



Agenda

Notice of a public meeting of

Planning and Regulatory Functions Committee

- To:** Councillors Peter Sowray (Chairman), David Blades (Vice-Chair), Caroline Goodrick, Eric Broadbent, Robert Heseltine, David Hugill, Mike Jordan, John McCartney, Zoe Metcalfe, Clive Pearson and Chris Pearson.
- Date:** Tuesday, 16th March, 2021
- Time:** 10.00 am
- Venue:** Remote Meeting via Microsoft Teams

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, introductions and apologies
2. Minutes of the meeting held on 23rd February 2021 (Pages 3 - 6)
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 11 March 2021. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

Enquiries relating to this agenda please contact Stephen Loach Tel: 01609 532216
or e-mail stephen.loach@northyorks.gov.uk
Website: www.northyorks.gov.uk

• 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. C8/999/16U/PA (NY2016/0251/FUL) - Planning application for the purposes of the change of use of part of the former coal mine site to create a waste transfer station 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 on land at the former Stillingfleet Mine Site, Escrick Road, Stillingfleet (Pages 7 - 80)

5.1 C8/999/16U/PA (NY2016/0251/FUL) - Planning application for the purposes of the change of use of part of the former coal mine site to create a waste transfer station 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 on land at the former Stillingfleet Mine Site, Escrick Road, Stillingfleet - addendum to substantive report to application (Pages 81 - 90)

At the conclusion of the above item the meeting will be adjourned and will recommence at 2pm.

2pm

6. C3/19/01184/CPO - Planning application for the variation of conditions no.s 2 and 30 of planning permission ref. C3/16/01918/CPO (dated 1st August 2018) 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), increase maximum stored waste from 600 tonnes to 1080 tonnes 3 days fuel) at any time and increase vehicle movements from 40 to 48 per day on land to the south of Knapton Quarry, East Knapton near Malton (Pages 91 - 134)

7. C8/8/52/164C/PA (NY/2017/0219/FUL) - Planning application for drilling of a single borehole, testing of the borehole including flaring, erection of three containerised units with exhaust stacks, associated plant and equipment, including the erection of acoustic fencing, landscaping and the extraction of mine gas and generation of electricity together with ancillary operations on land off Weeland Road, Kellingley (Pages 135 - 198)

8. Other business which the Chairman agrees should be considered as a matter of urgency because of special

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

8th March 2021

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

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North Yorkshire County Council

Planning and Regulatory Functions Committee

Minutes of the meeting held remotely via Microsoft Teams on 23 February 2021 at 10.00 am.

Present:-

County Councillors Peter Sowray (Chairman), David Blades, Eric Broadbent, Caroline Goodrick, David Hugill, Mike Jordan, Zoe Metcalfe, Chris Pearson and Clive Pearson

Apologies were submitted by County Councillors John McCartney and Robert Heseltine.

The meeting was available to watch live via the County Council's website and a recording of the meeting is now available on the website via the following link www.northyorks.gov.uk/livemeetings

Copies of all documents considered are in the Minute Book

181 Welcome and Introductions

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

182. Minutes of the meeting held on 9 February 2021

Resolved -

That the Minutes of the meeting held on 9 February, 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.

183. Declarations of Interest

There were no declarations of interest.

184. 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.

185. **C8/999/16U/PA (NY2016/0251/FUL) - Planning application for the purposes of the change of use of part of the former coal mine site to create a waste transfer station 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 on land at the former Stillingfleet Mine Site, Escrick Road, Stillingfleet**

A representative of the Head of Planning Services provided the following statement to the Committee-

"I am sure you are aware when planning applications are received we consult with the relevant bodies, post notices on the land, where necessary advertise in the press and notify by letter those properties considered most likely to be materially affected by the proposal. The receipt of representations is acknowledged and advice provided how representation can be made to the Committee when the application is presented for determination. Although the 'right-to-speak' notice has been previously set out in the letter of acknowledgement to representations at the time, this was in 2017/2018. The latest letter to those who had previously made representations on the application, notifying them the application is included on the agenda and how to make further representations should they so wish, including the need to provide the text of any question or statement, to Democratic Services is acknowledged as giving a very limited timeframe within which to achieve this. We have received a number of representations objecting to the short time period provided, particularly given the time it has taken for this application to be presented to the Committee. We have carefully considered these views and the timing of the notification letter sent. We accept the notification letter gives insufficient time to interested parties to make representations on the published Committee Report. Therefore, out of procedural fairness, to afford the opportunity for those who consider themselves to be most affected by the proposal to make further representation and for Officer consideration of the most recent representations received following the publication of the report, I recommend that this Item be deferred to the next available Committee meeting"

Members agreed that the process should be as open and transparent as possible.

Resolved –

That the application be deferred for consideration at a subsequent meeting of the Committee in view of the issues outlined by the representative of the Head of Planning Services, above.

186. C8/2019/1271/CPO - Planning application for waste recycling and restoration by infill on land at Newthorpe Quarry, Newthorpe, North Yorkshire

Considered -

The report of the Corporate Director, Business and Environmental Services requesting Members to determine a planning application for waste recycling and restoration by infill on land at Newthorpe Quarry, Newthorpe, North Yorkshire.

The application is subject to an objection in respect of this proposal from Sherburn in Elmet Parish Council, on the grounds of safety of the existing site access onto the B1222 proposed for use in connection with this development. The application is, reported therefore, to the Committee for determination.

Chris Ballam, the agent for the applicant made the following statement:-

"You have before you a very thorough report from the planning officer. It takes you through the lack of environmental impacts and the improvements that would be gained from restoring the quarry back to original ground levels. The scheme leaves the northern part of the quarry at quarry floor level with restoration of calcareous grassland to enhance biodiversity. It also incorporates a large area of tree planting on the slopes as well as

bringing land back into full agricultural use. The area is short of capacity for recycling construction and demolition waste, and although the market it would serve is orientated towards Leeds and West Yorkshire, it will also cater for areas to the north and west in North Yorkshire. This proposal assists in maximising recycling and in doing so, reduces the need for primary aggregates. That element of C&D wastes that cannot be recycled, can be used to restore the quarry. It can remain on site and does not have to be taken off-site for disposal which would generate additional HGV movements. The new quarry access road takes HGV traffic off much of the local road network and gives direct access to the A63 and the A1M. Except for very local destinations, for instance if someone in Sherburn in Elmet wanted a delivery of stone for a building site, all quarry traffic will use the B1222 to the west of the quarry access. When we learnt of the Sherburn Parish Council objection, my client tried to engage with the Parish Council to reassure them that quarry traffic would not come through the village, and that there would be no environmental impacts on the village. We were backed up in this by Newthorpe Parish Council. To re-enforce our assurances on HGV traffic, we offered to incorporate a ban in a Section 106 agreement on all but a few HGVs using the B122 towards Sherburn. Although Sherburn Parish Council was asked to consider withdrawing its objection, it did not appear to be able to do so. Although there is no reason why the vast majority of quarry HGV traffic would need to travel towards Sherburn, the Section 106 agreement gives everyone the confidence that this will not happen.”

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. She provided details to address the issues that had been raised during the public questions/statements session.

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

The Head of Planning Services highlighted the following suggested alterations to Condition 3, detailed within the report, to include the following approved documents:-

2 February 2021 – VT Hybrid light tower – specifications

17 February 2021 – processing plant concerning wash plant control cabin and two generators

18 February 2021 – Lighting

It was noted that the application was also subject to the prior completion of a Section 106 legal agreement as detailed in the report’s recommendation.

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 existing planning permission for mineral extraction on the site being beyond the time limits for this application, and wondered how that may affect the planned restoration. He also asked whether further permission would be required should there be insufficient infill generated by the expiry date. In response it was stated that there was an existing permission for mineral extraction but this did not relate to the application before Members and, therefore was not of material concern, although it was clarified that there was permission for the extraction of 250k tonnes per year, but the timeframe for that was not available. In terms of the infill not being completed by the expiry of the planning permission, should it be granted, it was clarified that a further application

- would need to be approved for the infill to continue.
- It was clarified that Condition 2*, which ensured that waste used by the applicant for the infilling related to the application details, would restrict waste to that derived from construction, excavation and demolition, and would not allow non-inert waste to be used. (*Note – following the meeting it was noted that the reference should have been to Condition 3).
 - Clarification was provided as to the provision of limestone grassland within the restoration plans and how this accorded with the Selby District Council bio-diversity plan and enabled the reintroduction of plants that thrive in that environment.
 - Details of the proposed traffic route from the site entrance were highlighted. Members outlined their satisfaction with the proposed routes, which would be confirmed by the successful completion of a Section 106 agreement, and in particular it was welcomed that the proposals routed HGVs away from a venue popular with motorcyclists, thereby avoiding that potential conflict.

Resolved –

- (i) That the application be approved for the reasons stated in the report, in accordance with the Conditions outlined, subject to the amendments to Condition 3, as outlined, and the successful completion of a Section 106 legal agreement.

187. Items dealt with under the Scheme of Delegation

Considered -

The report of the Corporate Director - Business and Environmental Services outlining items dealt with under the Scheme of Delegation for the period 7 December 2020 to 24 January 2021 inclusive.

Resolved -

That the report be noted.

The meeting concluded at 11.03am

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North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

16 March 2021

C8/999/16U/PA (NY2016/0251/FUL) - Planning application for the purposes of the change of use of part of the former coal mine site to create a waste transfer station 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 on land at the former Stillingfleet Mine Site, Escrick Road, Stillingfleet on behalf of Harworth Estates (Selby District) (Escrick Electoral Division)

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 To determine a planning application for the change of use of part of the former coal mine site to create a waste transfer station 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 on land at Former Stillingfleet Mine Site, Escrick Road, Stillingfleet on behalf of Harworth Estates.
- 1.2 The application is subject to 161 representations received from members of the public, and from Stillingfleet, Escrick, Kelfield, Cawood, Naburn Parish Councils and former County Councillor Mrs Casling, objecting to the proposal in view of the likely impact on local amenity caused by noise and dust, traffic movements, impact on the natural environment and conflict with local planning policy. The application is therefore, reported to this Committee for determination.

2.0 Background

Site Description

- 2.1 The application site is located on the former Stillingfleet Mine site, one of five satellite sites, which formed part of the former Selby mine complex. A location plan of the site is Appended A to this report.
- 2.2 The site is located in a rural area approximately 630m southeast of the village of Stillingfleet and south of Escrick Road between the villages of Cawood to the south-west and Escrick to the northeast. The site is accessed via a 500m private access road south of Escrick Road (C307) and extends over an area of approximately 32 hectares, 8.2 hectares of which was used for the operational area of the mine, the remainder being landscaping. The access road also serves adjacent agricultural land.
- 2.3 Escrick Road is an upgraded 'C' class road that serves the local area and provides access to the A19 York to Selby road, approximately 2km to the east, and the B1222 Cawood Road to the west.
- 2.4 A Public Bridleway (no.35.62/8/1) runs along the southern and part of the eastern boundary. A Public Footpath (no.35.62/20/1) runs alongside part of the eastern and part of the northern boundary of site, running parallel to the access road; half way down the access road, the footpath turns into the fields to the east meeting up with Public Bridleway 35.62/8/1 running along the east of the site.

- 2.5 A wider scale plan showing the context of the site in the locale is Appended B to this report.
- 2.6 The operational area of the former mine site originally comprised a number of buildings and hardstandings which were completed in 1983 following the grant of planning permission in 1976; operations ceased in 2004. By 2012, fifteen structures had been removed including the more significant buildings, the sewage treatment plant, store building, gas store and oil and grit interceptors and the amenity block and the shafts capped. Two large buildings remain, along with a compound containing electricity generators, powered by mine gas extracted from the mine; these are located in the northeastern part of the site. The remainder of the site is predominately covered in hardstanding associated with the former use and subsequently created following the removal of the buildings. A 2m high palisade fence and security gates bound the site.
- 2.7 Historically, the mine site was constructed on agricultural land. Bunds/embankments, were constructed around the northern, western, southern and in part northeastern boundaries to the site and planted up with a mix of deciduous trees to screen the development. The bunds are generally 4m high and 50m wide; the eastern bund extends to 5m high. The trees have now grown to between 5 and 10m high. Notwithstanding the clearance of most of the developed part of the mine site, the bunds and trees have been retained and which now, in conjunction with the bunds provide a dense screen to the site of around 14 -15m high. The access road is also screened to the west by a mixture of approximately three-metre-high deciduous hedges and intermittent deciduous trees. The extent of the bunds and tree planting is shown on the *Screening Management Plan* Appended as H to this report.
- 2.8 The application site falls within the former mine site and extends over an area of approximately 2.2 hectares, 2.75 hectares including the access. It comprises mainly hardstandings but also includes the two remaining large buildings; one measuring 52.4 x 17.6m x approximately 9m high (922.2m²) with a protruding 6.4m square front extension (128m²); the second measuring 64 x 17.3m x approximately 10m high (107.2m²) with a rear extension measuring 8.1 x 21.1m x approximately 5m high(170.91m²). Both buildings are in a sound, but unused condition.
- 2.9 The nearest residential property to the former mine site is 'Mount Pleasant Farm', located approximately 400m to the north west of the site adjacent to and served by the rural road to Kefeld. The small, primarily residential village of Stillingfleet is located approximately 630m to the north west of the site. These can be identified on the location plan appended A to the report.

Constraints affecting the application site

- 2.10 The wider surrounding area is characterised by an open arable landscape with dominant blocks of woodland. The former mine site, including the application area, falls within Flood Zone 1. Public Bridleway (no.35.62/8/1) runs along the southern and part of the eastern boundary; Public Footpath (no. 35.62/20/1) runs along part of the eastern and part of the northern boundary off site ultimately connecting to Public Bridleway 35.62/8/1. Heron Dyke runs parallel to southern boundary (Ouse & Derwent IDB).

Planning History

- 2.11 The planning history relating to the proposed development site relevant to the determination of this application is as follows: -
- Outline planning permission for Stillingfleet Mine was granted in 1977 for 'the erection of buildings, plant and machinery and the carrying out of other development in connection with the winning and working by underground mining of coal from the Barnsley Seam on land at Stillingfleet Moor' (ref.C/8/999/16/PA). Condition 16 requires: 'If the use of the two shafts for the purpose of conveying miners and equipment to work coal from the Barnsley seam is abandoned or shall cease for a

period of not less than twelve months, the whole site shall be restored to a condition capable of agricultural production, in accordance with such scheme as may be approved in writing by the County Planning Authority, and any plant buildings and machinery shall be removed from the site within twelve months of the relevant date being the date of abandonment or termination of the twelve months period mentioned".

- Reserved matters *'in respect of surface buildings'* for the purposes of permission C/8/999/16/PA, were approved in 1979 (Ref C/8/999/16D/PA).

2.12 The working of the Barnsley seam from the Stillingfleet Mine site ceased in 2004 and the site has been inactive for coal extraction purposes since. Shaft infilling was undertaken and completed; the buildings, which housed the headgear, were removed in 2006. The largest building, the amenity block, was demolished in 2012. The sewage treatment plant, store building, gas store and the oil and grit interceptors were also removed. Some buildings, (including those the subject of this application), and large areas of hard standing, constructed to facilitate the operational use of coal extraction remain *in situ*. The buildings are in a dilapidated condition. To date 15 of the original 20 buildings/structures have been removed in accordance with the requirements of condition 16 to planning permission C/8/999/16/PA.

- Planning permission for the *'retention and reuse of existing suitable buildings, car parking and landscaping to provide accommodation and facilities for business, industrial and warehouse uses linked to Use Classes B1, B2, and B8 of the Town and Country Planning (Use Classes) Order 1987'*, (Ref 2005/0415/COU / 8/09/117/PA), was refused by Selby District Council on 30 January 2006. The application was considered to be contrary to national guidance, regional policies and the Selby Local Plan (adopted February 2005) in that the site falls within open countryside and the proposal would constitute a large-scale inappropriate car dependent employment use in an unsustainable location. An appeal lodged by the applicant (also the current applicant) was subsequently withdrawn.
- Planning permission for the installation of four replacement containerised methane (mine gas) electricity generators, the temporary drilling of a bore hole and an underground gas pipeline to the south of the site for a period of ten years was granted by the County Council 24 November 2006 (ref C8/999/16Q/PA);
- Planning permission seeking to extend the time period within which the site should be restored as specified by condition 16 to planning permission C/8/999/16/PA to consider potential alternative uses of the sites was refused by the County Council on 27th August 2008 (ref. C8/999/16S/PA) for the following reason:
 - *In the opinion of the County Planning Authority, the proposal is contrary to Minerals Policy Statement No 1 that requires the early restoration of sites to avoid dereliction and North Yorkshire Minerals Local Plan Policies 4/16 and 4/1 that requires an acceptable proposal for the restoration of the site following mineral extraction shall be submitted. No restoration scheme has been submitted and the justification to postpone the submission of such a restoration scheme does not include any proposals to restore the land to agriculture and would instead involve exploring the potential of types of development, which would be contrary to Regional Policies YH7, E7 and Selby District Local Plan Policy EMP7. The Applicant has not provided an acceptable justification to vary the wording of condition number 11 of the planning permission granted by C/8/999/16/D/PA in 1979. The County Planning Authority considers that it would be more beneficial to restore the landscape character of the site, taking into account any current amenity and biodiversity value of the site in accordance with Regional Policy ENV10.*
- Planning permission for the variation of condition 11 to planning permission C8/999/16Q/PA to allow for an extension of the time limit for the use of the existing

electricity generation equipment until 31st December 2029 was granted 18 June 2012 (ref C8/999/16T/PA). The buildings retained and used in connection with the planning permission are: Soluble Oil Pump House; Methane Plant; Process Water Tanks; Shaftman's Cabin and Sub Station.

- A prior notification of demolition submitted to Selby District Council on 27th February 2012, for the removal of the amenity block and 15 structures as stated above was supported (ref 2012/0120/DEM);

2.13 Notwithstanding the requirements of condition 16 to planning permission C/8/999/16/PA, the County Council concluded in 2016, that it would not be expedient, reasonable, nor in the public interest to pursue formal enforcement action for the removal of the remaining buildings and hardstanding for the purposes of condition 16 when taking into account:

- the demolition work completed to date;
- no visual or landscape harm or other harm to any interest of acknowledged importance was demonstrated to exist in relation to the site; and
- changes in the local planning policy context (Selby Local Plan Core Strategy adopted in 2013) since enforcement action was first considered in 2010, and which is supportive of redevelopment of certain former mine sites.

The legal time limit for taking enforcement action for breaches of planning conditions is ten years from the date of the breach. The time limit for taking enforcement action against non-compliance with condition 16 expired in 2016 notwithstanding the decision not to take action for the reasons set out above. Consequently, there are no powers under the provisions of the Town and Country Planning Act 1990 to take enforcement action against the landowner to remove the remaining buildings and restore the site for the purposes of condition 16.

2.14 The proposal has been 'screened' in accordance with the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 to determine whether the proposal constituted Environmental Impact Assessment development. A Screening Opinion was adopted on 3rd May 2017; the opinion was that the proposed development would not give rise to significant environmental effects and therefore the application does not constitute Environmental Impact Assessment requiring an Environmental Statement. There have been no further development proposals on the former mine site, or in the vicinity (the site is located in open countryside) since the Screening Opinion was adopted; therefore there are no in combination effects to consider.

3.0 The Proposal

3.1 The application is for the change of use of part of the former coalmine site and two buildings to a waste transfer station 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.

3.2 An aerial photo, appended as C to this report shows the current condition of the site and on which the two remaining large buildings, which are to be retained, refurbished and used as part of the proposed development can be seen. It is proposed that the bulk of the waste processing would be undertaken within the western building (former store building), as shown on the plan appended as D to this report. This building is 52.4 x 17.6m (922.2m²), with a protruding 6.4m extension to the front providing an additional 128m². The eastern building (former workshop building) is 64 x 17.3m (1,107.2m²) with a rear extension of 8.1 x 21.1m (170.91m²).

3.3 The proposed waste transfer station would receive construction and demolition (C&D) wastes (including plasterboard, glass wastes, plastic laminate, waste concrete tiles and blocks). The waste would be subject to strict waste acceptance procedures designed to exclude non-conforming materials. Any non-conforming waste would be segregated

and stored in skips in the designated area in the southeast corner of the site, west of the quarantine area in the building shown on the *Proposed Site Plan* appended as E to this report before being removed off site. Skips would be transported to and from the site using the same vehicles as those that bring in and take out the waste, using flatbed roll-on/roll-off (RoRo) wagons. Waste would be tipped into stockpiles onto the concrete pad in the north of the application site. Construction and demolition waste would be deposited on the hardstanding and stored in external stockpiles. The height of the stockpiles are proposed to be limited to 4m for laminate and 5m for all other stockpiles. Any water runoff from the stockpiles and hard standing would be managed within the existing drainage system. It has been calculated that the existing sustainable drainage system (SUDs) on the site would have the capacity to handle the proposed surface water discharge from the site.

- 3.4 Stockpiled coarse aggregate product would be located west of the untreated stockpile of construction and demolition waste, and limited to a height of 5m. The untreated stockpile of construction and demolition waste would be located further east within the screening area and also limited to a height of 5m, also shown on the *Proposed Site Plan* appended as E to this report. The site would have a limit of processing a maximum 75,000 tonnes of waste at any one time and in total over any one year. The waste would be controlled by an *environmental permit*, which would be issued by the Environment Agency. The applicant has advised an application for a permit would be made to the Environment Agency should planning permission be granted.
- 3.5 The one-way system proposed to be implemented on site would mean the weighbridge would only be used by incoming HGVs and would not be used by vehicles removing any material for recycling. On the eastern boundary of the site there would be a post-treatment plastic laminate and block storage area. The site would operate with the one-way traffic system, between the *Dry Product Storage* building and the stockpiles to the north. The exit road would then be to the south of the *Dry Product Storage* building, looping around it.
- 3.6 The majority of waste brought to the site would be processed within the buildings, with a small amount of physical segregation and screening occurring on the hardstanding outside the buildings, using the loaders and plant equipment in the 'screening area'. Plasterboard would be stored externally in sheeted stockpiles, but would be treated inside the processing building, using a shredder and trommel screen to separate paper, wood and metal from the gypsum. Plastic laminate recovered from glass products would be stored at the eastern side of the application site on the hardstanding, as a stockpile. This area would be bunded to retain any inflammable liquids that may be within any material imported onto site. The laminate would be made into blocks, which would be stored with the untreated laminate in the stockpile area.
- 3.7 The proposed mobile plant to be used mainly inside the building would include:
- two x Wheeled Loaders Case 821f;
 - 1 x Excavator Doosan 300x;
 - 1 x Jaw Crusher McCloskey J45;
 - 1 x Screener McCloskey 190;
 - 1 x Shredder Teresa tdsv20;
 - 1 x Trommel Screen Anaconda TD516;
 - 1 x Generator Cat 350 kvs super silent.
- 3.8 The C&D waste is proposed to be tipped outside and then manually sorted to remove materials such as wood, plastic, metals etc. before being taken inside to be crushed. Outside screening of C&D waste could occur in the event of encountering capacity issues. The proposed jaw crusher, shredder and trammel screen would be located and only used inside the buildings, as shown on the *Internal Building Layout Plan* appended as F to this report. Plasterboard would be treated inside the processing building using

a shedder and trommel screen to separate paper, wood and metal from the gypsum. Clean gypsum and other fine product from the processing operation would be kept in the *Dry Storage Building* before being removed off site.

- 3.9 A new weighbridge is proposed on the site of the former weighbridge to the colliery. This would be 3.2m x 19.1m located between the two existing buildings (see Appendix F). A portable single storey amenity cabin 3m x 10m x 2m high to provide weighbridge office and welfare facilities would be sited west of the weighbridge. A water bowser, misters and spray guns would be used to control dust migration within and around the external stockpile and processing areas. In the event of local wind speeds in excess of 20m per second (where effective dust control could be difficult), it is proposed to suspend site operations. An anemometer would be employed to identify wind speeds and determine the need for mitigation measures to be employed.
- 3.10 Car and HGV parking would be located east of the *Dry Product Storage Building* on the existing hardstanding. The site would also operate under a one-way system for incoming vehicles passing through the weighbridge to tip in the untreated stockpile area and then exit to the south of the *dry product storage building* before re-joining the site access, as shown on the *Proposed Site Plan* (appended as E). The '*Transport Assessment*' estimates there would be 50 HGV movements per day (25 in and 25 out) with a mixture of single and return loads of which 40 percent would be rigid bodied 19 tonne loads and 60 percent articulated 29 tonne tippers. It is proposed that all road vehicles would be restricted to clean site areas, negating the need for specific wheel washing facilities; nevertheless, it is proposed that all vehicles would be inspected and cleaned before leaving the site.
- 3.11 The proposed hours of operational working, including HGV are 0700 to 1900 hours weekdays, 0730 to 1300 hours on Saturdays, with no working on Sundays or Bank or Public Holidays. It is proposed all HGVs would travel to and from the site from the A19 via the C307 (Escrick Road), as shown on the *HGV Haul Route Plan* appended as G to this report. The applicant is willing to enter into a S106 planning agreement to ensure this is the case. It is estimated 10 full time jobs would be created by the waste transfer station.
- 3.12 No additional lighting is proposed over and above the existing lighting which has been retained following the clearance of the former mine site. Outdoor operations would not take place after hours of darkness for safety reasons. The entire site is proposed to be secured by a Heras type fence with panels of a height of two metres, including on the southern boundary, which is currently unfenced. A 2m high gate is proposed at the site access.
- 3.13 The applicant has undertaken a *Flood Risk Assessment*; the site falls within Flood Zone 1. The assessment concludes there is a low risk of flooding, the existing site drainage is acceptable for the proposed development and there is no requirement for additional flood risk mitigation or management measures. A *Preliminary Ecological Appraisal* was also undertaken which includes a remit to provide an *extended Phase 1 Habitat Survey* to describe and map the habitats of the site, to identify the presence or potential presence of any protected or notable species, and to undertake a walkover protected species survey. The report concluded that there were no protected species that would be affected by the proposed development.
- 3.14 The applicant has advised that while there are other recycling sites in the region including several in South Yorkshire, "*with regard to plasterboard, this one will be unique to the Region in that it will take waste plasterboard direct from the manufacturer and return high quality recycled gypsum that can be used to make new plasterboard*". It goes on to state that the facility would produce a variety of products and the primary products would include:

“a range of aggregates including sub base and granular and general fills manufactured to WRAP [Waste and Resources Action Programme] Aggregate Protocol standards. Also produced would be gypsum from plasterboard and glass, again to WRAP protocol standards, fines for block manufacture and batching plants, paper and metals including aluminium. Any soils produced would be sold off-site under the CL:AIRE [Contaminated Land: Applications in Real Environments] regime. Materials that could not be recycled would be disposed of at the nearest authorised facility”.

- 3.15 The applicant estimates 75,000 tonnes of waste per annum would be imported to the site and confirms that contracts are in place for most of this. The applicant considers that there is a need for a specialist treatment/recycling site such as proposed because there is no other facility that recycles plasterboard in North Yorkshire. The applicant also considers there is also a need for additional facilities to deal with construction, demolition and excavation waste (CD&E) within North Yorkshire and York and is identified in the emerging *Joint Minerals and Waste Plan* for the area. The waste would be brought in directly from source sites without the need for intervening waste transfer stations, with waste only being accepted on a contract basis and no individual small loads to ensure quality control and to avoid non-conforming waste. The process would involve recycled fines being blended with other recycled products to give a bespoke product for concrete and concrete block manufacturing companies who are sourcing these materials given power stations are moving to biomass fuels and the waste ash is no longer readily available in block manufacturing.
- 3.16 The applicant has undertaken a noise assessment (dated 28.12.18) and which concludes, noise levels generated by the use are unlikely to be excessive. The nearest dwellings to the site are Mount Pleasant Farm, 500 metres to the north-west; a farm off Cawood Road, 750 metres to the northeast; a farm on Moor Lane, a kilometre to the south; and a farm off the A19 1.25 kilometres to the east. Background noise measured at these properties was 37 to 42 dB L_{Aeq} . It is predicted the noise from the site as measured at these properties would be 34 to 41 dB L_{Aeq} during the day. There would be no operations and therefore no noise at night. The assessment concludes that restricting the proposed hours of operation of the site would be sufficient to mitigate any noise effects and as such, the applicant considers that the impact of the proposed development upon the amenity of any sensitive receptors, which include the nearest dwellings to the site, would be negligible.
- 3.17 The application was initially submitted by ASA Recycling Group Ltd. In July 2018, applicant changed to Harworth Estates, the landowners of the Stillingfleet mine site including the access, all the hardstandings, buildings, surrounding bunds/embankments and landscaping. The applicant is willing to establish a local liaison meeting.

4.0 Consultations

- 4.1 The following bodies were consulted on the application on 3 February 2017. Following receipt of further information relating to a *Transport Statement*, they were re-consulted on 20 March 2017. On 20 June 2019, following receipt of an updated Planning Statement (relating to the legal planning status of the site and setting out relevant policies against which the site should be considered), Selby District Council (Planning), Stillingfleet Parish Council, Escrick Parish Council, Kelfield Parish Council and those individuals who had made representations, were re-consulted. Responses received to all the consultations and re-consultations are summarised or set out as follows:
- 4.2 [Selby District Council \(Planning\)](#) – responded 15 February 2017; *‘no objections or comments to make on the application’*. The Council advised the application should be considered against the relevant Selby Core Strategy and the Local Plan given the development falls outside the development limits.

- 4.3 On 23 March 2017, the County Council requested the Council to advise whether they considered the application was in conflict with the policies of the Selby Local Plan Policy. The Council (3 April 2017) confirmed they had '*no objection*' to the proposal and that, as they are not the determining planning authority, it would be inappropriate for them to assess the application against their Development Plan. Therefore, they could not confirm if the scheme is in accordance with the Development Plan as a whole or not.
- 4.4 The District Council further advised on the 3, 11, 18 and 24 May, and 11 June 2018, that they understood the planning conditions required the site to be restored, that any deviation from this would need to be justified, that they considered the restoration conditions were still enforceable and they had not been party to any decision taken by North Yorkshire County Council not to enforce such. It would be for North Yorkshire County Council to set out the background for the site and why the condition would not now be enforceable.
- 4.5 The District Council advised, '*In your letter dated 18th May, you refer to the fact that the adoption of the Selby District Core Strategy in 2013 provided part-justification for not returning the mine site to agricultural land. We would query this justification, given that paragraph 6.35 of the adopted Core Strategy highlights the remote location of Stillingfleet Mine and identifies that it is not a suitable location for large scale or intensive employment activities.*'
- 4.6 The County Council sought confirmation from the District Council why they considered the proposal to be a '*large scale or intensive employment activity*'. The District Council responded on 30 August 2018 that they "*regard the creation of the waste transfer facility to be large scale / intensive due to the rural nature of the application site and the fact it lies beyond the development limits of Stillingfleet in the open countryside. It is in this context that the proposal is considered to be large scale, but we would determine what constitutes "large scale" and/or "intensive" on a case by case basis.*"
- 4.7 [Selby District Council \(Environmental Health\)](#) – responded 22 February 2017 and 10 March 2017 (identical response to 22 February 2017), advising the development would require an Environmental Permit from the Environment Agency and recommended conditions be imposed restricting the hours of HGV movements to minimise noise from such adversely affecting residential dwelling on Kelfield Road.
- 4.8 [Highway Authority](#) – responded 15 February 2017 requesting further information in regard to traffic flows and a speed survey for the C307 (Escrick Road) near the site entrance in the absence of which a full assessment of the road's capacity to accommodate the vehicles could not be completed. Following receipt of the requested information the Highway Authority advised on 23 March 2017 that the speed survey and traffic flow data for the C307 (Escrick Road) County Road shows that the additional HGV trips generated by the proposal would account for 3% of total traffic flow. No objection is raised to the proposed development, subject to the imposition of conditions requiring: warning signs be erected either side of the access to improve safety; for all vehicles leaving the site to turn right towards the A19; access only via the C307 (Escrick Road); a highway condition survey be carried out prior to the commencement of use of the site, and the installation of wheel washing facilities.
- 4.9 [Environment Agency](#) – responded 21 February 2017. If water to be used for dust suppression is to be taken from local surface water or groundwater or will be needed in volumes greater than 20 m³ per day, an abstraction licence would be required. The development would require an Environmental Permit.
- 4.10 [Selby District Council \(Environmental Health\)](#) – responded 22 February 2017 and 10 March 2017 (identical response to 22 February 2017), advising the development

would require an Environmental Permit from the Environment Agency and recommended conditions be imposed restricting the numbers and hours of HGV movements to those proposed (07:00 to 19:00 weekdays, 07:30 to 13:00 Saturdays and no Sunday working. No more than 50 HGV movements per day and no more than 6 in any one hour) to minimise noise from such adversely affecting residential dwelling on Kelfield Road.

4.11 **Stillingfleet Parish Council** - responded [3 March 2017](#) and [10 July 2019](#). The Parish Council object to the application and further information submitted by the applicant for the following summarised reasons:

- The application is in open countryside and must be assessed against the relevant Selby District Core Strategy and Local Plan including point 6.35, which states '*The former mine sites at Stillingfleet and Wistow are remote and are not considered suitable for re-use for large scale industrial activity*'. The Applicant states that the development would bring back a major part of the mine site into use, which could be considered large scale industrial activity';
- The proposal is attempting to use national waste disposal policy to override Selby DC Core Strategy Policy. Stillingfleet is a small secondary village surrounded by open landscape and would be overwhelmed by the size of this developments noise, pollution and the constant movement of heavy goods vehicles. The proposals submitted do not justify overriding Selby Core Strategy and the wishes of the residents of Stillingfleet;
- Paragraph 7 of the application says the plans do not incorporate areas to store and aid the collection of waste while paragraph 22 refers to the storage of 75,000 tonnes of waste (including liquid waste).
- Noise concerns and issues with how the noise survey was undertaken;
- Traffic concerns regarding the 50 HGV movements every day and concerns that there are no road signs or routing avoiding Stillingfleet Village. Strongly refuting that there are no unacceptable impacts or that local roads are adequate for the anticipated increase in HGV's;
- Stating the Applicant could use a Rotherham recycling centre and also questions the Applicant's links to British Gypsum;
- The potential problems dust could cause;
- The wording '*there would be no contamination of the former mine site*' is considered to be suspect and that an assessment should be obtained prior to determination, including the method of dealing with foul sewage;
- The natural environment may be affected by the proposed activities. Especially if the benchmark for the site is taken from the abutting agricultural land or even a silent derelict site;
- Paragraph 6.44 of the planning statement fails to observe that a key condition of the mine site consent was that it should be returned to agriculture once mine operation had finished. Any consent should be time limited to match the energy plant (methane production application Ref. C8/999/16T/PA).
- That the intended planning status of the land is relevant to the merits of the application while its physical appearance is not. It should be agricultural.
- The failure of NYCC to enforce a condition should not affect the relevance of its planning policies nor those of Selby District Council. The land should be restored to agricultural use even if no one can now be compelled to do so. The Selby DC local plan does not support the development of the site.
- The proposed development is ill conceived and would have devastating consequences for a completely undeveloped rural environment.
- It is one thing to observe that restoration of the site would be problematic (and very expensive for the company which should have done so without enforcement action from anyone) but that does not mean that a development would be an inevitable consequence of non-restoration.
- The present characteristics are the result of abandonment by its owners. It could be turned into a wild life haven.

- The use of the word 'regardless' summarises the approach of the applicants to this remote rural spot.
- The disadvantages of the proposed development also need to be considered.
- The future of this site should be one of improving the environment and promoting healthy living.
- Clause 6.35 of the Selby DC Core Strategy states clearly that the former site at Stillingfleet is remote and not considered suitable for use for large-scale industrial activity. It is disingenuous of MWP to suggest that their proposal is small scale. Furthermore, it is clear that any permission to develop a significant part of the site for industrial activity would attract (as it already has done) agents advertising to let the remaining part of the site for commercial activity which would overwhelm this remote rural area.
- The site sits in isolation from any other industrial development within a deeply peaceful and scenic rural environment.
- The NY Waste Local Plan has its own agenda to promote. It appears to presume, contrary to the submitted objections of a large number of local residents, that the proposed development would not have an adverse impact on the character of the area.
- The noise, dust and heavy traffic generated by a development such as this would certainly have an adverse impact, even before the owners attempted any second phase of development to bring the rest of the site into commercial activity.
- The proposal would be 'large scale'.
- Site should not be judged on its present condition but upon the intention of the original and highly detailed planning consent. Even if Harworth Estates have escaped the high cost of restoration of the site, it would be a travesty if they were then to benefit by a considerable amount from the inaction of NYCC while the locality would suffer the consequences.

4.12 [Kelfield Parish Council](#) - responded 9 March 2017. The Parish strongly object to the application for the following reasons:

1. The original consent for the Stillingfleet Mine contained a condition that the site should be returned to agricultural use once the mining operation had finished. That condition has never been revoked therefore further site development should not take place until that issue has been resolved.
2. The proposal is considered to be a large-scale industrial activity and should be assessed against the relevant policies of the Selby District Core Strategy and the Local Plan due to the fact that the proposed development is outside the development limits of Stillingfleet and in open countryside. Clause 6.35 of the Selby District Core Strategy states; 'The former mine sites at Stillingfleet and Wistow are remote and are not considered suitable for re-use for large scale industrial activity'.
3. The storage of 75,000 tonnes of waste (including liquid waste) is a cause for considerable concern and if the application is approved, it should be conditioned to ensure adequate safety measures are incorporated into the scheme in order to prevent contamination of the atmosphere, soil and watercourses.
4. No hazardous waste should be allowed to be stored or processed on site and, if the application is approved, this should be conditioned and strictly monitored.
5. Concern that noise from the operation of the site (including a crusher) would have an undesirable impact on the occupants of nearby residential properties.
6. Concern is also expressed on the impact that the 50 HGV movements every day will have on the local highway network including the noise that will be generated by this traffic. The application should be conditioned to prevent HGVs travelling through Stillingfleet and other villages on the B1222 or routing via Cawood Bridge. It is important that a Travel Plan is submitted, agreed and conditioned prior to any consent being issued.
7. The problem of dust from the site must be dealt with through adequate means of control and conditioned appropriately, particularly during dry and windy conditions.

8. Kelfield is a secondary village in a rural and agricultural setting and concern is expressed at the size and nature of the proposed waste disposal site, due to the impact of noise, pollution and the constant movement of heavy goods vehicles. In order to protect the nature of the villages and the surrounding agricultural landscape, national waste disposal policies should only be used in conjunction with the relevant policies of the Selby District Core Strategy.
9. It is submitted that the benefits of the proposals contained in this application do not outweigh the harms to the local communities, inasmuch that it will introduce a large-scale industrial development into an essentially rural and agricultural environment.
10. North Yorkshire County Council Planning Committee is strongly recommended to refuse the application and to uphold the policies contained in the Selby District Core Strategy and give due consideration to the valid concerns of the residents of Kelfield and Stillingfleet.

4.13 **Escrick Parish Council** - responded [15 March 2017](#). The Parish strongly object to the application and supports the reasons for objecting set out by Stillingfleet and Kelfield Parish Councils. Further, the Parish is concerned the proposal would set a precedent for the determination of future expansion proposals and which would be a piecemeal approach overturning and undermining the recently adopted Selby District Policy. The site is not an allocated site in the draft North Yorkshire County Council Minerals and Waste Joint Plan (MWJP), is therefore contrary to the Plan, and should be refused. Concern is expressed to the impact of extra HGV traffic on the A19 and the extra noise that would be generated by such. An additional 50 HGV movements would exacerbate problems of traffic passing through the village. It requests that, if approved, no vehicles should be allowed to travel through Stillingfleet and other villages on the C307 (Escrick Road) or routing via Cawood Bridge. The cumulative impact of traffic associated with other planning permissions not yet implemented should be assessed including the anaerobic digester at the former North Selby Mine site and the large site at the former Escrick brickworks. There are other waste sites within reasonable proximity where construction waste is stored; the applicant has not demonstrated the need for a separate waste 'feeder' transfer station. Consequently, the application is unnecessary, contrary to policy, and should be refused.

Following re-consultation, the Parish Council maintain its strong objection to the proposal ([1 July 2019](#)) for the following reasons:

- *Escrick Parish Council retains its strong objections to this application. Its previous objections submitted still stand and should be re-examined. It understands that this re-consultation by NYCC is due to the fact that it has now received legal advice advising that, in determining the application, the site should not be treated as 'previously developed'. The applicant has now responded to this. EPC has previously objected that the application is contrary to National, regional and local policy and therefore should be rejected. This legal advice will assist NYCC in determining the correct context for its consideration and determination of the application.*
- *EPC remains supportive of the representations made by Stillingfleet Parish Council and Kelfield Parish Council. It also welcomes the fuller Planning Policy context and background information of the Local Plan Inquiry where the site was discussed, submitted by Samuel Smith Old Brewery (Tadcaster) on 16 October 2018 by its consultants Cunnane Town Planning, as well as its detailed analysis of the deficiencies of the application; EPC supports this detailed objection too.*
- *EPC welcomes the Council's legal opinion. However, the overarching context must be the Development Plan, which, in accordance with the NPPF, is a material consideration in all planning decisions. The NPPF states that the starting point for all decisions on applications is the local development plan unless material considerations indicate otherwise. There is now an accepted presumption in favour of sustainable development and this is to be seen as 'a golden thread*

running through plan making and decision taking'. Therefore, development plan 'is absent, silent or relevant policies are out of date', planning permission should be granted unless '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, or specific policies in the Framework indicate development should be restricted.' Consequently, many application determinations, appeal decisions and ministerial directions have shown that applications which are contrary to the development plan should be rejected, unless exceptional circumstances and clear benefits can be shown to put the development plan aside.

- *In this case, the relevant development plan - namely the Selby District Core Strategy - specifically examined the future of the former Stillingfleet mine site and, as evidenced by the response provided by Samuel Smith Old Brewery, the site was specifically discussed at the Plan's Public Inquiry. Had the Inspector recommended a different future use, recommendations would have been proposed and changes made in order for the Plan to be found sound. This was not the case. It is therefore clear that the Plan was not silent and did not intend that other more generic policies should be applied. Clause 6.35 of the Selby District Core Strategy specifically states: 'The former mine sites at Stillingfleet and Wistow are remote and are not (my emphasis) considered suitable for re-use for large scale industrial activity'.*
- *NYCC has also asked Selby District Council's Policy officer to comment on whether the current proposals are considered to be 'large scale industrial activity' in order to re-confirm to it whether the proposals accord or not with the adopted Development Plan. EPC notes that Selby's Policy officer has confirmed to NYCC: 'In response to your query, we would regard the creation of this waste transfer facility to be large scale / intensive given the rural nature of the application site and the fact that it lies beyond the development limits of Stillingfleet in the open countryside. It is in this context that the proposal is considered to be large scale, but we would determine what constitutes "large scale" and / or "intensive" development on a case by case basis.' This is examined in more detail by the Samuel Smith Old Brewery's representation, which also rejects its appropriateness for this location for many other sustainability and environmental reasons. EPC supports these views and objects to the proposals for a waste transfer station, which are clearly contrary to policy and inappropriate for this location.*
- *EPC acknowledges that Plans of NYCC as Waste Authority must be considered together with those of Selby District Council, and policies in the more recent draft Minerals and Waste Joint Plan also form part of the Development Plan for the area. This too should be a material consideration as all Inquiry sessions are now complete and the Inspector's Report is awaited. We note that there was no reference to the use of this site in the recent NYCC Minerals and Waste Joint Plan consultation and the site is not proposed as an allocation for the proposed (or any) use outlined in this application. Therefore, as other sites have been found to be more appropriate for this use (and there is no obvious deficiency in allocation and therefore outstanding need for it), the application is also contrary to the recently approved policy proposals of both NYCC and City of York Council and should be refused on this basis.*
- *It is appreciated that the legal opinion will help NYCC for the next stage of its deliberations, but EPC believes that the fact that the proposals are contrary to both the Selby District Local Plan and NYCC Minerals and Waste Joint Plan means that it should be rejected and refused as contrary to policy. Furthermore, for the reasons outlined by Samuel Smith Old Brewery, the proposals are unsustainable and would have adverse impacts on the local environment and surrounding area. In the absence of any material considerations case to outweigh the conflict with the development plans, EPC advocates that the proposals should be rejected and planning permission refused.*

4.14 **Cawood Parish Council** – responded [9 May 2018](#): The Parish Council object to the proposal for the following reasons:

1. *The planning consent for this site and the other Selby Coalfield sites required the sites to be returned to agriculture when mining finished. This should be done. To allow a subsequent development to piggyback on the fact that the land has not been returned to agriculture is to perpetuate an injustice. As a bare minimum the application should be considered as if this were a Greenfield site.*
2. *The application includes screening and outdoor storage of 75,000T of material. This will inevitably lead to a noise and dust nuisance as the material is tipped, picked up, screened and re-handled. This is all heavy industrial work.*
3. *The 50 additional HGV movements per day will place an additional burden on local infrastructure. Of particular concern to us is Cawood Bridge. NYCC have recently spent £1m refurbishing the bridge but it remains an essentially Victorian structure and has a 10T weight limit. There have been many problems in the past with enforcing the weight limit and rogue vehicles are still a problem. The temptation for vehicles bringing waste from the Sherburn direction to use Cawood Bridge as a shortcut rather than going round through either Selby or Tadcaster will inevitably prove too much for some drivers leading to damage to the bridge and further expense for NYCC.*
4. *When the coalfield was in operation all coal was removed at Gascoigne Wood, not at Stillingfleet or the other four shaft sites, which were for men and equipment access only. The proposed HGV movements and surface handling of material are both far in excess of what the NCB and subsequently British Coal were allowed to do during mining operations. In these important respects the proposed development would have more impact than the mining operations so to allow it would be a retrograde step*

A further response received [29 July 2019](#) following re-consultation, supports and reiterates, Escrick Parish Council's objection to the further information.

4.15 **Naburn Parish Council** – responded 3 May 2018. The Parish Council strongly object to the proposal for the following reasons:

Firstly, the original planning permission for the coal mine specifically stated that once the mine was closed, the site would be given back to agriculture. Why is this planning condition being ignored? It makes a mockery of the planning process.

Secondly, whilst the A19 and Stillingfleet Lane may be capable of taking up to 50 HGV's per day (100 movements), we very strongly insist that the B1222 through Naburn and Stillingfleet be barred to HGV's heading to and from the site and that should plans be approved, this constraint should be an inherent part of any approval given. The B1222 has along its route a low bridge under the old ECML railway line, a narrow bridge over Howdern Dyke, a primary school, a riding school, caravan sites and several narrow and tight bends. It is completely unsuitable for HGV usage and would be dangerous for pedestrians and other road users.

4.16 **NYCC Heritage - Landscape Architect** – responded [1 March 2017](#). Further information is needed; the area is rural and the acceptability of the proposal depends on:

- the planning status of the site in relation to its existing use;
- the agreed restoration objectives
- the level of screening and mitigation, which is currently available on site. The screening relied upon does not fall within the application boundary and it is not clear how it could be retained.

4.17 Conditions are required regarding landscaping; buildings to be in a recessive colour to ensure they are unobtrusive; a lighting scheme. Concerns are expressed to the

planning status of the site which should be established and potential conflicts with policies 4/1 and 4/3 of the North Yorkshire Minerals Local Plan.

- 4.18 In response ([1 March 2017](#)), the applicant advised a specific landscape impact assessment had not been prepared as the site is fully screened from outside views by mature planting and mounding which was put in place with the original mine application. The applicant is of the view there should be no additional requirement for off-site planting to screen the proposed operations and notes the public rights of way are outside the perimeter mounding and planting.
- 4.19 In response, Landscape advised ([15 March 2017](#)) that after visiting the site and seeing views from the Public Rights of Way from the south, east and north, they would agree that at present the application site is currently *'very well screened by landform and planting'*. It was noted noise from the current methane plant could be heard from the Public Right of Way and is concerned the effect of noise on the tranquillity of the surrounding area, which is rural in character is unlikely to be appropriate.
- 4.20 In response to the further information submitted by the applicant ([3 July 2017](#)), Landscape *'strongly recommend that the issue of restoration the former mine site is clarified before this application is determined'*. Condition 16 of permission. C8/999/16/PA requires the site to be restored to a condition capable of agricultural production and application for an extension of time within which the site should be restored was refused permission. This application should include consideration of how the final restoration would be affected by the scheme and it would be premature to determine the application without contextual information to show how the restoration of the waste transfer station would be carried out as part of a wider approved scheme.
- 4.21 The restoration of the site as a whole after this length of time may need altering but the principle of restoration to a rural land use is still appropriate, maintaining the site is clearly isolated with the countryside and the NPPF definition of previously used land does not apply due to this being a former minerals site. The granting of the temporary permission for mine methane gas electricity generation up to 2029 does not prejudice the restoration of the remainder of the site or full restoration when the permission expires. Landscape concludes that this proposal, whilst not being directly comparable to the methane gas electricity generation which is related to the previous use of the site, a waste transfer station is not and has less justification.
- 4.22 Further, whilst the screening by mounding and planting may currently be good it falls outside the red line boundary of the site. The planting would have been intended to be temporary and should not be relied on for long-term mitigation, as it does not appear to be being managed by the landowner and would benefit from some woodland management. In a further response ([25 April 2018](#)), Landscape advised the potential removal of the landscaping would not be acceptable in landscape terms as the proposed development would become highly visible from the surrounding properties roads, and footpaths and is of the view: *'the proposal in landscape terms cannot be supported unless the existing hedgerows, woodland and mounding could be retained and managed through a separate S106 agreement together with a woodland maintenance management plan'*. In addition, it was advised any permission should be temporary up to 2029 to reflect the time limit of the nearby mine gas generation plant, after which the site should be restored to an agricultural afteruse in keeping with the use and character of the adjoining farmland.
- 4.23 **NYCC Heritage - Ecology** – responded [3 February 2017](#). As the operations are restricted to hard standings, no concerns subject to best practice being employed to avoid pollution of air and water. Advised on 12 November 2018 that as there are no significant alterations to existing buildings, no bat survey is required.

- 4.24 Further comments were provided following the submission of a Preliminary Ecological Appraisal of the site dated 19th January 2019. The appraisal included a commitment to provide an extended phase 1 habitat survey to describe and map the habitats on the site, to identify the presence or potential presence of any protected or notable species, and to undertake a walkover protected species survey. Ecology advised ([29th January 2019](#)), they were satisfied with the extent of the survey and its conclusions that no further surveys are required.
- 4.25 [Ouse and Derwent IDB](#) – responded 21 February 2017. The Board has assets adjacent to the site, which are known to be subject to flooding in high flows. The Board requests that, where possible the risk of flooding should be reduced with surface water being managed in a sustainable way. The Board notes the Flood Risk Assessment states the development would not increase the impermeable footprint of the site and therefore they are satisfied that the current drainage arrangements for the site are adequate.
- 4.26 [NYCC Public Rights of Way](#) – responded 2 March 2017. Public rights of way should be kept open for public use during the construction or as part of the plan. If any temporary closures or permanent diversions are required, proper applications are made.
- 4.27 [Fire and Rescue Service](#) - responded 27 July 2017. No objection or observations. Further comment would be made when safety measures are submitted for Building Regulations. The Service assumes the provision of water for firefighting would meet the requirements set out in National Guidance document on the provision of water for firefighting, Appendix 5.

Notifications

- 4.28 [County Councillor Elizabeth Casling](#) – responded 27 February 2017. *‘I wish to make my objection to this application known. Ideally, the site should be returned to agriculture as the original planning conditions stated. Given that due to cost, this isn’t going to happen the site should be left as it is. It is contrary to the Selby Core Strategy.*

“Former mine sites Whitemoor and Riccall, which already have the benefit of planning consent are acknowledged locations for meeting the needs of existing indigenous employment. The remaining two former mine sites at Stillingfleet and Wistow are remote and not considered suitable for re-use for large scale or intensive economic activities.

The traffic implications of 50 vehicle movements a day is also a massive intrusion to the remote quiet village life. I question the route on to the A19 which is a road which is already congested. Cawood bridge is about to close for a period of time and the only other route is through the village. Enforcement to stop this will be necessary.

This application will be similar to placing industrial activity in a small rural community. The dust, noise and traffic implications all make this wrong.’

- 4.29 **County Councillor Richard Musgrave** – was notified of the application on 22 May 2017 following the County Council Elections on 4 May 2017.

5.0 Advertisement and Representation

- 5.1 The application was advertised by three Site Notices posted on 16 February 2017. Two notices were posted at the site entrance; one notice was posted at the end of the public right of way, which passes south of the site, joining Kelfield Road. Following the receipt of further information, site notices were posted in the same locations on 12 October 2018 and 27 June 2019. The application and additional information were advertised in the Selby Times on 9 February 2017 and 8 August 2019.

- 5.2 A Neighbour Notification letter was sent to the nearest residential property considered to be most affected, Mount Pleasant Farm on Cawood Road on 3 March 2017
- 5.3 161 representations have been received from members of the public objecting to the proposal for the reasons summarised under the following headings:

Highways

- Increased vehicle movements, decreasing the road safety (including cyclist and horse rider safety). Stating the road does not have the capacity for the proposal and would not be safe for crossing, in terms of pollution and vibrations it would cause. The impact of the 300% increase in HGV movements;
- The application not being accurate when commenting on the former mine road traffic activity. The coal mine would not have generated historical and extensive usage of the site by cars and HGVs, when the mine had quite limited traffic and the road size was for the 600 workforce for the mine;
- Impact of proposal and its HGV movements on the residential properties on C307 (Escrick Road). With the traffic impact assessment not considering the impact on the two most vulnerable residential properties on the Lorry's Route along the C307 (Escrick Road) and this not being sufficiently assessed in the Traffic Impact Assessment.
- There should be wheel-washing facilities located on the site.
- Traffic and HGVs speeding unsafely through the local villages.
- The site is in a rural area served by a substandard highway network and highway safety would be compromised by an increase in vehicular movements.

Amenity

- The effects of noise on amenity for local residents, users of the bridleway and public right of way generated by the proposal in regards to HGV traffic and the site operations; the effect on 'Tranquillity' of area.
- The proposal not being appropriate for a rural agricultural community with the impact on cycle routes, bridleways and public rights of way;
- The impact on air pollution. Dust being impossible to control, within dry and windier conditions. Negatively impacting on the health and amenity of local residents including from the fumes and smells from the site;
- The contamination of the water course from the proposed development;
- The impact of lighting on residential amenity with operations continuing until 19:00 Monday to Friday. In winter months this would result in light pollution, which is undesirable in this rural location;
- The impact of the operating hours on the surrounding villages;
- The methods undertaken for the noise survey and how this was completed, including the noise decay, the process to come to the report's conclusions and how it is dependent on stockpiles.
- The hours of use in winter months should be limited more so than 7am-7pm to no access/egress from the site after 4pm in line with daylight hours.

Landscape and Ecology

- The dismissal of wildlife issues on the surrounding area, with the field adjacent to the proposal having nesting lapwings, barn owls, buzzards and green woodpeckers. Refuting the Agents statement '*overall, the proposed development does no harm to the natural environment*';
- The application is deficient in information as no ecological or contaminated land assessments have been carried out
- The impact on the Green Belt.

- Procedural failures in the Screening Opinion for the application stating it is incorrect and the application should require an Environmental Impact Assessment, as it fails to state the significant impact the proposal would have on properties on C307 (Escrick Road).

Policy

- The application is not in line with North Yorkshire County Council Waste Local Plan Policies 4/19, 5/2 or 5/7 because of the locational criteria as it is in a rural agricultural area and is not an allocated site within the plan;
- The application is in conflict with the Selby Local Plan and Core Strategy Policy SP13 – The Scale and distribution of Economic Growth the supporting text to which (paragraph 6.35) states that '*the remaining two former mine sites at Stillingfleet and Winstow are remote and are not considered suitable for re-use for large scale intensive economic activities*'; The development constitutes 'major' development and therefore 'large' scale for the purposes of Policy SP13.
- The application is not appropriate for the remote location and is contrary to Saved Policy DL1 of the Selby District plan (2005).
- The planning application does not conform to the development plan for the area due to its remote nature. Concerns that this application is contrary to the restoration condition for the site to be returned to agriculture.

Development

- Concern is expressed to the potential future development of the wider former mine site (outside of the boundary of the current application).
- Planning applications at the Plasmor Great Heck site and Escrick Sidings as applications in the area soon to be submitted and proposals which would have cumulative impacts along with this development.
- This application setting a precedent for what is acceptable on the site.
- The development cannot be considered previously developed land.
- Development in this location would be unsustainable due to its remoteness; it would not process waste close to its source and therefore fails the proximity test and would be unsustainable.
- If the application is to be supported, it should be for a limited period until December 2029 after which the whole site should be restored.

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.
- 6.2 In this instance, the *Development Plan* consists of policies contained within a number of planning documents including:
- the extant 'saved' policies of the North Yorkshire Waste Local Plan (2006) (NYWLP);
 - the extant policies of the Selby District Core Strategy Local Plan (2013) (SDCS); and,
 - the extant 'saved' policies of the Selby District Local Plan (2005) (SDLP).
- 6.3 Emerging local policies may also be afforded weight in the determination process, depending on their progress through consultation and adoption, In this respect, it is

worth noting that the following document contains emerging local policies that may be of relevance to this application:

- Minerals and Waste Joint Plan from North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority (MWJP).

North Yorkshire Waste Local Plan (NYWLP) (adopted 2006)

6.4 At the current time, prior to the adoption of the *Minerals and Waste Joint Plan* (MWJP) and, in accordance with the provisions of the *Planning and Compulsory Purchase Act 2004*, as of 27 September 2007, only the 'saved' policies of the NYWLP are taken to be considered as comprising part of the *Development Plan*. However, the policies of plans that pre-date the publication of the *National Planning Policy Framework* (NPPF) in 2012 are, in accord with NPPF Paragraph 213, required to be assessed against the policies within that framework for their consistency. While an assessment against the general thrust of the policies within the NPPF is required, it does not address specifically waste-related land use matters and, therefore, the policy document to which the Authority must also turn for the national policy context for waste is that which is contained within the *National Planning Policy for Waste* (published in October 2014) (NPPW). The 'saved' NYWLP policies relevant to the determination of this application are:

- 4/1 – Waste Management Proposals;
- 4/3 – Landscape Protection;
- 4/18 – Traffic Impact;
- 4/19 – Quality of Life;
- 5/2 – Waste Recovery
- 5/7 - Facilities for the Recycling of Construction and Demolition Wastes.

6.5 **'Saved' NYWLP Policy 4/1 – Waste Management Proposals** states:

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

6.6 This 'saved' policy of the NYWLP is directly relevant to the proposed development. The NPPW has also been reviewed in relation to the proposed development in terms of compliance with criteria a), i) and j). There is nothing specifically related to criteria b) and f) within the NPPW.

6.7 With regard to criterion a) this is consistent with the NPPW, which sets out locational criteria for waste management facilities and states that the type and scale of the facility should be taken into account when deciding on appropriate locations.

6.8 In terms of criterion i), the Best Practicable Environmental Option (BPEO) is a set of procedures with the goal of managing waste and other environmental concerns. BPEO

assessment is a method for identifying the option that provides '*the most environmental benefit*' of '*least environmental damage*'. The technique is not reflected in NPPW or the NPPF, but the principles of putting forward the most sustainable option i.e. movement of waste up the waste hierarchy is set out in NPPW. The NPPW also reflects the proximity principle set out in criterion j) and this point should be given weight.

