District Core Strategy Local Plan, specifically Part B because it seeks to ensure development contributes towards reducing carbon emissions and is resilient to the effects of climate change, by encouraging the design and layout of a proposal to protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilise that adapt to and help mitigate climate change include with habitat creation in landscaping schemes. MWJP Policy D11 Part 1) i) concerning the minimisation of greenhouse gas emissions and operational practices including bulk transport of materials sees to encourage movement away from bulk road haulage.
- 7.101 Objections have been raised in representations relating matters of climate change in particular regarding emissions, including of CO₂, from the vehicles associated with transporting the PFA to customers, especially HGVs. The issue of alternatives to HGV transport is addressed in paragraphs 7.36-7.39 of the highways section of this report. The Applicant's Sustainability and Carbon Review was not in a position to quantify the total greenhouse gas (GHG) emissions because the locations of PFA customers are not known at this stage and therefore the CO₂ emissions associated with materials export was not yet quantifiable. However, the Applicant considers that any emissions associated with transport should also be considered in the context of the potential for, in the Applicant's view, significant carbon emissions savings that the development could deliver through reducing the embodied carbon within construction materials; plus, that in reality the maximum rate of extraction would occur after commencement when vehicle emissions technology was likely to have improved to the extent that total CO₂ emissions would be less than currently envisaged within that review.
- 7.102 The Applicant originally proposed to undertake further consideration of alternatives to HGV transport when exports from the site reached 400,000 tonnes a year. However, in response to the consultations, representations and in the light of discussions about the proposal, the applicant indicated in December 2019 within Clause 2 of the updated Section 106 agreement that a commitment would be made to undertake further consideration of alternatives to HGV transport when exports from the site reached 100,000 tonnes a year. The use of road for all exports is considered by the Applicant as the worst-case scenario, and the Applicant is committed to establishing alternatives, where possible, including the use of waterborne transport where it can be sustainably achieved. However, given that not all potential users of the PFA are or would be located next to canals or rivers capable of use for waterborne transport, it is considered that this should be reflected in the decision on this application by the provision of some flexibility for road transport to occur where it is not possible to use rail or water transport. The letting of contracts is a matter for the commercial market and not something that

can be controlled through the planning process, and it is not possible to place requirements on the applicants to utilise rail or canal links tied to these commercial decisions. It is however possible to secure an ongoing review of the potential use of these links, which it is recommended be secured through the use of the planning condition 20 as set out in Section 9.1 below.

- 7.103 In terms of emerging MWJP Policy D11 Part 1) i) the beneficial effects of moving away from bulk road haulage to potentially more sustainable means of transport from the site to customers is not occurring in the initial part of the site's development as sought by this policy, however, that policy can be given little weight until it is demonstrated through the Main Modifications consultations that the major objections to this policy regarding consistency issues with NPPF are resolved. Nevertheless, as described in paragraphs 7.40 and 7.41 above it is considered that the development could be controlled via condition 20, including a requirement for the regular review and implementation of sustainable alternative transport options during the duration of the development. Whereas, in 7.99 and 7.100 it is considered that in terms of Policy SP15 Selby District Core Strategy Local Plan the Applicant is proposing that the development will contribute to reducing carbon emissions through the use of the PFA reducing the requirement for use of primary aggregates in developments, and also the intention to move transport of the material away from long-term HGV use toward a more sustainable means of transport. However, emissions from the site will increase, relative to now, during the extraction of the PFA from the site, but the degree to which that occurs will be affected by how much and how quickly alternatives means of transport substitute for HGV use during the development and the restoration of the site, although, the proposed restoration design itself will help with further climate change mitigation through the habitat creation as part of the landscaping/restoration schemes. On this basis it is considered that the development would be compliant with the requirements of Policy SP15.

Economic impacts

- 7.104 With regard to this topic, the relevant policies include Policy SP1 of the Selby District Core Strategy Local Plan that includes that the District Council will take a positive approach reflecting the presumption in favour of sustainable development in the NPPF. Policy SP2 part (c) which is development in the countryside outside Development Limits. Policy SP13 of the Selby District Core Strategy Local Plan seeks to revitalise the local economy and bringing sustainable economic growth through local employment opportunities provided that development is sustainable and be appropriate in scale and type to its location and not harm the character of the area. 'Saved' Policy EMP9 of the Selby District Local Plan is also relevant in respect of proposed expansion an existing use outside development limits provided the proposal would not prejudice highway safety or have a significant adverse effect on local amenity.
- 7.105 An economic use of the PFA at Gale Common has existed since planning permission was granted in the late 1980s for the recovery of the cenospheres from the ash deposited and their export started because their physical and chemical properties were identified as having economic value. The expectation was that eventually the site would be assimilated into the landscape through its designed construction and restoration. However, the granting of planning permission for the weighbridge in 2003 was essentially to enable the operator of Eggborough Power Station to supply the customers that it generally supplied with ash direct from the power station by sourcing PFA from the stockpile of the ASDP when lower power generation occurred and so there was less ash available direct from the power station such as during the summer.
- 7.106 Following the closure of the coal-fired part of Ferrybridge Power Station in 2016 and Eggborough Power Station in 2018, and the ceasing of PFA arrivals from both sites, Gale Common's purpose as a PFA deposit location halted. The Applicant considers

that, if permitted, the Gale Common site would contribute towards and improve the local economy which has experienced the closure of the Eggborough Power Station, with which Gale Common was linked by providing an expanded supply from the existing secondary aggregate (PFA) resource of material from the site for which there is a market. Whereas, if the site was restored as currently required by the permission given that the disposal of the PFA at Gale Common has now ceased, then that continued economic benefit of supplying the PFA as a secondary aggregate would not occur. In doing so the Applicant is seeking to make use of the site's PFA asset, given that there is potential for the PFA to be used in variety of ways including the manufacture of block work, roof tiles, concrete foundations and steps, paving slabs and piles. In addition, only six staff are employed at the site at present, and it is proposed that around 47 staff would be employed as part of the proposed development and in terms of the revised restoration scheme, which would indirectly support approximately 60 haulage jobs during the period up to restoration.

- 7.107 It is an established employment site in the locality having been operating as a disposal facility since the 1970s and is for the expansion of the previously existing activity at the site via an increase in the export of PFA for sale and its use in construction projects. The application also involves the 'redevelopment' of what was the existing business use of the site as a PFA disposal site, into a use of parts of the site that are currently not finally restored as a source of secondary aggregate as it has potential to be used in some circumstances instead of primary-won aggregate. Therefore, in terms of the pure economic perspective, Gale Common is potential source of PFA that could be used and there is an economic reason for its development as it would contribute to the local economy. However, there are other economic aspects that also need to be considered.
- 7.108 Whilst some existing buildings would be reused, it would also include new built development within the Green Belt, which is part of the character of the area. Policy EMP9 contains caveats including regarding the proposal needing to not be prejudicial to highway safety and no objections have been raised by the Highway Authority and therefore the development is not considered to contrary to Part 1 of Policy EMP9. Other caveats with the policy are whether the development would have a significant adverse effect on local amenity or the character and appearance of the area, or harm acknowledged nature conservation interests, and these issues are addressed elsewhere in this report. Furthermore, the application site's location is in accordance with the main principle of 'saved' Policy EMP9, because whilst it is outside development limits in the open rural countryside and does not lie within an employment area defined on the Selby District Local Plan's Policies Map, it does involve the redevelopment of an existing former employment site that would contribute a secondary resource (the PFA) to the market that would, potentially, reduce the requirement for primary aggregates to be excavated from the ground.
- 7.109 Furthermore, in terms of Selby District Core Strategy Local Plan Policy SP2 part (c) which is development in the countryside outside Development Limits, the development would comply with the principles that relate to the replacement or extension of existing buildings, and the reuse of buildings for employment purposes, and would contribute towards the local economy. Although it would involve the extraction of a significant tonnage of PFA, that material has a variety of potential uses and it is considered that the development is in accordance with the principle of that policy. Similarly, Selby District Core Strategy Local Plan Policy SP13 supports developing and revitalising the local economy in all areas, the strategic development management (Part B) is focused on the more efficient use of existing employment sites and premises within the defined Development Limits, and is aimed at the types of development which have wider locational choices, which the application proposal does not, but, in terms of Part C: the Rural Economy, it would comply with respect to re-using existing buildings and infrastructure and would be a redevelopment of an existing and former employment

site, and would comply with that part and for the reasons as set out in paragraph 7.9 in this report it is not considered that the proposal is contrary to part D of Policy SP13 in terms of scale of the development to the location and not harming the character of the area.

Public Access

- 7.110 Several of Selby District Council policies relate to the provision of public access, including: Selby District Core Strategy Local Plan Policy SP12 regarding the provision of community facilities on and/or off-site, and connections between existing Green Infrastructure and other measures to mitigate or minimise a development's consequences. Part 4 of Policy SP18 also refers to the linking of Green Infrastructure and Policy SP19 refers to the creation of rights of way, the facilitating of sustainable access and the promotion of access to open spaces and green infrastructure.
- 7.111 There was a building at Gale Common more than 10 years ago which was used during school visits to the site, but this use ceased due to site security issues (not associated with the schools), and, there is currently no public access to or routes on the site at present. However, there are public footpaths in the vicinity of the site as shown on the plan in Appendix C below, including the footpath lying to the east of the site that crosses south from Whitefield Lane (to the west of Whitley) and Booty Lane (to the south-west of Whitley) and also the footpath routes lying to the south of the site, including the one between Fulham Lane, Whitley and Bradley Lane, Womersley. The County Council's Public Rights of Way (PROW) Team has confirmed that the proposal would not interrupt, obstruct or conflict with any designated public rights of way and that the PROW Team does not consider that there would be any significant impacts, such as on the visual amenity of PROW users, over and above the impact that had already existed whilst the site has operated for the depositing of ash.
- 7.112 The August 2019 response from Selby District Council mentioned NPPF paragraph 141 regarding planning authorities planning 'positively to enhance the beneficial use of Green Belt land' and to looking for opportunities to provide access, for outdoor sport and recreation. It is considered that the proposed proposal to create a country park access will bring a beneficial use to this part of the Green Belt. The previous restoration scheme for the site was grazing with no public access, so the current application's proposal to start with the introduction of public access to the restored Stage I area of the Gale Common Site would enable the community to explore Stage I on new permissive routes that would provide views across the local landscape during the period until the site was finally restored and becomes a country park. The Applicant envisages that this initial 7-day a week controlled access to Stage I would be provided by 2022, subject to obtaining a Section 278 consent from North Yorkshire County Council for the creation of a separate visitor access from Cobcroft Lane and with the precise day-time-only hours to be agreed via Clause 2 of Schedule 3 of the Section 106 agreement. The remainder of the Gale Common Site, other than some areas reserved for biodiversity, is proposed as part of the Restoration and Aftercare Strategy to be opened for public access after extraction has ceased, in 25 years.
- 7.113 Paragraph 5.130 of the Selby District Core Strategy Local Plan refers to 'Green Infrastructure' being an increasingly used term applying to the establishment of networks of linked open spaces and green corridors running through urban, suburban, urban fringe and rural areas. Therefore, it is the provision of the access links between such spaces which is relevant to this section of the report. Paragraph 98 of the NPPF includes that decisions should protect and enhance public rights of way and access, and take opportunities to provide better facilities such as adding links to existing rights of way networks. The controlled access of visitors to Stage I from the year 2022 is to be welcomed as it would provide the beginnings of that access provision to the wider community and the strategy including commitments to create new green infrastructure in the form of a Country Park, with increased links, via footpaths, with Whitley, Cridling

Stubbs and Womersley villages, that would be secured via the Section 106 legal agreement Clause 8 financial contributions which would therefore provide opportunity to enhance public rights of way and access as sought by paragraph 98 of the NPPF. However, largely for health and safety reasons associated with the location and scale of material that is to be removed from the site, it is not practical to provide wider access to the site at an earlier point in the development.

