

North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

23 February 2020

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 Kelfeld. 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 tds20;
 - 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 therefore 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.
- 7.36 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

- 7.37 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.
- 7.38 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
- 7.39 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.
- 7.40 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.
- 7.41 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.

- 7.42 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 (14) 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.
- 7.43 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
- 7.44 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.
- 7.45 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).
- 7.46 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

- 7.47 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.
- 7.48 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.
- 7.49 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.
- 7.50 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.
- 7.51 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.

- 7.52 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. 8 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.
- 7.53 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.
- 7.54 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. 11 within Section 9.0 of this report.
- 7.55 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.

- 7.56 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.
- 7.57 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.
- 7.58 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.
- 7.59 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.
- 7.60 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)

- 7.61 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.
- 7.62 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
- 7.63 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

- 7.64 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.
- 7.65 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.

- 7.66 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.17 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.
- 7.67 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.
- 7.68 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.
- 7.69 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.

- 7.70 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.
- 7.71 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)

- 7.72 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. 15 within Section 9.0 of this report refers).
- 7.73 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.

- 7.74 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.
- 7.75 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

- 7.76 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.
- 7.77 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

- 7.78 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.
- 7.79 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.
- 7.80 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.
- 7.81 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

- 7.82 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.
- 7.83 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.

- 7.84 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.
- 7.85 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.
- 7.86 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

- 7.87 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

- 7.88 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

- 7.93 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

- 7.94 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

7.95 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

8.18 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

8.19 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.

8.20 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 in 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.

