



Agenda

Meeting: Planning and Regulatory Functions Committee

Venue: Remote meeting via Microsoft Teams

Date: Tuesday, 17th November 2020 at 10am

Pursuant to The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held using video conferencing with a live broadcast to the Council's YouTube site. Further information on this is available on the committee pages on the Council website - <https://democracy.northyorks.gov.uk/>

The meeting will be available to view once the meeting commences, via the following link - www.northyorks.gov.uk/livemeetings Recording of previous live broadcast meetings are also available there.

Business

1. Welcome and Introductions
2. Minutes of the Meeting held on 24 September 2020. (Pages 5 to 8)
3. Declarations of Interest.

4. Public Questions or Statements.

Members of the public may ask questions or make statements at this meeting if they have given notice of their question/statement to Stephen Loach of Democratic Services (*contact details below*) by midday on Thursday 12 November 2020. Those that have previously registered to speak in respect of item 5 on this agenda will automatically be re-registered and, therefore, do not need to give further notice. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

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

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

5. **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**

(Pages 9 to 138)

6. **C/20/00344/CPO – Single storey extension of Sports Centre to form a Fitness Suite (382 sq. metres), Tarmac perimeter path and additional 22 car parking spaces (599 sq. metres) on land at Malton Community Sports Centre, Broughton Road, Malton, YO17 7BP**

(Pages 139 to 173)

7. **Variation of condition No. 1 of Planning Permission Ref. C2/10/00926/CCC for the permanent use of the land and buildings as a waste transfer station on land at Carr Lane, Sutton on the Forest, YO61 1EB**

(Pages 174 to 202)

General

8. **Items dealt with under scheme of delegation** **(Pages 203 to 205)**
9. **Publication by Local Authorities of information about the handling of planning applications** **(Pages 206 to 221)**
10. **Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances.**

Formal remote meetings of the Committee are scheduled to take place at 10am on Tuesday 15th December 2020 and at 10am on Tuesday 19th January 2021 – papers for these meetings will be published in due course and Members will be advised accordingly.

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

November 2020

For all enquiries relating to this agenda or to register to speak at the meeting, please contact Stephen Loach, Democratic Services Officer on Tel: 01609 532216 or by e-mail at:
stephen.loach@northyorks.gov.uk

Planning and Regulatory Functions Committee

1. Membership

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

2. Substitute Members

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

North Yorkshire County Council

Planning and Regulatory Functions Committee

Minutes of the meeting held remotely via Skype on 24 September 2020 at 2.00 pm.

Present:-

County Councillors Peter Sowray (Chairman), David Blades, Eric Broadbent, Caroline Goodrick, Robert Heseltine, David Hugill, Mike Jordan, Cliff Lunn (as substitute for Chris Pearson), John McCartney, Zoe Metcalfe and Clive Pearson.

Apologies were submitted by County Councillor Chris Pearson.

The meeting was available to watch live via the County Council's website

Copies of all documents considered are in the Minute Book

150 Welcome and Introductions

The Chairman welcomed everyone to the meeting and those present introduced themselves.

151. Minutes of the meeting held on 8 September 2020

Resolved -

That the Minutes of the meeting held on 30 July 2020, having been printed and circulated, be taken as read and confirmed, to be signed by the Chairman as a correct record at the next available opportunity.

152. Declarations of Interest

There were no declarations of interest.

153. Public Questions or Statements

The representative of the Assistant Chief Executive (Legal and Democratic Services) stated that, other than those that had indicated that they wished to speak in relation to the application below, there were no questions or statements from members of the public.

154. C1/19/00469/CM - Planning application for the 2.7 ha extension to Gatherley Moor Quarry for the extraction of 50,000 tonnes of block sandstone over a period of 20 years on land at Gatherley Moor Quarry, Moor Road, Gilling West

Considered -

The report of the Corporate Director - Business and Environmental Services requesting Members to determine a planning application for the 2.7 ha extension to Gatherley Moor

Quarry for the extraction of 50,000 tonnes of block sandstone over a period of 20 years on land at Gatherley Moor Quarry, Moor Road, Gilling West

The application was subject to an objection having been raised in respect of this proposal on the grounds of residential amenity in terms of noise and dust and is, therefore, reported to this Committee for determination.

A representative of the Head of Planning services introduced the report.

Mr Barry Pittaway, had submitted a written statement, that was read out to the Committee by the Clerk, and is detailed below:-

“Myself at Harelands have created 22 offices of which 22 are occupied with 90% of them being local people with local jobs, I have created these from redundant farm buildings to a sustainable, peaceful, almost carbon neutral green rural office development, this is exactly what the planners wanted me to create when I initially put in for planning permission.

The only time I get complaints is when the quarry is working, complaints about noise from scraping buckets across the stone, drilling and blasting which can be felt through the office development, one tenant thought it was an earthquake, with dust covering cars and solar panels from time to time on a southerly wind.

When the 130kw of solar panels are covered in dust from the quarry we lose around 50% of their production, totally defeating the object of trying to create a green working environment.

I see the revised planting scheme which is slightly better but it will only be effective once the trees have grown up in 10 or so years time, at present they are only 30cm high.

The Quarry extension will create no local jobs whatsoever, all the operators come from the other quarry the stone company owns, all it is going to do is make a wealthy stone company even more wealthy and even more wealthy land owner more wealthy, and also destroy 2.7 ha of prime arable land.

If this planning is approved then it will upset my tenants of which 2 companies have already said they would consider leaving Harelands, it is highly likely to make Harelands Courtyard offices un-sustainable when companies decide to leave Harelands because of the noise and disruption from the quarry.

Is that what the council really wants to happen to Harelands? I would have no option but then to apply for change of use to residential if I was to be backed into a corner with empty offices.

Please take a look at www.harelands.co.uk to see what could potentially be made unlettable by giving planning to the quarry extension.

I look forward to hearing from you.”

The representative of the Head of Planning Services presented the Committee report, highlighting the proposal, the site description, the consultations that have taken place, the advertisement and representations, planning guidance and policy and planning considerations. The report also provided a conclusion and recommendations.

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

Members undertook a detailed discussion of the application and the following issues and points were highlighted during that discussion:-

- A member raised concerns regarding the intermittent working at the quarry and how it could be determined that the quarry had not been abandoned, which was contrary to Condition 33. In response it was stated that annual liaison meetings between the applicant and the Planning Authority were required and it would be outlined when work was to take place at these events, ensuring that the quarry was not being abandoned.
- A member asked whether a condition could be introduced that required the applicant to inform local business' and residents when they were to undertake work within the quarry as, due to the intermittent nature of the work, they were not always aware of when this was to happen. It was noted that the use of the extracted stone was required infrequently and would only be removed when a suitable contract was established. Other similar quarry operators had developed a practice of informing neighbouring properties of when they were to undertake work without this having been conditioned. It was suggested that the applicant should be informed of the good practice taking place elsewhere in relation to this matter. It was stated that regular visits to the site by Planning officers, and the conditions outlined within the report could address the issue outlined, however, if Members were so minded, an additional condition in relation to this could be considered.
- Clarification was provided as to the location of nearby properties and the location of the objector's business.
- It was stated that no material could be brought into the site to carry out the restoration plan, with existing materials having to be utilised. Details of the restoration plan were highlighted.
- A Member suggested that there should have been more focus on the issues outlined in the letter of objection read out to the Committee in the presentation, however, in response, it was emphasised that the issues highlighted were addressed in the report, the local Environmental Health Officer had raised no objections and the conditions outlined in the report provided mitigation against those matters.
- Clarification was provided in relation to the planting, provision of walls and repairs to existing boundary planting/walls, to further protect the amenity of neighbouring properties from the work expected to take place from the extended quarry works, as well as those from the existing quarry.
- Members stated that they were minded to agree the application but wished to address the issue of communication between the operator and neighbouring properties, possibly through the addition of a condition. The Committee's legal representative emphasised that any additional condition should initially be discussed with the applicant and their agent, to determine whether this was acceptable, and should also meet the usual six tests to determine whether this was appropriate. The Head of Planning Services stated that there was a potential for an alteration to be made to Condition 10, which would require the applicant to inform nearby residents and business of work that would be taking place seven days in advance of that. She emphasised, however, that an alteration to this would still require consultation with the applicant and would need to pass the six tests. Members suggested, therefore, that further consideration be given to how best to address this matter, with the decision on that being delegated to the Head of Planning Services, following consultation with the Chairman and Vice-Chairman of the Committee.

Resolved -

That the Committee are minded to grant Planning Permission for the reasons stated and subject to the conditions outlined, subject to further consideration being given to the details of Condition 10, as outlined above, with that process being delegated to the Head of Planning Services, following consultation with the Chairman and Vice-Chairman.

The meeting concluded at 2.55pm.

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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 than 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 re-development 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

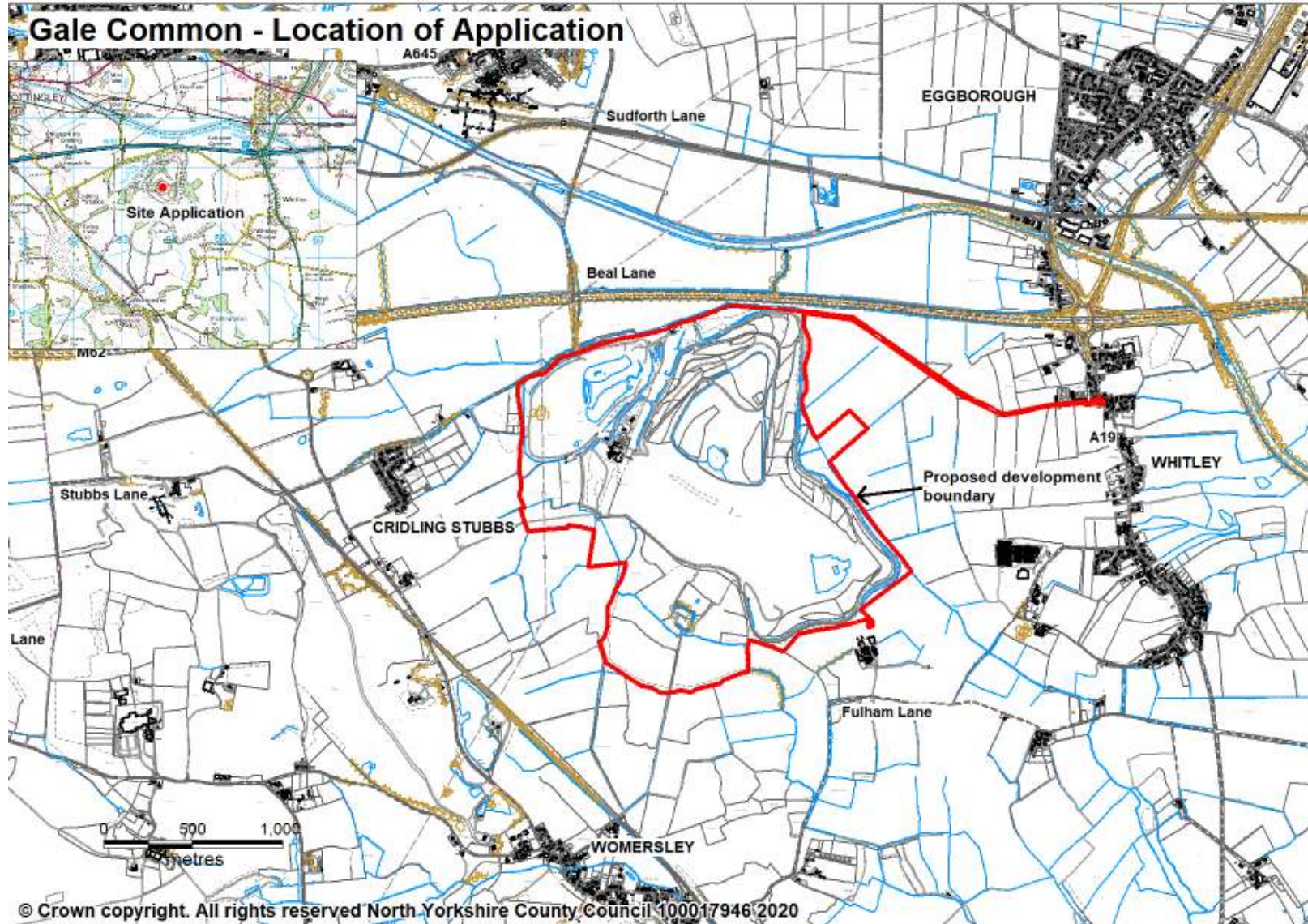
In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals 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.

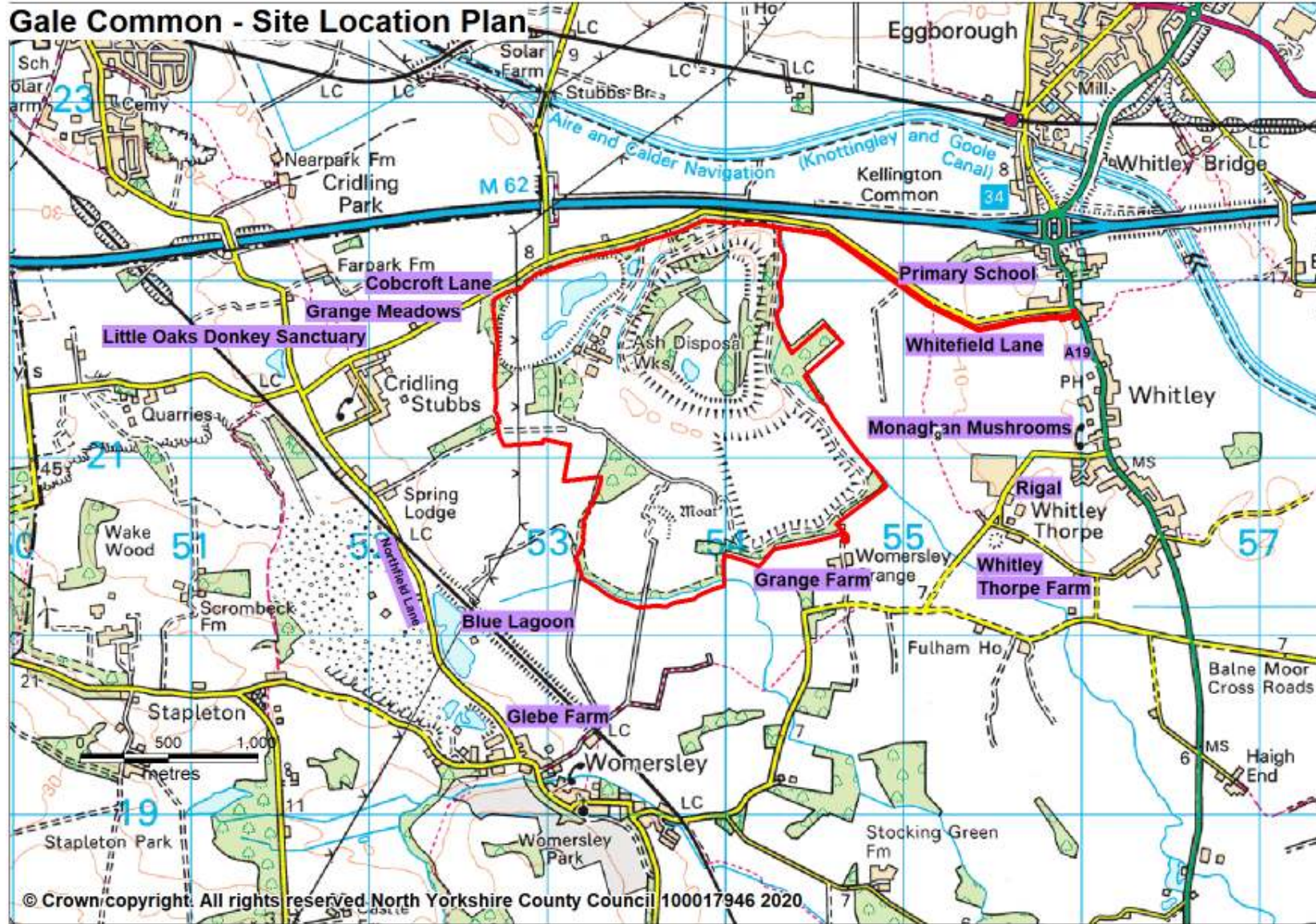
D BOWE
Corporate Director, Business and Environmental Services
Growth, Planning and Trading Standards

Background Documents to this Report:
commrep/98

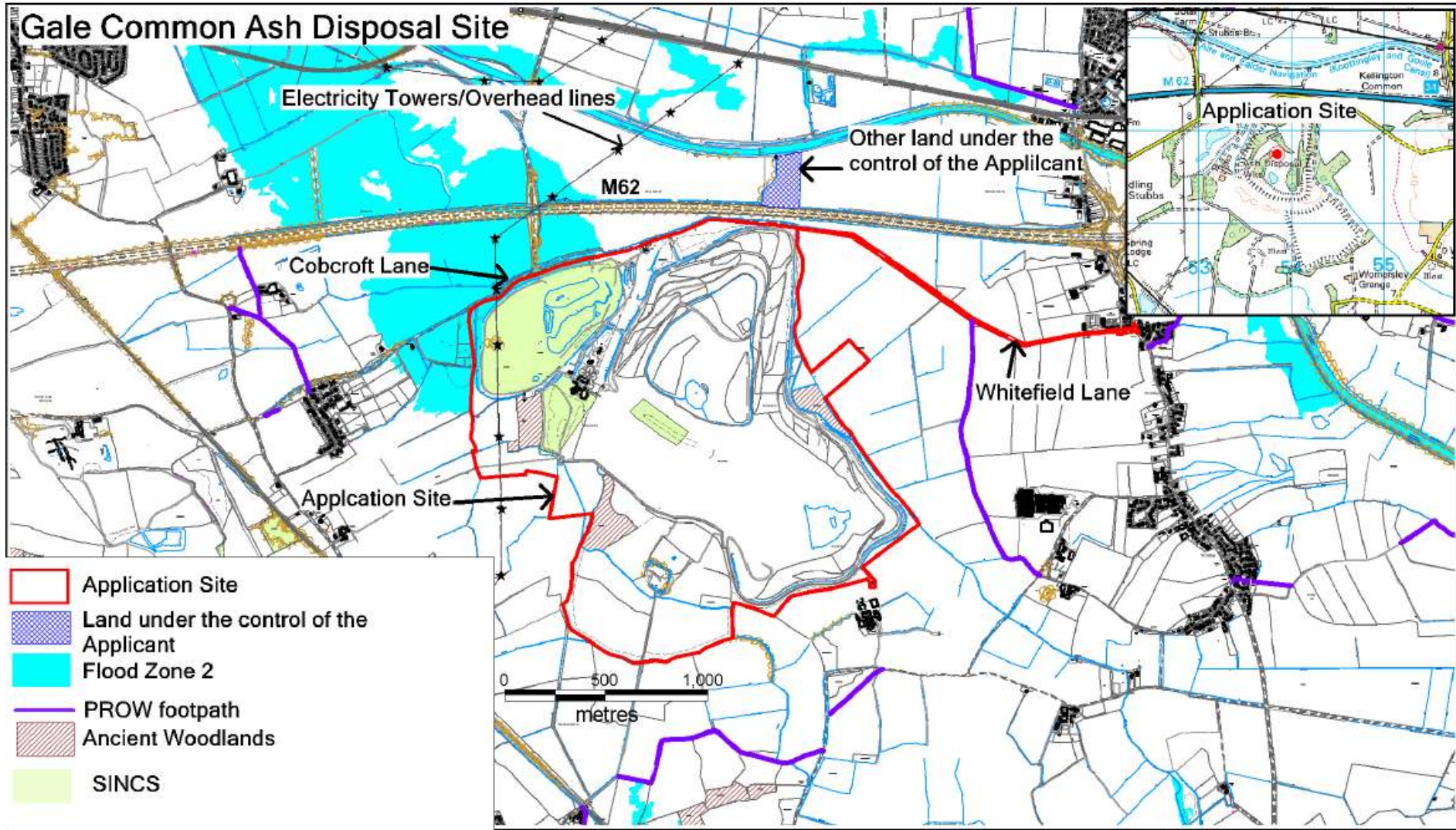
1. Planning Application Ref Number: C8/2019/0732/CPO (NY/2019/0091/ENV) registered as valid on 24 June 2019. Application documents can be found on the County Council's Online Planning Register by using the following web link:
<https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation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

Author of report: Rachel Pillar

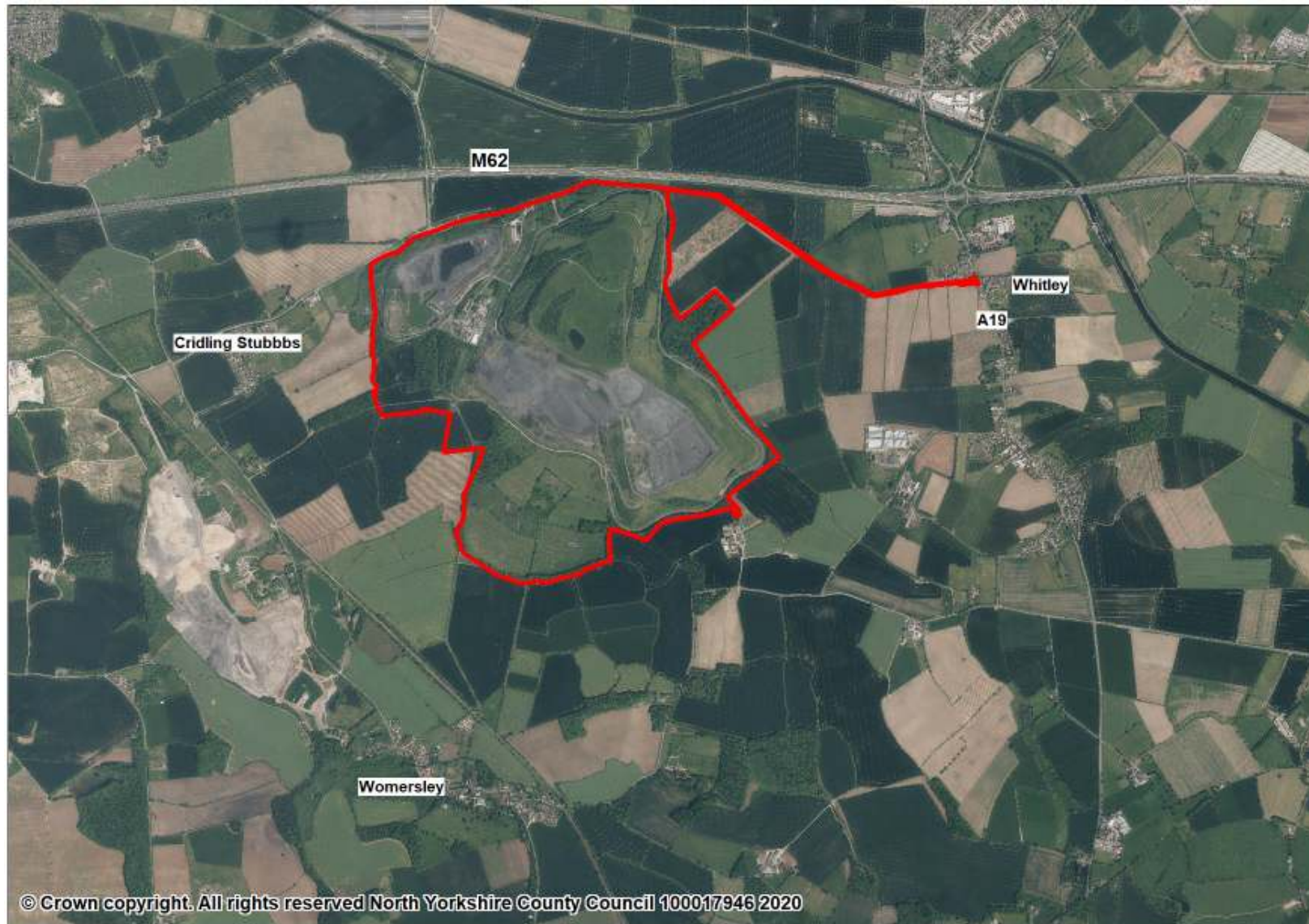




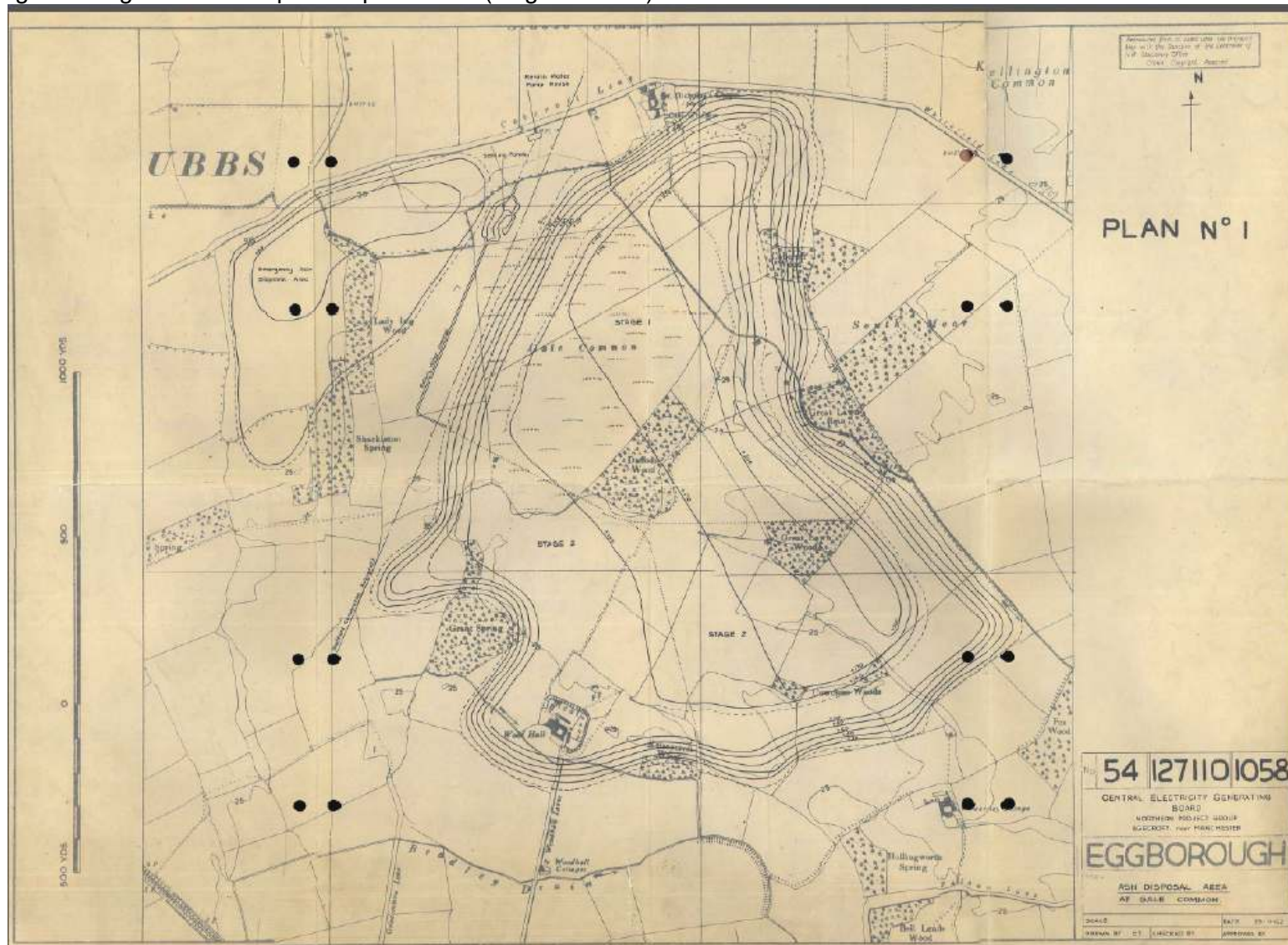
Appendix C - Constraints in the vicinity of the site