- 7.114 Therefore, consideration also has to be given to the potential impacts on users of the pavements within Whitley, such as the approximately 140 metres of existing pavement on the north side of Whitefield Lane and the pavements on either side of the A19 northwards towards the school. Even if the proposed realignment of the eastern end of Whitefield Lane were to take place, users of the original route of the lane would be within approximately 30-40 metres of a route proposed to be used by a significantly increased number of HGVs to that which currently occurs. Furthermore, it does not address the fact that there are no footpaths/bridleways linking the village of Cridling Stubbs with Whitley or with Womersley so residents or visitors walking, cycling or riding have to use the existing road so potentially opportunities to increase connectivity to or between the District's Green Infrastructure have not been proposed via this application.
- 7.115 Traffic section of the Environment Assessment refers in paragraph 8.3.17 to pedestrian amenity being broadly defined as the relative pleasantness of a journey, and that it is considered to be affected by traffic flow, traffic composition, pavement width and separation between vehicles and pedestrians with the impact manifesting itself through fear and intimidation, exposure to noise and exposure to vehicle emissions. Paragraph 8.3.18 continues by referring to the Institute of Environmental Assessment IEA Guidelines suggesting that a doubling or halving of total traffic flow or the HGV composition could lead to perceptible negative or positive impacts upon pedestrian amenity. The hours of operation would affect the impact and the assessment considered that, at the point of application, the change in total traffic (or HGV component) associated with the proposal was greater than 151% so would be a high impact on Whitefield Lane, but it concluded that on the evidence of the assessment there were a low number of pedestrians using the footway who would experience a change in pedestrian amenity and an alternative pedestrian route was already provided between Whitefield Lane and the A19 via Whitefield Bungalows so it concluded that the impact on pedestrian amenity would be minor adverse and not significant. It is considered that the measures proposed to be secured by condition in terms of the hours of operation will work towards the mitigation of the impact on users of the footways in Whitley and residents in Whitley in combination with the financial contribution referred in paragraph 7.110 above.
- 7.116 The new routes onto Stage I of the Mound contribute to providing access to the countryside through the green spaces up on the mound and is to be welcomed. However, although wider access is proposed, it would be a significant period of time before access to the rest of the site would be provided upon restoration. During this period, users of the new routes on Stage I would potentially be affected by the continuing site operations in terms of noise, traffic and visual impact. There are no routes off-road proposed as part of the planning application between the villages (Whitley, Cridling Stubbs and Womersley) and the Site, although this is being sought by the local communities. The Applicant considers that no additional commitments in the wider area warranted in the draft Section 106 beyond the Permissive Paths Contribution to the County Council of money for use in creating or improving access in the vicinity of the site to connect with Whitley.
- 7.117 Therefore, with regard to 'saved' Policy 4/15 Public Rights of Way of the North Yorkshire Minerals and Waste Joint Plan, it is considered that there is no conflict with the terms of that policy as the existing designated footpaths are not directly affected. The development would provide potential for a small expansion to the network if the

proposal were permitted, which although not directly connected to the existing network, would accord with the principles of Selby District Core Strategy Local Plan Policy SP19 part d) by promoting access and part f) by potentially supporting active lifestyles which would contribute to the health and social well-being of the local community, although that wider access would be by means of the provision of funding rather than direct provision of land on which to create the route(s). Hence there would be a limited contribution to the aims of part 5 of Policy SP18 of the Selby District Core Strategy Local Plan for an increase on the provision of open space links connecting up access to the District's Green Infrastructure, but the opportunities to achieve net environmental gains such as improving public access to the countryside would be limited initially with regard to part a) of Paragraph 118 of the NPPF because the applicant does not currently foresee the wider access to the site becoming available until the final restoration of the site in approximately 25 years from commencement. However, in the long term the creation of the country park would provide wider access to the site.

Land Stability

- 7.118 The relevant policies for this topic are: Policy SP19 of the Selby District Core Strategy Local Plan and Part ix of Policy D11 of the emerging MWJP, as the site lies within a coalfield consultation constraint area and has been previously affected, as mentioned in representations, by subsidence arising from the extraction of coal beneath the area as part of the development linked to Kellingley Colliery. However, there are no longer any active coal mines in the vicinity, as Kellingley closed in December 2015. Nevertheless, whilst the land occupied by Gale Common itself is not identified by the Coal Authority on its interactive map as at August 2020 as being within a Development High Risk Area, there are several narrow zones shown on the interactive map crossing Whitefield Lane indicated on the western edge of Whitley of which the Applicant will need to be aware if the development is permitted. The Applicant in Chapter 11 of the Environmental Statement has stated that a Coal Mining Risk Assessment may be required to determine the risks posed by the presence of mine workings below the Site and what mitigation may be required to facilitate the Proposed Development. However, this cannot be undertaken until the detailed design stage.
- 7.119 As mentioned in paragraph 6.95 above, the PPG is clear that site operators have a duty to ensure the safety of excavations and tips and also that a site is left in a safe condition and this proposal would come within those requirements. Thus, for example, the operator would need to ensure that Stage I, which is the highest part of the Gale Common site and abuts both Stages II and III that are proposed for extraction, remains stable and is not affected by the removal of the material from against its slopes. The proposed means of extraction is to use loading shovels or 'back actor' excavators to dig out the ash and no blasting is proposed. Therefore, it is considered that the risk to nearby properties from vibration is minimal and that the development would, if permitted, be undertaken so that it did not contribute to, or cause, land instability at the site or in the vicinity of the development. Therefore, it would be in compliance with the requirements of Policy SP19 of the Selby District Core Strategy Local Plan; paragraphs 170 and 178 a) of the NPPF, and, the PPG regarding land stability. This is because, as paragraph 179 of the NPPF states, that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Restoration & Aftercare

- 7.120 The policies relevant to this topic include NYMLP Policy 4/1 parts f) and g) regarding the proposals and programme for restoration being acceptable and of a high standard and that aftercare and management will also be high standard. NYMLP Policy 4/18 relates to agriculture and restoration and Policy 4/20 to aftercare. Policy SP12 of the Selby District Core Strategy Local Plan seeks the joining up existing/created Green Infrastructure and measures that mitigate or minimise a development's consequences. Whereas Policy SP15 aims to use planting and other landscaping to help biodiversity

to contribute to climate change mitigation and Policy SP19 includes the promotion of access to open spaces and green infrastructure.

- 7.121 Prior to the development of Gale Common the landscape in the vicinity was relatively flat and indeed the details in original application for the site in 1963 referred to the land as being low and marshy. Therefore, the construction of the mound over the past 50 years has created a hill feature within that generally flat landscape comprising the valley of the River Aire, with the rising ground of the Magnesian limestone ridge to the west and south-west that is a Locally Important Landscape Area. It was recognised in the 1960s that the height and scale of the new landform meant no planting could, or would, completely obscure the development. Therefore, in accordance with the Central Electricity Generating Board (CEGB) intention, the deposited PFA mounds have been landscaped as a terraced hill, with tree belts planted along much of the perimeter and on the slopes, which over the years have developed and been managed, together with hedgerows as a visual effect. This design was principally to lead to restoration to agriculture.
- 7.122 The site is surrounded on all sides by Grade 2 land, which is therefore of high agricultural grade, including the land proposed for use in the Whitefield Lane realignment. The original overall landform (Appendix F) was superseded in April 1986 by the landform and landscaping scheme entered into by The Central Electricity Generating Board as operator of the site, as part of the Section 52 Agreement. The CEGB still intended in the 1980s the maximum restoration to be to agriculture. However, but the original agricultural land quality in the 1960s is not recorded and agricultural land classification maps currently show the whole of the Gale Common site, including land which has remained in agricultural use to the south of the mound area throughout the history of the site, as being 'non-agricultural'.
- 7.123 The current approved final landform, restoration and landscaping scheme was part of the Supplemental Planning Agreement entered into by British Energy Generation Ltd in May 2008, which itself revised the 1986 scheme. The 2008 scheme proposed that Stages II and III would be completed at the heights of 52 metres and 50 metres respectively to grassland including areas of species rich grassland, scrub, woodland and a small wetland area with access track and a pathway. Hence although Policy 4/18 of the NYMLP (1997) specified that where agriculture is the intended primary after use, the proposed restoration scheme should provide for the best practicable standard of restoration. In determining the 2008 scheme, the benefits of including landscaping, conservation or amenity proposals were recognised and were included in the scheme approved at that time, as the soils on the mound were not of Grade 2 potential.
- 7.124 The current application provides for a wider range of habitats such that the restored site would still include woodland, grassland including species rich grassland and flower rich meadow, together with hedges and areas of naturally colonised wet grassland with seasonal ponds (on part of Stage III and the current location of Lagoons C and D). A bird hide is proposed overlooking the location of Lagoons C and D. The Applicant's proposal is now for the masterplan of the overall strategy, but with the details within the phases to be addressed by submissions under the terms of planning conditions numbers 32-37. Therefore, more of the site is now proposed to be 'non-agricultural' than previously approved, but Policy 4/18 allows for this provided those proposals do not result in the irreversible loss of best and most versatile land. It is considered that the development is in accordance with the terms of Policy 4/18 of the NYMLP as the Grade 2 soils associated with the Whitefield Lane realignment can be used effectively within the overall scheme.
- 7.125 Equally Policy 4/20 of the NYMLP makes allowance for restoration to be a variety of uses with appropriate aftercare provisions for the proposed uses including the securing of longer-term management agreements where appropriate, and it is considered that

on balance the proposal is in accordance with that policy. The intention of the Applicant for the programme for restoration, aftercare and management of the land is considered to be acceptable to allow a high standard to be achieved which would be in accordance with the principles of Policy 4/1 (f) and (g) of the NYMLP.

- 7.126 Mention has been made by consultees and in representations querying the absence of linkages to green infrastructure within the Selby District. Gale Common lies to the south of the Regional Green Infrastructure Corridor (between Fairburn/Brotherton and Drax/Snaith) and to the north of the Sub-Regional Green Infrastructure Corridor (between Wentbridge and Pollington) indicated in the Selby District Core Strategy Local Plan so is not within, or in proximity with, either of those designated corridors. As referred to by Selby District Council, being outside these corridors does not mean that opportunities to provide access and connectivity by means of walking and cycling should not be explored, and such an approach should be based on restoring the whole site over a planned timescale identifying suitable opportunities to protect, enhance and better join up existing Green Infrastructure. As indicated in the previous paragraphs the design for the long-term restoration of the site has changed over the years, but has reflected the increased interest of creating a more diverse site visually and in form. For example, such as through the inclusion of a pond/wetland on the top of Stage I, the more species-rich grassland, the flower rich meadows with more species rich hedgerows.
- 7.127 Stage II involves the extraction of the greatest tonnage of PFA and so will take the longest period of time (17-20 years) to reach its final contours, Stage III lies between Stage II and the loading area so there would be logistical/health and safety problems with that land being made available sooner for recreational purposes. Similar issues would arise with C & D Lagoons because they lie to the west of the internal route that the lorries would use to leave the site.
- 7.128 The proposed restoration includes 98 hectares of woodland/scrub and 153 hectares of grassland that would therefore create new Green Infrastructure as required by Selby District Core Strategy Local Plan Policy SP12. Over time it would utilise biodiversity to contribute to climate change mitigation through the planting proposed as sought within policies SP15 and SP18 and the NPPF described in paragraphs 6.28 and 6.29 above. The Applicant is willing to extend the duration of the aftercare period for soft landscaping and biodiversity benefit to 30 years, which represents a significant improvement to the current obligation (dating from 2008) that only relates to 10 years after the restoration of the Gale Common Site. A mineral planning authority cannot require via planning condition, any steps to be taken after the end of a 5 year aftercare period without the agreement of the minerals operator. Therefore, it is considered that it is appropriate for the proposed 30 year period aftercare of this long-term development to be secured within the Section 106 Legal Agreement Clause 7, as it is a means of addressing the cumulative impact on the environment and the local communities of this 25-year development in a long-term beneficial way.
- 7.129 The proposed restoration does include proposals for footpath routes on Stages II and III, and a circular footpath around site of Lagoons C and D. Car park and visitor amenities are proposed on the northern edge of Stage I and also in the location of the ASDP plant, although no details are included with regard to what these visitor amenities would comprise. Nor are there any details of what, if any, provision would be made to facilitate non-motorised access to the site. Notwithstanding the Applicant's proposal to stagger the release of the HGVs from the site and to stop HGVs leaving during the periods of school drop-off and collection times, the improvements to Whitefield Lane are unlikely to provide a safe route from Cridling Stubbs to Whitley and beyond because of the volume of HGVs likely to be sharing the road space. However, if the development were permitted, the Applicant would be expected as part of the design for the proposed carpark the making of suitable provision for non-motorised access to the site, such as

cycle parking and this would be secured by planning condition 37 as set out in Section 9.1. This would enable, with regard to Saved' Policy T7 (Provision for cyclists), the development to include opportunities to promote the objectives of the national cycling strategy.

- 7.130 Paragraph 6.17 above refers to NPPF paragraph 205 seeking mineral site restoration and aftercare at the earliest opportunity, to high environmental standards and through the application of appropriate conditions. It specifically states that bonds, or other financial guarantees, should only be sought in exceptional circumstances. Mineral Planning Authorities are advised in the PPG that they should seek to meet any justifiable and reasonable concerns about financial liabilities relating to the restoration of the site through agreeing a planning obligation or voluntary agreement at the time a planning permission is given. It is considered that the proposals for restoration and aftercare of the site are acceptable and would allow a high standard to be achieved and a high standard of aftercare and management of the land. Whilst this would be a long-term project, it is considered that progressive reclamation will be possible. Restoration can be secured as set out in section 9.1 by planning conditions numbers 31-37 and through the aftercare and long-term land management within the Section 106 Clause 7 and hence there is no justification to require a restoration bond.

Afteruse

- 7.131 As referred to in paragraph 4.57 above, Natural England encourages proposals to incorporate measures to help improve people's access to the natural environment. The Applicant had indicated in the application details that in the long-term once restoration of the site is completed, it is envisaged that the site may become a Country Park. In the light of queries raised by consultees and in representations about how a such country park would be managed and funded, the Applicant has confirmed discussions are occurring with a number of parties regarding the potential long-term future afteruse of the site, for leisure, and, potentially for educational purposes. The Applicant has also confirmed that it intends to enter into further discussions with the County Council 'at the appropriate time'.
- 7.132 Therefore, given the Applicant is willing to agree to extend the duration of the aftercare period to 30 years via a Section 106 agreement. It is considered that the long-term management of the site post restoration can be secured such as to comply with the requirements of NYMLP Policy 4/1 (g) that a high standard of aftercare and management of the land can be achieved. In the event of this development being refused then, the applicant would be expected to comply with the terms of the supplemental agreement of 2008 (referred to in paragraph 2.10 above) through the submission of a revised restoration scheme for consideration and approval and subsequent implementation.