21. 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

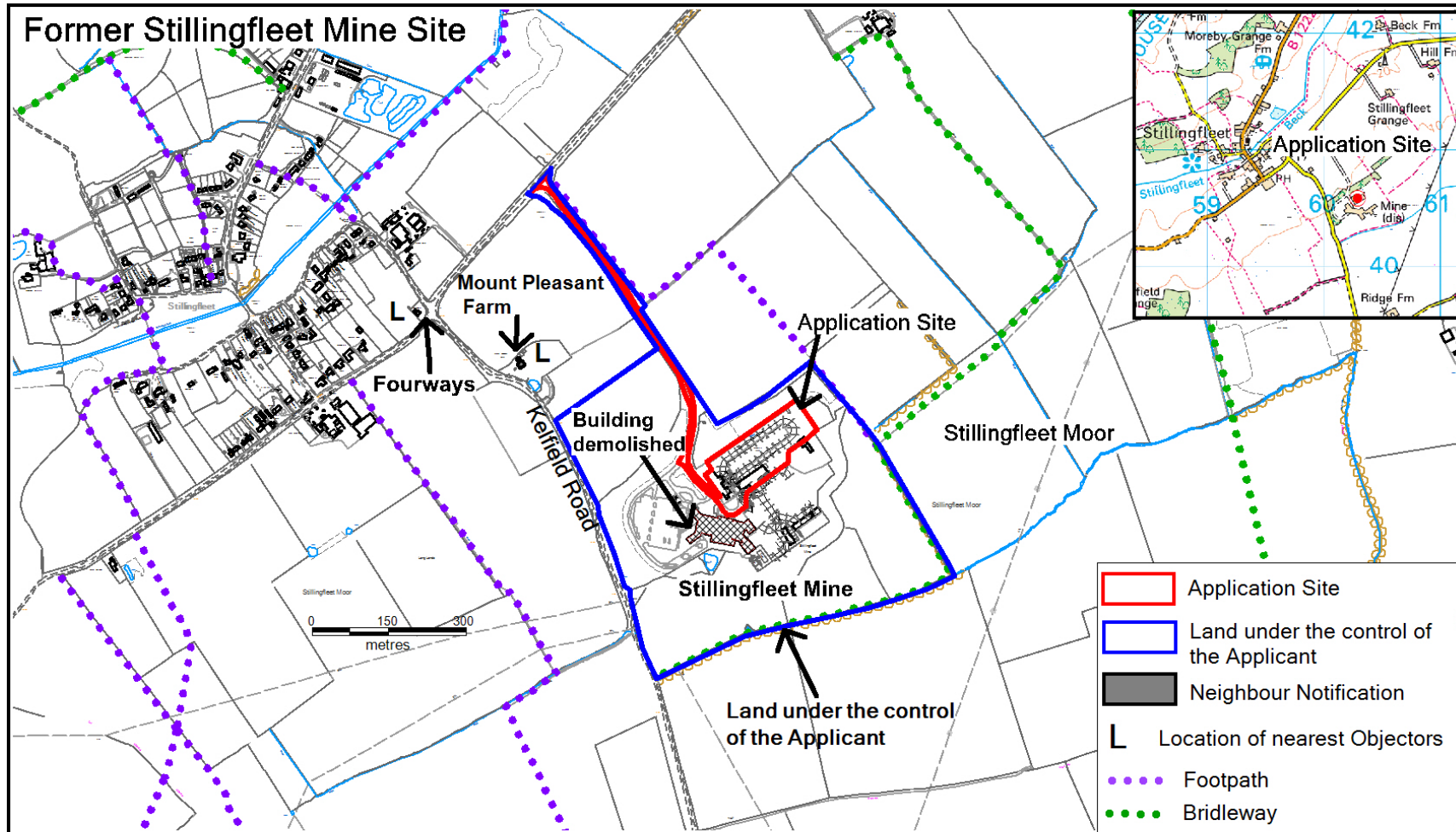
Author of report: Victoria Perkin

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

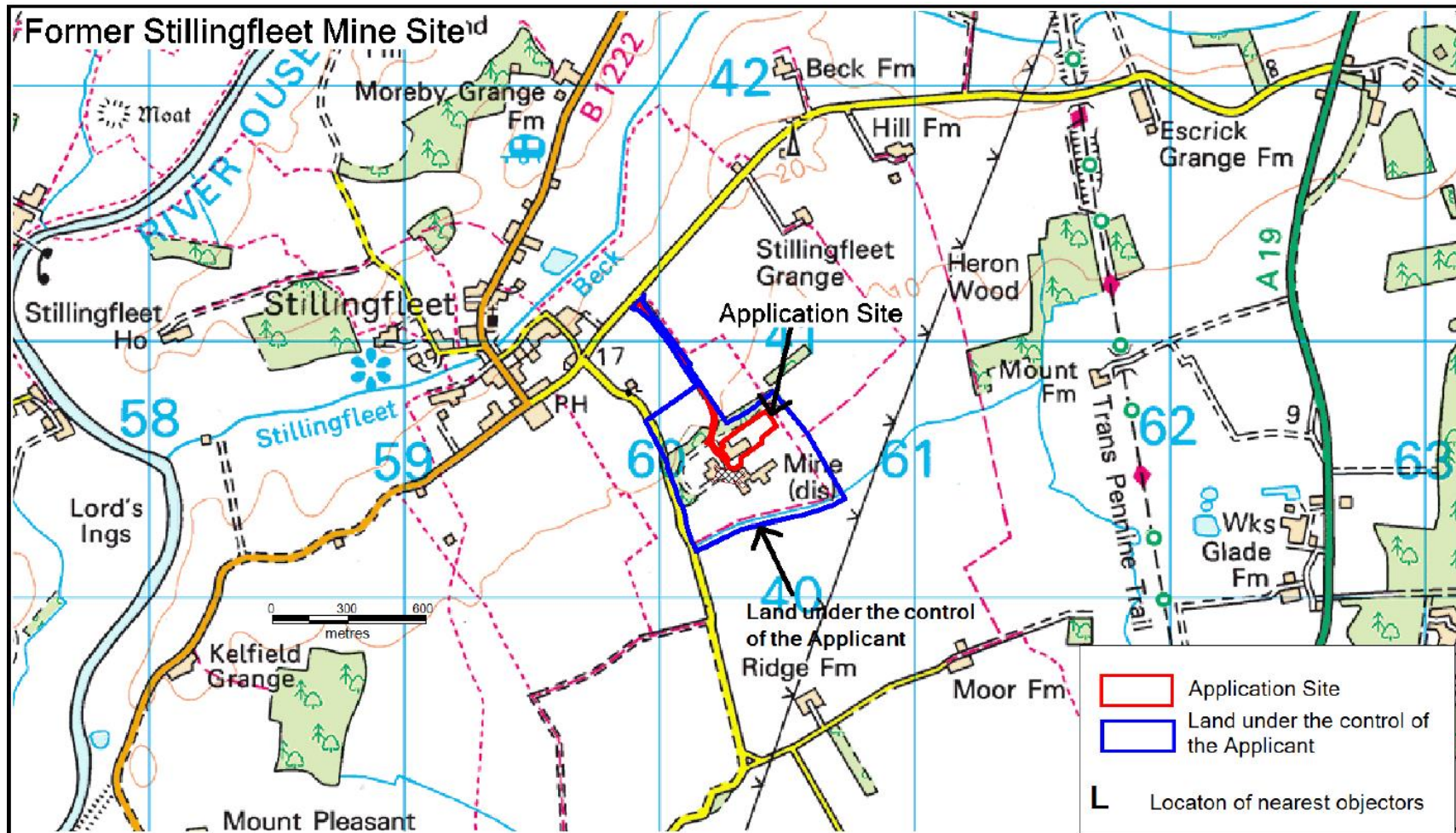