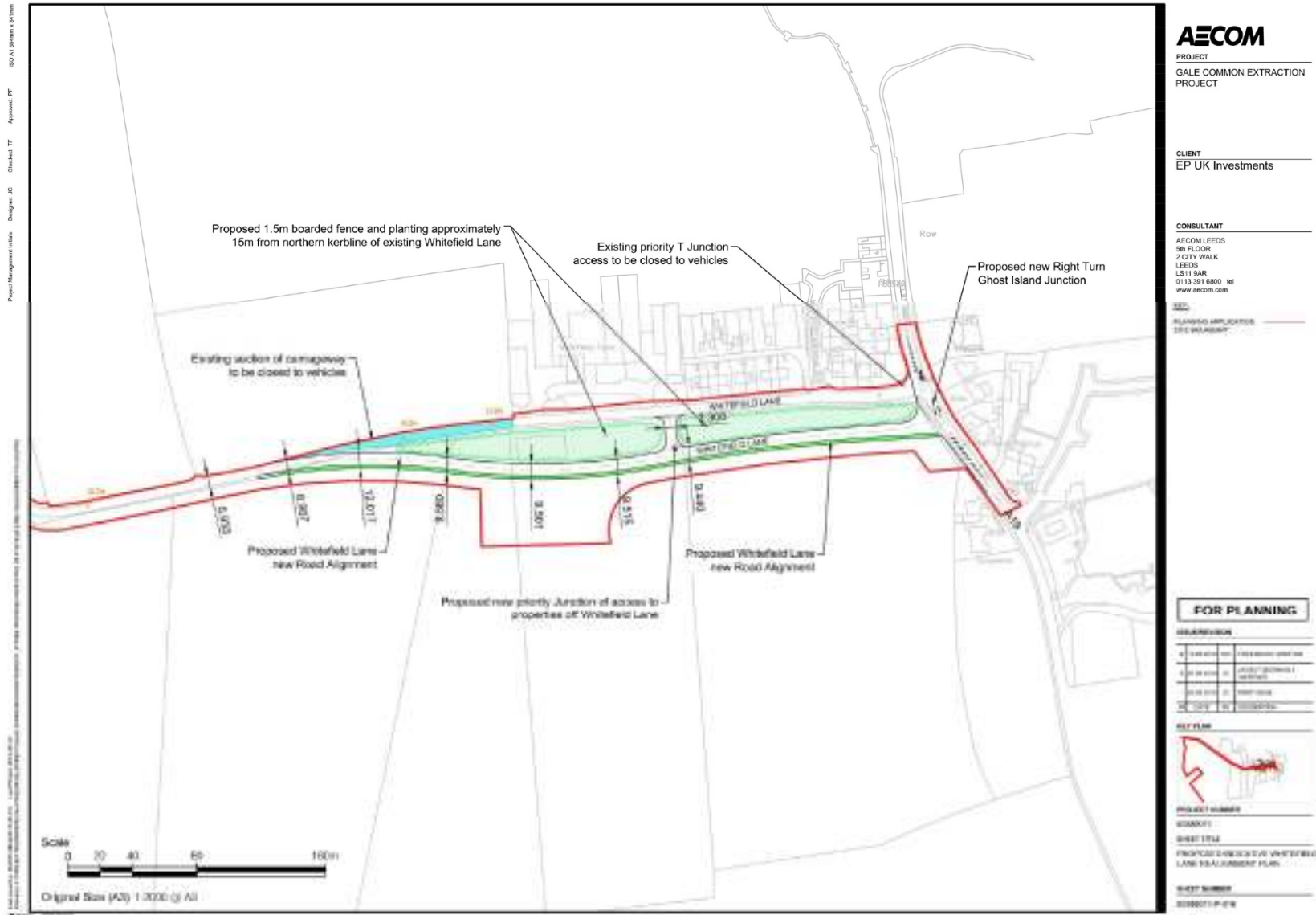
Appendix D - Aerial photo



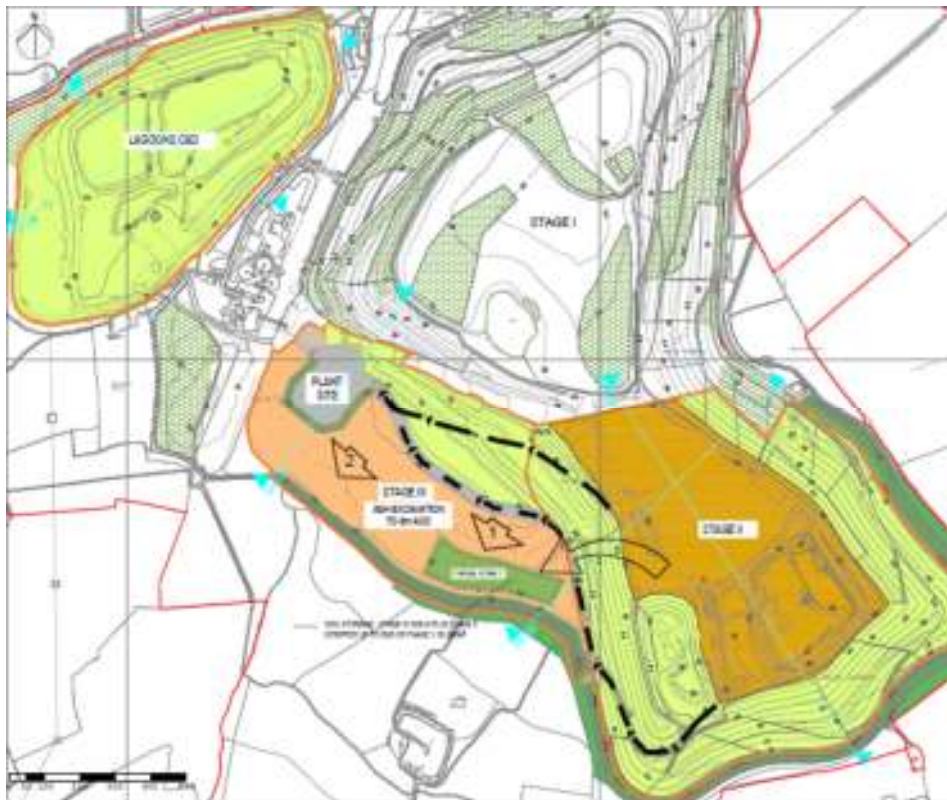
Appendix F - Original design for the completed tip contours (heights in feet)



Appendix H – Indicative Whitefield Lane Junction with A19 Realignment



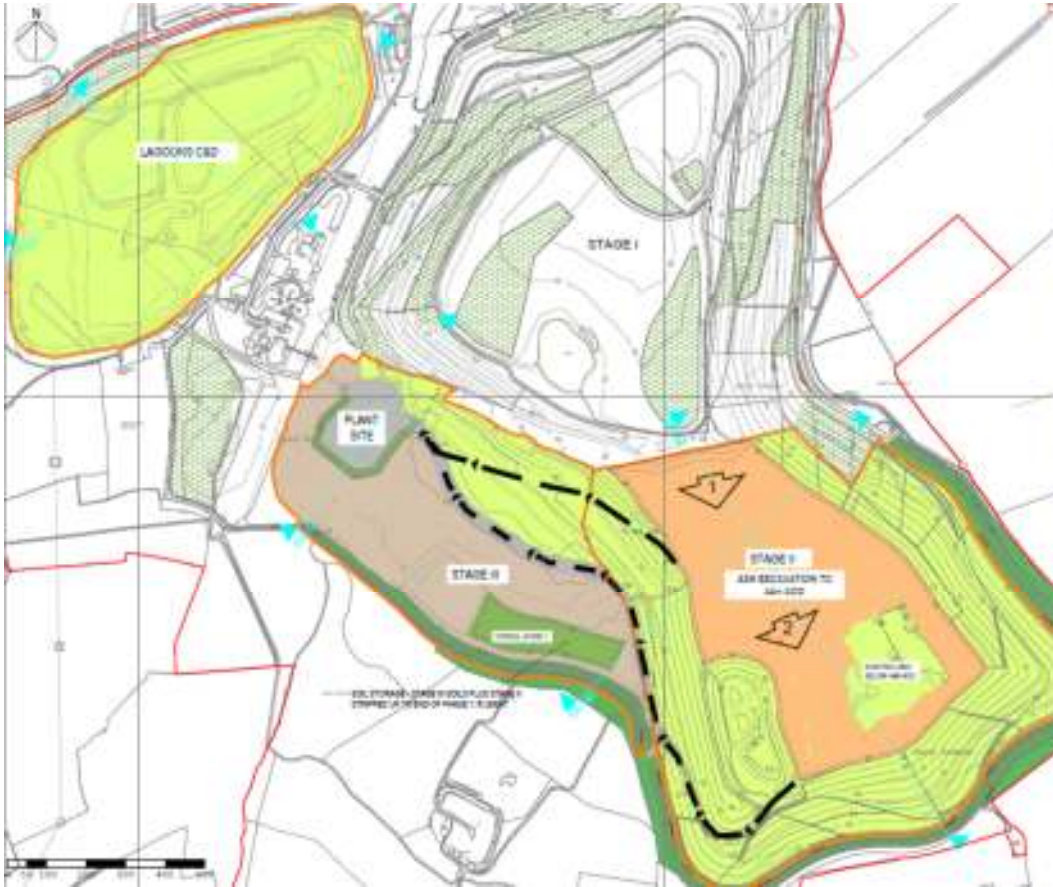
Appendix I – The 7 Phasing Plans



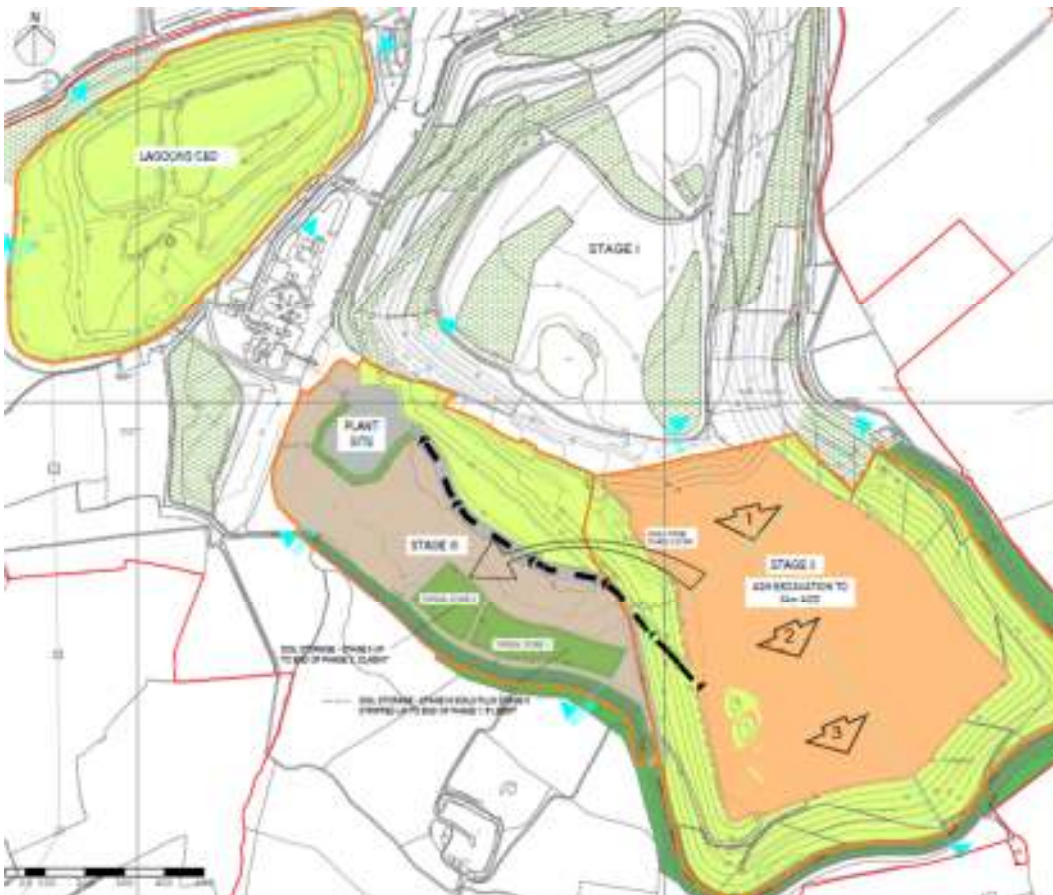
PHASE 1

KEY

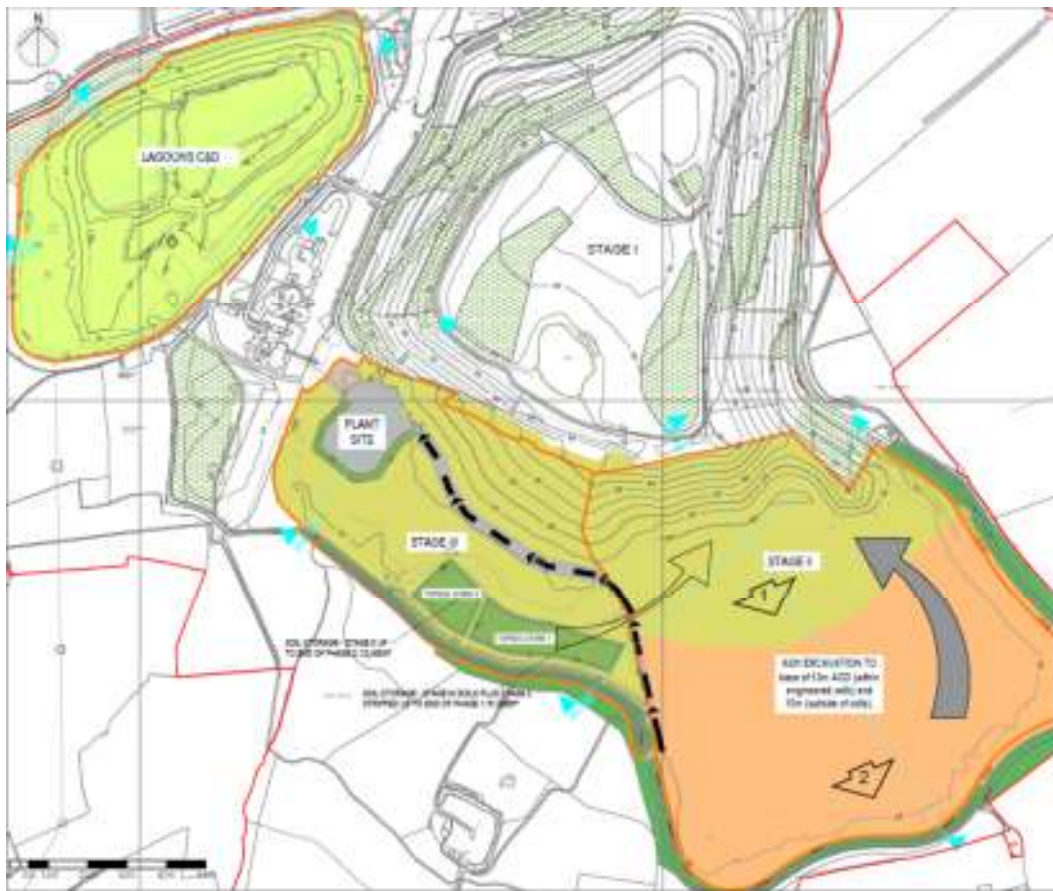
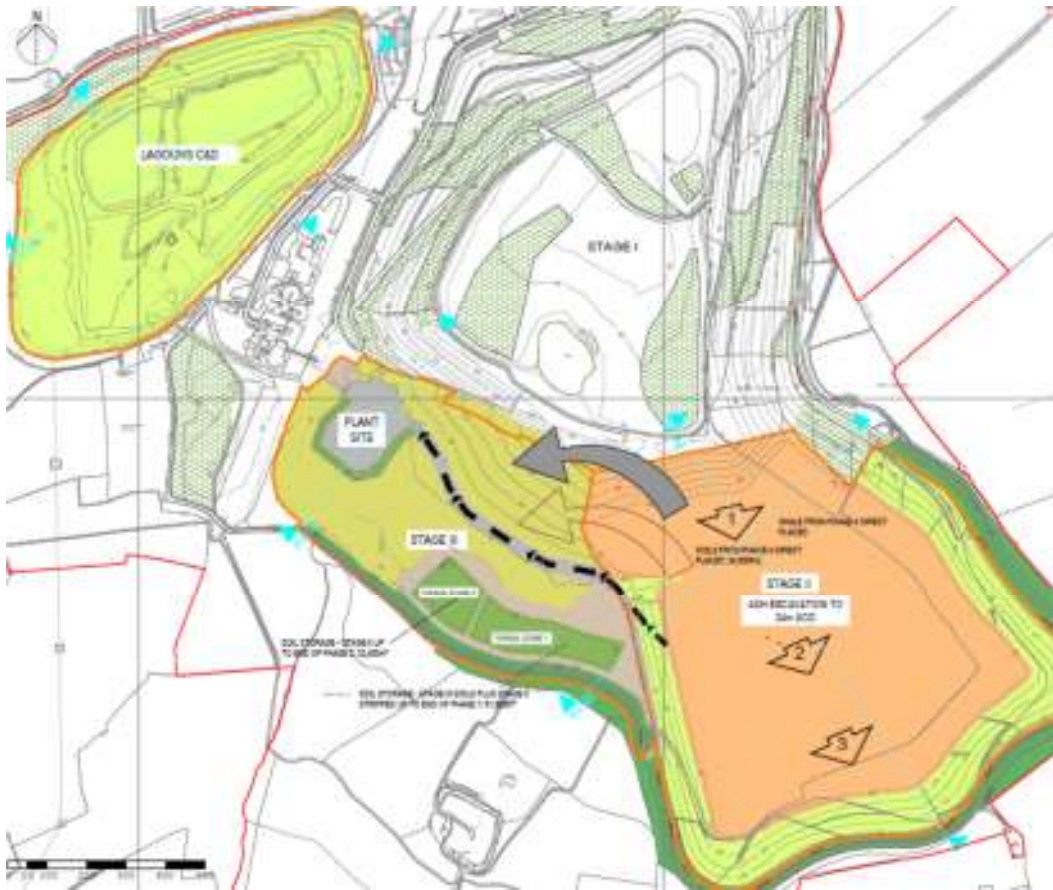
	Planning Application
	Site Boundary
	Existing woodland to be retained
	Stage Boundary
	Contours at 5m intervals
	Ash Extraction Area
	Soil Storage Mound
	Ash extraction complete
	Soil movement
	Shale movement
	Haul route
	As existing/ Non-operational land
	Direction of working & sequence
	Soil stripping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

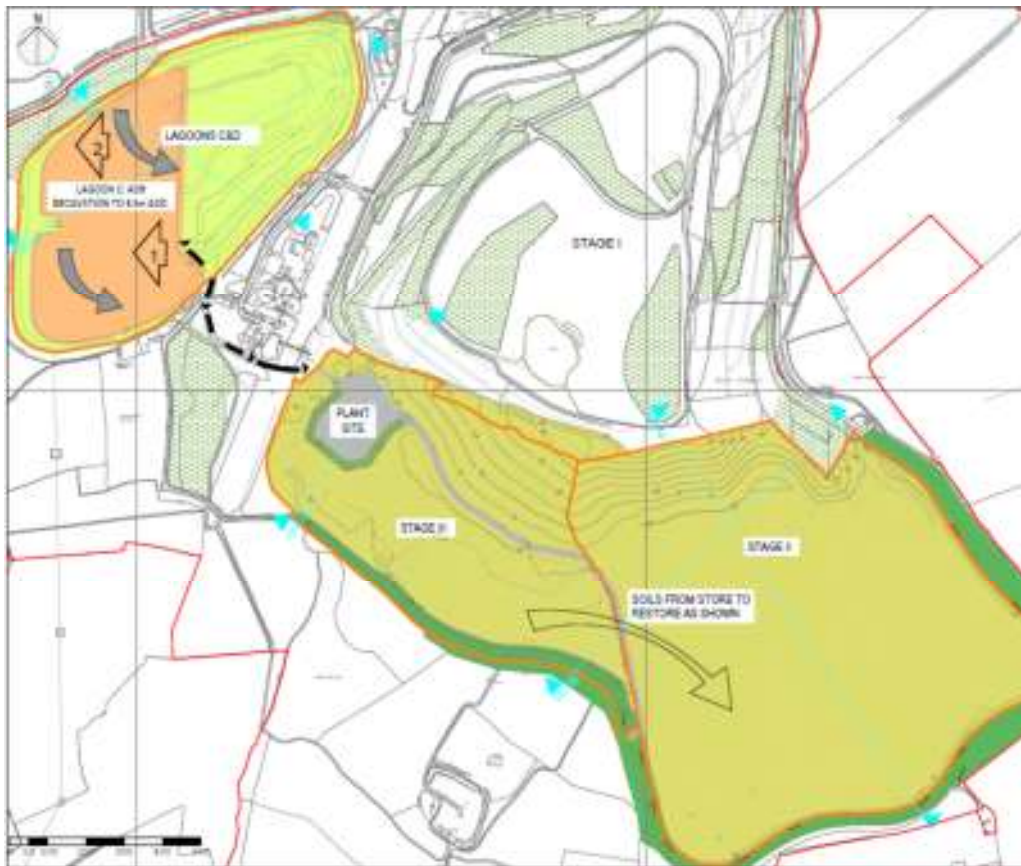


PHASE 2

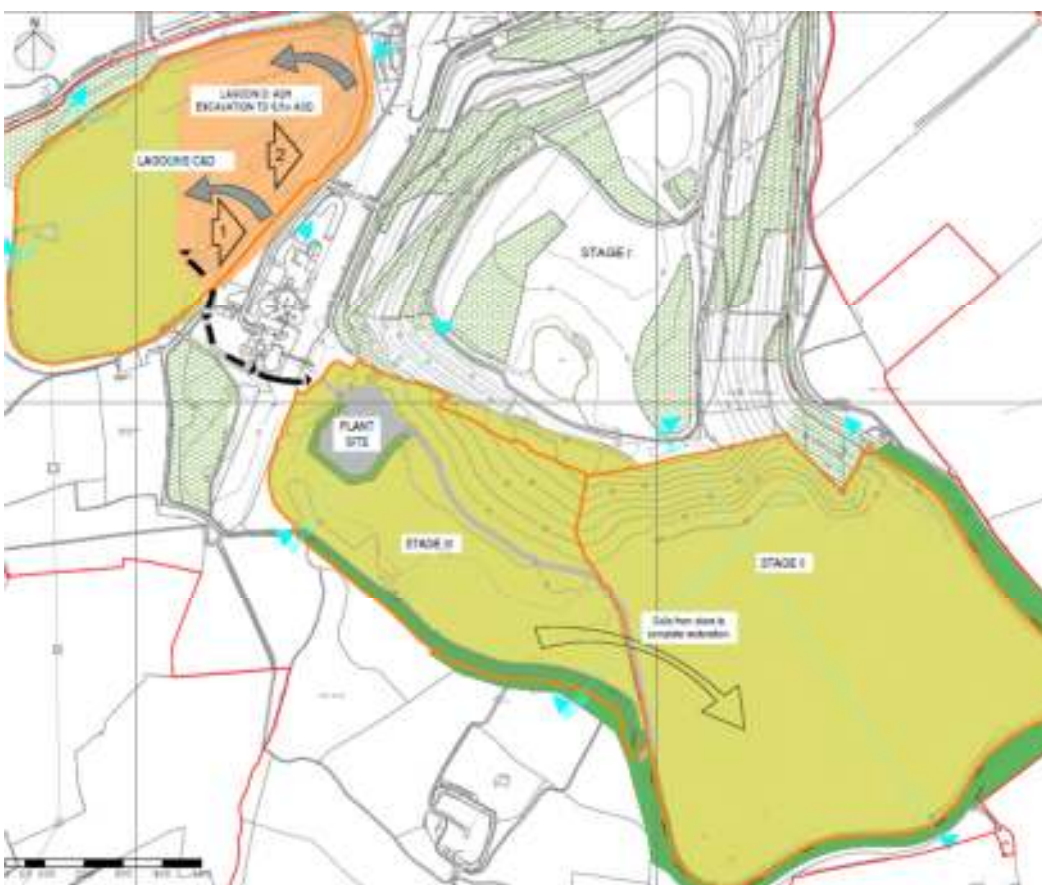


PHASE 3



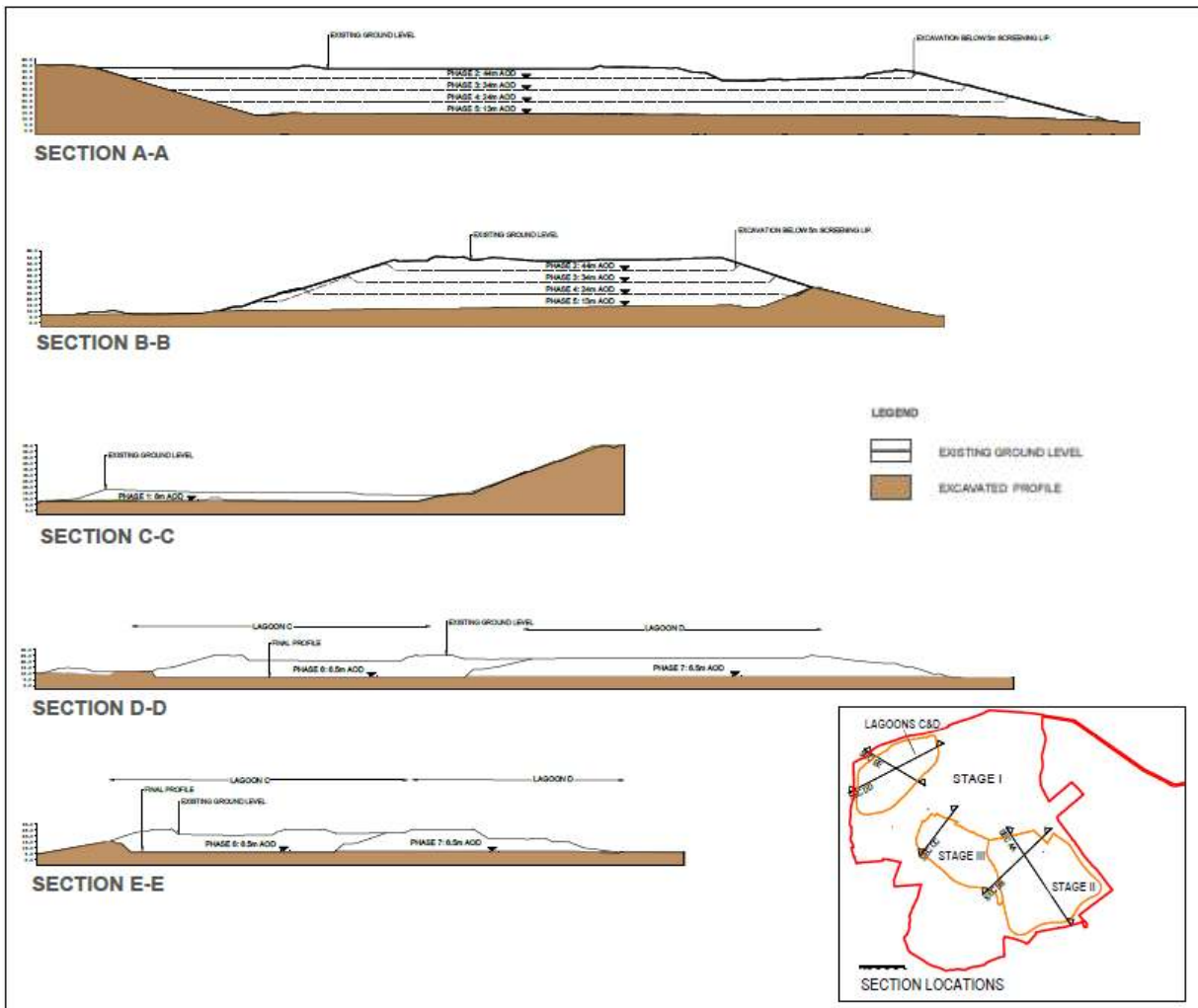


PHASE 6

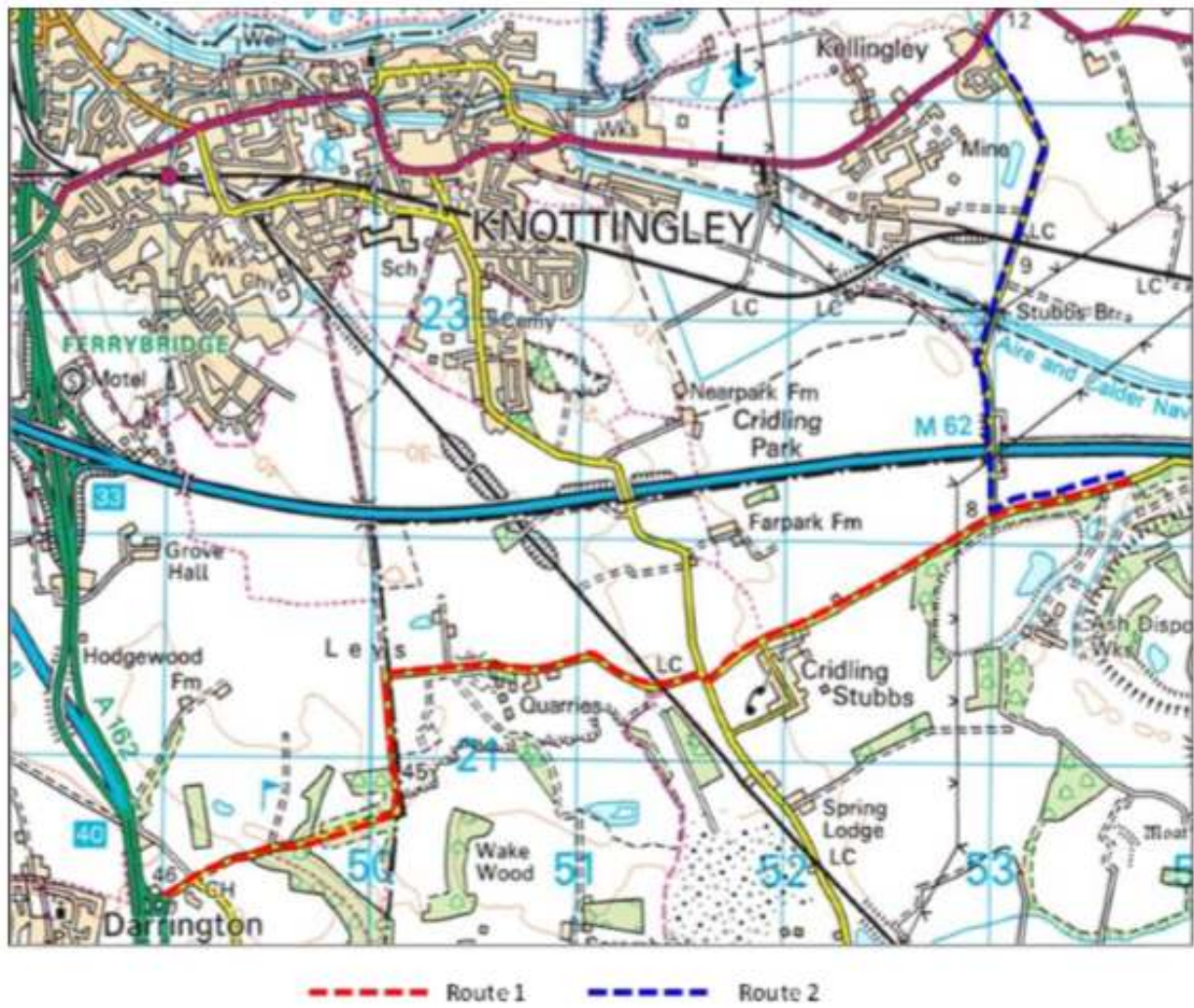


PHASE 7

Appendix J – Sections through the Proposed Development



Appendix K – Alternative HGV routing options



North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

17 NOVEMBER 2020

C/ 20/00344/CPO – SINGLE STOREY EXTENSION OF SPORTS CENTRE TO FORM A FITNESS SUITE (382 SQ. METRES), TARMAC PERIMETER PATH AND ADDITIONAL 22 CAR PARKING SPACES (599 SQ. METRES) ON LAND AT MALTON COMMUNITY SPORTS CENTRE, BROUGHTON ROAD, MALTON, YO17 7BP ON BEHALF OF THE CORPORATE DIRECTOR CHILDREN & YOUNG PEOPLES SERVICES (RYEDALE DISTRICT) (MALTON 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 single storey extension of Sports Centre to form a Fitness Suite (382 sq. metres), tarmac perimeter path and additional 22 car parking spaces (599 sq. metres) on land at Malton Community Sports Centre, Broughton Road, Malton, YO17 7BP on behalf of the Corporate Director Children & Young People's Services.
- 1.2 This application is subject to two objections from local residents having been raised in respect of this proposal which are summarised in paragraph 5.3 of the original report and is, therefore, reported to this Committee for determination.