- 6.9 'Saved' Policy 4/1 g) supports proposals where '*the proposed transport links are adequate to serve the development*'. The NPPF (paragraph 108 b) requires specific applications for development to have safe and suitable access for all users. Policy 4/1 g) is therefore consistent with the provisions of the NPPF and should be given weight.
- 6.10 In terms of criteria c), d) and h) of 'saved' Policy 4/1 the NYWLP states that developments should contribute to and enhance the local environment, not give rise to unacceptable risks from pollution, and that cumulative effects should be taken into account. The wording in 'saved' Policy 4/1 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 generally consistent with the NPPF and should be given weight.
- 6.11 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. This policy is considered consistent with the relevant policies of the NPPF, and emphasis should be given to protecting and enhancing valued landscapes with weight attached appropriately. However, it should be noted there is no statutory or locally specific designation for the site/its immediate surroundings.
- 6.12 **'Saved' NYWLP Policy 4/3** - Landscape protection, advises that waste management facilities will only be permitted where the avoidance of "*unacceptable effect on the character and uniqueness of the landscape*" is possible, and furthermore would result in an enhancement of local landscape character wherever possible. The policy is consistent with the NPPF Paragraph 170 and is afforded full weight.
- 6.13 **'Saved' NYWLP Policy 4/18** – Traffic Impact. This policy is similar to criterion g) of 'saved' Policy 4/1), and provides support to developments where "*the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway [without having] an unacceptable impact on local communities*". However, it differs from NPPF Paragraph 108 in that the NPPF policy seeks '*safe and suitable access*', but '*for all*' and promotes sustainable transport modes. This difference leads to only partial weight being able to be afforded to 'saved' NYWLP Policy 4/18.
- 6.14 **'Saved' NYWLP Policy 4/19** - Quality of life. The policy states management facilities will be permitted only where there would not be an unacceptable impact on the local environment and residential amenity. NPPF Paragraph 180 makes clear that the effects of pollution on the natural environment or general amenity, and the potential sensitivity of an area to adverse effects from pollution, should be taken into account. It is therefore considered full weight can be given to the 'saved' policy.
- 6.15 **'Saved' NYWLP Policy 4/20** (*'Open space, Recreation and Public Rights of Way*) guards against any unacceptable impacts upon recreationally important assets such as the public rights of way network. This 'saved' policy is considered relevant given the proximity of a public footpath and a public bridleway to the site. Paragraph 98 of the NPPF requires planning policies and decisions to protect and enhance public rights of way and access. The policy is consistent with the NPPF and should be given weight.
- 6.16 **'Saved' NYWLP Policy 5/2** - Waste Recovery. The policy states that:

Proposals for facilities relating to the recovery of waste will be permitted subject to adequate environmental and amenity safeguards at the following locations as shown on Inset Maps No. 1 & 2

- a) *Barnsdale Bar Landfill & Quarry*
- b) *Jackdaw Crag*

Proposals outside these areas will be considered in light of other policies of Chapter 5, as referred to above.

- 6.17 **'Saved' NYWLP Policy 5/7** - Facilities for the Recycling of Construction and Demolition Wastes. The policy states:

Proposals for recycling facilities for construction and demolition wastes will be permitted provided that:

- a) *the proposed site is suitably located within an existing, former or proposed industrial area of a character appropriate to the development; or*
- b) *the proposed site is suitably located within a redundant site or building; or*
- c) *the proposed site is appropriately located within, or adjacent to active or worked out quarries or landfill sites; and*
- d) *that where relevant it does not prejudice the restoration and afteruse of the quarry or landfill site; and*
- e) *the highway network and site access can satisfactorily accommodate the traffic generated; and*
- f) *the proposal will not have an unacceptable impact on local amenity or the environment.*

- 6.18 Criteria a) and b) and f) are most relevant to this proposal and are broadly consistent with national policy in the NPPF, particularly Paragraphs 83 and Paragraph 84 which deal with sites in a rural location and policies to support a prosperous rural economy; as well as Paragraph 127 which deals with the need to achieve well-designed spaces. The locational criteria set out in Appendix B of the NPPW, which are to be used when determining proposals for waste facilities, includes considerations relating to traffic and amenity, with which criterion e) is consistent and therefor full weight can be attached to it.

Emerging North Yorkshire Minerals & Waste Joint Plan

- 6.19 The draft MWJP was published in November 2016 for representations, after consultation commenced on an Addendum schedule of proposed changes for an 8-week period over summer 2017. The MWJP was submitted to the Secretary of State on 28th November 2017 and the *Examination in Public* (EiP) continues to be underway since the first of the *Hearing Sessions* which started on 27th February 2018 and now *Main Modifications* are under consideration. Emerging policies can start to be given some weight in the determination process. The most relevant policies are:

- Policy W01: Moving waste up the waste hierarchy
- Policy W05: Meeting waste management capacity requirements - Construction, Demolition and Excavation waste (including hazardous CD&E waste);
- Policy W10: Overall locational principles for provision of waste capacity;
- Policy W11: Waste site identification principles

- 6.20 **Draft MWJP Policy W01** is focussed on '*moving waste up the waste hierarchy*'; the first part of the policy is most relevant to this proposal:

- 1) *Proposals will be permitted where they would contribute to moving waste up the waste hierarchy through:*
 - i) *the minimisation of waste, or;*
 - ii) *the increased re-use, recycling or composting of waste, or;*
 - iii) *the provision of waste treatment capacity and small scale proposals for energy recovery (including advanced thermal treatment technologies), which would help to divert waste from landfill.*

6.21 **Draft MWJP Policy W05** 'Meeting waste management capacity requirements - Construction, Demolition and Excavation waste (including hazardous CD&E waste)' states:

- 1) *Net self-sufficiency in capacity for management of CD&E waste will be supported through:*
 - i) *Permitting proposals which would deliver increased capacity for recycling CD&E waste where the development would be consistent with the site locational and identification principles in Policies W10 and W11;*
 - ii) *Permitting proposals for additional transfer station capacity for CD&E waste where it can be demonstrated that additional provision would help reduce overall impacts from road transport of waste and the development would be consistent with the site locational and identification principles in Policies W10 and W11;*
 - iii) *Permitting proposals for additional landfill capacity for CD&E waste where it would be consistent with the principles set out in Policy W01 parts 3) and 4);*
 - iv) *Permitting proposals for extending the time allowed to use remaining void space at existing CD&E landfill sites that are the subject of time-limited permissions.*

- 2) *Provision of capacity for management of CD&E waste is also supported through site allocations for:*
 - i) *Allocations for recycling of CD&E waste:*
 - *Land at Potgate Quarry, North Stainley (WJP24)*
 - *Land at Allerton Park, near Knaresborough (WJP08)*
 - *Land at Darrington Quarry, Darrington (MJP27)*
 - *Land at Barnsdale Bar, Kirk Smeaton (MJP26)*
 - *Land at Went Edge Quarry, Kirk Smeaton (WJP10)*
 - *Land at Duttons Farm, Upper Poppleton (WJP05)*
 - ii) *Allocations for landfill of CD&E waste:*
 - *Land at Brotherton Quarry, Burton Salmon (WJP21)*
 - *Land at Duttons Farm, Upper Poppleton (WJP05)*
 - *Land adjacent to former Escrick Brickworks, Escrick (WJP06)*

Proposals for landfill at sites WJP05 and WJP06 will only be permitted as a means of enabling reclamation of any mineral workings developed in connection with allocations MJP52 and MJP55 as relevant.

Sites MJP26, MJP27, WJP10 and WJP05 are located in the Green Belt and any development will need to comply with relevant national and local Green Belt policy.

- 3) *Proposals for development of the allocated sites for recycling or landfill referred to in 2) above will be required to take account of the key sensitivities and incorporate the necessary mitigation measures that are set out in Appendix 1.*

- 6.22 **Draft MWJP Policy W10** is entitled ‘Overall locational principles for provision of waste capacity’; the most relevant parts of which are:

The allocation of sites and determination of planning applications should be consistent with the following principles:

3) Supporting proposals for development of waste management capacity at new sites where the site is compatible with the requirements of Policy W11; and the site is located as close as practicable to the source/s of waste to be dealt with. This means:

b) For larger scale or specialised facilities expected to play a wider strategic role (e.g. serving multi-district scale catchments or which would meet specialised needs of particular industries or businesses), these will be located where overall transportation impacts would be minimised taking into account the market area expected to be served by the facility.

- 6.23 **Draft MWJP Policy W11** is entitled ‘Waste site identification principles’ and the most relevant parts include:

The allocation of sites and determination of planning applications for new waste management facilities should be consistent with the following principles:

1) Siting facilities for the preparation for re-use, recycling, transfer and treatment of waste (excluding energy recovery or open composting) on previously developed land, industrial and employment land, or at existing waste management sites, giving preference to sites where it can be demonstrated that co-locational benefits would arise taking into account existing or proposed uses and economic activities nearby. Where the site or facility is proposed to deal mainly with waste arising in rural areas then use of redundant agricultural buildings or their curtilages will also be acceptable in principle and, for agricultural waste, appropriate on-farm locations;

....

In all cases sites will need to be suitable when considered in relation to physical, environmental, amenity and infrastructure constraints including existing and proposed neighbouring land uses, the capacity of transport infrastructure and any cumulative impact from previous waste disposal facilities, in line with national policy.

- 6.24 The Stillingfleet former mine was not submitted for consideration through the MWJP and is not proposed for allocation or identified in the Plan as a site having potential for development to recycle, transfer or treat construction, demolition and excavation (CD&E) waste. At the current stage, increasing weight can be attributed to the draft Plan due to its advanced stage. In respect of the development proposed in this planning application, representations were received with regard to proposed Policy W05 in the *Publication Draft* (2016) that challenge the soundness of that aspect of the MWJP. However, this policy is not subject to significant modifications, with only limited changes to the wording of the policy, but not changing its approach. Draft Policy W05 is linked to draft policies W10 and W11 which deal with locational and site requirements for waste developments. Part *b)* of draft Policy W10 is especially relevant as it caters for specialised facilities, which this purports to be, and part *1)* of draft Policy W11 is also relevant as it provides waste site identification principles.

- 6.25 **Draft MWJP Policy D01 - Presumption in favour of sustainable minerals and waste development.** The policy supports development that is sustainable with a positive approach so long as that development generally accords with the policies within the Plan.

- 6.26 **Draft MWJP Policy D02 - Local amenity and cumulative impacts.** The policy seeks to safeguard communities from any unacceptable impacts on local amenity, businesses and users of the public rights of way network as a result of:
- *noise;*
 - *dust,*
 - *vibration,*
 - *odour,*
 - *emissions to air, land or water*
 - *visual intrusion,*
 - *site lighting*
 - *vermin, birds and litter*
 - *subsidence and land instability*
 - *public health and safety*
 - *disruption to the public rights of way network*
 - *the effect of the development on opportunities for enjoyment and understanding of the special qualities of the National Park*
 - *cumulative effects arising from one or more of the above at a single site and/or as a result of a number of sites operating in the locality*
- 6.27 **Draft MWJP Policy D03 - Transport of minerals and waste and associated traffic impacts.** The policy requires there to be capacity within the highway network to accommodate any proposed development without giving rise to unacceptable impacts, as well as an expectation that a proposed development would have appropriate, safe and suitable access and that accommodation of vehicle movements on-site can be catered for.
- 6.28 **Draft MWJP Policy D06** has as its focus the landscape and seeks to protect the landscape from the harmful effects of development.
- 6.29 **Draft MWJP Policy D07** is concerned with the subject matters of biodiversity and geodiversity (although the latter, in this particular instance, is not a relevant consideration) and seeks to safeguard against unacceptable impacts thereupon.
- 6.30 **Draft MWJP Policy D09,** concerning the water environment, seeks to safeguard against unacceptable impacts upon surface water and groundwater including their respective quality, supply and flow.

Selby District Core Strategy Local Plan (SDCS) (22nd October 2013)

- 6.31 The Core Strategy does not contain any policies relating to waste related developments but does contain policies against which the proposal should be assessed as they form part of the 'Development Plan'. The most relevant policies are:
- SP1 Presumption in Favour of Sustainable Development;
 - SP2 Spatial Development Strategy;
 - SP13 Scale and Distribution of Economic Growth;
 - SP18 Protecting and Enhancing the Environment;
 - SP19 Design Quality
- 6.32 **SDCS Policy SP1 - Presumption in favour of sustainable development.** The policy states:

'When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with Applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area. Planning applications that accord with the policies in the Local

Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date (as defined by the NPPF) at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- *Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
- *Specific policies in that Framework indicate that development should be restricted’.*

6.33 **SDCS Policy SP2 – Spatial Development Strategy.** The policy sets out the principles guiding the location of all forms of new development in Selby and includes a statement relevant to the determination of this application that the location of future development within the District will be based on. Criterion c) is the most relevant to the proposal:

‘Development in the countryside (outside Development Limits) will be limited to the replacement or extension of existing buildings, the reuse of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities, in accordance with Policy SP13; or meet rural affordable housing need (which meets the provisions of Policy SP10), or other special circumstances’.

6.34 **SDCS Policy SP13 – Scale and Distribution of Economic Growth.** The policy supports proposals to develop and revitalise local economies with the most relevant considerations for this application are criterion B, C and D:

‘B. Strategic Development Management

1. *Supporting the more efficient use of existing employment sites and premises within defined Development Limits through modernisation of existing premises, expansion, redevelopment, re-use, and intensification.*

C. Rural Economy

In rural areas, sustainable development (on both Greenfield and Previously Developed Sites) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including for example:

1. *The re-use of existing buildings and infrastructure and the development of well-designed new buildings;*
2. *The redevelopment of existing and former employment sites and commercial premises;*

D. 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’.

6.35 The following paragraphs in support of Policy SP13 specifically refer to the former Stillingfleet mine site:

Paragraph 6.35 states: ‘Former mine sites at Whitemoor and Riccall, which already have the benefit of planning consent, are acknowledged locations for meeting the needs of existing indigenous employment. The remaining two former mine sites at Stillingfleet and Wistow are remote and are not considered suitable for re-use for large scale or intensive economic activities. (Part of the former North Selby mine site also falls within the administrative boundary of the District although the majority of the site, including the remaining buildings, is within the City of York Council area)’.

Paragraph 6.36 states: *It will be necessary for any re-use of these former mine sites to consider and remediate any mining legacy issues that may be present to ensure that no public safety issues arise from their beneficial re-use.*

Paragraph 6.38 states: *'Employment development outside the Designated Service Villages will be carefully assessed against development management, environmental and highways criteria, to ensure proposals are sustainable and considerable weight is attached to safeguarding the character of the area and minimising the impact on existing communities. Proposals within Green Belt will need to comply with national Green Belt policy and Policy SP3'*

- 6.36 **SDCS Policy SP18 – Protecting and Enhancing the Environment.** The policy seeks to sustain the high quality and local distinctiveness of the natural and manmade environment. Criterion 1, 3, 7 and 8 are of most relevance to the proposed development:

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

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

- 6.37 **SDCS Policy SP19 - Design Quality.** The policy requires new development to: *'to contribute to enhancing community cohesion by achieving high quality design and have regard to the local character, identity and context of its surroundings including historic townscapes, settlement patterns and the open countryside. Where appropriate schemes should take account of design codes and Neighbourhood Plans to inform good design. Both residential and non-residential development should meet the following key requirements.*

The policy sets out a number of criterion which proposed developments are required to meet. Criterion c, e and k are most relevant to this proposal:

- c) *Be accessible to all users and easy to get to and move through;*
- e) *Incorporate new and existing landscaping as an integral part of the design of schemes, including off site landscaping for large sites and sites on the edge of settlements where appropriate;*
- k) *Preventing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water, light or noise pollution or land instability....*

Selby District Local Plan (SDLP) (2005)

6.38 Notwithstanding the adoption of the Selby District Core Strategy Local Plan in 2013, some of the policies in the Selby District Local Plan (adopted in 2005 and saved in 2008 by Direction of the Secretary of State) remain extant. The 'saved' policies relevant to the determination of this application include:

- DL1 Control of development in the Countryside (Development Limits);
- ENV1 Control of Development;
- T1 Development in Relation to the Highway network;
- T2 Access to Roads.

'Saved' SDLP Policy DL1 - Control of development in the Countryside (Development Limits). The policy states:

'Development in the countryside, outside the Green Belt and development limits, will only be permitted where the proposal complies with all other relevant policies and the proposal:

- 1) *Would be appropriate in a rural area; or*
- 2) *Involves the re-use, adaptation or extension of an existing building; or*
- 3) *Is required to meet the identified social or economic needs of a rural community; or*
- 4) *Would be of direct benefit to the rural economy including additional small-scale employment development and the expansion of existing firms.*

Where development is considered appropriate, it must be located and designed so as not to have a significant adverse effect on residential amenity or the character and appearance of an area and must not harm acknowledged nature conservation interests."

6.39 It is considered that some weight can be attached to 'saved' Policy DL1 in regards to the NPPF Section 11 making effective use of land and Paragraph 84 in regards to supporting a prosperous rural economy. However, paragraph 84 goes further stating it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).

6.40 **'Saved' SDLP Policy ENV1 - Control of Development.** The policy supports proposals which achieve a *'good quality of development'* and sets out a number of considerations, which will be taken into account. 1, 2, 4, and 8 are most relevant to the current proposal:

- 1) *The effect upon the character of the area or the amenity of adjoining occupiers;*
- 2) *The relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site, and the arrangements to be made for car parking;*
- 4) *The standard of layout, design and materials in relation to the site and its surroundings and associated landscaping;*
- 8) *Any other material considerations'.*

6.41 NPPF Paragraph 178 makes clear that the effects of pollution on the natural environment or general amenity, and the potential sensitivity of the area to adverse effects from pollution, should be taken into account. However, with regard 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 considered, therefore, some limited weight can be given to the policy in this instance.

6.42 **'Saved' SDLP Policy T1 - Development in Relation to the Highway network.** The policy states 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. Paragraph 109 of the NPPF paragraph states development “*should only be prevented or refused on highway grounds if there would be unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*”. It is considered that the policy is consistent with Paragraph 109 of the NPPF and should be given full weight in the determination of the application.

6.43 **‘Saved’ Policy T2 - Access to Roads.** The policy states:

‘Development proposals which would result 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 there is no feasible access onto a secondary road and the highway authority is satisfied that the proposal would not create conditions prejudicial to highway safety’.

6.44 Paragraph 109 of the NPPF states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe and consequently it is considered that limited weight can be attached to this policy.

Relevant national policy

6.45 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 (NPPF 2019)

6.46 The National Planning Policy Framework (NPPF) sets out the Government’s planning policies for England and how these are expected to be applied.

6.47 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.*

- 6.48 Within the NPPF, paragraph 11 of the Framework advises that Plans and decisions should apply a presumption in favour of sustainable development.

For decision taking this means:

- c) *approving development proposals that accord with an up-to-date development plan without delay; or*
- d) *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission 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.*

- 6.49 Paragraphs 54-57 of the NPPF relate to 'Planning conditions and obligations'. Paragraph 54 states that:

'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition'.

With regard to planning obligations paragraph 56 states that:

"Planning obligations must only be sought where they meet all of the following tests:

- a) *necessary to make the development acceptable in planning terms;*
- b) *directly related to the development; and*
- c) *fairly and reasonably related in scale and kind to the development.*

NB: the applicant has proposed to enter into Section 106 Planning agreement regarding the routing of HGVs accessing and exiting the site.

- 6.50 Chapter 6 of the NPPF (*Building a strong, competitive economy*) paragraph 83 requires decisions to, amongst others, enable:

a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;

- 6.51 Paragraph 84 (Supporting a prosperous rural economy) requires planning policies and decisions to:

'recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.'

- 6.52 Paragraph 102 (Chapter 9 Promoting Sustainable Transport) requires transport issues to be considered from the earliest stages of plan making and development proposals

and specifies a number of criterion of which a) and d) are considered most relevant to the proposal:

*'a) the potential impacts of development on transport networks can be addressed;
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.'*

6.53 Paragraph 103 advises sustainable transport solutions should be sought, but importantly it recognises that *'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-taking'*.

6.54 Paragraph 108 seeks to ensure that:

*a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
b) safe and suitable access to the site can be achieved for all users; and
c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'*

6.55 Paragraph 109 within Chapter 9 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.'*

6.56 Paragraph 110 states that:

'Within this context, applications for development should:

*a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations''.*

6.57 Paragraph 117 within Chapter 11 (*'Making effective use of land'*) states:

"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

6.58 Paragraph 118 states

'Planning policies and decisions should:

a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;

- b) *recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;*
- c) *give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*
- d) *promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure);and*

Paragraph 121 states

'Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.

6.59 Paragraphs 127 within Chapter 12 ('Achieving Well Designed Places') aims to ensure, that planning policies and 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 users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

6.60 Paragraph 170 within Chapter 15 ('Conserving and enhancing the natural environment') encourages contributions to and enhancement of the natural and local environment by:

- 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.*
- 6.61 Paragraph 175 within Section 15 (Conserving and enhancing the natural environment) of the NPPF states:
- 'When determining planning applications, local planning authorities should apply the following principles:*
- 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;*
- d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity."*
- 6.62 Paragraph 178 within Chapter 15 (Ground conditions and pollution) criterion a) requires decisions to ensure *'a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation.'*
- 6.63 Paragraph 180 requires *'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;*
- b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."*
- 6.64 Paragraph 183 within Section 15 (Conserving and enhancing the natural environment) of the NPPF states *"the focus of planning policies and decisions 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 (2014) (NPPW)

- 6.65 Within the NPPW, Chapter 1 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'. It advises that the document provides a framework to enable waste to be disposed of or recovered *'in line with the proximity principle*'.

6.66 Paragraph 1 of the NPPW states that the Government's ambition is to *'work towards a more sustainable and efficient approach to resource use and management*'. The NPPW sets out the *'pivotal role*' that planning plays in delivering the country's waste ambitions with those of relevance to this application being as follows:

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

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

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

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

6.69 Paragraph 7 of the NPPW, 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;*
- *ensure that land raising or landfill sites are restored to beneficial after uses at the earliest opportunity and to high environmental standards through the application of appropriate conditions where necessary'.*

6.70 Within Appendix B of the NPPW, it is noted that in addition to the type and scale of any proposed facility, 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'.*

6.71 Criteria a, c, f, g, j and l are most relevant to the determination of this application:

- a. *protection of water quality and resources and flood management. Considerations will include the proximity of vulnerable surface and ground water or aquifers.*
- c. *landscape and visual impacts
Considerations will include (i) the potential for design-led solutions to produce acceptable development which respects landscape character;*
- f. *traffic and access
Considerations will include the suitability of the road network and the extent to which access would require reliance on local roads etc.*
- g. *air emissions, including dust
Considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse*

emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.

j. noise, light and vibration

Considerations will include the proximity of sensitive receptors. The operation of large waste management facilities in particular can produce noise affecting both the inside and outside of buildings, including noise and vibration from goods vehicle traffic movements to and from a site. Intermittent and sustained operating noise may be a problem if not properly managed.... Potential light pollution aspects will also need to be considered.

l. potential land use conflict

Likely proposed development in the vicinity of the location under consideration should be taken into account in considering site suitability and the envisaged waste management facility

Waste Management Plan for England (2013)

- 6.72 National waste planning policy in England forms part of a wider national waste management plan to meet the requirements of the *EU Waste Directive*. The UK Government adopted the national *Waste Management Plan for England* (NWMP) in December 2013. The Plan *'provides an overview of waste management in England... It is not, therefore, the intention of the Plan to introduce new policies or to change the landscape of how waste is managed in England. Its core aim is to bring current waste management policies under the umbrella of one national plan'*
- 6.73 The NWMP identifies a commitment to achieving a zero waste economy. It states that: *"In particular, this means using the "waste hierarchy" (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management". Later on, it identifies that the waste hierarchy is "both a guide to sustainable waste management and a legal requirement, enshrined in law through the Waste (England and Wales) Regulations 2011". The hierarchy gives top priority to waste prevention, followed by preparing for re-use, then recycling, other types of recovery, and last of all disposal (e.g. landfill).*
- 6.74 The NWMP recognises that it is: *"important to make sure that waste is optimally managed, so that the costs to society of dealing with waste, including the environmental costs, are minimised". It goes on to state: "The key aim of the waste management plan for England is to set out our work towards a zero waste economy as part of the transition to a sustainable economy. In particular, this means using the "waste hierarchy" (waste prevention, re-use, recycling, recovery and finally disposal as a last option) as a guide to sustainable waste management".*
- 6.75 It is noted within the NWMP that *"the Environment Agency is the main regulator of waste management in England. Among its responsibilities are the determination of applications for environmental permits required under Article 23 of the revised Waste Framework Directive; and carrying out inspection and other compliance assessment activities" (page 12). In addition, "The waste producer and the waste holder should manage waste in a way that guarantees a high level of protection of the environment and human health. In accordance with the polluter-pays principle, the costs of waste management shall be borne by the original waste producer or by the current or previous waste holders. The distributors of products potentially share these costs. The polluter-pays principle ensures that those responsible for producing and holding waste are incentivised to reduce and/or manage their waste in a way that reduces impacts on the environment and human health".*
- 6.76 In terms of the location of new waste infrastructure, the NWMP highlights that: *"The Government's ambitions for waste highlight the importance of putting in place the right waste management infrastructure at the right time and in the right location. We aim to have the appropriate waste reprocessing and treatment infrastructure constructed and*

operated effectively at all levels of the waste hierarchy to enable the most efficient treatment of our waste and resources”.

6.77 The NWMP also refers to the nearest appropriate installation principle, advising that:

“The revised Waste Framework Directive establishes the principle of ‘proximity’. This is within the context of the requirement on Member States to establish an integrated and adequate network of waste disposal installations for recovery of mixed municipal waste collected from private households. The requirement includes where such collection also covers waste from other producers.

The network must enable waste to be disposed of, or be recovered, in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.

The Directive also requires that the network shall be designed in such a way as to enable Member States to move towards the aim of self-sufficiency in waste disposal and the recovery of waste. However, Member States must take into account geographical circumstances or the need for specialised installations for certain types of waste and the Directive makes it clear that each Member State does not have to possess the full range of final recovery facilities.

This principle must be applied when decisions are taken on the location of appropriate waste facilities”.

6.78 In relation to planning decisions, the NWMP states: *“All local planning authorities should have regard to both the waste management plan for England and the national waste planning policy when discharging their responsibilities to the extent that they are appropriate to waste management”.*

National Planning Practice Guidance (PPG) (2014)

6.79 The NPPG supports the national policy contained within the NPPF and the guidance relevant to the determination of this application is contained within the following:

Air Quality:

6.80 The PPG guidance on the assessment of the impact of a proposed development on air quality should be *‘proportionate to the nature and scale of the development proposed and the level of concern about air quality’* and may be considered as part of an Environmental Impact Assessment if one is required. In order to minimise the impacts of a proposed development on air quality for example in controlling dust and emissions this can be secured through the use of conditions as necessary.

Light pollution:

6.81 Light intrusion occurs when the light *‘spills’* beyond the boundary of the area being lit. Light spill can impair sleeping, cause annoyance to people, compromise an existing dark landscape and/or affect natural systems (e.g. plants, animals, insects, aquatic life). It can usually be completely avoided with careful lamp design selection and positioning:

- *‘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.’*

6.82 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:

- *‘Lighting schemes could be turned off when not needed (‘part-night lighting’) to reduce any potential adverse effects e.g. when a business is closed or, in outdoor areas, switching-off at quiet times between midnight and 5am or 6am. Planning conditions could potentially require this.*
- *Impact on sensitive wildlife receptors throughout the year, or at particular times (e.g. on migration routes), may be mitigated by the design of the lighting or by turning it off or down at sensitive times’.*

Noise:

- 6.83 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. 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’.*
- 6.84 It also states *‘neither the Noise Policy Statement for England nor the NPPF (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’.*
- 6.85 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.

Waste:

- 6.86 With regard to the *‘waste hierarchy’*, the guidance states:
- ‘Driving waste up the Waste Hierarchy is an integral part of the National Waste Management Plan for England and national planning policy for waste’ and ‘all local planning authorities, to the extent appropriate to their responsibilities, should look to drive waste management up the hierarchy’.*
- 6.87 The guidance states, in respect of the use of unallocated sites for waste management facilities, that applicants should be able to demonstrate that the envisaged facility will not undermine the waste planning strategy through prejudicing movement up the *‘waste hierarchy’*. If the proposal is consistent with an up to date Local Plan, there is no need to demonstrate *‘need’*.
- 6.88 The guidance includes advice on the relationship between planning and other regulatory regimes. On this matter it states:
- ‘The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity taking into account the criteria set out in Appendix B to NPPW. There exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes’.*

- 6.89 The guidance states: *'the role of the environmental permit, regulated by the Environment Agency, is to provide the required level of protection for the environment from the operation of a waste facility. The permit will aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health'*.

7.0 Planning considerations

- 7.1 Section 38(6) of the *Planning and Compulsory Purchase Act 2004* requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. It is important to bear in mind that the policies that comprise the *Development Plan* need to be considered in the context of the *Development Plan* as a whole. In many cases, more than one policy will be relevant. In some instances, policies may be negatively phrased and this arises where it is clear that demonstrable harm would be caused to an interest of acknowledged importance which cannot be justified by particular development. The proposal is considered against the relevant 'saved' policies of the *North Yorkshire Waste Local Plan (2006) (NYWLP)*; the 'saved' policies of the *Selby District Local Plan (2005) (SDLP)*; the policies of the *Selby District Core Strategy (2013) (SDCS)* (both of which also form part of the *development plan*); together with the draft policies of the emerging *Minerals and Waste Joint Plan (MWJP)*; and those within national policy including the *National Planning Policy Framework (2019) (NPPF)* and the *National Planning Policy for Waste (2014) (NPPW)* together with the *National Waste Management Plan for England (2013) (NWMP)*.

- 7.2 The following assessment draws out the main considerations including the principle of the development; its proposed location and the potential impacts upon interests of acknowledged importance such as landscape and visual impacts; highway and traffic impacts; as well as effects upon local amenity (including the potential impacts of noise, air quality (including dust and lighting); impacts upon ecology; the water environment and drainage; land contamination; and impacts arising as a result of potential fire risk.

Principle of the proposed development and its proposed location

- 7.3 The application proposes a change of use in respect of part of a former coal mine site for the purpose of the operation of a waste transfer station, with associated infrastructure. The proposed waste transfer station would deal with construction, demolition and excavation waste (CD&E), including plasterboard, glass, plastic laminate, waste concrete tiles and blocks. The site is located on the site of the former Stillingfleet Mine between the settlements of Escrick, to the northeast, and Stillingfleet, to the west. Existing buildings and hard standings would be used; thus, the construction of no additional buildings would be required.

- 7.4 The 'basket' of land use planning policies engaged in connection with the assessment of the acceptability of the proposed development, i.e. its 'in principle' acceptability, comprises, in the main, the extant 'saved' NYWLP policies (the focus of which is the delivery of a planning policy framework for waste-related proposals within the county), and the emerging MWJP policies (similarly providing the continuation of the policy framework for waste-related development), as well as those policies specific to the assessment of proposals within the district of Selby; though it is important to note that these have not been written with their application to waste-related development specifically in mind.

Need

- 7.5 The NYWLP is comprised of the extant 'saved' waste-related policies against which to assess the proposal and, in recognising the need to make adequate provision for the

treatment and disposal of waste, provides the framework for the use of land for waste management and its disposal, encouraging the movement of waste away from landfill and toward recovery; while at the same time seeking to ensure a balance between need and the protection of the environment and the quality of life enjoyed by local communities. In order to satisfy the policies of the Plan, proposals are expected to demonstrate that they have carried out an appraisal of the options having regard to the social, environmental, economic, land use and resource impacts and that whatever is put forward represents the best available option.

- 7.6 Furthermore, while acknowledged as being yet to be adopted, the *Publication Draft* of the MWJP, nevertheless, provides the emerging relevant local planning policy context within which to determine waste-related applications such as the one proposed in this instance. **Draft MWJP Policy W01**, which is focussed upon '*moving waste up the hierarchy*', seeks to support proposals that demonstrate that they can, *inter alia*, assist in the minimisation of waste, increase materials re-use and recycling or, indeed, all three; thereby, assisting in the diversion of waste away from landfill. This emerging local policy aligns with the **NPPW** where there is further general support for sustainable waste management facilities, which would move waste up the '*waste hierarchy*', making it preferable to reduce, re-use and recycle waste and, thereby, reducing the need for landfill. This is also supported by national planning practice guidance on waste. Proposals should align with the waste planning strategy of moving waste up the '*waste hierarchy*' and help contribute to the achievement of at least 70% materials recovery in CD&E waste (as striven for within the **Waste Management Plan for England** (2013)).
- 7.7 The emerging MWJP also identifies that there is a lack of capacity to treat CD&E waste within North Yorkshire and York and it forecasts that the capacity for CD&E waste is expected to decline between 2016 and 2030. There is, therefore, a need for additional facilities to deal with this type of waste and, if this proposal were to be granted planning permission, it would contribute towards dealing with the '*capacity gap*' for CD&E waste and would comply with **draft MWJP Policy W05 part 1 i)** which lends support to proposals for recycling CD&E waste provided they are consistent with draft policies W10 and W11 concerning both locational and site identification principles.
- 7.8 The issue of the amount of waste has been raised by those in objection to the proposed development having drawn attention to their concern with regards the applicant's cited throughput of waste at 75,000 tonnes. In order to respond to this point within Stillingfleet Parish Council's consultation response, it has been clarified and confirmed by the applicant that the total of 75,000 tonnes of waste stated on the application form is the total amount of waste which proposed to be processed over the course of any one year. This figure would also be the capped amount of any waste on site at any one time and would be monitored by the Environment Agency for permitting purposes via the total amount received through the weighbridge. The Agent has confirmed that an application would be made to the Environment Agency for a limit of 75,000 tonnes of waste passing through the site per annum. It is on this basis that the proposals are capable of being considered as making a material contribution to additional facilities to deal with the '*capacity gap*' for CD&E waste.
- 7.9 While national guidance (**NPPW Paragraph 7** refers) does not oblige an applicant to demonstrate need for the use proposed, it is considered that a need exists; borne out by the continuing deficiency in capacity during the Plan period within the Joint Plan area to deal with CD&E waste arisings. Furthermore, while national guidance neither obliges an applicant to demonstrate the existence of alternative sites appropriate for the use proposed, it is generally acknowledged that sites of the scale, available existing infrastructure, of sufficient separation distance from sensitive receptors such as residential properties and deliverable are few in number; borne out by the earlier stated deficiency in capacity in the Joint Plan area to deal with CD&E waste arisings and, therefore, this consideration weighs heavy in the balance when assessing the proposed development's degree of compliance against prevailing land use planning policy.

Satisfaction of locational criteria

- 7.10 An element of the CD&E waste that is intended to be recycled at this site would be plasterboard direct from businesses. It is proposed to be recycled into gypsum which can then be reused. The fact that the waste transfer station is dealing with plasterboard as part of its waste stream renders the site to be considered as constituting a 'specialised facility' and, as such, is supported by **draft MWJP Policy W10 3 b)** (concerning the overall location principles for provision of waste capacity). This draft policy recognises the need for 'specialised facilities' provided the overall transportation impacts are minimised and where they are compatible with site identification principles cited within draft MWJP Policy W11. The applicant has stated that it is expected that the CD&E waste to be handled at the site would originate from the York and Selby area. The site is located to the south of the City of York administrative boundary, north of the town of Selby and within the administrative district of Selby. The HGVs visiting the site would link to the A19, which is an arterial road and runs in a north-south alignment through York district and Selby district. Support is lent to the proposed development through **draft MWJP Policy W10 3 b)** as the A19 is one of the key routes which goes through York and Selby and the HGVs using this route will minimise transport impacts as it has the requisite capacity to deal with the additional amount of HGVs anticipated to be generated by this proposal.
- 7.11 Further objections, including those from the Parish Councils, dispute there being no similar facility in the area, stating it is unnecessary for the local population to suffer the impacts of a development, which is not dealing with waste from that area, and that waste should be recycled or disposed of close to its source. However, it would be neither reasonable nor appropriate to seek to restrict the source of input materials through planning controls. The contracts and sources of waste material are commercial matters governed by market forces. Both the costs associated with the transport of the waste (i.e. the shorter the distance, the lower the transport cost) and market forces would regulate the movement of waste such that the facility would, in effect, likely meet 'nearest appropriate installation' ('proximity principle') and 'net self-sufficiency' principle for the treatment of that waste in any event. Notwithstanding that these principles are set down in policy principally in relation to mixed municipal waste, they are, nevertheless, equally applicable to the waste industry at large and the details accompanying the application explaining the general sources of waste arisings have served to demonstrate consistency with these principles.
- 7.12 It is acknowledged that there are existing CD&E recycling facilities and waste transfer stations in both Selby and York; of which the nearest to the proposed site is located south of Escrick (a site which is just over a kilometre (or $\frac{2}{3}$ of a mile) to the east). However, specifically in terms of plasterboard recycling, the only facility in Selby or York, which is known to do this, is British Gypsum near Sherburn-in-Elmet, a plasterboard manufacturer. British Gypsum have clarified that they only recycle plasterboard offcuts of British Gypsum products and do not accept any waste from strip out or demolition operations. This supports the information provided by the applicant that the proposed facility would be the only site specialising in recycling plasterboard in the area. Further afield, the applicant has stated that although there are other recycling facilities in the region, including several in South Yorkshire, this facility would be unique as the only one that would take waste plasterboard direct from the manufacturer and return high quality recycled gypsum, which can then be used to create new plasterboard.
- 7.13 The proposed facility also proposes to receive CD&E waste, including plasterboard, from construction and demolition sites in the Selby and York area. These sites would be local to the waste transfer station and, as such, the proposal is supported by **NPPF Paragraph 84** in meeting local business and community needs of rural areas. Further support may also be found within **part j)** of '**saved** NYWLP Policy 4/1' requiring sites to be '*geographically well located to the source of the waste thereby according with the*

proximity principle. While it is acknowledged that other CD&E recycling centres in the area may be able to take the same waste in the future even if they do not at present, the proposal would, nevertheless, present additional provision, which would help reduce overall impacts from road transport of waste. The application details explain that the types of waste proposed to be handled by the facility are produced at disparate geographic sources and there is a need for a recycling site such as the one currently proposed. The waste would be brought in directly from source sites without the need for intervening waste transfer stations, with waste only being accepted on a contract basis with no individual small loads ensuring quality control and avoiding non-conforming waste.

- 7.14 Additional policy support aligned with the national guidance seeking the location of waste management facilities of the “*right type, in the right place and at the right time*” (NWMP, 2013) can be found within emerging policy which seeks to address the site identification principles for new waste management facilities. The extant policy that can be found within **Part a)** of ‘*saved*’ NYWLP Policy 4/1 supports developments, such as that currently proposed, provided that the siting of the development is ‘*appropriate*’. The appropriateness of the siting of a development rests with a judgement as to its acceptability, or otherwise, in relation to the other expressed criteria of this ‘*saved*’ policy; for instance, that which forms the focus of criterion **b)** which requires the minimisation of impacts through a proposal’s scheme of working and the methods proposed to be employed; criteria **c)** and **d)** which seek respectively to ensure against unacceptable environmental and cumulative impacts and **g)** seeking to ensure a development is served by adequate transport links; elements of the proposed development which are also assessed in further detail later in this section of the report.
- 7.15 **Draft MWJP Policy D02, part 1)** and **draft MWJP Policy W11** align with **Appendix B** of the **NPPW** which requires consideration be given to the suitability of a proposed site, against the locational criteria specified when determining planning applications to ensure the likely impacts of a proposed development are appropriately mitigated. In this instance, the relevant criteria of Appendix B of the **NPPW** include *a) protection of water quality and resources and flood risk management; c) landscape and visual impacts; d) nature conservation; f) traffic and access; g) air emissions, including dust; j) noise, light and vibration; and l) potential land use conflict*. The proposal would be located on land previously used for coal mining purposes. The whole of the former mining site has been cleared of all plant machinery, buildings and ancillary structures save for two large buildings and a compound associated with the generation of electricity from mine gas; the cleared area remains as hardstandings. Whilst the two remaining buildings should have been removed, the hardstandings grubbed up, materials removed and the site restored in accordance with the requirements of the planning permission, the time within which to enforce such has expired. The requirements of the planning condition to require the restoration of the site are no longer enforceable, nor can the site be restored under the provisions of the planning permission for the electricity generating station. The site is regarded as land to which provisions for restoration has been made through development management procedures and cannot therefore be considered to be previously developed land. Draft MWJP Policy W11 requires proposals for new waste management facilities to be consistent with specified principles. Principle 1 requires; ‘*Siting facilities for the preparation for re-use, recycling, transfer and treatment of waste (excluding energy recovery or open composting) on previously developed land, industrial and employment land, or at existing waste management sites, giving preference to sites where it can be demonstrated that co-locational benefits would arise taking into account existing or proposed uses and economic activities nearby*’. However, given the previous restoration requirements, the former mining site and therefore the land the subject of the current proposal cannot be considered to be previously developed land. The application must therefore be considered on its merits and against the relevant policies of the development plan. The further assessment of the other

environmental and amenity criteria follows below within each of their respective sub-headings later in this section.

- 7.16 One of the objections in regards to the application cites **'saved' NYWLP Policy 5/2** as a reason to refuse the application, as they believe the proposal does not meet its locational criteria. However, the policy has the caveat of *'proposals outside these areas [i.e. Barnsdale Bar Landfill & Quarry and Jackdaw Crag] will be considered in light of other policies of Chapter 5'*. Therefore, this application must be judged against the other policies in Chapter 5 of the NYWLP (2006); specifically, **'saved' NYWLP Policy 5/7**.
- 7.17 **Parts a) and b) of 'saved' NYWLP Policy 5/7 and part c) of SDCS Policy SP2** both support the re-use of buildings. Insofar as part a) of NYWLP Policy 5/7, it refers to locations within a former industrial area of a character appropriate to the development and part b) within a redundant site or building and, insofar as the **SDCS Policy SP2**, referring to preferably for employment purposes, outside the development limits that *"would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities"*. These policies are considered to be consistent with the NPPF which also gives general support for the conversion of buildings for all types of business in rural areas within **part a) of Paragraph 83**, within **Paragraph 84** which recognises that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and within **part d) of Paragraph 118** which promotes and supports the use of under-utilised land and buildings and making as much use as possible of these and this, therefore, weighs heavy in the planning balance in this instance.
- 7.18 With regards to **criterion a) of 'saved' NYWLP Policy 5/7** and acknowledging the site does not lie within a wider more diverse existing industrial area, the site can reasonably be capable of being regarded as possessing *'a character appropriate to the development'* in the existence of two large steel portal frame pitched roofed industrial type buildings with red brick gables and $\frac{3}{4}$ -height steel profiled sheeting (with lower $\frac{1}{4}$ -height red brick) elevations surrounded by areas of hard standing and this, therefore, also lends further policy support to the proposed development. Similarly, with regards criterion **b) of this 'saved' policy**, the site can also reasonably be capable of being regarded as being *'suitably located within a redundant site or building'*; thereby also satisfying this element of the policy criteria too. Even if the proposed site were to be argued as failing to satisfy these two criteria, which is not the case in this instance, the reasoned justification supporting **'saved' NYWLP Policy 5/7**, nevertheless, recognises that in a predominantly rural area such as North Yorkshire, suitable industrial land may be difficult to find and, as a result, other locations may therefore be necessary to be found provided that suitable access to the highway network, the impact on local amenity and the environment are also taken into account.
- 7.19 Criterion f) of the 'saved' policy require the highway network and site access to be able to satisfactorily accommodate the traffic generated; and e) the proposal not have an unacceptable impact on local amenity or the environment. The capability of the access and highway network of accommodating the proposed development satisfactorily and the absence of any unacceptable amenity or environmental impacts. These are aspects which are considered later within this section of the report, but for the purpose of the consideration of this specific policy are considered to have been satisfied and supported in this instance in light of supporting evidence provided with the application demonstrating that any effects are capable of being mitigated and the absence of objections from experts responding to consultation from those bodies and agencies with whom the Authority has consulted, including the Highway Authority and the District Council's Environmental Health Officer. Thus, in that the proposed development proposes making use of existing and, currently unused, buildings and areas of hardstanding and is capable of satisfying the requisite locational criteria of **'saved' NYWLP Policy 5/7**, it is considered to be compliant.

7.20 With regards **part A (c)** of **SDCS Policy SP2**, the proposed development is similarly compliant in that it proposes to be undertaken within existing buildings and, acknowledging that while, undoubtedly, the proposed development is capable of contributing towards and improving the local economy, it is, notwithstanding, less capable of being regarded as enhancing or maintaining the vitality of the rural community; although, it is important to have due regard to the fact that the Core Strategy policies are not directed toward waste development and the principal reference against which to assess the proposed development rests with the most relevant policies i.e. those extant ‘*saved*’ policies within the North Yorkshire Waste Local Plan.

Large-scale or intensive economic activity

7.21 Notwithstanding that the focus of policies of the Selby District Council applies more upon, *inter alia*, residential, commercial, retail and industrial uses of land than the use to which the land is proposed to be put in the current application, objections have been received from residents, the Parish Councils and other interested parties citing, in their view, that this application conflicts with local planning policy, particularly Policy SP13 of the SDCS. The adviser on landscape matters has also commented upon what are, in his view, conflicts with local planning policy in terms of this proposal.

7.22 As part of providing background, reference has been made to the fact that in 2005 Selby District Council refused an application relating to the wider mine site; the purpose of which was for the ‘*retention and re-use of suitable buildings, car parking, landscaping and infrastructure*’. The intended uses specified were business use (B1), general industrial (B2) and storage and distribution (B8). This was refused by reason of it being deemed to constitute a large-scale, inappropriate car-dependent employment use within an unsustainable location. However, the current proposal is significantly different from the 2005 application, both in terms of intensity of use, and its scale, which at the time would have seen the former mine-related buildings on the site remaining *in situ* as opposed to the position in the current day of only two buildings of any substantial nature being left on site.

7.23 Further regard must also be had to the fact that in the intervening period since 2005, the Selby District Core Strategy has been prepared and finally adopted in 2013. Furthermore, in 2005, there were no criteria in place against which to assess proposals for the re-use of the site other than Policy EMP7 relating to employment development; this was replaced by policies SP2 and SP13 in the Selby Core Strategy Policy. Policy SP13 now provides criteria for the re-use of this site i.e. that proposals should neither be large in scale nor intensive in their economic activities.

7.24 More specifically, **part C** of **SDCS Policy SP13** relates to the rural economy and provides examples of rural employment opportunities through, for instance, the re-use of existing buildings and infrastructure etc. and the redevelopment of former employment sites, provided developments are sustainable, appropriate in both scale and type to the chosen location, safeguard an area’s character and provide “*a good standard of amenity*”; aligning with NPPF Paragraph 118 within the chapter which focusses upon making effective use of land.

7.25 The supporting text accompanying SDCS Policy SP13 recognises the importance of the rural economy and acknowledges the existence of large former employment sites, including the site of the former Stillingfleet Mine. It refers to the Stillingfleet site as being “*remote*” and considered unsuitable for any redevelopment that would involve “*large scale or intensive economic activities*”; though these are not further defined. It also requires that any mining legacy issues would need to be both considered and, where necessary, remediated (paragraphs 6.35-6.36 of the Core Strategy refer); however, in the circumstance of this particular case, the proposal seeks only the use of the two buildings remaining of any material size within the application area and the areas of hard-standing which has not raised any specific issues of remediation. There would

therefore be no public or environmental safety issues arising solely from the re-use of the application site.

- 7.26 With regards the application site being deemed within the *Core Strategy* as “*remote*”, the degree of that remoteness is debatable. While the former Stillingfleet mine site necessitates a road journey of some 3km (or 1.8 miles) to reach the principal road of the A19, the ‘*as the crow flies*’ distance is a kilometre (just over $\frac{2}{3}$ of a mile) shorter. Although acknowledging that remoteness is not confined simply to journey distances, it is nevertheless material to the determination of this current proposal having been cited within representations against the application. The dismissal of proposals solely on the ground of the *Core Strategy* policy justification on the basis that the site was deemed to be ‘*remote*’ is considered unreasonable. When one looks at the common meaning of ‘*remote*’, a site would have to be for instance ‘*situated far from the main centres of population*’ or ‘*having very little connection with or relationship to*’. The former mine site is not considered to be a significant distance from centres of population and its connection to the principal road network is demonstrated by a linking 3km (or 1.8 miles) stretch of public highway more than capable of accommodating heavy traffic and that link connects directly to the major highway of the A19.
- 7.27 Those in objection to the proposed development have also referenced the *Town & Country Planning (Development Management Procedure) Order 2015* (SI 2015, No. 595) (DMPO) offering that the threshold cited with the DMPO of ‘*major*’ development including ‘*waste management*’ and a site area greater than one hectare, in turn and, in their view, lends the development to be deemed to be ‘*large scale*’. However, the purpose of the thresholds within the DMPO are not the same as those to which the policy reference within SDCS Policy SP13 is aimed. If it had been, it would have cited these thresholds in the DMPO had it been the intention. It is not considered that the intention of the policy was to have been quite so prescriptive, but rather it would leave the interpretation of what would be considered ‘*large scale*’ to the decision-takers in respect of each application as they come forward when taking into account their individual merits. Furthermore, if one were to simply regard the site’s spatial extent, the proposal cannot be considered large in scale within the context of the former mine site, the two existing buildings and areas of hardstanding proposed to be used cover an area of just 2.2 hectares; whereas, the overall area of the former mine site is 32 hectares in total so the proposal will cover a much smaller proportion of that area.
- 7.28 The consideration of whether the proposed development should be considered as ‘*large scale*’, is not only confined to its spatial references such as the site area or size of buildings (which, in this particular instance, already exist), but regard should also be had to the wider area, including the effects of the intensity of the intended activities proposed to take place on the site both within and out with the buildings as well as the temporal elements such as the duration that particular activities are proposed to persist.
- 7.29 The proposal would use two of the remaining buildings on the application site, which are of a moderate scale, but which are placed well within the overall site and well screened from viewpoints outside the site. There would be elements of the operations proposed to take place outside, such as sorting and creation of stockpiles of materials, but these would be screened to the south and west by the existing buildings and to the north and east by the existing perimeter bunds and tree screen.
- 7.30 In terms of the intensity of use, the proposed vehicle movements can provide an indication as to the level of intensity at which the site is proposed to be operated. In this case, the maximum number of daily HGV movements would be 25 in and 25 out, but stated by the applicant to be, on average, half of this number over a period of 8.5 hours. Even taking into account the associated car movements, the proposal is not considered to be overly intensive with a maximum of 10 cars entering the site on a daily basis. Similarly, in terms of employment, the facility is proposed to create around 10 jobs and this is another indicator of the proposal being neither large in scale nor intensive in its

economic activity. It is considered this proposal would not give rise to cumulative impacts that would intensify the development to such a level where it could be considered unacceptable on the site as a whole or the local area. The proposed reuse of this relatively small portion of the wider site would not constitute large scale or intensive activity and therefore the proposal is not considered to be contrary to this specific element of SDCS Policy SP13.

- 7.31 Selby District Council, in their response on 30th August 2018 also contest that the rural nature of the site outside development limits is a further reason why this proposal, in their view, is considered large scale and intensive. However, it is considered that this proposal would not significantly alter the existing character of the area as the proposed development comprises the reuse of existing buildings, and is already screened by existing matured tree planting. As earlier referred, it is assessed as acceptable against the stated criteria in SDCS Policy SP13, with regards to development management, environmental and highways criteria and is consistent with the NPPF and, in particular, Paragraph 180 with the development being an appropriate use for the location, whilst mitigating any adverse negative effect on the amenity of the local area. While, at the same time, recognising that the character of traffic movements to and from the site has changed compared to that which was experienced when the Stillingfleet Mine was operational.
- 7.32 **SDCS Policy SP13** also possesses further criteria (part '*D*' refers) i.e. "*.... 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*". It is acknowledged the Parish Councils and objectors do not wish this application to set a precedent for more development on the former mine site. However, in respect of this particular proposal, this application, seeking the reuse of existing buildings and infrastructure, is of a scale and type of activity appropriate to its proposed location that benefits from existing and appropriate highway access capable of accommodating the proposed vehicle types and numbers and is well screened from views outside of the wider mine site. This renders the site capable of accommodating such a development and one which can be regarded as being sustainable because, in the first instance, it would reuse buildings and infrastructure already in existence and, secondly, it would safeguard the use of other land for the purpose which might be more appropriate for other land use types, without giving rise to harm to the character of the area and is capable of safeguarding against any detriment to the amenity currently enjoyed by residents within the local community. It is important to note that, were any further development on the wider mine site to come forward, the cumulative impacts of the site as a whole would have to be taken into account, judged against policy prevailing at the time, and further development on the site particularly if deemed to be large in scale or an economically intensive activity may not be supported. Each planning application, however, must be judged on its own individual merits and the Authority must assess and determine the proposal as currently presented.
- 7.33 This policy direction to secure development which is sustainable echoes the focus upon the presumption of sustainable development introduced first in the Core Strategy within **SDCS Policy SP1** which in turn echoes **NPPF** achieving sustainable development **Paragraph 8** listing the overarching and mutually dependent objectives of a strong, responsive and competitive economy, a strong, vibrant and healthy society and the protection and enhancement of the environment. Applied to the current application, these are reflected as follows:
- in terms of the economic objective, in that the proposal would bring business and employment to the site;
 - in terms of the societal objective, in that the impacts of the proposed operations have been demonstrated to be capable of being sufficiently mitigated in terms of amenity protection measures; and,

- in terms of the environmental objective, in that the proposed site is well concealed by existing established screening; the haulage is relatively low level with 25 HGV's visiting the site on a daily basis and, to minimise disruption, all HGV's travelling to and from the site would have to follow an agreed Travel Route from the site to the A19 which would be secured through a S106 Agreement; the proposal involves the recycling and reuse of the CD&E waste brought to the site which aligns with moving the waste up the '*waste hierarchy*' supported by Policy W01 in the MWJP; the application proposes the use of existing buildings and infrastructure which will limit the amount of construction required to make the site suitable for use as a waste transfer station.
- 7.34 Furthermore, were planning permission to be forthcoming, this application would not compromise wider sustainable development objectives due to the fact that further restoration of the remainder of the wider former mine site could still take place in the future, or indeed other suitable, sustainable uses could be considered acceptable provided they were able to constitute an effective use of the land, and were considered appropriate. This policy is echoed with the emerging **draft MWJP Policy D01** and they both align with **NPPF Paragraph 11** applying a presumption in favour of development that is able to demonstrate it is sustainable and generally accords with the *development plan*, when read as a whole, and seeking to support development where adverse impacts are not assessed as being significant or so wholly unacceptable as to outweigh the benefits of the proposed development i.e. the movement of materials up the '*waste hierarchy*' being one by way of example.
- 7.35 For the reasons detailed above, it is considered that the principle of the development and location has been established as being in accordance with the principles of both the NPPW and the NPPF following the advice provided within national Planning Practice Guidance and the site suitability elements of '**saved** NYWLP policies 4/1, 5/2 and 5/7; elements of which have been taken forward into **draft MWJP policies W05 and W10** with which the proposal broadly accords with the respective criterion; however, as the proposal is not on previously developed land, industrial and employment land, or is at an existing waste management sites it cannot be considered to accord with Policy W11. Furthermore, **SDCS Policy SP1, SP2 and SP13** are also relevant. Policy SP13 makes provision for the redevelopment of existing and former employment sites and commercial premises subject to development being sustainable and appropriate in scale and type to its location, would not harm the character of the area, and would achieve a good standard of amenity'. For the reasons detailed above, it is considered the proposal complies with these policies, subject to consideration of the suitability of the application site in relation to its impact upon the local environment, character of the local area and upon amenity.
- 7.36 Having established within the paragraphs above that the development, on balance, represents a development which is, '*in principle*', acceptable in land use planning terms, it is also incumbent upon the Authority to assess the development against other material considerations insofar as to whether they would indicate that there are interests of acknowledged importance that would be significantly and/or adversely affected to such a degree that the balance weighs in favour of the proposed development being assessed as being unacceptable in land use planning terms.
- 7.37 Thus, attention must now turn to the remaining policies of the extant *development plan* documents with particular reference to '**saved** NYWLP Policy 4/3 which has as its focus landscape protection (echoing **criterion e**) of NYWLP Policy 4/1), '**saved** NYWLP Policy 4/18 focussed upon traffic impact (echoing **criterion g**) of NYWLP Policy 4/1); and '**saved** NYWLP Policy 4/19 regarding amenity (echoing **criterion h**) of NYWLP Policy 4/1), as well as the policies of the District Council's Core Strategy and Local Plan and the emerging policies of the MWJP and the assessment of the proposed development against these.

Landscape and visual impacts

- 7.38 The extant policies with specific regard to landscape matters comprise **criteria c) and e) of NYWLP Policy 4/1**, **'saved' NYWLP Policy 4/3** and **'saved' NYWLP Policy 4/20**; the thrust of which is carried through into the development management policies of the emerging MWJP in **draft MWJP Policy D02** (in terms of safeguarding local communities from, *inter alia*, unacceptable impacts such as visual intrusion) and **draft MWJP Policy D06** (in terms of landscape protection) and **SDCS Policy SP18** (*'Protecting and enhancing the local environment'*) and part **(e)** of **SDCS Policy SP19** (*'Design quality'*) as well as **part (4)** of **'saved' SDLP Policy ENV1**. As earlier referred, these align with national policy within paragraphs 127 and 170 of the NPPF along with Paragraph 7 of the NPPW, which directs decision-takers toward the list within its Appendix B; amongst which is the seeking of development which respects landscape character (locational criterion c). The assessment of the acceptability of the proposed development in respect of both landscape and visual impacts must, therefore, have regard to these policies.
- 7.39 It is important, for the sake of clarity and understanding, to distinguish that landscape impacts are distinct from visual impacts in that they relate to changes in the fabric, character and quality of the landscape; whereas, visual impacts relate to specific changes in views and the attendant impacts therefrom upon others such as those living in the vicinity of a site or those enjoying the outdoors along public footpaths for instance
- 7.40 With regards landscape impact, the site is located within a predominantly rural location, although there are a number of residential properties situated in the vicinity. It is served by highway access appropriate to the use proposed and the route from the site access eastward connects directly to the principal road network, the A19. While the application site is located within open countryside, it is not situated upon land that has any special landscape designation preventing or limiting development upon it. The application site located on the former mine site proposes the utilisation of the existing buildings and areas of hardstanding which would not be disturbed. The effects of the proposed development on the current character of the site would, therefore, be minimal and would not significantly affect the visual appearance of the site. While the topography of the surrounding area is predominately flat, the site benefits greatly from the screening provided by the mature trees on top of the existing bunding which surrounds the former mine site (as depicted within Appendix H to this report). Beyond the tree screen, the site is separated from neighbouring residences by fields in agricultural use.
- 7.41 The nearest residential property to the proposed development is Mount Pleasant Farm, which is located approximately 400 metres north-west of the application site and 250 metres west of the access road. It is considered that the visual screening provided by the trees and bunding in the intervening distance as well as the separation distance itself between this property and the proposed development are sufficient to mitigate the impacts of the development upon the amenity of the residents. It is noted that Mount Pleasant Farm would be most affected by the vehicles accessing and departing the site, however, there is screening from a mixture of deciduous hedges and intermittent deciduous trees (approximately five metre high) alongside the access to the application site, the retention, maintenance and management of such could be controlled through a Section 106 planning agreement.
- 7.42 In terms of visual impact, public views of the application site do not exist, including from the public right of way to the east of the application site, due to the existing bunding and landscaping thereon along the eastern boundary of the site. Furthermore, the expressed concern of the NYCC Public Rights of Way team was that the routes to the east of the site should be kept open for public use, but as the development would not affect the routes and would not stop the use of the route, they have no concerns in this regard. The addition of stockpiles on the site would not have an effect on the views from the public right of way due to the site being screened from view. These aspects of the application site serve to safeguard against any unacceptable impacts that might

arise in respect of users of the nearby public footpath and bridleway and thereby, in turn, satisfying 'saved' NYWLP Policy 4/20.