Monitoring and Enforcement

- 7.133 With regard to Whitley Parish Council's questioning of workforce and budgets for monitoring and control of development. Planning permissions go with the land to which they relate and the relevant planning authority has responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas. For this development it would be the County Council as Mineral Planning Authority that would be responsible for this task as indicated in the National Planning Practice Guidance. There are a range of ways of tackling alleged breaches of planning control, and local planning authorities are advised to act in a proportionate way. Local planning authorities also have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. However, it is recognised that effective enforcement is important to maintain public confidence in the planning system and the County Council is committed investigating complaints and seeking appropriate compliance from developers where a breach of a planning permission is found.

Safeguarding of Mineral Resources and Waste Sites

- 7.134 The policies relevant to this topic are the emerging MWJP Policies: S01 - Safeguarding mineral resources, S02 - Developments proposed within Minerals Safeguarding Areas, and S03 Waste management facility safeguarding.
- 7.135 The site lies within several mineral resource safeguarding areas that come within the remit of Policy S01: being wholly within those relating to brick clay resources and for sand and gravel that are identified in the emerging MWJP's Policies Map. Lagoon D is within the outer edge of the Policy S01 buffer zones for the safeguarding of the limestone resource and building stone resources that lie to the west of the site. However, as stated in paragraph 6.57 above limited weight can be given to this policy when determining planning applications until the outcome of the proposed Main Modifications is known. These resources lie beneath the existing Gale Common mound and are therefore currently not accessible without the removal of the PFA. It is considered therefore, that there is no conflict with the principles of the Policy S01 safeguarding of the minerals under the site, as any resources are currently not exploitable due to the overlying PFA and are therefore not economically viable at present.
- 7.136 Given that a deposit of PFA can itself, be regarded as a secondary aggregate. It is considered that the proposed extraction of the PFA from the part of the mound does not therefore in itself prejudice future extraction of the safeguarded mineral resources close to and beneath Gale Common, any further than is the current position with the Gale Common Mound existing on site. The proposed Country Park could potentially affect the future potential value of any resource beneath the site, but given that, as stated in paragraph 6.58 above, limited weight can be given to Policy S02 when determining planning applications until the outcome of the proposed Main Modifications is known. Therefore, it is considered that there is no current prejudice by the proposal to the exploitation of the surface minerals in the future and hence no conflict with Policy S02 of the MWJP.
- 7.137 The Gale Common Ash Disposal Site is identified via Policy S03 of the emerging MWJP as a restricted/specialist landfill with a 250-metre buffer zone around it in order to safeguard against development that would prevent or frustrate the use of the site for waste disposal. However, the policy includes three bullet point exceptions to this stance, and point iii) is most relevant to this application. Both power stations that generated the supply of ash that has been deposited to the site have ceased operation and no future requirements for the deposition of PFA at the Gale Common site are envisaged. Furthermore, there is no realistic prospect of any deposit of new PFA at the Gale Common site from any other sources as the nearest other coal-fired Drax Power Station in the area has its own ash disposal site (the Barlow Ash Mound) which itself is safeguarded for use via Policy S03.
- 7.138 Therefore, the Gale Common site is no longer in use for the purpose it was identified for safeguarding. Moreover, there is no realistic prospect of it being used for the waste management purposes as the previous sources that deposited ash via pipelines are closed, plus energy production has moved away from coal-fired power stations and so the further generation of PFA is unlikely. Consequently, it is considered that there is no conflict with the requirements of Policy S03 of the emerging MWJP if the Gale Common site were to be used for the recovery of ash for sale as a secondary aggregate.

Cumulative impacts and consideration of alternatives

- 7.139 The last bullet point of Paragraph 3.2 above describes that the Environmental Statement included an examination of the potential cumulative effects and interactions

and took into account the committed sites referred to in that paragraph, also the mitigation measures proposed within the application as submitted. Therefore, it focused and examined only residual (after mitigation) effects using consideration of the development's and other development's cumulative effects and interactions including over time and spatially; the sensitivity, value or importance and susceptibility to effects of resources or receptors. It considered whether different types of effect would occur and interact, such that altered their significance. Whether effects would be temporary or permanent in duration; their timescales and if the frequency of effects would be intermittent or constant in order to establish which effects would require additional mitigation in order to reduce their significance and the degree of certainty relating to any identified effects.

- 7.140 The topics identified for assessment were landscape and visual amenity; ecology and nature conservation; traffic and transport; air quality and greenhouse gases; noise and vibration and all in connection with effects during construction and operation. Significant adverse cumulative visual effects at two receptors (Viewpoint 3: Fulham Lane, Womersley and Viewpoint 6: Northfield Lane, Cridling Stubbs) were envisaged during the operation of the Proposed Development but applicant's assessment concluded that the cumulative effects will be no greater than the Proposed Development in isolation. Given the location of the other developments and the conclusion on the Environmental Statement chapter on geology, hydrology and contaminated land the applicant's assessment was that there was no potential for significant cumulative effects in respect of that topic. All the other assessment topics were concluded as being no potential for significant cumulative effects to arise as a result of the construction, operation or restoration phases of the Proposed Development when considered alongside the other developments. In the light of this, the cumulative effects of the proposed development have been taken into account in the consideration of the application within the individual topics above within this report.
- 7.141 With regard to the consideration of alternatives, as described in paragraph 7.3 above PFA is a secondary aggregate and is now in limited supply direct from the few coal-fired power stations in the country and therefore its extraction for use from a previous PFA deposit does receive policy support as described in paragraph 7.6 above. In addition, during the consideration of the application the Applicant has moved from the position of not looking at reviewing the viability of transporting PFA using modes other than road transport until 400,000 tonnes per year was exported, to a position of agreeing to submit within 12 months of the commencement of the development a written Sustainable Mineral Transport Plan.

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*'. The decision 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 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 proposal to the '*Development Plan*', Members should note that proposal 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, as set out in Section 6, the relative weight to be attached to the policies in the *'Development Plan'* relevant to this proposal against that which is laid down within national planning policy.

- 8.3 Following the considerations set out in Section 7.0 above, it is considered that the proposal complies with the development plan as following:
1. North Yorkshire Mineral Local Plan (1997) 'saved' Policies: 4/1 regarding the acceptability of the overall proposal; 4/6A in respect of nature conservation and habitat protection; 4/10 regarding the protection of the water environment; 4/13 traffic impact; 4/14 impact on the local environment and amenity, 4/16 regarding ancillary and secondary operations, 4/18 restoration to agriculture and 4/20 aftercare.
 2. The emerging Minerals and Waste Joint Plan Policies D02 local amenity and cumulative impacts, D06 landscape, D09 water environment, D10 reclamation and aftercare, D11 sustainable design and operation, and, D12 Protection of agricultural land and soils.
 3. Selby District Core Strategy Local Plan (2013) Policies: SP(2) regarding development in the countryside; SP3 as it is not considered that the proposed built development would be harmful to the Green Belt and very special circumstances exist that outweigh any harm to the Green Belt because of the potential that the PFA has as a source of secondary aggregate; SP12 regarding public access; SP13 regarding the redevelopment of a former employment site, SP15 in respect being sustainable and contributing to climate change mitigation; SP18 protecting and enhancing the environment; and, SP19 regarding the quality of the design.
 4. Selby District Local Plan (2005) 'saved' Policies: ENV1 regarding control of development; ENV2 regarding environmental pollution; Policy ENV9 Sites of Importance for Nature Conservation; and Policies T1 regarding highway network, T2 in respect of access to roads and T7 regarding provision for cyclists.
- 8.4 As described in paragraph 7.4 above, the principle of PFA extraction from the Gale Common Ash Disposal Site is not a totally new development with regard to material being sourced to supply various businesses as it has been occurring under the terms of various planning permissions since the 1980s. Initially at Gale Common it was just the cenospheres element of the PFA, but more recently has been in respect of PFA in general. Hence, there is an existing market for the material which can be used for a variety of purposes and the development would contribute to the local economy and would come within the scope of the types of development coming within Policy SP13 part C2 of the Selby District Core Strategy Local Plan. The North Yorkshire Waste Local Plan Policy 7/3 supports proposals that facilitate the supply and use of secondary aggregate as an alternative to primary land-won aggregates, such as from PFA. Policy M11 of the emerging MWJP also supports the principle of use of PFA. The built element of the planning application is considered to be proportionate to the development being proposed and compliant with Policy 4/16 of the North Yorkshire Minerals Local Plan and Policy SP2(c) of the Selby District Core Strategy Local Plan and would be sustainable in terms of MWJP Policy D01. It is an aim of the NPPF to facilitate the sustainable use of minerals including the contribution that secondary and recycled materials can make.
- 8.5 The proposal is for a substantially enlarged development, 23 million tonnes over 25 years, relative to that which has taken place to date and which has been restricted to 30,000 tonnes per year since 2003. There is though a planning balance to judge between the supply of the PFA as a contribution to the economy via the supply of secondary aggregate and the following impacts. The site being located within the Green Belt; the impact of disturbing a partially restored significant recognisable feature in the wider landscape which is relevant to Policy M11 Part 2).; the impacts on the

environment and amenity; the transport implications, the proposals for restoration and aftercare and the cumulative effect on the local area.

- 8.6 The Gale Common site has throughout its development and existence, over the past 50 years, been within the West Yorkshire Green Belt; and, that belt was originally established with a principal objective of checking further growth of the West Yorkshire Conurbation. The extraction of PFA is a 'mining operation', and very special circumstances do exist because of the potential that the PFA has as a source of secondary aggregate, and that outweighs any potential harm to the Green Belt because of inappropriateness, and any other harm resulting from the proposal. The built element of this application would not be harmful and will not be inappropriate development in the Green Belt in respect of paragraph 143 of the NPPF. It is considered that the proposed development does not conflict with the purposes identified in NPPF paragraph 134 a) and b) as it would not represent a sprawl of a large built-up area, and it would not result in towns or villages merging into one. There is unlikely to be a significant impact on any special character or setting of the historic town of Knottingley that would conflict with the purposes of the land being within the Green Belt in terms of NPPF 134 d); and the site does not undermine the inclusion within the Green Belt of any land for urban regeneration. Therefore, it is considered that there is no conflict with Selby District Core Strategy Local Plan Policy SP3 as the proposed built development will be in the same parts of the site that currently have existing buildings and would not represent inappropriate development. It is also not considered that the development conflicts with NPPF paragraph 133 as whilst change will occur on site, including with respect to the built development on site and changes to the shape of the 'artificial' landform that has been developed over the past 50 years contributes to the present openness of the Green Belt. The land will essentially remain open and, over time, re-establish some of the openness that existed prior to the construction of Gale Common and a significant part of the site area will not be altered at all.
- 8.7 The proposal would be acceptable in planning terms with regard to 'saved Policy 4/13 of the North Yorkshire Mineral Local Plan, 'saved' Policy ENV1 part 2, and 'saved' Policies T1 and T2 of the Selby Local Plan and the NPPF, including with regard to highway safety. Subject to the undertaking of the proposed works to the access and the updating of the on-site traffic arrangements, particularly, in the vicinity of the weighbridge and regarding vehicle parking. Together with proposed offsite road improvements to Whitefield Lane, the controlling of the release of the HGVs from the site are undertaken in full in order to ensure that the roads can safely serve the development and subject to the completion of the Section 106 matters as discussed in Section 7 above.
- 8.8 Taking account of all the material considerations it is considered that on balance that the benefits of using the PFA as a secondary aggregate outweigh the negative aspects associated with the development, and that very special circumstances exist that outweigh the development being inappropriate in the Green Belt. Amenity safeguards can be put in place via planning conditions and obligations to ensure that the intensity of any impacts, longevity and cumulative impact that the development would have on the amenities of local residents in the vicinity of the site, regarding hours of operation, noise or dust emission, visual impact and regarding traffic are effectively mitigated and controlled.

Obligations under the Equality Act 2010

- 8.9 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 socioeconomic 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

- 8.10 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 that 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. 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 interference with those rights, it is, on balance, in accordance with the law, necessary and in the public interest.

9.0 Recommendation

9.1 For the following reasons:

- i) The development is in accordance with: 'saved' Policies 4/1, 4/6A, 4/10, 4/13, 4/14, 4/16, 4/18 and 4/20 of the North Yorkshire Minerals Local Plan (1997); with draft Policies D02, D06, D09, D10, D11 and D12 of the Minerals and Waste Joint Plan; with Policies SP2, SP3, SP12, SP13, SP15, SP18 and SP19 of the Selby District Core Strategy (2013) and with 'saved' policies ENV1, ENV2, ENV9, T1, T2 and T7 of the Selby District Local Plan (2005) and is consistent with the NPPF (2019).
- ii) The proposal does not conflict with the abovementioned policies as it is considered that the highway network as proposed with the Whitefield Lane amendment is capable of handling the volume of traffic anticipated to be generated by the development, the visual impact of the proposed development can be mitigated through conditions, 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 proposed infrastructure, markets and employment at the site along with the final completion of restoration proposals and 30-year aftercare period and there are no other material considerations indicating a refusal in the public interest; and
- iii) 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 the prior completion of a Section 106 Legal Agreement to secure:

- The notification of the County Council prior to the commencement of development; prior to 30,000 tonne exportation date and prior to the 400,000 tonne contract date;

- The Localised Highway Improvement Works comprising the road widening on Cobcroft Lane and Whitefield Lane and bend improvements at Whitefield Lane to the west of Whitley village in the vicinity of the Site;
- The Whitefield Lane re-alignment works;
- The Whitley highway safety contributions to the provision of a community speed camera initiative; a signalised crossing on the A19 close to Whitley and Eggborough Community Primary School; and additional signage or traffic calming measures;
- The submission of the Initial Public Access Proposals within three months of commencement of development and the implementation of these within one month of the receipt of their approval;
- The submission of Revised Public Access Proposals prior to the construction of the new public access entrance from Cobcroft Lane
- The submission of the Aftercare Plan at the same time the Final Restoration Plan is submitted for approval and the implementation it for a period of 30 years;

PLANNING PERMISSION BE GRANTED subject to the following conditions:

Conditions

COMMENCEMENT OF DEVELOPMENT

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

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.