2.0 Committee Update

- 2.1 Members will recall that the application for the erection of a single storey extension at Malton Sports Centre was originally reported to the 16th July 2020 Planning and Regulatory Functions Committee (**Appendix 1**) at which it was deferred to allow for the clarification of issues relating to lighting and whether a lighting scheme is proposed.
- 2.2 Following discussions with the applicant, an assessment has been made of the site and further details have now been submitted in relation to a lighting scheme. These include an amended layout plan (MCS-YCE-XX-00-DR-E-6401-P01) to show the proposed lighting scheme on the site. This Electrical Services Site Plan Proposed External Lighting shows the location and broad type (wall mounted or pole mounted) of existing lighting on the site and shows that the proposed lighting will consist of 7no. die-cast aluminium luminaires that would be wall mounted at a height of 3 metres around the extension building and 4 no. die-cast aluminium luminaires pole mounted at 6 metres positioned around the perimeter of the car park extension respectively. The scheme also indicates that external lighting is controlled by a photocell and timeclock with a manual override facility which would shut off 50% of the car park luminaires. The scheme has been designed in accordance with ILP GP 01 20 guidance E2 – Rural – for Low District Brightness and car park lighting to BS EN 12464-2.

3.0 Consultations

- 3.1 Re-consultation was conducted on the amended details with the Ryedale District Environmental Health Officer and the Local Highways Authority on the 29th October 2020.
- 3.2 **Ryedale District Senior Environmental Health Specialist** replied 30th October 2020 saying *‘Having studied the proposed lighting scheme as submitted by “YCEng” for the Malton Community Sports Centre extension, I am satisfied that the level of light trespass is minimal and will have no impact to the amenity of residential property within the area. I therefore have no adverse comments to make to the submitted lighting scheme.’*
- 3.3 **Highway Authority** replied on 2nd November 2020 saying *‘The proposed lighting shouldn’t cause any glare issues on Broughton Road which is covered by street lighting. No further highway comments’*.

4.0 Assessment

- 4.1 These amendments have benefitted from the expertise of the Environmental Health Officers and Highways engineers and have been considered in relation to the conclusions of the 16th July report. The potential for light pollution from the lighting has been considered. The illumination plan shows that overspill light effects would not impact upon residential amenity, due to the design of the lights with minimal aiming angles and the distance to the residential properties. This is in line with policy SP16 of the Ryedale Plan – Local Plan Strategy on local amenity and promoting well-being and with NPPF and PPG on light pollution and local amenity. It is considered that the proposals accord with NPPF paragraph 180 on appropriateness of development for its location as well as the effects of light pollution as the applicant has demonstrated that there would not be unnecessary overspill of light. The proposal is therefore also in accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy in relation to being compatible with existing neighbouring land uses and would not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. It is considered that the lighting cannot be controlled by the extant conditions on the Sports Centre permission concerning lighting as they solely relate to the floodlights on the Multi Use Games Area (13, 14 and 18) and luminance levels on the extant lighting (15 and 16). Therefore, new conditions (9 and 10) are proposed in order to ensure control of the new lighting. These are considered to ensure that the proposal is in accordance with policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.
- 4.2 It is considered that the conclusions remain the same and therefore this report must be read in conjunction with the Committee Report dated 16th July 2020 as submitted to the July Committee and attached to this report as Appendix 1. For the reasons mentioned above and in Appendix 1, it is therefore considered that the proposed development is compliant with the policies which comprise the Development Plan currently in force for the area and all other relevant material considerations. It is therefore recommended that planning permission be granted.

5.0 Recommendation

- 5.1 For the following reasons:
For the following reason(s):

(i) the proposed development would not result in an adverse impact upon residential amenity, visual or otherwise, of existing or future occupants of the surrounding area

as it is considered that the proposed development would have a limited impact upon amenity; and

(ii) the proposed development generally accords with the principles of the National Planning Policy Framework (February 2019), National Planning Practice Guidance (March 2014), and does not conflict with Policies SP11; SP13; SP14; SP16; SP17; SP19 and SP20 of the Ryedale Plan - Local Plan Strategy (2013).

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

Conditions:

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. The development hereby permitted shall be carried out in accordance with the application details dated 16/03/2020 and the following approved documents and drawings:

<u>Ref.</u>	<u>Date</u>	<u>Title</u>
12041 - WMS - SH - XX - DR - A - 10901 - S8 – Rev P3	20.03.20	Block Plan
12041-WMS-SH-XX-DR-A-19001-S8-Rev P2	20.02.20	Site Plan
12041 -WMS - SH - XX - DR - A - 18101 - S8 – Rev P1	14.02.20	3D Visuals
12041 -WMS - SH - ZZ - DR - A - 10501 - S8 – Rev P1	17.02.20	GA Sections
12041 - WMS - ZZ - XX - DR - C - 39201 - S8 – Rev P2	23.03.20	Drainage Layout
PRF/KW/12041/DF Rev B	June 2020	Design & Access Statement
12041 -WMS - SH - 00 - DR - A - 10101 - S8 – Rev P2	20.03.20	Existing Plan
12041 -WMS - SH - ZZ - DR - A – 10401- S8 - Rev P4	20.03.20	Proposed Floor Plans
12041 -WMS - SH - ZZ - DR - A - 10102 - S8 – Rev P1	13.03.20	Existing Elevations
12041 -WMS - SH - ZZ - DR - A - 10602 - S8 – Rev P3	20.03.20	Proposed North & South Elevations
12041 -WMS - SH - ZZ - DR - A - 10601 - S8 – Rev P4	20.03.20	Proposed East & West Elevations
12041-WMS-ZZ-XX-RP-C-39201-S8-P3	February 2020	Drainage Strategy Report

12041-WMS-SH-XX-DR-A-19001-S8-Rev P2	20.02.20	Indicative Site Plan (as marked up)
2155/4	18 June 2020	Landscape Proposals - Sports Hall Extension
Quarto Data Sheet		Quarto Data Sheet Kingfisher Lighting
Viva-City Pro Data Sheet		Viva-City Pro Data Sheet Kingfisher Lighting
Project number 2180	20.10.20	Luminaire Data
MCS-YCE-XX-00-DR-E-6401-P01	Oct 2020	Electrical Services Site Plan Proposed External Lighting

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

3. LANDSCAPING SCHEME

Prior to commencement of development, a detailed scheme of hard and soft landscaping shall be submitted to and approved in writing by the County Planning Authority. The scheme shall include details of:

- proposed fencing
- the proposed car parking layout and levels, surfacing and surface water drainage;
- the proposed perimeter footpaths, access roads and tracks
- A soft landscape scheme which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/ densities where appropriate, maintenance, protection for establishment and aftercare. Details must also be provided to confirm that no removal of trees shall take place between the 1st March and 31st August inclusive, unless a suitably qualified person has undertaken a detailed check to confirm that no active nests are present. This should be confirmed in writing to the County Planning Authority in advance of works. Thereafter, the landscaping shall be implemented in strict accordance with the approved scheme within the first available planting season. Any failures within the first 12 months of being planted shall be replaced with species of the same size and maturity as previously specified in the approved scheme. The approved Scheme shall be implemented upon commencement of use of the development and adhered to throughout the life of the development.

Reason: This is a pre-commencement condition and considered necessary to protect the environment and amenity in relation to the landscape impacts on site and protect biodiversity.

4. TREE PROTECTION

No works shall commence until all existing trees, hedges, bushes shown to be retained on the approved plans are fully safeguarded by protective fencing and ground protection in accordance with approved plans and specifications and the provisions of British Standard 5837 (2012). Trees in relation to design, demolition and construction. Such measures must be retained for the duration of any approved works.

No works or development shall commence until a written Arboricultural method statement for a tree care plan has been submitted to and approved in writing by the County Planning Authority. Works or development must then be carried out in accordance with the approved method statement.

No equipment, machinery or materials must be used, stored or burnt within any protected area. Ground levels within these areas must not be altered, nor any excavations undertaken including the provision of any underground services.

Seven days' written notice shall be given to the County Planning Authority that the protection measures are in place prior to approved works, to allow inspection and approval of the works.

Reason: This is a pre-commencement condition and considered necessary to ensure the protection and preservation of trees, hedges, bushes and other natural features during construction works.

5. Development Flow Runoff Rate Scheme

Prior to the commencement of the development, a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the County Planning Authority. The flowrate from the site must be restricted to a maximum flowrate of 7.3 litres per second for up to the 1 in 100 year event. A 20% allowance must be included for climate change effects for the lifetime of the development. Storage must be provided to accommodate the minimum 1 in 100 year plus climate change plus urban creep critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. Principles of sustainable urban drainage shall be employed wherever possible. No part of the development must be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme must be implemented throughout the lifetime of the development.

Reason: This is a pre-commencement condition and considered necessary to ensure that the development is built to the submitted drainage design; to prevent the increased risk of flooding; to ensure the provision of adequate and sustainable means of drainage in the interests of amenity

6. Provision of Approved Turning and Parking Areas

No part of the car park extension and fitness suite extension development must be brought into use until the parking, manoeuvring and turning areas for all users of the fitness suite extension at Malton Community Sports Centre have been constructed in accordance with the details approved in writing by the County Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

7. Construction Phase Management Plan

No development must commence until a Construction Management Plan has been submitted to and approved in writing by the County Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

- 1. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;*
- 2. the parking of contractors' site operatives and visitor's vehicles;*
- 3. areas for storage of plant and materials used in constructing the development clear of the highway;*
- 4. details of site working hours; and*
- 5. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.*

Reason: This is a pre-commencement condition and considered necessary to protect public safety and amenity

8. Hours of Opening

The development hereby approved shall only be used between the hours of 0700 and 2200 any day of the week.

Reason: To ensure that the development does not have an adverse impact on the amenities of the occupants of nearby residential properties and to protect local amenity.

9. Lighting Scheme

Prior to the Sports Centre extension being brought into use, the lighting scheme shall be installed in accordance with the submitted details in plan MCS-YCE-XX-00-DR-E-6401-P01 dated October 2020; Luminaire Data (Project number : 2180) dated 20.10.2020; Quarto Luminaire Data Sheet; and Viva-City Luminaire Data Sheet and shall be maintained in accordance with the approved scheme for the lifetime of the development.

Reason: To ensure that the development does not have an adverse impact on the amenities of the occupants of nearby residential properties and to protect local amenity.

10. Control of Lighting

Notwithstanding the permitted Sports Centre development, the lighting permitted as part of this scheme shall be switched off at 2200 any day of the week and shall not be switched on until 0700 the following day.

Reason: To ensure that the development does not have an adverse impact on the amenities of the occupants of nearby residential properties and to protect local amenity.

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

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose not to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

DAVID BOWE
Corporate Director, Business and Environmental Services

Background Documents to this Report:

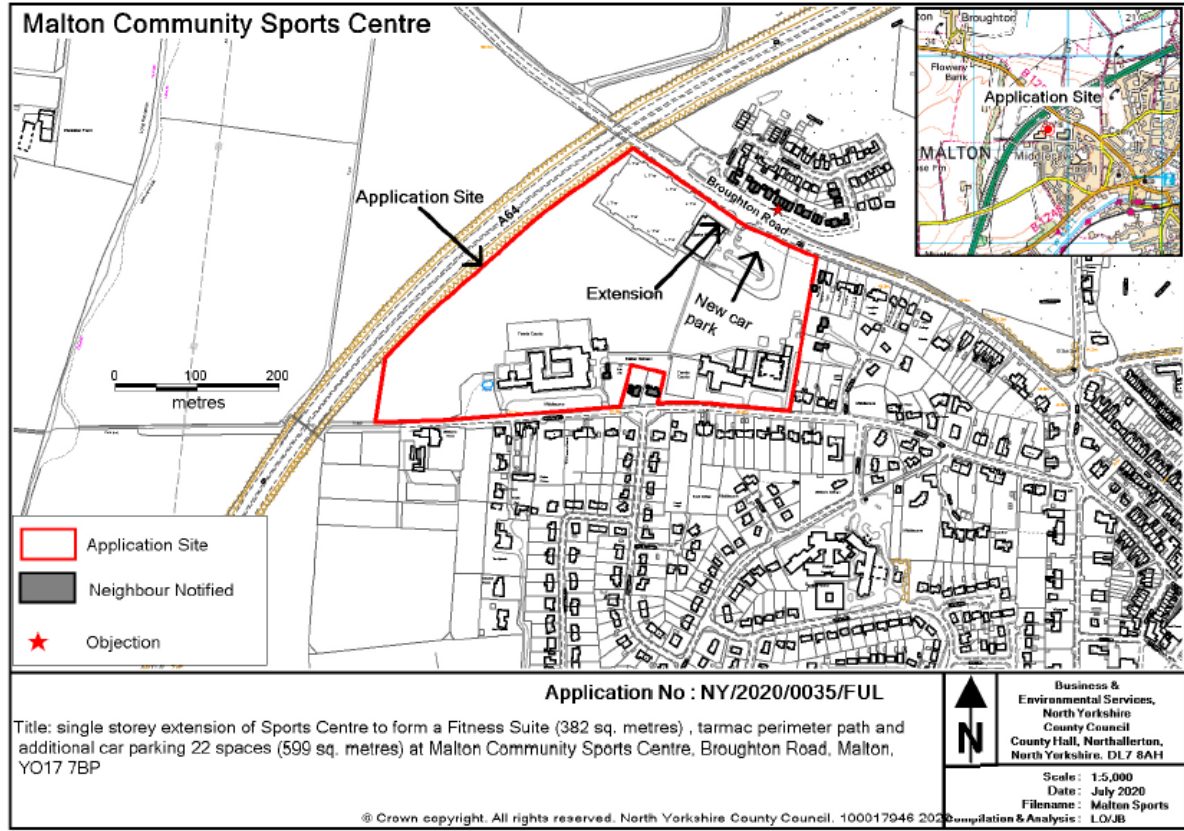
1. Planning Application Ref Number: C/20/00344/CPO (NY/2020/0035/FUL) registered as valid on 1 April 2020. Application documents can be found on the County Council's Online Planning Register by using the following web link:

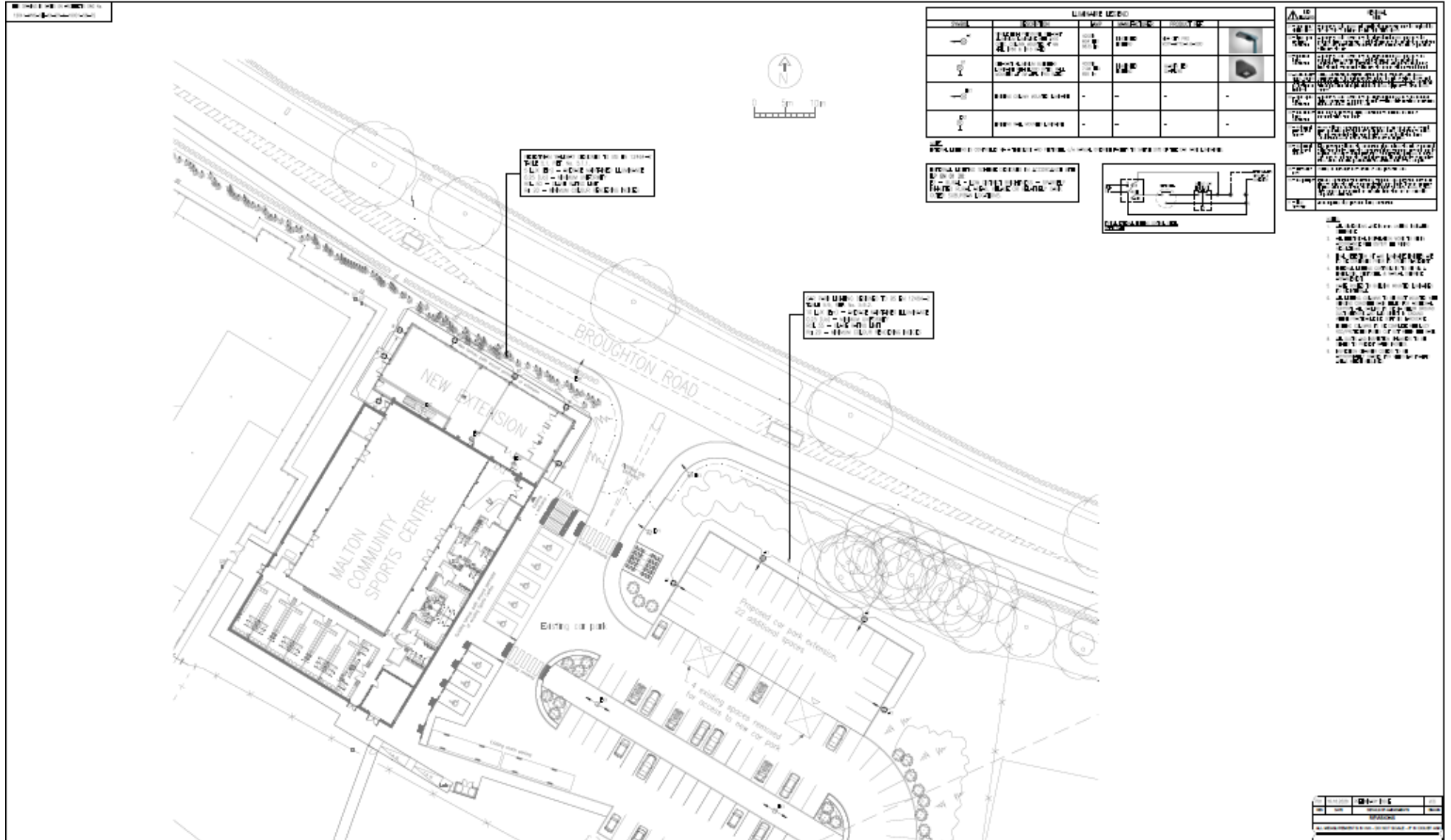
<https://onlineplanningregister.northyorks.gov.uk/register/>

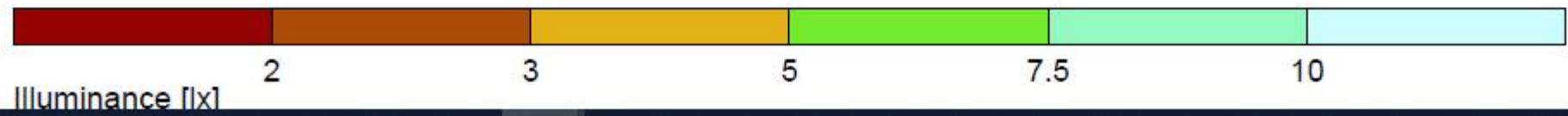
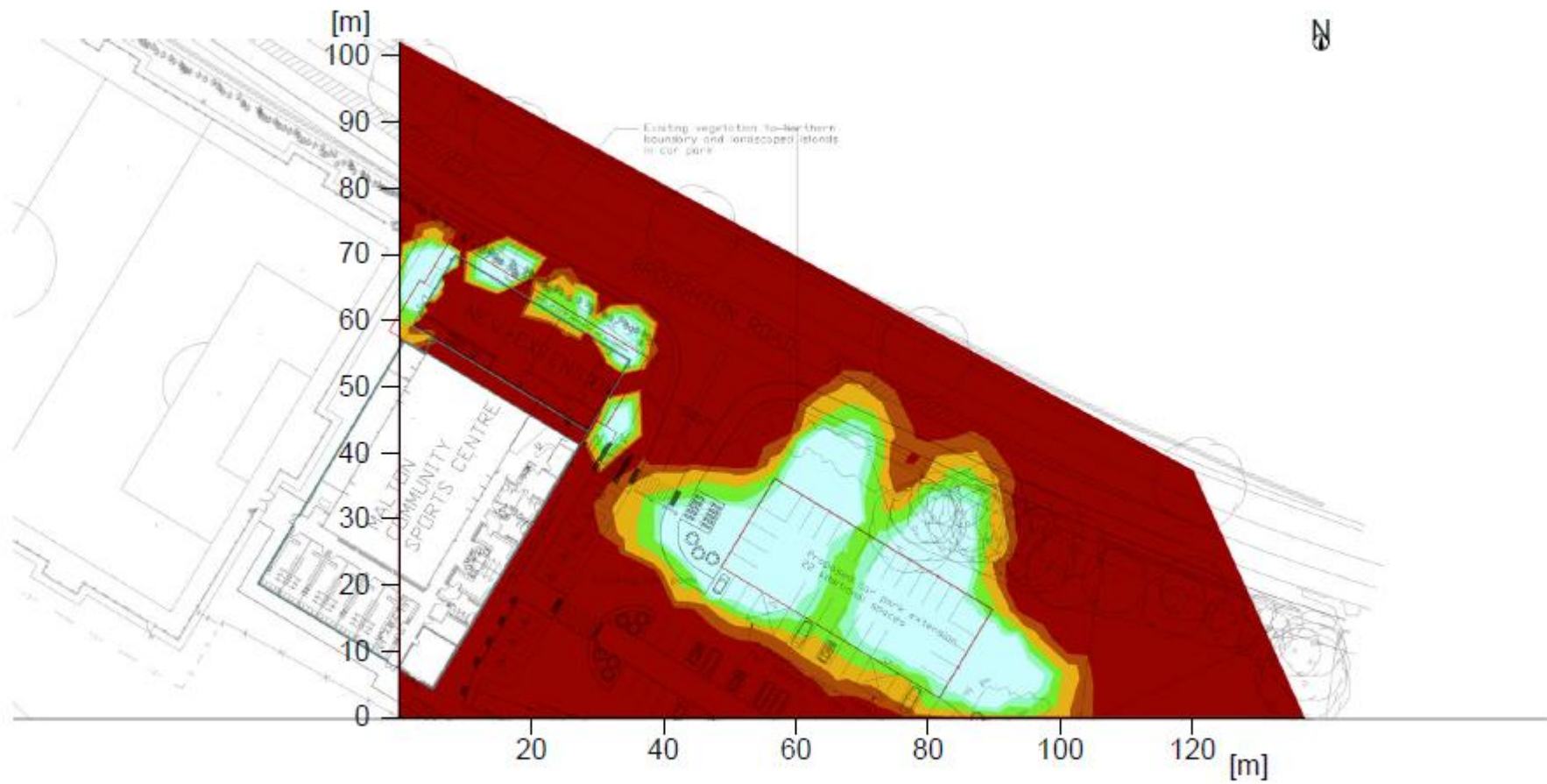
2. Consultation responses received.

3. Representations received.

Author of report: Leo Oliver







North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

16TH JULY 2020

SINGLE STOREY EXTENSION OF SPORTS CENTRE TO FORM A FITNESS SUITE (382 SQ. METRES), TARMAC PERIMETER PATH AND ADDITIONAL 22 CAR PARKING SPACES (599 SQ. METRES) ON LAND AT MALTON COMMUNITY SPORTS CENTRE, BROUGHTON ROAD, MALTON, YO17 7BP ON BEHALF OF THE CORPORATE DIRECTOR CHILDREN & YOUNG PEOPLES SERVICES (RYEDALE DISTRICT) (MALTON 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 single storey extension of Sports Centre to form a Fitness Suite (382 sq. metres), tarmac perimeter path and additional 22 car parking spaces (599 sq. metres) on land at Malton Community Sports Centre, Broughton Road, Malton, YO17 7BP on behalf of the Corporate Director Children & Young People's Services.
- 1.2 This application is subject to two objections from local residents having been raised in respect of this proposal which are summarised in paragraph 5.3 and is, therefore, reported to this Committee for determination.

2.0 Background

Site Description

- 2.1 The wider site is the site of Malton School with its buildings to the south east and south west and includes the playing pitches to the south and south east and the Sports Centre to the north west. The site is located to the south east of the A64 in Malton, in a residential semi-urbanised area. Beyond the A64 to the north west are arable fields, and the wider school site is bounded by residential development to the north, south and east. The precise site of the proposed Sports Centre extension consists of a vacant strip of grass to the Broughton Road frontage of the existing Malton Community Sports Centre building. To the immediate south of this lies the existing Sports Centre and to the west is a Multi Use Games Area (MUGA) with associated fencing.
- 2.2 The Broughton Road frontage of the school has existing trees and hawthorn hedging and is enclosed by an approximately 1.8-metre-high dark green weld mesh fence. The site of the proposed extension has two young trees on the side nearest the road

and also has one tree nearest the vehicular access. The site of the proposed additional parking is to the east of the existing Broughton Road vehicular access to the Sports Centre, to the north of the current parking. The current parking provision is for 80 cars (with a further 8 disabled parking spaces) and also includes coach provision and provision for cycles. This is bounded by mature trees and bushes to the Broughton Road frontage with younger trees closer to the car park.

- 2.3 A number of the trees forming a mixed species deciduous copse which abuts Broughton Road are located within the north eastern corner of the application site. The substantial mature trees forming the copse are protected by a Tree Preservation Order (TPO). The 2019 Ryedale website list of TPOs indicated that these trees are protected as *'243 A group of trees standing in the NE corner of Malton School playing field, on the southern side of the B1257, immediately west of the property "Wayside"'*.
- 2.4 The site is within the Impact Risk Zone of the River Derwent Site of Special Scientific Interest (SSSI) which is also a Special Area of Conservation but is not within any national or international designations. The site is 80m from a SINC – Malton Bypass Cuttings. The site is over 550 metres from the Howardian Hills Area of Outstanding Natural Beauty.
- 2.5 The nearest residential properties to the proposal site are across Broughton Road to the north.
- 2.6 A plan showing the application site is attached to this report.

Planning History

- 2.7 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -
- 2.8 On the 17th August 2009 planning permission ref. C3/09/00345/CPO was granted for the purpose of a Sports Centre and Multi Use Games Area with floodlighting, associated parking facilities, bin store, fencing and access gates, formation of access road off Broughton Road and provision of a combined pedestrian and cycle path within the grounds of Malton School. The approved development has been constructed and is operational (opened on the 28th February 2011). The existing permitted hours of opening are between the hours of 0800 and 2200 any day of the week, including bank/public holidays.
- 2.9 Pre-application advice was given in 2017 on a proposal for 'erection of a single storey modular building on the northern elevation of the sports centre building which will house a new fitness suite and fitness class/meeting room'.