Application No :C8/999/16U/PA

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

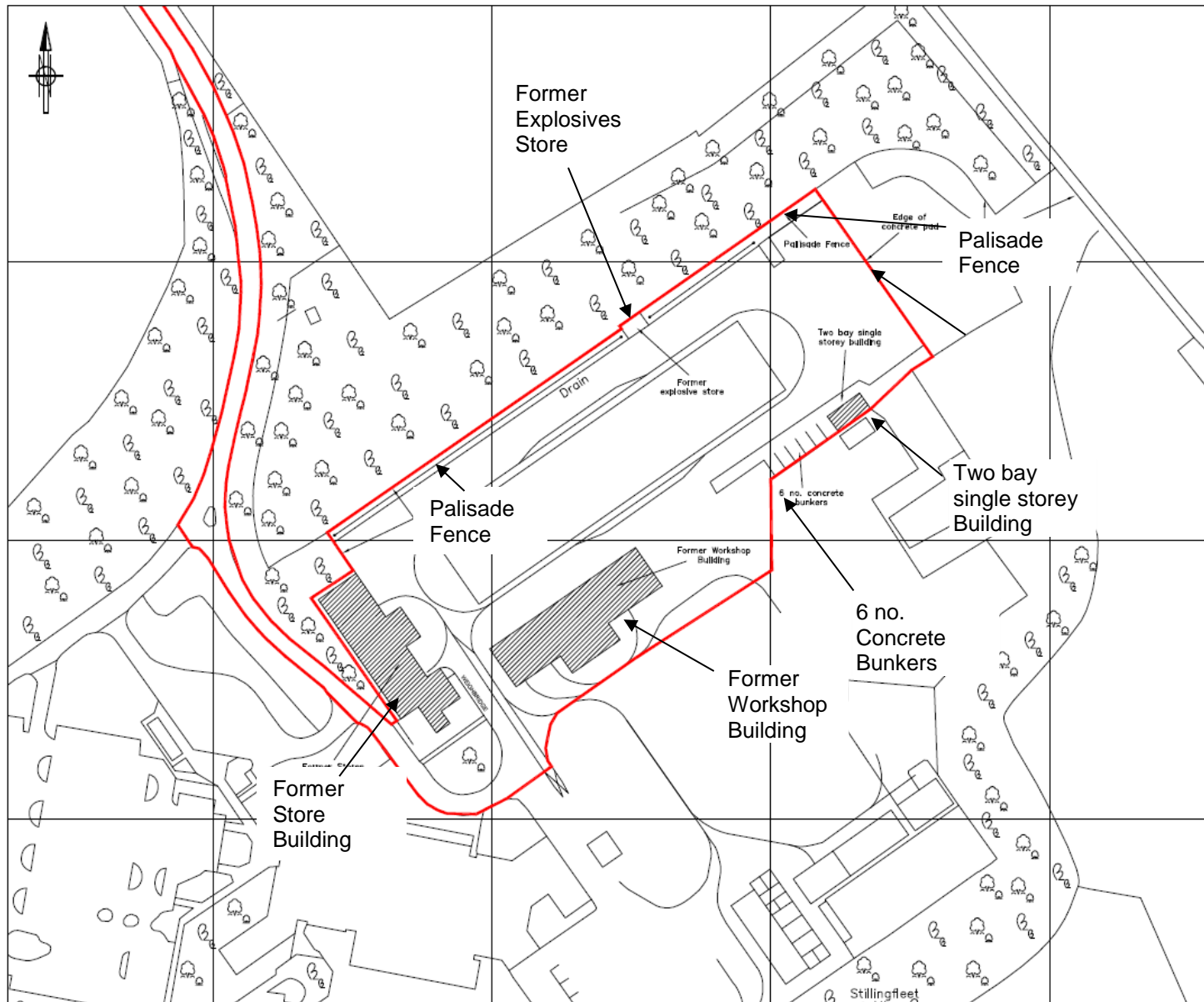
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Date: July 2020
Filename: Stillingfleet Mine
Compilation & Analysis: NR/JB