2. No development shall take place on the application site until written notice has been given to the County Planning Authority of the date proposed for the commencement of the development.

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

3. The development hereby permitted shall be carried out in accordance with the application details dated 17 May 2019 and the following approved documents and drawings:

Ref.	Date	Title
60589011-SP-001	25.04.2019	Site location Plan
60589011-DP-SK006C	13.05.2019	Proposed access arrangement plan
60589011-DP-SK007C	13.05.2019	Proposed internal road access plan
60589011-DP-SK010C	15.05.2019	Proposed HGV loading pad plan
60589011-DP-SK016A	14.05.2019	Indicative final stage 1 public access vehicular access and parking plan
60589011-DP-SK021	09.05.2019	Proposed CCTV camera locations and elevation plan
60589011-P-016B	13.05.2019	Proposed indicative Whitefield Lane realignment plan
60589011-D-0000-001	31.07.2019	Proposed Cobcroft Lane/Whitefield Lane Widening Works Plan (Indicative)
60589011/IN/DW/004	09.05.2019	Proposed indicative processing plant and conveyor plan
60589011/IN/DW/005	09.05.2019	Proposed Diesel tank elevations and layout plan

60589011/IN/DW/006	09.05.2019	Proposed driver welfare facility floor plan and elevations plan
60589011/IN/DW/007	09.05.2019	Proposed office floorplan layout and elevations plan
60589011/IN/DW/008	09.05.2019	Proposed security cabin floor plan and elevations plan
60589011/IN/DW/009	09.05.2019	Mobile screener elevations and layout plan
60589011/IN/DW/010	09.05.2019	Proposed wheel wash layout and elevations plan
60589011/IN/DW/012	13.05.2019	Proposed weighbridge plan
60589011-PH-0001	09.05.2019	Gale Common Indicative Phase 1 plan
60589011-PH-0002	09.05.2019	Gale Common Indicative Phase 2 plan
60589011-PH-0003	09.05.2019	Gale Common Indicative Phase 3 plan
60589011-PH-0004	09.05.2019	Gale Common Indicative Phase 4 plan
60589011-PH-0005	09.05.2019	Gale Common Indicative Phase 5 plan
60589011-PH-0006	09.05.2019	Gale Common Indicative Phase 6 plan
60589011-PH-0007	09.05.2019	Gale Common Indicative Phase 7 plan
60589011-PH-0009	09.05.2019	Gale Common indicative cross sections AA-EE plan
60589011-SK-001	15.05.2019	Indicative Interim Stage I Public Access plan- Overall plan
60589011-SK-002	15.05.2019	Indicative Final Stage I Public access plan - Overall plan
60589011-SLP-002	15.05.2019	Short term operational site layout plan (sheets 1-4)
60589011-SLP-003	14.05.2019	Long term operational site layout plan (sheets 1-4)
60589011-SRP-001 Rev 1	02.09.2019	Indicative landscape and biodiversity restoration plan
ES Volume II Appendix 6A		Landscape and Visual Impact Assessment Methodology (LVIA)
ES Volume II Appendix 6C		Indicative Landscape and Biodiversity Restoration strategy
ES Volume II Appendix 7B		Ecological Impact Assessment (EclA)
ES Volume II Appendices 7C-7L		
ES Volume II Appendix 11B -	June 2019	Outline Soil Management Plan
60589011-D-0000-001 Rev D	31.7.2019	Proposed Cobcroft Lane/Whitefield Lane Widening Works Plan (Indicative)
Arboricultural Impact Assessment		
Flood Risk Assessment		
Framework Site Waste Management Plan		

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

4. Prior to the construction of any new buildings, including those associated with the new site access arrangement and the office extension, details of the following external finishes shall be submitted to and approved by the County Planning Authority:
- Materials; and
 - Colours

Thereafter the buildings shall be constructed in accordance with the approved details.
Reason: *To ensure that the development is carried out in accordance with the application details, as amended.*

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

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

OPERATIONAL ACCESS

6. There shall be no access to the site from the public highway other than by the existing access roads into the site from Cobcroft Lane. The only exception to this is for vehicles utilising the new highway access to the restored Stage I area for recreational use or maintenance.

Reason: *In the interests of highway safety.*

HOURS OF OPERATION

7. No minerals working or associated operations, including the arrival on site of lorries to collect PFA, shall take place except between the following times:

- 07:00 – 19:00 Monday to Sunday (except for Bank and Public Holidays).

Reason: *To protect the amenity of the area, the environment and local residents from noise pollution.*

8. The export of material from the site shall only take place during the following hours:

- 07:00 – 19:00 Monday to Friday; and
- 07:00 – 13:00 Saturday.

No HGV movements shall take place on Sundays or Bank and Public Holidays.

In addition, all exports shall cease for the following half hour periods during school term time and when pupils are attending the Whitley and Eggborough Community Primary School, to coincide with the school drop off and pick up times:

- 08:35 – 09:05; and
- 15:00 – 15:30.

Reason: *To protect the amenity of the area, the environment and local residents from noise pollution.*

9. Construction activities must not take place outside the hours of 08:00 to 17:00 on weekdays and 08:00 to 13:00 on Saturdays, with no working on Sundays, Bank or Public Holidays. In the event that activities cannot take place within these hours, such as during concrete pouring, prior approval from the County Planning Authority must first be obtained in accordance with a procedure that is to be set out in the Construction Environmental Management Plan referred to in Condition 13 below. The defined procedure must include that the County Planning Authority is notified at least two working days prior to any proposed out of hours working.

Reason: *To protect the amenity of the area, the environment and local residents from noise pollution.*

NOISE

10. During the working hours specified in Condition 7, operations on site shall not cause the Leq 1hr sound level to exceed 55dB(A) as measured at the boundary of any residential property with the exception of Grange Farm ("the 55dB(A) limit"). The limit at Grange Farm shall be 50dB(A). In the event that the appropriate limit is exceeded, those operations at the site causing the excessive noise shall cease immediately and steps shall be taken to attenuate the noise level to be in compliance with the appropriate limit.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution.

11. During any soil stripping, the construction of any soil mounds and bunds and the final placement of topsoil for a period of up to eight weeks in a year, noise from the operations on site shall not cause the Leq 1hr sound level to exceed 70dB(A) ("the 70dB(A) limit") as measured at the boundary of any residential property. In the event that the 70dB(A) limit is exceeded, those operations at the site causing the excessive noise shall cease immediately and step shall be taken to attenuate the noise level to be in compliance with the 70dB(A) limit.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

12. Prior to beginning construction of each of the new site access arrangement (including any new buildings and structures associated with it), loading pad extension, internal access road upgrade, localised Cobcroft/ Whitefield Lane improvements, Whitefield Lane re-alignment works, office extension or any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)), a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the County Planning Authority.

The CEMP shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. Measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean-up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. The plan should also provide detail on the management and control processes, including with regard to surface water drainage. Thereafter, the development hereby permitted shall be implemented in strict accordance with the approved details.

Reason: To protect the amenity of the area, the environment and local residents from pollution.

13. Prior to beginning construction of each of the new site access arrangement (including any new buildings and structures associated with it), loading pad extension, internal access road upgrade, Cobcroft/ Whitefield Lane improvements, Whitefield Lane re-alignment works, office extension or any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)), a scheme for management of the below shall be submitted to, and approved in writing by, the County Planning Authority:

- the storage of materials;
- the storage of chemicals;
- the storage of oil; and
- the proposed method of working.

The scheme shall, where necessary, be supported by detailed calculations and include a programme for future maintenance. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or any details as may subsequently be agreed, in writing, by the County Planning Authority.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water

pollution and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

LIGHTING

14. Prior to the installation of any external lighting at the site, full details of it, including lighting for site security purposes, shall be submitted to and approved in writing by the County Planning Authority. All lighting shall be installed and maintained in accordance with the approved Scheme and shall be removed from the site in accordance with the relevant interim or final restoration plan.

Reason: To protect the amenity of the area, the environment and local residents from light pollution.

DUST

15. The development hereby approved shall initially be carried out in accordance with the following documents relating to the management of dust:

- Environmental Statement Volume II, Appendix 9b Dust Management Plan.
- the Applicant's response to further comments from Selby District Council's Environmental Health Officer (dated 31 October 2019), including the commitment to extending the Dust Management Plan to include actions for addressing dust exceedances of PM10 and PM2.5 air quality objective values as set out in Table 9.1 of ES Chapter 9: Air Quality (ES Volume I) and undertaking PM10 monitoring at one location at the boundary of the Site.

The proposed location for a monitor at the site boundary is shown on the map (green dot) in the above referenced 31 October 2019 response. All records of dust monitoring shall be kept for a minimum period of six months.

A consolidated Dust Management Plan, including the commitments from the 31 October 2019 response, shall be submitted to the County Planning Authority for approval within 1 month of commencement of development. The operation of the site shall thereafter be carried out in accordance with the consolidated Dust Management Plan.

Reason: To protect the amenity of the area, the environment and local residents from dust pollution.

TRAFFIC

16. The development hereby permitted shall be carried out in strict accordance with the ES Volume II, Appendix 8A, Annex P 'Operational Traffic Management Plan', including the control and management measures contained therein.

The measures include that the designated route for HGVs (east on Cobcroft Lane/Whitefield Lane then north on the A19 to the M62) shall be used at all times, unless the necessary roads are not available for any reason (such as a temporary road closure) or where it is appropriate (given the location of the destination of the materials) to use a different route for local deliveries.

Reason: To protect the amenity of the area, the environment and local residents.

17. HGVs exiting the site shall be released at intervals of not less than 1 per minute and within 6 months of the commencement of development a CCTV system shall be installed and in operation to monitor HGVs exiting the site. Recordings shall be held for six months and made available to the County Planning Authority upon request within two working days.

During the first six months of operation or in the event that the CCTV cameras are not operating (such as during any maintenance period or as a result of unforeseen circumstances), the site operator will manually log HGVs released from the site and/or produce weighbridge tickets to ensure and demonstrate that HGVs are released at intervals of no less than 1 per minute. These records shall be held for six months and

made available to the County Planning Authority upon request within two working days.

Reason: To reduce the likelihood of vehicles queuing at the Whitefield Lane/A19 junction in the interests of highway safety and amenity.

18. No more than 1,000,000 tonnes of pulverised fuel ash may be extracted and exported from the site for sale in any calendar year.

Reason: To protect the amenity of the area, the environment and local residents.

19. Within 12 months of the commencement of the development hereby approved a written Sustainable Mineral Transport Plan, which must include a trigger point for a review of alternative transport options *for each contract agreed exceeds 100,000 tonnes per year of PFA exports* and also a proposed regular review regime of the sustainability of alternative transport options throughout the duration of the development relating to the use of sustainable modes of transport for mineral exportation, shall be submitted to the County Planning Authority for approval in writing. Thereafter it shall be implemented in accordance with the details of the approved scheme.

Thereafter the approved plan must be implemented as approved whilst pulverised fuel ash is being exported from the site.

Reason: To protect the amenity of the area, the environment and local residents.

20. Within 3 months of the commencement of the development hereby approved a final travel plan shall be submitted to the County Planning Authority for approval in writing. Thereafter it shall be implemented in accordance with the details of the approved scheme.

Reason: To protect the amenity of the area, the environment and local residents.

WORKS ON WHITEFIELD LANE

21. Prior to the commencement of the construction works on the realignment of Whitefield Lane, an assessment of the noise and vibration from the works together with details of any mitigation measures to be employed, shall be submitted to and agreed in writing with the County Planning Authority. Thereafter the works shall be implemented in accordance with the approved details.

Reason: To protect the amenity of the area, the environment and local residents from noise pollution and vibration.

WATER

22. No drainage systems for the infiltration of surface water to the ground are permitted other than with the approval in writing of the County Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

23. Prior to the start of construction works relating to each of the following parts of the development hereby permitted:
- the new site access arrangement (including any new buildings and structures associated with it);
 - loading pad extension;
 - internal access road upgrade;
 - office extension;

- localised Cobcroft/ Whitefield Lane improvements;
- the re-alignment of Whitefield Lane; or
- any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)).

a remediation strategy to deal with the risks associated with contamination of the relevant part of the site in respect of the development hereby permitted, shall be submitted to, and approved in writing by, the County Planning Authority. This strategy shall include the following components:

1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways
 - and receptors; and
 - potentially unacceptable risks arising from contamination at
 - the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those offsite.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

24. Prior to the new site access arrangement (including any new buildings and structures associated with it), loading pad extension, internal access road upgrade, office extension, localised Cobcroft/ Whitefield Lane improvements, the re-alignment of Whitefield Lane or any other relevant parts of the development hereby permitted being brought into use following their construction (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)), a verification report for each part of the development demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the County Planning Authority. The report shall outline the monitoring to be undertaken to demonstrate that the site remediation criteria have been met.