3.0 The proposal

- 3.1 Planning permission is sought for a single storey extension to the Sports Centre to form a Fitness Suite (382 sq. metres), tarmac perimeter path together with an additional 22 car parking spaces (599 sq. metres) on land at Malton Community Sports Centre, Broughton Road, Malton, YO17 7BP.
- 3.2 The site of the proposed sports centre extension is level with the ground floor of the existing Sports Centre and forms a plateau with a small embankment down to the entrance road and Broughton Road on the east and north edges respectively. The proposed development is a single storey extension of 382 square metres gross external area to accommodate a new Fitness Suite comprising a multi-purpose

studio; storage; and an office; with a new plant room within the roof void which would be served by a single stair accessed from the rear of the building. The new Fitness Suite would be served by the existing changing rooms and toilets as originally intended in the design of the main Sports Centre.

- 3.3 The extension would project 12 metres from the north end of the existing sports hall building and would occupy the full 30 metres width of the whole of the existing building. The proposed extension would be of buff brickwork at lower level and to the tops of the windows which will be of aluminium framed design, with aluminium cladding above the tops of the window frames. The extension materials would be of similar design to the existing materials, with the aim of blending in to the existing buildings. Roof materials for example would be of a trapezoidal steel profiled design to match existing and would be of a similar standing seam and curved design. The submission documents state that the extension *'was envisaged as part of the design of the original Sports Centre along with the provision of 22 extra car parking spaces to accommodate the anticipated extra visitors. With the future extension in mind, an area to the front (north) of the building was levelled and grassed for future development.'* It is also stated that the proposals have been designed with gently curving roof forms to create softer lines and bear reference to agricultural buildings in this semi-rural setting.
- 3.4 The proposed perimeter path will be of tarmacadam and will be around 3 sides of the proposed extension development.
- 3.5 The proposal also includes the addition of 22 further car parking spaces, taking the total car parking spaces to a total of 110. Four of the existing 80 spaces (excluding 8 disabled spaces) will be lost to access, whilst new spaces will replace these. So in summary the total number of spaces will be 110 including the new and existing. These will be to the north of the existing car parking area, to the east of the Broughton Road entrance of the development. The total gross external area will be 599 square metres.
- 3.6 The originally submitted documents stated that the proposed additional car parking would not involve the removal of any trees and that no additional trees are proposed. Tree protection fencing would be installed in the area of new car parking prior to any works being undertaken. If necessary, pre-development tree works would also be undertaken. Following further discussions and requests for clarification together with a detailed survey of the implementation of the existing landscaping scheme for the Sports Centre, however, it has emerged that some 5 immature trees planted after the construction of the original sports centre would need to be removed as part of the car park extension as these were incorrectly located. It is proposed that these would be replaced with 8 trees. The entrance is stated to remain as existing and the new fitness suite would be accessed through a door within the existing foyer/reception area. Vehicular access would not be changed and pedestrian access to the proposed fitness centre would be via the same steps or ramp up to the existing main entrance from where there is level threshold access into the new facility.
- 3.7 The proposed hours of use are from 07.00 to 22.00 Monday to Friday and 07.00 to 22.00 on Saturday and Sunday and Bank Holidays. This is 1 hour earlier than the current operating hours as it is considered that people may want to use the gym early on their way to work.
- 3.8 The Design and Access Statement states that the long term goal of Malton Community Sports Centre is to establish itself as a hub for sports development and sporting excellence, by helping to support pupils, clubs, players, organisations and community members achieve their aspirations and to play host to high quality coaching and competition.

4.0 Consultations

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on the 6th April 2020.

- 4.1 **Sport England** responded on 23rd April 2020 to state that the proposed development meets exception 3 of their playing pitch policy and therefore they do not wish to raise an objection.
- 4.2. **The Lead Local Flood Authority (SuDS)** responded on 28th April 2020 stating that the submitted documents demonstrate a reasonable approach to the management of surface water on the site and recommending a condition to prevent increased risk of flooding.
- 4.3 **Highway Authority** responded on 29th April 2020 to enquire about the justification for the levels of car parking proposed. Further information was provided by the agent on the parking provision and a response was received from the Highway Authority on the 7th May 2020 recommending a pre-commencement condition in relation to submission of a Construction Phase Management Plan and a condition on the approval of access, turning and parking arrangements. As access will remain the same, it has been clarified that the condition should be on the approval of manouvering, turning and parking arrangements.
- 4.4 **Natural England** responded on 27th April 2020 saying that the development will not have significant effects on the SAC or the SSSI. They point out that the proposed development is for a site close to a nationally designated landscape namely the Howardian Hills AONB and recommend the use of local landscape expertise.
- 4.5 **NYCC Heritage - Principal Landscape Architect** replied on 28th April 2020 to say that they have no objection to the scheme *'provided that a suitable landscaping scheme is provided along the Broughton Road frontage and the existing mature trees between Broughton Road and the proposed new car park are protected and retained (to protect local amenity and setting). The proposed landscaping scheme should provide hedgerow and boundary tree and shrub planting along Broughton Road fronting the proposed car park and building extension. All tree protection fencing must be in place prior to commencement and retained for the duration of the works'*. It is suggested that the landscaping scheme ties in with the landscaping scheme for the original Sports Centre.
- 4.6 **Tree and Landscape Officer (Ryedale District Council)** has not responded. Should a response be received before the date of the meeting, this will be reported orally to Members.
- 4.7 **NY Police - Designing Out Crime Officer** responded on 8th April 2020 with a detailed report. They recommend internal door locking furniture and that planting does not impede natural surveillance.
- 4.8 **Ryedale District Council (Planning)** responded on 14th April 2020 to say that they support this proposal subject to a condition to secure a suitable landscape planting scheme along the northern boundary adjacent to the proposed extension.
- 4.9 **Environment Agency - Leeds Office** has not responded. Should a response be received before the date of the meeting, this will be reported orally to Members.
- 4.10 **Malton Town Council** responded on the 30th April 2020 to say that they recommend the application is approved.

- 4.11 **NYCC Heritage - Ecology** responded on 7th April 2020 to say that they had no concerns provided adequate tree protection measures were put in place. A further response regarding the River Derwent Special Area of Conservation and Site of Special Scientific Interest was received. *'The proposed development site is on the far side of the town of Malton from the river, so we would not envisage any discernible impact in terms of construction noise, lighting or other effects. On this basis we consider it unnecessary to carry out any further assessment.'*

The nearby Site of Importance for Nature Conservation comprises the cutting slopes of the A64/Malton bypass. This is effectively a self-contained unit so we would not expect any impact.'

- 4.12 **Ryedale District Council Environmental Health Officer** responded on 1st July 2020 to say that they had no objection to the change in opening hours.

Notifications

- 4.13 **County Cllr. Lindsay Burr** was notified of the proposals on April 6th 2020.

5.0 Advertisement and representations

- 5.1 This application has been advertised by means of 3 Site Notices posted on 8th April 2020 (responses to which expired on 2nd May 2020). The Site Notices were posted in the following locations: at site entrance from Broughton Road; at road frontage to Middlecave Road; on footpath through school grounds. A Press Notice appeared in the Malton & Pickering Mercury on 15th April 2020 (responses to which expired on 29th April 2020). In the exceptional circumstances of the Covid-19 pandemic, consideration was given to whether further methods were needed to publicise the proposal given the restrictions on movement. It was considered that the Press Notice; Neighbour Notification and Site Notices were adequate in the circumstances and that people would be likely to see the notices on their daily exercise.
- 5.2 Neighbour Notification letters were sent on 6th April 2020 and the period in which to make representations expired on 27th April 2020. The following properties received a neighbour notification letter:

- 6 4 Crabtree Drive, Malton, YO17 7FQ
 6 Crabtree Drive, Malton, YO17 7FQ
 8 Crabtree Drive, Malton, YO17 7FQ
 10 Crabtree Drive, Malton, YO17 7FQ
 12 Crabtree Drive, Malton, YO17 7FQ
 14 Crabtree Drive, Malton, YO17 7FQ
 16 Crabtree Drive, Malton, YO17 7FQ
 18 Crabtree Drive, Malton, YO17 7FQ
 20 Crabtree Drive, Malton, YO17 7FQ
 22 Crabtree Drive, Malton, YO17 7FQ
 24 Crabtree Drive, Malton, YO17 7FQ
 26 Crabtree Drive, Malton, YO17 7FQ
 28 Crabtree Drive, Malton, YO17 7FQ
 30 Crabtree Drive, Malton, YO17 7FQ
 32 Crabtree Drive, Malton, YO17 7FQ
 34 Crabtree Drive, Malton, YO17 7FQ
 36 Crabtree Drive, Malton, YO17 7FQ
 80 Middlecave Road, Malton, YO17 7NQ

82 Middlecave Road, Malton, YO17 7NQ
 84 Middlecave Road, Malton, YO17 7NQ
 2 Folliot Ward Close, Malton, YO17 7FQ
 4 Folliot Ward Close, Malton, YO17 7FQ
 Wayside, Broughton Road, Malton, YO17 7BP

5.3 A total of 2 neighbour representations have been received raising objections and concerns on the grounds of:-

- Whether trees will be removed
- Whether there will be further fencing on the Broughton Road frontage of the site as there are already issues with car lights shining into rooms as new car parking will be closer to the existing fence
- Where the new car parking would be
- Whether the trees on the Broughton Road frontage of the site are protected

6.0 Planning policy and guidance

The Development Plan

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

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

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

The extant policies of the Ryedale Plan- Local Plan Strategy (2013);

6.3 The Ryedale Plan- Local Plan Strategy (2013) (adopted 2013) has particular relevance in the determination of this application and the policies most relevant include:

- SP1 'General Location of Development and Settlement Hierarchy'
- Policy SP11 'Community Facilities'
- Policy SP13 'Landscapes'
- Policy SP14 'Biodiversity'
- Policy SP16 'Design'
- Policy SP17 'Managing Air Quality, Land and Water Resources'
- Policy SP19 'Presumption in Favour of Sustainable Development'
- Policy SP20 'Generic Development Management Issues'

6.4 Malton (and Norton) is identified in the Ryedale Plan- Local Plan Strategy as a '*Principal Town - Focus for the majority of new development and growth including new housing, employment and retail space*'. An aim is to '*Support the role of the Principal Town as a District-wide Service Centre*'. One of the ambitions of the Strategy for Malton is '*New and improved sport and recreation facilities*', indeed Table 3 *Necessary Improvements to Community Facilities and Physical Infrastructure*

identifies 'Dry Sports Centre at Malton School'. This is expanded upon by Policy SP1 and SP11.

- 6.5 Policy SP1 – 'General Location of Development and Settlement Hierarchy' states that 'Ryedale's future development requirements will be distributed and accommodated in line with the Spatial Strategy Summary and on the basis of the following hierarchy of settlements:

*Principal Town - Primary Focus for Growth
Malton and Norton (including Old Malton*)'*

- 6.6 Policy SP11, 'Community Facilities', states that proposals will be supported in Malton where, 'Sites allocated for such uses or as part of a mixed use allocation; expansion and improvement of existing facilities in and outside of Development Limits; provision of new facilities within Development Limits or outside of Development Limits where the facility is needed and cannot be located within Development Limits or as part of a mixed use allocation...New or enhanced provision of open space, leisure and recreational facilities will address identified deficiencies set out in Table 3 and be undertaken in line with Local Open Space Standards as set out in Table 4'.
- 6.7 SP13 'Landscapes' is relevant due to the proposal's proximity to the AONB and wider countryside and states that 'The quality, character and value of Ryedale's diverse landscapes will be protected and enhanced by:
- *Encouraging new development and land management practises which reinforce the distinctive elements of landscape character within the District's broad landscape character areas of:*
 - *North York Moors and Cleveland Hills*
 - *Vale of Pickering*
 - *Yorkshire Wolds*
 - *Howardian Hills*
 - *Vale of York*
 - *Protecting the special qualities, scenic and natural beauty of the Howardian Hills Area of Outstanding Natural Beauty, the setting of the Area of Outstanding Natural Beauty and the setting of the North York Moors National Park.*
- 6.8 *Development proposals should contribute to the protection and enhancement of distinctive elements of landscape character that are the result of historical and cultural influences, natural features and aesthetic qualities including:*
- *The distribution and form of settlements and buildings in their landscape setting*
 - *The character of individual settlements, including building styles and materials*
 - *Visually sensitive skylines, hill and valley sides'*
- 6.9 SP14 'Biodiversity' states that 'Proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them.' It goes on to state that 'Proposals for development which would result in loss or significant harm to:
- *Habitats or species included in the Ryedale Biodiversity Action Plan and priority species and habitat in the UK Biodiversity Action Plan*
 - *Local Sites of Nature Conservation Importance or Sites of Geodiversity Importance will only be permitted where it can be demonstrated that there is a need for the development in that location and that the benefit of the development outweighs the loss and harm. Where loss and harm cannot be prevented or adequately mitigated, compensation for the loss/harm will be sought. Applications for planning permission will be refused where significant harm cannot be prevented, adequately mitigated against or compensated for.'*
- 6.10 Policy SP16, 'Design', states that 'development proposals are expected to create high quality, durable places that are accessible and be well integrated with their surroundings and which:
- *Reinforce local distinctiveness;*

- *Provide a well-connected public realm which is accessible and usable by all, safe and easily navigated; and,*
 - *Protect amenity and promote well-being.'*
- 6.11 Additionally, the policy seeks to ensure that the scale, layout, form, location and siting of proposed development respects the context of its surroundings. It further seeks to ensure that design of new development incorporates hard and soft landscaping to enhance the setting; is carefully designed to reduce crime and fear of crime; and that extensions to existing buildings are appropriate to the host building and that they are sympathetic to its character and appearance.
- 6.12 Policy SP17 'Managing Air Quality, Land and Water Resources' is relevant with regard to managing flood risk and states that this will be managed by: *'Requiring the use of sustainable drainage systems and techniques, where technically feasible, to promote groundwater recharge and reduce flood risk. Development proposals will be expected to attenuate surface water run off to the rates recommended in the Strategic Flood Risk Assessment...Undertaking a risk based sequential approach to the allocation of land for new development and in the consideration of development proposals in order to guide new development to areas with the lowest probability of flooding, whilst taking account of the need to regenerate vacant and previously developed sites within the towns. In considering development proposals or the allocation of land, full account will be taken of the flood risk vulnerability of proposed uses and the national "Exception Test" will be applied if required'.*
- 6.13 Policy SP19, entitled 'Presumption in Favour of Sustainable Development', seeks to ensure that development proposals are determined in accord with the National Planning Policy Framework and support sustainable development. In this case the proposals seek to enhance an existing community facility which is also stated to be used by the school. NPPF section 8 Promoting healthy and safe communities is therefore supportive of such proposals through paragraphs 92 and 94 and this gives weight to the policy.
- 6.14 Within the Local Plan Strategy, Policy SP20 entitled 'Generic Development Management Issues' provides criteria which development proposals must adhere to. The issues listed in the criteria include:
- (i) 'Character':
- *new development will respect the character and context of the immediate locality and the wider landscape/townscape character in terms of physical features and the type and variety of existing uses;*
 - *proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses;*
 - *the cumulative impact of new development on the character of an area will also be considered;*
- 6.15 (ii) 'Design':
- *the design of new development will follow the principles established in Policy SP16. Extensions or alterations to existing buildings will be appropriate and sympathetic to the character and appearance of the existing building in terms of scale, form and use of materials.*
- 6.16 (iii) 'Amenity and Safety':
- *new development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on*

amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.

Other policy considerations:

National Planning Policy

- 6.17 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 Framework

- 6.18 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied.
- 6.19 The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay (if plans are up-to-date and consistent with the NPPF). The Government defines sustainable development as that which fulfils the following three roles:
- **An economic role** – development should contribute to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth; and by identifying and coordinating the provision of infrastructure
 - **A social role** – development supporting strong, vibrant and healthy communities; and,
 - **An environmental role** – development that contributes to protecting and enhancing the natural, built and historic environment and as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.
- 6.20 Within the NPPF, Paragraph 11 of the Framework advises that when making decisions, development proposals that accord with an up to date development plan should be approved without delay or where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, permission should be granted unless:
- i.) *the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii.) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 6.21 This national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure.
- 6.22 Paragraph 83 of NPPF in (Supporting a prosperous rural economy) states that *'Planning policies and decisions should enable:... d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.'*
- 6.23 NPPF Paragraph 91 in Chapter 8 (Promoting healthy and safe communities) states that planning decisions should *'aim to achieve healthy, inclusive and safe places which:*
c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green

infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.'

- 6.24 Paragraph 92 of NPPF states that planning decisions should plan positively for the provision of community facilities to enhance the sustainability of communities taking into account and supporting *the delivery of local strategies to improve health, social and cultural well-being for all sections of the community'*. They should also ensure that established facilities are *'able to develop and modernise, and are retained for the benefit of the community'*.
- 6.25 As the extension would also be used by the School, it is considered that NPPF Paragraph 94 is also relevant, which states that *'Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education.'* It is considered that whilst the development would not directly fall under paragraph 94 a) in relation to the great weight to be given to the need to create, expand or alter schools as it is a community facility, it would fall under the wider remit of paragraph 94 of widening choice in education as the proposal would widen choice in education as it would also be used by the School.
- 6.26 Paragraph 96 of NPPF is especially relevant. It states 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.'* Paragraph 97 goes on to say that *'Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*
- a) *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements;*
 - b) *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
 - c) *the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.'*
- 6.27 Paragraph 98 within Section 8 (Promoting healthy and safe communities) of the NPPF states that planning decisions should protect and enhance public rights of way and access.
- 6.28 Paragraph 102 within Section 9 (Promoting sustainable transport) of the NPPF states that transport issues should be given consideration from the earliest stages of development proposals in order to allow potential impacts on transport networks and environmental impacts of traffic and transport infrastructure to be addressed; and opportunities for sustainable transport use are identified and pursued. Criterion e) is especially relevant *'patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.'*
- 6.29 Paragraph 108 goes on to state the importance of achieving safe and suitable access; promoting sustainable transport and that any significant impacts on the transport network or highway safety can be mitigated when assessing development proposals.
- 6.30 Paragraph 109 states that: *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*
- 6.31 Paragraph 124 within Section 12 (Achieving well-designed places) of the NPPF states that *'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to*

communities. Paragraph 127 goes on to set out design criteria for planning decisions, ensuring developments:

'a) 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;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'. NPPF is clear that development of poor design should be refused planning permission.

- 6.32 Section 14 Meeting the challenge of climate change and flooding paragraph 163 of NPPF requires local planning authorities to ensure that flood risk is not increased elsewhere when determining any planning applications and refers to the criteria for provision or otherwise of a flood risk assessment.
- 6.33 Paragraph 170 of NPPF Conserving and enhancing the natural environment states that *'planning policies and decisions should contribute to and enhance the natural and local environment by: ...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*'. Bullet point b) states that decisions should recognise the intrinsic character and beauty of the countryside. Bullet point e) is of particular importance to the development as it states that decisions should prevent *'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*'.
- 6.34 Paragraph 172 is also relevant as it states that *'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.'*
- 6.35 Paragraph 175 is clear that *'a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused*'.
- 6.36 Paragraph 180 of NPPF states that *'Planning policies and decisions should also ensure that 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 the wider area to impacts that could arise from the development. In doing so they should:*
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;... and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.'*

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

Climate change

- 6.38 This states how effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. Local planning authorities '*should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment*'. '*Planning can also help increase resilience to climate change impact through the location, mix and design of development*'. Addressing climate change is one of the key land use planning principles of the NPPF. It identifies mitigation and adaptation measures and discusses how they can be integrated. Sustainable transport use and planning for reducing flood risk are examples of adapting to a changing climate.

Design

- 6.39 Good quality design is an integral part of sustainable development and can be achieved through a '*proactive and collaborative approach*'. Planning should drive up standards across all forms of development and the use of different tools including Design and Access Statements is explained. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, and the process does not stop once permission has been given. Achieving good design is about creating places, buildings, or spaces that work well for everyone, look good, last well, and will adapt to the needs of future generations. Good design responds in a practical and creative way to both the function and identity of a place. It puts land, water, drainage, energy, community, economic, infrastructure and other such resources to the best possible use – over the long as well as the short term.

Flood Risk

- 6.40 This section sets out that flood risk is an important consideration and advises how to take account of and address the risks associated with flooding and coastal change in the planning process. This includes the 'sequential test' and 'exceptions test' for development proposals.

Healthy and Safe Communities

- 6.41 The link between planning and health has been long established. The built and natural environments are major determinants of health and wellbeing. Further links are found throughout the NPPF, including within the transport; high quality homes; good design; climate change; and the natural environment sections. The Planning Practice Guidance goes on to define a healthy community as a good place to grow up and grow old in. A key consideration for this application is that it should encourage:
- Active healthy lifestyles that are made easy through the pattern of development, good urban design, good access to local services and facilities; green open space and safe places for active play and food growing, and is accessible by walking and cycling and public transport.
 - The creation of healthy living environments for people of all ages which supports social interaction. '*It meets the needs of children and young people to grow and develop, as well as being adaptable to the needs of an increasingly elderly population and those with dementia and other sensory or mobility impairments.*'

Light Pollution

- 6.42 Explains the importance of consideration of artificial light in planning and how light intrusion occurs when '*the light "spills" beyond the boundary of the area being lit*'. This can

cause issues both for people and for natural systems and can be avoided with good design.

- *'Lighting near or above the horizontal is usually to be avoided to reduce glare and sky glow (the brightening of the night sky).*
- *Good design, correct installation and ongoing maintenance are essential to the effectiveness of lighting schemes.'*

- 6.43 *'Lighting only when the light is required can have a number of benefits, including minimising light pollution, reducing harm to wildlife and improving people's ability to enjoy the night-sky':*

Natural Environment

- 6.44 One of the core principles in the National Planning Policy Framework is that planning should recognise the intrinsic character and beauty of the countryside and protect the natural environment including designated landscapes. PPG sets out that Section 40 of the Natural Environment and Rural Communities (NERC) Act (2006) requires public bodies to minimise impact on biodiversity as part of decision making. The National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution. Information on biodiversity impacts and opportunities should inform all stages of development (including, for instance, site selection and design including any pre-application consultation as well as the application itself). An ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.

Noise

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

- 6.46 *'In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation'. PPG sets out factors that could influence whether noise was a concern and explains the 'agent of change' principle where the mitigation would be put in place by those making the change.*

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

- 6.47 Open space should be taken into account in planning for new development and considering proposals that may affect existing open space. Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure, as well as being an important part of the landscape and setting of built development, and an important component in the achievement of sustainable development.

- 6.48 It is for local planning authorities to assess the need for open space and opportunities for new provision in their areas. In carrying out this work, they should have regard to the duty to cooperate where open space serves a wider area.

7.0 Planning considerations

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. In light of the abovementioned policies the main considerations in this instance are the principle of the proposed development; the design and scale of the development; impact upon local amenity; landscape and visual impact; flood risk and drainage; the impact upon public highways; the impact upon open space, sport and recreation; community use of the facility; and the impact upon biodiversity, habitats, nature conservation and protected species of the proposed development.

Principle of the proposed development

- 7.2 The proposed development is an addition to the current Malton Community Sports Centre and forms part of the facilities of the School. The application states that the extension has always been envisaged to be part of the wider vision for the sports centre, since the original centre was built. The original application for the sports centre showed the area of the extension on the plans as 'Proposed Future Extension', and the location of the car park extension was also indicated on the original plans for that application. The Ryedale Plan - Local Plan Strategy has identified Malton as an area for the development of further sports facilities. Ryedale District Council have stated that they support the proposals subject to a condition to secure a suitable landscape planting scheme along the northern boundary adjacent to the proposed extension. The Principal Landscape Architect has similarly stated that they have no objection to the scheme subject to a suitable landscaping scheme and tree protection measures. Whilst concerns have been raised by residents in relation to the retention of trees and also regarding screening to prevent amenity issues from car headlights, it is considered that suitable conditions in relation to landscaping and tree retention and protection together with the indicative Site Plan received showing proposed landscaping address the concerns. This is discussed below. Sport England state that the proposed development meets exception 3 of their playing pitch policy as considered in detail below in relation to Open Space, as it will not directly affect pitches and therefore they do not wish to raise an objection.
- 7.3 The applicant considers that the extension to Malton Community Sports Centre is essential to achieve the centre's long-term goal of establishing itself as a hub for sports development and sporting excellence. It will also promote health and well-being for the benefit of the school, local groups and the wider community. Malton Town Council have '*unanimously recommended approval*'.
- 7.4 It is considered that the proposed development would lead to an improvement in fitness provision in the area, and would benefit not only Malton School but also the local community and the wider catchment of the area. This accords with Paragraph 91 of NPPF which says that planning decisions should aim to achieve healthy, inclusive and safe places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of sports facilities. Paragraph 92 goes on to state that planning decisions should plan positively for the provision and use of shared spaces, community facilities and other facilities including sports facilities. Criterion d) of the paragraph seeks to ensure that facilities and services should be able to develop and modernise, and be

retained for the benefit of the community. The proposed development would therefore be in line with the NPPF on this point and is further supported by increasing choice in schools in Paragraph 94 of the NPPF.

- 7.5 The public benefit derived from the proposals is considered such that the application should be supported. It is therefore considered that the proposed development is necessary, fit for purpose and is in accordance with Policy SP19 of the Ryedale Plan - Local Plan Strategy (2013) as it is considered that the development improves the economic, social and environmental conditions in the area. It is also considered that the proposal is supported by the NPPF Paragraph 91 in its objective of seeking to improve health and well-being through improved access to opportunities for healthy lifestyles and sports facility provision. Further, it is considered that whilst the development concerns an existing sports facility, it does not impact on the playing pitches and is improving provision, therefore in line with both national and local policy, especially Policy SP11 in relation to addressing the deficiencies identified in Table 3 of the Ryedale Plan - Local Plan Strategy and Paragraph 97 of NPPF.

Design and visual impact

- 7.6 The design, scale and visual impact of the proposal has been given due consideration in relation to the design and generic Development Management policies of the Ryedale Plan - Local Plan Strategy and those of NPPF. Expert advice has been sought from the Principal Landscape Architect; the North Yorkshire Police Designing Out Crime Officer (DOCO); and Ryedale District Council. The orientation, size and scale and location of the development are also important to take into account in the wider context of the site. As stated above, both the District Council and the Principal Landscape Architect have not raised objections or concerns subject to suitable landscaping on the northern boundary.
- 7.7 In line with NPPF Paragraphs 91 and 127, the DOCO has provided advice on the design of the scheme and a detailed report. It is considered that the design of the scheme is in line with policies SP16; SP19 and SP20 as the changes made have resulted in a sustainable scheme. DOCO advice included that design should not impede natural surveillance and this was a consideration in relation to the fencing in efforts to resolve the objection. This is discussed further in relation to amenity impact below.
- 7.8 As stated above, as the extension scheme was always envisaged as a future element, the original design of the sports centre includes areas for the extension of both the car park and the building itself. These are currently grassed areas. As set out in Section 3.0 above, the extension proposal has been designed very much with the original development and its wider context in mind.
- 7.9 The Design & Access Statement details that the design for the existing Sports Centre aimed to minimise visual impact to the residents to the east and the school to the south, by wrapping changing and ancillary accommodation in the form of a single storey 'lean-to' around 3 sides of the Sports Hall. The proposals extrude the curved roofs of the existing single storey 'lean-to' elements beyond the line of the Sports Hall gable after which the roof would follow the same sweeping curved profile as that to the rear (south end) of the building. It is considered that this would not harm amenity and that the proposed development is in character with the existing building. The Principal Landscape Architect has no objection to the scheme subject to planting on the northern boundary and the submission of a suitable detailed hard and soft landscaping scheme and tree protection secured by Condition 3. In line with the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 (SI 2018/566) consideration has been given to whether pre-commencement conditions are warranted in this case and it is considered that this is the case given the particular circumstance in relation to the objections and in the absence of the

requisite information accompanying the application. Conditions 3 (Landscaping Scheme) and 4 (Tree Protection) are imposed in the interests of the general amenity of the area and in order to secure appropriate design. Written consent has been received from the applicant to the use of pre-commencement conditions.

- 7.10 The proposed development takes account of context and scale and is not out of keeping with its surroundings. The design of the proposed extension is in keeping with the existing building with its curved roof form, scale, appearance and choice of materials and finishes and would therefore comply with SP16 in relation to extensions to existing buildings being sympathetic and appropriate to host building character. The proposed extension to the car park is also considered to be generally in keeping with the existing car park and the outline detailed is considered to be suitable in terms of its scale and design, balancing solutions to issues encountered. It is considered that the proposals would comply with Policy SP19 and SP20 of the Ryedale Plan - Local Plan Strategy in that they follow the design principles of Policy SP16; would not have a material adverse impact on the amenity of present or future occupants; and that subject to the submission of further details in relation to the car park's detailed design and materials, and vehicle servicing arrangements would be of an acceptable standard. The adverse impacts do not outweigh the benefits and it is considered that the proposal is in line with policy and is therefore sustainable development.