- 7.43 Furthermore, the applicant has confirmed that no new lighting provision is proposed; lending additional support to the view that any visual impacts of the proposed development would not be so significant as to be considered unacceptable. Nevertheless, a condition (17) is proposed to require details of any lighting to be erected to be submitted for approval. It is acknowledged the confinement of the application site within the bounds of the former mine site which is well screened, even in winter, preventing views into the site, negated the need for the applicant to undertake any landscape and visual impact assessment in this particular instance.
- 7.44 While the applicant has no plans for the removal of the perimeter woodland, in acknowledging that it has matured and become successfully assimilated into the rural landscape context of the area such that the screening that it provides is vital to mitigating the effects of the proposal in landscape terms. There is, therefore, proposed an undertaking to retain and maintain the boundary trees, hedgerows and vegetation that were planted around 30 years ago and this could be secured through a Section 106 planning agreement; thus, further limiting the visual impact throughout the life of the development
- 7.45 The Council's Landscape Architect has acknowledged that the application site is "*very well screened by landform and planting*" and while, to the east, the mounding is lower, it is not presenting a problem. It is noted that within the responses to consultation the Council's adviser on landscape matters had requested a temporary permission until 2029, so as to match the timescale of the nearby mine gas generation plant. However, it is considered that such a condition in the circumstances of this application would not meet the tests of planning conditions set out in the NPPF and PPG guidance, particularly in regards to the reasonableness and necessity of the condition. Therefore, a temporary permission is not considered appropriate in this instance.
- 7.46 For the reasons detailed above, it is considered that the proposed development would not have an adverse impact upon the character of the area lending support to the view as to the appropriateness of the location of the proposed development. The existing buildings, structures and site layout including stockpiles would be, for the most part, obscured from view by mature screen planting and would therefore be visually compatible within its screened local landscape context in terms of scale, height and massing. The proposal would not result in any unacceptable adverse visual impact or detrimental effect on the character and uniqueness of the landscape. It is however, in the interests of general amenity considered prudent to include a planning condition that removes '*permitted development*' rights for any future change of use, buildings, fixed plant or areas of hardstanding (beyond that provided for in the proposed development) (condition no. 3 within Section 9.0 of this report refers).
- 7.47 Taking the above into account, it is considered that the proposed development has been demonstrated to have satisfied that which would be expected by the relevant *development plan* policies which are engaged in this instance; namely, criteria c) and e) of NYWLP Policy 4/1, in that the environmental impacts would not be unacceptable and the proposed development would be screened from view effectively; 'saved' NYWLP Policy 4/3 in that any unacceptable effects upon local landscape character and uniqueness can be avoided; 'saved' NYWLP Policy 4/20, in that there would be no detriment to the enjoyment of the nearby public rights of way through any visual intrusion; part 4) of 'saved' SDLP Policy ENV1 in that the design of the proposed development has had regard to its surroundings and associated landscaping; part 1 of SDCS Policy SP18, in that the local landscape would be safeguarded; part e) of SDCS Policy SP19 (again having had regard to design in the local context) as well as national policies in respect of design contained within NPPF Paragraph 127 and 170 and NPPW Paragraph 7; all of which are echoed within the emerging draft MWJP Policy D02,

insofar as unacceptable impacts such as visual intrusion in the local community would be safeguarded.

Highway and traffic matters

- 7.48 The extant policies with specific regard to matters relating to the public highway and traffic movements include **criteria g) of NYWLP Policy 4/1**; **'saved' NYWLP Policy 4/18** on traffic impact; **criteria e) of 'saved' NYWLP Policy 5/7**; the thrust of which is carried through into the development management policy of the emerging MWJP in **draft MWJP Policy D03**; and **part 2) of 'saved' SDLP Policy ENV1** and **'saved' SDLP policies T1 and T2**. As earlier referred, these align with national policy expressed within part d) of NPPF Paragraph 102, Paragraph 103, 108 and 109 together with NPPW Paragraph 7.
- 7.49 A number of objections raised within representations received by the County Planning Authority have commented on their concern about the impact of the proposed increase in traffic levels along both the C307 (Escrick Road) and the A19 and B1222 through Naburn and Stillingfleet. Other concerns from residents and the Parish Councils have included concern about the safety of the road junction at the site entrance onto the C307 (Escrick Road) due to the increased traffic levels.
- 7.50 The application has been accompanied by a *Transport Statement*, notwithstanding the absence of any requirement to do so. The NPPF advises these may only be necessary in instances where a development would be likely to generate "*significant amounts of movement*" (NPPF Paragraph 111 refers). The *Transport Statement* has considered the vehicular traffic impact of the development in light of the likely levels of traffic that would be generated by the proposed development against past collision data, a junction assessment and natural traffic growth.
- 7.51 The applicant details have indicated that the proposal would generate a maximum of 50 (25 in 25 out) HGV movements per day and this number of HGVs travelling to and from the site on the C307 (Escrick Road) travelling towards the A19 would not significantly increase the flow of traffic according to the Highway Authority. Notwithstanding the potential for an increase in vehicle numbers, the HGV traffic would be a new addition to the local highway network. The current and previous baseline for the site was none to very few HGVs arising from the mine site when operational. The current proposal, however, represents a new use on the site and the proposal has to be considered in terms of the impact it would have upon the highway network. It is understood that the Parish Councils and objectors have concerns about the potential cumulative traffic impact that could arise with this site in combination with the sites proposed for allocation in the area within the MWJP; however, it is considered that this development would not significantly increase traffic numbers or affect the capacity of the highway.
- 7.52 Whilst it is noted that objections have been received in relation to the impact of the development on the highway network, it is not considered reasonable to conclude a recommendation of refusal based on highway concerns. The applicant has responded to these objections explaining that the road access is judged to be *'good'* and that the proposal would equate to one HGV movement using the A19 junction every seven minutes and that both the A19 and A64 are primary routes subject to expected traffic volumes for their status; further stating for a material increase to exist, an application would have to give rise to a 5% increase, but the proposed additional average figure of 8 HGV movements per hour would not equate to this and would have a negligible impact being under 1% of overall movements, which accords with paragraph 2.10 of the *Design Manual for Roads and Bridges (TD41/95)*. Furthermore, the applicant explains that the proposed haul route is an existing highway which the Highway Authority considers has the capacity to take these extra vehicles.

- 7.53 It is considered there would not be an unacceptable impact upon the highway network. This is consistent with the NPPF Paragraph 109, which points to the refusal of proposals in circumstances only where it could be demonstrated to result in an unacceptable impact upon highway safety or where the residual cumulative impacts would be severe. The restrictions on HGV vehicle numbers to the site is capable of being secured by way of planning condition to control this (draft condition no. 10 within Section 9.0 of this report refers). Supporting this view is the Highway Authority comment that the traffic flow data revealed a two-way flow of 1550 vehicles and that only 1.4% (21 vehicles) comprised HGVs; thereby increasing the percentage of HGVs by approximately 3% (50 vehicles). This level of increase is acceptable to the Highway Authority. Therefore, the overall traffic flow of HGVs on the road would be 4.4% and this level of HGV movements would not be considered to have a significant material impact on the surrounding area or residential amenity.
- 7.54 In response to comments raised by the Highway Authority during the processing of this application, the applicant commissioned a radar speed survey and this was carried out on the B1222 within the vicinity of the site access with over 100 speed-readings taken in both directions. The results indicated 53.32 mph (travelling towards the A19) and 54.79 mph (travelling from the A19) (85th percentile wet weather traffic speed). Furthermore, the visibility splays of 2.4m x 215m have been assessed is being *“easily...achieved in both directions at the site access which fully accords with the visibility splay requirements within Design Manual for Roads and Bridges for 60mph speed limits roads”*. The visibility splays at the access to the site have, therefore, been considered appropriate.
- 7.55 The assessment concludes that the proposals are acceptable in terms of both highway capacity and safety and are capable of being readily accommodated by the local road network. All of the above together with the conclusions of the *Transport Statement*, run concurrent with the expert view expressed by the local Highway Authority offering no objection in relation to either the proposal or its submitted *Transport Statement*. Nonetheless, a number of conditions are recommended by the Highway Authority to further reduce the impact of the proposed development upon the highway network including a requirement that only the existing access be used, the maintenance of the existing visibility splays free from obstruction, the erection of junction warning signs, the installation of wheel-washing facilities (although, as a result of negotiation, the Highway Authority have confirmed this would not require full wheel washing facilities and that they would accept the vehicles being hosed down but would need a condition to reflect this to be part of any permission, draft condition no. 6 proposes with the cleaning of vehicles before they leave the site), a highway condition survey and a traffic routing agreement. With regard to mitigating the HGVs impacts on the surrounding area, residential amenity and increasing the safety of the highway, a condition is also proposed to ensure HGVs would be securely sheeted in a manner such that no material may spill from such vehicles and is proposed as draft condition no. 13 within Section 9.0 of this report.
- 7.56 With regards the last of these Highway Authority recommendations, a routing agreement, such a proposal is capable of being secured through a S106 legal agreement and this approach finds support within national policy; namely, NPPF paragraphs 54 to 56. It is considered necessary to secure the prohibition of HGVs arising from the development travelling along the B1222 (the C307 (Escrick Road)) in order to protect the amenity of residents and the highways network because, to the east of the site access towards the village of Stillingfleet, the roads are much narrower and include more bends. It is considered that the highway network route directing HGV traffic eastward toward the A19 would be capable of absorbing the proposed traffic levels with the mitigation, which would be set through the stated planning conditions. This is supported by part c) of NPPF Paragraph 108.

- 7.57 The application site cannot be seen from the public highway C307 (Escrick Road) being at the end of a private access road some 650 metres in length. The private access road is a good quality tarmacked two-lane road with enough width for vehicles to pass one another. It has good visibility along the length of the track and passing points are provided. Furthermore, the existing junction with the C307 (Escrick Road) has adequate visibility splays in both directions. HGVs would be directed, upon leaving the site, to turn right and proceed eastward along the C307 (Escrick Road) toward the A19. Escrick Road is a wide two-lane C class road extending to its junction with the A19. It has long straight sections and sweeping bends and cannot be reasonably described as '*narrow and bendy*' as some objections have stated. The A19 itself is a major route with capacity for the proposed levels of HGVs.
- 7.58 The issue of noise arising from HGV traffic has been cited by those objecting to the proposed development; however, having consulted with the expert adviser on the issue of noise impacts, the Selby District Council (SDC-EHO) has returned no issues with the noise report provided with the application and requests conditions to mitigate the impact of the HGVs on the area to ensure the proposal is acceptable in terms of its effects on local residents and which are incorporated in the recommendation.
- 7.59 Further objections have cited unsafe highway access, but, in response, the applicant has explained that HGVs would not have to straddle the road, as the proposed HGV sizes are either eight-metre rigid tippers or nine metre articulated tippers, which would also be used for the removal of skips. This means that with the turn right filter being over 9 metres on the A19 there would be adequate carriageway space, causing no obstructions to north or southbound traffic. It is considered that the access serving the proposed development is capable of accommodating adequate '*sweep lines*'/'*swept paths*' that would need to be undertaken by the HGVs upon entering/egressing the site and would not have a detrimental impact upon the highway network especially with the haul route to the A19 being capable of absorbing these extra movements, as stated by the Highway Authority further supporting the appropriateness of the location of the development.
- 7.60 It has been evidenced above, that the surrounding highway network has been assessed as being capable of accommodating the predicted traffic levels to the site and that the proposed development would not have an adverse impact upon the local highway network or the amenity of local residents. Furthermore, it is considered that the proposed development is consistent the principles within Chapter 9 of the NPPF and, in particular, Paragraph 109 which advises that development should only be prevented on transport grounds where the impacts are '*severe*' and it is considered that there are no reasons to refuse the application on such grounds in light of the proposed legal agreement, highway-related controls and those proposed draft conditions which would all serve to mitigate highway and traffic-related impacts of the proposed development.
- 7.61 It is considered that the proposed HGV movements would not have an unacceptable impact in terms of highway safety or capacity and the traffic generated can be satisfactorily accommodated in compliance with '*saved*' NYWLP policies of 4/1 (criterion *g*), 4/18 and the highway network element (criterion *e*) of '*saved*' Policy 5/7 together with '*saved*' SDLP policies ENV1 (*part 2*), T1 and T2 (and echoed within emerging draft MWJP Policy D03) which all deal with ensuring there is capacity on the local highway network to accommodate any increase in traffic. The local highway would have sufficient capacity and is capable of satisfactorily accommodating the HGV movements likely to be generated together with appropriate access arrangements and highway safety. Therefore, subject to conditions requiring safety warning signs and a highway condition survey in advance of the commencement of development, the proposal is considered to be consistent with the traffic and access principles of the NPPF and NPPW which seek to ensure the existing highways networks are both suitable and able to cope with the pressures placed upon them by proposed

developments, which adds further weight in support of the development and compliant with the earlier cited *development plan* policies.

Local Amenity (including noise, air quality and external lighting)

- 7.62 The extant policies with specific regard to matters concerning the safeguarding of the amenity of the local community include criteria **c)** and **h)** of **'saved' NYWLP Policy 4/1**, **'saved' NYWLP Policy 4/19** (both of which seek to ensure that waste management facilities do not have an unacceptable effect on local amenity) and criterion **f)** of **'saved' Policy 5/7** together with **'saved' SDLP Policy ENV1**, **SDCS Policy SP18** and **SP19** as well as the policy position echoed within emerging policies **draft MWJP Policy D02** and **W11**. As earlier referred, these align with national policy expressed within NPPF Paragraph 170 and Paragraph 180 together with NPPW Paragraph 7.
- 7.63 The potential impact of the development upon the amenity of local residents, other sensitive receptors and the environment is an important material consideration in the determination of any waste application and its significance is addressed in both national and local planning policy, which seek to limit the impact of developments upon local residents, and which must be taken into consideration in the determination of waste planning applications
- 7.64 Concerns have been raised by local residents, in the main, due to the impact that the development could have upon local amenity. The potential adverse effects of noise, air quality (including dust) and external lighting on occupiers of the nearest residential properties are key considerations in the acceptability of the development in the proposed location.

Noise

- 7.65 The application has been accompanied by a *Noise Impact Assessment* (dated 28th December 2016) which found there to be *no observed effect level* of noise (i.e. the level below which no effect can be detected) at all nearby dwellings with one exception; where, in that particular instance, a rating of *lowest observable adverse effect level* (i.e. the level of noise exposure above which adverse effects on health and quality of life) has been detected. The applicant has stated that the *Noise Impact Assessment* has been based on a worst-case scenario principle where all machinery is operating. It was further stated that the assessment incorporated mitigation and concluded that noise levels would be at an acceptable level. Further explanation included that the ambient noise recordings were taken on public land representative of the conditions of the nearby dwellings and the method used (BS) is standard practice for noise monitoring assuming the applicant's anticipated likely continual presence of stockpiles.
- 7.66 Objections to the proposed development have been made on behalf of Parish Councils and the wider community and they have raised concerns regarding the noise to which this proposal could potentially give rise and question how the noise survey was conducted. In response to these concerns, on 29th March 2017 (insofar as information relating to the noise monitoring locations) and 4th April 2017, the applicant provided further information. It was confirmed that the words *'daytime and night'* that had been stated within the application details were incorrect as the measurements were only taken during the day. There were two elements subject to correction. The first that as no night time operations are proposed, reference to nighttime should not have been made and the second that the consultant acting on behalf of the applicant acknowledged the absence of any previous major HGV use of the site was unknown to them. Points of clarification included that the sound predictions rely upon the presence of stockpiles and that the formula that had been employed applies to *'soft' surfaces (i.e. surfaces which are absorbent to sound, e.g. grassland, cultivated fields or plantations'* (*British Standard on Noise (BS 5228)*) and therefore the sound propagating to Mount

Pleasant Farm would be subject to absorption with no significant effects on their residential amenity.

- 7.67 It is understood that, in terms of operational noise sources, it is proposed that activities would be carried out mainly within the waste transfer building and the enclosed buildings would serve to reduce the noise emanating from the site to acceptable levels. The noise survey assesses the proposed mobile plant equipment of the crusher, trommel screener, and shredder (as shown within Appendix H to this report) as capable of achieving acceptable noise levels whilst operational inside the waste processing building. These pieces of plant equipment have not been assessed for noise impacts outside the buildings. As a result of this, this specific aspect of the proposed development, in order to render the development acceptable in land use planning terms, is considered to warrant the imposition of a planning condition to control this i.e. requiring the use of these items of plant only internal within the buildings and prohibiting any external use (draft condition no.20 within Section 9.0 to this report refers). However, there are other pieces of plant and equipment proposed by the applicant for use outside the buildings i.e. wheeled loaders, vibrating screener and other mobile plant which have been assessed as having noise impacts that are acceptable for external use i.e. not exceeding levels to likely to have an effect on residential amenity.
- 7.68 The Selby District Council Environmental Health Officer (SDC-EHO) has been consulted and, in turn, has considered the noise impact at the nearest noise sensitive receptors, which includes Mount Pleasant Farm approximately 400 metres north-west of the application site and 250 metres west of the access road. The SDC-EHO has not objected to the application and acknowledges the conclusion of the applicant's appointed consultant that the *Lowest Observable Adverse Effect Level (LOAEL)* would be anticipated at one dwelling on Kellfield Road (Mount Pleasant Farm) and *No Observed Effect Level (NOEL)* would be expected at all other dwellings. The SDC-EHO further noted that the main source of noise would be generated by vehicles entering and leaving the site, with HGV vehicle movements noted as being a maximum of 50 movements per day (25 into the site and 25 egressing the site). The SDC-EHO has also confirmed that the noise survey was conducted in a satisfactory manner showing acceptable levels of noise and, thus, not warranting an objection.
- 7.69 The SDC-EHO considers the proposed hours of operation (07:00 -19:00 Monday-Friday, 07:30 – 13:00 Saturdays, and at no times Sundays and Bank or Public Holidays) to be appropriate and that the proposed operations undertaken within these operational hours would be acceptable. While acknowledging the nature of the local road of the C307 (Escrick Road) and HGV traffic could give rise to some disturbance in the area, there are no limitations on the use of the public highway by HGVs and this proposal would generate only a relatively low level of HGVs. There are no proposals for night time HGV movements and, should permission be granted, the hours of HGVs accessing the site are capable of being controlled by proposed condition 7 in the interest of local amenity. On this basis, it is considered, notwithstanding the concerns raised in objection relating to potential noise disturbance, the proposed development has been assessed as being able to safeguard against any significant adverse noise impact upon residential amenity and is therefore not a sufficient reason to warrant the refusal of the application.
- 7.70 Although it is acknowledged that the proposal could result in some impact upon the residents of Mount Pleasant Farm, it is considered that the impacts upon the amenity of this property would not be significantly adverse or unacceptable due to the environmental mitigation provided by the tree screening around the site (the long term retention and management of which could be secured through a Section 106 planning agreement), the separation distance that exists from this property to the application site and the proposed planning conditions which are capable of controlling the hours of operation, number of HGV movements and noise level restrictions. As such, it is considered that the impact of the proposed development upon the amenity of any

sensitive receptors would be negligible, which is consistent with NPPF Paragraph 180 in regards to proposals not giving rise to significant adverse impacts on health and quality of life. Further, it is also considered that in regards to any effect on tranquillity of the area, the proposed site is not identified as being a specific tranquil area, nor is it considered that recreational or amenity value would be adversely affected by the development.

- 7.71 The nature of the proposal is therefore such that it would be considered unlikely to result in any significant adverse noise impacts upon residential amenity. The SDC-EHO has confirmed that the proposed development is unlikely to cause nuisance, which would result in a negative impact upon local amenity. The Public Rights of Way team consultation response also states the absence of any issue with the proposal and although a public right of way runs close to the site, the site's boundary treatment to the east in the form of a large bund screens the site effectively and mitigates its impacts. It is therefore considered that this proposal would not have a significant adverse effect on the public right of way in terms of noise or the impact it would have on the landscape, with the boundary treatment being protected and managed through a Section 106 planning agreement.
- 7.72 For the reasons detailed above, it is considered that the proposed development would not have a significant impact upon the amenity of any local receptor in regards to noise. Therefore, there would be no conflict with the national policy of the NPPF **Paragraph 180**, with the NPPW or with Planning Practice Guidance in regards to noise through avoiding any significant adverse effect and achieving a good standard of amenity. Moreover, it is considered to comply 'saved' NYWLP policies 4/1, 4/18, 4/19 and 5/7, 'saved' SDLP Policy ENV1 and SDCS policies SP18 and SP19.

Air quality (including dust and odour)

- 7.73 With regards to air quality and, more specifically, in this particular instance, dust, it is acknowledged that the nature of the operations proposed has a propensity toward the generation of dust through the sorting and processing of mixed construction, demolition and excavation waste materials; however, equally, there are measures that are capable of being implemented to mitigate against the potential for adverse effects arising from dust generation. In the instance of the proposal currently under consideration, the effects of dust are capable of being mitigated by condition such that hauls roads, hardstanding areas and stockpiles could be sprayed with water to 'damp down' or suppress the generation of dust and during periods of dry windy weather (i.e. when local wind speeds exceed 20 metres per second), site operations could be suspended such that fugitive dust emissions beyond the site boundaries can be avoided (draft condition no. 18 within Section 9.0 of this report refers).
- 7.74 It is also important to note that facilities such as the one proposed would be subject to controls that fall under the jurisdiction of other regulatory bodies such as the Environment Agency or, in some instances, the SDC-EHO. The existence of alternative statutory means of controlling pollution through the Environment Agency for example is a material consideration to be taken into account in the determination of applications such as that which is currently under consideration. NPPF Paragraph 183 reminds decision-takers that the question must be one of the acceptability, or otherwise, of the proposed development as a use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes) so as to avoid the duplication of environmental controls. In this instance, though, land use planning controls and mitigation such as internalising the activity of waste processing, the minimising of stockpile heights and their dampening to reduce dust generation as well as the sheeting of vehicles are all considered to be appropriate because they would serve to mitigate the amenity issues, visual impacts and highway concerns which can all be justifiably regarded as land use planning matters. If Members were minded to grant planning permission, it is considered that the facility's design and the

mitigation measures proposed would sufficiently control the dust emissions arising from the site.

- 7.75 While it is acknowledged that representations in objection have raised concerns regarding dust and air pollution that could be created by the use of the site, the assessment of the proposed development focusses upon the matter of dust as opposed to odour as the development proposes the handling of waste limited to that arising from construction, demolition and excavation which is not normally associated with giving rise to the issue of odour. Included within the concerns of those objecting is the contention that the operator would not comply with the stated dust mitigation measures, such as the use of a water bowser, misters and spray guns. However, doubts as to the intentions or otherwise of operator compliance is not a reasonable justification upon which to refuse planning permission. A reasonable approach by the decision-taker would be to ask the question, are there conditions that meet the '6 tests' (i.e. the tests of reasonableness, relevance, enforceability, precision and relevant to both planning and the development itself) which are capable of rendering the development acceptable in land use planning terms. Mitigation is capable of being delivered through, *inter alia*, proposed condition no.s 13 (sheeting of HGVs), 18 (dust suppression and cessation of operation during periods of dry windy weather) and 19 (closure of waste processing building doorways) within Section 9.0 of this report. Further mitigation is achieved through the separation distance between the application site and the nearest sensitive receptors (Mount Pleasant Farm), together with the main operations being undertaken within an enclosed building and, in light of this, it is considered that any dust arising from the operations at the site would not give rise to significant harm to residential amenity. This is consistent with Planning Practice Guidance for air quality which states mitigation should be proportionate to the size of the proposal.
- 7.76 It is considered that the development would not give rise to any amenity issues associated with air pollution by reason of being consistent with the general thrust of the aims and objectives with the NPPF (and, in particular, paragraphs 170 and 180) and NPPW (and, in particular, Paragraph 7) and being compliant criteria *c*) and *h*) of 'saved' NYWLP Policy 4/1, 'saved' NYWLP Policy 4/19 and criterion *f*) of 'saved' Policy 5/7 together with 'saved' SDLP Policy ENV1, SDCS Policy SP18 and SP19 as well as the policy position echoed within emerging policies draft MWJP Policy D02 and W11.

External lighting

- 7.77 Concerns raised by those objecting to the proposed development have cited the effects of illumination and spill as a result of the lighting on the site. However, mitigation is offered by ensuring that the lighting associated with the proposed development would be switched off outside of the hours of operation at the site and, as such, the impact of the lighting proposals would be minimal on surrounding properties and highways. The applicant has stated that no lighting is proposed other than the lighting already installed by the operator of the former mine. The applicant's intention is that outdoor activities, other than by road going vehicles, would not take place after hours of darkness for safety.
- 7.78 The SDC-EHO has not raised any concerns in relation to the impact of external lighting and it is considered that, due to the separation distance from residential receptors and the screening of the site by trees, that the on-site lighting would not give rise to unacceptable levels of light pollution or disturbance in the local area. To safeguard this position, such mitigation is capable of being controlled by condition and therefore draft condition 17 within Section 9.0 to this report, establish the site lighting for the proposed development and restrict any proposed new lighting to be subject to subsequent approval in writing by the County Planning Authority. This is consistent with national planning practice guidance in regards to safeguarding against light pollution. As the impacts of the proposal are assessed as being mitigated sufficiently, it is considered that the site would not give rise to any amenity issues associated with light pollution

rendering the development not being in conflict with national policy contained within the NPPF Paragraph 180 and Paragraph 7 of the NPPW. It would also be in compliance with the aims of 'saved' NYWLP policies 4/1 (criteria *c* & *h*), 4/19 and 5/7 (criterion *f*), which seek to ensure that proposed developments are appropriate to their location and would not result in impacts considered significantly detrimental to the local environment. The proposed mitigation measures would also ensure there is no conflict with 'saved' SDLP Policy ENV1 and SDCS policies SP18 and SP19; all policy positions echoed within emerging draft MWJP Policy D021.

Impacts upon ecology

- 7.79 The extant policies with specific regard to matters concerning the safeguarding of interests relating to matters of ecology include criteria *c*) and *h*) of '**saved**' NYWLP Policy 4/1 and criterion *f*) of '**saved**' Policy 5/7 (both of which seek to ensure that waste management facilities do not have an unacceptable effect on the environment) together with '**saved**' SDLP Policy ENV1, SDCS Policy SP18 as well as the policy position echoed within emerging draft MWJP Policy D01. As earlier referred, these align with national policy expressed within NPPF Paragraphs 170, 175 and 180 together with NPPW Paragraph 7.
- 7.80 While the matter of ecology has been cited by those objecting to the proposed development, the County Council's expert on matters of ecology, consulted on this particular application, confirmed that as the proposal is to be located on existing areas of hardstanding, there is no anticipated impact on statutory or locally designated wildlife sites and further confirmed there to be no ecological impacts of the development provided best practice is followed for avoiding pollution of land and water.
- 7.81 During the course of the processing of the application, the applicant has submitted further information, providing a '*Preliminary Ecological Appraisal*' of the site dated 19th January 2019 which included an *extended phase 1 habitat survey* used to describe and map the habitats on the site and to identify the presence or potential presence of any protected or notable species as well as undertaking a '*walkover protected species survey*'. The '*Preliminary Ecological Appraisal*' was subject to consultation and, on 29th January 2019, the expert adviser returned their satisfaction with the extent of the survey, the conclusion provided within it and that no further surveys are recommended.
- 7.82 For the reasons detailed above, it is considered that the proposed development would have a negligible impact upon local biodiversity; further supporting the appropriateness of the site. The development is, therefore, considered to be in keeping with the principles of the NPPF in conserving and enhancing the natural environment as outlined in Chapter 15 of the Framework, specifically Paragraph 175 as the proposal would not cause significant harm to biodiversity and therefore compliant with criteria *c*) and *h*) of 'saved' NYWLP Policy 4/1 and criterion *f*) of 'saved' Policy 5/7 together with 'saved' SDLP Policy ENV1, SDCS Policy SP18 as well as the policy position echoed within emerging draft MWJP Policy D07.

The water environment and drainage

- 7.83 The extant policies with specific regard to matters relating to the water environment and drainage include criteria *c*) and *h*) of '**saved**' NYWLP Policy 4/1 and criterion *f*) of '**saved**' NYWLP Policy 5/7 (both of which seek to ensure that waste management facilities do not have an unacceptable effect on the environment), part 7) of SDCS Policy SP18 and SDCS Policy SP19 and emerging draft MWJP Policies D02 and D09. As earlier referred, these align with national policy expressed within NPPF Paragraph 170 together with NPPW Paragraph 7.
- 7.84 The application is accompanied by a *Flood Risk Assessment* (ref. 157/01/sms/fra/1216, dated December 2016) following a hydrological survey, analysis of available hydrological data sources and flood hazard review. This assessment concluded that

the site lies within Flood Zone 1 and, therefore, at low risk from surface water flooding and further analysis has concluded a low risk exists in respect of flooding from groundwater sources. The proposed surface water drainage scheme for the site has been based upon sustainable urban drainage principles. The Ouse and Derwent Internal Drainage Board, consulted on the application, have noted the content of the submitted *Flood Risk Assessment* which states the development would not increase the impermeable footprint of the site and the IDB are, therefore, satisfied that the current drainage arrangements for the site are adequate.

- 7.85 Those who have raised objections to the proposed development have cited as one of their reasons, the potential for the pollution of watercourses. However, the applicant has confirmed that no connection to the public sewer system would be required. Instead, the applicant has affirmed that foul sewage would be dealt with in a portable system which would be taken off site as and when required to a suitable facility. Furthermore, the application details have explained that the site benefits from existing extensive concrete surfaces provided with surface drainage channels and interceptors, including a large fully drained concrete pad that is capable of being reused without the need for any alteration. In light of this, it is considered that the development would not have an adverse impact upon the drainage of the site.
- 7.86 Notwithstanding the safeguards proposed to be implemented by the applicant, there is considered to be the necessity to ensure that sufficient controls may be applied to the development should planning permission be forthcoming. Therefore, proposed for consideration are draft conditions such as no. 12 within Section 9.0 of this report which seeks to control the types of waste that could be accepted by the proposed development, draft condition no.s 14 and 15 which seek to ensure that both the buildings and the areas of hardstanding are maintained in a good state of repair throughout the life of the development.
- 7.87 For the reasons detailed above, it is considered that the proposed development would have a negligible impact in terms of the existing drainage regime and would provide for sufficient safeguards to prevent any significant adverse impact upon the water environment through the means of the collection and disposal of contaminated water arising from the operations proposed to be undertaken at the site. The proposed development is, therefore, considered to comply with the relevant policies of the '*development plan*' insofar as criteria *c*) and *h*) of '*saved*' NYWLP Policy 4/1 and criterion *f*) of '*saved*' NYWLP Policy 5/7, (part 7) of SDCS Policy SP18 and SDCS Policy SP19 and emerging draft MWJP Policies D02 and D09. As earlier referred, these align with national policy expressed within NPPF Paragraph 170 together with NPPW Paragraph 7.

Land contamination

- 7.88 Since the proposed development is to be located on land formerly used as a deep coal mine, contamination at the site is a factor which needs to be considered (NPPF Paragraphs 178 refers). The proposed development would involve the use of buildings and areas of hardstanding already in existence. In response to concerns about contamination by those objecting to the proposed development, the applicant has stated that the mine surface areas of hardstanding would not be disturbed and all activities would take place within buildings or on extensive existing hard-standing surfaces, negating the need to undertake any assessment of possible existing contamination. It is acknowledged and accepted that in light of the absence of any issues relating to contamination by either the Selby District Council EHO or the Environment Agency that, in relation to this particular matter, the proposed development does not give rise to any conflict with the policies of the '*development plan*' and, in particular, with SDCS Policy SP19.

Cumulative impacts

- 7.89 Bringing all the above elements together is the assessment of the proposed development in terms of its cumulative impacts. Criterion **d)** of '**saved** NYWLP Policy **4/1** requires regard to be had to the cumulative impacts of any proposed development to ensure that they are no unacceptable impacts arising cumulatively within the context of a local area; aligning with NPPF Paragraph 180 and a policy direction echoed within the policies of the emerging MWJP; namely draft policies **D02 and W11**. Having demonstrated within paragraphs preceding that the proposed development is compliant with a number of relevant land use planning policies that comprise the '*development plan*' that pertain in the area in which the development is proposed to be situated in that it is capable of ensuring that significant adverse effects do not arise in respect of landscape and visual impacts, highway and traffic impacts or upon the amenity of the local community (as a result of noise, external lighting or impacts upon air quality through the generation of dust) and, where impacts have been identified, they are capable of being sufficiently mitigated to an acceptable level or capable of being controlled through the imposition of appropriate land use planning conditions.

Town & Country Planning Environmental Impact Assessment Regulations 2011

- 7.90 A further stated objection is in regards to the formal *Screening Opinion* adopted by the County Planning Authority contending the *Opinion* failed to take into account the properties on C307 (Escrick Road). However, within *Schedule 3* of the *Screening Opinion*, in the section *Characteristics of the Development, Pollution and Nuisances*, it is stated "*there is also potential for emissions and noise from increased HGV traffic to and from the site. However, the proposed development is considered unlikely to result in nuisances or pollution that would give rise to significant environmental effects*". This is in line with the regulations and it is considered this application would not have significant environmental effects on the character of the area, local amenity or highways. The proposal was screened in accordance with the EIA regulations, and it was concluded that the proposed development would not give rise to significant environmental effects and therefore the application under consideration does not require to be accompanied by an *Environmental Statement*. There have been no further development proposals on the former mine site, or in the vicinity (the site is located in open countryside) since the *Screening Opinion* was adopted; therefore there are no in combination effects to consider.

Fire risk

- 7.91 Fire risk is a known issue related to the operation of waste transfer stations and this is matter that falls within the jurisdiction of the Environment Agency (and in certain cases the local Building Control team of the District Council). The consultation response from the Fire Service returned no comments with regards fire risk. Acknowledging that fire safety is considered as part of the Environmental Permitting regime, the North Yorkshire Fire and Rescue Service have given no comments at this time stating the Fire and Rescue Service would comment on the proposal when it is submitted through the building control regulations. The application for the Environmental Permit would need to consider how to manage firewater arising from a fire and how the laminate stockpile area would be bunded so as to retain any fire lighting liquids that may be within any material imported onto site. The suitability of proposed fire safety measures would be considered at the time when the building control body submit a statutory Building Regulations consultation to the Fire Authority. It is understood that the fire prevention and management plan practices (approved as part of the Environmental Permit) involve stockpile height limits (max five metres) and separation distances between stockpiles and plant and machinery, fire rated concrete dividing walls, regular rotation, temperature monitoring, visual inspections, on site fire engine and firefighting measures and an evacuation plan.

Section 106 Legal Agreement

7.92 If planning permission were to be granted in respect of the development currently under consideration, it is considered necessary, in accordance with the NPPF paragraphs 54-57, to secure the following through a Section 106 Legal Agreement with the following 'Heads of Terms':

- a requirement for HGVs travelling to and from the site to follow the agreed Travel Route from the site to the A19; and
- provision for the retention, maintenance and management of the existing landscaping around the site.

8.0 Conclusion

8.1 Overall, it is considered that the proposed facility would contribute to the delivery of an integrated and adequate network of waste management installations by providing a waste recovery facility. There are a limited number of waste transfer stations in the district, which deal with CD&E waste, and none that specialise in recycling plasterboard. The type of facility proposed is needed in the area as demonstrated by the evidence of a capacity gap for CD&E waste in the emerging MWJP. The proposal is not considered to be large in scale and proposes a low level of usage at the selected location which is available to the market. It requires no extensive construction work to prepare the site for use and the proposed use of the site is acceptable. It offers an opportunity for an additional facility in the District, with good access, to move waste up the 'waste hierarchy' and divert it away from the less sustainable option of disposal to landfill. Given the conclusions on the principle of the development, it is considered that the capacity to be provided by the proposed facility would help ensure that construction waste can be dealt with at the 'nearest appropriate installation' and help ensure its management in accordance with the 'proximity principle' of the NPPW (2014) and 'saved' NYWLP Policy 4/1.

8.2 It is considered that there are no material planning considerations to warrant the refusal of this application for the change of use of part of the former mine site to create a waste transfer station 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.

8.3 For the reasons mentioned above, 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. On balance, having established the absence of any demonstrable harm to interests of acknowledged importance and taking into account the development's general compliance with the 'development plan' when taken as a whole, the recommendation is, therefore, one of advising Members that the proposed development, in this particular instance, is capable, with accompanying safeguards by way of conditions, of being acceptable in land use planning terms.

8.4 It is noted that Selby District Council in their consultation response for the application state that they consider that the application does not comply with the *development plan*, specifically SDCS Policy SP13 because the District "*regard the creation of the waste transfer facility to be large scale / intensive due to the rural nature of the application site and the fact it lies beyond the development limits of Stillingfleet in the open countryside*". However, the proposed use would employ only 10 employees, there would be a maximum of 25 in and 25 out daily HGV movements, and the amount of waste received at the site would be limited to 75,000 tonnes per annum. The activity on the site is, therefore, not regarded as being particularly intensive. The site itself is not considered to be large in scale because it forms a relatively small part of the wider former mine site. Overall, the proposed use is therefore considered neither 'large scale' nor would give rise to an '*intensive economic activity*' on the site and therefore the proposal is considered to comply with policy.

8.5 Notwithstanding seeking the satisfaction of the criteria of being neither large in scale or intensive in economic activity, SDCS Policy SP13 does provide support for the re-use of sites stating "... *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*". The considered reasoning is that the proposal complies with the '*development plan*' when read as a whole. The proposal would be appropriate in scale and type to its location and would not harm the character of the area and there would be good access to the site. There are no objections from the Highway Authority who state the impacts would not be significant nor are there objections returned by others from whom the County Planning has sought expert advice. It is also considered that there would be no significant impact on the character of the local area, nor would it create significant residential amenity issues. For these reasons and because the proposed use would represent a suitable re-use of currently unused land and buildings it is recommended that planning permission be granted.

Obligations under the Equality Act 2010

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

Obligations under the Human Rights Act

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

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

9.0 Recommendation

9.1 For the following reasons:

- the proposed development would not have a significant impact upon the local environment and would result in no significant adverse impacts which could not be mitigated;

- the proposed development would not have a significant impact upon the character of the surrounding area;
- the proposed development would not have a significant impact upon the amenity of any local receptor;
- the proposed development would not have a significant adverse impact upon the local highway network;
- the proposed development is consistent with the principles of the NPPW (2014), NPPF (2019), national planning practice guidance and 'saved' Policies 4/1, 4/3, 4/18, 4/19, 5/2 and 5/7 of the NYWLP (2006) together with 'saved' Selby District Local Plan (2005) Policies ENV1, T1 and T2 and Selby District Core Strategy (2013) Policies SP1, SP2, SP13, SP18 and SP19 and emerging policies W01, W05 and W10 of the Minerals and Waste Joint Plan

and that, **subject to the applicant first entering into a S106 planning obligation** to secure the following matters that are considered to be necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development:

- a requirement for HGVs travelling to and from the site to follow the agreed Travel Route from the site to the A19;
- provision for the retention, maintenance and management of the existing landscaping around the site; and
- The establishment of a local liaison meeting.

PLANNING PERMISSION BE GRANTED subject to the following 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 strict accordance with the application details dated 9 August 2018 and the following approved documents and drawings;

- Ref. 10131/01A, Location Plan, dated 9 August 2018;
- Ref. 10131/02A, Proposed Site Layout, dated 23 January 2017;
- Ref. 10131/03, Internal Building Layout, dated 22 August 2016;
- Ref. 10131/04, Amenity Cabin Elevation, dated 1 February 2017;
- Ref. ASA/SM/SEPT16-01 Topographical Survey, dated 26 September 2016;
- Ref. 157/01/sms/fra/1216, Flood Risk Assessment, dated December 2016;
- Noise Impact Assessment, dated 28 December 2016;
- Transport Statement, dated September 2016;
- Ref. 1184 A, Addendum no 1 to Transport Statement, dated March 2017;
- Supporting Statement, dated January 2017.
- Agent Correspondence, dated 8 March 2017.
- Agent Further Supporting Information, dated 20 April 2017.

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

3. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 or any other order revoking or re-enacting the order, no plant or buildings shall be erected within the application site without the prior grant of planning permission by the County Planning Authority.

Reason: To reserve the rights of control by the County Planning Authority in the interests of protecting local amenity.

4. 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 onto the C307 (Escrick Road) as shown on the approved Location Plan Ref. 10131/01A, 2018. The access shall be maintained in a safe manner, which shall include the repair of any damage to the existing adopted highway occurring during construction/implementation of the works.

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

5. The existing visibility splays to the access to the C307 (Escrick Road) as measured 2.4m down the centre line of the access and 215m measured along both channel lines of the C307 (Escrick Road) shall be retained and maintained clear of any obstruction as measured to an eye height of 1.05m and object height of 0.6m at all times throughout the operational life of the site.

Reason: In the interests of highway safety.

6. No development shall commence until details for the erection of two warning signs on Escrick Road to Dia Number 506.1 warning of the junction of the access to the site have been submitted to and approved writing by the County Planning Authority. The approved signs shall be erected in the approved locations prior to the commencement of development.

Reason: to ensure that the details are satisfactory in the interests of the safety and convenience of highway users.

7. No development shall commence until a survey recording the condition of the public highway for a distance of 500m from the access in an easterly direction along Escrick Road towards the junction with the A19 has been carried out in accordance with a scheme and programme to be first submitted to the County Planning Authority for approval in writing. The survey shall be carried out in accordance with approved scheme and programme prior to the commencement of development and submitted to the County Planning Authority in writing within 14 days of its completion.

Reason: in the interests of highway safety and the general amenity of the area

8. No waste materials shall be imported into the site until details of the location, design, and specification of vehicle wheel washing facilities and any other measures to prevent the tracking out of material or debris onto the access road have been submitted to and approved in writing by the County Planning Authority. Thereafter the approved wheel washing facilities shall be installed and maintained in working order and be used by all heavy goods vehicles leaving the site onto the access road throughout the operational life of the site and any other approved measures employed to prevent material or debris being tracked out onto the public highway.

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

9. There shall be no importation or export of waste or recycled material, recycling of materials, site operations, lighting, or heavy goods vehicle (as defined by this permission) movements to and from the site except between the following hours:

07:00hrs – 19:00hrs Mondays to Friday;
07:30hrs - 13:00hrs on Saturdays

There shall be no importation or export of waste or recycled material, recycling of materials, site operations, lighting, or heavy goods vehicle (as defined by this permission) movements to and from the site on Sundays and Bank (or Public) Holidays.

Reason: In the interests of highway safety and the general amenity of the area.

10. The total number of heavy goods vehicle (as defined by this permission) accessing and leaving the application site shall not exceed 50 per day or more than 6 per hour (25 going into the site and 25 going out).

Reason: In the interests of highway safety and the general amenity of the area.

11. A written record of all heavy goods vehicle movements (as defined by this permission) into and out of the site shall be maintained and retained for a period of six months. The records shall contain the vehicles weight, registration number and the time and date of movement. The record shall be made available for inspection to the County Planning Authority at the site office during permitted working hours or within two days of any written request made by the County Planning Authority.

Reason: To enable the verification of vehicle movements limited under condition no. 9.

12. No waste other than construction and demolition wastes, waste plasterboard, glass wastes, plastic laminate and waste concrete tiles shall be imported into the site for processing.

Reason: For the avoidance of doubt and in the interests of the general amenities of the area,

13. All heavy goods vehicles exporting waste or recycled materials from the site shall be securely sheeted or otherwise enclosed in such a manner that no material will be spilled on the public highway.

Reason: In the interests of highway safety and the general amenity of the area.

14. The existing buildings on site shall be maintained in a good state of repair throughout the operational life of the development.

Reason: To protect the visual amenities of the area.

15. The existing hardstanding and surface of the access road to Escrick Road shall be maintained in a good state of repair and devoid of potholes throughout the operational life of the development.

Reason: To ensure a satisfactory form of development and in the interest of the general amenity of the area.

16. No development shall commence until details of the boundary treatment to the site have been submitted to the County Planning Authority for approval in writing. Thereafter the approved boundary treatment shall be erected prior to the importation of waste materials.

Reason: To ensure a satisfactory form of development and in the interest of the general amenity of the area.

17. 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 lighting/floodlighting that is erected shall be 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: In the interests of the reduction of light pollution and protecting the amenity of the area.

18. No development shall commence until a detailed dust management plan shall be submitted to the County Planning Authority for approval in writing. The dust management plan shall include details of the equipment to be used, the location of such equipment and details of how the dust is to be monitored to prevent the emission of dust from within the buildings and from stockpiled materials on the site. Dust control measures to minimise the emission of dust from the site shall include but not be limited to the spraying of roadways and stockpiles. During periods of high winds (over 20 metres per second as measured by an onsite anemometer) all external waste operations shall cease.

Reason: In the interests of protecting the amenity of the area.

19. All door openings on the waste transfer station buildings shall be closed during waste sorting, processing and recycling operations.

Reason: In the interests of protecting the general amenity of the area.

20. The jaw crusher, trommel screener and shredder or any other replacement machinery shall only be operated when located within the two existing buildings shown on drawing Ref. 10131/02A, Proposed Site Layout, dated 23 January 2017.

Reason: In the interests of protecting the general amenity of the area.

21. No waste materials shall be stored or deposited to a height exceeding 4 metres for laminate and 5m for any other stockpile at any point within the site area as shown on drawing Ref. 10131/02A 'Proposed Site Layout Plan'.

Reason: In the interests of protecting the general amenity of the area.

22. During the permitted hours of operation noise, as measured from the boundary of the operational area of the site the subject of this planning permission, shall not exceed the background noise level ($L_{A90,1H}$) by more than 10dB(A) and shall not in any event exceed 55dB(A) $L_{Aeq\ 1h}$.

Reason: In the interests of protecting the general amenity of the area.

23. A copy of the planning permission and any agreed variations and approved details and schemes and programmes for the purposes of the conditions, together with all the approved plans shall be kept available at the site office at all times.

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

Definitions

Heavy goods vehicle: a vehicle of more than 3.5 tonnes gross weight

Informatives

1. *An explanation of the terms used above in condition 4 (visibility splays) is available from the County Highway Authority.*
2. *An abstraction licence would be needed for the water used for dust suppression, if it is to be taken from local surface water or groundwater or will be needed in volumes greater than 20 cubic metres per day. It also states the development would require an Environmental Permit.*
3. *Public rights of way are to be kept open for public use at all times throughout the operational life of the site and use of the access to Escrick Road.*
4. *The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency.*

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.

Karl Battersby
Corporate Director, Business and Environmental Services

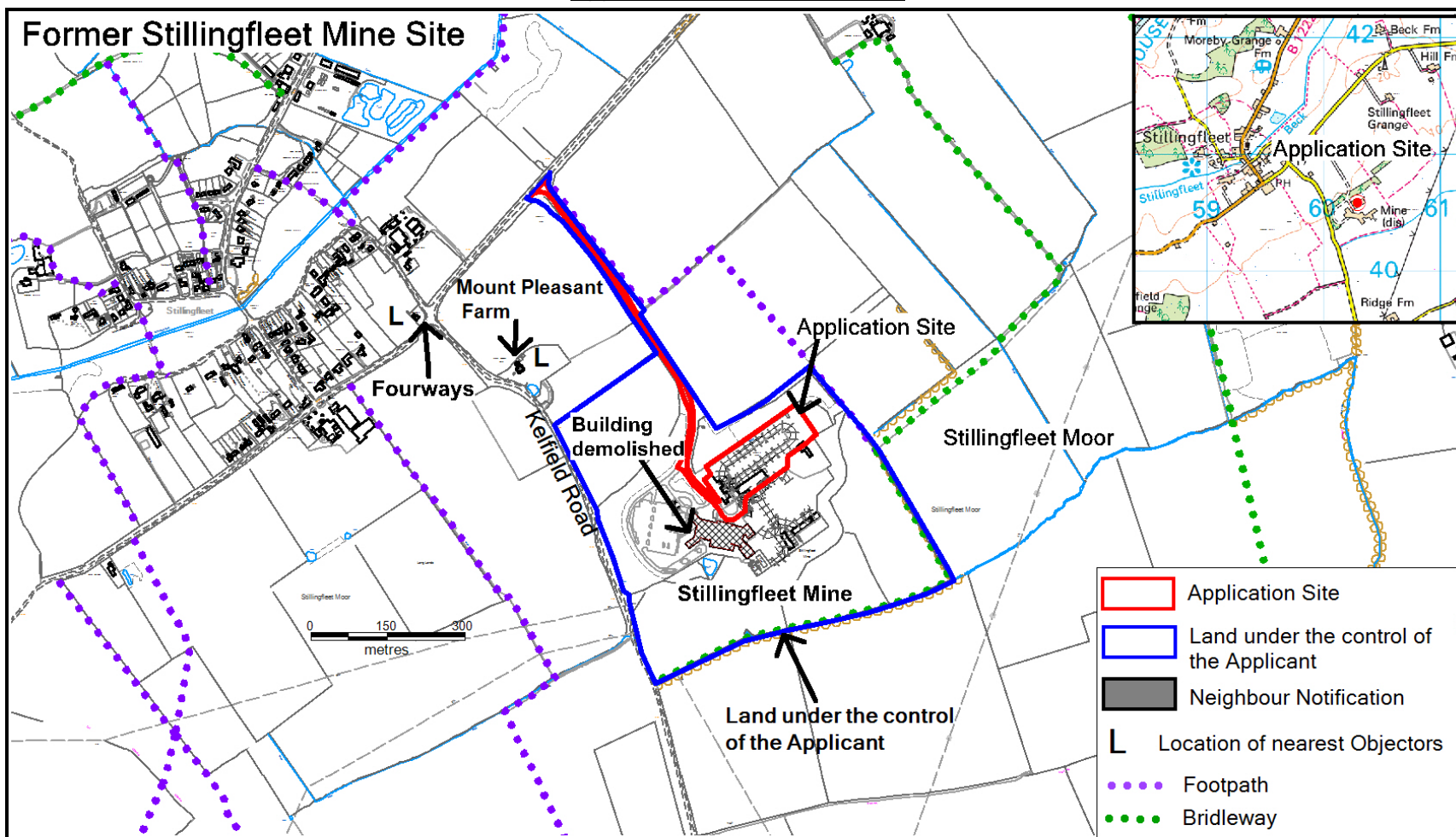
Author of report: Victoria Perkin

Background Documents to this Report:

1. Planning Application Ref Number: C8/999/16U/PA (NY/2016/0251/FUL) registered as valid on 1 February 2017. 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.