Reason: To prevent deterioration of a water quality element to a lower status class in this groundwater body.

25. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the County Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site and to prevent deterioration of a water quality element to a lower status class in this groundwater body.

26. No construction works or earthworks on the site shall commence until measures to protect the public water supply infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been first submitted to and approved by the County Planning Authority. The details shall include the finished ground levels over and within 6 metres either side of the centre line of the live water mains and the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.

Reason:

In the interest of public health and maintaining the public water supply.

27. Prior to beginning construction of each of the new site access arrangement (including any new buildings and structures associated with it), loading pad extension, internal access road upgrade, Whitefield Lane re-alignment works, localised Cobcroft/Whitefield Lane improvements, office extension or any other relevant construction works (as detailed in the Planning Statement (Table 5.1) and ES Volume I, Chapter 4 (Table 4.1 and paragraph 4.6.4)) a detailed drainage scheme for the relevant part of the site must be submitted to and approved in writing by the County Planning Authority. The approved drainage scheme must be implemented during the relevant works and thereafter complied with.

Reason: *To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants and to prevent deterioration of a water quality element to a lower status class in the groundwater body.*

ECOLOGY

28. The development hereby approved shall be carried out in accordance with the ecological mitigation measures detailed within ES Volume I, Chapter 7 'Ecology and Nature Conservation' and associated Appendices in ES Volume II.

Reason: *To ensure the protection of the ecology of the site.*

LANDSCAPING

29. Within six months of the commencement of this planning permission a detailed landscaping scheme for the site must be submitted for approval by the Mineral Planning Authority. The scheme shall include details of:

- the location of any existing and proposed screen bunds;
- details of the maintenance of temporary screen bunds;
- the location of all existing trees, shrubs and hedgerows to be retained and proposals for their protection and maintenance, including a commitment to any replacements required throughout the period of pulverised ash extraction;
- details of areas to be seeded and grassed; and
- a programme of phased implementation and maintenance.

Thereafter, the development shall be implemented in strict accordance with the approved details.

No existing trees or hedgerows on the Gale Common Ash Disposal Site shall be removed prior to the landscaping scheme above having been approved by the County Planning Authority.

Reason: *To ensure effective landscaping and restoration of the site.*

SOILS

30. All topsoil and subsoil shall be reserved for use in restoration and shall be stored separately from each other in accordance with the Outline Soil Management Plan (ES Volume II Appendix 11B) and the Indicative Landscape and Biodiversity Restoration Strategy (ES Volume II Appendix 6B). Any storage mounds shall be seeded with a

grass mix, the specification for which shall first be approved in writing by the County Planning Authority, and such seeding shall be carried out as soon as practicable and no later than the first growing season after creation of the storage mound.

Reason: *To ensure effective landscaping and restoration of the site.*

RESTORATION

31. In conditions 32-37 references to –

- (a) a “Stage” means such part of the site as shown on Figure 3.3 Areas of the Site Plan in Volume III of the Environmental Statement (drawing reference number 60589011-001) dated 16/05/2019; and
- (b) an “Interim Restoration Area” mean that part of the site labelled as such on the Indicative Landscape and Biodiversity Restoration Plan (drawing number 60589011-SRP-001 Rev 1) dated 02/09/2019, or such other plan as may be approved in writing by the County Planning Authority

Reason: *To ensure the progressive effective landscaping and restoration of the site.*

32. Prior to the completion of extraction in Stage III an Interim Restoration Plan setting out the restoration works for the First Interim Restoration Area including –

- (a) details of proposals for the existing buildings within the First Interim Restoration Area; and
- (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy, shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented as approved.

Reason: *To ensure the progressive effective landscaping and restoration of the site.*

33. Prior to any Extraction in Stage II below 34 metres Above Ordnance Datum an Interim Restoration Plan setting out the restoration works for the Second Interim Restoration Area including –

- (a) details of proposals for the existing buildings within the Second Interim Restoration Area; and
- (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy, shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented as approved.

Reason: *To ensure the progressive effective landscaping and restoration of the site.*

34. Prior to the completion of extraction in Stage II an Interim Restoration Plan setting out the restoration works for the Third Interim Restoration Area including –

- (a) details of proposals for the existing buildings within the Third Interim Restoration Area; and
- (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy, shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented as approved.

Reason: *To ensure the progressive effective landscaping and restoration of the site.*

35. Prior to the completion of extraction in Lagoons C and D an interim restoration plan setting out the restoration works for the Final Interim Restoration Area –

- (a) details of proposals for the existing buildings within the Final Interim Restoration Area; and
- (b) a programme for implementation including subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy, shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented as approved.

Reason: *To ensure the progressive effective landscaping and restoration of the site.*

36. The date on which extraction at the site permanently ceases shall be notified to the County Planning Authority within one month of cessation.

Reason: *To ensure the progressive effective landscaping and restoration of the site.*

37. Within twelve months of the date on which extraction at the site permanently ceases a final restoration plan setting out the restoration works for all areas of the site including –

- (a) details of proposals for the existing buildings; and
- (b) a programme for implementation including public access, subsequent ongoing maintenance and which is in accordance with the indicative programme of restoration for the site which was submitted with the application and the Gale Common Country Park: Restoration and Aftercare Strategy (except where extraction has ceased earlier than anticipated in those documents), shall be submitted to the County Planning Authority for approval in writing. Thereafter the approved scheme shall be implemented as approved.

Reason: *To ensure the progressive effective landscaping and restoration of the site.*

Informatives

National Grid - Technical Guidance Note 287 - Third-party guidance for working near National Grid Electricity Transmission equipment

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

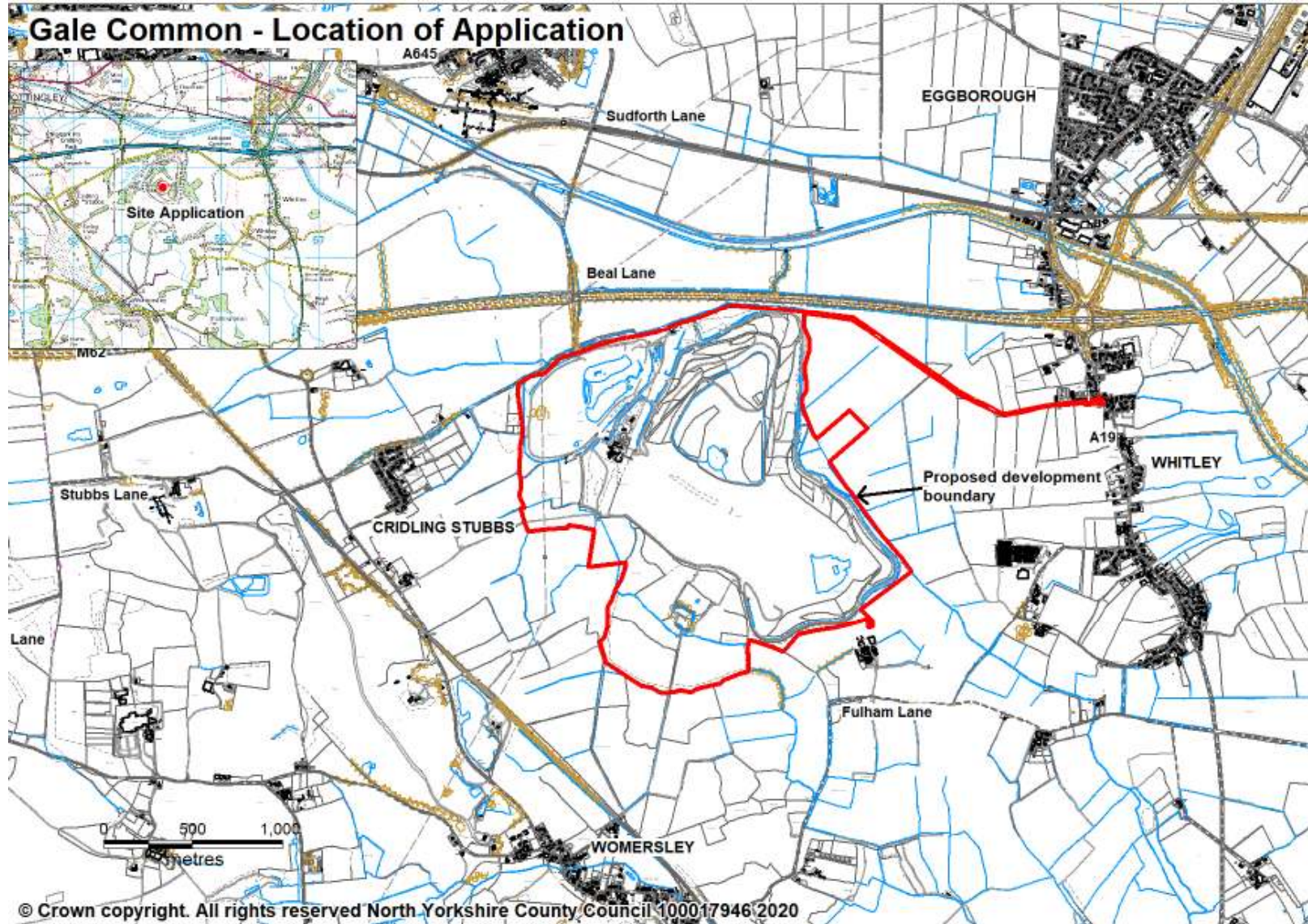
Background Documents to this Report:

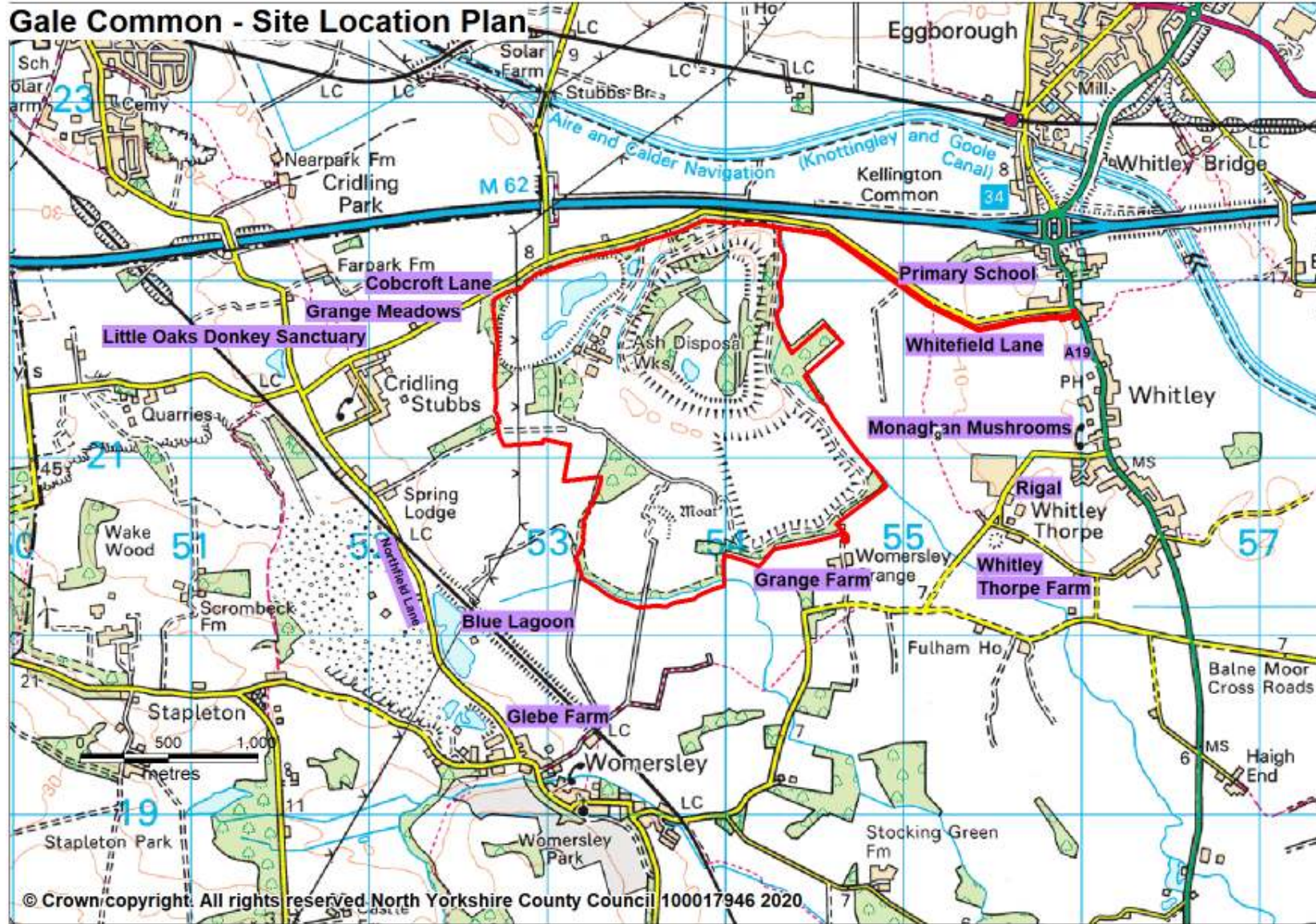
commrep/98

1. Planning Application Ref Number: C8/2019/0732/CPO (NY/2019/0091/ENV) registered as valid on 24 June 2019. Application documents can be found on the County Council's Online Planning Register by using the following web link:
<https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.