Local amenity

- 7.11 The potential for any impact on amenity has been considered. This relates to light impact during construction and operation of the extension; impact of car lights shining from the new car park; loss of trees; and noise impact both during construction and from use by the local community and into the evenings has also been considered. Both local objections mentioned loss of trees as a concern, and impact of car lights from the new car park as it is closer to the road was also a concern. The proposed detailed design of the scheme has been revised in order to achieve a balance which addresses as many considerations as possible. The hours of use can be controlled by condition 8 on Hours of Opening. This application does seek permission to open an hour earlier than the current permission which would allow the facility to open at 07.00 hours. It is considered that the earlier opening time is unlikely to have any significant impact on local amenity in terms of noise or disturbance given the existence of the use and distance to the neighbouring properties and it is noted that no objections have been made in relation to noise. Ryedale District Council have not raised concerns in relation to the application subject to appropriate landscape planting and boundary treatment being provided on the Broughton Road frontage. Malton Town Council similarly have raised no concerns or objections. The District Environmental Health Officer was also consulted by e-mail regarding the slight change to the opening hours and confirmed no objection to the proposed change.

Local amenity – light impact

- 7.12 One of the objections from a local resident asked '*we already get car lights shining in to our room will fencing be erected to stop this further as new car parking will be closer to the existing fence?*' This is a material planning consideration and is considered here. A high fence of 1.8 to 2 metres in height has not been proposed for the Broughton Road frontage as there was concern from the school in relation to safeguarding of students, their sightlines upon leaving site and coverage of CCTV. This would also be contrary to the recommendations of the DOCO's report in relation to ensuring natural surveillance. The solution has been to propose a close boarded fence around the edge of the proposed new car parking. This fence would be 1100mm in height due to the incline up to the car park. This is intended to prevent headlight sweep from cars using the new car parking area from intruding on houses across the road from the Sports Centre. A continuous line of trees and hedging in front of the new building extension is also proposed. This is intended to filter lighting impacts of the building during hours of darkness as well as to present an attractive appearance from the road. The applicant

is also happy to increase the extent of landscaping between the new building extension and the road boundary with the objective of creating a screen to filter the impacts of light overspill in relation to the objections from residents in relation to both the lighting and trees. It is considered that with new fencing proposed to be erected around the car park extension, together with planting along the northern boundary of the site onto Broughton Road, together with Condition 3 for a detailed landscaping scheme including the fence type, details and quality and tree protection measures as requested by the Principal Landscape Architect, that amenity impacts from car lights can be mitigated and that therefore the objections in relation to car lights shining into properties opposite are addressed. The proposed fence and planting would also mitigate potential noise impact from car doors closing or engines starting.

Local amenity - trees

- 7.13 In relation to trees and tree protection, both resident representations raised concerns over whether trees would be removed as part of the scheme and this is an important material consideration. One specifically asked about the trees on the approach to the Sports Centre and the other asked about whether trees would need to be removed to accommodate the new car park. As discussed in 3.6 above it was initially understood that no trees would be removed or affected as part of the proposals, as stated in the original submitted documents. It has been clarified that none of the trees on the Broughton Road frontage would be removed and that a group of trees in the north east corner of the Broughton Road frontage are protected by a Tree Preservation Order. It is further proposed that tree protection could be conditioned as requested by the Principal Landscape Architect by Condition 4. Five trees would be removed from the area of the proposed car park extension. These are all trees which were planted as part of the original permission for the existing Sports Centre and are immature trees and were planted in the wrong place and not in accordance with the approved landscaping scheme for the Sports Centre. These will be replaced by eight specimen trees.
- 7.14 It is considered that the proposals accord with NPPF paragraph 180 on appropriateness of development for its location as well as the effects of pollution including noise and light pollution as the applicant has proposed the erection of fencing and further screening, the details of which will be conditioned (Condition 3), to avoid light overspill. Noise is considered to be acceptable as the development will mainly be contained within a building; noise from arrivals and departures would not be excessive and would be also mitigated to a degree by the screening and fencing; and noise during construction would be temporary. The proposal is therefore also in accordance with Policy SP20 of the Ryedale Plan - Local Plan Strategy in relation to being compatible with existing neighbouring land uses and would not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. It would protect amenity and promote well-being in line with Policy SP16.

Landscape impact

- 7.15 An indicative landscaping scheme for the proposed development has been submitted with this application, which is considered acceptable. The details of the scheme will be required to be submitted through proposed planning Condition 3. Further to the provision of the indicative landscaping scheme mentioned above, a survey has been carried out to ascertain which aspects of the original landscaping scheme for the Sports Centre had not been implemented. This has informed a further plan for 'Landscape Proposals' which outlines the insertion of new trees and hedge planting in front of the car park extension and clarification of which trees are to be removed as part of the car park extension and new specimen trees to be planted to replace them. It is considered that the local and wider landscape impact of the proposals is acceptable as the proposals would be an enhancement to the existing landscaping as further trees and

hedgerows will be added and this will benefit the entire Sports Centre site and therefore subject to Condition 4 in relation to tree protection measures (to BS5837) and the provision of a detailed hard and soft landscaping scheme (Condition 3), the proposals are in accordance with NPPF paragraphs 170; 172 and with Policy SP13 in relation to the protection of the setting of the AONB; SP16 in relation to enhancement of the setting and protection of amenity and SP20 in relation to character, design and amenity of the Ryedale Plan - Local Plan Strategy.

- 7.16 It is intended that all mature trees will be retained on site and their protection will be ensured via a planning condition on tree protection. As stated in section 3 above, a group of trees on the Broughton Road frontage are protected by TPO and these will be protected. It is considered that although the development site is close to the boundary of the Howardian Hills Area of Outstanding Natural Beauty (AONB), the site is separated from the AONB by the A64 Trunk road and this proposal would not cause any adverse effects upon its setting. The Principal Landscape Architect has not raised any objection or concerns in relation to the proposals, and agrees that it is acceptable subject to tree protection measures and an appropriate landscaping scheme on the northern Broughton Road frontage being submitted. The proposal would therefore be in accordance with policies SP13; SP20 and SP16 and NPPF paragraph 127. The imposition of pre-commencement conditions, to which the applicant has agreed in writing, is considered acceptable in this case as the application does not contain the requisite details and these are required in order to ensure that amenity is protected and good design secured in line with policy.

Flood risk and drainage

- 7.17 The proposed development is within EA Flood Zone 1, is at very low to low risk of pluvial flooding and is not at risk of reservoir flooding, and due to being under 1 hectare in size a Flood Risk Assessment is not required. Consideration has been given to the submitted drainage strategy and the comments of the Lead Local Flood Authority's engineer. It is considered that the submitted documents demonstrate a reasonable approach to the management of surface water on the site by the use of Sustainable Urban Drainage principles and existing attenuation and oil interceptor infrastructure. The Drainage Strategy document states that the existing drainage system has been designed with the extension in mind. With the imposition of a pre-commencement planning condition in relation to development flow rate, it is considered that the proposals are in line with NPPF paragraphs 155 to 165 and policies SP17 and SP19 of the Ryedale Plan - Local Plan Strategy as flood risk will be managed by the application of sustainable drainage system principles and protection of groundwater through the use of interceptors and the proposal is therefore considered to be sustainable development. The imposition of a pre-commencement condition is considered both reasonable and necessary in this case as the application does not contain the requisite details and these are required in order to ensure that flooding is prevented in line with policy.

Highways matters – Traffic and transport

- 7.18 Consideration has been given to the impact of the proposal on the highway network and other traffic and transport related matters. The extended car park proposes a further 22 spaces (with the loss of 4 existing spaces in the existing car park to form the accesses) and the Highways Authority considers the proposed parking arrangements to be acceptable. It is noted that the access to the highway will remain the same and within capacity and that the slight increase in vehicle numbers is acceptable and catered for by the car park extension. It is therefore considered that with the inclusion of the suggested conditions in relation to a Construction Phase Management Plan (Condition 7) and the approval of turning, manoeuvring and parking areas prior to the extension being brought into use (Condition 6), the proposal would accord with the

NPPF and PPG in relation to highways matters, and is in line with Policy SP20 of the Ryedale Plan - Local Plan Strategy in terms of suitable and safe access and parking. This is in line with paragraphs 102 and 108 of NPPF. A pre-commencement condition in relation to a Construction Phase Management Plan is considered appropriate in this case in order to protect the amenity of the area and safety and written agreement has been provided by the applicant.

Public Access and Community Use

- 7.18 Consideration has been given to the increase in usage of the site and extended hours associated with this use. The existing Sports Centre permitted hours of opening are between the hours of 0800 and 2200 any day of the week, including bank/public holidays. As the car park is set behind existing trees on the other side of the road from the nearest residential properties, it is considered that there would be no adverse impact on the amenity of local residents as a result of the proposed development. New landscaping proposed along the northern boundary of the site would also ensure that any minor disturbance from people arriving and leaving would be contained within the site. It has further been confirmed that the gates will be closed and locked when the site is not in use and therefore the proposal is considered to be in line with NPPF paragraphs 91 and 127 f) in relation to safety and design and SP16 in relation to reducing crime and fear of crime.
- 7.19 There are also no objections to the proposal in relation to the proposed change in hours as stated above and Malton Town Council has stated that they recommend approval. It is considered that the proposed development would be in line with Ryedale Policies SP1 in its location; SP11 as it is the provision of an expansion to an existing facility addressing identified deficiencies set out in Table 3 of the Plan; SP16 in relation to protecting amenity and well-being and SP20 in protection of amenity and sensitive receptors and in line with the aims of increasing provision of sports facilities. The proposal aims to increase community use of the facilities and provide benefits to the local community and the school, giving a further fitness suite which is capable of being used by the community, increasing participation in sport in line with NPPF paragraphs 91, 92, and 94 and Ryedale Plan - Local Plan Strategy Policy SP11. It is considered that the public benefits of the proposal outweigh the limited harm to amenity from the amended hours of use and that the proposed conditions on the submission of detailed hard and soft landscaping and to limit hours of use would ensure that the proposal would protect amenity and promote well-being in line with Policy SP16.

Open space, sport and recreation

- 7.20 Given the proposal location and the effect upon sport and recreation Sport England have been consulted. Whilst the proposal is in the grounds of the existing Sports Centre, it would not have any impact upon playing fields. No objection has been raised by Sport England and it is considered that the development would meet their policy criteria of exception 3. This states that *'The proposed development affects only land incapable of forming part of a playing pitch and does not:*
- *reduce the size of any playing pitch*
 - *result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);*
 - *reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;*
 - *result in the loss of other sporting provision or ancillary facilities on the site; or*
 - *prejudice the use of any remaining areas of playing field on the site.'*
- Further, the proposals are for the expansion of facilities, therefore leading to improved facilities in the location. This will benefit the school; local community and wider area, as Malton is identified as an area for the development of the sports centre in Table 3: *'Necessary Improvements to Community Facilities and Physical Infrastructure'* of the

Ryedale Plan and is a centre for services for a wider catchment. It is considered that the proposals are in line with NPPF paragraph 97 as they are increasing the provision of sports facilities and this would not directly affect the playing fields. This is in line with Policy SP11 by providing new or enhanced provision in line with Table 3. This is also in accordance with Paragraph 91 c) of NPPF in its aims of enabling and supporting healthy lifestyles, '*especially where this would address identified local health and well-being needs*'.

Biodiversity, habitats, nature conservation and protected species

- 7.21 Whilst the development site is within the Impact Risk Zone of the River Derwent SSSI, the County Ecologist has confirmed that they are happy with the proposals subject to tree protection measures. A likely significant effect on the SSSI or the SAC can be ruled out, as also confirmed by Natural England. This is due to the site being at the opposite end of Malton to the river in relation to the River Derwent SSSI (which is also a SAC) and in relation to the Malton Bypass Cuttings SINC it is considered that it is a self-contained unit as detailed above. It is not considered that the proposals would have any significant effect upon protected species or species identified in the Ryedale Biodiversity Action Plan and priority species and habitat in the UK Biodiversity Action Plan subject to details of tree removal measures to take into account breeding bird potential, which has been added to the proposed landscaping condition. The proposals are therefore in line with Policy SP14 and with NPPF paragraphs 8, 11, 170 and 175 and with the provisions of section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 and with the Conservation of Habitats and Species Regulations 2017 (as amended). The proposed additional tree and hedgerow planting would secure net gain for biodiversity in line with paragraph 170 of NPPF and local policy.

8.0 Conclusion

- 8.1 Objections in relation to fencing; car lights; and landscaping including retention of trees have been resolved through negotiation with the applicant by the imposition of a condition on detailed hard and soft landscaping proposals; a condition on tree protection and also by the production of indicative plans including screening and fencing. Further considerations have also been addressed by the imposition of conditions in relation to a Construction Phase Management Plan; approval of turning, manoeuvring and parking areas; flood risk; and hours of opening. It is therefore considered that the proposed extension to Malton Sports Centre is acceptable in land use planning terms subject to appropriate conditions. The proposal would not be unacceptable in amenity or highway terms and it is considered that it will result in an improvement to community facilities for the town. The benefits of the scheme including public benefits of increasing sports provision in line with Ryedale Plan - Local Plan Strategy Policy SP1 on location and SP11 and NPPF Paragraph 91 c); ensuring community facilities can develop and modernise in line with NPPF Paragraph 92 d); increased planting resulting in biodiversity enhancement in line with SP14 and paragraph 170 of NPPF; and the improvement of sports facilities for the use of the school in line with NPPF paragraph 94, are considered to outweigh the limited harm to amenity. The proposal is therefore compliant with both local and national policy.

9.0 Recommendation

- 9.1 For the following reason(s):

- (i) the proposed development would not result in an adverse impact upon residential amenity, visual or otherwise, of existing or future occupants of the surrounding area as it is considered that the proposed development would have a limited impact upon amenity; and
- (ii) the proposed development generally accords with the principles of the National Planning Policy Framework (February 2019), National Planning Practice Guidance (March 2014), and does not conflict with Policies SP11; SP13; SP14; SP16; SP17; SP19 and SP20 of the Ryedale Plan - Local Plan Strategy (2013).

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

Conditions:

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. The development hereby permitted shall be carried out in accordance with the application details dated 16/03/2020 and the following approved documents and drawings:

Ref.	Date	Title
12041 - WMS - SH - XX - DR - A - 10901 - S8 – Rev P3	20.03.20	Block Plan
12041-WMS-SH-XX-DR-A-19001-S8-Rev P2	20.02.20	Site Plan
12041 -WMS - SH - XX - DR - A - 18101 - S8 – Rev P1	14.02.20	3D Visuals
12041 -WMS - SH - ZZ - DR - A - 10501 - S8 – Rev P1	17.02.20	GA Sections
12041 - WMS - ZZ - XX - DR - C - 39201 - S8 – Rev P2	23.03.20	Drainage Layout
PRF/KW/12041/DF Rev B	June 2020	Design & Access Statement
12041 -WMS - SH - 00 - DR - A - 10101 - S8 – Rev P2	20.03.20	Existing Plan
12041 -WMS - SH - ZZ - DR - A – 10401- S8 - Rev P4	20.03.20	Proposed Floor Plans
12041 -WMS - SH - ZZ - DR - A - 10102 - S8 – Rev P1	13.03.20	Existing Elevations
12041 -WMS - SH - ZZ - DR - A - 10602 - S8 – Rev P3	20.03.20	Proposed North & South Elevations

12041 -WMS - SH - ZZ - DR - A - 10601 - S8 – Rev P4	20.03.20	Proposed East & West Elevations
12041-WMS-ZZ-XX-RP-C-39201-S8-P3	February 2020	Drainage Strategy Report
12041-WMS-SH-XX-DR-A-19001-S8-Rev P2	20.02.20	Indicative Site Plan (as marked up)
2155/4	18 June 2020	Landscape Proposals - Sports Hall Extension

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

3. LANDSCAPING SCHEME

Prior to commencement of development, a detailed scheme of hard and soft landscaping shall be submitted to and approved in writing by the County Planning Authority. The scheme shall include details of:

- proposed fencing
- the proposed car parking layout and levels, surfacing and surface water drainage;
- the proposed perimeter footpaths, access roads and tracks
- A soft landscape scheme which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/ densities where appropriate, maintenance, protection for establishment and aftercare. Details must also be provided to confirm that no removal of trees shall take place between the 1st March and 31st August inclusive, unless a suitably qualified person has undertaken a detailed check to confirm that no active nests are present. This should be confirmed in writing to the County Planning Authority in advance of works. Thereafter, the landscaping shall be implemented in strict accordance with the approved scheme within the first available planting season. Any failures within the first 12 months of being planted shall be replaced with species of the same size and maturity as previously specified in the approved scheme. The approved Scheme shall be implemented upon commencement of use of the development and adhered to throughout the life of the development.

Reason: This is a pre-commencement condition and considered necessary to protect the environment and amenity in relation to the landscape impacts on site and protect biodiversity.

4. TREE PROTECTION

No works shall commence until all existing trees, hedges, bushes shown to be retained on the approved plans are fully safeguarded by protective fencing and ground protection in accordance with approved plans and specifications and the provisions of British Standard 5837 (2012). Trees in relation to design, demolition and construction. Such measures must be retained for the duration of any approved works.

No works or development shall commence until a written Arboricultural method statement for a tree care plan has been submitted to and approved in writing by the County Planning Authority. Works or development must then be carried out in accordance with the approved method statement.

No equipment, machinery or materials must be used, stored or burnt within any protected area. Ground levels within these areas must not be altered, nor any excavations undertaken including the provision of any underground services.

Seven days' written notice shall be given to the County Planning Authority that the protection measures are in place prior to approved works, to allow inspection and approval of the works.

Reason: This is a pre-commencement condition and considered necessary to ensure the protection and preservation of trees, hedges, bushes and other natural features during construction works.

5. Development Flow Runoff Rate Scheme

Prior to the commencement of the development, a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the County Planning Authority. The flowrate from the site must be restricted to a maximum flowrate of 7.3 litres per second for up to the 1 in 100 year event. A 20% allowance must be included for climate change effects for the lifetime of the development. Storage must be provided to accommodate the minimum 1 in 100 year plus climate change plus urban creep critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. Principles of sustainable urban drainage shall be employed wherever possible. No part of the development must be brought into use until the development flow restriction works comprising the approved scheme has been completed. The approved maintenance and management scheme must be implemented throughout the lifetime of the development.

Reason: This is a pre-commencement condition and considered necessary to ensure that the development is built to the submitted drainage design; to prevent the increased risk of flooding; to ensure the provision of adequate and sustainable means of drainage in the interests of amenity

6. Provision of Approved Turning and Parking Areas

No part of the car park extension and fitness suite extension development must be brought into use until the parking, manoeuvring and turning areas for all users of the fitness suite extension at Malton Community Sports Centre have been constructed in accordance with the details approved in writing by the County Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development.

7. Construction Phase Management Plan

No development must commence until a Construction Management Plan has been submitted to and approved in writing by the County Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

- 1. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;*
- 2. the parking of contractors' site operatives and visitor's vehicles;*
- 3. areas for storage of plant and materials used in constructing the development clear of the highway;*
- 4. details of site working hours; and*
- 5. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.*

Reason: This is a pre-commencement condition and considered necessary to protect public safety and amenity

8. Hours of Opening

The development hereby approved shall only be used between the hours of 0700 and 2200 any day of the week.

Reason: To ensure that the development does not have an adverse impact on the amenities of the occupants of nearby residential properties and to protect local amenity.

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

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose not to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

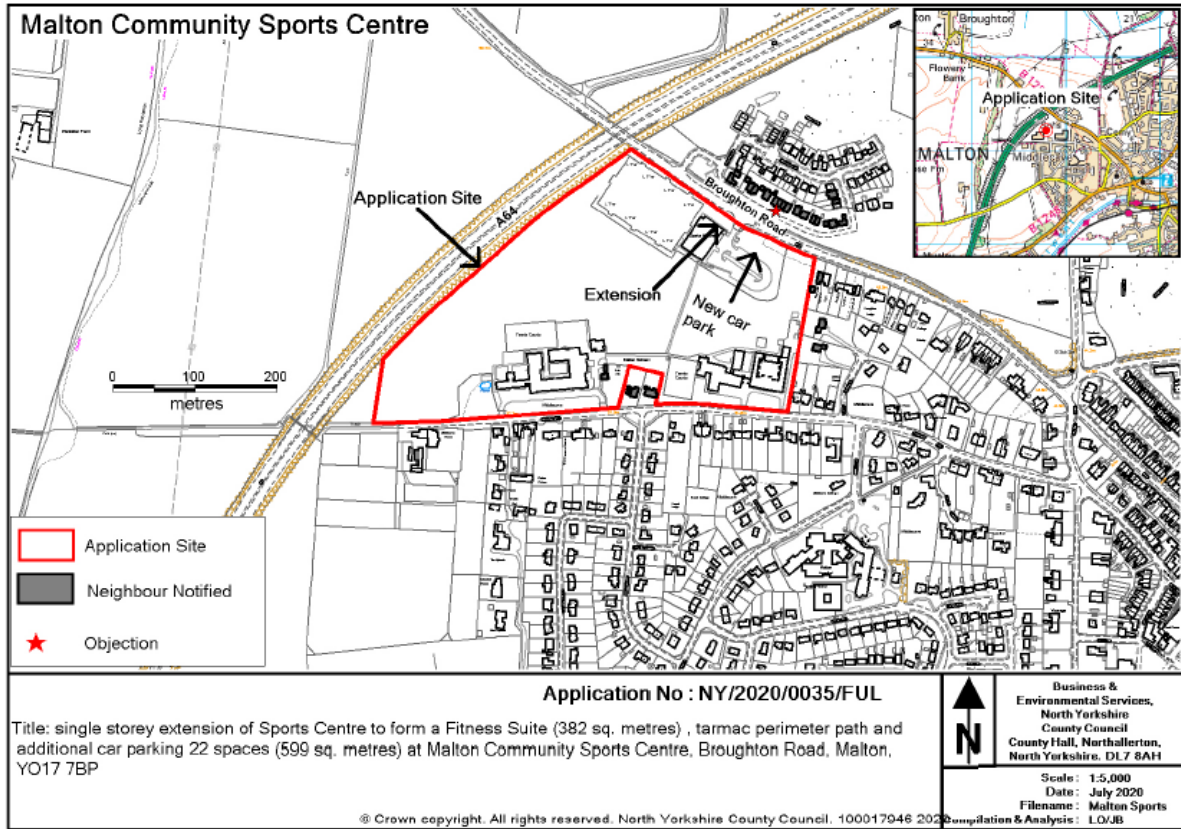
D BOWE

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

Background Documents to this Report:

1. Planning Application Ref Number: C/ 20/00344/CPO (2020/0035/FUL) registered as valid on 1 April 2020. Application documents can be found on the County Council's Online Planning Register by using the following web link:
<https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.

Author of report: Leo Oliver



North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

17 NOVEMBER 2020

- PLANNING APPLICATION FOR THE PURPOSES OF THE VARIATION OF CONDITION NO. 1 OF PLANNING PERMISSION REF. C2/10/00926/CCC FOR THE PERMANENT USE OF THE LAND AND BUILDINGS AS A WASTE TRANSFER STATION ON LAND AT CARR LANE, SUTTON ON THE FOREST, YO61 1EB ON BEHALF OF MR T MOVERLEY (HAMBLETON DISTRICT) (STILLINGTON ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 To determine a planning application for the Variation of condition No. 1 of Planning Permission Ref. C2/10/00926/CCC for the permanent use of the land and buildings as a waste transfer station on land at Carr Lane, Sutton On The Forest, YO61 1EB on behalf of Mr T Moverley.
- 1.2 This application is subject to an objection having been raised by one member of the public in respect of this proposal and is, therefore, reported to this Committee for determination. The grounds for the objection are detailed within paragraph 5.3 of this report.

2.0 Background

Site Description

- 2.1 The application site is located to the southeast of Sutton on the Forest village; a village within the district of Hambleton which is approximately 16 kilometres to the north of York and approximately 8 kilometres to the south-east of Easingwold. The village is a linear settlement which has developed along the public highway of the B1363 (Main Street). The village is of predominantly residential use and is surrounded by agricultural land. A large cluster of woodland sits to the immediate south of the B1363 and the village.
- 2.2 Located to the south-east of the village, the application site sits between Carr Lane, the public highway which adjoins the B1363 to the far east of Sutton on the Forest and runs in a southerly direction, and the disused airfield of East Moor. The application site comprises land which was formerly part of the East Moor Airfield. The airfield was closed in 1946 and since then a number of the buildings have been used as both storage facilities and workshops.
- 2.3 The site sits within the Carr Lane industrial park which accommodates over 11 separate business units. Access to the highway is off Carr Lane which leads to the B1363 to the north of the site. On the opposite side of Carr Lane is Cleveland Industrial site. The nearest residential properties include Eastmoor Lodge approximately 30 metres to the south and Eastmoor Farm within 38 metres of the southern boundary

- 2.4 The application site is located within the boundary of the Kyle and Upper Ouse Internal Drainage Board (IDB) but is over 1000 metres from a boundary of Flood Zone's 2 or 3. There are no other planning constraints relevant to the determination of this application. A plan showing the application site is attached to this report.

Planning History

- 2.5 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -
- 2.6 On the 5th May 1982 planning permission ref. C2/144/95/PA was granted for the tipping of waste materials at East Moor Airfield, Sutton on the Forest. The permission was subject to 12 conditions. The permission was implemented with Condition 1 having relevance stating *'The permission hereby granted is valid only until 4 May 1985 and the operations now approved shall be discontinued and the land restored in accordance with conditions number 5 and 6 before that date.'*
- 2.7 On the 22nd June 1990 planning permission ref. C2/89/144/0095A was granted for the purpose of the use of land and buildings as a Waste Transfer Station and for the storage of reclaimed building materials at Carr Lane, Sutton-on-the-Forest. The original planning application was submitted to regularise the unauthorised activity of transferring and sorting materials from demolition waste and storing them on site prior to their reuse. The original grant of planning permission for the waste transfer station was subject to various conditions. The permission was implemented with Condition 1 having relevance stating *'The permission hereby granted is valid only until 21st June 2000. The development now approved shall be discontinued on or before that date and the land restored in accordance with a scheme to be approved by the County Planning Authority unless prior approval has been obtained to extend the period of the planning permission.'*
- 2.8 On the 8th September 2000 planning permission ref. C2.00.144.029 was granted for the purposed of use of land and building as a waste transfer station at Carr Lane, Sutton-on-the-Forest following approval from Planning Committee held on the 5th September 2000. The permission sought to continue the use of the site as a waste transfer station dealing mainly with building materials but also soils and rubble and was implemented with Condition 1 having relevance stating *'The permission hereby granted is valid only until 7th September 2010. The development now approved shall be discontinued on or before that date and the land restored in accordance with a scheme to be approved by the County Planning Authority.'*
- 2.9 The planning condition was attached to the planning permission so to reserve the rights of control of the County Planning Authority to ensure restoration of the land with the minimum of delay in the interests of amenity.
- 2.10 On the 28th June 2005 planning permission ref. C2/05/144/0249A was granted for the erection of a portal framed unit to house the waste transfer area at Carr Lane, Sutton-on-the-Forest.
- 2.11 On the 8th September 2010 planning ref. C2/10/00926/CCC was granted in respect of proposed development for the purposed of the variation of condition No.1 of planning permission No. C2/00/144/029 at Carr Lane, Sutton on the Forest.
- 2.12 The planning condition subject of this application is:
1. The permission hereby granted is valid only until 7 September 2020. The development now approved shall be discontinued on or before that date and the land restored in accordance with such details as specifically approved in writing by the County Planning Authority.

3.0 The proposal

- 3.1 Planning permission is sought for the Variation of condition No. 1 of Planning Permission Ref. C2/10/00926/CCC for the permanent use of the land and buildings as a waste transfer station on land at Carr Lane, Sutton On The Forest, YO61 1EB on behalf of Mr T Moverley.
- 3.2 The site comprises of generally flat land that is bounded to the southern and western boundaries by a screen bund and mature planting. The site comprises a range of buildings and covered storage areas alongside areas of uncovered hardstanding and concrete roadways and processes a range of construction and demolition wastes. The north-west of the application site is used for general storage with the west of the site being separated into three sections: metal storage, soil storage and rubble storage. These areas are screened from Carr Lane by the bund, mature trees and hedgerow. The south of the site also screened by the bund a mature planting is identified as concrete hardstanding available to accommodate the aggregate production area and storage of reclaimed building materials. The north-east and east areas of the site accommodate the majority of covered storage areas and buildings and house the skip storage area along with architectural salvage storage and reclaimed material storage areas.
- 3.3 The operational use of the Waste Transfer Station is to mainly deal with building materials but also soils and rubble. Reclaimed materials including bricks, tiles, slates, stone paving, timber, door etc. are sorted for reuse. Other materials such as paper, plastic, cardboard – are sorted and taken for recycling. Inert soil and rubble are also able to be recycled via a mobile screen onsite. The site currently has conditions to include hours of operation, which are limited to 0700-1900 Monday to Friday and 0700 to 1600 on Saturdays and vehicle movements being restricted to 40 movements per day
- 3.4 This planning application submitted now seeks to allow for the permanent retention of the buildings and use of the site following use of the site as a Waste Transfer site for the past 30 years. No further changes to either the site operations or existing built development on site are proposed within this application.