Appendix A – Committee Plan



	Application Site
	Land under the control of the Applicant
	Neighbour Notification
	Location of nearest Objectors
	Footpath
	Bridleway

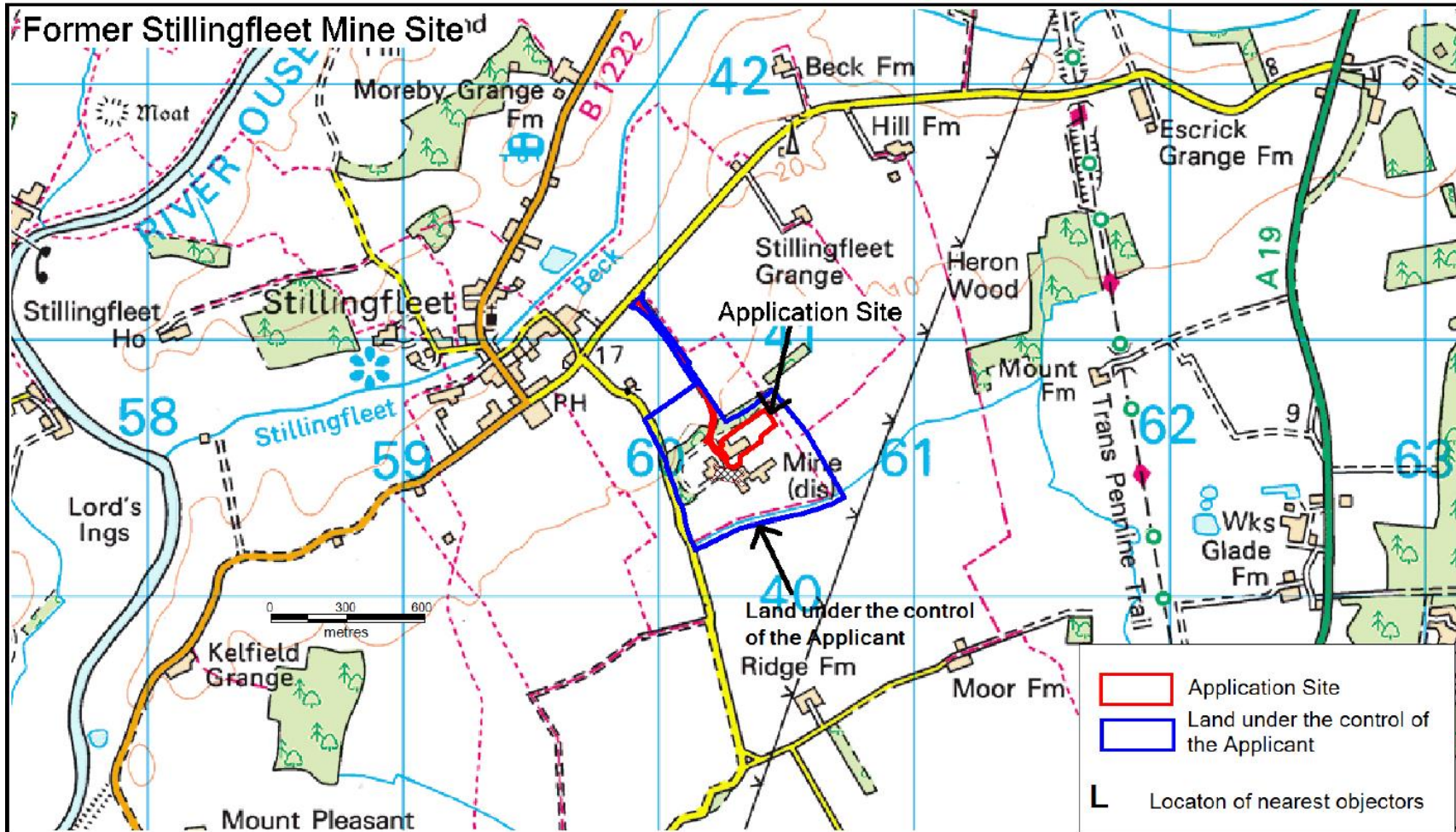
Application No :C8/999/16U/PA

Title: 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 at Former Stillingfleet Mine Site, Escrick Road, Stillingfleet

	Business & Environmental Services, North Yorkshire County Council County Hall, Northallerton, North Yorkshire. DL7 8AH
	Scale: 1:10,000 Date: July 2020 Filename: Stillingfleet Mine Compilation & Analysis: SAT/JB

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Appendix B – Wider Scale Committee Plan



Application No :C8/999/16U/PA

Title: 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 at Former Stillingfleet Mine Site, Escrick Road, Stillingfleet



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

Scale: 1:10,000
Date: July 2020

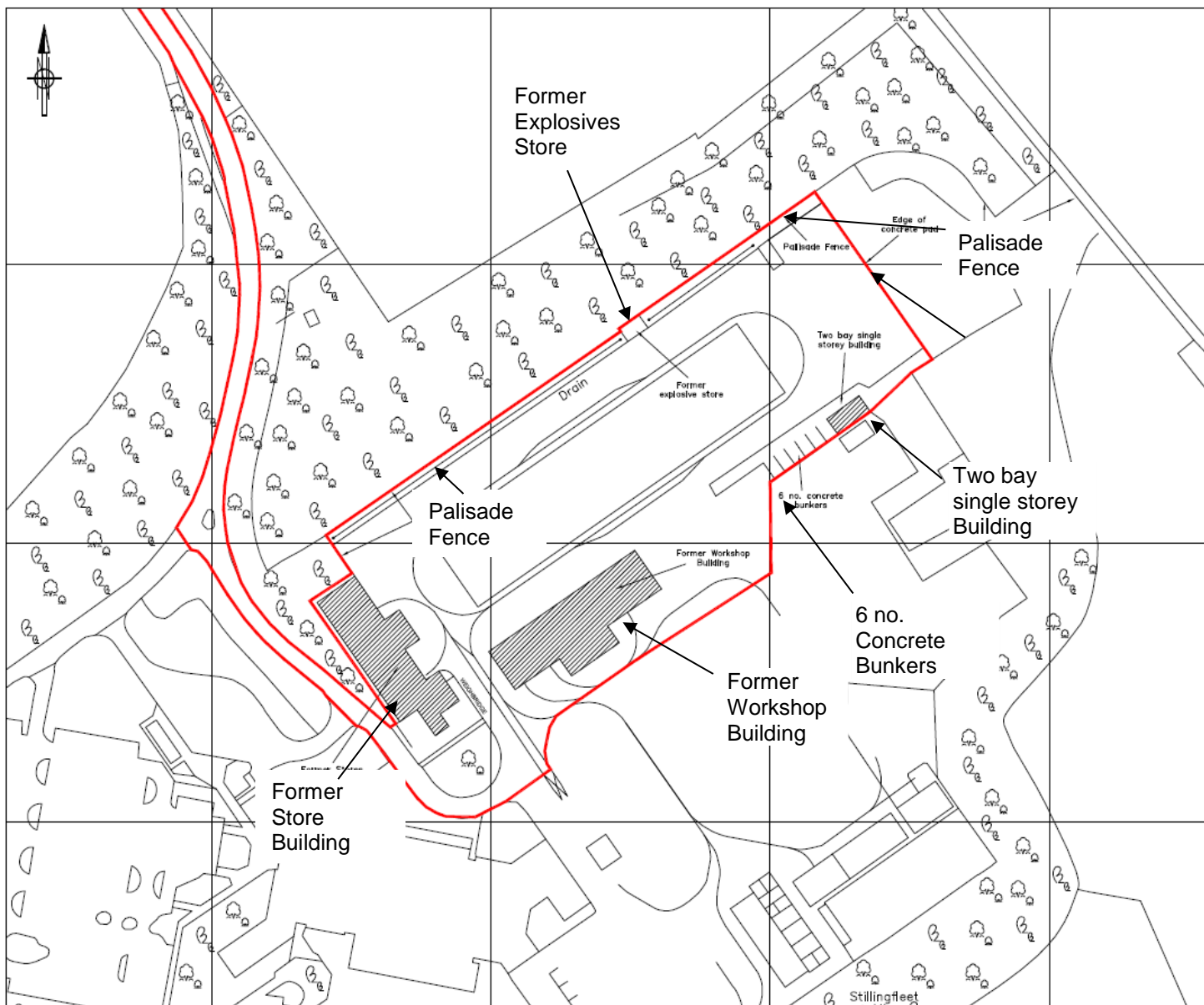
Filename: Stillingfleet Mine
Compilation & Analysis: NR/JB

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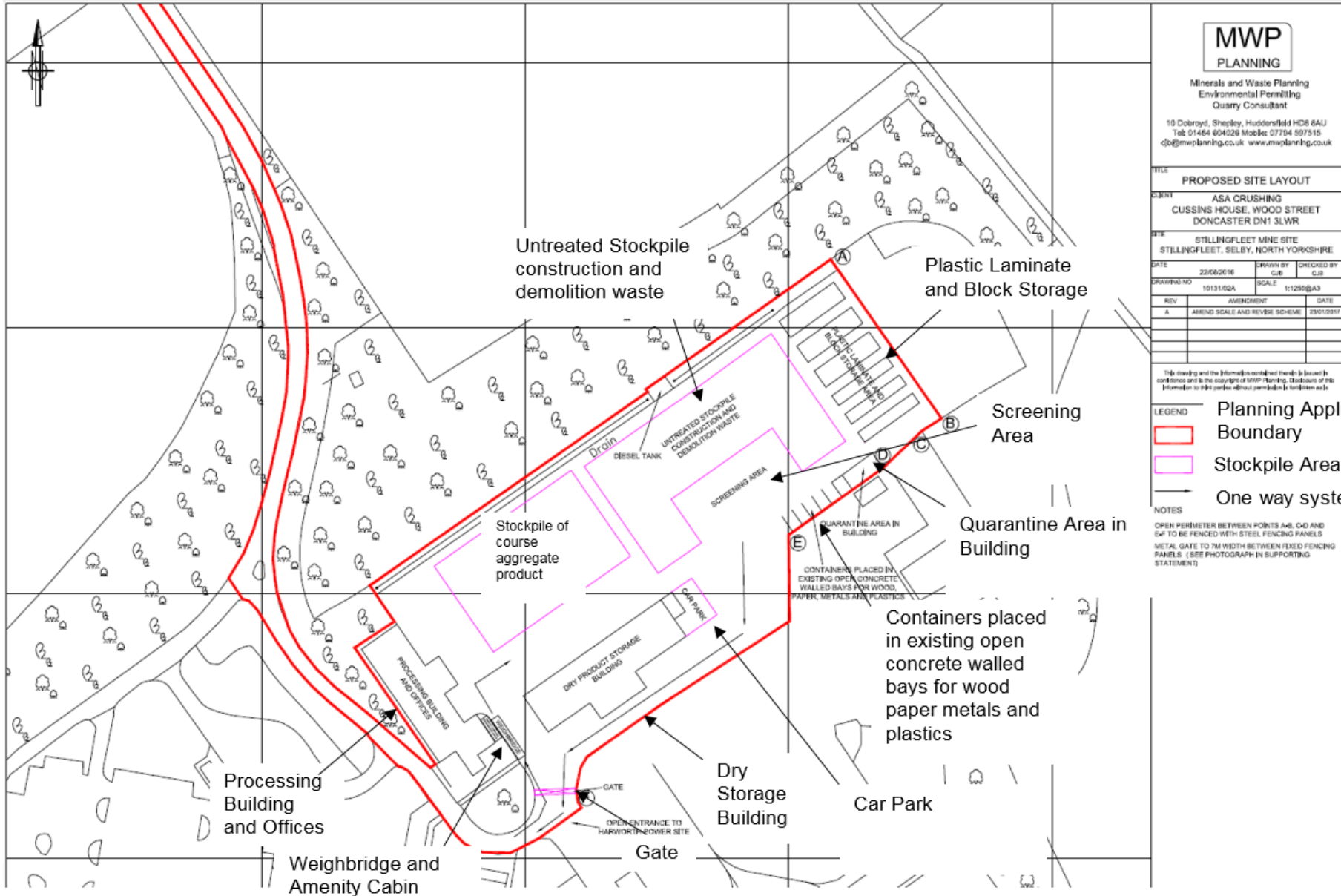
Appendix C – Aerial Photo (source: Google Maps – aerial photo 15th July 2020)



Appendix D - Existing Site Plan

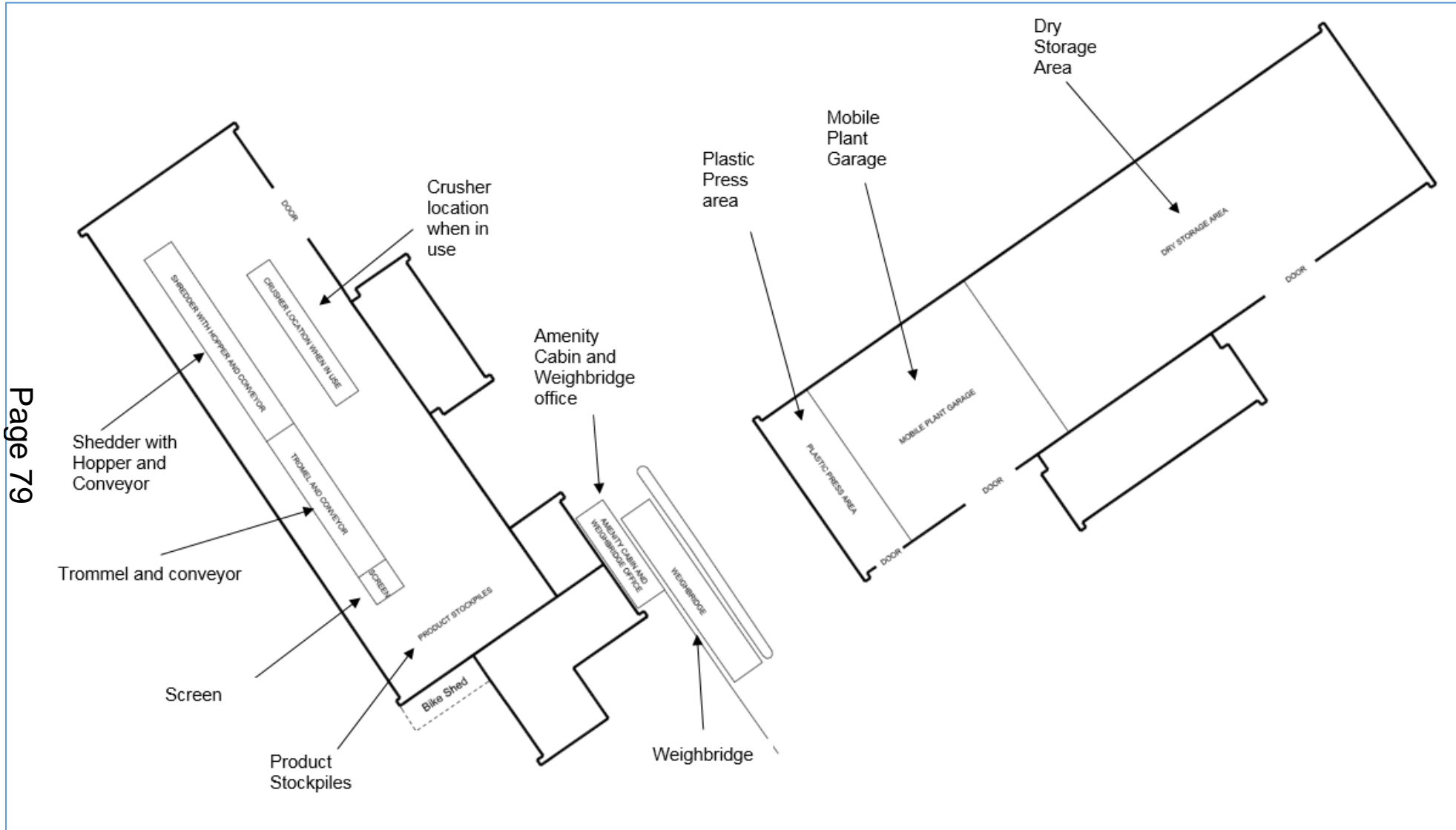


Appendix E – Proposed Site Plan

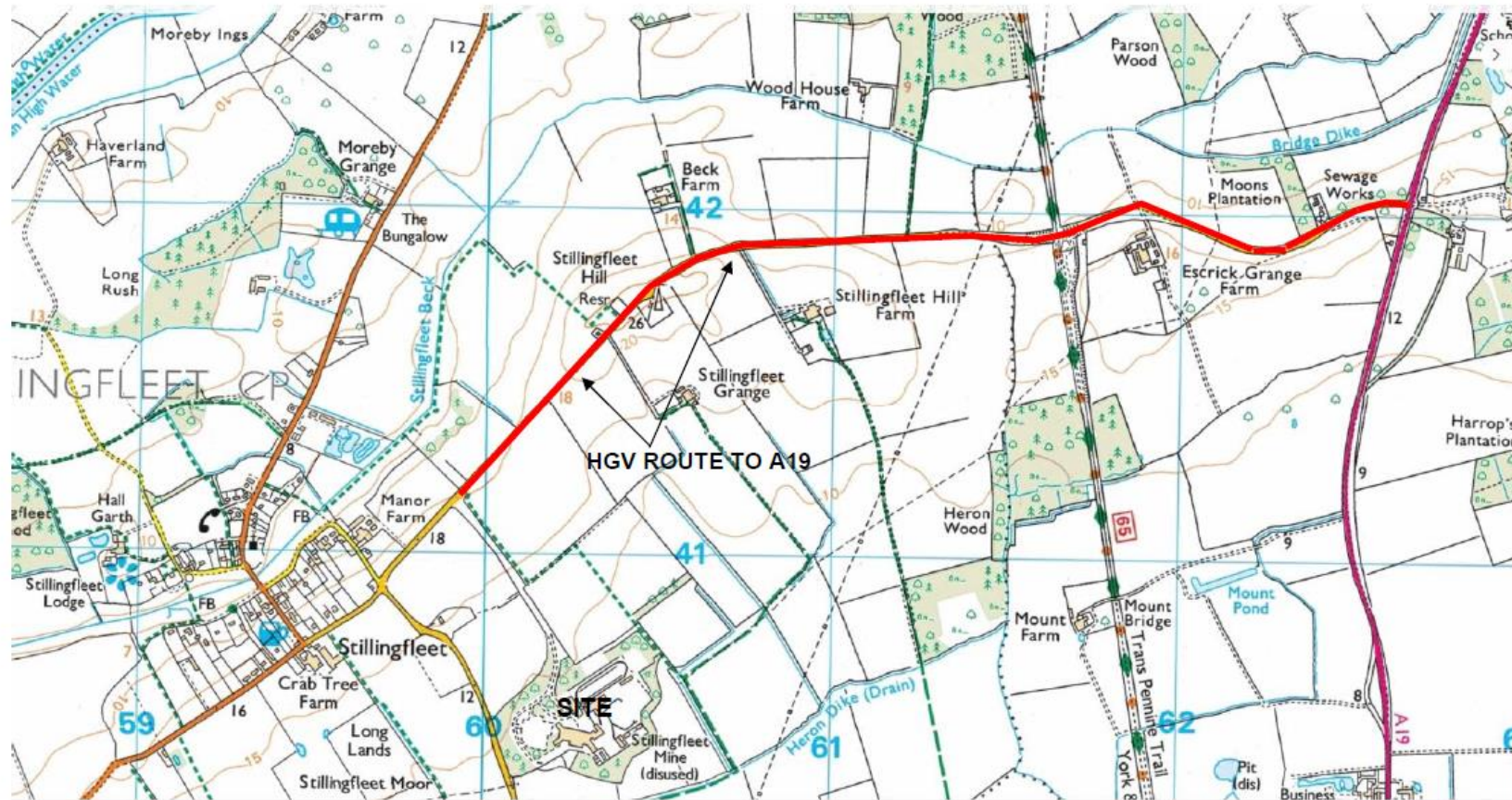


Appendix F – Internal Layout Plan

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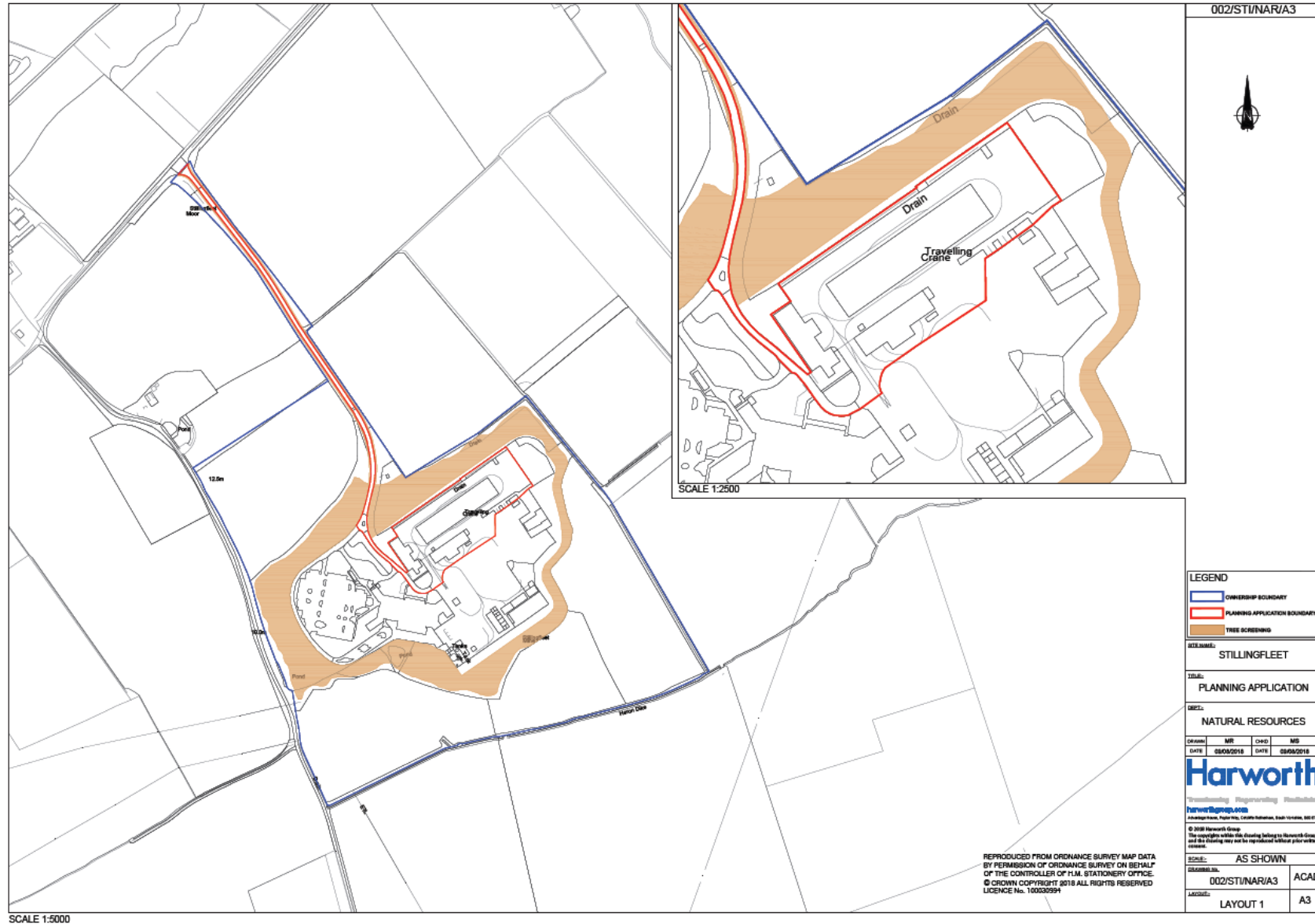


Appendix G – HGV Haul Route



<p>MWP PLANNING 10 Dobroyd, Shepley Huddersfield HD8 8AU Mobile: 07794 597515</p>	<p>PLAN B HGV ROUTE STILLINGFLEET MINE SITE STILLINGFLEET, SELBY</p>	<p>NOT TO SCALE DATE: 19/06/2017</p>
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Appendix H – Screening Management Plan



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North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

16 MARCH 2021

C8/999/16U/PA - (NY2016/0251/FUL) - PLANNING APPLICATION FOR THE PURPOSES OF THE 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 ON LAND AT FORMER STILLINGFLEET MINE SITE, ESCRICK ROAD, STILLINGFLEET ON BEHALF OF HARWORTH ESTATES (SELBY DISTRICT) (ESCRICK ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

ADDENDUM TO SUBSTANTIVE REPORT TO APPLICATION

1.0 Purpose of the addendum

- 1.1 This application was reported to the Committee at its meeting of 23 February 2021. The Committee resolved that the application be deferred for consideration of the further representations received since the publication of the report and an assessment of the issues they have raised.
- 1.2 In the interim, the application has not changed and there has not been any further documentation submitted in support of the application and no further consultations carried out since the report was prepared.

2. Representations

- 2.1 Following the publication of the agenda to the 23 February 2021 Committee meeting at the time of writing, 32 representations have been received objecting or maintaining previous objections to the application for the following summarised reasons:

2.2 General

- The objections raised by Stillingfleet, Cawood, Escrick and Kelfield Parish Councils, Selby Council and the views of former the County Councillor are supported.
- An Environmental Assessment has not been carried out.
- A liaison meeting has not been established, despite the assurances of the applicant.
- There has been a lack of public consultation on changes to the proposal and changes to local and national policy since 2019 preventing the opportunity for others with an interest in the proposal to update their representations.
- The report fails to properly explain the planning history to the site; the status of the land and there being no lawful use of the buildings. Mining is unlikely to commence in the future and the site has been abandoned. It is therefore an inappropriate

baseline to consider matters of principle as well as detailed matters relating to traffic, noise etc.

- There are conflicting descriptions of the buildings; paragraph 2.8 describes them as 'sound', paragraph 2.12 as 'dilapidated'.
- Following the change of name of the applicant was an updated certificate of ownership was provided?
- An Environmental Permit is required but is not in place.
- An Environmental Assessment has not been carried out.

2.3 Highways

- Traffic movements have been erroneously compared to those associated with British Coal.
- Escrick Road to the A19 is inadequate and incapable of accommodating any additional traffic let alone HGV's associated with the proposed waste transfer station.
- The junction of Escrick Road and the A19 is dangerous.
- An increase in traffic on Escrick Road would lead to a loss of amenity to residents on Escrick Road through noise dust and vibration and would pose a risk to cyclists and pedestrians accessing and using the trans-Pennine way cycle path.
- The proposal would lead to large numbers of HGV's using an inadequate road network adding to the problem of commuters using Stillingfleet village as a rat run to York.
- The historic road bridge over the beck in Stillingfleet would not be able to support large vehicles and would be a risk to local residents crossing the bridge on foot.
- HGVs would use the local road network coming from Sherburn via Cawood over a weight restricted bridge and travel through Kelfield adding to traffic noise and dust and creating traffic hazards in a village that is supposed to be benefiting from traffic calming measures.
- The access to the B1222 is incapable of accommodating any increase in vehicle movements.

2.4 Amenity

- The proposal would have a negative impact on the amenities of the area enjoyed by nearby residents and users of the nearby public rights of way through noise generated as part of the operations and by increased traffic on Escrick Road.
- The Committee report does not take account of all those homes that would be adversely affected and which are not shown on the supporting map to the committee report.
- The Committee report inaccurately reports or assesses the points raised in respect of noise, dust, pollution, health-critical air pollution, vehicle movements and adequacy of the highway.
- The noise assessment wrongly relies on the presence of stockpiled materials to predict the noise levels experienced outside the site.
- The proposed use would generate unacceptable levels of dust and dirt and lead to increased levels of exhaust emissions from plant and machinery and vehicles accessing the site to the detriment of nearby residential properties and users of the nearby public rights of way and public highway.
- The proposal would generate light pollution in hours of darkness to the detriment of the amenities of the area.
- The proposal would give rise to water pollution of the beck and other watercourses.

2.5 Landscape and Ecology

- The proposed use would have an unacceptable impact on the ecology of the area given the site has naturally regenerated and provides an attractive habitat for wildlife including barn owls, buzzards and bats. There are GCN's in the area and an EIA would have shown this.

2.6 Policy

- The proposal is contrary to emerging policy in the Selby District New Local Plan.
- The site is not identified for the proposed use in the NYJP.
- The land is Green Belt.
- The area is unspoilt and the proposal would be contrary to the intended land use and detrimental to the local environment and its inhabitants.
- The former mine site should be restored to agriculture as previously required by the planning permission. It is the negligence of NYCC that has resulted in the site not being restored and the proposal being brought forward.
- The site is an unsuitable location and not supported by the policies of the development plan.
- The proposal is contrary to Policy SP13 of the Selby District Core Strategy and the committee report has not acknowledged the objections of the District Council and their own interpretation of Policy SP13 when assessing the proposal against the policy (7.21).
- The site is correctly considered remote by the District Council, but incorrectly considered by the committee report in terms of access and relationship to the areas it proposes to serve.
- An incorrect assessment of the proposal has been made (7.27) of large scale and its relationship to the wider mine site. The proposal is contrary to Policy SP13 as it would be a large-scale intensive economic operation in a remote area. The former operational area of the mine extends to 8.2 hectares of the wider 32-hectare site, the majority of which is landscaped; the proposal is 2.2 hectares.

2.7 Development

- Selby has previously refused planning permission for industrial uses.
- A waste transfer site operated by the applicant at Selby Energy Park is in breach of conditions controlling hours of operation, noise pollution and lighting and to which complaints have been registered.
- The proposal is incompatible with proposed housing development in the area at Heronby – 3000 houses
- A transfer station collecting plasterboard would be better located nearer the British Gypsum works in Sherburn, which has a better road network.

3.0 Assessment of Representations received

Principle of the proposed development

- 3.1 One of the main issues raised in recent representations is that the site should have been restored to its former agricultural use and are critical of the County Council's failure to achieve this. This has been addressed in paragraph 2.13 in the appended report. Notwithstanding the requirements of condition 16 to planning permission C/8/999/16/PA, the County Council concluded in 2016, that it would not be expedient, reasonable, nor in the public interest to pursue formal enforcement action for the removal of the remaining buildings and hardstanding for the purposes of condition 16 when taking into account:

- the demolition work completed to date, namely 75% of the former structures had been removed (15 of 20);

- no visual or landscape harm or other harm to any interest of acknowledged importance was demonstrated to exist in relation to the site; and
 - changes in the local planning policy context (Selby Local Plan Core Strategy adopted in 2013) since enforcement action was first considered in 2010, and which is supportive of redevelopment of certain former mine sites.
- 3.2 The legal time limit for taking enforcement action for breaches of planning conditions is ten years from the date of the breach. The time limit for taking enforcement action against non-compliance with condition 16 expired in 2016 notwithstanding the decision not to take action for the reasons set out above. Consequently, there are no powers under the provisions of the Town and Country Planning Act 1990 to take enforcement action against the landowner to remove the remaining buildings and restore the site for the purposes of condition 16.
- 3.3 Reference is made to the refusal of planning permission for industrial uses on the site by Selby District Council. The application is referred to in paragraph 2.12 of the appended report, and addressed in paragraph 7.22 of the report.
- 3.4 Reference is made to a transfer station collecting plasterboard would be better located nearer the British Gypsum works in Sherburn, which has a better road network. This issue has been addressed in paragraph 7.12 of the report.
- 3.5 Reference is made to a similar facility operated by the applicant at Selby Energy Park, which, operates in breach of conditions controlling hours of operation, noise pollution and lighting and to which complaints have been registered. This is not material to the determination of this application; the proposed use must be considered on its own merits and against the policies of the development plan.
- 3.6 Reference is also made to a proposed development of 3000 houses at Heronby and that the proposal would have an unacceptable impact on future development. This is addressed in Policy below.

Policy

- 3.7 The policies of the development plan are set out in Section 6 of the report.
- 3.8 Recent representations objecting to the proposal refer to the former mine site falling within the Green Belt; this is not the case. The site does not fall within any designated area. The view is also expressed that the proposal is contrary to Policy SP13 of the Selby District Core Strategy and is not identified for the proposed use in the North Yorkshire Joint Plan. These matters are addressed in paragraphs 7.21 – 7.32 and paragraphs 7.16 – 7.19 of the report. There is nothing to add to these paragraphs. As has been addressed in the report, the mine site is not considered remote to the areas the proposed waste transfer station would serve and it is not considered a large scale or intensive economic activity.
- 3.9 Recent representations objecting to the proposal are of the view the proposal would be contrary to the emerging Selby District Council Local Plan and conflict with future housing development proposals to the east of the former mine site. The report does not refer to the emerging 'New' plan.
- 3.10 The Selby District Council 'New Local Plan' (the Plan) is in its formative stages. A public consultation on the 'Preferred Options Selby District Local Plan (2021)' was launched on 29 January 2021, extending to 12 March 2021. The consultation period is therefore current. The Plan is described as '*a vision and framework for future growth of the district, identifying new housing, employment and other development could take place*' and will set out the policies against which planning applications will be considered.

- 3.11 The consultation document '*sets out the Council's preferred approach to development growth in the District up to 2040*'. '*Preferred Approach EM2 – Protection of Employment Land*', identifies defined Key Employment Areas to be retained to safeguard existing or potential jobs. Paragraph 5.23 of the Explanation to the Preferred Approach states: *However, the remaining former mine sites at Stillingfleet and Wistow are remote and are not considered suitable for re-use for large scale or intensive economic activities.* Large scale or intensive economic activities are not defined. This statement reflects the explanation to Policy SP13 of the Selby District Core Strategy (paragraph 6.35 of the report) and comments made by Selby Council Planning, reported in paragraphs 4.5 and 4.6 of the report. The *Preferred Options Consultation* re-iterates the position of the Selby District Council Core Strategy This issue has been considered in paragraphs 7.21 – 7.32 of the report.
- 3.12 Representations have referred to the potential for 30000 new homes to be developed to the east of the former mine site and which the proposal could adversely affect. '*Preferred Approach SG2 – Spatial Approach*', proposes a new settlement option east of Stillingfleet Mine (Heronby), Church Fenton Air Base, or Burn Airfield to accommodate the longer-term growth of the District through the allocation of a minimum of 3000 homes. The Preferred Option Policy Map identifies 173 hectares of land to the south of Escrick Road, east of the former mine and west of the A19. The preferred use for the identified area is 'mixed use'. The location of the Preferred Option would be approximately 700m from the former mine site. There is no certainty to the future planning status of the site or development type given the 'Mixed use' identification. Given the pre-submission consultation stage of the Plan, it is considered very little weight should be afforded to it as it is still subject to objections and potential change. Consequently, the application must continue to be considered on its own merits and not on the basis that at some point in the future a preferred use area may be developed.
- 3.13 An objection has been received that paragraph 7.27 of the report inaccurately advises on the scale of the proposal relative to operational area of the former mine site. The paragraph advises the proposal would cover 2.2 hectares of the 32 hectares of the overall area of the former mine; this is correct. It is also correct to say the former operational area of the mine is 8.2 hectares (as stated in paragraph 2.2 of the report) of which the proposal would use 2.2 hectares.

Highways

- 3.14 Recent representations object to the proposal on highway grounds for the following summarised reasons:
- Escrick Road to the A19 is inadequate and incapable of accommodating any additional traffic let alone HGV's associated with a waste transfer station.
 - The junction of Escrick Road and the A19 is a dangerous access.
 - Increase in traffic on Escrick Road would lead to a loss of amenity to residents on Escrick Road through noise dust and vibration and would pose a risk to cyclists and pedestrians accessing and using the trans-Pennine way cycle path.
 - It would result in large numbers of HGV's using an inadequate road network adding to the problem of commuters using Stillingfleet village as a rat run to York.
 - The historic Bridge in Stillingfleet over the beck would not be able to support large vehicles and would be a risk to local residents crossing the bridge on foot.
 - HGVs would use the local road network coming from Sherburn via Cawood over a weight restricted bridge and travel through Kelfield adding to traffic noise and dust and creating traffic hazards in a village that is supposed to be benefiting from traffic calming measures.

- The access to the B1222 is incapable of accommodating increases in vehicle movements.
- 3.15 The Highway Authority has raised no objection to the proposal (paragraph 4.8 of the report). The Highway Authority has advised Escrick Road and its junction with the A19 is acceptable and has the capacity to accommodate the proposed levels of HGV movements subject to conditions and a vehicle routing agreement as part of the proposed Section 106 Agreement. Highway matters are addressed in paragraphs 7.47 – 7.60 of the report. Proposed conditions 4, 5, 6, 7, 10 and 11 would meet the Highway Authority's requirements and a proposed Section 106 Agreement would address vehicle routing to ensure all HGV's accessing and leaving the site would be via the A19 junction with Escrick Road and would not travel to or from the site via nearby villages including Stillingfleet or use the junction with the B1222. The representations do not raise any further matters to those which have been addressed in the report or which would lead to a different conclusion being drawn on the acceptability of the proposal.
- 3.16 Objections refer to the impact on the public rights and impacts on accessing the trans-Pennine cycle route via Escrick Road. The Highway Authority is satisfied Escrick Road has the capacity to accommodate the proposed 4, 5, increase in use by vehicles accessing the site (paragraph 4.8). NYCC Public Rights of Way have raised no objections to the proposal as long as public rights of way are kept open (paragraph 4.26). The representations do not raise any further matters to those which have been addressed in the report or which would lead to a different conclusion being drawn on the acceptability of the proposal.

Amenity

- 3.17 Recent representations object to the proposal on amenity grounds:
- The Committee report does not take account of all those homes that would be adversely affected and which are not shown on the supporting map to the committee report.
 - The proposal would have a negative impact on the amenities of the area enjoyed by nearby residents and users of the nearby public rights of way through noise generated as part of the operations and by increased traffic on Escrick Road.
 - The Committee report inaccurately reports or assesses the points raised in respect of noise, dust, pollution, health-critical air pollution, vehicle movements and adequacy of the highway.
 - The noise assessment wrongly relies on the presence of stockpiled materials to predict the noise levels experienced outside the site.
 - The proposed use would generate unacceptable levels of dust and dirt and lead to increased levels of exhaust emissions from plant and machinery and vehicles accessing the site to the detriment of nearby residential properties and users of the nearby public rights of way and public highway
 - The proposal will generate light pollution in hours of darkness to the detriment of the amenities of the area.
 - The proposal would give rise to water pollution of the beck and other watercourses.
- 3.18 The report considers the potential impacts on the amenity of the area, those properties in close proximity of the former mining site and along Escrick Road to the A19 though noise, dust and air pollution. These are addressed in paragraphs 7.61 – 7.77 in the report. It is not considers that the proposal would have any significant adverse impacts on properties further from the former mine site. Matters relating to highways and vehicle numbers are addressed in paragraphs noise; dust and pollution are addressed in paragraphs 7.47 – 7.60. It is maintained the noise assessment wrongly relies on the presence of stockpiled materials to predict the noise levels experienced outside the site. It is not uncommon for stockpiles to be used to mitigate noise. Irrespective of the

variation of height of stockpiles and their effectiveness to attenuate noise, the proposed imposition of condition 22 is to restrict noise levels as measured from the boundary of the operational area of the site.

- 3.19 Proposed conditions 20, 21 and 22 seek to control noise; proposed conditions 13, 18 and 20 seek to control dust; and proposed conditions 4, 5, 6, 7, 8, 10 and 15 seek to control highway matters. Additional conditions are proposed to control reversing alarms on vehicles and mobile plant and to ensure vehicles; plant and machinery are effectively silenced in accordance with the manufacturer's specifications. The representations do not raise any further matters to those which have been addressed in the report or which would lead to a different conclusion being drawn on the acceptability of the proposal.
- 3.20 Concerns relating to lighting are addressed in paragraphs 7.76 and 7.77 of the report. Proposed condition 17 requires details of a lighting scheme to be submitted. The representations do not raise any further matters to those that have been addressed in the report and therefore the conclusions to which have not changed.
- 3.21 Concerns are raised to the pollution of the Beck running through Stilligfleet and to other watercourses. The applicant undertook a Flood Risk Assessment; the site falls within Flood Zone 1 - at low risk of flooding. This remains the case although a very small part of the applicants land to the south of the former mining site adjacent to a ditch now falls within Flood Zone 2. The ditch flows away from the site. Foul drainage within the site would be managed through a portable system and there is an existing drainage system on the site. Waste material types would be controlled by proposed condition 12 and the site would require an Environmental Permit from the Environment Agency. The water environment and drainage are addressed in paragraphs 7.82 – 7.86 of the report. The representations do not raise any further matters to those which have been addressed in the report or which would lead to a different conclusion being drawn on the acceptability of the proposal.

Landscape and Ecology

- 3.22 Recent representations object to the potential impact of the proposal on the ecology of the area given the site has naturally regenerated, provides an attractive habitat for wildlife including barn owls, buzzards and bats and that an EIA would have demonstrated there are Great Crested Newts in the area.
- 3.23 An ecological appraisal was submitted by the applicant in January 2019 and is not considered out of date. The appraisal found the site does not contain any ponds suitable for breeding amphibians including Great Crested Newts and no other ponds linked to the site by semi natural vegetation were recorded. The County Councils Ecologist has raised no objection (paragraph 4.27). Impacts on ecology have been addressed in paragraphs 7.78 – 7.81 of the appended report. The representations do not raise any further matters to those which have been addressed in the report or which would lead to a different conclusion being drawn on the acceptability of the proposal.

General

- 3.24 Recent representations objecting to the proposal offer their support to those objections initially raised by Stilligfleet, Cawood, Escrick and Kelfield Parish Councils, Selby Council and the (former) local County Councillor. Those objections are considered in Section 7 of the appended report.
- 3.25 The need for an Environmental Statement is addressed in paragraph 2.14 of the report. A Screening Opinion was adopted on 3rd May 2017; the opinion was that the proposed development would not give rise to significant environmental effects and therefore the

application does not constitute Environmental Impact Assessment requiring an Environmental Statement. There have been no further development proposals on the former mine site, or in the vicinity (the site is located in open countryside) since the Screening Opinion was adopted; therefore there are no in combination effects to consider.

- 3.26 There have been no further changes to the application necessitating further consultation since 2019; the policies of the emerging North Yorkshire Joint Plan have been the subject of separate consultation and examination. The emerging Selby District Local Plan Preferred Options is at the pre-submission stage and therefore still subject to objections. The emerging Plan does not refer to the former mine site in any different terms to those referred to in the Selby District Core Strategy and which has been considered in paragraphs 7.21 – 7.32 of the appended report.
- 3.27 The planning history of the site is set out in Section 2 of the appended report. Mining ceased in 2004. The mine was abandoned, the shaft filled in and most buildings were demolished by 2012. Only hard standings and the buildings the subject of this application remain along with the electricity generating equipment. It is unlikely mining will recommence. The site has no lawful planning status. Without any enforceable restoration plan, the impact of the proposal can only be considered on what is there now, as it is unlikely to change. Any planning applications on the site must be considered on their own merits and against the relevant policies of the development plan. This has been carried out in Section 7 of the appended report and which does not compare the proposal with the former use of the site.
- 3.28 The condition of the two remaining buildings has been questioned, given the description of them as ‘sound’ in paragraph 2.8 and ‘dilapidated’ in paragraph 2.12 of the report. The buildings are steel portal framed with a combination of brick and sheet metal walls and roofs. They are in a sound condition but insecure and in need of maintenance. The buildings will be shown in the presentation of the application.
- 3.29 Representations note the applicant’s name was changed during the course of the planning application process in July 2018 to Harworth Estates and question whether an updated certificate of ownership was provided. An updated certificate of ownership (Certificate A) was submitted when the name of the applicant was changed.
- 3.30 A liaison committee is proposed to be convened should planning permission be granted and would be required through the proposed Section 106 Agreement.

4.0 Summary

- 4.1 The additional representations objecting to the proposal or maintain their objection to the proposal raise matters that have already been addressed in the report or addressed above. The reasons for objecting do not change the conclusions already drawn in the report that the proposal is considered acceptable and can be supported for the reasons set out in the report.
- 4.2 Additional conditions are proposed to control reversing alarms on vehicles and mobile plant and to ensure vehicles, and plant and machinery are effectively silenced in accordance with the manufacturer’s specifications:

Within three months of the date of this permission, a scheme and programme describing the types of reversing alarms to be fitted to mobile plant on the site shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall provide for the fitting of non-audible reversing systems or should include details of alternative measures that will be adopted should non-

audible warning systems fail to operate or be unsuitable. Following the written approval by the County Planning Authority the reversing alarms contained in the approved scheme and programme shall be fitted to all mobile plant used on the site within three months of the date of the approval and thereafter used at all times during the duration of landfilling and restoration operations.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users.

All plant, equipment and machinery used in connection with the operation and maintenance of the site shall be equipped with effective silencing equipment or sound proofing equipment to the standard of design set out in the manufacturer's specification and shall be maintained in accordance with that specification at all times throughout the development.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users.

5.0 Recommendation

5.1 That this addendum be read in conjunction with the published substantive report.

K Battersby Corporate Director, Business and Environmental Services

Background Documents to this Report:

Published Substantive Report to Committee on 16 March 2021

Author of report: Victoria Perkin

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North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

16 MARCH 2021

C3/19/01184/CPO - PLANNING APPLICATION FOR THE PURPOSES OF THE 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 TO 48 PER DAY ON LAND TO THE SOUTH OF KNAPTON QUARRY, EAST KNAPTON, MALTON, NORTH YORKSHIRE, YO17 8JA ON BEHALF OF KNAPTON GREEN ENERGY TETRAGEN (KNAPTON UK) & NCG ESTATES (RYEDALE DISTRICT) (THORNTON DALE AND THE WOLDS 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 conditions no.s 2 and 30 of planning permission ref. C3/16/01918/CPO (dated 1st August 2018) 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), increase maximum stored waste from 600 tonnes to 1080 tonnes 3 days fuel) at any time and increase vehicle movements from 40 to 48 per day on land to the south of Knapton Quarry, East Knapton near Malton on behalf of Knapton Green Energy Tetragen (Knapton UK) & NCG Estates.
- 1.2 This application is subject to objections having been raised in respect of this proposal, relating to need, sustainability, impact upon amenity, air quality, visual impact, highway impact and the principle of development by members of the public (detailed in Section 5.0) and also concerns raised by Wintringham and Scampston Parish Councils (detailed in Section 4.0) and is, therefore, reported to this Committee for determination.

2.0 Background

Site Description

- 2.1 The application site lies on the Yorkshire Wolds approximately 10 kilometres to the east of Malton and south of the A64 Malton to Filey trunk road. It comprises 4 hectares of land to the immediate south of the former Knapton Quarry and the existing waste transfer, treatment and landfill which is a long established 10 hectare site on the north-facing, downhill slope with Knapton Wood at a higher level to the south. The private site access road is off the A64 and runs in a north-south direction uphill to the entrance to the landfill site and waste transfer buildings.

- 2.2 The application site is currently undeveloped greenfield Grade 3 agricultural land in an open countryside location on the north facing scarp of the Yorkshire Wolds on the southern flank of the Vale of Pickering, benefitting from planning permission for a Green Energy Facility, which is yet to be implemented. This was granted on 1st August 2018 and therefore is still within its three-year statutory time limit for implementation. The level of the land forming the southern part of the application site rises from approximately 82m AOD in the north-east corner up to approximately 96m AOD in the south-west corner. The dominant land use of the surrounding area is open farmland and woodland. The Knapton Wood plantation occupies an elevated position and extends to the south-west, south, south-east and east of the application site. The Sands Wood plantation is 780m to the west of the application site. The application site falls within an Area of High Landscape Value (AHLV) as defined by the Ryedale Plan-Local Plan Strategy (2013).
- 2.3 The application site itself is not located within, or immediately adjacent to a wetland, coastal zone, mountain and forest area, nature reserve and park, is not a designated area (such as SSSI, SPA/SAC, RAMSAR, AONB), or a densely populated area or a landscape of national significance. At its closest point, the boundary of the North York Moors National Park is approximately 9km north-west of the application site. Knapton Hall is 1.1km to the north-west of the application site. The nearest listed building is the Church of St Edmund (Grade II) in the village of East Knapton around 1km to the north west of the application site. Scampston Hall (Grade II*) is 2.4km west of the application site and is set within a Registered Park and Garden (Grade II*); the boundary of which is 1.3km west of the application site at its closest point. There is a Scheduled Ancient Monument (a cross dyke) 250m to the south of the application site beyond Knapton Wood. The application site has the potential to be of some archaeological significance.
- 2.4 The villages of West and East Knapton are 1.3km to the north west, West Heslerton is 1.5km to the east, Wintringham is 1.6km to the south-west and Scampston is 2.5km to the west. There are no residential properties within close proximity of the application site. The nearest residential properties are at West Farm beyond Knapton Wood approximately 750 metres to the south east. A caravan and camping site (Wolds Way) is also located approximately 850 metres to the south east. There is also a telecommunications mast near West Farm 800m south-east of the application site which is visible on the skyline when viewed from the A64 and other positions to the north. There are residential properties east of the village of East Knapton at Mill Grange and Hartswood Farm (and a small campsite) which are 1km to the north-east of the application site on the northern side of the A64.
- 2.5 Public bridleway number 25.81/15/1 (along Knapton Wold Road) is approximately 500 metres to the west and public bridleway number 25.81/24/1 runs 250 metres to the south of the application site (separated by Knapton Wood). The Wolds Way National Trail runs in an east-west alignment, which at its closest point is approximately 250 metres to the south of the application site (also separated by Knapton Wood).
- 2.6 The site lies in Flood Zone 1 (low risk) and is located on the Chalk (Principal aquifer) but is close to the boundary with the Speeton Clay Formation (unproductive strata). The site is not located within a Source Protection Zone and there are no licensed abstractions in the vicinity.
- 2.7 A plan showing the application site is attached to this report.

Planning History

- 2.8 The application for the erection of a Green Energy Facility comprising (6,342 sq. metres gross external area) (energy from waste via gasification), office reception building (91 sq. metres), substation & switchroom (39 sq. metres), air cooled

condensers (377 sq. metres), installation of a weighbridge, earthworks, 20 car parking spaces, extension to internal access road, landscaping and associated infrastructure, including a local connection via underground cable (340 metres) to the 11kV grid via a proposed substation at the land South of Knapton Quarry landfill site was submitted in November 2016 (ref: NY/2016/0194/ENV) and was granted permission on 1st August 2018 (Decision No C3/16/01918/CPO) subject to 36 conditions. This permission has yet to be implemented; however, it is this permission which is the subject of this current application to vary condition numbers 2 and 30 therein.

- 2.9 Prior to the submission of this current application, in February 2019, a non-material amendment application under Section 96A of the Town & Country Planning Act 1990 was submitted for the removal of reference to the word '*gasification*' in the description of the process technology, remove one of the two air cooling systems and an increase in HGV movements from 40 to 48 (ref: NY/2019/0038/NMT). This non-material amendment was subsequently approved in April 2019.
- 2.10 Subsequent to the above, in July 2019, conditions relating to a power line installation scheme; Archaeological Written Scheme of Investigation; Archaeological Identification and Evaluation; Surface Water Drainage; Landscape Scheme; replacement of failed planting; and cable route were discharged on 4th November 2019.
- 2.11 The conditions relating to a Landscape Management Plan and a Biodiversity Enhancement Plan were discharged in March 2020.
- 2.12 The extant permissions for the adjacent wider Knapton Quarry site are references C3/12/00997/CPO (dated 26th November 2016) (landfill), C3/12/00795/CPO (28 September 2012) (composting), C3/08/00235/CPO (dated 3 June 2008) (pre-treatment of waste building & weighbridge) and C3/09/00833/CPO (30 September 2009) (waste transfer and recycling building). The planning permissions for the pre-treatment of waste building & weighbridge and the waste transfer and recycling building include conditions which only permit the use of the buildings until the completion of the associated tipping operations, or by March 2035 after which they should be removed and the land restored.
- 2.13 The two most recent permissions (C3/17/00604/CPO (dated 18 January 2018) relating to the retention and change of use of existing waste transfer buildings and associated yard, weighbridge and ancillary structures to allow for waste recycling and pre-treatment operations and C3/19/00012/CPO (dated 20 December 2019) relating to the variation of condition no's. 8, 10, 11, 13 & 22 of planning permission ref. no. C3/17/00604/CPO which relates to the time limit for the submission of a Noise Monitoring Scheme, Fire Prevention, Landscape Scheme, Landscape Management Plan and Litter Management Plan lapsed on the 18th January 2021 and can no longer be implemented without the prior express grant of planning permission.

3.0 The Proposal

- 3.1 The application seeks to vary conditions no.s 2 and 30 of planning permission ref. C3/16/01918/CPO (dated 1st August 2018) 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 1,080 tonnes (3 days of fuel) at any time and increase vehicle movements from 40 to 48 per day.
- 3.2 Condition no. 2 (relating to the definition of development) attached to the extant permission sought to be varied currently reads as follows:

"The development hereby permitted shall be carried out in accordance with the application details dated 29 September 2016 as amended by the further/amended environmental

information dated February 2017 and September 2017 and the list of 'Approved Documents' at the end of the Decision Notice and the following conditions which at all times shall take precedence.

Its imposition was to ensure that the development is carried out in accordance with the application details.

3.3 Condition no. 30 (relating to HGV movement limit) currently reads as follows:

"There shall be a maximum of 40 HGV movements associated with the development in any single day entering and leaving the site via the existing junction with the A64. Vehicles entering and leaving the site shall be monitored and the applicant shall be required to provide the County Planning Authority with weighbridge records within 10 days of any written request from the County Planning Authority.

Its imposition was in the interests of highway safety and amenity.

3.4 In seeking to vary condition no. 2 of the extant permission, the applicant proposes to increase the tonnage of waste received from around 80,000 tonnes per annum up to 130,000 tonnes per annum in order to facilitate the use of Refuse Derived Fuel (RDF) as an alternative waste fuel. This has a lower calorific value (CV) than the Solid Recovered Fuel (SRF) that was previously proposed for use in the originally intended 'gasification' process. In addition, the storage of waste is proposed to be increased from the previously proposed maximum of 600 tonnes to 1,080 tonnes at any one time. This would represent three days' supply of fuel at the increased consumption rate of 15 tonnes/hour/day.

3.5 The applicant's proposed new wording for condition no. 2 is as follows:

'The development hereby permitted shall be carried out in accordance with the application details dated 29 September 2016 as amended by the further/amended environmental information dated February 2017 and September 2017, together with the S73 Variation of Conditions ES V1 September 2019, along with the list of 'Approved Documents' at the end of the Decision Notice and the following conditions which at all times shall take precedence'.

3.6 The applicant has further agreed to the imposition of a condition restricting throughput of material to the GEF to a maximum 130,000 tonnes per annum (in accordance with the application being made to increase the throughput):-

"The tonnage of waste received at the Green Energy Facility shall be up to 130,000 tonnes per annum and maximum stored waste shall be 1,080 tonnes at any time".

3.7 As a result of RDF production requiring less screening processes than SRF production, it allows for lower calorific value combustible fractions to be turned into energy rather than sending these fractions for disposal by landfill. However, the lower energy content of RDF means that a greater tonnage of waste is required to maintain an equivalent electrical output. Notwithstanding, the applicant states that all emission limits remain unchanged. This is due to the similarity of the physical processes of combustion and gasification to provide the heat for powering either a gas Internal Combustion Engine or Steam Turbine. The result is a different type of combustion chamber within the GEF, with 'no effect or impact on any of the granted planning conditions'. The applicant states that the process would create heat and green electricity by combustion of the waste fuel in a single sealed furnace chamber, and that this would be complemented by a boiler island, steam turbine, generator set, gas cleaning and an ash handling system. The water needed for steam production would be condensed and re-used in a closed-loop system.

3.8 As explained by the applicant, waste would be delivered in covered lorries and deposited in a negative pressure environment in the reception bay at the GEF. As such, the waste is not exposed to the elements and has no impact on the environment

regardless of the throughput tonnage. Fast-acting roller shutter doors would also mean that odours and noise would be contained inside the building.

- 3.9 In seeking to vary condition no. 30 of the extant permission, the applicant proposes to increase the HGV movements from 40 to 48 per day (an additional 4 in, 4 out), to allow for a degree of flexibility in the incoming weight of waste being carried by HGVs. Condition 30 of the original consent permitted the movement of up to 40 HGVs and this was subsequently increased to 48 by way of a non-material amendment approved on 8th April 2019. However, despite being previously approved, its inclusion here in this current application requires this element to also be duly considered. The Applicant proposes to vary condition no. 30 of the extant permission to read as follows:

'There shall be a maximum of 48 HGV movements associated with the development in any single day entering and leaving the site via the existing junction with the A64. Vehicles entering and leaving the site shall be monitored and the applicant shall be required to provide the County Planning Authority with weighbridge records within 10 days of any written request from the County Planning Authority..'

- 3.10 In placing proposed vehicle movements into context, the applicant has explained that because of the lower quantum of waste required by the GEF compared to the historic landfill operations and the proposed higher delivery vehicle payloads, vehicle movements would be significantly reduced compared to historical activities at the quarry (from 170 two-way movements for the landfill only down to 48 two-way movements for the GEF (48 HGV and 20 non-waste i.e. staff movements) and 116 two-way movements for all waste activities at the GEF and Knapton Quarry site combined, compared to a total of around 235 two-way movements for all activities when the landfill was operational).
- 3.11 Traffic movements are envisaged to average twenty to twenty-four 44 tonne HGVs per day, with a typical payload of 24 tonnes each. These were originally to deliver the non-recyclable waste to the Waste Transfer Station site for treatment (24 in and 24 out), however these are now proposed to travel straight to the GEF with pre-sorted waste. Where storage or pre-treatment at the transfer site is necessary, an internal vehicle would move the fuel to the GEF. Internal vehicles would not enter the public highway and are only associated with onsite operations. In addition to the above, it is anticipated that there would be a further 20 movements per day associated with cars for staff and visitors arriving at the Site (10 in and 10 out).

Type of Trip	Average
No. of vehicle movements/working day delivering non-recyclable waste	24 (48)
Estimated payload of delivery vehicles	24 tonnes
Estimated number of non-waste vehicles/working day	10 (20)
Total vehicle movements / working day	68

- 3.12 The waste deliveries would be made in accordance with the condition previously imposed i.e. between 06:30–18:30 Monday to Saturday and 09:00–17:30 on Sundays and no HGV movements into or out of the site or loading or unloading of HGVs on Bank/Public Holidays. The GEF itself would operate as originally intended i.e. 24 hours a day; being staffed, in the main, between 8am to 8pm, but operating on automated systems throughout the night. In order to ensure the facility operates 24 hours a day, as mentioned earlier, it is proposed that the GEF would store up to three days' supply of RDF fuel within the waste reception area of the GEF building; circa 1,080 tonnes.
- 3.13 All other aspects of the operation are proposed to remain as consented, including access, lighting, mitigation and agreed conditions. This includes the external design of the plant, its colours, dimensions and finishes; landscaping and the screening of the plant. The approved details of the GEF (as amended by the 2019 non-material amendment) include internal access road improvements; reductions in hardstanding

and the inclusion of a weighbridge, office and welfare facilities. The applicant has clarified that whilst the final design of the internals is to be agreed, the approved design of the building and wider scheme would be unaffected. Lastly, the waste from the GEF would be predominantly bottom ash (a non-hazardous inert char left over by the process) and this would be used as a component of the restoration material for use at the adjacent Knapton Quarry landfill site.

- 3.14 During the course of the processing the application, the applicant submitted further information (January 2020) relating to air quality and in October 2020 in relation to climate change and human health.
- 3.15 The application is accompanied by an Environmental Statement (ES). It describes the development; reports on the results of the Environmental Impact Assessment (EIA); discusses alternatives and assesses the significance of any potential impact of the proposed development in relation to the following: socio-economic issues; landscape and visual impact; air quality and odour; noise; transport and traffic; and ecology. The original application included a Landscape and Visual Impact Assessment (LVIA) undertaken for the proposed GEF and through an amended LVIA and drawings in 2017, the applicant has taken account of the changes now approved to the height of the GEF.
- 3.16 The Environmental Statement (ES) has assessed the variations of conditions requested and the effects of the variations together with the existing permission for the Green Energy Facility (GEF). It explains that the change to the waste throughput tonnage and stored waste tonnage *will not*:
- *change or impact on the consented building envelope or change the visual impact,*
 - *have any deleterious impact on odour from the plant,*
 - *affect noise emissions from the GEF since the requested changes relate only to the amount of waste processed and stored within the building,*
 - *affect the atmospheric emissions from the GEF, which will remain fully compliant with the Industrial Emissions Directive Chapter IV as per the existing Air Quality Limits supplied with the original application: (11. Emissions data)'*

4.0 Consultations

The consultee responses summarised within this section of the report relate to responses to consultation undertaken on the 30 September 2019 and the subsequent re-consultation (in March 2020) following the receipt of further/amended information relating to the stack height and emissions data and in October 2020 relating to climate change and human health impact.

- 4.1 **North York Moors National Park Authority** – responded on 2nd October 2019 stating, *'The key consultation consideration for this Authority is considered to be visual impact on the setting of the National Park. Subject to NYCC satisfying itself that there will be no significant plume from the stack as a result of the proposed revised fuel input, this Authority considers the development would not be likely to have an adverse impact on the setting of the National Park or on the public enjoyment of views out from the National Park, due to the distance from the Park boundary and the backdrop of the higher ground of the Wolds beyond or the enjoyment of the Wolds Way National Trail and as such have no objections.'*
At the time of writing this report, they have not replied to the re-consultation.
- 4.2 **Wintringham Parish Council** - responded on 18th October 2019 stating, *'The increase in the proposed tonnage received at the site is 50,000 tonnes per annum, which is a 62 percent increase on the original proposal. Given that the original application made great play of the fact that a significantly smaller amount of waste would be used by the Gasification plant (and that the number of vehicle movements would be much less than is currently the case), this appears to be a deception of the true scale of the operation.'*

If the proposed tonnage does increase by 62%, why does the application only suggest that the vehicle movements will be increased by 20%, from 40 to 48 per day. We cannot avoid the feeling that this is one step towards a gradual increase in the scale of the plant's operation, above and beyond what was originally proposed and approved, which causes the original approval decision to be questioned.'

Following a re-consultation, the Parish Council responded on 20th March 2020 to say *'The original planning application lauded the technology of Gasification, but the latest proposal is for a less efficient, more pollutant and higher waste creating operation. The analysis of the emissions likely from the plant concludes that the pollutant which may affect Wintringham (and all other nearby places) will be Chromium, a pretty dangerous substance. They state that the amounts involved are said to be within safe limits, but worrying nevertheless.'*

Also of concern in the letter from Tetragen is a statement that although there will be more lorry movements, most of these will be from East Yorkshire (presumably trying to negate any objection to large lorry miles). This means more of these lorries will probably come through Wintringham, rather than up and down the A64. The road through and beyond our village is narrow (not even wide enough for a central white line!), and when a large vehicle uses it there is not room in some places for another vehicle to pass in the other direction. Can a restriction on the routes taken by the Energy Plant vehicles be imposed so that they only use roads which are designed to cope with large 44 tonne vehicles, rather than narrow village lanes.'

[Officer note: *there exists a condition upon the existing consent which this application proposes to vary which requires only the access to the A64 to be used (condition no. 29). The Construction Environmental Management Plan (CEMP) (condition no. 5) and Construction Traffic Management Plan (CTMP) (condition no. 6) on the existing permission can also be used to control lorry movements during construction. The applicant has agreed the existing conditions may be amended to clarify that only the main roads will be used, should permission be granted; confirming that no movements will be via roads other than main roads, and therefore it is not considered that the amendment is necessary.*

CEMP and CTMP able to control movements for during construction phase, and condition, which restricts vehicle movements (condition no.s 8, 29 & 30), would control these during the operational phase.

Unilateral Undertaking would control the operation of the Waste Transfer Station – to be retained until 2035, after which would be removed and restored as per extant permission.]

At the time of writing this report, the Parish Council have not replied to the re-consultation.

- 4.3 **Heslerton Parish Council** - responded 28th November 2019 to state, *'Concerns were raised about the increase in heavy lorries travelling to and from the site. They are already waiting on the A64 to get access to the site at certain times, causing some congestion on the A64 as a result. We feel that the private access road connecting the site with the A64 should be widened sufficiently to allow HGV's to pass each other and to allow parking facility for those vehicles waiting to deliver to the site. This would alleviate the existing problems being experienced and prevent future increases. We strongly feel that this requirement should be a condition to any changes made to these or future conditions.'*

[Officer note: *improvements are proposed to be made to the internal access roads on site (as part of the original planning consent) and these, together with the waste reception building already granted planning permission, would allow the necessary room for passing, queuing and cleaning vehicles.]*

At the time of writing this report, the Parish Council have not replied to the re-consultation.

- 4.4 **Health & Safety Executive (Hazardous Installations Dir)** - use of the automated system for consulting on proposals reveals the HSE has no interest in the proposal.

- 4.5 **NYCC Heritage – Archaeology** - responded 7th October 2019 stating, *'The proposed variation does not have any additional impact on the archaeological resource, mitigation for which is secured by planning conditions 13-15.'*

A further response was received to the re-consultation on 20th November 2020 stating 'no additional observations to make in light of the amendments'.

- 4.6 **NYCC Heritage – Ecology** responded on 1st October 2019 stating, '[on the basis that] *“the requested change to the waste tonnage throughput, and stored waste, will not materially increase any of the impacts identified in the detailed reports submitted in support of the original planning application... we would not expect significant ecological impacts additional to those arising from the original, consented development.”* Following re-consultation, a response was received on the 9th November 2020 returning no comment.
- 4.7 **Environment Agency York** responded initially informally on 21st October 2019 and formally on 29th October 2019 with a holding objection stating that they required more information upon stack height and air quality.

Following further discussions and further information in relation to the stack height parameters and emissions data, the Environment Agency responded again on 28th January 2020 stating,

'We have no concerns with the proposal in principle, but if any potential impacts upon the water environment are identified, these should be assessed in terms of the Water Framework Directive. This assessment should take into account both surface water and groundwater and ultimately ensure that the proposal does not lead to deterioration of any overall water body statuses or individual element statuses of any WFD water bodies.'

Following further formal consultation, the Environment Agency responded again on 3rd April 2020 reiterating their response of 28 January 2020.

A further response to the re-consultation was received on 24th November 2020, stating that the Landfill Team has no comments. They have however given further advice on issues related to the site's location adjacent to landfill sites which were permitted to receive non-hazardous waste. They state that this *'could give rise to the following risks: landfill gas odour and migration, waste instability, groundwater contamination, escape of landfill leachate'*. They highlight that Knapton Quarry Landfill site is also known to be producing landfill gas, and highlight its risks, listing guidance documents available on the topic, adding: *'An examination of our records of this monitoring show that there is previous evidence of landfill gas migration from the site that could affect the proposed development.'*

[Officer note: *the risks identified above, while drawn attention to by the Agency are unchanged insofar as the assessment of this current application for the variation of conditions relating to tonnages and vehicle movements*]

- 4.8 **Scampston Parish Council** responded 28th June 2020 stating, *'this amendment seems to be moving forward without relevant parties being notified. This feels worrying for my Parish Council and concerned parishioners.*

Within the proposal an enlarged area is being requested in order to make the scheme 'viable'.

The parish council feels there are other, more important environmental considerations that seem more pressing than purely economic viability for a commercial operation. The disturbance to both flora and fauna in the locality should be prioritised when any decision is made proposing large scale industrial development of what would be an extension into a green field site.

This proposed area increase raises the very real potential for increased heavy goods vehicles going back and forth to the quarry. The entrance spills directly on to the very busy A64 and this causes stationary vehicles that at times prevent and disrupt the flow of the traffic along the A64. This could cause serious accidents on this busy corollary road. We at the council see the need for further detailed investigation into traffic flow and the impact it has on the through traffic.

An enlarged site with a larger turnover of work increases noise pollution and light pollution at a site that at the moment has a significant environmental impact on this particular area of the Vale

of Pickering and its close proximity to The Wolds Way recreation walking route used by many. The impact on the caravan site "Wolds Way Caravan Site" has been raised also.

The operational hours of a proposed development at this site needs to be carefully considered before any decisions are made.

We would therefore ask that our concerns be addressed with great urgency before any decisions are made and we, the council would be very happy to meet on site to discuss matters further at a mutually agreed time.'

[Officer note: *the Parish Council have been formally notified of the application and further contact was made to explain that the changes relate to the HGV numbers and received, stored and throughput waste and that there no 'extension' to the site or increased land take has been proposed.*]

At the time of writing this report, they have not replied to the re-consultation.