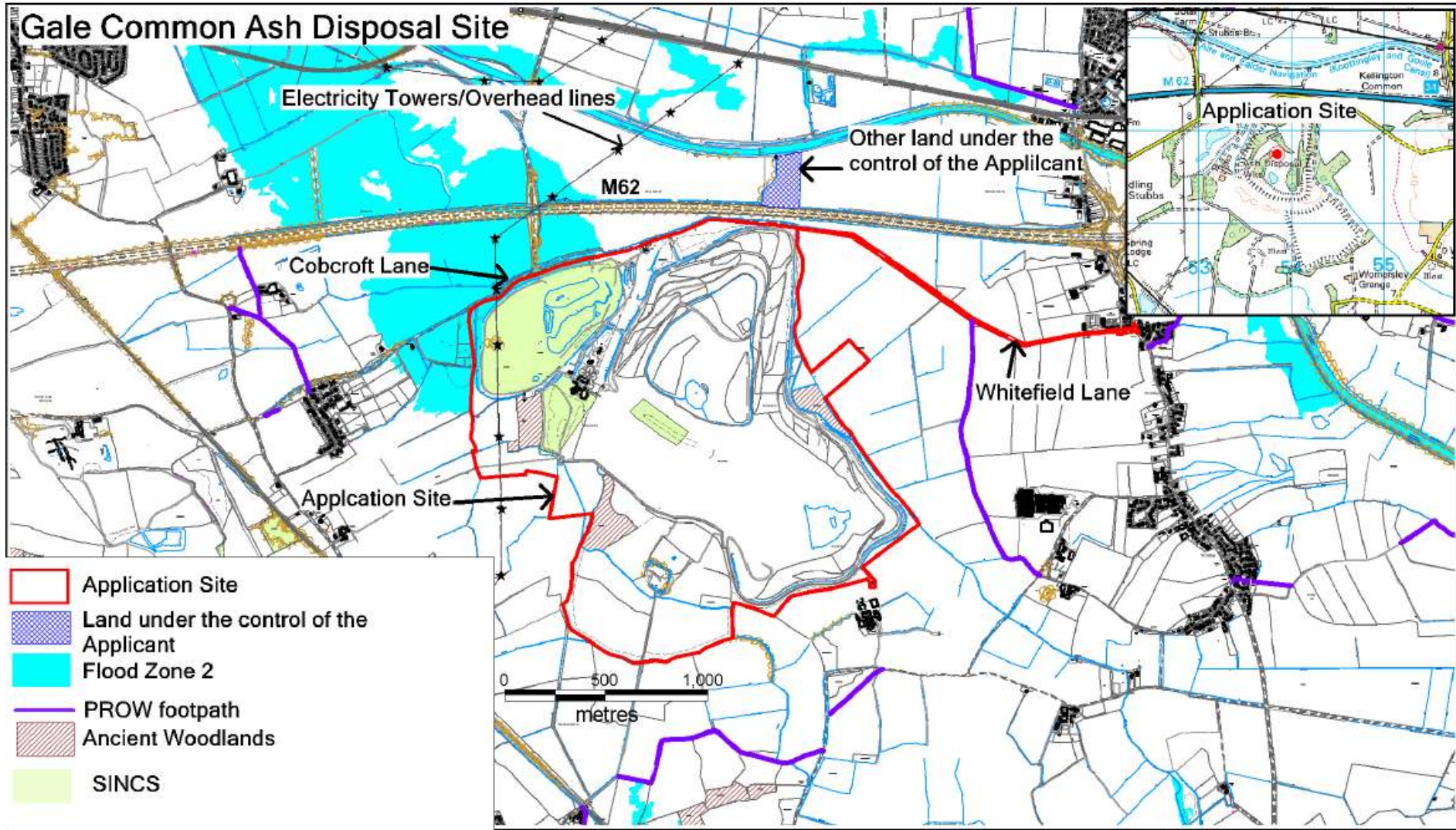
Author of report: Rachel Pillar

Appendix A

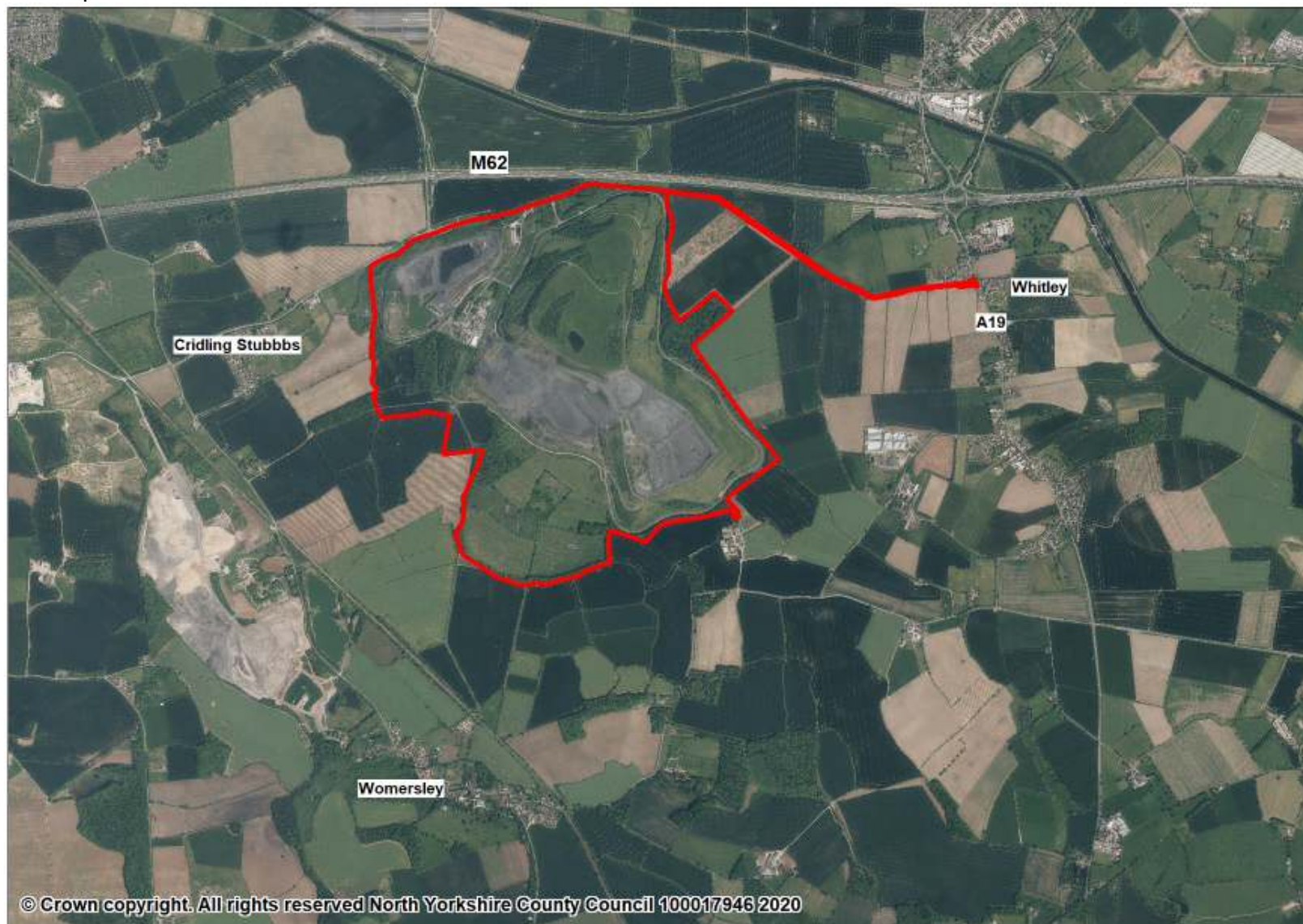




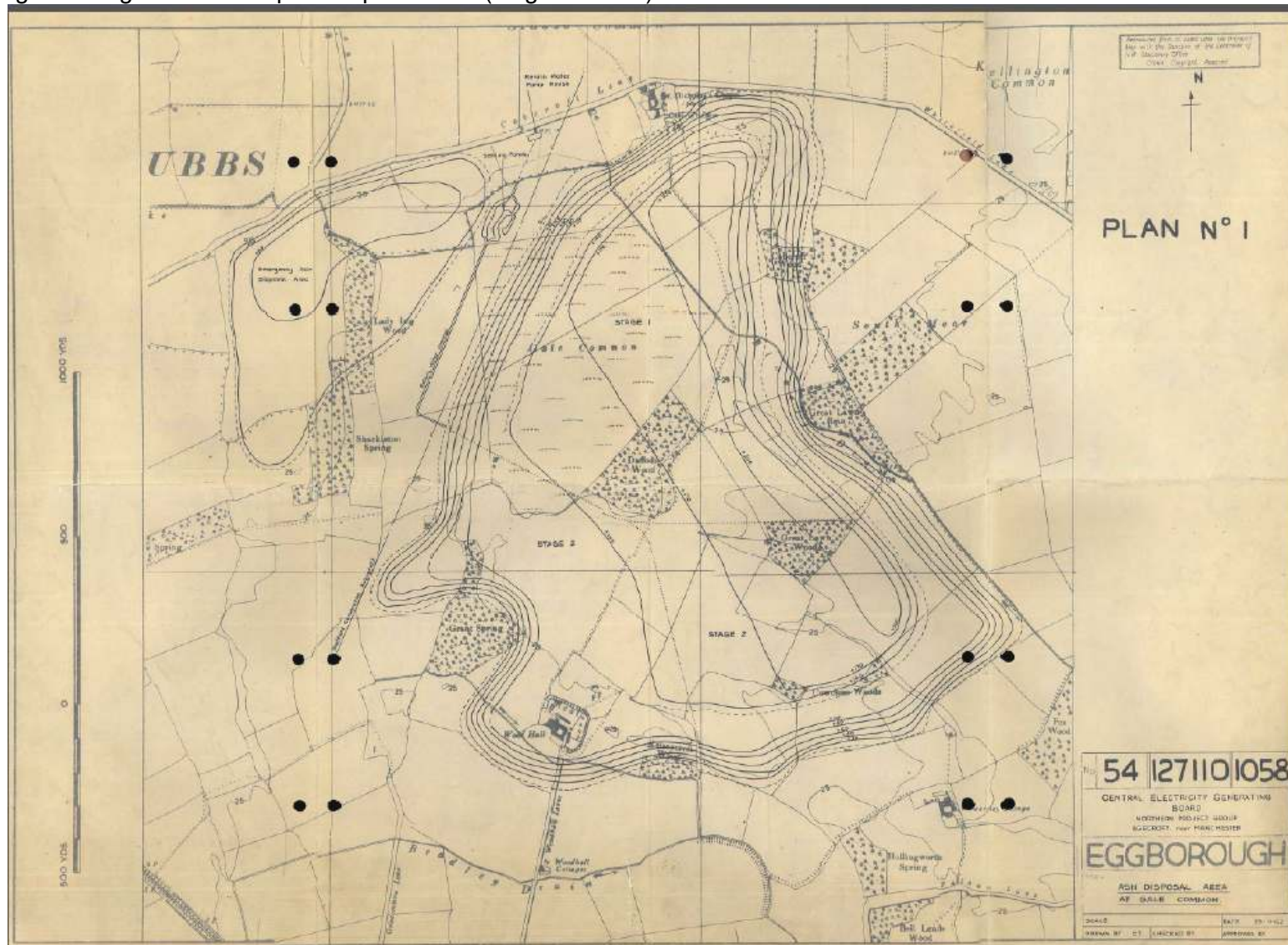
Appendix C - Constraints in the vicinity of the site



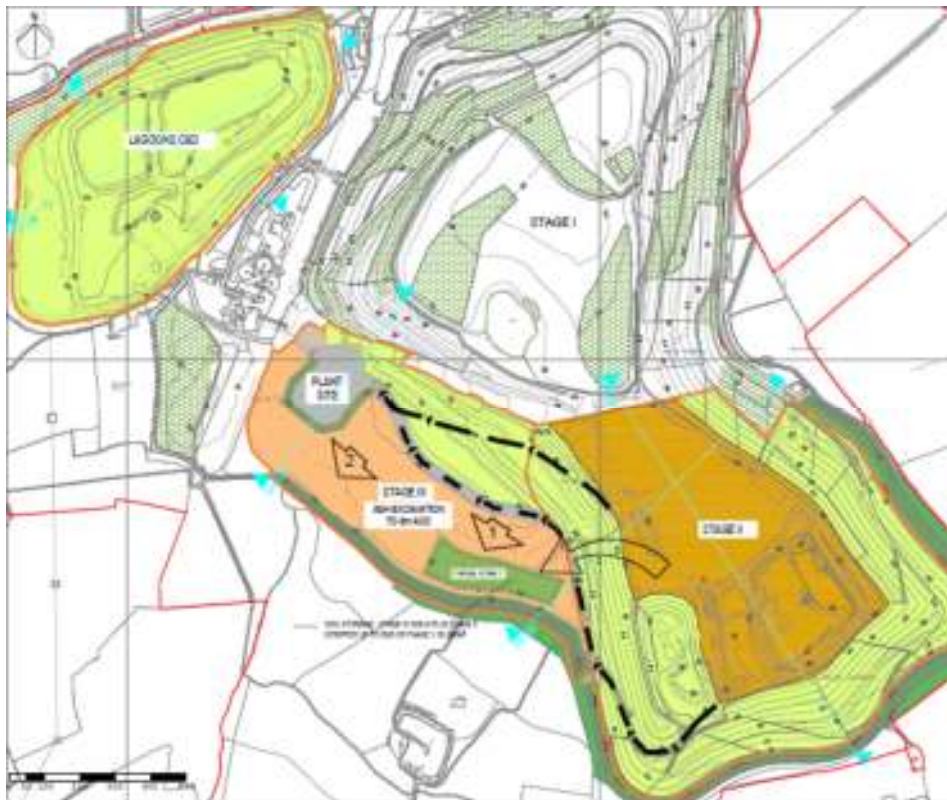
Appendix D - Aerial photo



Appendix F - Original design for the completed tip contours (heights in feet)