4.0 Consultations

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on the 27 August 2020.

- 4.1 **Highway Authority** – confirmed that following the additional information submitted by the agent confirming *'That the existing access with the agreed trip rate of up to 40 HGVs per day from the previous application has operated without any recorded accidents at its junction with the highway. Visibility at the access has been established at 2.4m by 160m which is acceptable and has provide a practical environment for vehicles to operate. Therefore, the local highway authority has no objections to the proposed development.'*
- 4.2 **Hambleton District Council (Planning) & Conservation** - responded on the 15th September 2020 to state that *"From reviewing the application, the site has been operational as a Waste Transfer station since 1990 with various temporary permissions granted over the years. To make the site a permanent site to continue using the land and buildings for this purpose, the Council has no observations to make in regard to this application.*

- 4.3 **Environmental Health Officer (Hambleton)** – responded on the 21st September 2020 that the “*service has considered the potential impact on amenity and likelihood of the development to cause a nuisance and consider that there will be no negative impact. Therefore, the Environmental Health Service has no objections.*”
- 4.4 **Environment Agency York** - responded on the 4th September 2020 that “*Subject to the applicant continuing to comply with the relevant Environmental Permitting Regulations, the Agency has no objection or concern with the applicant’s proposal.*”
- 4.5 **Sutton on the Forest Parish Council** – responded on the 3rd September 2020 that “*The Parish Council is not aware of any problems arising from this operation over the last thirty years or so and therefore we do not object to the removal of the temporary use condition attached to the current permission.*”
- 4.6 **Kyle and Upper Ouse IDB** at the time of writing this report no response had been received in relation to the application.

Notifications

- 4.7 County Cllr. Caroline Patmore was notified of the application on the 27th August 2020.

5.0 Advertisement and representations

- 5.1 This application has been advertised by means of two Site Notices posted on 21st August 2020 (responses to which expired on 15th September 2020). The Site Notices were posted in the following locations: the first at the bus stop at Carr Lane opposite the workshops on Carr Lane next to Cleveland Industrial Estate which is positioned west of the application site and the second site notice was positioned at the bus stop on Carr Lane to the entrance of Sutton-on-the-Forest Village next to the entrance to The Gowans leading to Harland Close which is positioned north of the application site. A Press Notice appeared in The Press (York) on 1st September 2020 (responses to which expired on 15th September 2020).
- 5.2 Neighbour Notification letters were sent on 27 August 2020 and the period in which to make representations expired on 18 September 2020. The following properties received a neighbour notification letter:
- Naden Lodge, Goose Lane, Sutton On the Forest, North Yorkshire, YO61 1ET;
 - High Chaparral, Goose Lane, Sutton On the Forest, North Yorkshire, YO61 1ET;
 - Woodside Farm, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EB;
 - Harpers Environmental Ltd, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EY;
 - Glen Coaches, J Wreglesworth, Carr Lane, Sutton On the Forest, North Yorkshire YO61 1EY;
 - The Bungalow, Eastmoor Farm, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EX;
 - Eastmoor Lodge, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EX;
 - Malcolm Quill Ltd Unit G, Carr Lane, Sutton On The Forest, North Yorkshire, YO61 1EY;
 - Classic Gates Unit 11 C, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EY;
 - Andrews Autobase Ltd Workshops, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EY;
 - House of Elliott Unit 1 B, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EY;
 - Carr Lane Motors Unit 11 A, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EY;
 - Auto Cosmetics Unit 2, Carr Lane, Sutton On the Forest, North Yorkshire, YO61 1EY;
 - Eastmoor Farm, Carr Lane, North Yorkshire, YO61 1EX.

- 5.3 One letter of representation has been received raising objections on the grounds of:-
- Failure to comply with previous conditions imposed by planning permission C2/10/00926/CCC;
 - Missing Documents;
 - Stock Pile levels exceeding permitted heights,
 - Lack of screening affecting residential amenity.

6.0 Planning policy and guidance

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. In this instance, therefore, the *Development Plan* consists of policies contained within a number of planning documents. These documents include:
- any extant planning policies contained within Plan(s) adopted by the County and District (or Borough) Councils 'saved' under direction of the Secretary of State; and,
 - any planning policies contained within *Development Plan* Documents adopted under the Local Development Framework regime.
- 6.2 The *Development Plan* for the determination of this particular application comprises the following:
- the extant 'saved' policies of the North Yorkshire Waste Local Plan (2006); and,
 - the emerging Minerals and Waste Joint Plan (in examination)
 - the extant policies of the Hambleton District Council Core Strategy (2007)
 - The emerging Hambleton Local Plan.

North Yorkshire Waste Local Plan (NYWLP)

- 6.3 The North Yorkshire Waste Local Plan (adopted 2006) has particular relevance in the determination of this application and the policies most relevant include:
- 4/1 – Waste Management Proposals;
 - 4/3 – Landscape Protection;
 - 4/18 – Traffic Impact;
 - 4/19 – Quality of Life;
 - 5/3 – Recycling, sorting and transfer of industrial, commercial and household waste;
 - 5/7 – Facilities for the Recycling of Construction and Demolition Wastes;
- 6.4 'Saved' Policy 4/1 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the nature of the development is for a waste management facility. The policy advises that *'Proposals for waste management facilities will be permitted provided that:-*
- a) *The siting and scale of the development is appropriate to the location of the proposal;*
 - b) *The proposed method and scheme of working would minimise the impact of the proposal;*
 - c) *There would not be an unacceptable environmental impact;*
 - d) *There would not be an unacceptable cumulative impact on the local area;*
 - e) *The landscaping and screening has been designed to effectively mitigate the impact of the proposal in a way that is sympathetic to local landscape character;*
 - f) *Where appropriate, adequate provision is made for the restoration, aftercare and management of the site to an agreed afteruse;*
 - g) *The proposed transport links are adequate to serve the development;*

- h) Other environmental and amenity safeguards would effectively mitigate the impact of the proposal;*
- i) It can be demonstrated that the proposal represents the best Practicable Environmental Option for dealing with the waste;*
- j) The location is geographically well located to the source of the waste thereby according with the proximity principle'.*

- 6.5 Both the NPPF and the NPPW are silent on matters raised in criteria b) and i) of 'saved' Policy 4/1. With regard to criteria f), consideration is given within Appendix B of the NPPW in relation to the testing the suitability of a proposed site in determining planning applications. With regards to criteria a), it is noted that the NPPF is silent on the matters raised, whilst paragraph 7 of the NPPW notes that consideration should be given to the type and scale of a proposed waste management facility. However, 'Saved' Policy 4/1 in regards to Waste Management also states that proposals for waste management facilities will be permitted provided that the siting and scale of the development is appropriate to the location of the proposal and is well located to the waste source (criterion a and j); Therefore, only partial weight can be afforded only to criteria a) of this policy in the determination of this planning application.
- 6.6 Criterion g) 'Saved' Policy 4/1, is considered to not conflict with the provisions of the NPPF. However, there are differences in the objectives in that criterion g) states that transport links should be adequate, whereas the NPPF states that improvements to the transport network should be considered as part of proposals. However, Appendix B of the NPPW notes that considerations should be given to the suitability of the highway network in the determination of an application and assessing the suitability of a site. Furthermore, consideration should be given in the extent to which a development would rely upon the existing highway network, rail networks and transport links to ports. Therefore, this policy is considered to be largely compliant with the NPPW and as such substantial weight can be afforded to this element of the policy in the determination of this application.
- 6.7 In terms of criteria c), d) and h) of 'saved' Policy 4/1, the NPPF states that developments should contribute to and enhance the local environment, not give rise to unacceptable risks from pollution and cumulative effects should be taken into account rather than the wording in 'saved' Policy 4/1 which states that there should not be unacceptable impacts and that safeguards should mitigate the impacts. Although there is a slight difference in emphasis, the provisions of the Policy are considered to be generally conforming to the NPPF. Furthermore, Paragraph 7 of the NPPW notes that the potential harm to the local environment should be assessed in the determination of a planning application against the criteria set out in Appendix B of the document, the general thrust of which seeks to ensure that the suitability of a proposed site is assessed against a number of environmental criteria. Therefore, partial weight should be given to this element of the policy in the determination of this application.
- 6.8 Criterion e) of 'saved' Policy 4/1 requires that landscaping and screening should mitigate the impact of the development, being sympathetic to local landscape character. Therefore, it is considered that the Policy is consistent with the provisions of the NPPF, in particular paragraphs 124 - 127 of the Framework, and Appendix B of the NPPW, both of which note the importance of developments responding to local character and landscapes however more emphasis should be given to protecting and enhancing valued landscapes. Therefore, this element of the policy should be afforded partial weight in relation to this planning application.
- 6.9 'Saved' Policy 4/3, Landscape Protection, states proposals for waste management facilities would only be permitted if there would not be an unacceptable impact on the

character and uniqueness of the landscape and, wherever possible, proposals should result in an enhancement of the local landscape character. This specific 'saved' policy is considered to be relevant and weight can be given to 'saved' Policy 4/3 as the NPPF states clearly that the effects of development on the landscape, including any adverse landscape impacts, should be taken into account

- 6.10 'Saved' Policy 4/18, Traffic Impact states, waste management facilities would only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway and would not have an unacceptable impact on local communities. This policy does not conflict with the aims and objectives of the NPPF, however, there are differences in that the NPPF states that improvements to the transport network should be considered, therefore, the NPPF guidance should be given more weight in this instance as the NPPF paragraphs 102-104, state that improvements to the transport network should be considered, and paragraph 109 states applications should only be refused on highways grounds if the highways impacts are severe.
- 6.11 'Saved' Policy 4/19 of the North Yorkshire Waste Local Plan is considered relevant to the determination of this application as the development has the potential to impact upon the local environment and residential amenity. The policy advises that 'Proposals for waste management facilities will be permitted only where there would not be an unacceptable impact on the local environment and residential amenity'. The NPPF provides guidance in relation to how planning decisions should aim to conserve and enhance the natural environment. Paragraph 170 of NPPF advises that applications should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 6.12 Furthermore, it is noted that the NPPW confirms that environmental impacts and impacts upon amenity are to be considered against the Locational Criteria set out in Appendix B when determining planning applications. It is noted that Appendix B includes factors such as visual impacts, air emissions including dust, odours, noise, light and vibrations. It is, therefore, considered that 'saved' Policy 4/19 is consistent with the NPPF and NPPW. Therefore, this policy should be given considerable weight in the determination of this planning application.
- 6.13 Policy 5/3 advises that proposals for facilities for recycling, sorting and transfer of industrial, commercial and household waste will be permitted provided that the proposed site is suitably located within an existing, former or proposed industrial area of a character appropriate to the development, the highway network and site access can satisfactorily accommodate the traffic generated and that the proposal will not have an unacceptable impact on local amenity or the environment. Appendix B of the NPPW notes that considerations should be given to assessing the suitability of a proposed waste determination of an application site. Therefore, this policy is considered to be largely consistent with the NPPW and as such substantial weight can be afforded to this element of the policy in the determination of this application.
- 6.14 'Saved Policy 5/7 in regards to Facilities for the Recycling of Construction and Demolition Wastes states that recycling facilities for construction and demolition wastes would be permitted provided it is suitably located with an existing industrial area of a character appropriate, within or adjacent to a landfill site, and that it does not prejudice the restoration and afteruse of the landfill site. The proposed site must also be able to satisfactorily accommodate the traffic required and would not have an unacceptable impact on the local environment or local amenity.

- 6.15 This policy is broadly consistent with national policy in the NPPF and NPPW in terms of new development on previously developed land, and can therefore be afforded full weight in the determination process. This policy also complies with the locational criteria set out in Appendix B of NPPW, which are to be used when determining proposals for waste facilities, including considerations relating to traffic and amenity, and can therefore be given full weight in the consideration of this application.

Hambleton District Council Core Strategy (adopted 2007)

- 6.16 Within the Hambleton District Council Local Development Framework, the Hambleton District Council Core Strategy (adopted 2007) has particular relevance in the determination of this application and the policies most relevant include:
- Policy CP1, Sustainable development;
- 6.17 Policy CP1 advises that proposals that significantly harm the natural or built environment, or that would generate an adverse traffic impact, will not be permitted. In addition to this the policy supports proposals that would protect the health and amenity of the population and the local landscape.
- 6.18 It is considered that due weight can be given to Policy CP1 as the NPPF makes clear that the effects of pollution on the natural environment and general amenity, or the potential sensitivity of the area to adverse effects from pollution, should be taken into account. However, with regards to transport, the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. It is important to note, however, that Policy CP1 does not solely relate to waste-related development proposals as Hambleton District Council are not the determining planning authority for such developments.
- 6.19 The Hambleton Local Development Framework (adopted April 2007) within it contains a Development Policies document (adopted February 2008) also has particular relevance in the determination of this application and the policies most relevant include:
- Policy DP1, Protecting Amenity;
 - Policy DP36, Waste.
- 6.20 Policy DP1 advises that “all development proposals must adequately protect amenity, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution), odours and daylight”. This Policy is consistent with the NPPF’s objectives of a presumption in favour of sustainable development, as outlined paragraph 11 of the NPPF. Ensuring high quality design is also emphasised to ensure a good standard of amenity for all existing and future occupants. Therefore, considerable weight should be given to this Policy in the determination of this application.
- 6.21 Policy DP36 states that development and activities will be encouraged which support the minimisation of waste together with the efficient use of materials (and permission granted for related development, if also acceptable in terms of other LDF policies), and in particular assist in the delivery of the priorities of the waste hierarchy – which seeks first to promote the reduction of waste, followed by its re-use, then recycling and composting, followed by energy recovery, before finally accepting its disposal as a last resort. Support will be given (and permission granted for related development, if also acceptable in terms of other LDF policies) for the provision of well-designed recycling facilities and recycling collection points, in locations accessible to all members of the communities that are served. Where appropriate, development must make appropriate provision for recycling facilities and the collection of waste. Development should provide for on-site recycling, and seek to re-use building construction and demolition waste.

- 6.22 Although the NPPF does not contain specific waste policies, it is considered that full weight can be given to Policy DP36 as the NPPF states that sustainable development has an environmental role which includes minimising waste and pollution.
- 6.23 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption. In this respect, it is worth noting that the following document contains emerging local policies that are of relevance to this application:
- Hambleton Local Plan
 - Minerals and Waste Joint Plan (North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority).
- 6.24 Emerging Hambleton Local Plan
Emerging Hambleton Local Plan – Publication Draft – July 2019 was submitted for examination on 31 March 2020 but the date for the commencement of the Examination in Public has yet to be posted, however the following policies are relevant and therefore some weight can be given:
- Policy S1 – Sustainable Development Principles
 - Policy EG2 – Protection and Enhancement of Employment Land
 - Policy E1 – Design
 - Policy E2 – Amenity
 - Policy E7 – Hambleton’s Landscapes
 - Policy CI 2 – Transport and Accessibility
 - Policy RM - 2 Flood Risk
 - Policy RM 3 – Surface Water and Drainage Management
- 6.25 Policy S1 in regards to ‘Sustainable Development Principles’ states that its purpose is to ensure that development makes a positive contribution towards the sustainability of communities, enhances the environment and adapts to and mitigates the impact of climate change. Proposals are expected to make effective and efficient use of land, support existing communities, promote a range of business opportunities and ensure that development mitigates and adapts to improve local environments.
- 6.26 Policy EG2 ‘Protection and Enhancement of Employment Land’ aims to safeguard existing industrial areas and business parks for employment purposes. Carr Lane is listed within this policy as a General Employment Location.
- 6.27 Policy E1 in regards to ‘Design’ states that all development should be of a high quality, integrating successfully with its surroundings in terms of form and function. Proposals will be supported through this policy where they respond positively to its surrounding to help create distinctive, high quality and well-designed places; where they do not have an unacceptable impact on the amenities of neighbouring land and buildings or the wider area.
- 6.28 Policy E2 in regards to ‘Amenity’ requires a proposal to ensure that significant effects of overshadowing are not developed, the design and separations of buildings are not oppressive or overbearing with no result of loss of privacy through overlooking and that adverse impacts can be made acceptable – including impacts devised through noise.

- 6.29 Policy E7 in regards to 'Hambleton's Landscapes' states that proposals that seek to conserve and enhance any existing tree, hedgerow or woodland of value will be supported. This policy also takes account of areas that have been identified as being particularly sensitive to/ or suitable for certain forms of development.
- 6.30 Policy CI 2 'Transport and Accessibility' states that proposals would be supported where they are located where the highway network can satisfactorily accommodate traffic generated by the development. The district council will also support transport improvements required to address the cumulative impact of development across the district and those identified in the North Yorkshire Local Transport Plan as the policy seeks to reduce the need to travel long distances by directing development to locations close to strategic transport networks.
- 6.31 Policy RM 2 'Flood Risk' states that the council will manage and mitigate flood risk by a) avoiding development in flood risk areas and c) requiring flood risk to be considered for all development commensurate with the scale and impact of the proposed development and mitigated where appropriate. This will be achieved by supporting a development proposal only where it is demonstrated that show that the development will provide wider sustainability benefits to the community that outweigh flood risk and k) development has been sequentially located within the site to avoid flood risk.
- 6.32 Policy RM 3 'Surface Water and Drainage Management' states that support will be given to schemes where they do not result in unacceptable harm to landscape character, have an adverse environmental, social or economic impact or increase flood risk in other areas. The district council encourages the inclusion of surface water and drainage design from the outset to ensure that these issues are addressed as part of a holistic approach to the design of development and reference to policy E 1 'Design' is recommended.

Emerging Minerals and Waste Joint Plan (in examination)

- 6.33 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).
- The draft MWJP was published in November 2016 to receive representations and submitted to the Secretary of State for Communities and Local Government on 28 November 2017. While the Hearings have taken place, the Plan continues to remain under 'examination'. Upon receipt of the appointed Inspector's report, it is anticipated the Plan could be adopted at some point during 2020/21. There are no significant matters proposed in the Main Modifications in respect of the policies listed below which would affect the general policy position on those topics. Therefore, some weight can be given to the MWJP Policies. The most relevant policies in regards to the determination of this application are:

Draft Strategic Policies for Waste:

- W01 Moving waste up the waste hierarchy
- W05 Meeting waste management capacity requirements- Construction, Demolition and Excavation waste (including hazardous CD&E waste)
- W10 Overall locational principles for provision of waste capacity;

Draft Development Management Policies:

- D01 - Presumption in favour of sustainable minerals and waste development
- D02 - Local amenity and cumulative impacts
- D03 - Transport of minerals and waste and associated traffic impacts
- D06 – Landscape

- D07 – Biodiversity and geodiversity
 - D10 – Reclamation and after use
 - D11 - Sustainable design, construction and operation of development
- 6.34 Draft Policy W01 (Moving waste up the waste hierarchy) states that landfill of inert waste will be permitted where it would facilitate a high standard of quarry reclamation in accordance with agreed reclamation objectives.
- 6.35 Draft Policy W05 of the Publication Draft Joint Plan deals with 'Construction, Demolition and Excavation waste' and states net self-sufficiency in capacity for management of Construction and demolition waste would be supported through permitting proposals which would increase capacity where it is in compliance with W10 and W11, where the overall impacts from road transport would also be consistent with these policies.
- 6.36 Draft Policy W10 in regards to the 'overall locational principles for provision of waste capacity' includes within Part 2 of the policy that the potential of existing facility network should be maximised by supporting the continuation of activity in time limited sites.
- 6.37 Draft Policy D01 in regards to the 'presumption in favour of sustainable development' includes that when considering development proposals the Authorities) will work proactively with applicants and find solutions so a proposal can be approved and that will secure improvements to the locality's social, economic and environmental conditions. It states that planning applications that accord with the policies in the draft Plan will be approved without delay, unless material considerations indicate otherwise.
- 6.38 Draft Policy D02 in regards to 'Local Amenity and Cumulative Impacts' states minerals and waste development would be permitted if it can be demonstrated there will be no unacceptable impacts on local amenity including with respect to noise, dust, vibration, lighting and emissions to air, land and water. Any proposals are expected to prevent adverse impacts where possible and use robust mitigation if these impacts cannot be mitigated fully. The policy also encourages meaningful engagement with the local community is undertaken before the application is submitted.
- 6.39 Draft Policy D03 in regards to 'Transport of minerals and waste and associated traffic impacts' states where road transport is necessary proposals will be permitted where there is capacity within the local road network and the proposed nature and volume which not have an unacceptable impact on the area or can be appropriately mitigated. The policy also states that the access to the site is appropriate to the location with traffic controls and routing arrangements agreeable and that there is enough space on site for manoeuvring, parking and loading and that proposals should where needed include improvements when the above is not complied with. Part 2 of the policy states proposals generating significant levels of road traffic would require a transport assessment and green travel plan to demonstrate opportunities for sustainable transport and travel have be implemented where practicable.
- 6.40 Draft Policy D06 in regards to 'Landscape' has relevant points in regards landscape being protected from harmful development with proposals being able to be permitted where it can be demonstrated there would be no unacceptable impact on the quality or character of the landscape, including if there are any mitigation measures proposed. The policy further states schemes should be designed to have a high quality standard to mitigate any adverse impacts on landscape or tranquillity, especially in regards to the wider landscape context and any visual impact.
- 6.41 Draft Policy D07 in regards to Biodiversity and geodiversity states proposals will be permitted where it can be demonstrated that there will be no unacceptable impacts on biodiversity or geodiversity. It encourages through design that schemes should seek to

contribute positively towards the delivery of agreed biodiversity and/ or geodiversity objectives.

- 6.42 Draft Policy D10 in regards to Reclamation and Aftercare states restoration and aftercare elements are required to be carried out to a high standard and have taken into account the scale, location and context of the site. The restoration of the site must give rise to positive impacts and consider cumulative impacts and the potential impact of climate change. The restoration of the site must also where appropriate be progressive and phased so it is complete at the earliest opportunity and include the minimum of a 5-year period of aftercare. The above is stated as part one of the policy, in addition to this part two gives further specifics stating targets and objectives for developments within certain landscapes. In this instance the relevant category is within Part 2 viii of the policy being the delivery of significant net gains for biodiversity and seeking to deliver benefits at a landscape scale.
- 6.43 Draft Policy D11 ‘Sustainable design, construction and operation of development’ requires proposals minimise greenhouse gas (GHG) emissions, waste, generation, water consumption and flood risk, maximize biodiversity and landscape opportunities and look to generate and utilise renewable or low carbon energy as well as having regards to climate change.

Other policy considerations:

National Planning Policy

- 6.44 The policy relevant to the determination of this particular planning application provided at the national level is contained within the National Planning Policy Framework.

National Planning Policy Framework

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

- i.) *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 6.48 This national policy seeks to ensure that there are positive improvements in people's quality of life including improving the conditions in which people live, work, travel and take leisure.
- 6.49 Paragraph 102-104 within Chapter 9 (Promoting sustainable transport) of the NPPF states that plans and decisions should take account of whether opportunities for sustainable transport modes have been taken up depending on the nature and location of the site; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limits the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.50 Paragraph 109 within Chapter 9 (Promoting sustainable transport) of the NPPF states 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.
- 6.51 Paragraphs 124-27 within Chapter 12 (Achieving Well Designed Places) of the NPPF states that local and neighbourhood plans should develop robust and comprehensive policies that set out a clear design vision and expectations of development that will be expected for the area. Such policies should be based on stated objectives and designed with local communities, so they reflect their local aspirations, and are grounded in an understanding and evaluation of each areas defining characteristics. Planning policies and decisions should aim to ensure that developments:
- a) *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;*
 - b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
 - c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
 - d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visits*
 - e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
 - f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users⁴⁶; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience*
- 6.52 Paragraph 155 of the Framework notes that inappropriate development within areas at risk of flooding should be avoided however where development is necessary in such locations it should be made safe 'without increasing flood risk elsewhere.'
- 6.53 Paragraph 163 of the NPPF advises that in determining planning applications, Local Planning Authorities should 'ensure flood risk is not increased elsewhere' and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, and if required the Exception Test, *'it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;*
 - b) *development is appropriately flood resistant and resilient;*

- c) *It incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) *Any residual risk can be safely managed; and*
- e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

- 6.54 Within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF it is clear that the effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account.
- 6.55 Paragraph 170 within Chapter 15 (Conserving and enhancing the natural environment) of the NPPF sets out a number of principles for determining planning applications which aims to conserve and enhance biodiversity. These include:
- a) *protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner 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;*
 - c) *maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
 - 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.*
- 6.56 Within paragraph 180 of the Framework it is noted that decisions should ensure developments are appropriate for their locations taking into account impacts of pollution on health and the natural environment, as well as the sensitivity of the wider site and cumulative impacts. Therefore, the NPPF states developments should mitigate and reduce potential adverse impacts resulting from noise and avoid noise being a significant adverse impact on the health and quality of life in the area, furthermore the paragraph also states the impact of light pollution on local amenity should also be limited and mitigated where necessary.
- 6.57 Paragraph 183 within Chapter 15 states that *‘the focus of planning policies and decision should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities’.*

National Planning Policy for Waste

- 6.58 Within the National Planning Policy for Waste, Chapter 1 of the document notes that the planning system plays a key role in delivering the country’s waste ambitions through *‘recognising the positive contribution that waste management can make to the development of sustainable communities’*. Furthermore, it is noted that it is important that ambitions are also achieved by *‘helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment’*. Furthermore, it is advised that *this document provides a framework to enable waste to be disposed of or recovered ‘in line with the proximity principle’*.

6.59 Paragraph 7 of the National Planning Policy for Waste, provides guidance to Local Planning Authorities in the determination of waste planning applications, advising that they should:

- *'only expect applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up-to-date Local Plan. In such cases, waste planning authorities should consider the extent to which the capacity of existing operational facilities would satisfy any identified need;*
- *recognise that proposals for waste management facilities such as incinerators that cut across up-to-date Local Plans reflecting the vision and aspiration of local communities can give rise to justifiable frustration, and expect applicants to demonstrate that waste disposal facilities not in line with the Local Plan, will not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy;*
- *consider the likely impact on the local environment and on amenity against the criteria set out in Appendix B and the locational implications of any advice on health from the relevant health bodies. Waste planning authorities should avoid carrying out their own detailed assessment of epidemiological and other health studies;*
- *ensure that waste management facilities in themselves are well-designed, so that they contribute positively to the character and quality of the area in which they are located;*
- *concern themselves with implementing the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.'*

6.60 Within Appendix B of the National Planning Policy for Waste, it is noted that in addition to the type and scale of any proposed facility, Local Planning Authorities should consider the following factors in assessing the suitability of a proposed waste site:

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

National Planning Practice Guidance (PPG) (2014)

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

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

Design

6.62 This states how good design is essential to sustainable development with reference to the importance of it being functional, in that it relates well to its surrounding

environment, and is designed so that it delivers its intended purpose whilst maintain a distinctive character. It though must also '*reflect an area's function, history, culture and its potential need for change*'. Ensuring a development can:

- Deliver a wide range of planning objectives
- Enhance the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing
- Address the need for different uses sympathetically.

6.63 It is noted within the guidance that good quality design is considered to be 'an integral part of sustainable development'. To assist in the assessment of the design of a new development, it is noted that the following considerations be taken into account:

- *Layout- the way in which buildings and spaces relate to each other;*
- *Form- the shape of buildings;*
- *Scale- the size of buildings;*
- *Detailing- the important smaller elements of building and spaces*
- *Materials- what a building is made from*'.

Noise

6.64 This states how noise needs to be considered when new developments 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. Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:

- *whether or not a significant adverse effect is occurring or likely to occur;*
- *whether or not an adverse effect is occurring or likely to occur; and*
- *whether or not a good standard of amenity can be achieved.*

6.65 It also states that "*neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise Policy Statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development*".

6.66 In line with the Explanatory Note of the Noise Policy Statement for England, this would include identifying whether the overall effect of the noise exposure (including the impact during the construction phase wherever applicable) is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.

Waste

6.67 With regard to the Waste Hierarchy the guidance states all planning authorities should look to drive waste management up the waste hierarchy to an extent appropriate to their responsibility. In regards to unallocated site for waste management applicants should be able to demonstrate that the facility would not undermine the waste planning strategy for the area and move waste up the hierarchy. Further stating if the proposal is consistent with the up to date local plan, the applicant would not have to demonstrate need.

6.68 The guidance includes advice on the relationship between planning and other regulatory regimes. On this matter it stating planning should focus on the impact on the local environment and amenity taking into consideration *Appendix B to National Planning Policy for Waste*. *Other issues are controlled by other regimes which it should be assumed operate effectively. The planning focus should be on land use, rather than*

any control of processes, health and safety or the emissions themselves, which are subject to approval through the other regimes.

- 6.69 The guidance states the Environment Agency will regulate through the environmental permit to provide an adequate level of protection and limit the release of substances into the environment, ensuring also that the air and water quality meet the required standard to guard against environmental and human health impacts.