- 4.9 **Ryedale District Council (Planning)** - replied recommending that '*prior to granting approval NYCC should be satisfied that the alternative thermal technology and associated increase in waste processed by the facility would not give rise to visible gases or smoke emissions from the stack to the detriment of landscape and visual amenity.*'

Following a re-consultation, they replied on March 25th 2020 with no further comments to make. Following the re-consultation in November 2020, they confirmed they had no further comments to make on the proposal.

- 4.11 Those who have not raised any objection to, or have no comment on, the proposal include:
- Vale of Pickering IDB;
 - Lead Local Flood Authority (SuDS) ;
 - Environmental Health Officer (Ryedale);
 - Highway Authority;
 - Highways England;
 - Historic England;
 - NYCC Heritage - Principal Landscape Architect;
 - Yorkshire Water Services Ltd;
 - NYCC Public Rights of Way Team;
 - Fire and Rescue Service; and,
 - The County Council's Strategic Policy and Economic Growth (SPEG) team

- 4.12 Those who have not responded to consultation include:
- Civil Aviation Authority;
 - Ministry of Defence Safeguarding Organisation;
 - Northern Powergrid (North East);
 - National Grid (Plant Protection);
 - Thornton IDB

Notifications

- 4.13 **County Cllr. Janet Sanderson** – was notified of the application.
- 4.14 The Secretary of State (via the National Planning Casework Unit) has been provided with a copy of the *Environmental Statement* accompanying the planning application in accord with the provisions of the *Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017* (EIA Regs 2017). In accordance with Regulation 25 of the EIA Regs 2017 following the receipt of further environmental information (on air quality, dated 7 January 2020 and on human health and climate change dated 23rd October 2020) the County Planning Authority re-publicised the

application by way of three Site Notices posted 12th March 2020 and 5th November 2020.

5.0 Advertisement and representations

5.1 This application has been advertised by means of three Site Notices posted on 26 September 2019 (responses to which expired on 26 October 2019). The Site Notices were posted in the following locations: on gate post at site entrance; on signpost at public bridleway adjacent to campsite; on highway sign for footpath on main road opposite side to site entrance, further down road. A Press Notice appeared in the Malton Gazette & Herald (responses to which expired on 1 November 2019). Following receipt of further air quality information, further Site Notices were posted in the same locations on 12 March 2020 (responses to which expired on 11th April 2020) and a Press Notice appeared in the Malton Gazette & Herald (responses to which expired on 10th April 2020). Site Notices were also posted in the same locations on 5th November 2020 (responses to which expired on 5th December 2020) following the receipt of further environmental information on human health and climate change and a Press Notice was also placed in the Malton Gazette & Herald (responses to which expired on 11 December 2020). In addition, the members of the public previously notified and also those who made representations to the Authority on the application were notified of the further environmental information and the further comments received are included in the summaries above. 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 appropriate in the circumstances and that people would be likely to see the notices on their daily exercise.

5.2 A total of 45 Neighbour Notification letters were sent on 30 September 2019 and the period in which to make representations expired on 30th October 2019. The same properties were notified again on receipt of further environmental information on 4th November 2020. The following properties received a neighbour notification letter:

West Knapton:

West Wold Farm; Barn Cottage; East Farm; Wolds Way Lavender; Wolds Way Caravan Park; Keepers Lodge; Corner Farm; Greenacres; Post Office Cottage; The Cottage; West Wold; Cherry Trees;

East Knapton:

White Cottage; Hartswood Lodge; Hartswood Bungalow; Mill Granary; Mill Grange; Mill Barn; Mill House; Hartswood Farm; Knapton Hall; Knapton Hall Cottage; Flat 1 Knapton Hall; St Edmund's Church; Elm Tree Farm;

Knapton Wold Road, Malton:

Barn Cottage;

Wintringham:

The Old Post Office; The Old School; Southwold View; Almond Cottage; Dovetail House; The Heathers; The Granary;

Malton:

1 Vine Drive; 10 Highfield Road; Crumpet Hall (Butterwick); 22 Leahurst Close, Norton, Malton; South Farm; East Farm; Wolds Way Caravan & Camping;

Other locations:

Dale View, Scarborough Road, East Heslerton; Bay House, Melmerby, Ripon; Burnside, Tollerton Road, Huby; West Heslerton Farm, West Heslerton; 1 Low Mowthorpe Farm Cottages, Low Mowthorpe, Duggleby; 67 Hoxton Road, Scarborough.

5.3 A total of 3 letters of representation have been received raising objections on the grounds of:-

Need

- Over 60% increase – how will it use an extra 50,000 tonnes without extra incineration capacity?
- Both lorry movements and tonnage increase figures have been questioned
- How would other specifics of the facility be affected by this required increase?

Sustainability

- As located in rural area of low waste production, it must be assumed that any waste will be brought long distance adding to pollution and not decreasing it.

Amenity

- In the original planning lorries were required to have strobe lights fitted and not reversing beepers
- *'little background noise and virtually no back ground noise at night this plant may have an extremely adverse effect on myself and my business'*.

Air quality/visual impact

- Granted chimney not suitable for location – smoke will be forced back to the lower ground and hang in the fields down towards the A64 trunk road and West Knapton village and any increase in tonnage burnt will only make this problem much worse
- No industrial pollution contributors in the area at the moment
- Working data is not yet available to confirm these levels, and the new output could be an increase of over 62% of these extract gases.
- Location/pollution –should be sited in an industrial environment, not in an unpolluted rural atmosphere
- Concern that properties 'West Wold' and 'West Farm' not shown in air quality results.

Highway impact

- New road layout and speed restrictions on the main A64 trunk road and safety concerns regarding slow moving vehicles turning out of or into Knapton Quarry
- Impact on A64 – lorries parking up in layby and amenity issues on road. Traffic management required

Principle of development

- Green credentials – Balance has changed on this project between it being a Green Energy Facility and a Waste Management Facility. Remit very different now.

Implementation

- As no work has commenced since the 2016 application and subsequent approval, all the points made previously are still concerns as the situation has not changed since that date
- Refuse *'until the original plant is built and operating to the required planning requirements before any consideration is given to increasing output, and associated noise, pollution and traffic movements'*

Delay in determination

- Original consent granted in August 2018 and delay of a year in grant of this application of rising concern

5.4 A total of 4 letters of support have been received raising support on the grounds of:-

Economic impact

- Good to see a continuation of the site activities now that the landfill site has closed and the waste transfer station activities being wound down.

Vehicle movements

- Increase for the Green Energy plant is still very small when compared to the historical traffic movements.
- Negligible increase in vehicle numbers

Amenity

- From 2002 to date, the site never received a complaint for traffic movements or noise, the site is ideally located away from any place of habitation.
- Amenity/Waste input –Current application only reflects the historic position of the site.

Landscape and visual impact

- No change to the appearance or size of the Green Energy plant, which has already received planning consent.

Socio-economic impact

- Would bring much needed skilled labour to the area, create meaningful long-term employment and provide energy security for the area into the long term future
- Operates at a local level to build job opportunities, and may be part of the national response to energy challenges post Brexit

Environmental benefit

- Creating energy from wastes is a clean and sustainable option for power generation. We will then be moving away from fossil fuel which can only be a good thing
- Development is in line with green energy objectives across the country in converting waste into a resource

6.0 Planning policy and guidanceThe Development Plan

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

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

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

- the extant 'saved' policies of the *North Yorkshire Waste Local Plan* (2006); and,
- the extant policies of the *Ryedale Plan- Local Plan Strategy* (2013).

'Saved' policies of the North Yorkshire Waste Local Plan (saved 2009)

6.3 The 'saved' policies of the *North Yorkshire Waste Local Plan* particularly relevant to the proposed development include:.

- 4/1 Waste Management Proposals
- 4/18 Traffic Impact
- 4/19 Quality of Life

6.4 Saved Policy 4/1 (Waste Management Proposals) permits waste management facilities where siting and scale are appropriate to location (a); environmental impact and cumulative impact upon the local area are not unacceptable; (c & d); (e); where the proposed transport links are adequate; (g); 'other environmental and amenity safeguards would effectively mitigate the impact of the proposal' (h); 'it can be demonstrated that the proposal represents the Best Practicable Environmental Option for dealing with the waste' (i); and 'the location is geographically well located to the source of the waste thereby according with the proximity principle' (j).

6.5 Saved Policy 4/1 is assessed as broadly consistent with the National Planning Policy for Waste (NPPW) (2014) and the National Planning Policy Framework (NPPF) (2019) and with the waste section of national online Planning Practice Guidance (PPG). The third bullet point of Paragraph 7 of NPPW concerns impact on amenity and the local environment. Points i (Best Practicable Environmental Option for dealing with the waste) and j (location geographically well related to the source of the waste) of Policy

4/1 accord with the PPG which makes clear that the proximity principle is an important aim in planning for waste developments.

- 6.6 Therefore, it is considered that the Policy is consistent with the provisions of the NPPF, in particular paragraph 127 (criterion c) of the Framework, and Appendix B of the NPPW, both of which note the importance of developments responding to local character and landscapes. Therefore, this element of the policy should be afforded weight in relation to this planning application.
- 6.7 Criterion g) of 'saved' NYWLP Policy 4/1, is considered to be consistent with the provisions of the NPPF, NPPW and PPG. Paragraph 5 of NPPW at the third bullet point requires WPAs have regard to the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport. 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.
- 6.8 Saved Policy 4/18 of the North Yorkshire Waste Local Plan is relevant to this proposal as it is considered that it could have impact upon the local highway network. The policy states that *'waste management facilities will only be permitted where the level of vehicle movements likely to be generated can be satisfactorily accommodated by the local highway and trunk road network and would not have an unacceptable impact on local communities.'* It is considered that this is consistent with NPPF paragraph 108 which states *'any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree'* and 109, which 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.'* It is also considered to be in line with the NPPW paragraph 7 and its cross reference to Appendix B, which includes traffic and access at criterion f) and PPG, which considers amenity impacts.
- 6.9 Saved Policy 4/19 of the North Yorkshire Waste Local Plan is relevant to this proposal as it is considered that it could have implications for local amenity and the local environment. 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 states planning decisions should aim to conserve and enhance the natural environment. Paragraph 170 of the Framework advises that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability.
- 6.10 NPPW paragraph 7 confirms that the likely environmental and amenity impacts are to be considered against the criteria set out in Appendix B when determining waste planning applications, together with the locational implications of any advice on health from relevant health bodies. As Appendix B contains criteria on factors such as visual impacts, air emissions including dust, odours, noise, light and vibration, it is 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.

Emerging Minerals & Waste Joint Plan (currently in examination)

- 6.11 The draft MWJP was published in November 2016 for representations, after which consultation commenced on an Addendum schedule of proposed changes for an 8-week period over summer 2017. The MWJP was submitted to the Secretary of State for Communities and Local Government on 28 November 2017 and the Examination

in Public (EiP) began on 27 February 2018 with hearings in 2018 and 2019; now Main Modifications will be the subject of public consultation. Therefore, the Plan remains 'in examination' and policies will continue to be given more weight in the determination of applications as the Plan progresses through to adoption. There are no significant matters proposed in the Modifications in respect of the policies listed below which would affect the general policy position on those topics and therefore they can be given some weight.

Strategic Policies for Waste:

- W01 – Moving waste up the waste hierarchy;

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;

- 6.12 Emerging Policy W01 'Moving waste up the waste hierarchy' is the most relevant as it states that '*...2) Further capacity for the large scale recovery of energy from waste (in excess of 75,000 tonnes annual throughput capacity), including through advanced thermal treatment technologies, will only be permitted in line with Policy W04 and where any heat generated can be utilised as a source of low carbon energy or, where use of heat is not practicable, the efficient recovery of energy can be achieved.*' Draft Policy W04 permits further energy recovery capacity for Commercial and Industrial (C&I) waste '*where the planning authority can be satisfied that the facility would be appropriately scaled to meet unmet needs for management of residual C&I waste arising in the area and the development would be consistent with the site locational and identification principles in Policies W10 and W11.*'
- 6.13 Emerging Policy D01 'Presumption in favour of sustainable minerals and waste development' reflects the presumption in favour of sustainable development contained in the NPPF, permitting without delay applications which accord with the Local Plan unless material considerations indicate otherwise. Where there are no relevant policies or policies are out of date, it similarly reflects NPPF, granting permission unless adverse effects would outweigh the benefits or specific policies in the NPPF indicate development should be restricted.
- 6.14 Emerging Policy D02 Local amenity and cumulative impacts permits proposals for waste development where it can be demonstrated there will be no unacceptable impacts on local amenity. 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.
- 6.15 Emerging Policy D03 Transport of waste and associated traffic impacts encourages the use of alternatives to road transport where practicable. It permits proposals where road transport is necessary, where there is capacity within the existing network for the level of traffic, and there would not be an unacceptable impact on local communities, businesses or other users of the network or any such impacts can be appropriately mitigated. It also requires suitable access and on-site parking and maneuvering, and requires a transport assessment or green travel plan where significant levels of traffic are created.

Ryedale Plan- Local Plan Strategy (2013)

- 6.16 The Ryedale Plan-Local Plan Strategy (2013) has particular relevance in the determination of this application and the policies most relevant include:
- Policy SP17 'Managing Air Quality, Land and Water Resources'
 - Policy SP18 'Renewable and Low Carbon Energy'
 - Policy SP19 'Presumption in Favour of Sustainable Development'
 - Policy SP20 'Generic Development Management Issues'

- 6.17 Policy SP17 is relevant with regard to managing air quality, land and water resources and only permits development if the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured.
- 6.18 Policy SP18 (Renewable and Low Carbon Energy) states,
'Developments that generate renewable and/or low carbon sources of energy will be supported providing that individually and cumulatively proposals:
- *Can be satisfactorily assimilated into the landscape or built environment, especially in respect of the setting of the North York Moors National Park, the Howardian Hills Area of Outstanding Natural Beauty (and its setting), the Wolds and the Vale of Pickering;*
 - *Would not impact adversely on the local community, economy, or historical interests, unless their impact can be acceptably mitigated;*
 - *Would not have an adverse impact on nature conservation, in particular in relation to any sites of international biodiversity importance, unless their impact can be acceptably mitigated;*
 - *Would not have an adverse impact on air quality, soil and water resources in Policy SP17, unless their impact can be acceptably mitigated'*
- 6.19 Policy SP19 (Presumption in Favour of Sustainable Development) seeks to ensure that development proposals are determined in accord with the NPPF and support sustainable development. It states that the Council will *'always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'* and that applications that accord with the policies in the Local Plan will be approved without delay unless material considerations indicate otherwise.
- 6.20 Within the Local Plan Strategy, Policy SP20 (Generic Development Management Issues) provides criteria to which development proposals must adhere including:
- (i) 'Character':
- *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;*
- (ii) 'Amenity and Safety':
- *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.*
 - *development proposals which will result in an unacceptable risk to human life, health and safety or unacceptable risk to property will be resisted. Developers will be expected to address the risks/potential risks posed by contamination and/or unstable land in accordance with recognised national and international standards and guidance*

Other policy considerations:

National Planning Policy

- 6.21 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

- 6.22 The NPPF sets out planning policies for England and how these are expected to be applied.
- 6.23 The overriding theme is to apply a presumption in favour of sustainable development (paragraph 8). For decision-making, this means approving development proposals that

accords with the development plan without delay (if plans are up-to-date and consistent with the NPPF).

- 6.24 NPPF Paragraph 47 confirms that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise and in light of the emerging MWJP, Paragraph 48 is relevant in that it 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 [the NPPF] (the closer the policies in the emerging plan to the policies in the [NPPF], the greater the weight that may be given).*
- 6.25 In a circumstance where planning conditions and obligations may well be appropriate to consider, Paragraphs 54-56 are relevant. Paragraph 54 directs 'authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition'. With regard to planning obligations paragraph 56 states that '*Planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development*'
- 6.26 Paragraph 80 states that decisions should help create conditions where businesses can invest, expand and adapt with significant weight placed on supporting economic growth and productivity, taking account of local business needs and wider development opportunities. The approach taken should allow areas to build on strengths, counter weaknesses and address the challenges of the future.
- 6.27 Paragraphs 102-104 within Chapter 9 (Promoting sustainable transport) state that decisions should, amongst other things, take account of whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Paragraph 109 is clear that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.28 Paragraphs 148-154 within Chapter 14 (Meeting the challenge of climate change, flooding and coastal change) state that planning should support the transition to a low carbon future in a changing climate help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience to the impacts of climate change, supporting renewable and low carbon energy.
- 6.29 Paragraph 154 states that when determining applications for renewable and low carbon development, authorities '*should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and b) approve the application if its impacts are (or can be made) acceptable*'.
- 6.30 Within Chapter 15 (Conserving and enhancing the natural environment), 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.

- 6.31 Paragraph 180 states,
'...decisions should ... 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;*
 - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
 - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.'*

- 6.32 Paragraph 183 is clear that ,
'The focus of ... decisions 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 (NPPW)

- 6.33 This sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. Waste Planning Authorities should only expect a demonstration of need where proposals are not consistent with an up to date Local Plan and should not consider matters that are within the control of pollution control authorities. Waste proposals should not undermine the objectives of the Local Plan and should be environmentally sensitive and well designed so they contribute positively to the character and quality of the area in which they are located.
- 6.34 Paragraph 1 sets out how positive planning plays a key role in the delivery of the Government's sustainable resource use and management ambitions. A more sustainable and efficient approach is the aim, through:
- delivery of sustainable development and resource efficiency, including provision of modern infrastructure, local employment opportunities and wider climate change benefits, by driving waste management up the waste hierarchy;*
 - ensuring that waste management is considered alongside other spatial planning concerns, such as housing and transport, recognising the positive contribution that waste management can make to the development of sustainable communities;*
 - providing a framework in which communities and businesses are engaged with and take more responsibility for their own waste, including by enabling waste to be disposed of or, in the case of mixed municipal waste from households, recovered, in line with the proximity principle;*
 - helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment.'*
- 6.35 Paragraph 7 sets out what authorities should do when determining planning applications and confirms that the likely environmental and amenity impacts are to be considered against the criteria set out in Appendix B when determining waste planning applications, together with the locational implications of any advice on health from relevant health bodies.
- 6.36 Appendix B contains criteria in relation to the assessment of sites and areas for waste proposals. In addition to type and scale of facility the following should be considered in relation to the proposal:
- a) protection of water quality and resources and flood risk management;*
 - c) landscape and visual impacts;*
 - d) nature conservation;*
 - e) conserving the historic environment*
 - f) traffic and access;*

- g) air emissions, including dust;
- h) odours;
- j) noise

National Waste Management Plan for England (2013)

- 6.37 Of further relevance is the Waste Management Plan for England, which also advocates the movement of waste up the waste hierarchy in line with the requirements of the European Waste Framework Directive (WFD). National planning policy on waste is part of a wider national waste management plan to meet the requirements of the European Waste Framework Directive. The National Waste Management Plan for England was adopted in December 2013. This brings national waste management policies together in one place and does not introduce new policy. It provides an overview of waste management in England and sets out the commitment of a zero waste economy, using the waste hierarchy as a guide to sustainable waste management. It goes on to explain that the waste hierarchy is also a legal requirement, enshrined in the Waste (England and Wales) Regulations 2011. Specific mention is made of Government support for efficient energy recovery from waste which cannot be recycled or reused ('residual' waste which would usually be landfilled), whilst making it clear that the aim is '*not to get the most waste into energy recovery*'. Whilst energy recovery from waste is not at the top of the waste hierarchy, it is above landfilling which is at the bottom, and nevertheless the aim is to get the most energy out of waste.

Resources and waste strategy for England (2018)

- 6.38 The government's waste strategy for England aims to preserve our stock of material resources by minimising waste, promoting resource efficiency and moving towards a circular economy. This ties in with the 25 Year Environment Plan and aims to eliminate avoidable plastic waste over the lifetime of the 25 Year Plan, double resource productivity, and eliminate avoidable waste of all kinds by 2050. It also aims to drive greater efficiency of Energy from Waste (EfW) plants and export less waste to be processed abroad.

National Planning Practice Guidance (PPG) (2014)

- 6.39 This supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following sections: -
- Air Quality
 - Climate Change
 - Environmental Impact Assessment
 - Noise
 - Travel plans, transport assessments and statements
 - Waste

Air Quality

- 6.40 Legally binding limits exist for concentrations of all major air pollutants outdoors, including particulate matter (PM₁₀ and PM_{2.5}) as well as nitrogen dioxide (NO₂) and particulate matter and NO₂ '*can combine in the atmosphere to form ozone, a harmful air pollutant (and potent greenhouse gas) which can be transported great distances by weather systems*'.
- 6.41 Air quality can be a relevant material consideration where: '*the development is likely to generate air quality impact in an area where air quality is known to be poor...where the development is likely to impact upon the implementation of air quality strategies and action plans or lead to a breach of legal obligations*'. Air quality impacts could arise from significant traffic generation, new point sources of air pollution, and construction impacts such as dust arisings which could affect nearby sensitive locations.

- 6.42 Important information for consideration could include:
- Baseline air quality
 - Whether the proposal could change air quality
 - Whether the number of people exposed to a problem will increase
- 6.43 At the Environmental Permit stage, issues would be identified by the Environment Agency. Any mitigation is likely to be 'locationally specific' and proportionate and secured through planning conditions or obligations such as 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.

Climate change

- 6.44 Effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, authorities should ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment. 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 (EIA)

- 6.45 The aim of EIA is to ensure that the decision is taken in the full knowledge of the likely significant effects on the environment.

Noise

- 6.46 The (Noise) PPG identifies that 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.
- 6.47 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.

Travel Plans, Transport Assessments and Statements

- 6.48 Travel Plans and Transport Assessments can '*positively contribute to:*
- *Encouraging sustainable travel;*
 - *Lessening traffic generation and its detrimental impacts;...and*
 - *Improving road safety*'.
- 6.49 The NPPG sets out the anticipated scope and content for such documents, and notes that Travel Plans should be monitored for a length of time and at a frequency which is appropriate to the scale of the development.

Waste

- 6.50 It states that '*driving waste up the Waste Hierarchy is an integral part of the National Waste Management Plan for England and national planning policy for waste*' and '*all local planning authorities, to the extent appropriate to their responsibilities, should look to drive waste management up the hierarchy*'.

- 6.51 With regard to expansion/extension of existing waste facilities the guidance states that *'the waste planning authority should not assume that because a particular area has hosted, or hosts, waste disposal facilities, that it is appropriate to add to these or extend their life. It is important to consider the cumulative effect of previous waste disposal facilities on a community's wellbeing. Impacts on environmental quality, social cohesion and inclusion and economic potential may all be relevant'*.
- 6.52 It advises on the relationship between planning and other regulatory regimes, *'The planning system controls the development and use of land in the public interest. This includes consideration of the impacts on the local environment and amenity taking into account the criteria set out in Appendix B to National Planning Policy for Waste. There exist a number of issues which are covered by other regulatory regimes and waste planning authorities should assume that these regimes will operate effectively. The focus of the planning system should be on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than any control processes, health and safety issues or emissions themselves where these are subject to approval under other regimes'*.
- 6.53 The guidance states that *'the role of the environmental permit, regulated by the Environment Agency, is to provide the required level of protection for the environment from the operation of a waste facility. The permit will aim to prevent pollution through the use of measures to prohibit or limit the release of substances to the environment to the lowest practicable level. It also ensures that ambient air and water quality meet standards that guard against impacts to the environment and human health'*.

7.0 Planning considerations

- 7.1 Section 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 decision can be to grant such permission unconditionally or to grant subject to different conditions if they were capable of being imposed on the original consent, or it can be to refuse the application if a decision is made that the original condition(s) should continue. In any event, the extant permission remains intact capable of being relied upon.
- 7.2 Only the question of what conditions should be imposed on the grant of permission is allowed to be considered under the provisions of Section 73. Nevertheless, relevant planning considerations and policies in determining the conditions are able to be considered and authorities are not restricted to policies and planning considerations in force at the time the previous permission was determined. Material considerations also include the practical consequences of amending the conditions.
- 7.3 Notwithstanding, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. Whilst the National Planning Policy Framework was amended in 2019, on review of policies contained within, the changes only amount to changes in paragraph numbers and it is considered that there are no significant changes which would affect the determination of this application.
- 7.4 In light of the abovementioned policies the main considerations in this instance are the principle of the proposed variation of condition; local amenity; highways matters; and climate change.

Proposed variation of conditions

- 7.5 The principle of the development of the Green Energy Facility (GEF) has already been established by permission C3/16/01918/CPO dated August 2018 together with the non-material amendment granted in April 2019 for the removal of gasification as the technology and an increase in HGV movements to 48 per day. The proposed variation

of condition does not involve further additional development on the site, or alterations to the permitted buildings or structures on site. The application consists of variations to the existing conditions numbered 2 and 30 to allow for an increased throughput of waste; increased storage of waste within the waste reception building on site; and associated increase in HGV movements. Under the proposed method of waste to energy, additional waste is intended to be processed to achieve greater energy output, which consequently impacts upon the number of HGV vehicle movements.

- 7.6 The objections received, as noted in more detail in Section 5.0 of this report, have made reference to the fact that the current permission has not yet been implemented; that the plant was originally meant to be built by now; and that it would be preferable to have the site up and running before any further changes or increases. It is noted however, that the permission was granted on 1st August 2018 and that therefore the applicant has 3 years (until 31st July 2021) to implement the development and also that variations to permissions can be made at any time before they expire. Comments have also stated that, as the plant has not been built, all previous concerns remain valid, as the situation has not changed. It is considered, however that these previous concerns were taken into account and addressed when the application for the GEF facility was determined. Every application must be considered on its own merits. Should the application currently under considered not be approved, the extant permission can still be implemented and is capable of being relied upon. It is therefore considered that these comments, whilst noted, are not material to the proposals.
- 7.7 While the 'in principle' acceptability has already been established, any potential adverse impacts on the environment and amenity arising from the changes to conditions must be considered and these are addressed in the paragraphs that follow.
- 7.8 Support is given to the proposal by 'saved' NYWLP Policy 4/1 (criteria c, h and i); all of which seek to ensure that there would not be an unacceptable environmental impact, other environmental and amenity safeguards would effectively mitigate the impact of the proposal and that it can be demonstrated that the proposal represents Best Practicable Environmental Option for dealing with the waste. In relation to criterion a) on siting and scale, it is considered that as the principle of the development is established, the intensification is not considered out of scale for the location and further support is given to this policy position by emerging policy W01 2) of the MWJP which permits appropriately scaled energy from waste facilities over 75,000 tonnes where the authority can be satisfied that they meet unmet need and are in line with other policies. The principle of the development over 75,000 tonnes is already established in the location and the development would be providing for waste that cannot be recycled, replacing the Knapton Quarry landfill in the same location with a more sustainable waste to energy development and therefore ensure net self-sufficiency in the disposal of waste in the county in accord with NPPW, emerging MWJP and the 'saved' NYWLP policies.
- 7.9 The principle of the development in relation to the increased storage element is supported by 'saved' NYWLP Policy 4/1 c), as the proposed variation would not result in any environmental impact, and are capable of being controlled by the extant environmental conditions (which could be carried forward on any varied permission). Proposed condition 28 which restricts the storage of RDF fuel to internal storage only could also be carried forward from the extant permission as a mitigatory measure. As the storage element was already permitted and the increase in storage would not have significant or unacceptable effect on the environment, being contained in buildings, this is considered acceptable. This is due to the current controls both through conditions referred to above and through the Environmental Permitting regime in relation to limits on licenced storage on site and maximum days storage being adequate to mitigate impacts, in accordance with 'saved' NYWLP Policy 4/1.

- 7.10 Support for the proposal is also provided by 'saved' NYWLP Policy 4/18, which only permits waste proposals 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. As the principle of the increase in HGVs was considered acceptable as a non-material amendment on 8th April 2019, it is considered that traffic impacts can be accommodated and that any impacts would not be unacceptable and this is discussed further below, with support also from NYWLP 'saved' Policy 4/19 which permits proposals only where there would not be an unacceptable impact on the local environment and residential amenity.
- 7.11 Whilst it was originally proposed that pre-treatment of waste to remove recyclable elements would be carried out at the adjacent existing Knapton Quarry transfer site, it has been confirmed that the proposal is now for the waste to be delivered, already pre-treated, and the co-locational benefits would be realised by the use of this transfer site for preparation of ash for landfill restoration and the occasional storage of fuel should the GEF reception area not be available. Co-locational benefits are also realised by the use of coppicing and landfill gas to supplement the syngas, as considered in the extant permission.
- 7.12 An objection has been made in relation to the remit of the proposals now being very different, as the original proposal was for gasification. The green credentials of the proposal are therefore questioned by the objector. Whilst a concern, it is not considered that this is a material consideration in this instance as the non-material amendment has already removed the reference to technology and therefore the principle of the development is established as a waste management facility for incineration with energy recovery. It is also noted that objection comments have stated that waste must be brought from further away which is less sustainable in greenhouse gas emission terms because of the issues of the county and country becoming more of a circular economy. Guidance both in NPPW and from DEFRA (*'Guidance on applying the Waste Hierarchy'* June 2011) is clear that, whilst the aim should always be to drive waste up the 'waste hierarchy', value is added by the use of waste as a resource, rather than simply 'disposal' via landfill, even where the use of the waste is by using its calorific value in producing energy. This is also enshrined in The Waste (England and Wales) Regulations 2011 in its example of 'other recovery' in the waste hierarchy as '*for example energy recovery*' at paragraph 2(1)(d). Disposal remains at the bottom of the waste hierarchy and waste to energy treatment sits above this in the hierarchy. It is therefore considered that the proposal accords with the aim of moving waste up the waste hierarchy and consequently with NYWLP Saved Policy 4/1 i) in terms of Best Practicable Environmental Option for the waste; that other environmental and amenity safeguards would effectively mitigate the impact of the proposal (j). It is also noted that in relation to the proximity principle set out in NPPW and in NYWLP Saved Policy 4/1 j) that the extant permission stated that whilst contracts are a commercial matter, costs associated with the transport of waste and market forces mean that the facility would be likely to represent the 'nearest appropriate installation' for the treatment of the waste received. Whilst representations on waste miles are noted, it is not considered that this assessment will alter, as the applicant has stated that with the exception of municipal, residential and food waste which would not be used, sources would be similar to those for the Knapton Quarry landfill site. It should also be noted that the use of the ash in the restoration of the landfill is another benefit of the location of the proposals and was considered as part of the extant permission.
- 7.13 As set out in the Environmental Statement, producing RDF fuel requires less screening processes, which allows for more low calorific value combustible fractions to be turned into energy rather than go to landfill. However, as a consequence, a greater tonnage is needed for an equivalent electrical output; though emission limits would remain unchanged. Whilst it has been suggested by objectors that it is less sustainable to burn more waste, the applicant states that this is in fact more sustainable, as higher

tonnages are going to low carbon energy rather than landfill. The proposals are given support through the NPPW and NPPF as treatment through incineration is further up the waste hierarchy than landfill, which is at the bottom, and the NPPF at paragraphs 8 c), 148-154 supports low carbon energy generation.

- 7.14 Four letters of support have also been received in relation to the development and these also relate to the principle of the development. These include comments regarding energy security and long-term employment, creating energy from wastes is a clean and sustainable option for power generation and moving away from fossil fuel can only be a good thing. They also state that the increase in HGV movements still represents an improvement compared to historical movements and in relation to the numbers of vehicles on the A64; the increase in throughput only reflects the historic position of the site; it would be good to see a continuation of the site activities now that the landfill site has closed for the acceptance of waste and the waste transfer station activities being wound down; from 2002 to date, the site never received a complaint for traffic movements or noise and the site is ideally located away from any place of habitation. They also point out that within this application there is no change to the appearance or size of the Green Energy plant, which has already received planning consent.
- 7.15 Policy SP18 within the Ryedale Local Plan Strategy supports appropriate low carbon energy production, where cumulatively impacts on the local community and economy can be mitigated. This is supported by Chapter 14 of the NPPF which places great emphasis on the need for planning to facilitate the delivery of renewable/low carbon energy and the NPPW in terms of moving waste up the waste hierarchy. As the proposed facility would, as proposed previously, generate approximately 10MW of low carbon energy for export to the grid, and power around 20,000 homes, this is in conformity with moving waste up the 'waste hierarchy' and emerging MWJP Policy W01; NPPW Paragraph 1 and with Paragraph 148 of NPPF in relation to supporting a low carbon future, moving all incoming waste away from landfill disposal or from export. It is therefore considered (as established by the existing permission) that the proposals would contribute to an integrated and adequate network of waste management installations by providing an energy from waste (recycling and recovery) facility. The proposed variations would further increase the amount of waste driven up the waste hierarchy and therefore are in line with paragraph 1 and Appendix A of National Planning Policy for Waste and NPPG in relation to waste and in producing low carbon energy is also in line with NPPF paragraph 154.
- 7.16 It is proposed that the GEF would generate 12MW of renewable/low carbon energy which is also an increase on the original scheme. Northern Powergrid has confirmed a grid connection at 9.9 MWe The development would contribute towards the Government's commitment to divert waste from landfill and focus on renewable and low carbon electricity generation, as well as reducing waste exported for treatment in line with policy and guidance. It is considered that the principle of the development is consistent with national planning policy on waste management and energy, which is afforded significant weight in the planning considerations. The proposal would lead to carbon savings in comparison with other methods of power generation and would also lead to reduced carbon emissions compared to other less sustainable methods of waste management. Climate change benefits are discussed further below.

Climate Change

- 7.17 The proposals' effects upon climate change have been given consideration. The applicant has suggested that there is the possibility of capturing the methane 'landfill gas' from the landfill to supplement generation at the GEF and that this would reduce climate change impact. This includes the fact that the Knapton site is an established waste handling site and therefore would not require additional structures and the

associated potentially larger impact on the environment which would result. These elements were considered as part of the original grant of permission and would be in line with emerging MWJP policies D11 on efficient use of energy and also W11 on combined heat and power. The co-location benefits were considered through the grant of the extant permission and the site's location was not considered inappropriate. This included through consideration of Ryedale Plan - Local Plan Strategy Policy SP6 in relation to there being no alternative sites which would deliver comparable levels of benefits in the area. It is considered that the co-locational benefits of the proposal have therefore also been established.

- 7.18 Further environmental information has been provided in accordance with the requirement to consider climate change in the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. A report on the climate change impacts of the scheme was prepared in the form of a Greenhouse Gas Assessment. This document sets out the direct greenhouse gas emissions from the proposal and compares them to the previously consented scheme. This includes through the use of auxiliary burners in shutdown and startup procedures, which are estimated to be 6 times a year. Shutdowns would be for a period of 2 hours and start up 18 hours therefore equating to 120 hours per annum. It also considers displaced emissions, i.e. emissions that would have been produced by the generation technologies which could have generated the power instead. Finally, it considers displaced emissions from alternative disposal. The report states '*Therefore, with the proposed through put of the plant to be 130,000 tonnes per annum, this can be expected to displace 30,840 tonnes of CO₂e that would have been emitted should the waste have been sent to landfill equipped with landfill gas capture and generation*'. It is considered that this is in accordance with policy D11 of the emerging MWJP and therefore also accords with paragraph 1 of NPPW and with NPPF in terms of wider climate change benefits and reducing climate change impact. The Greenhouse Gas Assessment suggests that the proposals, whilst not generating quite as significant a carbon saving as the previously approved scheme due to the increase in generating capacity, would "*not have a negative effect on climate change and will save almost 5,000 tonnes a year of CO₂ equivalent per year when compared against traditional methods of energy generation and would remain 'carbon negative'*".
- 7.19 As the plant is designed to recover the thermal energy in waste that cannot otherwise be recycled, a benefit of the scheme is avoidance of carbon emissions from the landfill or export of waste from road and sea miles or methane emissions from the waste decomposing in landfill. The GEF would reduce emissions by some 30,840 tonnes of CO₂e when compared against the disposal of the equivalent amount of waste to landfill.
- 7.20 It has further been clarified by the applicant that the waste fuel will have a biogenic fraction (i.e. a proportion of the waste will be originally derived from non-fossil fuel sources). This being primarily food-contaminated waste (not food waste – example being a pizza box), non-recyclable paper and card products and packaging, waste timber products and any biogenically derived plastics. It is stated that this fraction of the waste that is converted to electricity is effectively carbon neutral because of its plant origins and therefore offers a significant CO₂ reduction over electricity produced from fossil fuels. The non-biogenic fraction is also converted to electricity but does not generate any CO₂ offset (other than the transport offset) because it was originally produced from fossil fuel. This proportion is expected to increase over time, increasing climate change benefits. The Greenhouse Gas Assessment report however has purely concentrated upon the offsets from the direct replacement of generation from other sources and the carbon emissions from the most likely other form of disposal (landfill) and therefore has not considered transport impacts, embodied energy within the plant or the opportunities for export of heat to the local area.

- 7.21 It is considered that the proposed variation would accord with national and local policy in respect of climate change and is therefore considered acceptable in this regard. This includes in relation to paragraph 1 of NPPW and driving waste up the waste hierarchy (Appendix A of NPPW); NPPF paragraph 8 in relation to sustainable development; NPPF paragraph 148 in relation to greenhouse gas emissions; and Ryedale Plan – Local Plan Strategy policies SP17 in relation to air pollution, and SP19 on sustainable development. This supports Objective 12 of the Ryedale Plan- Local Plan Strategy of responding to climate change and reducing greenhouse gas emissions and is aligned with Policy SP18 on Renewable and Low Carbon Energy.

Local amenity - Air quality (emissions, odour and dust)

- 7.22 Local amenity impact is a key consideration, as the level of throughput is increased and the Environment Agency had asked for further information in respect of air quality impacts. They stated that the stack height was not demonstrated to be sufficient to minimise air quality impacts. Further to the Environment Agency's comments and requests for further information, an updated Air Quality Assessment was produced in January 2020, together with a letter dated 27th December 2019 from the applicant in relation to the main points raised in the objection. The Environment Agency have confirmed in their response of 7th April 2020 that they have no concerns with the principle of the development. The application site and surrounding area is not within an Air Quality Management Area.
- 7.23 The updated air quality modelling assessment was undertaken to determine the impact that the facility would have on local air quality and took account of the changed technology and increased waste tonnage. The assessment used an industry standard dispersion modelling software package. Modelling input data relating to the process were supplied by the applicant and their technology providers. The modelling study also used the emission limits defined in the Industrial Emissions Directive (IED) to provide a 'worst-case' modelling scenario. In addition, the model was configured to include the effects of buildings and terrain on dispersion. The modelling assessment used 13 receptor locations around the site. The receptor locations were selected based on where people are expected to spend a significant fraction of the day. In addition to this, SCAIL-Combustion, a screening assessment tool used by regulatory agencies, was used to assess the impacts of the GEF's operations on the wider environment. The Air Quality Assessment follows a 2-stage screening process based on EA guidance, which assesses Process Contributions (PC) and Predicted Environmental Concentrations (PEC) of pollutants against significance thresholds for short-term and long-term environmental standards.
- 7.24 A number of concerns and comments regarding air quality have been received within the objections:
- the distances waste will be brought adding to pollution
 - original chimney already granted planning is in fact not suitable for the location as the building is at the bottom of a hill and the chimney below the highest point, smoke will be forced back to the lower ground and hang in the fields down towards the A64 trunk road and West Knapton village any increase in tonnage burnt will only make this problem much worse
 - selection of receptors
 - no working data to confirm levels
- 7.25 Wintringham Parish Council have raised concerns in relation to pollution stating the latest proposal is for a less efficient, more pollutant and higher waste creating operation and that whilst stated to be within safe limits, the emission of chromium is a concern. The updated Air Quality Assessment concludes that all substances were screened out at all receptors as 'insignificant' other than chromium which is above the 1% level. It goes on to explain that this is due to the assessment being based on total chromium

and that this is a 'worst case', stating that concentrations of other chromium compounds would be '*several orders of magnitude*' below the relevant environmental benchmark. An accurate breakdown of chromium emissions would be required in order to refine the screening assessment. Further environmental information has shown there would be no significant effect on human health. Human health impacts are also considered in the Human Health section below.

- 7.26 It is considered that the issues raised have been satisfactorily addressed by the applicant. In relation to air quality, it has been explained in the applicant's rebuttal letter (27th December 2019) that the preliminary modelling results show air quality impacts will be negligible at all receptors. The updated Air Quality Assessment also indicates that this is the case. The applicant states that the final results of the Air Quality Assessment demonstrated concerns raised regarding 'smoke' were unfounded. They go on to state that as the facility will need to meet emission limits for 'total dust' from the Industrial Emissions Directive (IED), concerns regarding smoke are purely speculative. They also point out that the Environment Agency withdrew their objection as the Air Quality Report has demonstrated impacts on air quality would be negligible.
- 7.27 In relation to a further objection, it is noted that reference is made to the selection of receptors for the revised air quality assessment and Wintringham Parish Council raise an objection in respect of emissions. The applicant has explained that the receptors are the same as the original application, and these were agreed with the County Council before work commenced and were selected to give a representative assessment of impacts in all directions. The need for an Environmental Permit through the pollution control regime is a material consideration in the consideration of this application and Air emissions from incinerators are authorised under the Environmental Protection Act 1990, as is the height of the chimney stack to ensure adequate dispersal of emissions. NPPF paragraph 183 states that the focus of planning decisions should be on whether the 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. NPPW paragraph 7 provides that waste planning authorities should only concern themselves with implementing the planning strategy of the local plan and not with processes for the pollution control authorities and work on the assumption that the relevant pollution control regime will be properly applied and enforced.
- 7.28 An assessment was also provided specifically on the impact of the proposal upon human health. The impact on human health has been raised in representations from the Parish Council and local residents, however the Assessment summary concludes there would be no adverse impact upon human health, stating that the use of Air Quality Strategy (AQS) limits means '*the AQS limits represent levels at which no significant health effects would be expected.*' It clarifies that the two stage process within the Air Quality Assessment first considered maximum pollutant concentrations, which are observed close to the source i.e. in the immediate vicinity of or on the site. Then the assessment considered the 13 public receptors if these screening criteria were exceeded. By demonstrating that there would be no exceedance of the AQS limits, it is considered that there would be no significant impact upon human health.
- 7.29 NPPW and Article 13 of the European Waste Framework Directive require that human health is protected in the re-use, recovery or disposal of waste. Indeed, human receptors are tied into the locational criteria of Appendix B of NPPW in relation to '*g. air emissions, including dust*'. NPPG on waste states that planning applications should be considered against paragraphs 4 to 7 and criteria of Appendix B of NPPW. The NPPG states that other ways in which human health can be protected include working with the Environment Agency on pollution control matters and '*putting in place suitable planning conditions, and adequate enforcement and monitoring*'. It is considered that the

Pollution control regime together with the imposition of conditions which would be carried forward on any permission in relation to amenity are sufficient (Condition 6 on the CEMP; condition 7 on CTMP; conditions 10, 11 and 12 on noise; and condition 35 on the DEMP).

- 7.30 Ryedale Local Plan Strategy Policy SP17 seeks to protect air, land and water resources in order to protect the environment and human health; SP19 is a presumption in favour of sustainable development; and SP20 contains generic development management issues including the protection of amenity from dust and odour and the protection of sensitive receptors from all forms of contamination stating *'Developers will be expected to assess the risks/ potential risks posed by contamination in accordance with recognised national and international standards and guidance.'* The Waste Local Plan policy 4/19 on Quality of Life is clear in its supporting text that public perception of fear and impact to human health can be a material planning consideration. The Air Quality Assessment summary illustrates that human health has been considered and which demonstrates that there would not be adverse impact on human health.
- 7.31 A condition is attached to the extant permission concerning a Construction Environmental Management Plan (CEMP) and this was considered adequate to control the emission of dust during the construction phase. This could be carried forward (Condition 5) on any permission should permission be forthcoming. It is also noted that existing screening would also offer mitigation for dust through shelter. The proposals are therefore considered consistent with the national policy contained within paragraph 180 of the NPPF and Appendix B(g) of the NPPW and would not conflict with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or policies SP17 and SP20 of the Ryedale Plan-Local Plan Strategy (2013) as the method would minimise impact and other environmental and amenity safeguards would mitigate impact and it is considered that there would not be an unacceptable impact on local environment or residential amenity and cumulative impact on air quality is acceptable.
- 7.32 It is therefore considered that the proposal is in accordance with both local and national policy on protection of health and associated protection from contamination. The proposal is in line with the NPPW; saved Policy 4/19 of the WLP; Policy SP17; Policy SP19 and Policy SP20 of the Ryedale Plan – Local Plan Strategy in that it will not have an unacceptable effect on human health. This is also in accordance with NPPF paragraphs 8 (sustainable development), and 180.

Odour

- 7.33 An Odour Assessment was submitted as part of the original application for permission for the GEF and the condition in relation to the roller shutters and operational procedure could be carried forward (proposed condition 28) should permission be granted and it is also considered that the design of the buildings together with the mitigation measures proposed regarding the operation of fast acting roller shutters only when vehicles are entering and leaving the building would be consistent with local and national policy in relation to the control of odour emissions from the facility controlled through the use of appropriate and well maintained and managed equipment in accordance with NPPW Appendix B(h). It is also noted that the waste to be handled by the GEF is typically less odorous in nature than 'black bin bag' waste as it would not contain organic waste and would be primarily dry. In accordance with saved NYWLP Policy 4/19, it is therefore considered that in relation to odour the design of the facility as permitted and the mitigation measures proposed would sufficiently control odour emissions arising from the facility; it would not give rise to any amenity issues; and would be considered consistent with the national policy contained within paragraph 180 of the NPPF and Appendix B (g & h) of the NPPW and would not conflict

with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or policies SP17 and SP20 of the Ryedale Plan-Local Plan Strategy (2013).

- 7.34 The concerns of objectors and the Parish Council in relation to pollution are valid, and have been considered. Having consulted upon, publicised and assessed the application and 'further environmental information' received, there is no reason to counter the conclusions of the evidence submitted by the applicant that the effects will not be significant. The Environment Agency have not raised any concerns in this regard and the Environmental Health Officer has similarly not raised concerns. It is considered that the further information in relation to emissions has demonstrated that the proposal would be in accordance with policies SP17 and SP20 of the Ryedale Local Plan Strategy and with national policy contained within Appendix B of NPPW and NPPF paragraph 180.

Local Amenity (Noise)

- 7.35 A number of objection responses relate to noise, including the absence of background noise at night and potential for noise pollution. Scampston Parish Council also raised concerns over increased noise from the proposed operations. The material planning consideration is whether the proposed variations would result in a noise impact.
- 7.36 The original application was accompanied by a noise assessment as part of the ES (chapter 10) which considered the operation of the GEF as well as the traffic movements.
- 7.37 The cumulative effect of the proposed variations together with the permitted development has been given consideration in accordance with NPPF paragraph 180 (a) which requires that decisions should take into account the likely effects and impacts which could arise and to reduce and mitigate to a minimum potential adverse impacts resulting from noise. Therefore, in this case the primary focus would be upon the effects of the increase in HGV numbers as it is stated that the increase in waste throughput and storage will not have an effect upon noise. This is because the reception and processing of the waste (as permitted) is to be contained within buildings, and that fast acting roller shutters would be used and that all potential point source noise emitters would be enclosed, shrouded or baffled to ensure noise is kept to a minimum; subject to conditions in relation to a Construction Environmental Management Plan (CEMP); the hours of construction and hours of HGV movements to and from the site (Conditions 4 & 8) in line with the generic development management requirements of SP20 in relation to the cumulative impacts of the scheme and material effects on amenity and ambience of the area; as well as conditions on a Noise Impact Report; a noise monitoring scheme and proposals for monitoring and any mitigation deemed necessary to comply with agreed noise limits (Conditions 10-12) to be carried forward should permission be granted. Having reviewed and consulted upon the information provided by the applicant, including further clarifications provided by the applicant, the variations would not lead to increased noise and therefore would not be inconsistent with national policy contained within Paragraph 180 of the NPPF and Appendix B(j) of the NPPW and would not conflict to an unacceptable degree with the aims of 'saved' policies 4/1(b & h) and 4/19 of the NYWLP (2006) or the relevant parts of Policy SP20 of the Ryedale Plan- Local Plan Strategy (2013). It also aligns with emerging MWJP Policy D02 on local amenity and cumulative impacts which seeks to ensure no unacceptable impacts.

Highways matters – Traffic and transport

- 7.38 Through consultation, the application has been scrutinised by the experts within both the Highway Authority and Highways England. The Highway Authority confirmed no objection to the proposed development and Highways England similarly offered no

objection to the proposals. The application is being considered as submitted, which includes a variation of condition 30 in relation to HGV movements from 40 to 48.

- 7.39 During the course of the planning process, it has become apparent that there could be some uncertainty around the total vehicle movements able to utilise the various extant planning permissions which use the access road to the site. The applicant has therefore offered a Unilateral Undertaking upon vehicle movements, to ensure that impact from HGV movements is mitigated. This would further ensure that the transfer buildings could only be used for activities relating to the operation of the GEF and the restoration of the landfill, effectively ensuring that the 48 vehicle movements from the GEF and vehicle movements in relation to the receipt of inert materials for restoration of the landfill were the only vehicle movements. Whilst not a material consideration, as it is not proposed in order to make the development acceptable in planning terms, this proposed legal agreement is considered significant planning gain.
- 7.40 Objection comments have been made relating to the increase in HGVs not adding up in relation to the amounts of waste now proposed and average payloads. Whilst HGV impact can be a material consideration, the HGV increase is already consented and could be implemented through the extant permission as varied. Detailed explanation of the reasoning behind the increased HGV movements has been provided by the applicant. This has been discussed in detail in Section 3.0 of this report and above in relation to amenity issues. In short, it has been explained that only a slight increase is needed as there was an existing 'buffer' or 'headroom' in the permitted HGV movements. It has been explained by the applicant that HGV movements will normally be in line with the originally consented numbers and the variation has only been sought to cover unforeseen circumstances or unusual events. As the applicant states, the increase is likely to only be necessary to cover under-supply in the event of issues such as bad weather affecting deliveries, and the 40 movements per day is on average adequate to deliver the required fuel. They also note that the increase sought is significantly lower than historic landfill movements and that there are no objections from the Highway Authority. It is therefore considered that the proposal is in line with emerging MWJP Policy D03 in that the impacts can be controlled and there is capacity in the existing network for the additional traffic, access arrangements are appropriate and that there are suitable arrangements in place for manoeuvring, parking and loading/unloading. Thus, it is also in accordance with paragraph 5 of NPPW at the third bulletpoint which requires regard to be had to the capacity of existing and potential transport infrastructure and Appendix B f) of NPPW on traffic and access.
- 7.41 A resident representation asked for clarification on the definition of vehicle movement and had stated that it would mean vehicles accessing the A64 every 5 minutes. 48 vehicle movements equate to 24 HGV deliveries per day and as clarified by the applicant this number is required to cover exceptional cases in the event of interruptions in supply (so a total of 24 in and 24 out). The applicant has stated that the average daily traffic would be nearer 40 HGV movements. This means that the plant would receive a delivery on average about every 20-30 minutes. As detailed above, this would be between the hours of 06:30 – 18:30 Monday to Saturday and 09:00 - 17:30 Sundays with no HGV movements into or out of the site or loading or unloading of HGVs on Bank/Public Holidays, as per the extant permission.
- 7.42 Further to objector comments in relation to sweeping out vehicles in laybys and vehicles queueing on the A64, the applicant has confirmed that this is contrary to everything they are trying to achieve and that there will be no need for parking vehicles on the A64. The (improved) internal site access roads and waste reception under the extant permission will allow all the necessary room for passing, queuing and cleaning vehicles.

- 7.43 Objection comments from Wintringham Parish Council raised concerns that traffic would go through the village rather than using the A64, and requested a restriction on routes used to be imposed upon any permission. The existing access to the site is off the A64, and it is noted that a standard condition was imposed upon the original permission which restricts access to the site to only that of the existing access. Further conditions were imposed in relation to a Construction Environmental Management Plan and a Construction Traffic Management Plan and it is proposed to carry these forward should permission be granted. It is therefore considered that the wording change is not necessary as access is from the A64 main road in line with condition 29 which would be carried forward should permission be granted.
- 7.44 Scampston Parish Council requested that further detailed investigation in relation to traffic flow and impact that it has on through traffic was needed. Strategic Policy and Economic Growth also commented that they would expect the increased traffic movements associated with the proposal to be managed to prevent congestion especially in the peak holiday period. It is noted that detailed information has been provided by the applicant and that the Highway Authority and Highways England have not asked for further information or offered concerns or objections.
- 7.45 It is noted that the slight increase in HGV numbers is a reduction upon the historical numbers from the landfill and waste operations of up to 235 total vehicle movements per day, and it is considered that the cumulative impact of vehicle movements when considering the adjacent site activities is now considerably less than it was historically when the landfill vehicle movements alone were up to 170 two way trips and they would now equate to approximately 116 two way movements for the waste transfer site and landfill. It is therefore considered that the change to the HGV numbers would not have a detrimental impact on the highway network.
- 7.46 It is noted that a number of conditions were imposed upon the extant permission to limit the impact of vehicle movements generated by the site on the surrounding highway network and upon local amenity. It is proposed the same conditions are attached to this permission in regards to restrictions on the permitted hours of working (proposed Condition 9: HGV Hours); the inclusion of measures to prevent the deposit of material on the highway network and the sheeting of vehicles (proposed condition 31, should permission be forthcoming. Highways England requested the inclusion of conditions to cover a Construction Traffic Management Plan (CTMP) (condition no. 6) and a detailed scheme for the installation of the powerline across and adjacent to the A64 upon the original permission (the latter has been discharged). Therefore, it is proposed that should permission be granted the same conditions will be carried forward to ensure that the proposed development does not result in any adverse impacts upon the local highway network. This is in line with the principles of the NPPF paragraphs 102-104 and 109 in relation to sustainable highway networks, the highway protection elements of 'saved' Policies 4/1 (g) and 4/18 of the NYWLP and Policy SP20 of the Ryedale Plan - Local Plan Strategy. As paragraph 109 states that proposals should only be refused where there would be an unacceptable impact on highway safety or residual cumulative impacts to the network would be severe, it is considered that the development does not conflict with this policy and the level of movements is capable of being accommodated. The relevant local and national policies seek to ensure that vehicle movements generated by developments are both capable of being accommodated by, would not have an adverse effect upon the local highway network or prejudice the safety of the highway, adding further weight in support of this application.
- 7.47 For the reasons set out above, it is considered that the proposed development would not have an adverse impact upon the local highway network, which is capable of accommodating the proposed vehicle movements. Therefore, the proposed development is considered to be in compliance with 'saved' Policies 4/1 and 4/18 of

the NYWLP and draft Policy D03 in regards to Transport of waste and associated traffic impacts in the Mineral and Waste Joint Plan and with the NPPF.

Section 106 Legal Agreement

- 7.48 The existing Section 106 legal agreement dated 18th July 2018 controls the retention and extension of coppicing on the adjacent Knapton Landfill site and which has not yet been implemented and also an area of dedicated planting on the GEF site subject to this application. Under the terms of the existing section 106 Agreement the owners of the Knapton Landfill site have agreed not to coppice a 15-metre-wide belt (area 2,120 square metres) of the planted willow which forms part of the restoration works for Knapton Landfill,. The belt is on the southern edge of the landfill and adjacent to the north elevation of the GEF building. In addition, the owner also agrees to plant an additional area (1,460 square metres) of willow coppice to provide further screening to Knapton Landfill site. The Section 106 Agreement also secures dedicated planting for the GEF within the red line boundary upon commencement of development of the GEF. As a result of this application, a Deed of Variation to the S106 will be required in order to secure the necessary planting mitigation is carried through to the permission should it be forthcoming. A draft Deed of Variation has been provided by the applicant.
- 7.49 As discussed earlier in the report, it has been proposed by the Applicant that a Unilateral Undertaking be entered into in order to control vehicle movements over the whole Knapton Quarry site and remove uncertainty. This is not a material consideration and would not meet the tests in NPPF and PPG as the increase in HGVs has already been found acceptable in planning terms through the grant of the non-material amendment. Notwithstanding, it is considered that the agreement would provide control and certainty over the vehicle movements and operations over all sites and is a significant planning gain.

Previously imposed planning conditions

- 7.50 All previous planning conditions, where appropriate, are considered capable of being re-imposed in the event of planning permission being granted; albeit updated to reflect the development proposed by this application (Conditions 2, 23 and 37) and any schemes approved under conditions since the grant of planning permission ref. C3/16/01918/CPO. Conditions No's 7, 13, 15, 16, 18, 19, 20, 23 and 25 of Planning Permission Ref. C3/16/01918/CPO which relate to a power line installation scheme, Archaeological Written Scheme of Investigation, Archaeological Identification and Evaluation, Surface Water Drainage, Landscape Scheme, replacement of failed planting, Landscape Management Plan, a Biodiversity Enhancement and Management Plan and a cable route, which were the subject of two Article 27 applications (2019/0244/A27; 2019/0133/A27) have been carried forward, but have been amended to reflect the approved documents and plans under those Article 27 applications. It is noted however that Condition 19 of Planning Permission Ref. C3/16/01918/CPO was not a pre-commencement condition, and as such a similar condition is considered to be appropriate to ensure that any failed planting can be replaced.

Other material considerations

- 7.51 The assessment of this application has considered all relevant material considerations in relation to the application, including those considered by the original permission which this application seeks to vary.
- 7.52 It is considered that in relation to need, impacts on agricultural land, historic environment, flooding and external lighting that these are not affected by the current application and therefore have not been considered further in detail here. Need has been established in relation to the original permission, as NPPF Paragraph 154 details that local planning authorities should not require applicants to demonstrate the overall

need for renewable or low carbon energy development. The applicant nevertheless considers a need for waste facilities in the area to be established by the existing Knapton landfill. It is considered in planning judgement that the site would be replacing a less sustainable waste practice with a more sustainable one.

8.0 Conclusion

- 8.1 As detailed earlier within this report, under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting position for the determination of this planning application must be the 'Development Plan' and decisions 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' is conveyed within Section 7.0 above.
- 8.2 In this particular case, there are a range of policies in the 'Development Plan' to which due regard must be had, as well as a number of other material considerations. In considering the relationship of the proposals to the 'development plan', Members should note that proposals should be judged against the 'development plan' as a whole rather than against individual policies in isolation and acknowledge that it is not necessary for proposals to comply with all policies to be found compliant. Members will also need to bear in mind the relative weight to be attached to the applicable policies in the various elements of the 'development plan' relevant to this proposal against that which is laid down within national planning policy (Section 6.0 refers).
- 8.3 Following the considerations set out in Section 7.0 above, it is considered that the proposal complies with the development plan in terms of the aims of the relevant policies set out in Section 6.0 of this report. The principle of the proposed development has been established by the extant planning permission. This comprises the construction of an energy from waste facility on greenfield land adjacent to an existing waste management site (former landfill in restoration and waste recycling). It is considered that the proposals to increase the waste received and stored and associated HGV movements would not have unacceptable impacts and through the imposition of planning conditions are acceptable in land use planning terms. The further imposition of controls through legal agreement ensures that the development remains acceptable and capable of being mitigated.
- 8.4 It is also considered that the applicant has worked positively with the County Council to provide further information which has addressed the concerns of those consulted on the application as well as those who have made representations, and that effects on the interests of acknowledged importance, as outlined in Section 7.0 above, have either been demonstrated to not arise or are capable of being effectively mitigated or controlled through the potential to control the development through the imposition of appropriate planning conditions.
- 8.5 The Development constitutes an increase in waste tonnage and vehicle movements and it is considered that the proposal would not have a detrimental environmental or amenity impact as discussed above. Paragraph 154 of the NPPF, in relation to developments for renewable or low carbon energy, advises that '*when determining planning applications, local planning authorities should approve the application if its impacts are (or can be made) acceptable*'. Planning conditions can control the potential impacts upon the environment, local amenity and the highways network. The development which this application seeks to vary has not yet been implemented, and all of the conditions and obligations would be carried through to any new permission if granted.