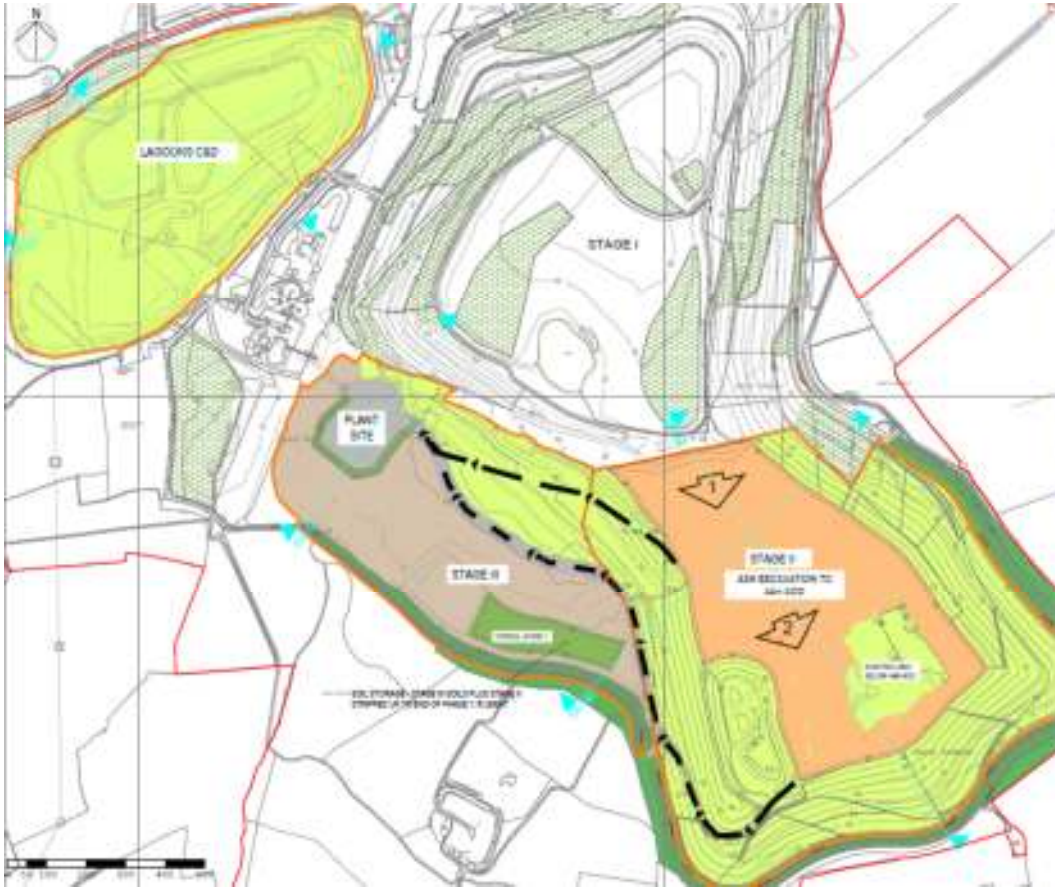
Appendix I – The 7 Phasing Plans



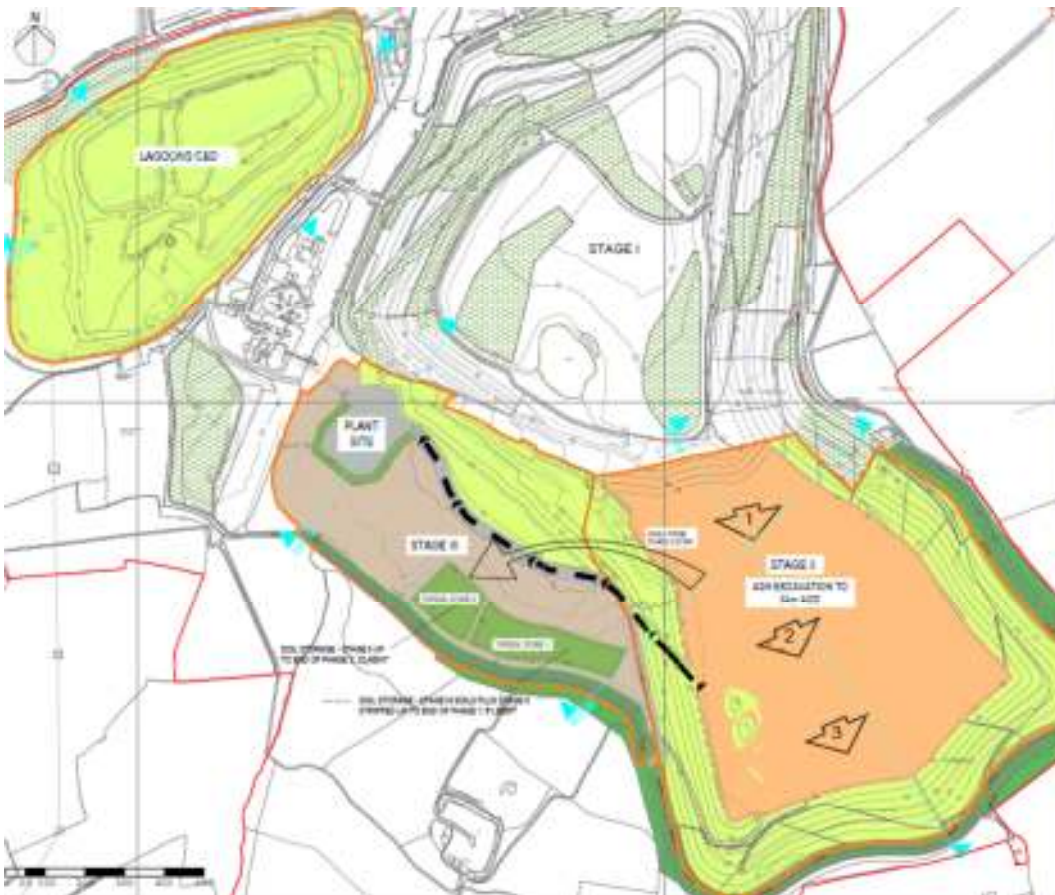
PHASE 1

KEY

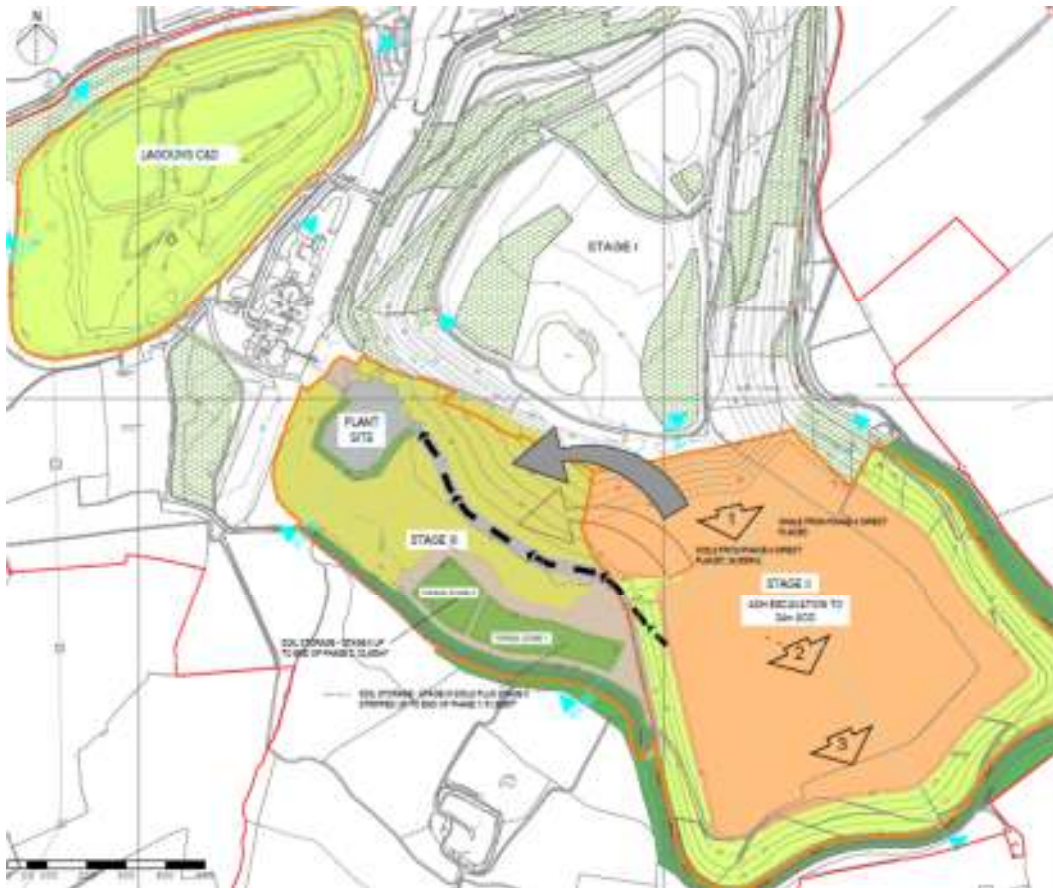
	Planning Application
	Site Boundary
	Existing woodland to be retained
	Stage Boundary
	Contours at 5m intervals
	Ash Extraction Area
	Soil Storage Mound
	Ash extraction complete
	Soil movement
	Shale movement
	Haul route
	As existing/ Non-operational land
	Direction of working & sequence
	Soil stripping area
	Perimeter area retained
	Section Location