Air Quality

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

Health and Wellbeing

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

7.0 Planning considerations

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. In light of the abovementioned policies the main considerations in this instance are the principle of the proposed development, highway matters, local residential amenity, visual amenity and landscape and design.
- 7.2 Section 73 of the Town and Country Planning Act 1990 provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. The local planning authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide the original condition(s) should continue.
- 7.3 With a Section 73 application the Planning Authority is required to consider only the question of the conditions subject to which planning permission should be granted. This does not prevent the Planning Authority from looking at the wider considerations affecting the original grant of permission, but the permission itself should be left intact. Section 73 enables the Planning Authority to grant permission subject to conditions differing from those subject to which the previous permission was granted or to refuse the application, for example, where there has been a change in policy.
- 7.4 Any new permission sits alongside the original permission which remains intact and unamended.

Principle of the proposed development

- 7.5 At the time of the grant of planning permission C2/10/00926/CCC in 2010, it was noted that the principle of importing waste to the site had previously been established through the grant of previous planning permissions at the site, being namely planning

permissions C2/89/144/0095A in 1990 then amended by planning permission C2.00.144.029 in 2000. This is still considered to be the case for the current planning application.

- 7.6 Furthermore, it was noted that in terms of waste management facilities 'saved' Policy 5/3 of the North Yorkshire Waste Local Plan permits the such facilities for the recycling of materials relating to construction and demolition waste. Materials such as bricks and soils as proposed to be dealt with for this site if permission is granted provided the site is suitably located within an existing, former or proposed industrial area of a character appropriate to the development. It is noted that such acceptability is given only on the basis that a proposed development would not result in adverse impacts upon the local highway network, local amenity, the environment and that restoration and aftercare is not prejudiced by the proposed development. It has been concluded since the original permission of in 1990 that the proposed development has met and the continued to meet the criteria of 'saved' Policy 5/3 and the emerging Hambleton Local Plan through policies EG2 and E7 through acknowledging that the area has been noted for industrial use making the principle of the development at Carr Lane, Sutton on the Forest acceptable in this location.
- 7.7 'Saved' policy 5/7 of the NYWLP (2006) is relevant to the determination of this planning application. This states that proposals for recycling facilities for construction and demolition wastes will be permitted provided that the proposed site is suitably located. In this instance, although the site is bounded by a residential property to the south the site is situated within the Carr Lane Industrial park where access to the site is gained. It is therefore considered that the proposal is not in conflict with the Policy 5/7 as it is appropriately located. Although not yet adopted, the emerging Hambleton Local Plan also has relevance as Carr Lane Industrial Park in which the development is situated is listed as a general site within policy EG2 and emerging MWJP policies W05 and W10 are relevant in regards to the waste hierarchy and meeting waste management capacity requirements for construction and demolition waste. It is considered the application would broadly accord with these draft policies as this proposal would contribute to the minimising of waste, while moving waste up the hierarchy through recycling at an existing site.
- 7.8 It is noted that the site has continued to operate in compliance with extant planning permissions. The County Planning Authority is not aware that any subsequent operation of the inert materials that has resulted in any adverse impacts in respect of the criteria set out in 'saved' Policy 5/3 of the North Yorkshire Waste Local Plan. Although the objection to the planning application has raised concerns in relation to compliance with previous conditions including stock pile heights exceeding 5 metres, this was investigated by the County Council's Monitoring and Compliance Officer following receipt of a complaint on the 20th May 2019 who found no evidence to support any alleged breach of planning control at the site. Failure to comply with condition 20 of planning Permission C2/10/00926/CCC (requiring an annual meeting to be held between the operator and the County Planning Authority to review schemes of working and landscaping) was also not deemed to be in breach of planning conditions in place and an annual review of the site has been performed within the last 12 months. Furthermore, it is noted that no objections to the proposed extension of time have been received from any consultee including the Environment Agency. As such, it is considered that the principle of the proposed development at Carr Lane remains acceptable.
- 7.9 For the reasons detailed above, it is considered that the proposed development continues to be in-compliance with 'saved' Policy 5/3 of the North Yorkshire Waste Local Plan and therefore, acceptable in principle, subject to the further consideration of the location and appropriateness of the proposed development in relation to its impact upon residential amenity, visual amenity, the local highway network and the

environment. Notwithstanding other planning considerations, the principle of the development is in line with the requirements of national guidance contained within the NPPF Paragraph 11, the NPPW and PPG guidance for waste. The principle is also considered acceptable in terms of local policy in regards to the NYWLP saved Policies 4/1 and 5/7 as the proposal is in an appropriate location for the works with infrastructure already in place and would not have an unacceptable effect on the environment or the local area. As such, it is considered that the principle of the proposed development at Carr Lane remains acceptable. This is also consistent with the NPPW and the NPPF in particular paragraph 170 in regards of the use of land which is referenced in elements a) and b) and e) although it is acknowledged that the application does not meet all of element e) in relation to help to improving local environmental conditions. Although not yet adopted, emerging MWJP Policy D01 is relevant in regards to the presumption in favour of sustainable development, and, this proposal is broadly in accordance with the draft policy.

- 7.10 Although it is noted, that whilst there have been no material changes to the site on the ground, since the grant of planning permission C2/10/00926/CCC in 2010, there has been a change in both National and Local Planning Policy including the adoption of the NPPW, the revision of the NPPF; the PPG and the Emerging Minerals and Waste Joint Plan (in examination).

Design, landscape and visual impact

- 7.11 While this application proposes a permanent permission, it does not change the physical impact of the site, it is well screened by an existing wide earth bund exceeding 2 metres in height and is 180 metres in length along the western boundary and over 120 metres in length to the southern boundary that has been grassed over and then planted on which has developed a number of mature hedges and trees over the years. The site is also screened by a number of deciduous trees around the site. This ensures that only very occasional partial views of the development can be achieved from the public highway of Carr Lane from the south west.
- 7.12 The site layout including stockpiles, site bunds and screening has been raised in the representation of objection from the member of public in relation to this application. However, the development is deemed not to conflict visually with the local landscape in terms of scale, height and massing due to the screening around the site and the location of the site being within an industrial setting. Therefore, it would not result in any unacceptable adverse visual impact or detrimental effect on the character and uniqueness of the landscape. To limit the effects on amenity, it is proposed continuity of a condition (as that of condition no. 5 of planning permission C2/10/00926/CCC) to prohibit stockpiles being above the level of the bunds is appropriate should permission be granted. If this condition is breached, enforcement action could be taken. The Environmental Health Officer in their consultation response stated that the service has considered the potential impact on amenity and likelihood of the development to cause a nuisance and consider that there will be no negative impact.
- 7.13 It is noted that Paragraph 7 of the NPPW confirms that in the determination of waste management planning applications, local planning authorities must 'consider the likely impact upon the local environment and on amenity against the criteria set out in Appendix B'. In this instance the land surrounding the application site is predominantly low lying and flat with intensive arable farming and industry. The orientation, scale and external appearance of the site are considered acceptable and it is unlikely that the continued use of the site would appear incongruous in the landscape. Furthermore, the existing screening from trees and bunds would be retained. The development does not propose to intensify the scale of buildings on the site and no new buildings are proposed. The objector raised an issue relating to concerns that the amount of waste stored on site exceeding that of the amount allowed through the Environment Agency

permit held by the owner and stock piles exceeding the height allowed. However, following consultation with the Environmental Agency no concerns were raised and 'subject to the applicant continuing to comply with the relevant Environmental Permitting Regulations, the Agency has no objection or concern with the applicant's proposal'. NPPW Paragraph 7 and NPPF paragraph 183 states that the focus planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes which is subject to a separate environmental permitting regime.

- 7.14 For the reasons detailed above, it is considered that the proposed development would not have an adverse impact upon the character of the area in which it is located, further supporting the appropriateness of the location and design of the development. Subject to the recommended conditions 1, 3, 5 and 17 the proposed development would not conflict with the national policy contained within the NPPF in regards to paragraphs 124, 127 and 170, NPPW and with PPG guidance for design. The proposal is also in compliance with local policy including 'saved' Policy 4/1 and Policy 4/3 of the North Yorkshire Waste Local Plan and Policy 5/7, Policy DP36 of the Hambleton Local Development Framework. Although not yet adopted, emerging MWJP policy D06 is relevant in regards to landscape and the application is broadly considered to be in compliance with these policies as well as policies S1, E1, E2 and E7 of the Emerging Hambleton Local Plan through landscape, screening and amenity management within the proposal.

Local Residential amenity

- 7.15 At the time of the grant of planning permission C2/10/00926/CCC (dated 8 September 2010), a main consideration was the impact of the proposed development upon local amenity. It was noted that it was important to consider the cumulative effects of both the use of the waste transfer station and recycling facility upon local amenity. Such matters require further consideration in the determination of this application.

i. Odours

- 7.16 Due to the material recycled being inert, the development should not give rise to additional odours caused by the importation. It is noted that the current proposal does not seek to alter the type of material to be imported to the site, which remains construction and demolition wastes including brick, stone, timber and a variety of other materials, but to enable the importation and operation on site to take place on a permanent basis. There are no other proposed changes to the previously permitted development. On this basis, it is considered that the current development is still considered unlikely to result in odours which would adversely impact upon local amenity. Both the Environmental Agency and Hambleton Environmental Health have also not raised any concerns in relation to odour management at the site.

ii. Noise

- 7.17 In relation to noise, it was previously noted that the site was restricted in terms of hours of use (0700 to 1900 Monday to Friday and 0700 to 1600 on Saturdays) and maximum noise levels conditioned (should not exceed: $LA_{eq,1h} = LA_{90} + 10dB$ or $LA_{eq,1h} = 45dB$) under the terms of conditions 6 and 11 of planning permission C2/10/00926/CCC. As such, the previous grant of planning permission concluded that the impacts of noise would be unlikely to have a detrimental impact upon local amenity. It is noted that since the previous grant of planning permission, there have been no known developments within the local area that would contribute to the cumulative impacts of noise generated from the site upon local amenity, nor any residential development introducing any additional receptors in close proximity to the site. Historically there has been one complaint from a local resident (received 20th May 2019) in relation to plant machinery generating unacceptable noise levels which should

be mitigated against through conditions 10, 11 and 12 of planning permission C2/10/00926/CCC. After Officer investigation it was confirmed by the operator that there had been an issue with one of the vehicles whereby a break down caused unnecessary noise, this was resolved and no further issues with noise have been reported. The complainant was asked to contact the County Council if any further noise issues arose from the site, but no further correspondence has been received.

- 7.18 Furthermore, as the proposed development does not seek to alter any aspect? of the previously approved development beyond the permitted length of time, it is considered that there would continue to be no adverse impacts of noise. To this effect no objections have been raised to the development from Hambleton District Council's Environmental Health Officer.
- 7.19 It is noted that the noise mitigation measures detailed and implemented following previous grants of planning, including restrictions on the hours of operation (0700 to 1900 Monday to Friday and 0700 to 1600 on Saturdays) and the setting of a maximum noise level for the site (exceed: $LA_{eq,1h} = LA_{90} + 10dB$ or $LA_{eq,1h} = 45dB$ whichever is the higher.) and noise monitoring (where if noise levels are exceeded operations causing the excessive noise shall cease immediately) are proposed to be continued by the applicant. The restrictions to the hours of operation prohibit operations at the site during sensitive times on mornings and evenings during the week, and at all times on weekends of Bank Holidays. It is considered appropriate that the conditions 9, 10 and 11 listed below and previously imposed to secure such mitigation are brought forward into any new consent that may be issued, to ensure that the impact of noise will continue to have no adverse impacts upon local amenity. This is considered to be in accord with the principles of the NPPF in relation to noise impacts as outlined in paragraph 180 of the Framework, the NPPW in relation to protecting local amenity as outlined within paragraph 7 of the document, with the further guidance offered in the PPG in relation to noise mitigation and with the amenity protection elements of 'saved' Policies 4/1, 4/19 & 5/3 of the North Yorkshire Waste Local Plan and CP1 of the Hambleton District Council Core Strategy (adopted 2007) and DP1 of the Hambleton Local Development Framework (adopted April 2007). Further support is also seen through the emerging Minerals and Waste Joint Plan which states in Policy D02 that *'waste development would be permitted if it can be demonstrated there will be no unacceptable impacts on local amenity including with respect to noise, dust, vibration, lighting and emissions to air, land and water.'* All policy guidance seeks to ensure that developments do not generate unacceptable levels of noise which would adversely impact upon local amenity, adding further weight in support of this application.
- 7.20 For the reasons detailed above, it is considered that the proposed development, for the permanent use of the land and buildings as a waste transfer station would not result in an adverse impact upon local amenity through the generation of noise or dust emissions. Therefore, the proposed development is considered to accord with the principles of the NPPF, NPPW, and the amenity protection elements of 'saved' Policies 4/1, 4/19 & 5/3 of the North Yorkshire Waste Local Plan and Policies CP1 of the Hambleton Core Strategy and DP1 of the Hambleton Local Development Framework. Furthermore policy E2 of the emerging Hambleton Local Plan adds further support as the development is positioned away from sensitive development and does not adversely affect amenity.

Visual Amenity

- 7.21 It was noted that the time of the grant of planning permission C2/10/00926/CC (dated 10 September 2010), that the development continued to be sited within the existing void space within the previous airfield which would be at a lower level than the surrounding land. The objection raised by the member of the public claims that the screen bund to the southern boundary does not have extensive mature planting. However, inspection, revealed the site to be bounded on the southern and western

boundaries by a screen bund and extensive mature planting. Part of the eastern boundary also benefits from extensive mature planting. As such, the views from Carr Lane and the surrounding residential properties would be largely obscured, with stockpiles not permitted to exceed a maximum height of 5 metres. It was concluded that the proposed development would not have any detrimental impact upon the visual amenity of any residential properties.

- 7.22 It is noted that the proposed development would continue to be located within the same area of the site that has remained in operation over the last 30 years therefore not introducing a change in the character of the landscape and complying with 'Saved' Policy 4/3 of the North Yorkshire Waste Local Plan Policy and D06 of the emerging MWJP Draft Development Management Policy.
- 7.23 It is further considered appropriate to bring forward condition no. 5 from planning permission C2/10/00926/CCC (proposed as condition number 3 within Section 9.0 below), requiring all stockpiles to be no higher than 5 metres in height. In addition, it is noted that extensive screen planting exists around the boundary of the site, including mature trees and hedges, which further help to screen the site; none of which would be affected by the proposed extension of time. As such, it is considered that the proposed development would continue to safeguard against any detrimental impact upon local visual amenity. However, a new condition should be proposed to replace condition 19 of permission C2/10/00926/CCC for a new planting maintenance programme to be submitted to ensure that the existing screening on site is maintained and monitored to ensure that continued visual screening is achieved at the site and this is proposed as condition number 4 within Section 9.0). This is considered to be consistent with the principles of the NPPF, NPPW, PPG and the amenity protection elements of 'saved' Policies 4/1, 4/3 4/19 & 5/3 of the North Yorkshire Waste Local Plan and Policies CP1 of the Hambleton Core Strategy, the emerging Hambleton Local Plan through policies E2 and E7 and DP1 of the Hambleton Local Development Framework, which seek to ensure that there are no significant effects upon amenity arising from developments, adding further weight in support of this application.
- 7.24 For the reasons detailed above, it is considered that the proposed development will not have an adverse impact upon local amenity, visual or otherwise. Therefore, the proposed development is considered to be consistent with principles of the NPPF and NPPW on amenity, and the amenity protection elements of 'saved' Policies 4/1, 4/3 4/19 & 5/3 of the North Yorkshire Waste Local Plan, Policies S1, E1 and E2 of the emerging Hambleton Local Plan and Policies CP1 of the Hambleton Core Strategy and DP1 of the Hambleton Local Development Framework, which seek to ensure that there are no significant effects upon amenity arising from developments, adding further weight in support of this application.

Highways matters

- 7.25 As noted previously, there are no proposals to vary any element of the existing development or working processes beyond the proposed extension of time. As such, all provision for access to the site, internal turning and parking will remain the same. Furthermore, since the grant of planning permission C2/10/00926/CCC, no complaints have been received from any member of the public, or from the Highway Authority in relation to associated vehicle movements to or from the site.
- 7.26 It is considered appropriate that the conditions attached to planning permission C2/10/00926/CCC relating to additional highway controls, are brought forward into any new decision notice as may be granted including condition numbers 13, 14, 15 and 16 within Section 9.0 below. This will ensure that the proposed development does not give rise to result in any adverse impacts upon the local highway network, in line with the principles of the NPPF in relation to sustainable highway networks as referenced in

paragraphs 102-104 and 109, the NPPW in relation to traffic and access impacts of waste facilities as outlined within Appendix B of the document, and the highway protection elements of Policies 4/1, 4/18 & 5/3 of the North Yorkshire Waste Local Plan, and CP1 of the Hambleton District Council Core Strategy and policy CI 2 of the emerging Hambleton Local Plan, all of which seek to ensure that vehicle movements generated by developments are both capable of being accommodated by, and would not have an adverse impact upon the local highway network, adding further weight in support of this application. It is further noted that again no objections to the proposed development have been raised by the Highway Authority.

- 7.27 For the reasons detailed above, it is considered that the proposed development would not have an adverse impact upon the local highway network, which remains capable of continuing to accommodate the proposed vehicle movements. Therefore, the proposed development is considered to be in-compliance with the NPPF, NPPW and the highway protection elements of 'saved' Policies 4/1, 4/18 and 5/3 of the North Yorkshire Waste Local Plan, and policy DP1 of the Hambleton local Development Framework and CP1 of the Hambleton District Council Core Strategy.

8.0 Conclusion

- 8.1 Notwithstanding the concerns expressed by the objector to the application which have been addressed above, it is considered that the proposed development remains in compliance with the provisions of the North Yorkshire Waste Local Plan and does not conflict with the policies 4/1, 4/3, 4/18, 4/19, 5/3 and 5/7 of the NYWLP. There are no significant impacts anticipated in respect of ecology, residential amenity, upon the character of the area or upon the local highway network and therefore the proposed development would be consistent with paragraphs 109, 170 and 183 of the NPPF and the relevant locational criteria set out in Appendix B of the NPPW and policies DP1 and DP36 of the Hambleton Local Development Framework (2007). The proposal involves the receipt and sorting of waste materials and there would be no treatment or disposal would take place at the site and as a result no significant impacts relating to noise or odour are anticipated which is in accordance with the locational criteria (h, i, j & k) set out in Appendix B of the NPPW. There would be controls on hours of operation and HGV movements, dust, lighting and noise and the associated vehicle movements would be satisfactorily accommodated by the local highway. It is therefore considered that the development would not result in unacceptable impacts upon the environment, highway or amenity in respect of these matters and there is also no conflict with 'saved' policies 4/1, 4/18, 4/19 and 5/3 of the NYWLP (2006).
- 8.2 As such, there are no material considerations to warrant the refusal of this application for the variation of Condition No.1 of Planning Permission Ref. C2/10/00926/CCC for the permanent use of the land and buildings as a waste transfer station on land at Carr Lane, Sutton on the Forrest. Therefore, for the reasons detailed above, it is considered that the proposed development is compliant with the policies which comprise the Development Plan currently in force for the area and all other material considerations.

Obligations under the Equality Act 2010

- 8.3 The County Planning Authority in carrying out its duties must have regard to the obligations placed upon it under the Equality Act and due regard has, therefore, been had to the requirements of Section 149 (Public Sector Equality Duty) to safeguard against unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act. It also requires public bodies to advance equality of opportunity

between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. It is considered that the proposed development would not give rise to significant adverse effects upon the communities in the area or socio-economic factors, particularly those with 'protected characteristics' by virtue that the impacts of the proposal can be mitigated so that

9.0 Recommendation

9.1 For the following reason(s):

- i. the principle of the proposed development has already been established through the previous grant of planning permissions;
- ii. the proposed development would not result in an adverse impact upon local amenity, visual or otherwise;
- iii. the proposed development does not give rise to conflict with relevant 'development plan' policies i.e. 'saved' NYWLP policies 4/1, 4/3, 4/18, 4/19, 5/3 & 5/7, Hambleton Core policy CP1 and Hambleton Local Development Framework policies DP1 and DP36 and are consistent with the principles of the NPPF and NPPW.

it is recommended that **PLANNING PERMISSION BE GRANTED** for the purposes of the variation of condition no's 1 of Planning Permission Ref. C2/10/00926/CCC for the permanent use of the land and buildings as a waste transfer station on land at Carr Lane, Sutton On The Forest, YO61 1EB, subject to the conditions below:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the application details dated 5 August 2020 the following conditions, which at all times shall take precedence, or in accordance with such other details as may be subsequently approved in writing by the County Planning Authority.

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

2. No materials shall be burned on the site.

Reason: To reserve the rights of control of the Country Planning Authority in the interests of amenity and prevent pollution

3. Except with the prior written approval of the County Planning Authority materials shall be stored on site in accordance with details shown on drawing 2019.33.62/3 dated 03/08/2020 and stockpiles shall not exceed 5 metres in height.

Reason: To reserve the rights of control of the Country Planning Authority in the interests of amenity and prevent pollution in compliance with Development Policy of the Hambleton Local development Framework Development Policies Document

4. Within 12 months of the grant of this permission a new planting maintenance programme is to be submitted to the County Planning Authority to ensure that the

existing screening on site is maintained and monitored throughout the duration of the development.

Reason: *In the interests of amenity*

5. No materials shall be sorted on site or transported to or from site except between the following times:

Monday to Friday 0700 to 1900,
Saturday 0700 to 1600.

No operations shall take place on Sundays or Bank or Public Holidays

Reason: *To reserve the rights of control by the County Planning Authority in the interests of amenity in compliance with Development Policy 1 of the Hambleton Local Development Framework Development Policies Document.*

6. Steps shall be taken to prevent the pollution of any adjoining land by the over spilling or blowing of loose materials or by the entry of leachate, polluted water or any other pollutant.

Reason: *To reserve the rights of control of the Country Planning Authority to prevent pollution*

7. Any above ground oil or liquid chemical storage tanks shall be located within a bund having a capacity of not less than a 110% of the largest tank, or if tanks are connected by pipework to allow equalisation of the level of the contents, then the bund capacity shall be 110% of the largest combined volumes. The floor and walls of the bund shall be impervious to oil or water and resistant to any stored chemicals. Inlet/outlet/vent pipes and gauges shall be within the bund area and satisfactory arrangements shall be agreed for the proper disposal of contaminated surface water from within the bund. There shall be no uncontrolled discharge from the bund area.

Reason: *To reserve the rights of control of the Country Planning Authority to prevent pollution*

8. All reloading of waste materials shall take place on an impervious base with adequate settlement facilities provided to remove suspended solids from any surface water drainage prior to discharge of surface water to underground strata.

Reason: *To reserve the rights of control of the Country Planning Authority to prevent pollution*

9. All plant, machinery and vehicles used on any part of the site shall be fitted with effective noise attenuating equipment which shall be regularly maintained.

Reason: *In the interests of highway safety and amenity*

10. At no residential property shall the noise levels resulting from the site operations, during the working hours specified in Condition Number 5 exceed: $LA_{eq,1h} = LA_{90} + 10dB$ or $LA_{eq,1h} = 45dB$ whichever is the higher.

Reason: *In the interests of amenity*

11. In the event that the noise level specified in Condition Number 10 is exceeded, those operations at the site causing the excessive noise shall cease immediately and steps be taken to attenuate the noise level to be in compliance with the requirements of Condition Number 10.

Reason: To reserve the rights of control of the Country Planning Authority to ensure compliance with policy

12. Steps shall be taken to ensure that the site is operated at all times and in particular during periods of high winds, to minimise dust emissions.

Reason: To reserve the rights of control of the Country Planning Authority in the interests of amenity in compliance with Development Policy 1 of the Hambleton Local Development Framework Development Policies Document (adopted 2008).

13. There shall be no access or egress between the highway and the application site by any vehicles other than via the existing access with the public highway at Carr Lane. The access shall be maintained in a safe manner which shall include the repair of any damage to the existing adopted highway caused by operations relating to the proposed development.

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

14. There shall be no access or egress by any vehicles between the highway and the application site until splays are provided giving clear visibility of 160 metres measured along both channel lines of the major road Carr Lane from a point measured 2.4 metres down the centre line of the access road. Once created, these visibility areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of road safety.

15. There shall be no access or egress by any vehicles between the highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority within 3 months of the date of this permission. These facilities shall include the provision of wheel washing facilities where considered necessary by the County Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the construction commences on the site and be kept available and in full working order and used until such time as the County Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.

Reason: To ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

16. Loaded HGV movements to the site shall not exceed 40 per day. Records of the number of HGV movements per day shall be maintained and made available to the County Planning Authority on request.

Reason: *In the interests of road safety.*

17. All screening bunds shall be maintained for the duration of the development.

Reason: *To reserve the rights of control of the County Planning Authority in the interests of amenity in compliance with Development Policy 1 of the Hambleton Local Development Framework Development Policies Document (adopted 2008).*

18. An annual meeting shall be held between the operator and the County Planning Authority to review schemes of working and landscaping including the maintenance programme. This meeting shall include all interested parties and technical advisers as required.

Reason: *To secure an orderly and progressive pattern of working, restoration and after use of the site.*

19. If the use hereby authorised ceases for a period of 6 months, the site shall be restored in accordance with a scheme to be submitted to and approved in writing by the County Planning Authority within 6 months of the termination of the 6-month period above mentioned. All restoration work shall then be completed to the satisfaction of the County Planning Authority within 6 months of the date of approval of the restoration scheme.

Reason: *To ensure restoration of the land with the minimum of delay in the interests of amenity.*

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

Reason: *In the interests of amenity*

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

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose not to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

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

Background Documents to this Report:

1. Planning Application Ref Number: C2/20/01932/CCC (NY/2020/0122/73) registered as valid on 19/08/2020. Application documents can be found on the County Council's Online Planning Register by using the following web link:

<https://onlineplanningregister.northyorks.gov.uk/register/>

2. Consultation responses received.

3. Representations received.

Author of report: Emma Coverdale



North Yorkshire County Council

Planning and Regulatory Functions Committee

17 November 2020

Items Dealt with under the Scheme of Delegation

Report of the Corporate Director – Business and Environmental Services

**The Items reported below have been determined between:
10 August 2020 to 19 October 2020 Inclusive**

A. County Council Development

NY/2020/0129/73 (C6/20/03733/CMA) **Springwater School, High Street,
Harrogate, HG2 7LW**

Decision Notice: 16 Oct 2020

Retention of prefabricated classroom unit Y565 for a further 6 years (116 sq. metres)

PLANNING PERMISSION GRANTED subject conditions

NY/2020/0113/73 (C4/20/01488/CC) **Caedmon College, Prospect Hill,
Whitby, North Yorkshire, YO21 1QA**

Decision Notice: 28 Aug 2020

Retention of prefabricated classroom units 3064 & 3066 for a further 6 years (188 sq. metres)

PLANNING PERMISSION GRANTED subject conditions

NY/2020/0098/A27 **Eskdale School, Stainsacre Lane,
Whitby, YO22 4HS**

Decision Notice: 08 Sept 2020

Application for the approval of details reserved by condition no's 3, 4, 5, 6, 7, 8, 10 & 11 of Planning Permission Ref. C4/18/02756/OA which relates to a hard & soft landscaping scheme, surface water drainage, a scheme restricting the rate of development flow run-off, a scheme detailing the treatment of all surface water flows from parking areas and hardstanding, Exceedance Flow Plan, Highways Access, Construction Method Statement & a survey recording the condition of the existing layby

Details APPROVED

NY/2020/0095/FUL (C2/20/00625/CPO) **Norton Community Primary School,
Grove Street, Norton, Malton, North
Yorkshire, YO17 9BG**

Decision Notice: 01 Oct 2020

Retrospective planning application for the retention of an existing prefabricated classroom unit Y608 (81.1 sq. metres) for a further 6 years

PLANNING PERMISSION GRANTED subject conditions

NY/2020/0094/FUL (C5/2020/21820/NYCC)

Bradleys Both Community Primary School, Skipton Road, Bradley, Keighley, BD20 9EF

Decision Notice: 20 August 2020

Retrospective planning application for the retention of an existing prefabricated classroom unit Y568 (95.6 sq. metres) for a further 6 years

PLANNING PERMISSION GRANTED subject conditions

NY/2019/0220/FUL (C2/20/00328/CCC)

Former agricultural land located to the east of the A167 Darlington Road forming part of the new Northallerton development area

Decision Notice: 01 September 2020

Change of use from agricultural use to a non-residential institution (use class D1) for the erection of a new single storey primary school (1,520 sq. metres), creation of hard standing (8,830 sq. metres), two vehicular accesses, car parking and coach layby, sprinkler tank, refuse store, two cycle shelters, 6m Lighting columns and wall mounting lighting two-metre-high perimeter fencing and gates, removal of trees, associated earthworks and hard and soft landscaping

PLANNING PERMISSION GRANTED subject conditions

B. County Matter Development

NY/2020/0134/A27

Killerby Quarry, Low Street, Killerby, DL10 7PY

Decision Notice: 15 Oct 20

Application for the approval of details reserved by condition No's 14, 23, 25, 26, 31, 34, 42, and 44 of Planning Permission Ref. C2/10/02487/CCC which relates to the site office location and details, parking, turning, manoeuvring and loading/unloading, material storage and bio-diversity and landscape

Details APPROVED

NY/2020/0114/SCR

Eggborough Sandpit, Weeland Road, Hensall, Goole, North Yorkshire, DL4 ORL

Decision Notice: 25 Sept 20

Request for a formal Screening Opinion for an amendment to existing quarry restoration scheme and infilling/restoration of previously worked area/depression within adjacent field
SCREENING OPINION ISSUED

Under the powers delegated to the Head of Planning Services, this letter therefore confirms that the County Council is of the opinion that the proposed development is not EIA development and need not be accompanied by an Environmental Statement. Should you amend any aspect of the proposed scheme, then a new screening opinion will be required.