Obligations under the Equality Act 2010

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

Obligations under the Human Rights Act

- 8.8 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 8.9 Having had due regard to the Human Rights Act, the relevant issues arising from the proposed development have been assessed as the potential effects upon those living within the vicinity of the site namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering the limited interference with those rights is in accordance with the law, necessary and in the public interest.

9.0 Recommendation

9.1 For the following reasons:

- i.) The principle of the development has already been established through the grant of the previous planning permission and non-material amendment;
- ii.) The development is in accordance with 'saved' policies 4/1, 4/18 and 4/19 of the North Yorkshire Waste Local Plan (2006), policies SP17, SP18, SP19 and SP20 of the Ryedale Plan- Local Plan Strategy (2013) and overall is consistent with the NPPF (2019) and NPPW (2014);
- iii.) It is considered that the existing highway network is capable of handling the increase in the volume of traffic generated by the development; any environmental impacts of the proposed development can be controlled by condition, neighbouring residential properties will not be adversely affected and there are no other material considerations indicating a refusal in the public interest;
- iv.) The imposition of planning conditions will further limit the impact of the development on the environment, residential amenity and the transport network; and
- v.) Having taken into account all the environmental information submitted as part of this planning application included within the Environmental Statement and further environmental information

that, subject to the completion of a Deed of Variation to the original Section 106 Agreement to secure the necessary mitigation of the coppice planting on the Knapton Quarry landfill site and the GEF, it is recommended that **PLANNING PERMISSION BE GRANTED** for the purposes of the variation of conditions no's. 2 and 30 of Planning Permission Ref. C3/16/01918/CPO to increase the tonnage of waste received at the

Green Energy Facility, on land to the south of Knapton Quarry, East Knapton, Malton, North Yorkshire, YO17 8JA 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 and to increase vehicle movements from 40 to 48 per day subject to the following conditions

Conditions:

1. The development to which this permission relates must be implemented no later than the 31st July 2021.

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.

The Definition of development

2. The development hereby permitted shall be carried out in accordance with the application details dated 29 September 2016 as amended by the further/amended environmental information dated February 2017 and September 2017, together with the S73 Variation of Conditions ES V1 September 2019, along with the list of 'Approved Documents' below and the following conditions which at all times shall take precedence.

<u>Ref.</u>	<u>Date</u>	<u>Title</u>
DS/GJ/SEPT2019/ESVAR001_V1	Sept 2019	Environmental Statement V1 and Reg 25 further information submitted in October 2020: <ul style="list-style-type: none"> • Human Health Assessment • Greenhouse Gas Assessment (Aardvark EM Ltd)
ML/MR/2170le/R003/Vol1_RevA	Oct 2016	Environmental Statement Volume 1: Main Text and Figures
ML/MR/2170le/R003/Vol2_RevA	Oct 2016	Environmental Statement Volume 2: Appendices (as amended)
ML/MR/2170le/R001	Sept 2016	Planning Statement
MR/ML/2170le/R004MR	Feb 2017	Regulation 22 Submission
2170LE/R005MR	Sept 2017	Regulation 22 Submission
16/1006/TH/LVIA/V.2	Sept 2017	Landscape and Visual Impact Assessment: Volume 1
16/1006/TH/LVIA/V.2	Sept 2017	Landscape and Visual Impact Assessment: Volume 2
14472-L-FRA-001-R3	Sept 2016	Flood Risk Assessment and Drainage Strategy
---	21/02/17	SuDs Planning Consultation – Response
R-2592-01.1	Aug 2016	Preliminary Ecological Appraisal
R-2596-02	Oct 2016	Bat Survey
OSA16DT26	Sept 2016	Desk Based Heritage Assessment
OSA14EV33	June 2016	Report on an Archaeological Geophysical Survey
14472-L-GEO1-001-R1	Sept 2016	Phase 1 Geo-Environmental Desktop Study Report
LTP/16/2440	Sept 2016	Transport Statement
---	Sept 2016	Operational Report
1226.001	Feb 2016	existing site plan/survey (1:1000)

1226.002	Feb 2016	existing site plan/survey sheet 1 of 2 (1:500)
1226.003	Feb 2016	existing site plan/survey sheet 2 of 2 (1:500)
1226.050	August 2017	proposed site plan (1:1000)
1226.051	August 2017	proposed site plan sheet 1 of 2 (1:500)
1226.052	August 2017	proposed site plan sheet 2 of 2 (1:500)
1226.053	Sept 2017	proposed GF plan with indicative plant layout (1:200)
1226.054	Sept 2017	proposed FF plan (1:200)
1226.055	Sept 2017	proposed roof plan (1:200)
1226.056	Sept 2017	proposed GF plan (1:200)
1226.057	Sept 2017	existing and proposed site section A – A
1226.058	Sept 2017	proposed site sections B – B and C – C
1226.059	Sept 2017	proposed site sections D – D and E – E
1226.060	Sept 2017	existing and proposed site section F – F
1226.061	Sept 2017	proposed north and east elevations
1226.062	Sept 2017	proposed south and west elevations
1226.019 Rev A	08/09/16	proposed reception building sheet 1 of 2 (elevation and roof plan)
1226.020	Sept 2016	proposed reception building sheet 2 of 2 (elevation and floor plan)
1226.063	Sept 2017	Site Plan Site Sections
1226.064	Sept 2017	Site Sections 1-1 & 2-2
1226.025A	29/11/16	location plan (1:10000)
1226.026	Aug 2016	location plan (1:2500)
1226.065	Sept 2017	proposed south elevation including ACC
1226.066	Sept 2017	Air Cooled Condenser
16_1006-TH_L_004 Rev E	12/09/17	Landscape Proposals
BHA/16/1006/TH/L/010 Rev B	28/09/17	Plan showing relationship to adjacent landfill activities
16_1006-DS_L_001	March 2016	Tree Root Protection Areas
BHA/16/1006/DS/L/003 Rev D	11/09/17	Indicative Cross Sections
p172-635rev3	09/11/16	External Lighting Plan
1226.080	Sept 2017	Proposed Drainage Plan Sheet 1 of 2
1226.081	Sept 2017	Proposed Drainage Plan Sheet 2 of 2
1226.082	Sept 2017	Exceedance Flow Rates
03.08.02-330 (Generic) (East Solutions)	14.06.2019	Directional Drill Method Statement
J5236 (East Solutions)	14.06.2019	Cable Installation Method Statement
Written Scheme of Investigation (OSA)	July 2019	Archaeological Written Scheme of Investigation
REPORT No: OSA18EV44	February 2019	Report on an Archaeological Evaluation
RE101485C001A, Revision B (Pell Frischmann)	June 2019	Surface Water Drainage Design Statement

DE101485C001, Revision B (Pell Frischmann)	25/06/2019	Proposed Drainage Key Plan
DE101485C002, Revision B (Pell Frischmann)	25/06/2019	Proposed Drainage Plan Sheet 1 of 3
DE101485C003, Revision B (Pell Frischmann)	25/06/2019	Proposed Drainage Plan Sheet 2 of 3
DE101485C004, Revision B (Pell Frischmann)	25/06/2019	Proposed Drainage Plan Sheet 3 of 3
BHA/16/1006/TH/P/001	10/09/2019	Landscape Planting Plan Sheet 1 of 2
BHA/16/1006/TH/P/002	10/09/2019	Landscape Planting Plan Sheet 2 of 2
		Landscape Management and Biodiversity Enhancement Plan Barton Howe Associates July 2019
087	November 2018	Cable Route

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

Duration of development

3. Upon the cessation of electricity generation for a period of 12 consecutive months the development hereby granted shall be discontinued and all buildings, structures, plant and machinery shall be removed from the site and the site shall be cleared and restored in accordance with the details approved under Condition 35.

Reason: In the interests of amenity.

Tonnages

4. The tonnage of waste received at the Green Energy Facility shall be up to 130,000 tonnes per annum and maximum stored waste shall be 1,080 tonnes at any time.

Construction Hours

5. No construction works shall take place except between the following times:

08.00 – 18.00hrs Mondays to Fridays

08.00 – 13.00hrs Saturdays.

And at no times on Sundays and Bank or Public)Holidays.

Reason: In the interests of amenity.

Construction Environmental Management Plan

6. Prior to the commencement of the development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the County Planning Authority. The CEMP shall detail the timetable and phasing of site preparation, groundwork and construction work and identify the steps and procedures that will be implemented to minimise the creation and impact of noise, vibration and dust resulting from the site preparation, groundwork and construction phases of the development. Appropriate measures such as the use of agreed routes to and from site during construction works and allocating arrival times for construction vehicles and supplies should be agreed with the County Planning Authority. Once approved construction shall proceed in accordance with the approved Plan.

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

Construction Traffic Management Plan

7. Prior to the commencement of the development a Construction Traffic Management Plan [CTMP] shall be submitted to and approved in writing by the County Planning Authority in consultation with the Local Highway Authority and Highways England. The CTMP shall identify the steps and procedures that will be implemented to minimise the

impacts of construction traffic. Once approved construction shall proceed in accordance with the approved Plan.

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

Power line installation scheme

8. Power line installation shall be in line with the construction method scheme submitted to and approved in writing by the County Planning Authority in consultation with Highways England on 4 November 2019 (Directional Drilling Statement Cable Installation Method Statement, East Solutions July 2019).

Reason: In the interests of amenity.

HGV hours

9. No HGVs are permitted to enter or exit the application site or be loaded or unloaded within the application site except between the following hours:-

06:30 – 18:30 Monday to Saturday

09:00 - 17:30 Sundays

There shall be no HGV movements into or out of the site or loading or unloading of HGVs on Bank or Public Holidays.

Reason: In the interests of amenity.

Noise Impact Report

10. Prior to the commencement of above ground construction works a Noise Impact Report shall be submitted to and approved in writing by the County Planning Authority. The report should detail such items as the design and specification of equipment and noise attenuation measures, including any tonal elements and allow for consideration of noise during deliveries, reversing beepers, etc. An assessment should be made as to the impact of the proposals in relation to the nearest noise sensitive receptors.

Reason: In the interests of amenity.

Noise monitoring scheme

11. Prior to the development being brought into use, a noise monitoring scheme shall have been submitted to and approved in writing by the County Planning Authority. This scheme shall include day time and night time noise limits at identified noise sensitive receptors and proposals for monitoring from the identified locations and any mitigation deemed necessary to comply with the agreed noise limits. Once approved the development shall proceed in accordance with the approved Scheme.

Reason: In the interests of amenity.

Noise monitoring during operation

12. The operator shall monitor noise levels due to operations and background noise levels as requested in writing by the County Planning Authority and shall forward the details of the monitoring to the County Planning Authority within 14 working days of carrying out the monitoring.

Reason: In the interests of amenity.

Fire prevention

13. Prior to the development being brought into use, a scheme for the prevention of fire for the application site should be submitted to and approved in writing by the County Planning Authority in consultation with North Yorkshire Fire and Rescue Service. Once approved the scheme shall be implemented before the development hereby approved is brought into use and thereafter maintained in accordance with the approved scheme throughout the lifetime of the development.

Reason: In the interests of site safety.

Archaeological WSI

14. The development shall be carried out in accordance with the Written Scheme of Investigation as approved by the County Planning Authority on 4 November 2019.

Reason: The site is of archaeological interest.

Archaeological site investigation and post investigation assessment

15. The development shall not be brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation dated July 2019 as approved by the County Planning Authority on 4 November 2019 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: The site is of archaeological interest.

Archaeological identification and evaluation

16. The development shall be carried out in accordance with the scheme of archaeological investigation dated February 2019, as approved by the County Planning Authority on 4 November 2019.

Reason: The site is of archaeological interest.

Surface water drainage

17. The development shall be carried out in accordance with the surface water drainage design statement dated June 2019, and the following plans as approved by the County Planning Authority on 4 November 2019:

- Proposed Drainage Key Plan, Pell Frishmann, Reference DE101485C001, Revision B, Dated 25 June 2019;
- Proposed Drainage Plan Sheet 1 of 3, Pell Frishmann, Reference DE101485C002, Revision B, Dated 25 June 2019;
- Proposed Drainage Plan Sheet 2 of 3, Pell Frishmann, Reference DE101485C003, Revision B, Dated 25 June 2019; and
- Proposed Drainage Plan Sheet 3 of 3, Pell Frishmann, Reference DE101485C004, Revision B, Dated 25 June 2019.

Reason: In the interests of water management.

Soil management plan

18. Prior to the commencement of development, including site preparation and removal of overburden or excavation into bedrock, a soil management plan shall be submitted for approval by the County Planning Authority, and implemented as approved. No topsoil or subsoil shall be removed from the site.

Reason: This is a pre-commencement condition and considered necessary to safeguard the topsoil and subsoil resources in the interests of achieving a high standard of landscaping to mitigate the impact on the character of the application site and its locality in the interests of visual amenity.

Landscape scheme

19. The development shall be carried out in accordance with the landscape proposals as approved by the County Planning Authority on 4 November 2019:

- BHA/16/1006/TH/P/001 Revision A PLANTING PLAN SHEET 1 OF 2
- BHA/16/1006/TH/P/002 Revision A PLANTING PLAN SHEET 2 OF 2

Reason: In the interests of achieving a high standard of landscaping.

Replacement of failed planting

20. All planting, seeding or turfing set out in the details approved through the landscaping scheme in condition 19 above (BHA/16/1006/TH/P/001 and BHA/16/1006/TH/P/002) shall be carried out in the first planting season following completion of ground re-modelling works and placing of soils in accordance with the approved drawings. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the County Planning Authority gives its written consent to any variation.

Reason: To safeguard the topsoil and subsoil resources in the interests of achieving a high standard of landscaping to mitigate the impact on the character of the application site and its locality in the interests of visual amenity.

Landscape Management Plan and Biodiversity Enhancement and Management Plan

21. The development shall be carried out in accordance with the Landscape Management and Biodiversity Enhancement Plan dated March 2020 as approved by the County Planning Authority on 25 March 2020.

Tree Root Protection

22. The existing woodland and hedgerow planting shown on the Tree Root Protection Areas drawing ref. 16_1006-DS_L_001, dated March 2016 shall be protected and maintained throughout the duration of the development.

Reason: To safeguard the topsoil and subsoil resources in the interests of achieving a high standard of landscaping to mitigate the impact on the character of the application site and its locality in the interests of visual amenity.

Badger Survey

23. Prior to the commencement of development a survey for badger (as referred to in the submitted Environmental Statement (ES) for Planning Permission Ref. C3/16/01918/CPO) shall be completed to ensure that any presence can be taken into consideration in line with the relevant legislation. The survey must be undertaken at the appropriate time of year by a suitably qualified ecologist and a report detailing changes in the status of these species and any additional mitigation measures that may be required shall be submitted to the County Planning Authority for written approval.

Reason: This is a pre-commencement condition and considered necessary in order to prevent disturbance to badgers which are a protected species.

Nesting birds

24. Trees and vegetation which may support nesting birds should not be removed during the bird nesting season, which is generally taken to be 1st March to 31st August. Any vegetation removal necessary during nesting bird season shall first be surveyed for nesting by a suitably qualified ecologist.

Reason: In order to prevent disturbance to nesting birds which are protected by the Wildlife and Countryside Act 1981 (as amended).

Cable route

25. The development shall be carried out in accordance with the Cable Route and Ownership Plan, Drawing number 087, Dated November 2018 as approved by the County Planning Authority on 4 November 2019.

External Construction Materials

26. Prior to the commencement of aboveground construction work details of materials, colours and finishes (recessive and non-reflective appearance) of the proposed buildings and structures shall be submitted to and approved in writing by the County Planning Authority.

Reason: In the interests of amenity and to ensure a satisfactory external appearance.

Lighting scheme

27. No part of the development shall be brought into use until details of the final lighting scheme design has been submitted to and approved in writing by the County Planning Authority. The scheme shall include a layout plan with beam orientation, a schedule of equipment (luminaire type, mounting height, aiming angles and luminaire profiles) and the proposed hours of use. The lighting shall be installed and operated in accordance with the approved details and shall be maintained in working order.

Reason: In the interests of amenity.

Limitations

28. All door openings on the GEF building shall be closed during operations except for the entry or exit of staff and vehicles. There shall be no external handling, processing or storage of RDF or waste materials at the site.

Reason: In the interests of amenity.

Site Access

29. Access to the site shall be via the existing access (extended) off the A64 and no other access shall be used. The access road from the site to the public highway shall be kept clean and in a safe condition. The access road shall be maintained in a good standard of repair, free of potholes for the duration of the operations.

Reason: In the interests of highway safety and amenity.

HGV movement limit

30. There shall be a maximum of 48 HGV movements associated with the development in any single day entering and leaving the site via the existing junction with the A64. Vehicles entering and leaving the site shall be monitored and the applicant shall be required to provide the County Planning Authority with weighbridge records within 10 days of any written request from the County Planning Authority.

Reason: In the interests of highway safety and amenity.

Vehicle sheeting

31. All vehicles involved in the transport of waste material to and from the site shall be effectively enclosed and/or securely covered in such a manner as no material may be spilled on the public highway.

Reason: In the interests of highway safety and amenity.

Flood Risk and drainage

32. The development hereby approved shall be undertaken in accordance with the approved Flood Risk Assessment and Drainage Strategy ref. 14472-L-FRA-001-R3, dated Sept 2016.

Reason: To reduce the impact of flooding to the proposed development.

Annual Review

33. Within 12 months of the commencement of development and thereafter annually for the first 5 years from the commencement of development, a review of the previous year's landscaping shall be carried out in conjunction with a representative of the County Planning Authority. The review shall take account of any departure from the schemes approved under condition and any revised scheme shall be submitted to the County Planning Authority for approval providing for the taking of such steps as may be necessary to continue the satisfactory landscaping of the site including the replacement of any tree or shrub which may have died, been removed or become seriously damaged or diseased. Thereafter all such works shall be carried out in accordance with the approved schemes.

Reason: In the interests of achieving a high standard of landscape mitigation.

Limitation on permitted development rights

34. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order) no buildings or fixed plant shall be erected or areas of hardstanding created within the application site without the prior grant of planning permission.

Reason: To reserve the rights of control by the County Planning Authority in the interests of amenity.

Decommissioning Environmental Management Plan (DEMP), Restoration & Aftercare

35. Upon cessation of electricity generation for a period of 12 consecutive months a Decommissioning Environmental Management Plan (DEMP) to address the removal of the development and restoration of the land shall be submitted within 3 months and approved in writing by the County Planning Authority. The DEMP shall be implemented as approved. The DEMP shall include the following details:

- a. The demolition/dismantling and removal of all buildings, structures, plant and machinery in accordance with a detailed method statement;
- b. a detailed Restoration & Aftercare Plan providing details of restoration to agriculture or nature conservation;
- c. Site waste management including measures to recycle materials on the Site;
- d. Hours of working;
- e. Car parking arrangements;
- f. Traffic management;
- g. Decommissioning worker accommodation and support facilities and their means of enclosure;
- h. Measures to control lighting, noise, dust, odours and fumes in order to minimise the adverse effects on the amenity of neighbours;
- i. Temporary storage compounds and stockpile areas;
- j. Measures to prevent mud and debris being deposited on the highway;
- k. Measures to protect trees and hedgerows;
- l. Temporary fencing;
- m. Measures to minimise the pollution of surface and ground water;
- n. Measures to inform visitors and liaise with neighbours; and
- o. A programme for implementation with demolition/removal works and restoration to be completed no later than 24 months after the cessation of electricity generation at the GEF site.

Reason: To avoid harm to the amenity of residents and to achieve successful restoration of the site and reintegrate the land into the local landscape character.

Copy of permission

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

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

Informatives

1) Public Rights of Way- No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development.

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.

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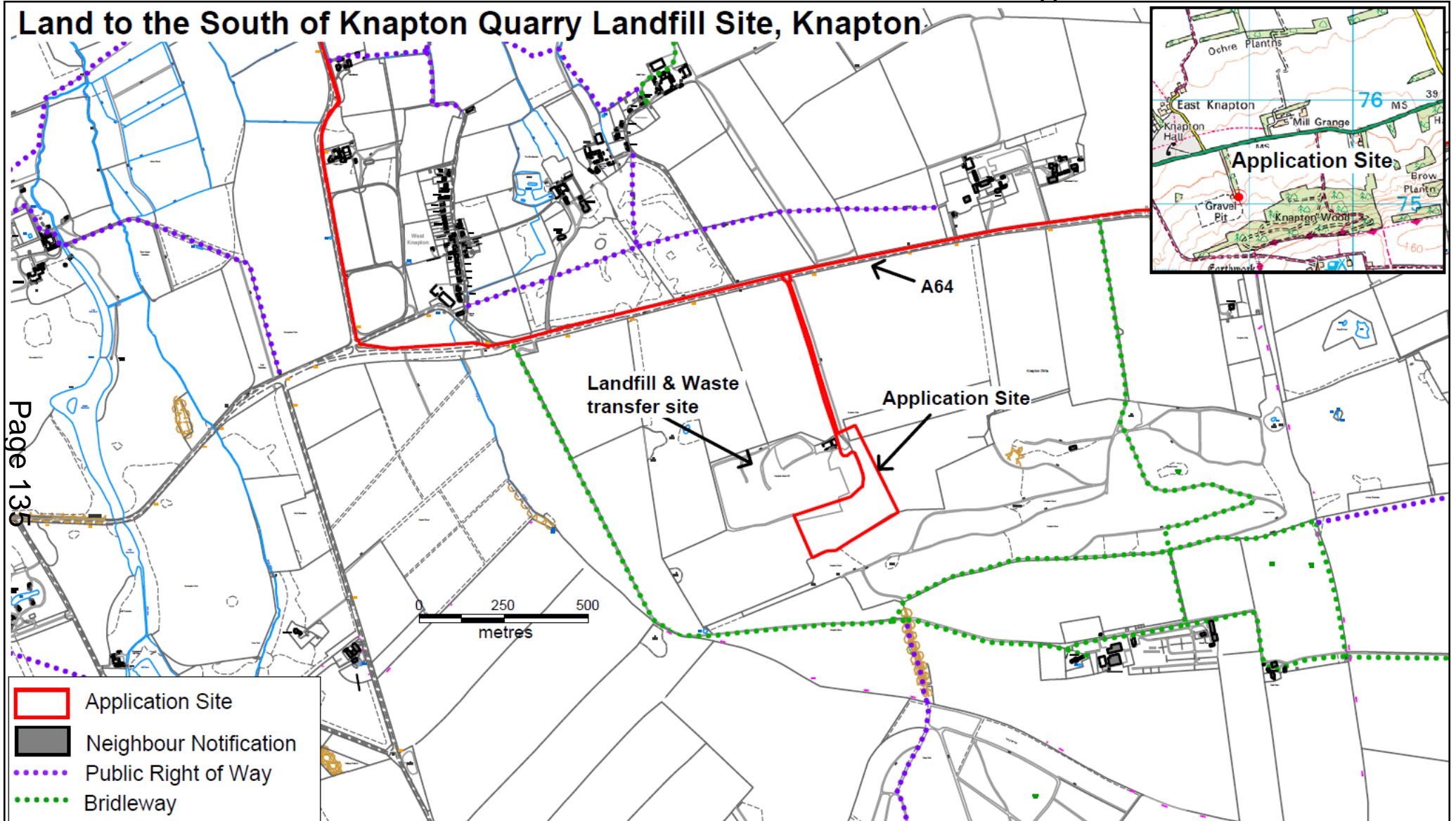
Corporate Director, Business and Environmental Services
Growth, Planning and Trading Standards

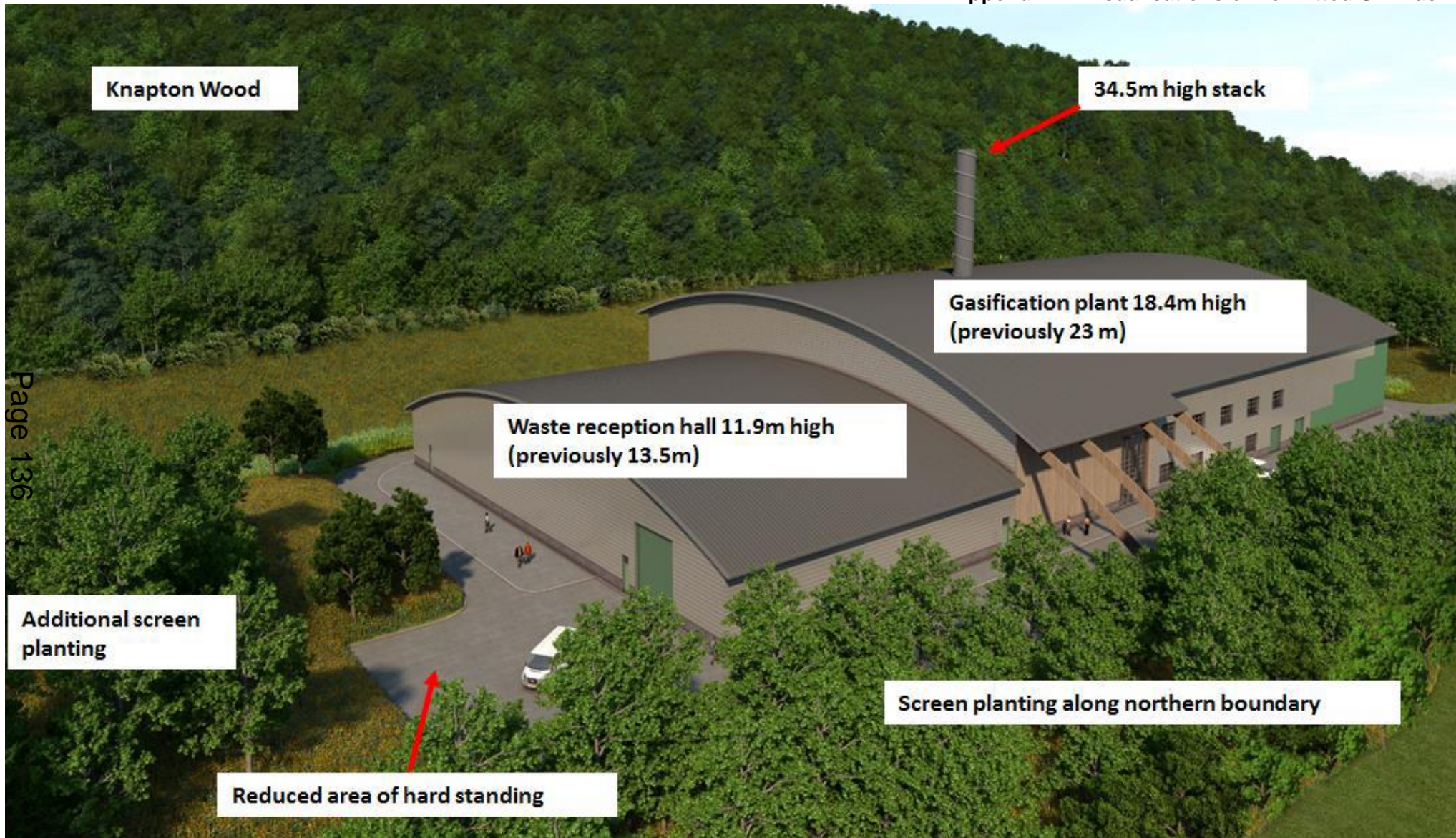
Background Documents to this Report:

1. Planning Application Ref Number: C3/19/01184/CPO (NY/2019/0078/73) registered as valid on 16th September 2019. Application documents can be found on the County Council's Online Planning Register by using the following web link: <https://onlineplanningregister.northyorks.gov.uk/register/>
2. Consultation responses received.
3. Representations received.

Author of report: Amy Taylor

Land to the South of Knapton Quarry Landfill Site, Knapton





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North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

16 MARCH 2021

C8/8/52/164C/PA (NY/2017/0219/FUL) PLANNING APPLICATION FOR THE PURPOSES OF THE DRILLING A BOREHOLE, TESTING OF THE BOREHOLE INCLUDING FLARING, ERECTION OF CONTAINERISED UNITS WITH EXHAUST STACKS, ASSOCIATED PLANT AND EQUIPMENT, INCLUDING THE ERECTION OF ACOUSTIC FENCING, LANDSCAPING, AND THE EXTRACTION OF MINE GAS, GENERATION OF ELECTRICITY AND ANCILLARY OPERATIONS ON LAND AT LAND OFF WEELAND ROAD, KELLINGLEY, WF11 8DN ON BEHALF OF ALKANE ENERGY UK LIMITED (SELBY DISTRICT) (OSGOLDCROSS, MID SELBY 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 drilling of a single borehole, testing of the borehole including flaring, erection of three containerised units with exhaust stacks, associated plant and equipment, including the erection of acoustic fencing, landscaping and the extraction of mine gas and generation of electricity together with ancillary operations on land off Weeland Road, Kellingley, WF11 8DN on behalf of Alkane Energy UK Limited.
- 1.2 Seven representations have been received objecting to the proposal in view of its potential impact on the Green Belt, visual impact on the landscape, noise, flood risk, traffic, detriment to horses, and potential alternative locations for the development and is therefore, reported to this Committee for determination.

2.0 Background

Site Description

- 2.1 The application site would occupy part of an arable field situated approximately 225m to the north of Weeland Road (A645), Kellingley, approximately 2.5km to the east of Knottingley; access to the site would be taken from Weeland Road via an existing agricultural entrance, which is proposed to be upgraded, and the formation of a new track to the site. The site and access would extend over an area of approximately 1.35 Ha (3.34 acres). The operational area of the site would cover 0.33Ha (0.82 acres); the site access track together with areas proposed to be used for landscaping and soil storage would extend over 1.02ha. A 'poled' electricity supply runs north south across the field to the west of the site, beyond which and running parallel is an overhead electricity transmission line with pylons served by Ferrybridge Power Station, which is seen in the distance when viewed from Weeland Road. To the west of the proposed access, the field is open to Weeland Road with no field boundary; to the east of the

access, the field boundary comprises a tall, established hedge preventing views beyond. A further 'poled' electricity line runs north south to the east of the site. The River Aire meanders to the north of the application site within open countryside. Agricultural land is located between the river and the application site; Willow Garth Local Nature Reserve is 350m to the north west of the site beyond Kemp Bank embankment, a manmade flood defence. A small, approximately 12m high wind turbine is located in the north west corner of the field between the pylon line and the embankment. Further to the west is a large solvent recycling plant. The site and surrounding land is designated as Grade 3, currently in arable use and falls within the Green Belt.

- 2.2 The former Kellingley Colliery sites situated to the south of Weeland Road and beyond an area of woodland opposite the site access. The site is now vacant on part of which planning permission has been granted for an Energy Centre (Energy from Waste); the remainder of the former colliery site has been granted outline planning permission by Selby District Council (2017) for a Business Park. The Aire and Calder Navigation lies to the south of the former Kellingley Colliery site and beyond that, further to the south, is the M62 motorway.
- 2.3 The nearest residential properties are located to the south of the site, on the south side of Weeland Road and to the east of the proposed access. To the east of the proposed application site is Stocking Lane, to the west of which is a large farm complex with a mix of uses including livery, tearooms, a plant nursery, café, and associated external schooling area. To the north of these are areas used for various forms of storage including vehicles and caravans. To the east of Stocking lane are two residential properties and a haulage yard. The land between Stocking Lane and the application site is in agricultural use.
- 2.4 A Public Footpath (no. 35.7/9/1) runs along Kemp Bank, the embankment forming the northern boundary of the field within which the proposed site would be located. The proposed operational compound would be situated 80m to the south of the footpath and embankment. Kemp Bank embankment has been strengthened in recent years as a flood defence, to protect land to the south from floods from the River Aire.
- 2.5 A location plan showing the application site and immediate surrounding area is appended as 1 to this report.

Planning Constraints

- 2.6 The application site falls within:
- the West Yorkshire Green Belt;
 - Flood Zone 3A;
 - Agricultural land classification Grade 3;
 - 350 m of Willow Garth Local Nature Reserve;
 - the Nottinghamshire Coalfield Consultation Area; and
 - the airfield safeguard zone – Robin Hood Airport

Planning History

- 2.7 The application site is currently in agricultural use and has no relevant planning history.

3.0 The proposal

- 3.1 Planning permission is sought for the drilling of a directional borehole into former coalmine driveways/seams associated with the former Kellingley Colliery workings to identify the presence of coalmine methane (CMM). Methane gas continues to desorb from coal fragments left underground and unworked fractured coal for many years after

the mines have closed can escape into the atmosphere through overlying strata until former workings flood. If CMM is present, it is proposed to carry out an appraisal to establish whether the CMM would flow in sufficient quantities to generate electricity. If the flow rates were commercially viable, the gas would be used to generate electricity via three containerised generators with exhaust stacks, associated plant and equipment, and link to the grid. Exploration and appraisal of hydrocarbons can only be carried out within a Petroleum Exploration and Development Licence (PEDL), which are issued by the Oil and Gas Authority. The applicant, Alkane Energy, holds PEDL 279; within which the application falls. Initially, the application was submitted for a 25-year period. This was on the assumption the exploration and appraisal phases were successful and flow of gas would be sufficient to generate electricity over this period. This has now been reduced to 15 years following an appraisal of the potential gas reserves. It is estimated that up to 6MW (million Watts) of electricity could be generated if the proposal advances to the production phase.

- 3.2 It is proposed to carry out the development in five phases. The success of Phases 1, 2 and 3 (exploration and appraisal) would determine whether the development could advance to Phase 4 (production). If Phases 1, 2 and 3 were unsuccessful, then the development would advance to Phase 5 (restoration). If Phases 1, 2 and 3 were successful, the site would be restored (Phase 5) at the end of the proposed 15 year period, or beyond, subject to the granting of any further planning permission.

Phase 1

- 3.3 Works in Phase 1 would include the upgrading of the site access, creation of the new access track, establishment of the drilling site, importation of plant, equipment and drilling rig, and the drilling of a single directional borehole. It is anticipated access and site preparation would take 3 – 4 weeks to complete. Initial site preparation works would involve removing top and subsoil from the access road and the drill site and stacking it in temporary storage bunds around the periphery of the site. A steel gate would be installed at the entrance, set back from Weeland Road to allow vehicles to safely pull in off the highway before accessing the track.
- 3.4 The site surface would be constructed using imported rolled inert recycled compacted hardcore, set on one or more geo-textile layers incorporating an impervious polyethylene membrane to prevent any drilling fluids from penetrating the ground. Once the site base is completed, plant and equipment would then be brought onto the site including a drilling rig, to a maximum height of 35m, crane (for the set-up of the rig), and supporting equipment; these would be brought in over a period of approximately 2 days.
- 3.5 The borehole would be directionally drilled to a vertical depth of around 620m and a horizontal distance of approximately 196m in a north-north-west direction targeting a roadway associated with the abandoned workings of the former Kellingley Colliery. The borehole would be lined in steel tubing, cemented to the strata to form a seal. The final set of casing to the target roadway would comprise approximately 25m of slotted steel liner. The completed borehole would be fitted with a valve and well-head equipment to ensure that any gas can be controlled.
- 3.6 Construction of the access and site would take place between 07:00 to 18:00 hours Mondays to Fridays, with no working at weekends or on Bank Holidays.
- 3.7 The drilling of the borehole would take place up to 24 hours a day, 7 days a week for up to 4 weeks. During this time, it is envisaged there would be an average of 2 HGV movements per day, plus other smaller vehicles, such as vans, visiting the site. Phase 1 is expected to take up to 14 weeks in total. A plan showing the layout of the site during the drilling phase is appended as 2 to this report.

Phase 2

- 3.8 Phase 2 is the appraisal stage. Testing would be carried out to establish whether CMM is present and if so, assess the likely quantities of gas and rates of flow. During this process, the CMM would be burnt using a portable flare stack; the stack and flame would be fully enclosed in a wide metal jacket. Flaring and gas testing would take place 24 hours a day for up to 3 weeks. The flaring would be undertaken in accordance with a Mining Waste Permit issued by the Environment Agency.
- 3.9 If the appraisal is successful, and CMM is identified in commercially viable quantities, the applicant would move to the construction phase to develop the site for electricity generation (Phase 3). If CMM is not present in commercially viable quantities, the borehole would be capped, sealed below ground level, plant and equipment removed, the site cleared, and then restored to its current agricultural use within a period of 12 months. A plan showing the layout of the site during the appraisal phase is appended as 3 to this report.

Phase 3

- 3.10 If the flow of gas is proven and sufficient to viably generate electricity, development of the site for electricity generation would commence. The construction phase would include the construction of concrete bases, installation of site drainage, erection of green mesh security fencing to a height of 2.4m, acoustic/screening fencing to a height of 4.5m, and the construction of a sub-station to connect to the electricity grid. Plant and equipment would be installed on part of the borehole platform, which would be retained for use as an operational platform and for vehicle manoeuvring. During Phase 3, it is anticipated that there would be up to 5 HGVs visiting the site together with up to 10 light vehicles and/or cars per day.
- 3.11 Containerised generators, containers and pumps would be installed; these would require a mobile crane for a period of approximately 3 days. Full installation and commissioning of all plant and equipment would take place over a period of up to 12 weeks. The borehole would be temporarily closed and there would be no flaring during the construction period. Phase 3 is expected to take up to 15 weeks and work would take place 24 hours a day.
- 3.12 The CMM would then be piped to compressors where it would be combusted in spark ignition engines; these would be fitted with alternators to generate electricity 24 hours a day, 7 days a week. There would be three containerised generator engines on the site. The containers are proposed to be painted olive green to minimise any visual impact. Each pump unit container would be 12.4m long x 3.8m wide x 3.1m high and would have vent stacks projecting above the height of the containers by 8.92m (12m high in total) and each having an internal combustion gas engine which would be capable of generating up to 2MW (Mega Watts) of electrical power. The electricity would be delivered to the local grid via an inter-connecting substation.

Phase 4

- 3.13 Phase 4 would be the production phase of the proposed development. CMM would be used to generate electricity 24 hours per day, 7 days per week for a period of up to 15 years (or beyond) depending on the commercial viability of the flow rates. During the production phase, vehicle movements would be between 2 and 6 light vehicles for maintenance and servicing of the plant and equipment.
- 3.14 Following the construction of the site, landscaping would be carried out. This would consist of a 5m wide tree screen to be planted to the west, south and north of the site

beyond the soil storage bunds, which would be seeded and grassed. To the east of the production area, there would be a 5m wide tree screen, widening out into a more substantial woodland area, in front of the south facing section of the acoustic fence. Further specimen trees are proposed to be planted in the most easterly section of the site. Climbing plants would be planted to grow up the acoustic fence. A post and wire fence would be erected beyond the soil storage bunds and landscaped areas around the outer perimeter of the site to the adjoining agricultural land. A plan showing the likely layout of the site is appended as 3 to this report and elevations appended as 4.

Phase 5

- 3.15 Phase 5 would be the restoration phase. The borehole would be abandoned, filled with oil well cement and capped, by cutting off the casing and removing the borehole cellar to a depth of at least 2m below ground level; the former cellar would be filled with inert hard-core. The site would be cleared of all plant, machinery, equipment and the hardstandings would be grubbed up, and materials removed off the site. Sub and top soils would then be reinstated and the site would be restored back to agriculture in accordance with an approved scheme. Some of the planted trees would be retained. Phase 5 would be carried out at the end of the proposed 15-year period, or sooner depending on the commercial viability of the generation of electricity. If the CMM was found not to be commercially viable at the end of Phase 2, the well would be abandoned and the site resorted as described.
- 3.16 The applicant has summarised the proposed hours of operation for each phase as follows:

Operation/Phase	Mondays to Fridays	Saturdays	Sundays, Public and Bank Holidays
Phase 1 - Construction of access track and well platform	07.30-18.00hrs	07.30-13.00hrs	Not at all
Phase 1 - Access and egress of HGVs during any stage	07.30-18.00hrs	07.30-13.00hrs	Not at all
Phase 1 - Drilling operations including mobilisation/demobilisation of the drilling rig	24 hours a day	24 hours a day	24 hours a day
Phase 2 - Borehole evaluation and gas testing/flaring	24 hours a day	24 hours a day	24 hours a day
Phase 3 - Plant installation and commissioning of production equipment	24 hours a day	24 hours a day	24 hours a day
Phase 4- Operational electricity generation	24 hours a day	24 hours a day	24 hours a day
Phase 5 - Restoration of access track and well platform	07.30 -18.00hrs	07.30-13.00hrs	Not at all

- 3.17 The application is supported by: a noise assessment, a Preliminary Ecological Appraisal, an air quality assessment, a Flood Risk Assessment (FRA), a landscape and visual impact assessment and site selection criteria which are summarised as follows:

Noise

3.18 The noise assessment measured background noise levels in the vicinity of the site during day and night-time at the nearest sensitive receptors; these were identified as Kellingley Farm and The Hidden Tearoom on Stocking Lane, Calder Grange on Weeland Road and users of the nearby footpath along Kemp Bank. Assessments were then made of potential noise that could occur during the drilling, flaring and proposed production phase. The noise assessment recommended a 4.5m high acoustic fence should be erected to the east, south and north of the site and noise attenuators be fitted to the containerised generator vent stacks to mitigate any prospective noise nuisance to the identified receptors. The assessment concluded there would be no perceptible difference in background noise levels over existing subject to the proposed mitigation measures being in place.

Ecology

3.19 The applicant has carried out a Preliminary Ecological Appraisal. The Appraisal identifies the majority of the proposed site as being a heavily managed arable field with habitats to the boundaries comprising scattered trees, species poor hedgerow, amenity grassland, scrub, tall grassland habitats and a running water ditch. The Appraisal concludes that nesting birds and other species may use the boundary habitats; the following protection measures are recommended:

- Vegetation clearance around the access point on Weeland Road should take place outside the bird-nesting season. If vegetation clearance takes place during the bird-nesting season, a check must take place by an appropriately experienced ecologist.
- A dark corridor should be maintained to the boundary to the north west and the ash tree to the east boundary with potential bat roost features should not be directly lit. Security lighting should have low-level directional lighting to reduce light spill to the site boundaries and lighting with a low UV component would reduce potential disturbance to bats.
- The boundary ash tree (TN2) should be retained.
- Any open trenches or pits must be covered at night to prevent mammals falling in and becoming trapped, as well as any pipes over 200mm, which should be capped off.
- Willow Garth Local Nature Reserve is 350m away from the site; it is recommended that sound baffling be incorporated round the completed compound to reduce any potential disturbance to nesting birds in the wildlife area. Wetting down is also recommended to reduce dust levels during the construction phase and a Construction Environment Management Plan (CEMP) should be produced.

3.20 The Appraisal recommends the following ecological enhancements:

- Planting of common and widespread grassland flowering species on the earth bunds to benefit invertebrate species.
- Bird and bat boxes should be placed on surrounding trees.

Air Quality

3.21 An air quality assessment has been carried out which makes predictions of ground level concentrations of nitrogen dioxide, the principal pollutant released to the atmosphere from the operation of the generators. The report considers that the most important meteorological parameters that govern the atmospheric dispersion of pollutants are wind speed, wind direction and atmospheric stability.

3.22 Modelling has been undertaken to show the effects on dispersion of the operation of the generators. Using 2015 meteorological data, the incremental increase in annual average ground level concentration would be 5.9, which can be compared to the Air Quality

Strategy (AQA) objective of 40. When added to the prevailing background concentration the resulting total concentration would be 26.3, which would be less than the AQA objective and not of concern to human health. The report concludes that the predicted incremental increases would be small compared to the assessment criteria and therefore not of concern to human health. With regard to the locations of the closest residential properties and overall, in the vicinity, the conclusion is that impacts on human health by emission to atmosphere from the proposed development would be insignificant.

Flood Risk

- 3.23 The applicant has carried out an FRA and identifies the site falling within Flood Zone 3A which is liable to flood during a 1 in a 100-year event but the area has not been flooded in recent flood events due to the protection of the Kemp Bank flood embankment. The FRA concludes the risks of flooding could be safely and effectively mitigated. The Kemp Bank embankment would provide protection to the site; the proposed site formation level at the centre of the borehole platform would be 8.8m AOD, 0.2m above the 1 in 100-year event flood level of 8.6m. The report concludes there would be no significant risk of flooding from the River Aire.
- 3.24 The proposed access route and site would be constructed from free draining hardcore. The site would be underlain with an impervious membrane. Surface water run-off from the site would be via French drains running around the perimeter of the site, feeding into an underground interceptor and soakaway system. The FRA concludes this would ensure the development would not add to local flood risk.
- 3.25 A small part of the site, the access in the south eastern corner, falls within Flood Zone 3, subject to 1 in 1000 year surface water flooding events. This part is situated away from the borehole platform and it is unlikely that surface water, at that location, would affect the proposed development. The Assessment concludes that no significant risk of surface water flooding is likely.

Landscape and visual impact

- 3.26 The applicant has undertaken a landscape and visual impact assessment of the proposed development when seen from four representative viewpoints and what effect the proposal could have on the landscape elements, landscape character and visual amenity. Three of the viewpoints are from Weeland Road and one to the north of the site on the Kemp Bank Embankment. The assessment concludes the level of the effect on agricultural land and hedgerows would be minor; the effect on landscape character receptors, moderate-minor; and the effect on visual amenity from the four representative view points as being moderate diminishing to minor through the phases of exploration, appraisal, production and restoration as planting becomes more mature. Overall, the assessment concludes the effects of the proposed development would be localised meaning the surrounding area would remain unaffected and there would be no wider effects. The site falls within a relatively low-lying and discreet location in an area where there is a notable baseline influence from existing development and the busy Weeland Road and with some enclosure from surrounding tree cover and built form. The extent of landscape mitigation would ensure that a planted buffer would be in place between the residents and the site and that effects would gradually be reduced over time as planting matures. The retention of a strip of up to native woodland/trees would result in some landscape improvement within this edge of urban area.

Site location criteria

- 3.27 A number of sites were investigated against specific site selection criteria including access to the former mine workings, accessibility to the highway network, proximity to

an electricity grid connection, and availability for agreeing occupation rights for the duration of the proposed operations. The proposed site and three alternative sites were considered. One alternative was the former Kellingley Colliery. Due to the proximity of the site to the shafts of the former coalmine, it was considered it would be susceptible to air ingress that could force premature cessation of the CMM extraction and the site was not available; the site was therefore not considered an ideal location.

- 3.28 A second alternative was land to the west of Common Lane, Beal. The site was considered a good location from which to drill a borehole because it lies almost directly over one of the principal underground roadways that the Silkstone mine workings have been developed from. However, it was not possible to negotiate a commercially viable electrical grid connection for the site; the site was therefore discounted. A third alternative was a site in industrial use. However, a detailed assessment of the mine workings revealed they were very likely to be flooded; the site was therefore discounted. The application site became the preferred site due to accessibility to the former coal workings and likelihood of containing CMM in productive quantities, proximity to the national grid, accessibility from the public highway, minimum impact on the landscape, ecology and flood risk and availability.

Archaeology

- 3.29 An archaeological geophysical survey has been undertaken that identifies a number of features of archaeological potential. These are likely to represent former field enclosures of the later prehistoric or Romano-British periods. The survey was less successful in other areas of the site where modern disturbance and former tree planting has hampered the results. The survey identifies features of archaeological interest but are unlikely to represent very significant remains. These features relate to a wider archaeological landscape of early agricultural settlement and the archaeological information that they contain will advance our understanding of the later prehistoric and Roman periods in the area.

Amendments to the application

- 3.30 The planning application initially proposed a production phase of 25 years. However, following a review of the projected quantities of gas within the former mine workings, this has revised to 15 years. Following responses to landscape and archaeology consultations, amendments have been proposed to the landscaping and screening measures to be carried out throughout the production phase of the site, retention of landscaping post restoration and an archaeological geophysical survey was carried out, and the results submitted.
- 3.31 Prior to the submission of the application, the applicant requested a screening opinion to determine whether the proposal constituted Environmental Impact Assessment development for the purposes of the Environmental Impact Assessment Regulations 2017 (Regulation 8). The development was considered on its own merits and based on what was being proposed. The proposed development type is not listed in Schedule 1 of the Regulations. The proposed development type falls within Schedule 2 of the Regulations; Class 2(e) '*surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale*' and Class 3(a) '*industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1)*'. The criteria in Schedule 3 of the Regulations, including the characteristics of the proposed development; the environmental sensitivity of the location; the types and characteristics of the potential impact and based upon the scale, nature and location of the development as proposed were taken into account. The County Council concluded in the Screening Opinion issued on 23rd March 2018 that the proposal would not have

significant impacts upon the environment and was therefore not EIA development and did not need to be accompanied by an Environmental Statement.

4.0 Consultations

- 4.1 The following bodies were consulted on the application between October and December 2017. They were further consulted following the receipt of further/amended information in October 2019. Responses received are reported or summarised as follows:
- 4.2 **Selby District Council (Planning) (SDC):** commented on 6th March 2018. The key issues to be considered are Green Belt, low carbon and renewable energy, impact on the landscape, noise, air quality and lighting.
- 4.3 SDC advise the site is in the West Yorkshire Green Belt and Green Belt policy applies. Core Strategy policy SP3 refers to planning permission not being granted for inappropriate development unless very special circumstances have been put forward to justify why permission should be granted. SDC also advise the NPPF confirms that mineral extraction does not constitute inappropriate development as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.
- 4.4 Core Strategy Policy SP17 sets out a criterion by which all development proposals for new sources of renewable energy and low-carbon energy generation must meet. SDC also consider that *“proposals should be designed and located to protect the environment and local amenity, should demonstrate the wider environmental, economic and social benefits which outweigh any harm caused to the environment and local amenity, and should ensure that impacts on local communities are minimised.”* CMM extraction is identified in the policy. The NPPF (paragraph 147) states that mineral planning authorities should encourage the capture and use of methane from coalmines in active and abandoned coalfield areas.
- 4.5 SDC advise that Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and manmade environment. As the proposal is located in the countryside, attention should be paid to the overall impact on the countryside, environment and amenity.
- 4.6 SDC advise the site lies within Flood Zones 2 and 3 and therefore expect that an appropriate flood risk assessment and sequential test is submitted to the satisfaction of the LLFA and the Environment Agency.
- 4.7 **Selby District Council (Environmental Health) (EHO):** response received on 13th November 2017, 14th December 2017, 15th January 2018, 5th June 2018, 3rd July 2018 and 3rd August 2018. Conditions to control noise, external lighting and air quality/emissions and dust are recommended. The EHO also recommends conditions should be imposed to require:
- The flue diameter shall be 0.4m.
 - The efflux velocity shall not be less than 45m/s.
 - The generators shall not exceed a limit of 250mg/m³ for Nitrogen Oxides.
 - Monitoring to determine compliance with emission limit value and efflux velocity shall be carried out on the request of the planning authority and correct to the following reference conditions: temperature 273K, pressure 101.3kPa, without correction for water vapour, normalised to 5% oxygen measured dry. Dilution air may be added for waste gas cooling or improved dispersion but monitoring shall

be carried out upstream of the dilution air input or procedures designed to correct for the ratio of input air to the satisfaction of the planning authority.

- Conditions in relation to noise, external lighting (including a contour map showing illumination spill) and control of dust are required.

4.8 Yorkshire Wildlife Trust: response received 11th December 2018. The Trust advise:

- The site is immediately adjacent to their reserve at Willow Garth.
- The application is most likely to have impacts on Willow Garth. The key concerns relate to the impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and habitats within Willow Garth.
- Willow Garth is a small reserve and is very valuable for wildlife as it is a quiet and undisturbed site in an industrialised area. Borehole development adjacent to the reserve will greatly increase disturbance. The site supports a wide range of bird species and the increasingly rare harvest mouse.
- Noise from the drilling operations, lighting and potential nitrogen deposition could all impact on the nature reserve.
- The Trust would like further information as to the potential for nitrogen deposition on Willow Garth reserve to ensure that the water bodies and vegetation will not be impacted.
- The Trust would like to see a Construction Environmental Management Plan, which will mitigate impacts on nesting birds and other wildlife.
- The Trust would also like to see a detailed ecological mitigation and enhancement plan prior to determination, to include details on the timings of noisy operations so that nesting birds are not disturbed, and enhancements to the surrounding habitats, which will buffer and protect the wildlife reserve.
- The Trust “*would like to record a holding objection to the application.*”

4.9 Highway Authority: response received 10th November 2017. The access to the A645 is proposed to be improved to an acceptable standard; traffic lows to and from the development are likely to be between 3 and 10 vehicles per week, which will not impact on the local highway network. No objection subject to the imposition of conditions controlling construction of the access, visibility splays, construction traffic (hours), construction traffic during development, private access/verge crossing; and construction requirements.

4.10 Environment Agency York: response received 21st November 2017. No objection. Permits would be required to discharge surface water to a soakaway and to manage mining waste. A condition should be imposed to ensure no infiltration of surface water drainage into the ground from the site. Structures within 8 metres of the flood bank would require a flood risk activity permit, an EPR groundwater permit and possibly an Industrial Emissions Directive permit.

4.11 Yorkshire Water Services Ltd: response received 10th January 2018. There are no issues with regard to groundwater assets.

4.12 Robin Hood Airport; response received 8th December 2017. No objection.

4.13 The Lead Local Flood Authority (SuDS): response received 10th January 2018. The site is located in Flood Zone 3a with no known flood risk. The development requires a drainage layout plan and a drainage strategy. A herringbone soakaway system is proposed and onsite percolation tests to BRE 365 standard should be performed to confirm the infiltration rate of the soakaway system and determine if the proposed system is capable of discharging and attenuating the development surface water runoff rate for up to the 1 in 100 year plus climate change flood event. Micro drainage

calculations are requested to confirm the required Surface Water attenuation volume. The proposed SuDS attenuation features should be able to provide the 1 in 100 year design flood event plus with an allowance for climate change and urban creep. Pollution from any surface water runoff from parking areas and hardstanding should be mitigated against by using oil interceptors, roadside gullies, reed beds or alternative treatment systems. Conditions are proposed to require a detailed scheme for foul and surface water drainage, a scheme restricting the rate of development flow runoff from the site, the submission of a scheme for the treatment of all surface water flows from hardstanding and parking areas and a suitable maintenance plan of the proposed SuDS drainage scheme arrangement.

- 4.14 **NYCC Heritage – Archaeology:** response received 11th December 2017. Advised the proposed development is within an area of archaeological interest. A number of cropmarks are present in the field in which the application site is located. It appears that there are a series of enclosures that are typical of field systems and settlements of later prehistoric and Romano-British date. A scheme of archaeological evaluation needs to be undertaken to identify and describe the nature and significance of any surviving archaeological remains within the proposed development area, and enable an understanding of the potential impact of the proposal upon their significance.
- 4.15 On 5th July 2018, Archaeology advised the applicant had provided the results of an archaeological geophysical survey in support of the application. The survey identifies a number of features of archaeological potential. These are likely to represent former field enclosures of the later prehistoric or Romano-British periods. The survey was less successful in other areas of the site where modern disturbance and former tree planting has hampered the results. The survey identifies features of archaeological interest but are unlikely to represent very significant remains. These features relate to a wider archaeological landscape of early agricultural settlement and the archaeological information that they contain will advance our understanding of the later prehistoric and Roman periods in the area. It is recommended a scheme of archaeological mitigation recording be undertaken in response to the ground- disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record undertaken in advance of development, including site preparation works, top soil stripping, excavations for new foundations and new drainage or services, to be followed by appropriate analyses, reporting and archive preparation to ensure a detailed record is made of any deposits/remains that will be disturbed. A condition should be imposed to secure the archaeological recording.
- 4.16 **NYCC Heritage - Principal Landscape Architect:** response received 8th January 2018. The proposed development could be highly visible and could adversely impact on the openness of the Green Belt and affect local landscape character, views and setting of Kellingley. The proposed mitigation was considered inadequate. The revised time scale, landscape planting, proposed bunds and acoustic fencing would provide a reasonable level of screening and mitigation and are acceptable subject to conditions requiring:
- A detailed landscaping scheme to be submitted prior to the commencement of development in advance of the works; to include details of planting, boundary fencing, acoustic fence, maintenance and aftercare.
 - Details of the colour of all fencing, buildings and structures to be submitted prior to the commencement of development.
 - The acoustic fence to be dark green and planted with climbing plants, to reduce its visibility.
 - New hedgerows and screen planting to be implemented in the first available planting season.

- Planting to be maintained and defective plants replaced for a minimum of 5 years to ensure successful establishment.
- All roads, buildings and structures to be removed and the site restored to agricultural use (as existing) on completion of the development in accordance with details to be submitted and approved by the MPA in advance of the works.

4.17 **NYCC Heritage – Ecology:** response received 19th December 2017. The Preliminary Ecological Appraisal was:

- Undertaken in accordance with the current CIEEM best practice guidelines by a suitably qualified ecologist. There are no statutory designated sites within the immediate proximity. The site falls within the outer SSSI impact risk zone, however mining, oil and gas applications are not included within this area and it is agreed that the proposed development is unlikely to have an impact upon statutory designated sites. There is unlikely to be a negative impact upon the Gale Common SINC, however the Local Wildlife Site known as Willow Garth lies closer to the development site and unmitigated there is the potential for indirect impacts upon the habitats and species of the site.
- The application site is part of a large arable field with boundary features including a drain to the west, trees and hedgerows to the north and east. Weeland Road forms the boundary to the south. The only direct impact resulting from the proposed development is the loss of an area of the arable field and any associated impacts upon farmland birds, which is considered to be of low significance given the size of the application site in comparison to the wider agricultural unit.
- Key concerns could relate to the impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and habitats within Willow Garth. There is a drain on the western edge of the arable field which has the potential to support water vole, however the distance of the development from this feature means that it is unlikely to have a negative impact upon water voles should they be present.
- In terms of any possible indirect effects of noise, dust and lighting, the Ecologist is satisfied that the recommendations in the PEA could be applied as conditions and there is therefore unlikely to be any significant effect upon protected species and habitats of principal importance.
- A detailed ecological mitigation and enhancement plan should be submitted prior to commencement of development. This could be prepared alongside the Construction Environmental Management Plan (CEMP), so long as it includes details of operational measures as well as measures during construction.

4.18 **NYCC Public Rights of Way Team:** response received 6th December 2017. No works should be undertaken, which would create an obstruction to any Public right of Way.

4.19 **Oil & Gas Authority (OGA):** response received 21st February 2018. The response was made following a request by Planning Control for advice on the status of licences relating to the proposal and the existing CMM operations at the former Kellingley Colliery site in light of representations received:

- *The purpose of a Methane Drainage Licence ('MDL') is to permit its licensee to "get natural gas in the course of operations for making and keeping safe mines whether or not disused." Note that methane gas may be naturally vented or flared without a MDL.*
- *The getting of petroleum for purposes other than the maintenance of safety as provided for by a MDL is only permitted under a Petroleum Exploration and Development Licence ('PEDL').*

- *Alkane Energy UK Limited was awarded PEDL279 in 2016, covering the area of their proposed borehole (which includes the geographic area covered by MDL048, which in turn includes the Kellingly site where methane gas is currently being extracted and used for power generation). PEDL279 was granted on the basis of a firm programme of work to drill a well into the abandoned colliery workings .*
- *Harworth Estates Curtilage Limited ('HEC') hold MDL048. This was issued on 20th June 2016 and is due to expire "for the term of two years after 3rd May 2016 or until all the headgear has been demolished at Kellingley, whichever is sooner."*
- *It should be noted that both Harworth Estates Mines Properties and HEC are part of the wider Harworth Group. Harworth Power Generation Limited ('HPGL'), although it has a similar name, is not part of the Harworth Group. It is thus not correct for HPGL to state in their October 2017 letter that "[a]s such HPGL has the licence..." if, by "licence", they mean the MDL or PEDL licence issued by the OGA.*
- *HPGL state in their letter that "power generation is intended to continue for the foreseeable future." We would note that such activity can only continue lawfully under a MDL or PEDL licence. Any application for a new or extended MDL once the current one expires, will be decided by the OGA on the circumstances related to the maintenance of safety of the mine at the time - the OGA would consider whether the continued active extraction of methane (which is subsequently used for power generation) is necessary to maintain the safety of the mine.*

4.20 **The Coal Authority (CA):** response received 16th July 2018. The application site is located in an area of former deep mining activity. There are no records of any coal mining activity having taken place at a shallow depth at that location.