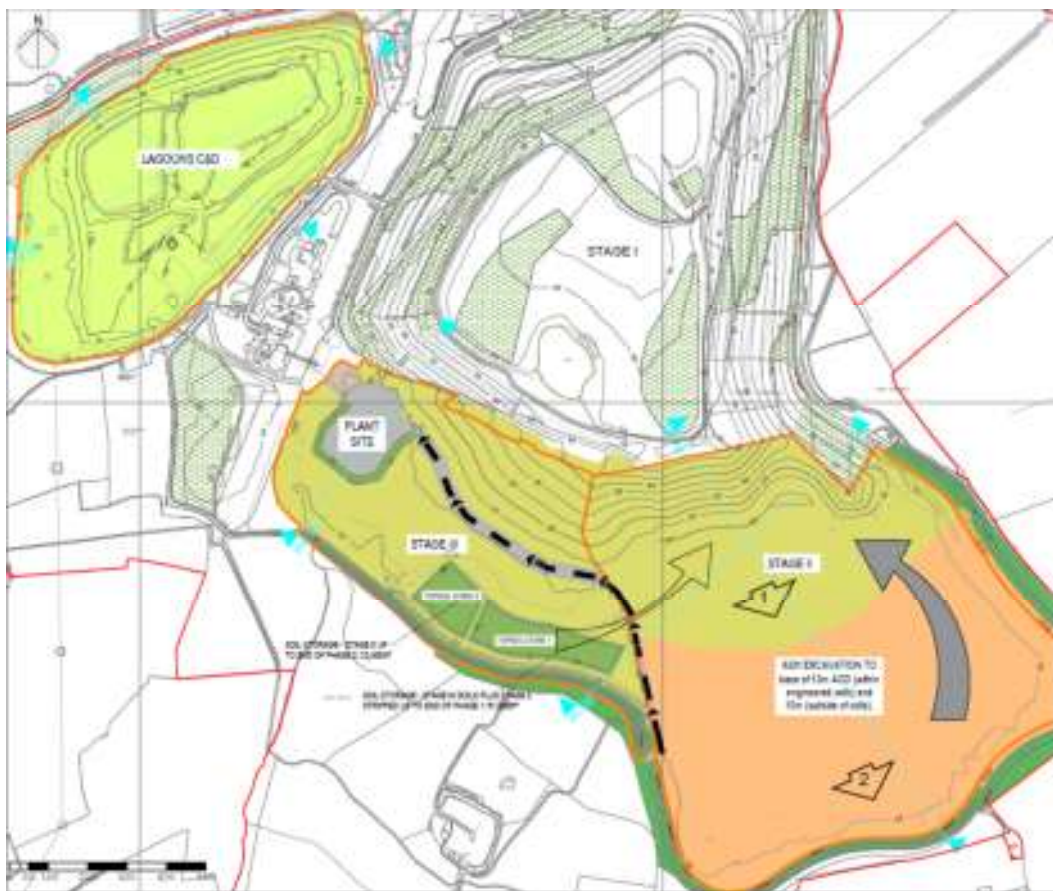
PHASE 2



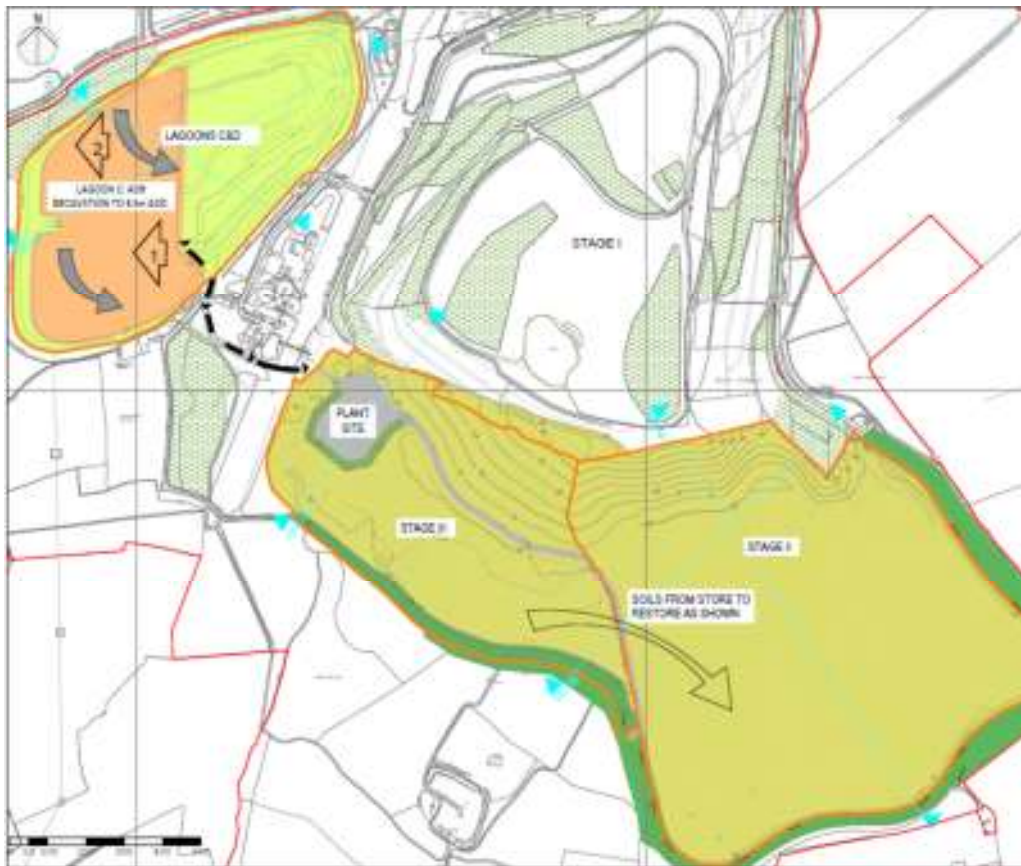
PHASE 3



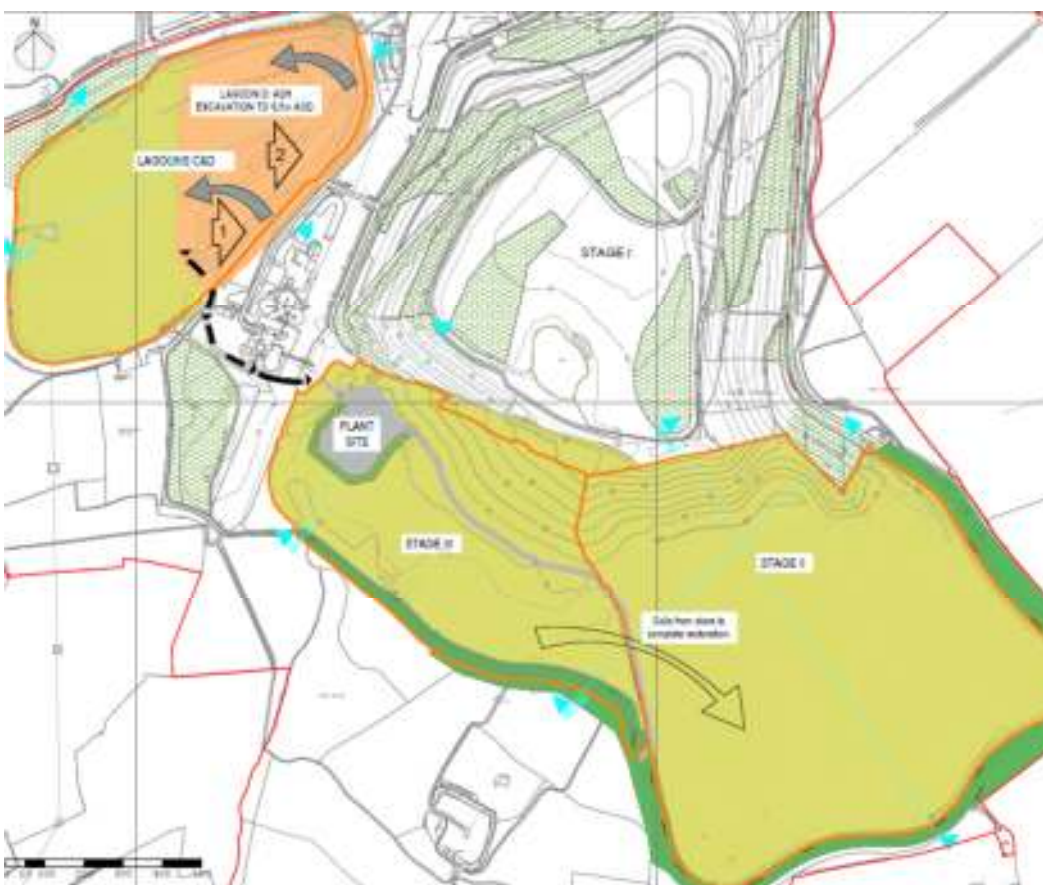
PHASE 4



PHASE 5

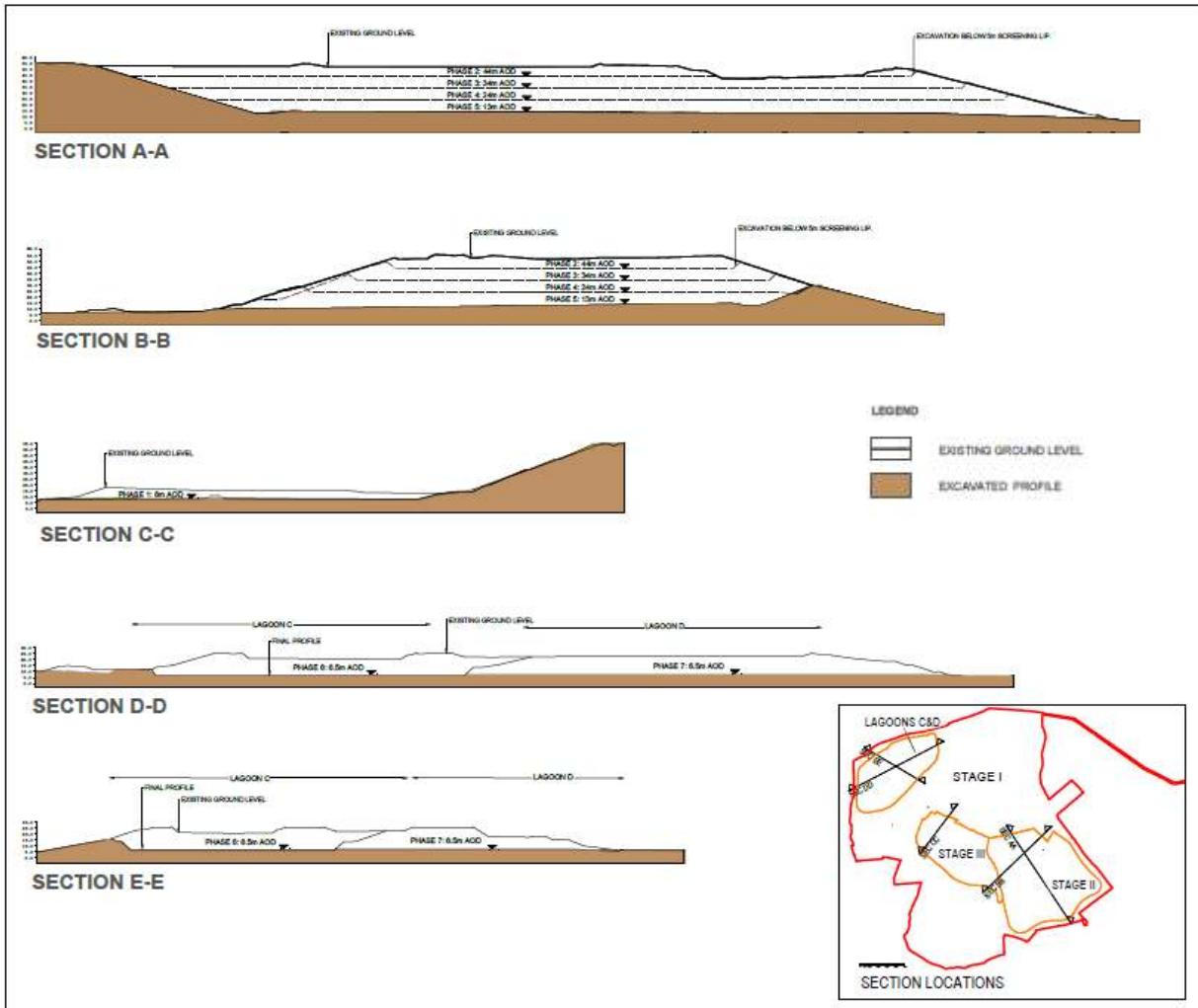


PHASE 6

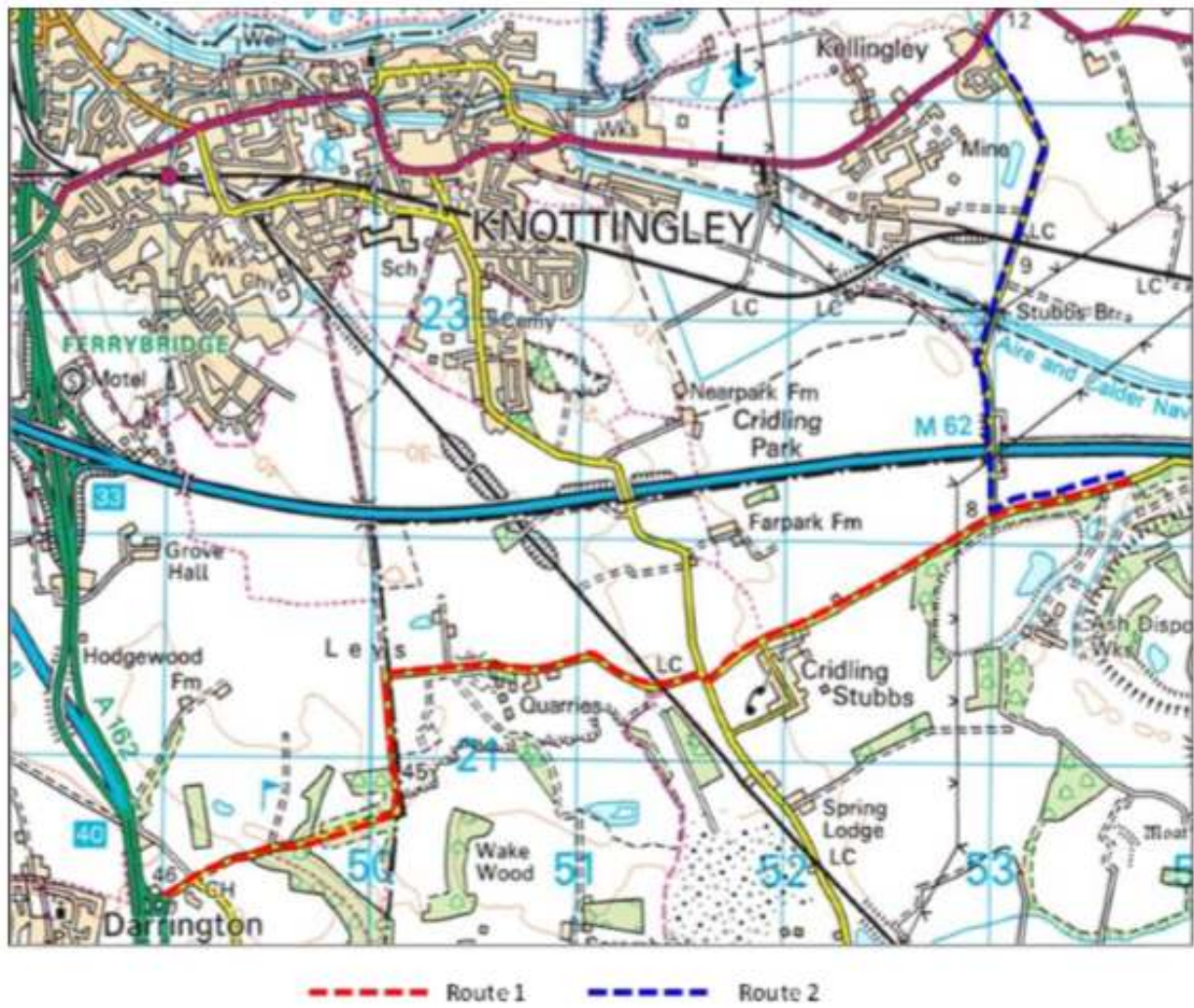


PHASE 7

Appendix J – Sections through the Proposed Development



Appendix K – Alternative HGV routing options



Appendix L – Indicative Landscape and Biodiversity Restoration Plan