NY/2020/0107/A27

**Barnsdale Bar Quarry, Long Lane, Kirk
Smeaton, WF8 3JX**

Decision Notice: 06 Oct 2020

Application for the approval of details reserved by condition no's 25, 28, 29 & 31 of Planning Permission Ref. No. C8/2019/0585/CPO which relates to a scheme for the monitoring of groundwater levels, Long Lane Management Scheme, Construction Environmental Management Plan & Restoration and Aftercare Management Scheme

Details APPROVED

NY/2020/0100/A27

**Barnsdale Bar Quarry, Long Lane, Kirk
Smeaton, WF8 3JX**

Decision Notice: 17 Aug 2020

Application for the approval of details reserved by condition no. 7 of Planning Permission Ref. C8/40/8AC/PA to reduce the frequency of the noise monitoring.

Details APPROVED

NY/2019/0211/73 (C3/19/01386/CPO)

**Settrington Quarry, Back Lane,
Settrington, Malton, North Yorkshire,
YO17 8NX**

Decision Notice: 09 Oct 2020

Variation of Condition No. 1 of Planning Permission Ref. C3/15/00583/CPO to allow an extension of time to recover the remaining mineral resources until 31 December 2022

PLANNING PERMISSION GRANTED subject conditions

C. Other

NY/2019/0071/PAA

**3 Tunnel Shafts on the Settle – Carlisle
Railway Line, Blea Moor**

Decision Notice: 14 September 2020

Request for Prior Approval under Part 18 of the General Permitted Development Order for ice prevention covers

PRIOR APPROVAL GRANTED

To access the planning application details, consultation responses and a copy of the report and decision notice containing any planning conditions relevant to the development please access the County Council's Online Planning Register at the following web address:

<https://onlineplanningregister.northyorks.gov.uk/register/PlanAppSrch.aspx>

(Please enter the planning application reference number (NY/...) into the 'Application Reference' field).

KARL BATTERSBY

Corporate Director – Business and Environmental Services

Author of Report: Alice Gill

Background Documents: None

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

17 November 2020

Publication by Local Authorities of Information about the handling of Planning Applications

Report of the Corporate Director – Business and Environmental Services

This report outlines the County Council's performance in the handling of 'County Matter' and County Council development planning applications for Quarter 2 (the period 01 July to 30 September 2020).

Information on Enforcement Cases is attached as an Appendix.

Recommendation: That the reported be noted.

DAVID BOWE
Corporate Director, Business and Environmental Services

Authors of Report: Jo Brownless

Background Documents to this Report: Application Files

Information on planning applications can be accessed via the County Council's Online Planning Register at the following web address:

<https://onlineplanningregister.northyorks.gov.uk/register/PlanAppSrch.aspx>

(Please enter the planning application reference number (NY/...) into the 'Application Reference' field).

County Matter' Planning Applications (i.e. Minerals and Waste related applications)

Table 1: 'County Matter' planning applications determined during quarter 2 (the period 1 July to 30 September 2020).

Total number of applications determined		11	
Number of delegated/committee decisions		Delegated: 1	Committee: 10
Speed of decisions			
Under 13 weeks	13- 16 weeks (if major, 13 and if EIA 16 weeks)	Over 13/16 weeks within agreed Extension of Time (EoT)*	Over 13/16 weeks without or outside of agreed EoT
0	0	11	0

*Article 34 of the Town and Country Planning (Development Procedure Order) 2015 provides for authorities to agree with the applicant to determine the planning application beyond the statutory 8/13/16 week period. This is referred to as an agreement for the extension of time (EoT) for the determination of the planning application. In instances where the application is determined within the agreed period the application is counted as satisfying the timeliness requirement.

Table 1a: Performance on 'County Matter' planning applications (NYCC Service Plan target - 60%)

2020/21	Quarter 1 (Apr-Jun)	Quarter 2 (Jul-Sept)	Quarter 3 (Oct-Dec)	Quarter 4 (Jan-Mar)
No. of 'County Matter' applications determined within 13/16 weeks or within agreed Extension of Time (EoT)	50% (No.1/2)	100% (No. 11/11)		
No. of 'County Matter' applications determined within 13/16 weeks discounting Extension of Time agreements (EoT)	50% (No.1/2)	0% (No. 0/11)		

Table 1b: "Special measures" ** performance on 'County Matter' planning applications

2020/21	Quarter 1	Quarter 2	Quarter 3	Quarter 4
"Special Measures" stat. No. of 'County Matter' applications determined within 13/16 weeks or within agreed Extension of Time (EoT) over rolling two year period	01/07/18 to 30/06/20 89.7% (No. 35/39)	1/10/18 to 30/09/20 93% (No.40/43)		

** Under section 62A of the TCPA 1990 LPAs making 60% or fewer of decisions on time are at risk of designation ("Special Measures")

County Council's own development' Planning Applications

Table 2: County Council's own development planning applications determined during quarter 2 (the period 1 July to 30 September 2020)

Total number of applications determined		4		
Minor¹/Major²/EIA³		Minor: 3	Major: 1	EIA: 0
Number of delegated/committee decisions		Delegated: 4		Committee: 0
Speed of decisions				
Under 8 weeks	8- 13 weeks (if Major)	13- 16 weeks (if EIA)	Over 8/13/16 weeks within agreed Extension of Time (EoT)	Over 8/13/16 weeks without or outside of agreed EoT
2	1	0	1	0

¹A 'minor' development application is one where the floor space to be built is less than 1,000 square metres or where the site area is less than one hectare.

²A 'major' development application is one where the floor space to be built is more than 1,000 square metres or where the site area is more than one hectare. All minerals and waste related applications fall within the definition of major development.

³An EIA development application is one considered likely to have significant environmental effects and is accompanied by an Environmental Statement.

Table 2a: Performance on County Council's own development minor planning applications (NYCC Service Plan target - 65%)

2020/21	Quarter 1 (Apr-Jun)	Quarter 2 (Jul-Sept)	Quarter 3 (Oct-Dec)	Quarter 4 (Jan-Mar)
No. of County Council's own development minor applications determined within 8 weeks or within agreed Extension of Time (EoT)	100% (No.9/9)	100% (3/3)		
No. of County Council's own development minor applications determined within 8 weeks discounting Extension of Time agreements (EoT)	77.7% (No. 7/9)	100% (No. 3/3)		

Table 3: List of all 'County Matter' planning applications in hand for more than 13 weeks and awaiting decision as at the end of Q2 i.e. 30 September

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Blubberhouses Quarry, Kex Gill NY/2011/0465/73 (C6/105/6C/CMA)	Variation of condition 2 of planning permission reference C6/105/6A/PA to allow extraction of silica sand and erection of processing plant at the site until 2036	06.12.11	Committee	Committee report still in progress as awaiting clarification from the Applicant.	No –to be requested.
Ripon Quarry, North Stainley, Ripon, North Yorkshire, HG3 3HT NY/2015/0306/ENV (C6/500/277/CMA)	Planning Application accompanied by an Environmental Statement for the variation of condition No's 10 (duration of development), 11 (definition of development), 43 (maintenance) & 44 (landscape and restoration) of Planning Permission Ref. No. C6/500/95B & C2/99/045/0011 for the continuation of sand & gravel extraction for a further 4 years after 31 December 2015 and the submission of a revised restoration scheme	11.11.15	Committee	The application was reported to Committee on 10 th September 2019 Members resolved to grant planning permission subject to prior completion of Legal Agreement. The application is now awaiting Legal agreement to be signed.	No
Forcett Quarry, East Layton, Richmond, North Yorkshire NY/2016/0042/ENV (C1/16/00174/CM)	Variation of condition no's 1 & 15 of planning permission ref. C1/29/15P/CM dated 7 September 2011 to allow the continuation of limestone extraction for a further 10 year period until 31 August 2026	03.03.16	Committee	The application was reported to Committee on 25 th October 2016 Members resolved to grant planning permission subject to prior completion of Legal Agreement. Awaiting completion of Legal Agreement. Engrossments circulated for signature.	No - further extension to be requested once S106 signed
Middleton Lodge, Kneeton Lane, Middleton Tyas NY/2016/0220/73	Variation of condition No's. 1, 6, 7, 10, 12, 14, 20, 24, 26, 27, 29, 30 & 33 of Planning Permission Ref. No. C1/14/00747/CM which relates to phasing and restoration	18.11.16	Committee	Further information awaited from the Agent in respect of bat surveys and is also going to submit revised plans.	EoT agreed until 31.1.20 – Applicant going to withdraw this application and submit a revised one as some details have changed.

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Former Stillingfleet Mine Site, Escrick Road, Stillingfleet NY/2016/0251/FUL (C8/999/16U/PA)	Change of use of part of the former coal mine site to create a waste transfer for construction and demolition wastes, installation of a weighbridge, a skip storage area, portable amenity cabin (30 sq. metres) and the provision of car parking spaces	1.2.17	Committee	Objection received from Sam Smiths Old Brewery. Objection from Selby District Legal advice and Counsel Opinion to be sought upon completion of draft Officer Report	Further EOT to be requested.
Land off Weeland Road, Kellingley, WF11 8DN NY/2017/0219/FUL	Drilling a borehole, testing of borehole including flaring, erect containerised units, associated plant and equipment, extract mine gas, generate electricity and ancillary operations	18/08/2017	Committee	Clarification on application information was received 22 nd September 2020 and this is now under review. To be reported at a future Planning Committee meeting.	No –to be requested.
land to the west of Raincliffe Grange Farm, Main Street, Seamer NY/2017/0267/ENV (C4/17/02418/CC)	Extraction and processing of sand and gravel from new quarry (11.9 hectares) including the construction of a site access road, internal haul road, mobile processing plant, site office, soil storage bunds, lagoons, stockpile area and restoration to agriculture and lake	25/10/2017	Committee	Negotiations on conditions finalised, report drafted and being finalised along with review of S106 by legal , likely to be considered at next Planning Committee.	Yes
Pallett Hill Quarry, Catterick Village, Nr Richmond NY/2017/0326/ENV (C1/18/00013/CM)	Variation of condition No's 2, 5 & 8 of Planning Permission Ref. C1/15/250/PA/F dated 7th November 1994 to facilitate an extension to the permitted area of extraction, an amendment to the restoration design and to alter the period for completion of all mineral operations from 31st December 2017 to 31st December 2022 and the restoration of the site from 31st December 2018 to 31st December 2023	20/12/2017	Committee	Further information submitted and re-consultation completed. Awaiting information to satisfy Environment Agency.	No – to be requested upon confirmation of being placed on committee agenda
Alne Materials Recycling Facility, Forest Lane, Alne, NY/2017/0324/73A (C2/18/00147/CCC)	Variation of condition No. 9 of Planning Permission Ref. C2/03/006/0187D for the permanent retention of the site access, existing weighbridge, existing building and hardstanding areas and for use of these as an in-vessel composting facility	16/01/2017	Delegated	Issues with application type. Discussions ongoing.	No – to be requested.

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Alne Materials Recycling Facility, Forest Lane, Alne NY/2017/0322/73A (C2/18/00146/CCC)	Variation of condition No. 2 of Planning Permission Ref. C2/11/02058/CCC for the permanent retention of the existing office building and parking area for use associated with the proposed in-vessel composting facility	16/01/2017	Delegated	Issues with application type. Discussions ongoing.	No – to be requested.
Old London Road Quarry, Stutton, Tadcaster NY/2018/0009/FUL (C8/2018/0180/CPO)	Extraction of 30,000 tonnes of limestone and importation of 600,000 tonnes of construction waste to complete restoration and export of 300,000 tonnes of secondary aggregate	09/02/2018	Committee	Awaiting further information from the applicant.	Extension of Time Requested
The Old Brick And Tile Works, Riccall Road, Escrick, YO19 6ED - NY/2018/0229/73	Variation of Condition No. 2 of Planning Permission Ref. C8/10/3AC/CPO which relates to raising landfill levels	2.8.10	Committee	Awaiting the completion of S106 Agreement	This application was determined at planning committee on 8 th September 2020. Planning permission was issued on 23 rd September 2020.
Whitewall Quarry, Welham Road, Norton on Derwent, North Yorkshire, YO17 9EH NY/2018/0167/FUL (C3/18/00967/CPO)	Retrospective application for a 2.4 hectare extension to an inert and demolition recycling area.	1/11/18	Committee	Further information requested from Applicant.	Further EOT to be requested..
Black Quarry, Leyburn, North Yorkshire NY/2018/0156/FUL - (C1/18/00840/CM)	New access and haul road, erection of a single storey workshop and lubrication store (238 external sq. metres), double stacked site office (48 external sq. metres), 2 single storey welfare units (total 72 external sq. metres), weighbridge and weighbridge office (36 external sq. metres), 2 fuel tanks, bicycle rack, car parking area and hardstanding	17/09/18	Delegated	Awaiting further information from the agent following consultation responses. Discussions ongoing.	No – Further Extension of Time to be requested

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
Went Edge Quarry, Went Edge Road, Kirk Smeaton, Selby, WF8 3LU NY/2019/0002/ENV (C8/2019/0253/CPO)	9.7 hectare quarry extension (Area 8) eastward from the current working Area 7 to provide 4.9 million tonnes of magnesian limestone followed by restoration of the land with engineered fill from existing adjacent waste treatment facility	1.3.19	Committee	Clarification on application information was received during September 2020 which is now under review. Application to be reported at a future Planning Committee meeting	Yes - agreed until determination
Gale Common Ash Disposal Site, Cobcroft Lane, Cridling Stubbs, Knottingley, North Yorkshire, WF11 0BB – NY/2019/0091/ENV (C8/2019/0732/CPO)	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.	24.6.19	Committee	Committee report on Agenda for Planning Committee on 17 November 2020 and awaiting completion of Section 106 Legal Agreement.	No - Extension of Time to be requested
Pallett Hill Quarry, Leeming Lane North, Catterick Village, DL10 7JX NY/2019/0130/FUL (C1/19/00587/CM)	proposed retention of quarry access until 31st December 2023	1.10.19	Delegated	Application on hold. Awaiting NY/2017/0326/FUL to be determined at committee	
Land to the rear of Unit 1, Skipton Old Airfield, Sandhutton, Thirsk, North Yorkshire, YO7 4EG NY/2019/0026/FUL (C2/19/02210/CCC)	change of use of land to a roadstone recycling plant, to include the erection of a concrete holding bay 2.4 metres high, erection of a green palisade perimeter fence with a sliding access gate 2.4 metres high, siting of a mobile crushing plant, (14.79) sq. metre portable cabin for office/wc/welfare facilities & the provision of 2 car	1.11.19	Committee	Reported to January Committee 2020, resolved to grant subject to a S106 agreement. Applicant has decided now to complete on the land purchase first and	Yes, to end of April, but will re-negotiate E o T to coincide with date for issuing decision when S106 is finalised. Ongoing.

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
	parking spaces. The erection of an acoustic wall of 5m in height to the south and east boundaries of the development.			then complete on the Section 106 thereafter.	
Land to the south of Knapton Quarry, East Knapton, Malton, North Yorkshire, YO17 8JA NY/2019/0078/73 (C3/19/01184/CPO)	variation of Conditions No. 2 and 30 of Planning Permission Ref. C3/16/01918/CPO to increase the tonnage of waste received at the Green Energy Facility to up to 130,000 tonnes per annum (around 120,000 tpa processed) up from the currently granted 80,000 tpa (65,000 tonnes processed), and increase maximum stored waste from 600 tonnes to 1080 tonnes (3 days fuel) at any time. Increase in vehicle movements from 40 48 per day	16.9.19	Committee	Further Environmental Information submitted. Further representations received following re-consultation. Report in preparation. Legal concerns over further information on Climate Change and Human Health. Negotiations ongoing.	Updated EOT to August 2020. Will require further EoT
Newthorpe Quarry, Newthorpe, North Yorkshire NY/2019/0165/ENV (C8/2019/1271/CPO)	Waste recycling and restoration by infill	28.11.20	Committee	Committee report still in progress.	No - Extension of Time to be requested
Settrington Quarry, Back Lane, Settrington, Malton, North Yorkshire, YO17 8NX NY/2019/0211/73 - C3/19/01386/CPO	variation of Condition No. 1 of Planning Permission Ref. C3/15/00583/CPO to allow an extension of time to recover the remaining mineral resources until 31 December 2022	11.12.19	Delegated	Decision Notice issued 9 October 2020	Yes. EoT agreed until 16 October 2020
Washfold Farm, Leyburn, North Yorkshire, DL8 5JZ NY/2020/0168/FUL – (C1/19/00899/CM)	erection of a ready mix concrete plant and associated aggregate storage	18.12.20	Committee	Committee report still in progress.	No - Extension of Time to be requested
Birdsall Estates Company Ltd, Birdsall to Leavening Brow, Birdsall, Malton, YO17 9NU NY/2020/0182/FUL) - C3/20/00287/CPO	Digging of trenches and excavation for the laying of a piped communal waste disposal system including installation of package treatment plant (30 sq. meter) and associated manholes to connect 33 properties, erection of 1.2 metre high fence around the perimeter of proposed treatment	11.3.20	Delegated	Waiting for further information from the applicant in relation to Landscape, Arboricultural and Natural England consultation responses.	Yes. EoT agreed until 30.09.20 Further EoT to be requested

Site Address NY application ref. no. (LPA ref. no.)	Proposed Development	Date registered as valid	Delegated or Committee item	Reasons why still in hand	Is an agreed Extension of Time (EoT) in place? Yes/No Expiry Date
	plant and formation of access track/hard-standing area (37.5 sq. meters)				
Barton Quarry, Barton, Richmond, DL10 6NF – NY/2020/0051/73 (C1/20/00277/CM)	Variation of Condition No's 2 & 20 of Planning Permission Ref. C1/93/113C/CM to allow a revision of the approved restoration scheme and an associated extension of the area into which it is permitted to place imported inert material	14.4.20	Delegated	Waiting for further information from the applicant regarding restoration	Yes. EoT agreed until 16.10.20
Hensall Quarry, Broach Road, Hensall, Selby NY/2020/0049/73 (C8/2020/0448/CPO)	Variation of condition No. 2 of Planning Permission C8/2016/0873/CPO to permit the relocation of the soil storage area and extraction of sand from the previous soil storage area	29.4.20	Committee	Awaiting further landscaping information from Applicant.	Not yet.
Hensall Quarry, Broach Road, Hensall, Selby, NY/2020/0050/73 (C8/2020/0450/CPO)	Variation of condition No's 2, 10 & 34 of Planning Permission C8/38/196A/PA to permit the relocation of the soil storage area and extraction of sand from the previous soil storage area	29.4.20	Committee	Awaiting further landscaping information from Applicant.	Not yet.
Brotherton Quarry, Byram Park, York Road, Knottingley	Variation of condition No's 1, 64 & 66 of Planning Permission C8/2013/1064/CPO for an extension of time for the completion of restoration of the site until 31 December 2025 and a revised landscaping scheme and restoration landform	3.2.20	Committee	Awaiting Legal Agreement completion before approval	No – will be requested once legal agreement complete

* The Development Management Procedure Order 2015 (Part 9, Article 40, Paragraph 13) allows for Local Authorities to “*finally dispose*” of applications for which the statutory period for determination has elapsed and the subsequent period for appealing against non-determination has passed.

Monitoring & Compliance Statistics Report – Quarter 2 (the period 1 July to 30 September 2020) 2020/21

Table 1 – Complaints/alleged breaches of planning control received this quarter

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved?
County Matters						
Betteras Hill Quarry	Selby	1	Noise, dust & out of hours working	11.6.2020	Member of the public had initially contacted District, who advised to contact NYCC regarding permitted hours of working.	Ongoing, have spoken to complainant.
Field at junction of Stockfield Lane & Thorney Hill lane, Marton Cum Grafton	Harrogate	1	Tipping of soil from housing development	22.6.2020	Case transferred to Harrogate Borough Council, as complaint related to deposition of materials from house construction.	23/07/2020. Complainant advised it is a District Matter.
Sellite Blocks, The Old Quarry, Long Ln, Great Heck, Goole DN14 0BT	Selby	1	Dust and noise issues from the site	29.6.2020	Investigated and stated as mainly a Selby District issue. Requested site operator to state if there are issues regarding the Old Sand Quarry (Mill Balk).	Partially, until confirmation of no issue with Mill Balk
Field north of B6265, opposite former Toft Gate Lime Kilns, Greenhow Hill, Pateley Bridge	Harrogate	1	Alleged unauthorised extraction on land comprised field at 412977 464497, Coldstones Quarry to Red Brae Bank	29.6.2020	Development viewed from B6265, landowner to be contacted for clarification as to whether stone being removed is for repair of walls within the landholding, or not	Ongoing
Bensfield Farm, Burniston, Scarborough	Scarborough	1	Unauthorised tipping of subsoil and waste	23.7.2020	Letter sent to landowner	Ongoing
Low Grange Quarry	Richmondshire	1	Out of hours working	22.9.2020	Letter sent to operator about complaint	Ongoing

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved?
County Council Development						
Mowbray Satellite School (formerly Moorside Infant School)	Harrogate	1	Tree protection measures contravened	16.9.2020	Tree protection measures fence altered to define a work exclusion zone	Yes – No further action required
Riccall Pre-School, Coppergate, Riccall	Selby	1	Alleged unauthorised development: construction of a disabled ramp	28.9.2020	Site Visit scheduled to take place on 9 October 2020	Ongoing

Table 2 – Updates on ‘live’ complaints/alleged breaches of planning control received prior to this quarter

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved?
County Matters						
Whitewall Quarry	Ryedale	7 (2 complainants)	Noise, speed of vehicles and dust on highway Further engineering operations outside of planning permission boundary.	Dates between 06/07/2017 & April 2018	Speed of vehicles on public highway not a planning matter, referred to Police. Operator reminded to keep public highway leading from site access in a clean condition. Investigations ongoing with regard to noise complaints. Investigation ongoing into engineering operation outside of planning permission boundary.	Partially
Foal Cote Farm, Markington, North Yorkshire, HG4 3AN	Harrogate	1	Unauthorized tipping, with 8 wheeler Lorries running along with significant numbers of tractors and trailers from Harrogate Building sites.	11/02/2019	Agent and landowner contacted and all works on site have stopped. Landowner to submit pre-application in regards to regularising development.	Yes, subject to a planning application.
Stobarts, Great Heck	Selby	1	Alleged unauthorised development: laying of concrete pad	26/06/2019	Site visited – trying to set up meeting with District and EA	Work relating to concrete in compliance with Planning Permission C8/2016/0008/CPO – However, site in breach of condition 25 for stockpile heights. Letter sent, awaiting EA feedback on new stock piles observed 30 September 2020

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved?
Whitewall Quarry, Concrete Batching plant	Ryedale	3 (1 complainant)	Noise from Concrete Batching plant (early morning)	24/07/2019 30/08/2019 12/09/2019	Noise complaints fall within permitted operating hours. Complainant giving consideration to option of using Environmental Health Officer for noise monitoring to establish if noise nuisance. Operator contacted each occurrence and reports no operations out of ordinary.	Partially, but decision to use Environmental Health noise monitoring being given consideration by complainant.
Cattal Station Yard, Station Road, Cattal, YO26 8EB	Harrogate	1	Non-compliance with conditions 3,4,6,7 and 14.	25/07/2019	Being investigated before a site visit is arranged.	On-going
Scholla Grange, Bullamoor Road DL6 3RA	Hambleton	1	Deposit of waste	16/08/2019	Site visited 29/08/19	Partially. Need to speak to District Enforcement Officer.
Betteras Hill Quarry	Selby	1	Deposit of waste on top of closed landfill (Environment Agency complaint followed by complaint via EA from member of public)	21/08/2019	Complainant (member of public) contacted by e-mail. No further contact by them. Trying to set up meeting with District and EA.	Partially – site owner has admitted offence and EA taking enforcement action. Still to be investigated by NYCC from planning perspective. Waiting for EA to confirm date of meeting with NYCC and District. No further contact from this complainant.
Melsonby Quarry, Barton	Richmondshire	1	Enquiry about unauthorised extraction of mineral	28/02/2020	Complainant contacted for clarification and further information. Operator contacted for clarification as to what/	03/08/2020

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved?
			and unauthorised quarrying related activity including blasting		why occurring – confirmed no operations have been active at this site.	
Betteras Hill Quarry	Selby	1	Working on Sundays/extended hours of working on the site; Lighting issues; Traffic impacts on the main road; Noise issues; Over-tipping onto the closed landfill (the complainant described this as ‘the spoil heap is getting higher and higher’). <ul style="list-style-type: none"> It was requested that we investigate the operator’s intentions regarding the restoration of the site and timescales 	10/03/2020	Complainant contacted for clarification and further information. Operator contacted for clarification as to what/why occurring	On-going
Tofts Road Waste Transfer Station, Kirby Misperton	Ryedale	1	Breach of planning conditions in relation to odour and pumping water onto adjacent property causing flooding and contamination.	19/03/2020	Complainant acknowledged and contacted for clarification and further information. NYCC Waste Management contacted.	On-going
High Austby Farm,	Harrogate	1	deposition of material on a field arising from	23/03/2020	Complainant contacted and confirmed site location. Further clarification	On-going

Site Address	District	No. of Complaints	Subject of Complaints	Date of receipt of complaint	Action	Resolved?
Nesfield, Ilkley			excavations associated with a house development		awaited from the Agent. Complainant advised that matter is still being pursued.	
Former Howe Quarry, Beckwith	Harrogate	1	Tipping of soil from housing development in former quarry	28.5.2020	Landowner contacted. EA permit in place, soil used to landscape garden, work now complete.	4/8/2020 complainant advised that development is complete.
County Council Development						
Sherburn High School	Selby	1	Traffic at school drop off and pick up times	25/03/2019	School contacted for travel plan awaiting response.	
Malton Community Sports Centre, Broughton Road, Malton	Ryedale	1	Flooding on B1257 Broughton Road, Malton arising from runoff from sports centre carpark /access road	26/11/2019	Site meeting with Highways took place 12/03/20. Drains cleaned/ investigated in April. Planning application received that incorporate car parking amendments	Planning application ongoing (NY/2020/0035/FUL)
Melsonby Methodist Primary School	Richmondshire	1	Unauthorised erection of a canopy/shelter structure in the playground of the Primary School at Melsonby	11/03/2020	Letter wrote to school regarding unauthorised structure, also made CYPs aware. Contact made by school agreeing to submit planning application	Awaiting retrospective planning permission being submitted

Table 3 – Number of complaints/alleged breaches of planning control received by quarter

2020/21	Quarter 1 (Apr-Jun)	Quarter 2 (Jul-Sept)	Quarter 3 (Oct-Dec)	Quarter 4 (Jan-Mar)
No. of complaints/alleged breaches of planning control received	5	Cumulative total no.	Cumulative total no.	Cumulative total no.

Table 4 – Number of complaints/alleged breaches of planning control resolved by quarter

2020/21	Quarter 1 (Apr-Jun)	Quarter 2 (Jul-Sept)	Quarter 3 (Oct-Dec)	Quarter 4 (Jan-Mar)
Number of complaints of the total number of 'live' complaints resolved	5.2% (1 /19)	% (no. /)	% (no. /)	0% (no.0/)
		Cumulative total % (no. /)	Cumulative total % (no. /)	Cumulative total % (no. /)

Table 5 – Number of complaints/alleged breaches of planning control resolved by quarter

2020/21	Quarter 1 (Apr-Jun)	Quarter 2 (Jul-Sept)	Quarter 3 (Oct-Dec)	Quarter 4 (Jan-Mar)
Number of resolved complaints resolved within 20 days of receipt	5.2% (1 /19)	% (no. /)	% (no./)	0% (no./)
		Cumulative total % (no. /)	Cumulative total % (no. /)	Cumulative total % (no. /)

Existing Enforcement Issues

Formal Enforcement notices served by the County Council

No notices were served during this period.

Table 6- Monitoring and Compliance Visits undertaken in Quarter 4 (Minerals and Waste Sites only)

Site	District	Date Visited
Gatherley Moor Quarry	Richmondshire	17/01/2020