4.21 From a planning perspective, the CA considers in areas such as this where worked coal seams are present beneath the site, the potential impacts arising from such works in relation to ground stability and mine gas pathways, as well as hydrogeology should be properly considered. They consider that in particular that sufficient consideration needs to be given to the stability of the geology on site, which may be affected by the proposed development. The local planning authority needs to ensure it is satisfied that it has adequate information in this respect in order to inform the decision making process.

4.22 Other bodies that were consulted but did not respond are; Hensall Parish council; Heck Parish Council; Beale Parish Council; HSE (Well engineering and operations); MoD Safeguarding Organisation; CAA; Northern Powergrid; Leeds and Bradford Airport and Danvm Drainage Commissioners.

Notifications

4.23 County Councillors John McCartney and Mike Jordan have been notified. No comments have been received.

5.0 Advertisement and representations

5.1 The application has been advertised by means of a Site Notice posted on 19th January 2018 and a further notice posted on 10th October 2019 following the receipt of further information at the entrance to the site on Weeland Road. A Press Notice was placed in the Selby Times on 16th January 2018 and on 10th October 2019.

5.2 Neighbour Notification letters were sent on 15th January 2018 and, following the receipt of amended information, on 8 October 2019. The following properties received a neighbour notification letter:

215 Weeland Road
213 Weeland Road

Willow House, Weeland Road
 Fairview, Weeland Road
 211A Weeland Road
 203 Weeland Road
 Kerkyra, Glebelands
 1 Glebelands
 2 Glebelands
 3 Glebelands
 4 Glebelands
 Green Logic Unit 2 Brears Farm Nurseries
 Unit 1 Brears Farm Nurseries
 The Farmers Kitchen, Brears Farm Nurseries
 Kellingley Farm, Stocking Lane
 Glebedale Bungalow, Stocking Lane
 10 Glebelands
 Turvers Lane, Glebelands

5.3 Seven letters of representation have been received objecting to the proposal. Four representations are from local residents and three from Harworth Power Generation Ltd and Harworth Estates Mines Property Ltd. Local residents have raised objection to the proposal for the following summarised reasons:

- Landscape impact upon the Green Belt.
- Lack of consideration of alternatives as part of a sequential test within a flood risk assessment, including land at the former Kellingley Colliery, which benefits from planning permission for an energy centre.
- The size of the site and nature of the development are such as to constitute EIA development.
- The proposed development does not comply with policy as it is located within the Green Belt, and would cause a reduction in agricultural land.
- The proposal is inappropriate to the area, which is currently blighted by heavy industry and pollution.
- Impact of traffic.
- Noise and disturbance will have an impact on the neighbouring livery yard and riding school.

5.4 Harworth Power Generation Ltd and Harworth Estates Mines Ltd have raised objection to the proposal for the following summarised reasons:

- The application does not demonstrate exceptional circumstances for developing in the Green Belt.
- Impact on the landscape.
- The planning application should be accompanied by an EIA.
- The application should be accompanied by an assessment of alternatives.
- The site lies in Flood Zone 3A and a Sequential Test should be undertaken.

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 application comprises the following:

- The 'saved' policies of the North Yorkshire Minerals Local Plan (1997), (NYMLP);
- The extant policies of the Selby District Core Strategy Local Plan (2013); and,
- The 'saved' policies of the Selby District Local Plan (2005)
- Selby District Council 'New Local Plan' - 'Preferred Options Selby District Local Plan (2021'

6.3 Weight in the determination process may also be afforded to emerging local policies, depending on their progress through consultation and adoption. The Minerals and Waste Joint Plan (joint with North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority, referred to as MWJP in this report) also contains emerging local policies that are of relevance to this application.

The North Yorkshire Minerals Local Plan (1997) (saved by SoS Direction 2009)

6.4 There are no 'saved' policies directly relating to coalmine methane. The 'saved' policies considered most relevant to the proposal are:

- 4/1 Determination of Planning Applications
- 4/6A Nature Conservation and Habitat protection - Local
- 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
- 4/20 Aftercare
- 7/2 Exploration Boreholes
- 7/4 Appraisal Boreholes
- 7/5 Production Wells
- 7/10 Restoration

6.5 **'Saved' Policy 4/1 - Determination of Planning Applications:** This policy sets out the criteria that need to be satisfied when considering a mining application:

- 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 proposal;
- f) the proposals and programme for restoration are acceptable and would allow a high standard of restoration 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
- l) any cumulative impact on the local area resulting from the proposal is acceptable.

- 6.6 The NPPF does not mention the matters covered in a) to d) and with regard to criterion e) The NPPF Paragraph 205 (c) states that when determining planning applications, local planning authorities should ensure that any unavoidable emissions or vibrations are controlled or mitigated (if not possible to remove at source). Therefore, the (e) accords with the NPPF and to which great weight can be attached.
- 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 (e), through appropriate conditions, where necessary. Therefore, (f) and (g) of Policy 4/1 are consistent with the NPPF and can be given great weight.
- 6.8 Criterion h) of 'saved' Policy 4/1 refers to transport links being acceptable and is similar to the NPPF but there are differences in the objectives. Paragraph 102 of the NPPF states that potential impacts on 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 regarding cumulative impact is consistent with NPPF Paragraph 205 (b) which requires that cumulative effects of multiple impacts from individual sites in a locality should be taken into account and therefore this element of the policy can be given great weight.
- 6.10 **'Saved' Policy 4/6A - Nature Conservation and Habitat Protection – Local:** This policy requires the Mineral Planning Authority to 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 and therefore this Policy can be given great weight
- 6.11 **'Saved' Policy 4/13 -Traffic Impact:** The policy requires 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. Paragraph 109 of the NPPF also 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.
- 6.12 **'Saved' Policy 4/14 - Local Environment and Amenity:** The policy states that mining operations ... 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.
- 6.13 **'Saved' Policy 4/15 - Public Rights of Way:** The policy states that in relation to proposals for mining operations, which would interrupt, obstruct or conflict with use of a

public right of way, they will only be permitted where satisfactory provision has been made in the application for protecting the existing right of way for providing alternative arrangements both during and after work. 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.

- 6.14 **‘Saved’ Policy 4/18 - Restoration to Agriculture:** The policy requires that where agriculture is the intended primary afteruse, the proposed restoration scheme should provide for the best practicable standard of restoration. 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.
- 6.15 **‘Saved’ Policy 4/20 - After-care:** The policy 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. This Policy is considered consistent with paragraph 205 of the NPPF, which 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. Great weight can be given to Saved policy 4/20.
- 6.16 **‘Saved’ Policy 7/2 - Exploration Boreholes:** The policy requires that proposals should be sited in the least environmentally sensitive area relative to the geological prospect and that provision is made for short term mitigation of effects on amenity and on the environment and allowance is made for longer term additions and/or enhancement of such mitigation measures. NPPF Paragraph 209 (e) encourages the capture and use of methane from coalmines in active and abandoned coalfield areas but it does not have a statement about short-term mitigation of the effects on amenity and environment. As there are differences, more weight should be given to the NPPF policy.
- 6.17 Paragraph 7.9 of the North Yorkshire Minerals Plan 1997 states that for coal bed methane extraction, any proposals received will be subject to the policies of this Plan (i.e. the North Yorkshire Minerals Plan 1997), particularly those relating to oil and gas. This clarifies that although the policies listed above may refer to traditional oil and gas extraction they are to be used when assessing the suitability of coalmine methane extraction.
- 6.18 **‘Saved Policy 7/4 - Appraisal Boreholes:** The policy supports proposals where the applicant can demonstrate the drilling and testing of boreholes is necessary to determine the quality, nature and extent of the deposit, and they form part of an overall scheme for the appraisal and delineation of the field as a whole.
- 6.19 **‘Saved’ Policy 7/5 - Production Wells:** The policy supports the retention of "short term" exploration and appraisal borehole sites into production wells when they make full provision for an improved standard of landscaping, protection of local amenity and site restoration.

6.20 **'Saved' Policy 7/10 – Restoration:** The policy supports proposals for the exploration, appraisal and development of gas resources where there are provisions for full restoration of the site and require:

i) a 1 year time limit for the restoration of exploration sites or the submission of proposals for continued appraisal work;

iii) a 2 year time limit for the restoration of a production site, to run from the cessation of significant oil or gas production from the site.

Selby District Core Strategy Local Plan 2013

6.21 The Core Strategy is the long-term strategic vision setting out a number of broad policies to guide development principles for the area. It does not contain any policies specific to mineral development, but there are general development management policies that are relevant to this application. The relevant policies are as follows:

- Policy SP1 Presumption in Favour of Sustainable Development
- Policy SP3 Green Belt
- Policy SP15 Sustainable Development and Climate Change
- Policy SP18 Protecting and Enhancing the Environment
- Policy SP19 Design Quality

6.22 **Policy SP1 Presumption in Favour of Sustainable Development:** The policy requires a positive approach to be taken that reflects the NPPF's presumption in favour of sustainable development. The planning authority will work with applicants to find solutions so that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

6.23 **Policy SP3 Green Belt:** The policy 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.

6.24 **Policy SP15 Sustainable Development and Climate Change:** Part B of the policy - Design and Layout of Development, states 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. Proposals also should include tree planting, 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.

6.25 **Policy SP18 Protecting and Enhancing the Environment:** The policy seeks to maintain and achieve a high quality environment. Relevant points in this policy include safeguarding and enhancing the historic and natural environment. This is consistent with

6.26 **Policy SP19 Design Quality:** The policy seeks to ensure that proposals will be expected to have regard to the local character, identity and context of the surroundings and the open countryside to meet key requirements.

The "Saved" policies of the Selby District Local Plan (2005)

6.27 Some of the policies of this plan that are relevant are 'Saved' and can therefore be given weight. The relevant 'saved' policies are:

- 'Saved' Policy ENV1 - Control of Development.
- 'Saved' Policy ENV2 - Environmental Pollution and Contaminated Land.
- 'Saved' Policy ENV3 - Light Pollution
- 'Saved' Policy ENV5 – Development and Flood Risk
- 'Saved' Policy ENV9 - Sites of Importance for Nature Conservation
- 'Saved' Policy ENV 28 - Other Archaeological Remains:
- 'Saved' Policy T1 - Development in Relation to the Highway Network
- 'Saved' Policy T2 – Access to Roads
- 'Saved' Policy T8 – Public Rights of way

6.28 **'Saved' Policy ENV1 - Control of Development:** The policy seeks to ensure that proposals for new development provide good quality development. Mitigation measures may be required to ensure that the impacts on the surrounding area are limited and that effects on the character of the area or the amenity of adjoining occupiers are minimised. It is considered that weight can be attached to this policy as effects on the natural environment and/or local amenity should be taken into account when determining a planning application. (NPPF Paragraphs 127,170,175, 178 and 180). 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 in determining a planning application.

6.29 **'Saved' Policy ENV2 - Environmental Pollution and Contaminated Land:** The policy specifically refers to noise and pollution and states that preventative measures should be incorporated as an integral element in the scheme. Where there is the potential for noise to be generated as a result of a development, appropriate mitigation measures may be required to ensure that the development will not result in any significant impacts on the amenity of the surrounding area. The impact on airborne emissions should be assessed and measures to prevent pollution of watercourse or the ground. This is considered to be consistent with NPPF Paragraph 170, which aims for planning decisions to contribute to and enhance the natural and local environment and for development wherever possible, to help improve environmental conditions such as air, and water quality. Paragraph 180 of the NPPF also seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment and ENV2 is consistent with this.

6.30 **'Saved' Policy ENV3 - Light Pollution:** The policy considers the impact from lighting of the site. This is consistent with Paragraph 180 (c) of the NPPF, which seeks to limit light pollution on local amenity.

6.31 **'Saved' Policy ENV5 – Development and Flood Risk:** The policy seeks to control development in areas of high risk flooding and ensure appropriate standards of flood defence can be achieved. The policy is consistent with paragraphs 155 – 165 of the NPPF but the NPPF sets out more specific requirements to prevent flooding and ensure development is not placed at unacceptable flood risk. Greater weight should therefore be attached to the NPPF.

6.32 **'Saved' Policy ENV9 - Sites of Importance for Nature Conservation:** The policy seeks to avoid harm to a site of local importance for nature conservation and states that 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.

- 6.33 **‘Saved’ Policy ENV 28 - Other Archaeological Remains:** The policy requires an archaeological assessment to be undertaken where development proposals affect sites of known or possible archaeological interest. Paragraphs 189 and 190 of the NPPF require similar work to be undertaken on sites, which have archaeological interest. Therefore, great weight can be applied to this policy.
- 6.34 **‘Saved’ Policy T1 - Development in Relation to the Highway Network:** The policy requires development proposals to 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. Paragraph 108 of the NPPF requires safe and suitable access to sites for all users. The policy is considered to accord with paragraph 108 of the NPPF and therefore weight can be attached to the policy.
- 6.35 **‘Saved’ Policy T2 – Access to Roads:** The policy supports development proposals which would result in the creation of a new access or the intensification of the use of an existing access provided there would be no detriment to highway safety and the access can be created in a location and to a standard acceptable to the highway authority. The policy does not support proposals which would result in the creation of a new access onto a primary road or district distributor road unless there is no feasible access onto a secondary road and the highway authority is satisfied that the proposal would not create conditions prejudicial to highway safety. Paragraph 108 Of the NPPF requires safe and suitable access to sites for all users and Paragraph 109 seeks to ensure there would be no unacceptable impact on highway safety. The policy is considered to accord with paragraphs 108 and 109 of the NPPF and therefore weight can be attached to the policy.
- 6.36 **‘Saved’ Policy T8 – Public Rights of way:** The policy does not support development that would have a significant adverse effect on a public right of way unless satisfactory alternatives are provided with adequate signage, makes provision for walkers, horse riders, cyclists and people with sight and mobility problems. Paragraph 98 of the NPPF requires policies to protect and enhance public rights of way and acces, including taking opportunities to provide better facilities for users. The policy is considered to accord with the paragraph 98 of the NPPF and therefore weight can be attached to the policy.

The North Yorkshire Minerals and Waste Joint Plan (MWJP)

- 6.37 The draft MWJP (the Plan) was published for consultation in November 2016. It was submitted to the Secretary of State for Communities and Local Government on 28 November 2017. An Examination in Public (EiP) was held in February 2018. The hearings have been concluded. At present, the plan is still in the examination phase. Main Modifications have been prepared to meet the Inspectors requirements but have to be published for consultation; it is not clear when this will be achieved. Given the Plan is at an advanced stage of preparation, some weight can be attached to the emerging policies as proposed to be modified. The following emerging policies and/or respective parts relevant to this application are summarised as follows:

Policy M16: Key spatial principles for hydrocarbon development

Policy M17: Other spatial and locational criteria applying to hydrocarbon development

Policy M18: Other specific criteria applying to hydrocarbon development

Policy D01: Presumption in favour of sustainable minerals and waste development.

Policy D02: Local amenity and cumulative impacts

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

- 6.38 **Emerging Policy M16: Key spatial principles for hydrocarbon development:** Hydrocarbon development includes all development activity associated with exploring, appraising, and/or producing hydrocarbons (oil and gas), including both surface and underground development. This policy seeks to guide where hydrocarbon development should be located. With regard to CMM, the policy states that proposals will be supported where any surface development would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. The supporting definitions to the policy define coal mine methane as an 'unconventional hydrocarbon'.
- 6.39 **Emerging Policy M17: Other Spatial and locational Criteria applying to hydrocarbon development:** This policy supports hydrocarbon development in locations with suitable direct or indirect access to classified A or B class roads and there is suitable capacity on the road network for the level of traffic generation proposed. Access and on-site manoeuvring also needs to be acceptable. There should also not be any unacceptable cumulative impact and a high standard of protection should be provided to environmental, recreational, cultural, heritage or business assets important to the local economy. Specific local amenity considerations in terms of noise, light pollution, emissions to air or ground or surface water and induced seismicity need to be considered and will be permitted where impact is considered acceptable. Criteria 2v) *requires new processing or energy generation infrastructure for hydrocarbons should, as a first priority, be sited on brownfield, industrial or employment land. Where it can be demonstrated that development of agricultural land is required, and subject first to other locational requirements in Policies M16 and M17, proposals should seek to utilise land of lower quality in preference to higher quality.*
- 6.40 **Emerging Policy M18: Other Specific Criteria Applying to Hydrocarbon Development:** This policy supports hydrocarbon development where it can be demonstrated that that arrangements can be made for the management or disposal of any returned water and Naturally Occurring Radioactive Materials arising from the development. Part 2 of the policy relates to decommissioning and restoration, requiring wells to be decommissioned (subject to other regulatory requirements) in a way to prevent risk of ground and surface water contamination and emissions to air; sites to be cleared and the land restored to its original or other beneficial use within an agreed timescale. In the case of unconventional hydrocarbon development, the Mineral Planning Authority may require provision of a financial guarantee, appropriate to the scale, nature and location of the development proposed, in order to ensure that the site is restored and left in a condition suitable for beneficial use following completion of the development.
- 6.41 **Emerging Policy D01: Presumption in favour of sustainable minerals and waste development:** The policy states there is a presumption in favour of sustainable minerals and waste development and that the authorities will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

- 6.42 **Emerging Policy D02: Local amenity and cumulative impacts:** The policy is supportive of minerals development, including its transport infrastructure, where it can be demonstrated there will be no unacceptable impacts on local amenity, local businesses and users of public rights of way as a result of noise, dust, vibration, odour, emissions to air, land or water, visual intrusion, site lighting, vermin, birds and litter, subsidence and land instability, public health and safety and disruption to public rights of way network.
- 6.43 **Emerging Policy D05: Minerals and waste development in the Green Belt:** The policy states that proposals will be supported where they will preserve the openness of the Green Belt and reclamation and afteruse will be required to be compatible with Green Belt objectives. This policy is consistent with NPPF policy in respect of the Green Belt.
- 6.44 **Emerging Policy D06: Landscape:** The policy aims to protect the landscape. Proposals will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any mitigation measures. Where proposals may have an adverse effect on landscape, a high standard of design, mitigation and landscape enhancement should be provided.
- 6.45 **Emerging Policy D07: Biodiversity and geodiversity:** The policy permits proposals where it can be demonstrated that there will be no unacceptable impacts on biodiversity or geodiversity, including on statutory and non-statutory designated or protected sites and features, Sites of Importance for Nature Conservation, Sites of Local Interest and Local Nature Reserves, local priority habitats, habitat networks and species, having taken into account any mitigation measures proposed.
- 6.46 **Emerging Policy D08: Historic Environment:** The policy aims to ensure that minerals development proposals will be permitted where they will conserve and where possible enhance those elements, which contribute to the significance of the area's heritage assets including their setting. Proposals, which would affect an archaeological site of less than national importance, will be permitted where they also conserve that which contributes to its significance in line with the importance of the remains.
- 6.47 **Emerging Policy D09: Water environment:** The policy aims to ensure proposals for mineral development cause no unacceptable impacts to arise, taking into account any proposed mitigation, on surface or groundwater quality and/or surface or groundwater supplies. A high level of protection is required to surface and ground quality and flows. Proposals for mineral developments not allocated in the Joint Plan, will, where relevant, be determined in accordance with the Sequential Test and Exception Test for flood risk set out in National Policy. Proposals should, where necessary or practicable relative to scale, nature and location of a development include measures to contribute to flood alleviation.
- 6.48 **Emerging Policy D10: Reclamation and afteruse:** The policy seeks to permit minerals proposals where it can be demonstrated that the restoration and aftercare elements would be carried out to a high standard taking into account the location and context of the site.
- 6.49 **Emerging Policy: D11 Sustainable design, construction and operation of development:** The policy aims to allow mineral developments where it has been demonstrated that measure appropriate and proportionate to the scale and nature of the development have been incorporated into its design, construction and operation in relation to a number of items including minimisation of greenhouse gases and the generation and utilisation of renewable or low carbon energy.

- 6.50 **Emerging Policy D12: Protection of agricultural land and soils:** The policy seeks to protect Best and Most Versatile agricultural land from unnecessary and irreversible loss. Aftercare to a high standard of agricultural restoration should be achieved and development proposals will be required to conserve soils in a sustainable way.

Emerging Selby District Council Local Plan

- 6.51 The Selby District Council 'New Local Plan' (the Plan) is in its formative stages. A public consultation on the 'Preferred Options Selby District Local Plan (2021)' was launched on 29 January 2021, extending to 12 March 2021. The consultation period is therefore current. The Plan is described as '*a vision and framework for future growth of the district, identifying new housing, employment and other development could take place*' and will set out the policies against which planning applications will be considered.
- 6.52 The consultation document '*sets out the Council's preferred approach to development growth in the District up to 2040*'. It sets out the current preferred spatial approach in terms of where development will be focused and the draft policies to be used to determine planning applications. The Council advises '*that it is important to note that this is not the final stage of the plan as we are continuing to complete a number of key pieces of evidence, which may influence the final version of the plan. However, it provides an indication of our preferred approach at this stage.*'

Other policy considerations:

National Planning Policy

- 6.54 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 Policy Statement for Electricity Networks Infrastructure (EN-5);
 - Noise Policy Statement for England (2010)

National Planning Policy Framework

- 6.55 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.
- 6.56 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 immediately (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 – aiming to build a strong, responsive and competitive economy, ensuring that sufficient land of the right types is available in the right places and at the right time.
 - b) a social objective – aims to support strong, vibrant and healthy communities, by fostering a well-designed and safely built environment, with accessible services and open spaces that support 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.'

- 6.57 Within the NPPF, paragraph 11 advises that when making decisions, development proposals that accord with the development plan should be approved without delay. The Framework also seeks to apply a presumption in favour of sustainable development but this does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. This should only occur if material considerations indicate that a different decision should be reached.
- 6.58 NPPF Paragraph 48 allows local planning authorities to give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF. Clearly, these are relevant in relation to the emerging North Yorkshire Minerals and Waste Joint Plan.
- 6.59 NPPF Paragraph 54 encourages local planning authorities to consider if otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
- 6.60 Paragraph 80 of the NPPF requires that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 83 regarding supporting a prosperous rural economy supports the sustainable growth and expansion of all types of business in rural areas and the development and diversification of agricultural and other land-based rural businesses.
- 6.61 With respect to highways matters in considering development proposals, Paragraph 108 (b) requires that safe and suitable access to the site can be achieved for all users and Paragraph 109 supports developments which would not have an unacceptable impact on highway safety.
- 6.62 Paragraph 117 in Chapter 11 of the NPPF encourages the planning system to make effective use of land, aims to ensure that planning decisions promote an effective use of land while safeguarding and ensuring safe and healthy living conditions.
- 6.63 Paragraph 133 of Chapter 13 (Protecting Green Belt land) of the NPPF states that the Government attaches great importance to Green Belts and that the fundamental aim is to prevent urban sprawl by keeping land permanently open as the essential characteristics of Green Belts are their openness and their permanence. The Green Belt serves five purposes including:
- checking the unrestricted sprawl of large built-up areas,
 - preventing neighbouring towns from merging into one another,
 - assisting in safeguarding the countryside from encroachment,
 - preserving the historic setting and special character of historic towns and assisting in urban regeneration, and
 - by encouraging the recycling of derelict and other urban land.
- 6.64 Paragraph 143 states that inappropriate development is, by definition, harmful to the Green belt and should not be approved except in very special circumstances. New buildings in the Green Belt are normally inappropriate development, however certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes mineral extraction (Para. 146).
- 6.65 Paragraph 147 goes on to say that when located in the Green Belt, elements of many renewable energy projects comprise inappropriate development and in such cases

developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

- 6.66 Paragraph 154 of the NPPF states that in determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects can provide a valuable contribution to cutting greenhouse gas emissions. The paragraph concludes that local planning authorities should approve applications if their impacts are, or can be made acceptable.
- 6.67 Paragraph 155 aims to direct inappropriate development away from areas at highest risk of flood. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Paragraph 163 requires developments not to increase flood risk elsewhere and developments within flood risk areas should be supported by a site specific flood risk assessment.
- 6.68 Chapter 15 (Paragraph 170) aims to ensure that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and sites of biodiversity or geological value. Decisions should recognise the intrinsic character and beauty of the countryside, minimise impacts on and provide net gains for biodiversity, 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.
- 6.69 Paragraph 175 requires that local planning authorities should, when determining planning applications, consider if there would be significant harm to biodiversity then possibly refuse planning permission unless adequately mitigated or compensated for.
- 6.70 Paragraph 180 requires that planning policies and decisions should ensure that new development is suitable 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. With regard to adverse impacts resulting from noise from the development, the advice is that noise should avoid giving rise to significant impacts on health and the quality of life. Paragraph 180 goes on to say that tranquil areas should be identified and protected where they are relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
- 6.71 Paragraph 181 states that planning policies and decisions should sustain and contribute to compliance with national objectives for pollutants. The focus of planning policies and decisions should be on whether a proposed development is an acceptable use of land, rather than the control of processes or emissions (as these are subject to separate pollution control regimes). Planning decisions should assume that these regimes would operate effectively as referred to in Paragraph 183 of the NPPF.
- 6.72 Paragraph 209 e) of the NPPF states that Planning Authorities should encourage the capture and use of methane from coal mines in active and abandoned coalfield areas.

National Planning Practice Guidance (PPG) (2014)

- 6.73 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 included 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 Planning Practice Guidance:

Air Quality

- 6.74 This guidance sets out the UK's national emission reduction commitments for damaging air pollutants. As well as having direct effects on public health, habitats and biodiversity, these pollutants can combine in the atmosphere to form ozone, which can be transported great distances by weather systems. Whether air quality would be relevant to a planning decision will depend on the proposed development and its location and it should be assessed if the proposed development could significantly change air quality during the construction or operational phases. In addition, it should be assessed if the proposed development would expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It should also be considered whether there would be a potential adverse effect on biodiversity, especially where it would affect sites designated for their biodiversity value.

Climate Change

- 6.75 This guidance advises how to identify suitable mitigation and adaptation measures in the planning process to address the impacts of climate change. The guidance states that in addition to supporting the delivery of appropriately sited green energy, effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, it advises that the local environment should be considered alongside the broader issues of protecting the global environment. One of the ways of mitigating climate change is to provide opportunities for renewable and low carbon energy technologies.

Minerals

- 6.76 This guidance advises on mineral developments. It advises minerals can only be worked where they naturally occur, and consequently location options for the economically viable and environmentally acceptable extraction of minerals may be limited. Working is a temporary use of the land, although often takes place over a long time. Working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated. Following working, land should be restored to make it suitable for beneficial after-use. Noise, dust and lighting from a development need to be assessed. Mineral Planning Authorities should take account of government energy policy, which makes it clear that energy supplies should come from a variety of sources. In respect of mitigating environmental effects of mineral extraction, mineral planning authorities should use appropriate planning conditions, having regard for issues for which they have responsibility, to mitigate against any adverse environmental impact. Proper restoration and aftercare should be ensured. Whilst the guidance specifically refers to hydrocarbons, there is no specific guidance or reference to CMM. The guidance sets out (paragraph 112) what hydrocarbon issues Mineral Planning Authorities can leave to other regulatory regimes whilst recognising there may on occasions be an overlap in responsibilities. Mineral Planning Authorities should assume other regulatory authorities will operate effectively but should be satisfied that issues will be addressed by other regulatory bodies by taking their advice. In particular, well design and construction, well integrity during operation, operation of surface equipment on a well pad and well decommissioning and abandonment are matters for the Health and Safety Executive. Matters relating to groundwater, the operation of site equipment, management of mining waste, flaring or venting of gas produced as part of an exploratory phase and the off-site disposal of return water are matters for the Environment Agency,

Natural Environment

6.77 This guidance explains key issues in implementing policy to protect and enhance the natural environment and includes advice on agricultural land, green infrastructure, biodiversity and landscape.

Noise

6.78 The guidance advises noise needs to be considered when development may create extra noise or would be sensitive to the prevailing acoustic environment. When taking decisions about new development, there may also be opportunities to make improvements to the acoustic environment. Good acoustic design needs to be considered early in the planning process to ensure that the most appropriate solutions are identified at the outset.

Renewable and low carbon energy

6.79 This guidance advises that increasing the amount of energy from renewable and low carbon technologies will help make sure the UK has a secure energy supply and reduce greenhouse gas emissions to slow down climate change. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is considered acceptable.

Green Belt

6.80 This guidance seeks to ensure that certain factors are taken into account in making the assessment of whether a proposal would impact on the openness of the Green Belt. These include but are not limited to: assessing both the spatial and visual aspects of the proposal, the duration of the development and its remediability (taking into account any provisions to return the land to its original state, and the degree of activity likely to be generated, such as traffic generation).

6.81 National Policy on Climate Change

The National Policy on Climate Change advises how to identify suitable mitigation and adaptation measures in the planning process to address the impacts of climate change. The policy encourages energy efficiency and the generation of renewable energy to reduce emissions.

National Policy Statement for Electricity Networks Infrastructure (EN-5)

6.82 The Statement advises that the new electricity-generating infrastructure the UK needs to move to a low carbon economy while maintaining security of supply will be heavily dependent on the availability of a fit for purpose and robust electricity network. That network will need to be able to support a more complex system of supply and demand than currently and cope with generation occurring in locations that are more diverse. Embedded, relatively small local generation facilities, (like this proposal), are an integral part of the arrangements to ensure a robust electricity distribution network system is provided across the Country.

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 development, Green Belt, landscape and visual effects, biodiversity, local amenity, noise, air emissions, water and flood risk, and traffic.

Principle of the proposed development

- 7.2 The Selby District area is well placed to provide opportunities for the exploration, appraisal and capture of CMM due to the existence of former worked coalfields with remaining coal reserves. If not captured, CMM can, over time, be lost to atmosphere via fissures in overlying strata. Passively vented, this is a source of methane pollution. Capturing the CMM emissions from abandoned coalmines has the potential to significantly reduce the amount of heat-trapping gases in the atmosphere, lead to potential local improvements in air quality and provide an alternative clean energy resource through the generation of electricity. The application is for the exploration, appraisal and potential production of CMM from abandoned workings associated with the former Kellingley Colliery network. If the exploration and appraisal of CMM is successful and CMM is present in sufficient quantities, its production, could provide an alternative energy source for the generation of electricity that would be fed into the local grid for a period of up to 15 years or beyond. If CMM is not extracted and used in the proposed way, the opportunity could be missed as rising mine water would eventually fill the mine void and cut off the gas supply (unless de-watered). NPPF (paragraph 209 e)) states mineral planning authorities should encourage the capture and use of methane from coalmines in active and abandoned coalfield areas.
- 7.3 CMM gas is currently being extracted from the Kellingley Colliery site on the south side of Weeland Road, albeit the site has planning permission for a waste to energy plant and for the remainder of the site to be redeveloped as a mixed use/ employment park. The Oil and Gas Authority (OGA) has advised the company currently extracting the gas HPGL (Harworth Power Generation Ltd) had a methane drainage licence (MDL); this has now expired. The PEDL for the wider area has been issued by the OGA to the applicant (Alkane Energy); the PEDL gives exclusive rights to extract the CMM.
- 7.4 Harworth Power Generation Ltd have historically been extracting CMM from the former workings for mine safety purposes while the mine was operational. However, coal mining has now ceased at Kellingley Colliery and Harworth Power Generation Ltd only have a methane drainage licence. The OGA has advised that CMM can only be extracted with the benefit of a PEDL. PEDL 279, which covers the area of the application as well as the former Kellingley Colliery site, was awarded to the applicant in 2016. The applicant therefore has the right to explore, appraise and produce CMM under the provisions of the PEDL. The objection raised by Harworth Power Generation in respect of access to the CMM is therefore a matter for the OGA and is not a material planning consideration. Irrespective, the planning application must be considered on its merits, against the policies of the development plan and any material considerations or planning grounds to ensure the impact on the use of land is acceptable.
- 7.5 NPPF Paragraph 209 (e) encourages the capture and use of methane from coalmines in active and abandoned coalfield areas. There are no 'saved' policies in the NYMLP relating specifically to coal mine methane. 'Saved' Policy 4/1 - Determination of Planning Applications sets out the criteria that need to be satisfied when considering a mining application. For the purposes of this application, the mineral deposit has been fully investigated (a). The proposal would be small in scale and would target a potential hydrocarbon resource (b). The proposed method and programme of working has been designed to minimise the impact of the proposal (c). Landscaping and screening is proposed (d). Environmental and amenity safeguards to minimise noise, dust, emissions, and reduce the risk pollution are proposed (e). The site would be restored on completion of development (f). The site would be restored to its former agricultural use (g). There is an acceptable access and generated electricity would be fed into the national grid (h). The proposal would not result in any cumulative impact in the area (i). It is therefore considered the proposal would satisfy the criteria set out in 'saved' policy 4/1 to the NYMLP and which is consistent with the NPPF. 'Saved' Policy 7/2 of the

NYMLP relating to exploration boreholes requires proposals to be sited in the least environmentally sensitive area relative to the geological prospect and that provision is made for short term mitigation of effects on amenity and on the environment and allowance is made for longer term additions and/or enhancement of such mitigation measures. Policy 7/5 supports production wells and Policy 7/10 the restoration of wells following abandonment. Policy SP1 of the Selby District Core Strategy supports sustainable development.

- 7.6 Policy M16 of the emerging MWJP seeks to guide the location of hydrocarbon development. With regard to CMM, the policy states that proposals will be supported where any surface development would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. The applicant has investigated alternative sites to comply with this policy but has been unsuccessful in identifying a site that would meet the necessary locational requirements for the proposed development relative to the potential source of CMM from former workings. The proposal would avoid CMM passively venting to atmosphere or being flared off for mine safety purposes both of which would be worse environmentally in respect air quality and pollution. To do either of these options would be contrary to the thrust of national policy to ensure sustainable development. Emerging Policy M16 of the MWJP is at an advanced stage in the local plan process and to which some weight can be attached. The proposal would be contrary to the intentions of this policy in terms of how the policy seeks to direct developments of this nature to previously developed sites. However, it does not look to refuse development proposals of this nature if they are not located on previously developed sites.
- 7.7 Policy M18 of the emerging NYJP, provides for decommissioning and restoration of hydrocarbon developments and for unconventional hydrocarbons consideration of the need for a financial guarantee appropriate to the scale, nature and location of the proposed development to ensure restoration. In the event the exploration and appraisal phases were not successful the site would be restored back to agricultural use. This would similarly be the case at the end of the production phase or sooner depending on the commercial viability of generating electricity. Restoration could be controlled by condition; conditions 33, 34 and 35 would provide for restoration and aftercare. In this instance, it is not considered necessary to require the provision of a financial guarantee to ensure the site is restored at the end of either of these phases. The proposal is therefore considered to comply with emerging policy M18 of the NYLP.
- 7.8 NPPF Paragraph 209 e) states mineral planning authorities should encourage the capture and use of methane from coalmines in active and abandoned coalfield areas and the proposal accords with this. The proposal is for an exploratory borehole, potentially a production well and would be restored either post exploration and appraisal or post production. It is therefore considered the proposal accords with the NPPF, 'saved' policies 4/1, 7/2, 7/4 7/5 and 7/10 of the NYMLP would be sustainable development for the purposes of Policy SP1 of the Selby District Core Strategy emerging policies M16 and M18 of the NYJP and is acceptable in principle subject to the proposal satisfying the requirements of other relevant policies of the development plan.

Green Belt

- 7.9 The site would be located on part of an agricultural field situated within the West Yorkshire Green Belt. The NPPF attaches great importance to Green Belts and substantial weight should be given to any harm to the Green Belt. Green Belt serves five purposes: to prevent unrestricted urban sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and character of historic towns; and assist in urban regeneration, by encouraging the recycling of derelict land and other urban

land. Paragraph 143 states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. However, paragraph 146a) of the NPPF advises that the extraction of minerals is not inappropriate development in the Green Belt as long as they preserve its openness, and do not conflict with the purposes of including land within it. The proposal is classed as 'mineral extraction'. National Planning Guidance on developments in the Green Belt (July 2019) requires the impact of a proposal in the Green Belt to be assessed and requires a judgment based on the circumstances of the case.

- 7.10 There are no policies in the NYMLP relating to Green Belt. Policies relating to such are found in the Selby Core Strategy Local Plan. Policy SP3 seeks to safeguard the Green Belt from inappropriate development unless the applicant has demonstrated very special circumstances exist to justify why permission should be granted. Paragraph 146a) of the NPPF advises that the extraction of minerals is not inappropriate development in the Green Belt as long as they preserve its openness, and do not conflict with the purposes of including land within it. Emerging MWJP Policy D05 Part 1 Minerals supports proposals for minerals development where the openness would be preserved and where reclamation and after use is compatible with Green Belt objectives.
- 7.11 Although the immediate surrounding area of the proposed site is generally open, it is very much 'urban fringe' Green Belt. It hosts a number of manmade features including overhead electricity lines with pylons, electricity lines (to which a proposed connection to supply the grid with generated electricity is proposed), a wind turbine and a manmade flood embankment, all within the same field as the proposal. All these features have a visual impact on the openness of the Green Belt and affect views. To the east of the field on Stocking Lane, is a mixture of farm and non-farm related uses including large structures and open storage. Further to the west is a large industrial waste solvent recovery business. The application site would be small in scale, extending over 1.3 hectares, detached from adjoining built developments, surrounding settlements and would not cause coalescence. The site has been selected as it is the preferred site to target the identified mineral resource in the absence of alternative locations that would achieve the same objective. Should the exploration and appraisal phases not be successful, the plant and equipment would be removed and the land restored to its current use. These phases would be short term and would not be inappropriate development in the Green Belt for their duration. They would be in accordance with paragraph 146a) of the NPPF in that they would not be inappropriate development and would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt. If the exploration and appraisal phases are successful the proposal would move into the production phase. This would involve the development of the site to include a gas pump and three electricity generators with 12m high stacks. The site could be operative for up to 15 years after which, or sooner, depending on the flow of gas and economic viability of producing electricity, the plant and equipment would be removed and the site restored to its former agricultural use, retaining some of the landscaping. Whilst the site could be present for up to 15 years, it would still be temporary. It would still constitute mineral extraction and therefore would not be inappropriate development in the Green Belt. It would be visible in the Green Belt but, in the longer term, being temporary in nature, it would preserve the openness of the Green and would not conflict with the purposes of including land within the Green Belt.
- 7.12 The applicant has undertaken a landscape and visual impact assessment of the proposed development when seen from four representative viewpoints to demonstrate what effect the proposal could have on the landscape elements, landscape character and visual amenity. Overall, the assessment concludes the effects of the proposed development would be localised meaning the surrounding area would remain unaffected and there would be no wider effects demonstrating that the proposal for mineral

extraction would not be inappropriate in the Green Belt landscape, would preserve its openness and would not conflict with the purposes of including land within the Green Belt in accordance with paragraph 146a) of the NPPF.

- 7.13 Emerging MWJP Policy D05 is consistent with supporting proposals for minerals development where the openness would be preserved and where reclamation and after use is compatible with Green Belt objectives. It supports mineral developments where they would preserve the openness of the Green Belt and where permitted, reclamation and afteruse will be required to be compatible with Green Belt objectives.
- 7.14 It is important to note that the proposal is for exploration, appraisal and production. The exploration and appraisal phases are proposed for a short temporary period; if they were not successful, the site would be restored to its current agricultural use, thereby according with the requirements of Policy D05. If the exploration and appraisal were successful, CMM could be produced and used for electricity generation for up to 15 years, less if it becomes unviable, after which the site would be restored to agriculture, similarly according with the requirements of Policy D05.
- 7.15 Other factors, which should be taken into account include the visual impact of the proposed development on the openness of the Green Belt. For the exploration and appraisal phases, the visual impact of the proposal would consist of the site construction, the 35m drill rig to drill the borehole (4 weeks), and, if CMM is found to be present, a flare stack approximately 5m high for the appraisal of gas over a period of approximately 3 weeks. 2.5m security fencing would be present around the site. Whilst the drill rig and flarestack would have some visual impact on the Green Belt they would be temporary in nature and removed after a short period irrespective of whether the proposal moves to the production phase. If the proposal advances to the production phase, it would involve the siting of pumping equipment, three gas / electricity generators with associated 12m vent stacks, a noise 4.5m attenuative barrier and 2.5m security fencing. Consequently the production phase would have a greater visual impact over an extended period of time and up to 15 years if CMM were to prove commercially viable. All plant and equipment would be painted in a colour to minimise its visual impact and which is proposed to be controlled by condition 24. Landscaping around the site would be planted to reduce the overall visual impact of the development, and which would diminish as landscaping matures, although it is acknowledged some of the planting would take longer to mature to provide effective screening; up to thirty trees would be retained post restoration and which would contribute and enhance the natural and local environment and the Green Belt.
- 7.16 Selby DC identified impact on the Green Belt as one of the key issues to address. Representations have been received objecting to the potential impact of the proposal on the Green Belt and maintain the proposal would be inappropriate development and that very special circumstances have not been demonstrated.
- 7.17 The proposal is for a mineral development of a small scale and temporary in nature. At the production stage, it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It is considered the proposal would not be inappropriate development in accord with NPPF para 146 a) and therefore no very special circumstances need to be demonstrated. Irrespective, the exploration, appraisal and production of CMM as an alternative form of low carbon source of energy generation, which would reduce reliance on fossil fuels; this would be consistent with the NPPF and would constitute sustainable development. It would utilise a mineral resource that would otherwise be lost; it would deliver energy for future economic for the purposes of the economic, social and environmental objectives in accordance with paragraph 8 of the NPPF. Further, the site has been identified by the applicant as the

preferred site to target the identified mineral resource and would have the benefit of a direct interconnection to the electricity grid.

- 7.18 It is therefore, concluded, that whilst there would be some impact on the openness of the Green Belt during the exploration and appraisal stages associated with the drill rig and flare stack, this would be temporary and consequently would not affect the openness of the Green Belt. If development were to progress to the production stage, the development would still be temporary, albeit for a period of up to 15 years. The site and associated plant, equipment and noise attenuation fencing would be visually present throughout the production phase of the development. However, this would be coloured and landscaped to minimise its impact on the openness of the Green Belt. It is considered, should the proposal advance to the production phase, it would not be inappropriate development in the Green Belt, would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It is considered that the proposal accords with Paragraph 146a) of the NPPF and Policy SP3 of the Selby District Plan Core Strategy and Emerging MWJP Policy D05.

Landscape and visual impact

- 7.19 The proposed development would have varying levels of visual impact on the landscape. The applicant has undertaken a landscape and visual impact assessment of the proposed development when seen from four representative viewpoints and what effect the proposal could have on the landscape elements, landscape character and visual amenity. Three of the viewpoints are from Weeland Road and one to the north of the site on the Kemp Bank Embankment. The assessment concludes the level of the effect on agricultural land and hedgerows would be minor; the effect on landscape character receptors, moderate-minor; and the effect on visual amenity from the four representative view points as being moderate diminishing to minor through the phases of exploration, appraisal, production and restoration as planting becomes more mature. Overall, the assessment concludes the effects of the proposed development would be localised meaning the surrounding area would remain unaffected and there would be no wider effects. The site falls within a relatively low-lying and discreet location in an area where there is a notable baseline influence from existing development and the busy Weeland Road and with some enclosure from surrounding tree cover and built form. The extent of landscape mitigation would ensure that a planted buffer would be in place between the residents and the site and that effects would gradually be reduced over time as planting matures. The retention of a strip of native woodland/trees would result in some landscape improvement within this edge of urban area.
- 7.20 Selby DC identified landscape impact as one of the key issues to address. The County Council's Principal Landscape Architect initially objected to the proposal and representations have been received objecting to the proposal in that it would have an unacceptable impact of the landscape. To mitigate the visual impact a revised landscape mitigation strategy has been submitted, which includes more extensive tree and hedge planting (88 specimen trees and 1,713m² of native woodland planting) and which the Council's Principal Landscape Architect considers acceptable in landscape policy terms and which would be secured by proposed condition 31.
- 7.21 Phase 1 would involve upgrading of the access road, the establishment of a hard surfaced compound and the drilling of a borehole. There would be some engineering activity to import stone for the hardstanding, the delivery of plant and machinery, construction of the borehole cellar and the delivery and construction of the drilling rig over a period of approximately ten weeks. The drilling rig would be 35m high and be operative for a period of up to four weeks. Once the target formation had been reached, the drill rig would be dismantled and removed off site. Consequently, there would be some visual impact, most particularly from the presence of the rig, but this would be

temporary and would be mainly viewed against a backcloth of manmade features including an overhead transmission line with pylon; local electricity powers lines and a wind turbine. It is therefore considered the first phase of the proposal would not have an unacceptable visual impact on the landscape.

- 7.22 Following the removal of the rig, the flow of gas would be measured and analysed to establish whether it would be sufficient to be commercially viable to generate electricity. A portable flare stack would be employed to flare the gas during this phase. The flare stack would be approximately 4m high, fully enclose the flame and be present for approximately two weeks to test the gas flow after which the flow of gas would be turned off at the borehole and the flare stack removed. As above, the flare stack and associated equipment would be temporary in nature and would not be visually unacceptable for its duration, particularly when seen against other features in the landscape. If the exploration and appraisal phases are not successful, all plant and equipment would be removed and the site restored.
- 7.23 If the flow of gas were to be sufficient to generate electricity, the development would enter the production phase. This phase would have the greatest potential visual impact. The phase would involve the development of the site and siting of three containers housing generators and a gas pump container, all of similar size. The generators would have vent stacks up to 12m high. 4.5m high acoustic fencing is proposed around the north, west and south of the plant and equipment. All the plant, containers and fencing are proposed to be coloured green to minimise their visual impact. The acoustic fencing and the vent stacks would potentially be the most visually intrusive elements of the proposal, particularly when seen from the footpath. The stacks would be the most visually intrusive features of the development in the landscape due to their 12m height. However, as above, they would be temporary, albeit it potentially for a 15-year period after which the site would be cleared of all plant, equipment, fencing, and the surface grubbed up and removed and the site restored to agriculture. Up to 30 trees would be retained post restoration.
- 7.24 'Saved' NYMLP policy 4/1 (b) requires the siting and scale of a proposal to be acceptable; (f) requires a high standard of restoration and (g) a high standard of aftercare. Policy 4/18 requires a high standard of restoration and Policy 4/20 a high standard of aftercare. The policies accord with paragraphs 102 and 205 of the NPPF. 'Saved' Policy ENV1 of the Selby District Local Plan requires proposals for new development to provide good quality development. Mitigation measures may be required to ensure that the impacts on the surrounding area are limited and that effects on the character of the area or the amenity of adjoining occupiers are minimised and accords with the NPPF. Policies SP18 and SP19 of the Selby District Core Strategy aim to protect and enhance the environment and require developments to make the best, most efficient use of land without compromising local distinctiveness, character and form. Emerging policy DO6 in the MWJP seeks to protect the landscape from unacceptable impact on the quality and/or character of the landscape through the proposed mitigation measures.
- 7.25 Details of landscaping, colour of plant, equipment and fencing, details of fencing, restoration and aftercare are proposed to be controlled by condition 24 to ensure the visual impact of the proposal is minimised.
- 7.26 It is considered that the proposal would be temporary in nature, would have a relatively small footprint, is located in an urban fringe setting with a backcloth setting of electricity pylons, electricity transmission lines, a wind turbine and is in close proximity to other built and industrial development. The proposal would benefit from an extensive landscaping scheme, up to 30 trees of which would be retained after restoration and aftercare to the benefit of the landscape. The proposal would comply with 'saved' policy

7/2 of the NYMLP in that short and long term effects of the proposal on the amenities of the area and environment would be mitigated by the landscaping proposals should the proposal extend into the production phase of the development. Similarly the proposal would comply with 'saved' policy 7/10 of the NYMLP in that restoration can be achieved at the end of each phase of the development through the requirements of proposed conditions 33 and 34. Consequently, it is considered the proposal would not have an unacceptable visual impact on the landscape and accords with 'saved' policies 4/1b, 4/15, 4/18 and 4/20 of the NYMLP, 'saved' policy ENV1 of the Selby District Local Plan, policies SP18 and SP19 of the Selby Core Strategy, emerging policy D06 of the NYJP and paragraphs 102 and 105 of the NPPF.

Local amenity - noise, light pollution, air quality (emissions and dust)

- 7.27 Noise levels would differ according to the phase of the development. The applicant has undertaken a noise assessment which measured background noise levels in the vicinity of the site during day and night-time at the nearest sensitive receptors; these were identified as Kellingley Farm and The Hidden Tearoom on Stocking Lane, Calder Grange on Weeland Road and users of the nearby footpath along Kemp Bank. There would be some increased noise for short periods during the early stages of the development whilst drilling and flaring take place. The drilling phase would take place 24 hours a day for up to 4 weeks and the report concluded that overall that noise levels at that stage would be likely to comply with the criteria given in NPPG guidance. In terms of flaring, the flare stack would be contained in a screened enclosure and would consist of shutting and flaring periods for 24 hours a day over a 2-week period. The noise assessment concludes that during this short term shutting and flaring phase, providing the panel faces north or west, the noise levels would comply with the criteria set out in the NPPG on Noise.
- 7.28 If the proposal were to advance to the production phase, a 4.5m high acoustic fence is proposed to be erected to the north west and south of the plant and equipment to minimise noise as measured at the nearest sensitive receptors. The noise assessment concludes that with the proposed acoustic fence, noise impact from both the construction and operational phases of the development would be likely to be at the level of "No Observed Adverse Effect" (NPPG).
- 7.29 Selby DC has requested noise impacts to be assessed. The Yorkshire Wildlife Trust considers noise would have an adverse impact on the Willow Garth Nature Reserve. Representations objecting to the potential impact of noise on the area and their properties and particularly the impact on nearby equestrian uses have been received. Selby EHO is of the view the proposed development has been configured with a specifically designed 4.5m high acoustic wall, the exhausts would be attenuated and the acoustic fence in its proposed location would reduce any noise impact to an acceptable level.
- 7.30 NYMLP 'saved' Policy 4/1 seeks to ensure that the siting and scale of proposals are suitably located and that environmental and amenity safeguards are in place to mitigate any impact from the proposals. 'Saved' Policy 7/2 requires the Mineral Planning Authority to be satisfied the proposal would be located in the least environmentally sensitive area relative to the geological prospect; that it has been selected as if it were to be retained for longer term appraisal and development; provision is made for short term mitigation of the effects on the amenity and environment; and adequate allowance is made for longer term additions to and/or enhancement of such mitigation measures. 'Saved' Policy ENV2 of the Selby Local Plan specifically refers to noise and pollution and states that preventative measures should be incorporated as an integral element in the scheme. Draft MWJP Policy M17 requires there to be no cumulative impact and developments should be to a high environmental standard with consideration in terms

of noise, light pollution, emissions to air, ground or surface water being taken into account. The policy supports developments where impact is considered acceptable. Policies D01 and D02 encourage the planning system to find solutions that mean that proposals can be approved and avoid unacceptable impacts on local amenity in relation to noise, dust and public health and safety. The NPPG Air Quality advised that impacts on air quality will depend on the proposed development and its location and it should be assessed if the proposed development could significantly change air quality during the construction or operational phases. In addition, it should be assessed if the proposed development would expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It should also be considered whether there would be a potential adverse effect on biodiversity, especially where it would affect sites designated for their biodiversity value.

- 7.31 Selby EHO has raised no objection regarding noise impacts subject the imposition of conditions. Whilst there would be noise associated with the first phase of the proposal that could not easily be mitigated, this would be of short duration and not at unacceptable levels. If the proposal advances to the production phase, mitigation measures are proposed which would attenuate noise to acceptable levels and to which Selby EHO has raised no objection. It is considered the predicted noise levels would not lead to any unacceptable loss of amenity to nearby residents or that the noise would be detrimental to equestrian uses or the Willow Garth Nature Reserve, or users of the public footpath running along the top of Kemp Bank embankment particularly given the proximity of other industrial uses and the public highway. Should the proposal progress to the production phase, noise attenuation measures are proposed in the form of acoustic fencing and barriers to the plant and equipment. The proposed means of mitigation and noise levels are proposed to be controlled by conditions 15, 16, 19, 20 and 21. It is therefore concluded that the proposal complies with Policy ENV2 of the Selby Local Plan, Policy 4/1, 4/14 and 4/15 of the NYMLP and accords with paragraphs 180, 181 and 183 of the NPPF, and emerging policies M17, D01 and D02 of the emerging MWJP.
- 7.32 In terms of dust, small amounts could be expected during the construction phase of the site from soil stripping and construction of the pad. Selby EHO recommends a condition be imposed controlling dust emissions during the construction and drilling phases. It is considered the amount of dust likely to be generated would be minimal and would not lead to an unacceptable loss of amenity. The level of dust generated would not be dissimilar to arable agricultural practices that the field within which the proposal is located would normally be subjected to and could be mitigated by condition. If the proposal advances to the construction phase, it is not expected any unacceptable levels of dust would be generated and could similarly be controlled by proposed condition 14. It is therefore considered the proposal complies with NYMLP Policy 4/1, emerging draft MWJP Policy M17, D01 and D02 in respect of dust.
- 7.33 In terms of the lighting, Selby DC has requested the impact of lighting be considered. The Yorkshire Wildlife Trust has expressed concern about the negative impacts lighting could have on the wildlife in the area and on their Willow Garth Nature Reserve. Selby EHO has raised no objection to the proposed lighting subject to the imposition of conditions.
- 7.34 NYMLP Policy 4/1, 'Saved' Policy ENV3 Light Pollution of the Selby Local Plan, and emerging draft MWJP Policy M17, D01 and D02 seek to ensure lighting levels would not be unacceptable and the amenities of the area should be protected.
- 7.35 Development of the site would be undertaken during normal daylight hours. Lighting is required throughout the drilling phase for health and safety purposes given drilling would

be undertaken 24/7. However, this would be for a short period and given the distance from the nearest properties and the nature reserve, it is considered lighting during this phase would not be unacceptable, lead to an unacceptable loss of amenity or have an adverse effect on the wildlife in the area. If the development progresses to the production phase, development of the site would be undertaken during normal daylight hours. Permanent lighting is proposed within the compound throughout the operational life of the site. Whilst maintenance of the site would normally be carried out during the day, lighting is required for emergency and security purposes and would be linked with security cameras. A lighting post of up to 5.5 m high is proposed to be located near the main gate to the compound. It would support a 150 watt downward facing halogen light which would be PIR controlled when movement is detected near the gate. The post would also support a 400 watt sodium (SON-T) downward facing lamp that would be directed into the site. Lighting inside the site would be comprised of 250 watt high pressure sodium (SON-T) floodlights, facing downwards. The lights would be mostly off during the hours of darkness and would only be switched on during maintenance or if the security system is activated. Details of the proposed lighting and controls to ensure the management of such are set out in proposed condition 23.

- 7.36 The proposed lighting during the production phase of the site would only be used in hours of darkness for security or emergency maintenance purposes. It is considered this would not lead to an unacceptable impact on the amenity of the area, nearby residents or wildlife in the area and associated with the Willow Garth Nature Reserve. Selby EHO has raised no objection. It is therefore considered, in respect of lighting, the proposal complies with NYMLP Policy 4/1, emerging draft MWJP Policy M17, D01 and D02.
- 7.37 In terms of possible emissions to atmosphere, Selby DC has requested air quality be considered. The Yorkshire Wildlife Trust is concerned that the Willow Garth Nature reserve could be at risk of pollution from potential nitrogen deposition. Representations have also been received from nearby residents about the risks of pollution to the atmosphere. Selby EHO has raised no objection.
- 7.38 Emissions from plant and machinery in all phases of the proposed development, emissions from the flare stack as part of the appraisal phase, and emissions from the plant and machinery during the production phases are matters for the Environment Agency and the Health and Safety Executive. 'Saved' Policy 4/1 of the NYMLP requires the proposed method and programme of working to minimise the impact of the proposal. Selby District Local Plan 'saved' Policy ENV2 requires proposals not to be detrimental in terms of pollution. Selby District Council Core Strategy Policy SP17 requires all development proposals from new sources of renewable energy and low-carbon energy generation to be designed and located such that they protect the environment and local amenity and wider environmental and that economic and social benefits should outweigh any harm to the environment and local communities. 'Saved' Policy 4/1 of the NYMLP and 'saved' Policy ENV2 of the Selby District Local Plan comply with paragraph 205 of the NPPF. Emerging policies M17, D01 and D02 in the MWJP seek to ensure proposals would not be unacceptable and the amenities of the area should be protected. The NPPG Air Quality advises that impacts on air quality will depend on the proposed development and its location and it should be assessed if the proposed development could significantly change air quality during the construction or operational phases. In addition, it should be assessed if the proposed development would expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It should also be considered whether there would be a potential adverse effect on biodiversity, especially where it would affect sites designated for their biodiversity value.

- 7.39 Other than dust which may arise during soil stripping operations and associated with the construction of the site and which would be negligible and only over a very short period, the potential impacts on air quality would be emissions from operative plant and machinery developing the site, and if the development progresses to the production stage, the proposed gas engines. Plant and machinery would operate in accordance with the manufacturer's design specifications. The applicant has advised that the gas engines would operate at values which meet current standards for Medium Combustion Plant Directive limits, but under certain conditions, particularly in cold weather, steam plumes may emanate from the stacks and that this would be non-polluting. Emission data for the proposed spark ignition internal combustion gas engines confirms that there would be 250mg/Nm³ concentration of Oxides of Nitrogen. The Selby District Council EHO is satisfied with the data submitted and recommends a number of technical conditions to ensure compliance with emission limit values. Other regulatory bodies would also be involved in ensuring that emission limit values are maintained.
- 7.40. The applicant has advised that the proposal would operate in accordance with manufacturer's specifications and would not have an unacceptable impact on air quality. Emissions to atmosphere would not have an unacceptable impact on air quality or lead to an unacceptable impact on the amenities of nearby land uses, residents or the Willow Garth Nature Reserve. Selby EHO has raised no objection subject to the imposition of conditions controlling plant and equipment and emissions to atmosphere. When considered against the NPPG Air Quality, the proposal would not expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It is also considered there would be no potential adverse effect from air quality on the biodiversity of Willow Garth Nature Reserve. However, emissions are matters for the Environment Agency. The proposal is therefore considered to comply with Policy 4/1, 414 and 4/15 of the NYMLP, 'saved' Policy ENV2 of the Selby Local Plan, Policy SP17 of the Selby District Council Core Strategy, paragraph 205 of the NPPF and policies M17, D01 and D02 of the emerging MWJP.

Flood risk and drainage

- 7.41 The applicant has carried out a Flood Risk Assessment (FRA) and advises the proposed site falls within Zone 3A which is liable to flood during a 1 in a 100-year event. The FRA concludes the risks of flooding could be safely and effectively mitigated. The Kemp Bank embankment would provide protection to the site; the proposed site formation level at the centre of the borehole platform would be 8.8m AOD, 0.2m above the 1 in 100-year event flood level of 8.6m. The report concludes there would be no significant risk of flooding from the River Aire. However, the Flood Risk Map has now been revised and site and access now falls within land identified as Flood Zone 1. As the proposal is greater than 1 hectare, a flood risk assessment is required.
- 7.42 The proposed access route and site would be constructed from free draining hardcore. The site would be underlain with an impervious membrane. Surface water run-off from the site would be via French drains running around the perimeter of the site, feeding into an underground interceptor and soakaway system. The FRA concludes this would ensure the development would not add to local flood risk and concludes that no significant risk of surface water flooding is likely.
- 7.43 Policy 4/1 (e) of the NYMLP requires environmental and amenity safeguards to mitigate the impact of the proposed development. Policy ENV5 of Selby District Local Plan, SP15, and SP18 Selby District Core Strategy require developers to use sustainable drainage measures to protect the environment and local amenity. Policy D11 of the emerging MWJP seeks to ensure mineral development proposals do not cause

unacceptable impacts to arise, taking into account any proposed mitigation, on surface or groundwater quality and/or surface or groundwater supplies.

- 7.44 The Environment Agency (EA) has advised permits would be required to discharge surface water to a soakaway and to manage mining waste. The EA require a condition to ensure no infiltration of surface water drainage into the ground from the site and advise structures within 8 metres of the flood bank would require a flood risk activity permit, an EPR groundwater permit and possibly an Industrial Emissions Directive permit. The Lead Local Flood Authority has confirmed the site is located in Flood Zone 3a and has no known flood risk.
- 7.45 The applicant has proposed a drainage layout and a drainage strategy to minimise flood risk and prevent surface and groundwater contamination. Condensate from the CMM pipework would be collected in an underground storage tank and tankered off site to a specialist water treatment processor. The site would be underlain with an impermeable membrane to prevent any ground water contamination. A SuDS system is proposed to cater for a 1 in 100-year flood. The local flood storage area is the land to the north of Kemp Bank, with Kemp Bank functioning as a flood defence feature. Pollution from any surface water runoff from the site are proposed to be required by conditions 27, 28 and 29.
- 7.46 NPPG guidance on Flood Risk states that the general approach in dealing with flood risk is to try to keep development out of Flood Zones 2 and 3 where possible. However, the guidance goes on to acknowledge that minerals have to be worked where they are found and that such developments should ensure they would not increase flood risk and would not increase flood risk elsewhere, where it is not possible to apply the sequential test. The site has been selected as it meets the best locational requirements to accessing the mineral, access to the site, access to a national grid connection and in a location that would minimise impacts on the surrounding area. Whilst the applicant has identified the site falling within Flood Zone 3, confirmed by the Lead Local Flood Authority, the land now falls within Flood Zone 1 on the EA's and Governments revised 'Flood map for planning' within which the proposed development can be found acceptable. As the site is greater than 1 hectare, a flood risk assessment is still required and which the applicant has carried out. The proposal would be protected from flood risk areas by the Kemp Bank embankment, would be 600mm higher than the adjoining land and would not result in greater flood risk to adjoining areas. The EA and the Lead Local Flood Authority have raised no objection, it is considered acceptable from a flood risk perspective. Whilst representations have been raised in respect of risk of flooding and ground water pollution, it is considered the proposed development, due to its size, location, and proposed measures to address drainage and pollution, would not be at risk of flooding or creating a risk of flooding elsewhere and would not be a risk to the pollution of groundwater.
- 7.47 It is therefore considered that the proposal accords with 'saved' Policy 4/1(e) of the NYMLP, 'saved' Policy ENV5 of Selby District Local Plan which accord with paragraphs 155 – 165 of the NPPF but to which greater weight should be attached in view of the more specific requirements to prevent flooding and ensure development is not placed at unacceptable flood risk of the greater protection. The proposal accords with these paragraphs in that the proposal falls within Flood zone 1 and would not create greater risk of flooding in the surrounding area. The proposal also accords with policies SP15 and SP18 of the Selby District Core Strategy and Policy D09 and D11 of the emerging MWJP.

Archaeology

7.48 An archaeological geophysical survey has been undertaken that identifies a number of features of archaeological potential. These are likely to represent former field enclosures of the later prehistoric or Romano-British periods. The survey was less successful in other areas of the site where modern disturbance and former tree planting has hampered the results. The survey identifies features of archaeological interest but are unlikely to represent very significant remains. These features relate to a wider archaeological landscape of early agricultural settlement and the archaeological information that they contain will advance our understanding of the later prehistoric and Roman periods in the area. The NYCC Heritage – Archaeology has raised no objection subject to an Archaeological Investigation being carried out prior to the commencement of development and which is proposed to be required by condition 30. The proposal is considered to comply with ‘saved’ policy ENV28 of the Selby District Plan which accords with Paragraphs 189 and 190 of the NPPF, Policy SP18 of the Selby District Core Strategy and emerging Policy D08 of the NYJP.

Biodiversity

7.49 The applicant has carried out a Preliminary Ecological Appraisal. The Appraisal identifies the majority of the proposed site as being a heavily managed arable field with habitats to the boundaries comprising scattered trees, species poor hedgerow, amenity grassland, scrub, tall grassland habitats and a running water ditch. The Appraisal concludes that nesting birds and other species may use the boundary habitats and recommends a number of protection measures are employed to ensure any vegetation is cleared outside the bird nesting season, light spill should potential bat roosting habitats, open trenches and pipework should be protected to avoid mammals becoming trapped, suppression of dust and sound baffling be employed around the compound to minimise any disturbance to nesting birds.

7.50 Policy 4/1 of the NYMLP seeks to ensure that the siting and scale of proposals are suitably located and that environmental and amenity safeguards are in place to mitigate the impact of the proposal. Policy 4/6A requires the Mineral Planning Authority to 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 is consistent with paragraph 170 of the NPPF regarding protecting the local environment by minimising impacts on biodiversity. ‘Saved’ Policy ENV9 of the SDLP directs development 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. Policy ENV9 is consistent with NPPF and therefore can be given full weight. Policy SP 18 of the Selby District Local Plan Core Strategy seeks to maintain and achieve a high quality environment. Policies D01, D02 of the emerging MWJP seek to protect the environment. Policy D07 supports proposals where it can be demonstrated that there will be no unacceptable impacts on biodiversity or geodiversity, including on statutory and non-statutory designated or protected sites and features, Sites of Importance for Nature Conservation, Sites of Local Interest and Local Nature Reserves, local priority habitats, habitat networks and species, having taken into account any mitigation measures proposed.

7.51 The Yorkshire Wildlife Trust and the County Council’s Ecologist have expressed concern to the potential impact of the proposal on Willow Garth Nature Reserve. The Trust has advised the site is immediately adjacent to the reserve and would have negative impacts in terms of noise, lighting and dust on breeding birds and harvest mice. They are also concerned about the potential impacts of nitrogen deposition on the reserve. The County Council’s Ecologist is of the view the Preliminary Ecological Appraisal was undertaken in accordance with the current CIEEM best practice guidelines by a suitably qualified ecologist. There are no statutory designated sites within the immediate proximity and

that whilst the site falls within the outer SSSI impact risk zone, mining, oil and gas applications are not included within this area and accepts that the proposed development is unlikely to have an impact upon statutory designated sites. Whilst there is potential for indirect impacts on the habitats and species of the nature reserve, the only direct impact resulting from the proposed development, would be the loss of an area of the arable field and any associated impacts upon farmland birds. This is considered to be of low significance given the size of the application site in comparison to the wider agricultural unit. Key concerns could relate to the impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and habitats within Willow Garth. There is a drain on the western edge of the arable field which has the potential to support water vole, however the distance of the development from this feature means that it is unlikely to have a negative impact upon water voles should they be present. In terms of any possible indirect effects of noise, dust and lighting, the Ecologist is satisfied that the recommendations in the PEA could be applied as conditions and there is therefore unlikely to be any significant effect upon protected species and habitats of principal importance. Proposed condition 32 requires a detailed ecological mitigation, enhancement plan to be submitted prior to commencement of development, and which could be prepared alongside the Construction Environmental Management Plan (CEMP), condition 14.

- 7.52 The concerns of the Yorkshire Wildlife Trust relate to potential impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and their habitats and that the site is immediately adjacent to their nature reserve. This is not the case; the Nature Reserve is approximately 350m to the north west of the site. In respect of potential noise impacts on the reserve, there would be increased noise during the site construction works and drilling; these are for a short period and given the levels of noise predicted and duration, it is not considered they would have a significant or lasting impact. More significantly perhaps are the potential longer term impacts associated with noise should the development enter the production stage. Noise mitigation measures are proposed in that the pumps and generators would be in containers. The acoustic wall is not, however, proposed on the side of the site nearest the reserve. Nevertheless, the site is considered to be of a sufficient distance from the reserve for it not to have an unacceptable impact from noise. It should also be noted that the nature reserve is closer to an established industrial development than the proposed site. With regard to nitrogen deposition, this could originate from emissions from the plant and equipment associated with the appraisal and production phases of the development, but would be a matter for the Environment Agency.
- 7.53 With regard to proposed lighting, whilst there would be night-time lighting during the drilling operations, this would be for a short period. Should the site progress to the production phase, the proposed lighting would be low height, low luminance and projected into the site. The lighting would only be activated for security reasons or emergency maintenance or repair works. With regard to dust, it is considered the risk of dust migration are minimal and unlikely to extend as far as the nature reserve. Nitrogen levels would be very low and unlikely to migrate to the nature reserve in a way that would generate any unacceptable impact. It is considered that the proposal would not have an unacceptable adverse impact on the nature reserve.
- 7.54 The proposed landscaping scheme identifies an area alongside the access track which would be 'set aside' during the operational phase of the development with the aim that it would be managed to provide a natural habitat, to encourage biodiversity, which is not present in the existing field. The additional landscaping to screen the site would result in an increased habitat to that which is already present and up to 30 trees of which would be retained post restoration. The applicant also proposes a number of bird and bat boxes to be mounted on surrounding boundary trees as a further ecological enhancement and

which would encourage biodiversity. The number and locations of these would be determined as part of the Ecological mitigation and enhancement required by proposed condition 32.

- 7.55 The NYCC Ecologist is satisfied there would be unlikely to be any significant adverse effects upon protected species and habitats of principal importance and that subject to the submission of a detailed ecological management plan the proposal would be acceptable. An ecological mitigation and enhancement is required by proposed condition 32.
- 7.56 Proposed condition 32 requiring an ecological mitigation and enhancement plan would ensure any vegetation is cleared outside the bird-nesting season, to control noise, dust suppression, lighting ecological protection and mitigation and a construction management plan. Subject to such conditions, the proposal is considered to be suitably located would employ acceptable environmental and amenity safeguards. The proposal would not lead to any cumulative impact or unacceptable impacts on the natural environment and particularly Willow Garth Nature Reserve because of noise, dust, lighting or ground pollution. The proposal is therefore, considered to comply with Policy 4/1 and 4/6A of the NYMLP; 'saved' Policy ENV9 of the Selby District Local Plan, which comply with paragraphs 174, 175, 176 and 177 of the NPPF; Policy SP18 of the Selby District Local Plan Core Strategy and policies M17 and policy D07 of the emerging MWJP.

Soils and agricultural land use

- 7.57 The proposed site is low lying and is currently in agricultural arable use. It is identified as Grade 3 land, capable of producing moderate to high yields of a narrow range of arable crops. The proposed site would use a small area of the field, the remainder of which would continue to be in agricultural use throughout the life of the development. To the east of the site, the land is open pasture used for equine purposes. Top and sub soils would be removed as part of the initial construction phase and stored in bunds for future use in restoration back to agriculture.
- 7.58 'Saved' Policy 4/1 of the NYMLP (f) and (g) require proposals to have a programme for restoration to achieve a high standard of restoration; and to achieve a high standard of aftercare and management. Policy 4/18 of the NYMLP requires that where agriculture is the intended primary afteruse, the proposed restoration scheme should provide for the best practicable standard of restoration. Emerging Policy D10 of the MWJP supports development where it can be demonstrated that the restoration and aftercare elements would be carried out to a high standard taking into account the location and context of the site. Emerging Policy D12 of the NYJP seeks to ensure soils are managed in a sustainable way. 'Saved' Policy SP18 of the Selby Local Plan aims to conserve and enhance the natural environment.
- 7.59 The proposal would not lead to a significant loss of agricultural land. Stripped soils would be retained and used for the restoration of the site back to agricultural use. Restoration and aftercare could be controlled by condition. The proposal therefore accords with 'saved' Policy 4/1 of the NYMLP (f) and (g) and Policy 4/18 of the NYMLP, 'saved' policy SP18 of the Selby Local Plan which are in accordance with paragraph 170 of the NPPF, and Policies D10 and D12 of the emerging MWJP.

Highways matters- Traffic and transport and Public Rights of Way

- 7.60 The site is situated off and would be accessed from Weeland Road (A 645) which has a speed limit of 60 mph. Public Footpath (no. 35.7/9/1) runs along Kemp Bank, the embankment forming the northern boundary of the field within which the proposed site

would be located. The proposed operational compound would be situated 80m to the south of the footpath and embankment.

- 7.61 It is proposed to access the site by improving an existing farm access off Weeland Road. A new tarmac 'bell mouth' would be created with visibility splays in both directions along the highway necessitating the removal of a small shrub to the west and the trimming back of a small section of the hedge to the east. A steel barrier gate would be set back from Weeland Road to allow vehicles to safely pull off the highway to access the gate. Vehicles approaching the proposed from the east would have just left a 40 mph zone from Knottingley. Traffic approaching from the west should be slowing down for the speed restriction. A track would then be constructed across the field to the proposed development site. During the site set up, drilling and site construction phases, the number of vehicles visiting the site per day is expected to be within the range of 1 to 10 light vehicles/cars and between 0 and 5 HGVs with up to 4 or 5 abnormal loads. Once operational, only cars or light vans would attend the site 1 to 3 times a week.
- 7.62 'Saved' Policy 4/1(h) of the NYMLP refers to transport links being acceptable. Paragraph 102 of the NPPF states that potential impacts on the transport network should be considered and paragraph 109 supports development proposals if there would be no unacceptable impact on highway safety and to which greater weight should be attached in this instance. 'Saved' Policy 4/13 supports proposals 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 if alternative means of transport are not available. 'Saved' Policy T1 of the Selby District Local Plan requires development proposals to be well related to the highway network and which should have adequate capacity and can safely serve the development. 'Saved' Policy T2 of the Selby District Local Plan requires new accesses to ensure highway safety and to be constructed to a standard acceptable to the Highway Authority.
- 7.63 The Highway Authority has raised no objection to the proposal subject to conditions to ensure that the design and construction of the access meets the necessary standards, and post restoration, the access would be downgraded back to the original agricultural access. The public footpath, whilst in close proximity to the proposed site would not be physically affected.
- 7.64 Emerging policy Policy M17 of the NYJP supports hydrocarbon development with suitable access to classified A and B roads where there is capacity to accommodate the increased levels in traffic, access is acceptable and there are suitable site arrangements for on-site manoeuvring and parking. The proposed site would be served by an A class road which can accommodate the increase in traffic, the accesses as proposed to be improved would be acceptable and parking and manoeuvring space would be provided on the site.
- 7.65 The design of the proposed access and the proposed number of vehicle movements are considered acceptable. Subject to proposed conditions 9, 10, 11, 12 and 13 controlling the design of the access, its removal following restoration and restricting the number and hours of vehicle movements it is considered the proposal accords Policy ENV1, T1 and T2 of the Selby District Local Plan which Paragraphs 102 and 109 of the NPPF, Policy M17 of the Selby District Core Strategy and emerging Policy D11 and M17 of the NYJP.

8.0 Conclusion

- 8.1 The applicant holds the PEDL for the area within which the site is located which enables exploration and appraisal of hydrocarbons. A site selection process has determined the

site as the preferred location to gain access to CMM by drilling a borehole into former deep mine coal workings which are not already flooded, potentially contain CMM in sufficient quantities for the viable production of electricity through a generation process, provide access to a national grid connection and which has acceptable access to the public highway.

- 8.2 Abandoned coalmines have the potential to vent small amounts of methane via fractured strata or manmade pathways into the coal seams. The potential diminishes as former seams fill with water over an extended period. The proposed extraction of CMM would both reduce the potential for passive migration and venting to atmosphere and potentially produce an alternative greener source of energy. In the absence of CMM extraction, there is a continued need to monitor and manage coalmine gas over time, a practice that is employed at former colliery sites. The responsibility for public safety in respect of disused mine workings, including the former Kellingley Colliery and in particular gas emissions from the same, is the responsibility of the Coal Authority. If planning permission were to be granted, the Coal Authority would require the applicant to enter into an interaction agreement to ensure nothing it does would compromise the Coal Authority's duties and responsibilities, in that regard.
- 8.3 CMM capture and its use as fuel for power generation is supported and encouraged in the NPPF (paragraph 209 e). Capturing the CMM would enable electricity generation 24 hours a day, 7 days a week until the flow of gas is insufficient to make the process economically viable. Using CMM would mitigate its potentially harmful effect on the climate as well as offsetting the need for conventional oil and gas from natural fields, which are declining resources. The technology used to turn CMM into electricity is now well established in the UK and has proven to be clean and safe at other former colliery sites in the County and encouraged in the NPPF, paragraph 209 e).
- 8.4 The proposal requires a relatively small area of land on which to construct such a site with the potential to generate up to 6MW (million watts) of electricity, the equivalent of powering about 3,000 homes, and which would be fed into the National Grid. The proposal is for exploration, appraisal of CMM, the success of which will determine whether the proposal advances to the production phase. If the proposal enters the production phase, production of electricity would be for a period of up to 15 years depending on the flow of CMM and the economic viability of generating electricity.
- 8.5 Paragraph 205 of the NPPF advises great weight should be given to the benefits of mineral extraction, including to the economy. In doing so, there should be no unacceptable adverse impacts on the natural or historic environment, human health or from noise, dust or particle emissions. Paragraph 209 (e) requires mineral planning authorities to encourage the capture and use of CMM from coalmines in active and abandoned coalmines.
- 8.6 Policy M16 of the emerging MWJP guides where hydrocarbon development should be located. With regard to CMM, the policy states that proposals will be supported where any surface development would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. A search for a site to comply with this policy did not prove successful leading to the current site being chosen because of its locational factors.
- 8.7 The main issues raised by the application are the principle of the development, Green Belt, landscape and visual effects, biodiversity, local amenity, noise, air emissions, water and flood risk, and traffic and impacts on climate change by the use of hydrocarbons for energy generation

- 8.8 The principle of the development is supported by the NPPF, paragraph 209 e). Minerals can only be worked where they occur, recognised by the NPPF (paragraph 203). The NPPF (paragraph 146 (a) considers certain forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it; mineral extraction is one of the forms of development identified.
- 8.9 In this instance the 'openness' of the Green Belt would not be adversely affected by the proposals and would not conflict with the purposes of including land within it; the proposal would be temporary, mitigation measures are proposed to screen the development – assuming it advances to the production phase, and the site would be restored on cessation of electricity generation.
- 8.10 The development would be at its most visible during the exploration phase in the presence of the drilling rig. However, this would be for a temporary period. Should the proposal progress to the production phase, extensive landscaping is proposed to assist in screening the development. The existing landscape in the immediate area is heavily influenced by the presence of pylons, overhead electricity lines and a wind turbine. Established developments are located to the east off Stocking Lane and industrial development to the west. Whilst the three vent stacks and proposed acoustic fence would be the most visually prominent features when viewed from the surrounding area and the public footpath, when seen against the backcloth of the existing landscape features, it is considered the proposal would not result in an unacceptable impact on the landscape and in any event would be temporary.
- 8.11 The proposal would not lead to unacceptable impacts on the biodiversity of the area. The current field has little biodiversity although adjoining field boundaries may host nesting birds. The proposal is some 350m away from the Willow Garth Nature Reserve. The proposed landscaping and additional planting, some of which would be retained post restoration, and the provision of bird and bat boxes would enhance the biodiversity of the area.
- 8.12 The proposal would not have an unacceptable impact on the amenities of the area through noise, dust or emissions to air and which could be controlled by condition.
- 8.13 The proposal would not be at risk of flooding or cause greater risk to flooding. Measures are proposed to contain the site to prevent pollution to ground water and contain surface water runoff.
- 8.14 The site would be accessed off the primary road network, which could accommodate the projecting vehicle movements serving the site.
- 8.15 The proposal may be considered to conflict with emerging MWJP Policy M16. The policy supports proposals for the production of CMM where surface development to extract CMM would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. Whilst this emerging policy can be given some limited weight, it is considered the proposal would comply with other development plan policies to which greater weight can be attached and which support the proposal. Emerging policies M17 and M18 of the NYJP set out other spatial and locational criteria applying to hydrocarbon development. Policy M17 supports hydrocarbon development with suitable access to classified A and B roads where there is capacity to accommodate the increased levels in traffic, access is acceptable and there are suitable site arrangements for on-site manoeuvring and parking. The proposed site would be served by an A class road which can accommodate the increase in traffic, the accesses as proposed to be improved would be acceptable and parking and manoeuvring space

would be provided on the site. Part 2 of the policy requires proposals not to have any cumulative impact and supports developments that would have supporting infrastructure. In this instance, the proposal is for a single borehole and generated electricity could be directly connected into the grid – a primary reason for selecting the site. The proposed exploration and appraisal phases would be short term and not have an unacceptable impact on the amenities of the area for the purposes of Part 3 and 4 to the policy. Should the proposal progress to the production phase, mitigation measures in the form of noise barriers and landscaping are proposed. With regard to policy M18 of the emerging NYJP, the site would be restored at the end of the exploration and appraisal phases should the flow of CMM not prove economically viable and at the end of the production phase if it does prove commercially viable. In this instance, it is not considered necessary to require the provision of a financial guarantee to ensure the site is restored at the end of either of these phases.

- 8.16 There are no material planning considerations to warrant the refusal of this application. Whilst the proposal may be considered not to comply with Policy M16 of the emerging MWJP, it is considered the applicant has demonstrated there are no accessible viable alternative sites, which would support the proposal and on balance the benefits of the proposal in producing electricity from the identified preferred location outweigh the conflict with emerging Policy M16. It is considered the proposal to explore and appraise the presence of CMM has the potential to generate an alternative source of energy over a temporary period. The exploration and appraisal phases would be for a temporary period. Should the proposal enter the production phase, it is considered the development would not have an unacceptable visual impact, and would not adversely affect the openness of the Green Belt or the purposes of including land within it. It would accord with the ‘saved’ policies 4/1, 4/6A, 4/13, 4/14, 4/15, 4/16, 4/18, 4/20 of the North Yorkshire Minerals Local Plan; ‘Saved’ policies ENV1, ENV2, ENV3, ENV9, ENV28 of the Selby District Local Plan (adopted 2005); extant policies of SP1, SP3, SP15, SP18, SP19 of The Selby District Core Strategy Local Plan (adopted 2013); and emerging policies M17, M18, D01, D02, D05, D06, D07, D08, D09, D10, D11, and D12 of the North Yorkshire Joint Minerals and Waste Plan. It is therefore recommended that planning permission should be granted subject to the conditions set out in the recommendation.

Obligations under the Equality Act 2010

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

Obligations under the Human Rights Act

- 8.18 The *Human Rights Act* requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner, which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual’s private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country.

Article 1 of *Protocol 1* provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

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

9.0 Recommendation

- 9.1 For the following reasons:

Whilst the proposal is in conflict with emerging policy M16c of the MWJP, the proposal accords with the 'saved' policies 4/1, 4/6A, 4/13, 4/14, 4/15, 4/18, 4/20, 7/2, 7/4, 7/5 and 7/10 of the North Yorkshire Minerals Local Plan, and 'Saved' policies of the ENV1, ENV2, ENV3, ENV9, ENV28, T1 and T2 of the Selby District Local Plan, policies SP1, SP3, SP15, SP18, SP19 of the Selby District Core Strategy and policies M17, M18, D01, D02, D05, D06, D07, D08, D09, D10, D11 and D12 of the emerging North Yorkshire Joint Plan, and therefore it is recommended that planning permission is granted.

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

Time Limits

1. The development hereby permitted shall be begun not later than three (3) years from the date of this permission.

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. Written notification of the commencement of each of the following stages of the development shall be provided in writing to the Mineral Planning Authority within seven (7) days of the commencement of each stage:
 - a) Construction of the site access and access road to the site.
 - b) Site construction.
 - c) Drilling of the well.
 - d) Decommissioning and removal of the drilling rig.
 - e) Flow testing of the well / commencement of the flaring of gas.
 - f) Completion and outcome of flow testing and flaring of gas and decision to progress to the construction stage
 - g) Construction of the site for electricity generation and connection to the national grid.
 - h) Landscape planting approved in accordance with condition 31.
 - i) Commencement of electricity generation.
 - j) Cessation of electricity generation for a continuous period of six months.
 - k) Decommissioning of the well.
 - l) Decommissioning of the site operational compound including all the development incorporated in the land edged red on Location Plan no. 14-2528-401 Rev H and including the interconnection to the national grid
 - m) Restoration of the operational compound

- n) Removal of the access road
- o) Reduction and reinstatement of the access to the original farm access dimensions.

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

- 3. The site development stages b), c), d), e) and f) set out in condition 2 shall be completed within a period of 9 months from the date of commencement of stage a) of condition 2.

Reason: To ensure the drilling is completed in a reasonable period of time and to enable the Mineral Planning Authority to monitor the development to ensure compliance with this permission.

- 4. This permission is valid for a period of fifteen (15) years from the date of commencement of stage b in condition 2, after which the development hereby approved shall cease to be used, and all above ground facilities, plant and ancillary equipment including the acoustic and security fencing shall be removed and the site restored to agriculture in accordance with the requirements of condition 33:

- (i) Within twelve (12) months of the cessation of gas production; or
- (ii) Within twelve (12) months of the cessation of generation of electricity; or
- (iii) Within twelve (12) months following abandonment of the site;

Whichever is the sooner.

Reason: In the interests of visual amenity and to enable the Mineral Planning Authority to monitor the development and ensure the site is restored to agriculture at the earliest opportunity and in the interests of the amenity of the area.

- 5. In the event electricity generation ceases for a continuous period of six months, the Mineral Planning Authority shall be notified in writing in accordance with condition 2 k) and within a further 12 months, the well shall be abandoned, the site cleared of all plant and machinery and ancillary equipment, including the acoustic and security fencing, and restored to agriculture in accordance with the requirements of condition 31.

Reason: To enable the Mineral Planning Authority to monitor the development to ensure compliance with this permission and to inform the Mineral Planning Authority in the event early restoration of the land is required.

List of Plans and Drawings

- 6. The development shall be carried out except where modified by the conditions to this permission in accordance with the following documents: The letter and planning application and all supporting documents received by the Mineral Planning Authority dated 14 August 2017 and amended Planning Statement Revision A dated 6 June 2018. The following submitted plans:

<u>Ref.</u>	<u>Date</u>	<u>Title</u>
Location Plan	18.08.2017	14-2528-401 Rev H
Existing site layout plan	Received 18.08.2017	14-2528-402 Rev D

Proposed well testing and evaluation site layout	Received 18.08.2017	14-2528-408 Rev B
Existing highway entrance	Received 18.80.2017	14-2528-412
Proposed improvement of the existing highway entrance	Received 18.08.2017	14-2528-413
Lighting Scheme	10.2005	Rig 28 Lights
Proposed site layout	Received 02.12.2019	14-2528-404 Rev J
Proposed site elevations	Received 02/12/2019	14-2528-405 Rev F
Proposed borehole platform layout	02/12/2019	14-2528-403 Rev G
Block plan and indicative landscape scheme	Received 06.12.2019	14-2528-409 Rev K
Landscape proposals during operation	Received 24.12.2019	14-2528-416 Rev A
Landscape proposals post restoration	Received 24.12.2019	14-2528-417 Rev G

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

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

7. A copy of this decision notice together with the approved plans and any details or schemes subsequently approved pursuant to this permission shall be kept at the site at all times and the terms and contents thereof shall be made known to the supervising staff at the site.

Reason: To ensure the developer and site operatives are conversant with the terms of the planning permission.

8. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 or any other order revoking or re-enacting the order, no plant or buildings shall be erected within the application site without the prior grant of planning permission by the Mineral Planning Authority.

Reason: To reserve the rights of control by the Mineral Planning Authority in the interests of protecting local amenity.

Highway Matters

9. There shall be no excavation or other groundworks, (with the exception of investigative works,) or the depositing of material on the site until the access to the site has been set out and constructed in accordance with drawing number 14-2528-413. The access shall thereafter be the sole means of access to and from the site and shall be maintained in a safe manner, which shall include the repair of any damage to the existing adopted highway at the point of access occurring during construction.

Reason: In the interests of vehicle and pedestrian safety.

10. Prior to the commencement of use of the access from the A645 (except for the purposes of constructing the access) visibility splays of 2.4m x 215m as measured

from a point down the centre line of the access and along both channel lines of the A645 shall be provided. The visibility splay shall have an eye height of 1.05m and an object height of 0.6m. The visibility areas shall thereafter be maintained clear of any obstruction for the operational life of the site including restoration.

Reason: To ensure a satisfactory means of access to the site from the public highway and in the interests of highway safety.

11. Prior to the commencement of development (with the exception of investigative works) details of measures to be employed to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site shall be submitted to and approved in writing by the Mineral Planning Authority. The approved measures shall be made available before and thereafter retained and employed on all HGVs leaving the site during the construction of the access track and the site.

Reason: This is a pre-commencement condition required to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

12. Prior to the commencement of development (with the exception of investigative works), a scheme for recording the condition of the existing highway within 400m either side of the approved access shall be submitted to the Mineral Planning Authority for approval. The condition survey shall be carried out prior to the commencement of development and submitted to the Mineral Planning Authority within 7 days of being carried out. A further condition survey shall be carried out in accordance with the approved details within 7 days of the completion of the site access and site construction and the results submitted to the Mineral Planning Authority to determine what, if any, highway improvements works are to be carried out.

Reason: This is a pre-commencement condition required to ensure a satisfactory means of access to the site from the public highway and in the interests of highway safety.

13. Prior to commencement of development, (with the exception of investigative works), details for:

- a. On-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway; and
- b. On-site materials storage area capable of accommodating all materials required for the construction of the site;

shall be submitted to the Mineral Planning Authority for approval in writing. The approved areas shall be kept available for their intended use at all times throughout the site construction period.

Reason: This is a pre-commencement condition required to ensure the provision of on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

14. Prior to the commencement of development, a Construction Management Plan (CEMP) shall be submitted to the Mineral Planning Authority for approval in writing. The Plan shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The plan shall also include monitoring, recording and reporting requirements. The

construction of the development shall be undertaken in accordance with the approved plan unless the Mineral Planning Authority has approved any variation in writing.

Reason: This is a pre-commencement condition required to protect the amenities of the area.

Noise

Construction and Drilling Phase

15. Prior to the commencement of construction and development phases of the site, a scheme to control and monitor noise emitted during the construction and development phase, including drilling of the borehole, shall be submitted to Mineral Planning Authority for approval in writing. The scheme shall be prepared in accordance with BS5228 'The Control of Noise (Code of Practice for Construction and Open Sites) and shall identify locations at which noise will be monitored, the means and frequency of monitoring, provide predicted noise levels, mitigation measures and verification methods to ensure noise levels as measured at Kellingley Farm, Weeland Road, Brears Farm and Calder Grange do not exceed:

Weekday daytime	07:00 – 19:00	65 L _{aeq}
Weekday evening	19:00 – 23:00	55 L _{aeq}
Night	23:00 – 07:00	45L _{aeq}
Saturday	0700 - 13:00	65 L _{aeq}
Saturday	13:00 – 23:00	55 L _{aeq}
Sunday	07:00 – 23:00	55 L _{aeq}

Thereafter, the noise emitted from construction and development phases, including drilling of the borehole shall not exceed the permitted levels and shall be monitored at the approved monitoring points in accordance with the approved monitoring scheme, and at the request of the Mineral Planning Authority, should complaints about noise levels be received. Should noise levels exceed the approved levels, the construction and, development of the site, including the drilling of the borehole shall cease until the source of noise has been identified and mitigation measures employed to ensure compliance with the approved levels. The approved mitigation measures shall thereafter, be employed on the site to ensure compliance with the approved noise levels.

Reason: This is a pre-commencement condition required to protect the amenities of the area and those of the nearest residential properties to the development.

Flaring Phase

16. Prior to the commencement of flaring, a scheme to control and monitor noise emitted during the flaring phase, shall be submitted to Mineral Planning Authority for approval in writing. The scheme shall identify locations at which noise will be monitored, the means and frequency of monitoring, provide predicted noise levels, mitigation measures and verification methods to ensure noise does not exceed the following:

Kellingley Farm	37 LAeq,1 hour
Weeland Road	42 LAeq,1 hour
Brears Farm	40 LAeq,1 hour
Calder Grange	38 LAeq,1 hour

Thereafter, the noise emitted from construction and development phases, including drilling of the borehole shall not exceed the permitted levels and shall be monitored at the approved monitoring points in accordance with the approved monitoring scheme, and at the request of the Mineral Planning Authority, should complaints about noise levels be received. Should noise levels exceed the approved levels, the flaring shall cease until such time as the source of noise has been identified and mitigation measures employed to ensure flaring complies with the approved levels. The approved mitigation measures shall thereafter be employed on the site to ensure compliance with the approved noise levels.

Reason: This is a pre-commencement condition required to protect the amenities of the area and those of the nearest residential properties to the development.

17. Flaring of gas shall take place in a single period totalling not more than 4 weeks from the commencement of flaring which shall be notified to the Mineral Planning Authority in accordance with condition 2f).

Reason: To protect the amenities of the area.

18. All plant and machinery associated with the exploration, appraisal and production phases of the development shall be adequately maintained and silenced in accordance with the manufacturer's recommendations at all times.

Reason: To protect the amenities of the area.

19. All plant, machinery and vehicles accessing the site throughout the exploration, appraisal and production phases shall employ 'white' noise-reversing systems.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users.

Production Phase

20. Prior to the commencement of construction of the production phase of the site, a scheme to control and monitor noise emitted during the production phase from the pumping of gas and generation of electricity shall be submitted to Mineral Planning Authority for approval in writing. The scheme shall identify locations at which noise will be monitored, the means and frequency of monitoring; provide predicted noise levels, mitigation measures and verification methods to not exceed the BS4142; 2014 rating level daytime of 40 and BS142:2014 rating level night time 33 at Kellingley Farm, Weeland Road, Brears Farm and Calder Grange. Thereafter the noise emitted from the pumping and generation of electricity shall not exceed the permitted levels and shall be monitored at the approved monitoring points in accordance with the approved monitoring scheme, and at the request of the Mineral Authority, should complaints about noise levels be received. Should noise levels exceed the approved levels, the pumping of gas and generation of electricity shall cease until the source of noise has been identified and mitigation measures employed to ensure compliance with the approved levels. The approved mitigation measures shall thereafter be employed on the site to ensure compliance with the approved noise levels.

Reason: To protect the amenities of the area

21. Prior to the commencement of electricity generation, details of the 4.5m 'Acoustic Screen' shown on Drawing Number 14-2528-404 Rev J surrounding the perimeter of the south, north and east elevations surrounding the generator containers, transformers and cooling radiators, shall be submitted to the Mineral Planning Authority for approval in writing. The 'Acoustic Screen' shall have a surface mass of not less than 17kgm² and shall be free from gaps and cracks. Any joins in the 'Acoustic Screen' and joint between the lower edge of the 'Acoustic Screen' and the ground shall be effectively sealed. The 'Acoustic Screen' shall be constructed in accordance with the approved details prior to the commencement of electricity generation and shall thereafter be retained and maintained throughout the production phase of the development.

Reason: *To protect the amenities of the area.*

Hours

22. No delivery or removal of materials, plant and equipment, construction of the access and site associated with the exploration, appraisal and development and restoration phases of the development shall take place, except between the hours of:

07:30 – 18:00 hours Monday to Fridays (except Bank or Public Holidays)

07:30 – 13:00 hours on Saturdays (except Bank or Public Holidays)

No delivery or removal of materials, plant and equipment, construction of the access and site associated with the exploration, appraisal and development and restoration phases of the development shall take place on Sundays or Bank or Public Holidays except in exceptional circumstances and subject to the prior agreement with the Mineral Planning Authority.

This condition shall not apply to the operations associated with the drilling of the borehole and well operations or the use of pumping equipment, flaring, the carrying out of essential repairs to plant, machinery and equipment used on the site and the management of the drilling and flow testing and flaring operations or exceptional circumstances referred to above.

Reason: *In the interests of highway safety and to protect the amenities of the area.*

Lighting

23. No development shall commence until a scheme and programme for the external lighting/floodlighting of the site during the exploration, appraisal and operational

phases of the development has been submitted to and approved in writing by the Mineral Planning Authority. The scheme and programme shall include details of the:

- a) Type and intensity of the 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 sensitive receptors
- 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 lighting shall be erected and operated in accordance with the approved scheme and programme throughout the operational life of the site.

Reason: This is a pre-commencement condition required to protect the amenities of the area.

Controls Over Buildings/Plant

24. No development shall commence until details of the colours of the external cladding or finish of the buildings, security fencing, cladding to plant and machinery and solid noise attenuation measures to plant and equipment, that would be present on the site throughout all phases of the development, commencing from the construction of the access to the site, have been submitted to and approved in writing by the Mineral Planning Authority. The buildings, security fencing, cladding to plant and machinery and, solid noise attenuation measures to plant and equipment within the control of the developer shall be painted in the approved colour(s) prior to or within 2 weeks of their arrival on the site and thereafter maintained in the same colour(s), throughout their presence on the site with the exception of plant and equipment required for short duration associated with well drilling and flaring operation activities.

Reason: This is a pre-commencement condition required to protect the visual amenities of the area.

25. The drill rig and any other similar plant and equipment associated with the drilling of the borehole and monitoring of the borehole shall not exceed a height of 35m as measured from the site compound ground level unless otherwise agreed in writing by the Mineral Planning Authority.

Reason: To protect the visual amenities of the area.

Drainage

26. No development shall commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable drainage shall be employed wherever possible. The approved scheme shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase have been completed after which they shall be maintained for the duration of each phase throughout the operational life of the site.

Reason: This is a pre-commencement condition required to ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk.

Runoff

27. No development of the production phase for the purposes of condition 2g) shall commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Mineral Planning Authority. The flowrate from the site shall be restricted to the calculated greenfield runoff rate or to the nominal 1.4 litres per second per hectare. A 30% allowance shall be included for climate change effects and a further 10% for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the operational life of the development.

Reason: This is a pre-commencement condition required to mitigate the risk of flood impact from the development proposals and ensure that flood risk is not increased elsewhere.

28. No development of the production phase for the purposes of condition 2g) shall commence until a maintenance plan of the proposed SuDS drainage scheme arrangement has been submitted to and approved in writing by the Mineral Planning Authority. The plan shall demonstrate that the surface water drainage system(s) is designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement document) attached to and forming part of this permission. The approved maintenance plan shall thereafter be implemented throughout the life of the site.

Reason: This is a pre-commencement condition required to prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system.

29. Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container(s) total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls. Double-skinned tanks may be used as an alternative only when the Mineral Planning Authority has first approved the design and construction in writing.

Reason: To safeguard local drainage systems and prevent the pollution of groundwater and adjacent land.

Archaeology

30. No development shall commence until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include an assessment of significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
 - b) The programme for post investigation assessment;

- c) Provision to be made for analysis of the site investigation and recording;
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- e) Provision to be made for archive deposition of the analysis and records of the site investigation; and
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Archaeological Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Archaeological Investigation.

No development shall commence until site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Archaeological Investigation and the provision made for analysis, publication (including the opportunity for a site open day and press release where very significant remains are found) and dissemination of results and archive deposition has been secured.

Reason: This is a pre-commencement condition required to protect the archaeological heritage of the area

Landscaping

31. No development shall commence until a scheme and programme for the landscaping of each phase of the site has been submitted to and approved in writing by the Mineral Planning Authority for approval in writing. The landscaping scheme shall include details of:
- a) Details for the planting of trees and shrubs including numbers, types and sizes of species to be planted, location and layout of planting areas, protection measures and methods of planting.
 - b) Details for the seeding of any landscaping areas including mixes to be used and rates of application.
 - c) Details for the management of any landscaping areas including maintenance of tree and shrub planting and grazing or mowing of seeded areas.
 - d) Details of trees and shrubs that are to be retained post restoration of the site.

The approved scheme and programme shall be implemented in the first available planting season following the commencement of development and shall thereafter be maintained for a period of five years including weed control, replacement of dead and dying trees and shrubs with species of similar size and species and maintenance of protection measures.

Reason: This is a pre-commencement condition required in the interests of visual amenity of the area.

Ecological Mitigation and Enhancement Plan

32. Prior to commencement of development, a detailed ecological mitigation and enhancement plan shall be submitted to the Mineral Planning Authority for approval in writing. The plan shall include details of measures to be employed during the construction and operational phases, together with details of vegetation protection measures, as well as detail on the habitats and features created on the site as biodiversity enhancement, including the provision of bat boxes and bird boxes and their respective number and locations, including how these habitats will be managed in the long term. The approved ecological mitigation plan shall thereafter be

implemented in full and measures employed there in shall be maintained throughout the operational life of the site.

Reason: This is a pre-commencement condition required to protect and enhance the biodiversity of the area.

Restoration

33. Restoration of the site shall be carried out:

- (i) within twelve (12) months of the cessation of gas production; or
 - (ii) within twelve (12) months of the cessation of generation of electricity; or
 - (iii) within twelve (12) months following abandonment of the site;
- Whichever is the sooner, in accordance with the following:

- a) All plant, buildings, hard standings and aggregates / hardcore including any geo textile membrane and including the access and access road and any interconnections to the national electricity grid shall be removed from the land.
- b) The upper layers of the subsoil material shall be ripped to a depth of 600mm with a heavy-duty winged instrument in two directions to ensure the removal of material injurious to plant life and any rock, stone, boulder or other material(s) capable of preventing or impeding normal agricultural land drainage operations, including mole ploughing and subsoiling. Any rock, stone, boulder or other material encountered shall either be buried at depth or removed from the site.
- c) Following the treatment of the subsoil, topsoil shall be replaced over the site to a minimum depth of 150mm and shall be ripped, cultivated and left in a state that will enable the land to be brought back to a standard fit for agricultural use.

Reason: To secure the proper restoration of the site to agriculture at the earliest opportunity.

34. On completion of restoration of the site and removal of the access road, the access to the A465 shall be reduced to a single agricultural access in accordance with a scheme to be first submitted to and agreed in writing by the Mineral Planning Authority.

Reason: To secure the proper restoration of the site and in the interests of the visual amenity of the area and highway safety.

35. On completion of restoration of the site and removal of the access road, the access to the A465 shall be reduced to a single agricultural access in accordance with a scheme to be first submitted to and agreed in writing by the Mineral Planning Authority.

Reason: To secure the proper restoration of the site and in the interests of the visual amenity of the area and highway safety.

Aftercare

36. Within 3 months of the certification in writing by the Mineral Planning Authority of the completion of restoration (the date when the Mineral Planning Authority) certifies in writing that the works of restoration have been completed satisfactorily) a scheme and programme for the aftercare of the site for a period of 5 years to promote the agricultural afteruse of the site shall be submitted to the Mineral Planning Authority for approval in writing. The scheme and programme shall contain details of the following:

- a) Maintenance and management of the restored site to promote its agricultural use.
- b) Weed control where necessary.
- c) Measure to relieve compaction or improve drainage.
- d) Maintenance and replacement of trees and shrubs, weed control and re-staking.
- e) An annual inspection to be undertaken in conjunction with representatives of the Mineral Planning Authority to assess the aftercare works that are required the following year.

Reason: To secure the proper aftercare of the site.

INFORMATIVES

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

Public rights of way are to be kept open for public use at all times throughout the exploration, appraisal and production phases of the development.

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency, the Oil and Gas Authority and the Health and Safety Executive.

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.

K BATTERSBY

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

Background Documents to this Report:

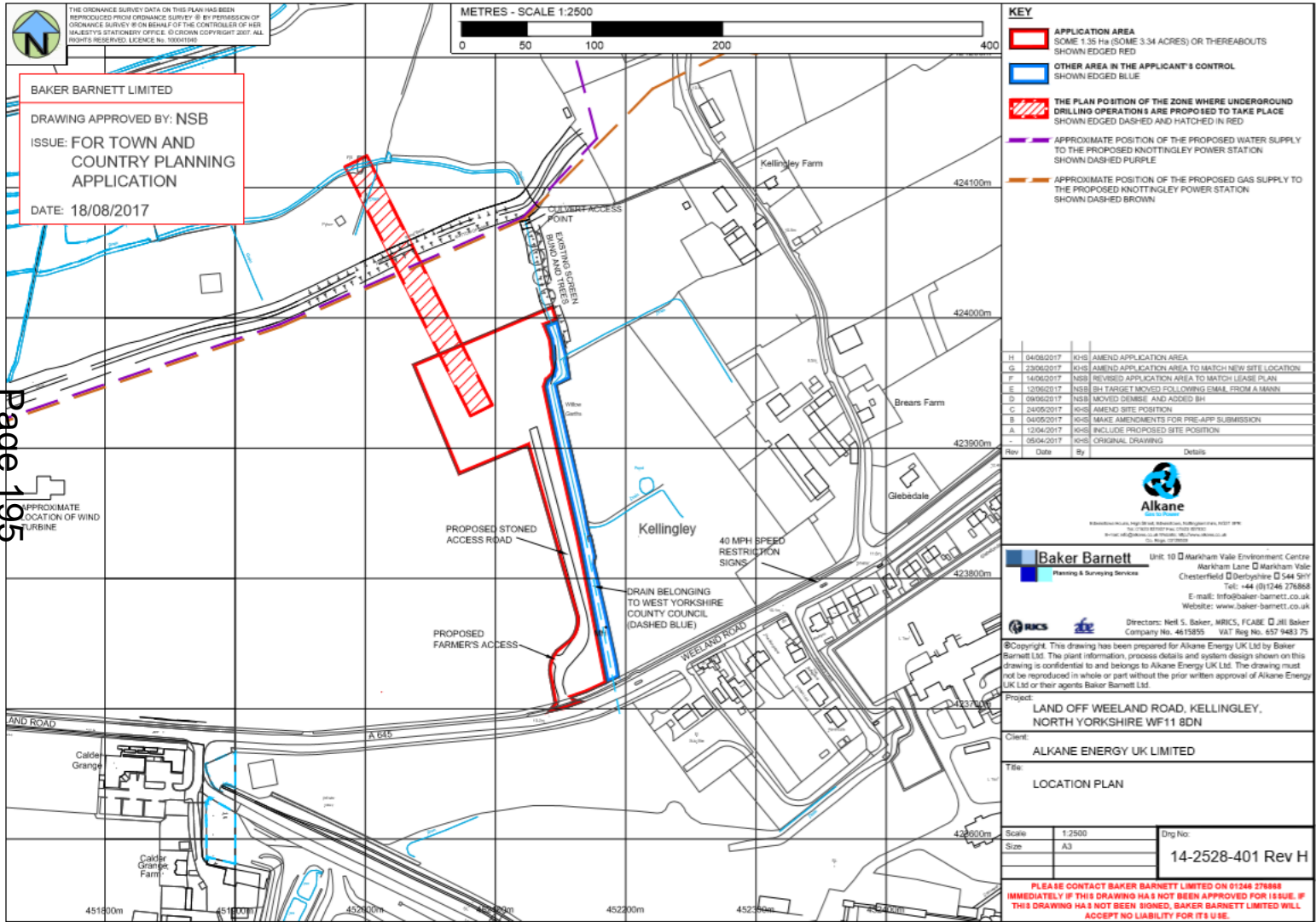
1. Planning Application Ref Number: (NY/2017/0219/FUL) registered as valid on Application documents can be found on the County Council's Online Planning Register by using the following web link:

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

2. Consultation responses received.
3. Representations received.

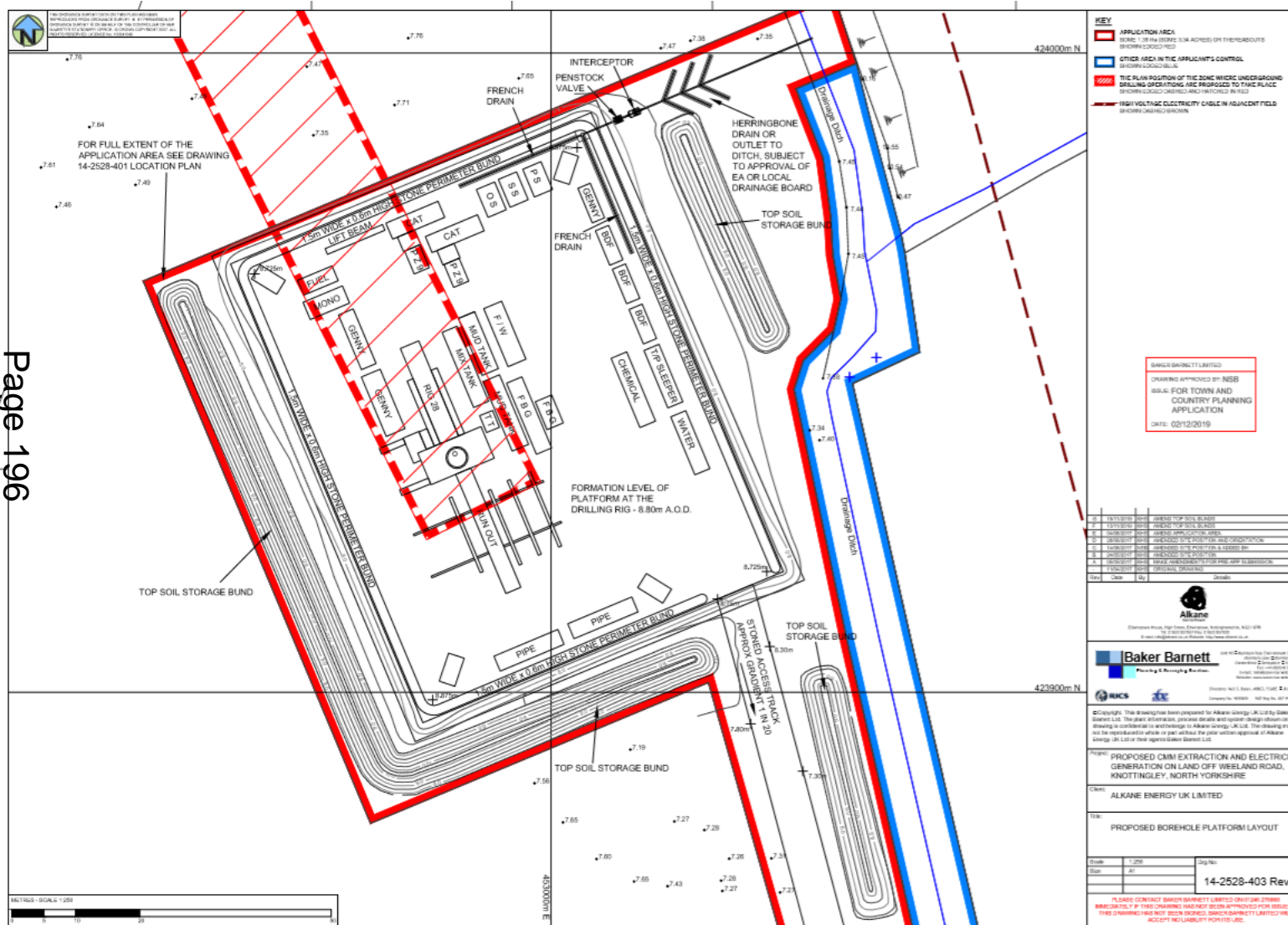
Author of report: Stuart Perigo

APPENDIX 1 LOCATION PLAN



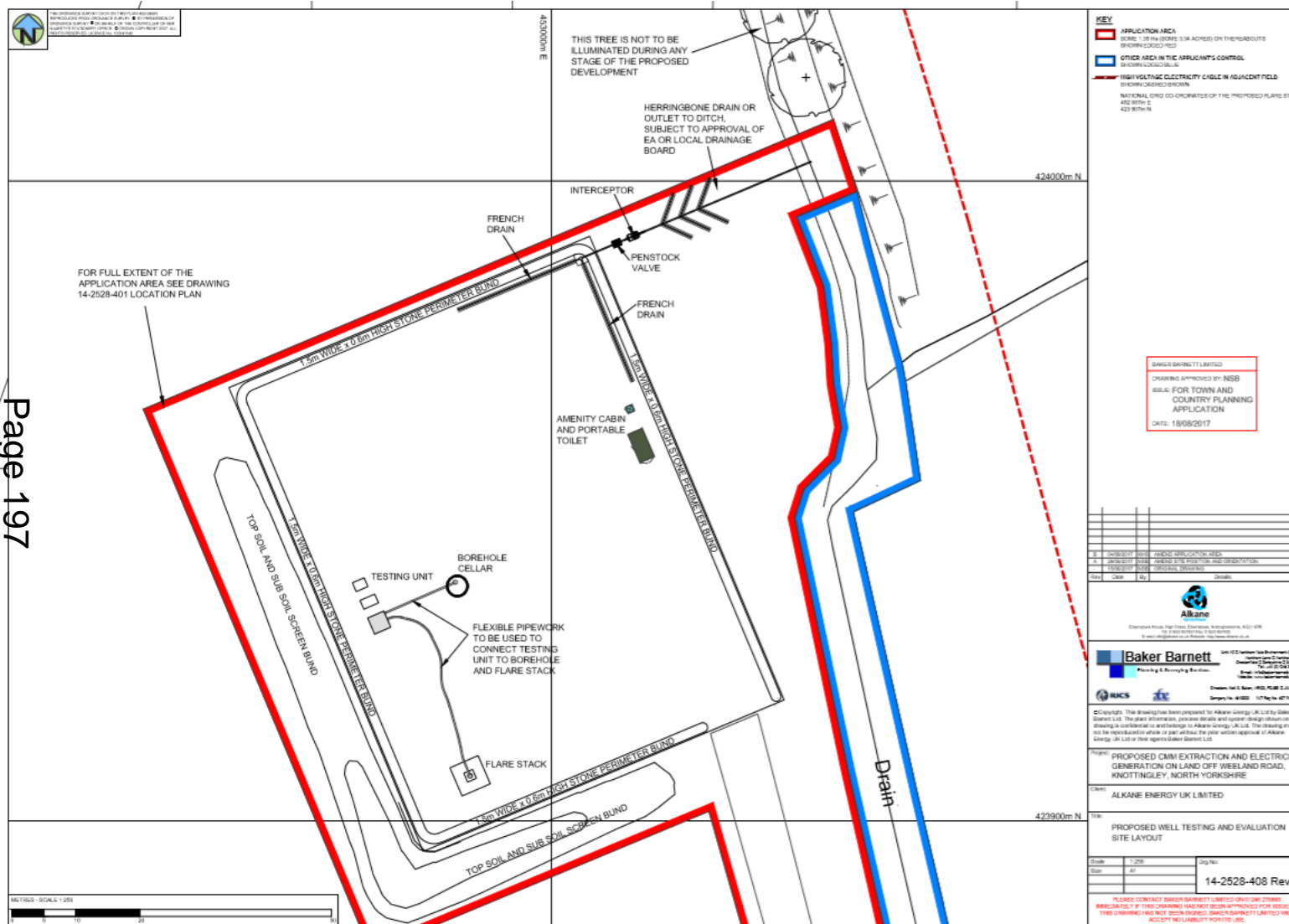
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APPENDIX 2 DRILLING LAYOUT



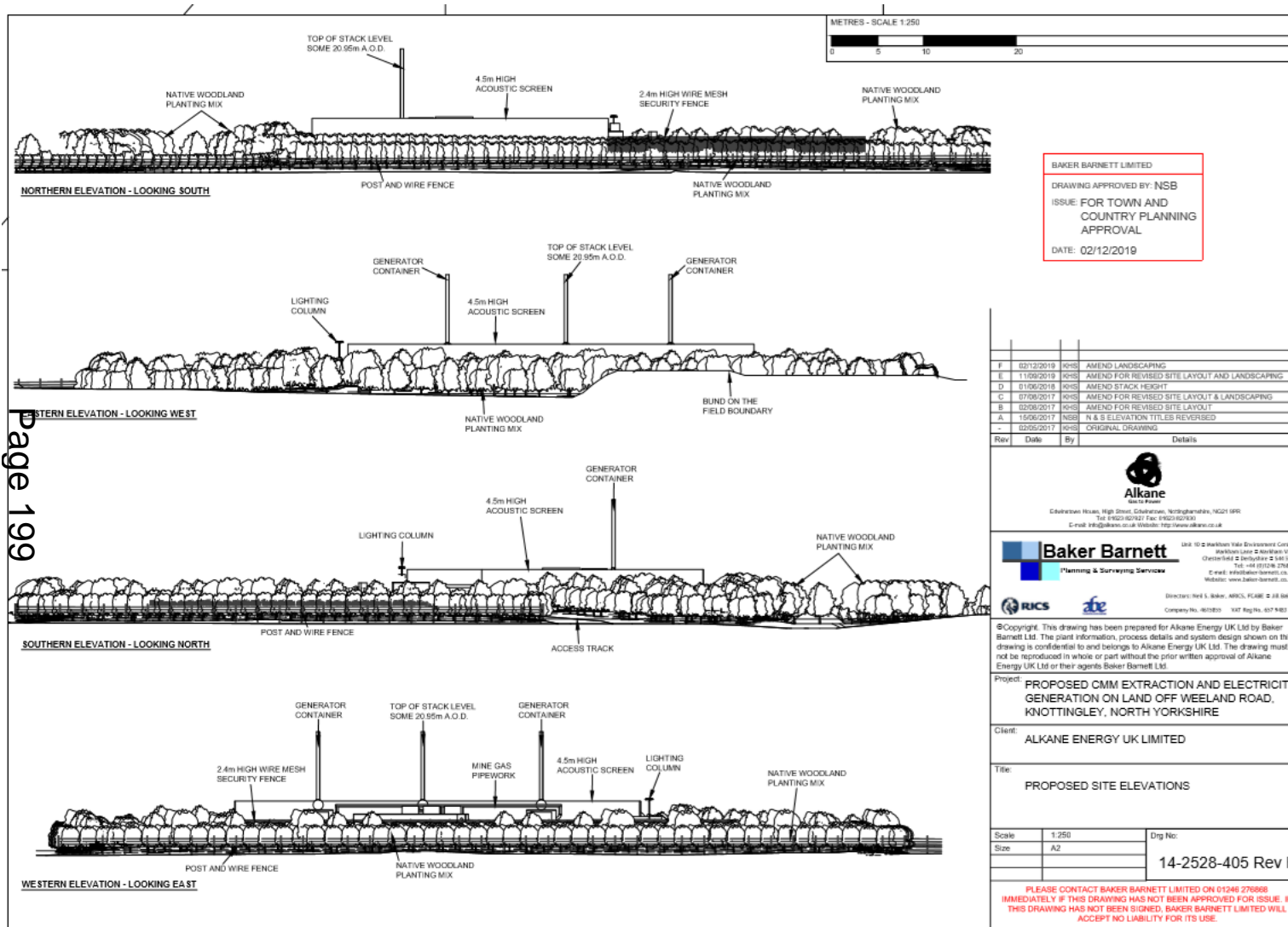
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APPENDIX 3 EVALUATION AND APPRAISAL LAYOUT



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APPENDIX 4 PROPOSED ELEVATIONS IN THE PRODUCTION PHASE



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