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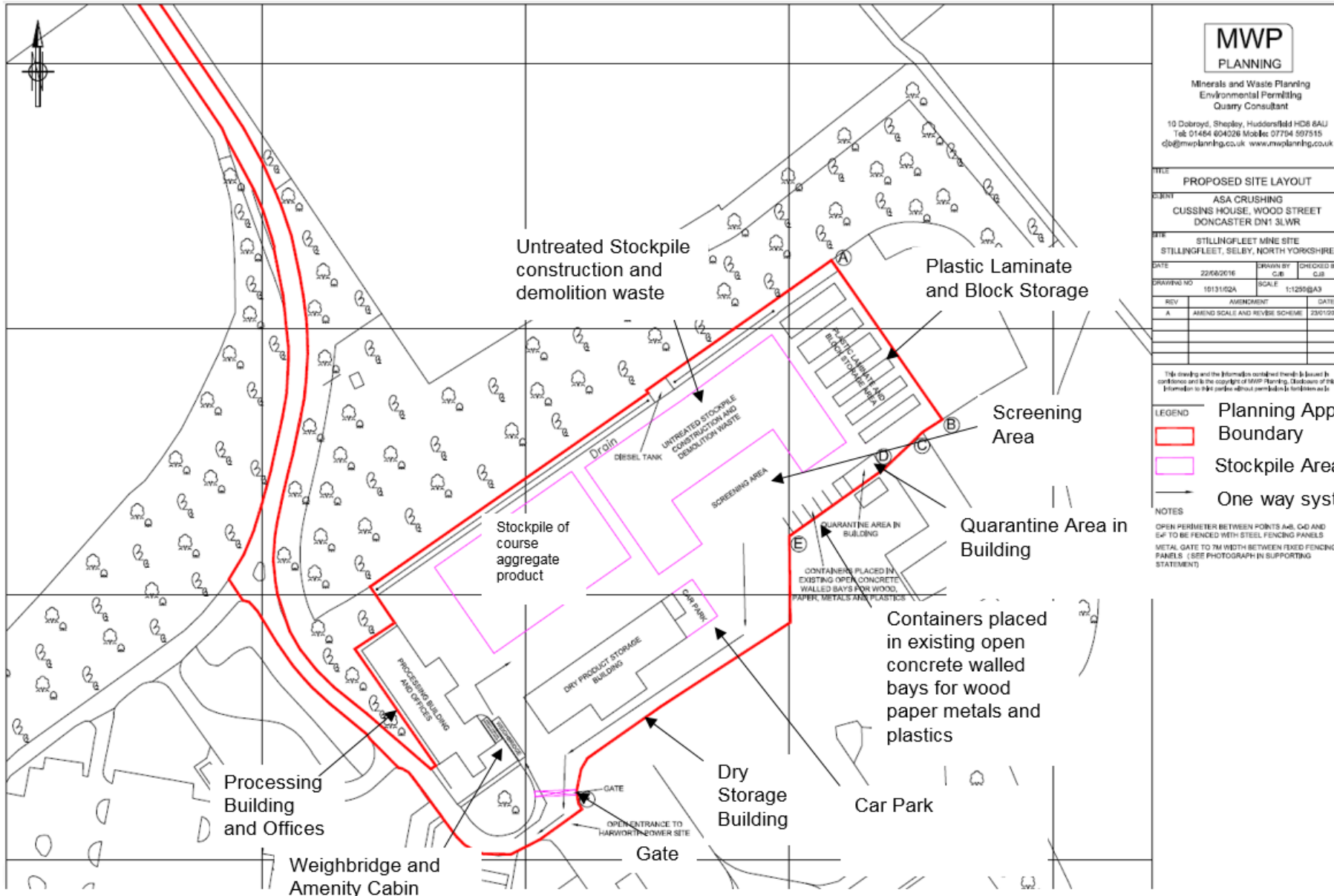
Appendix C – Aerial Photo (source: Google Maps – aerial photo 15th July 2020)



Appendix D - Existing Site Plan

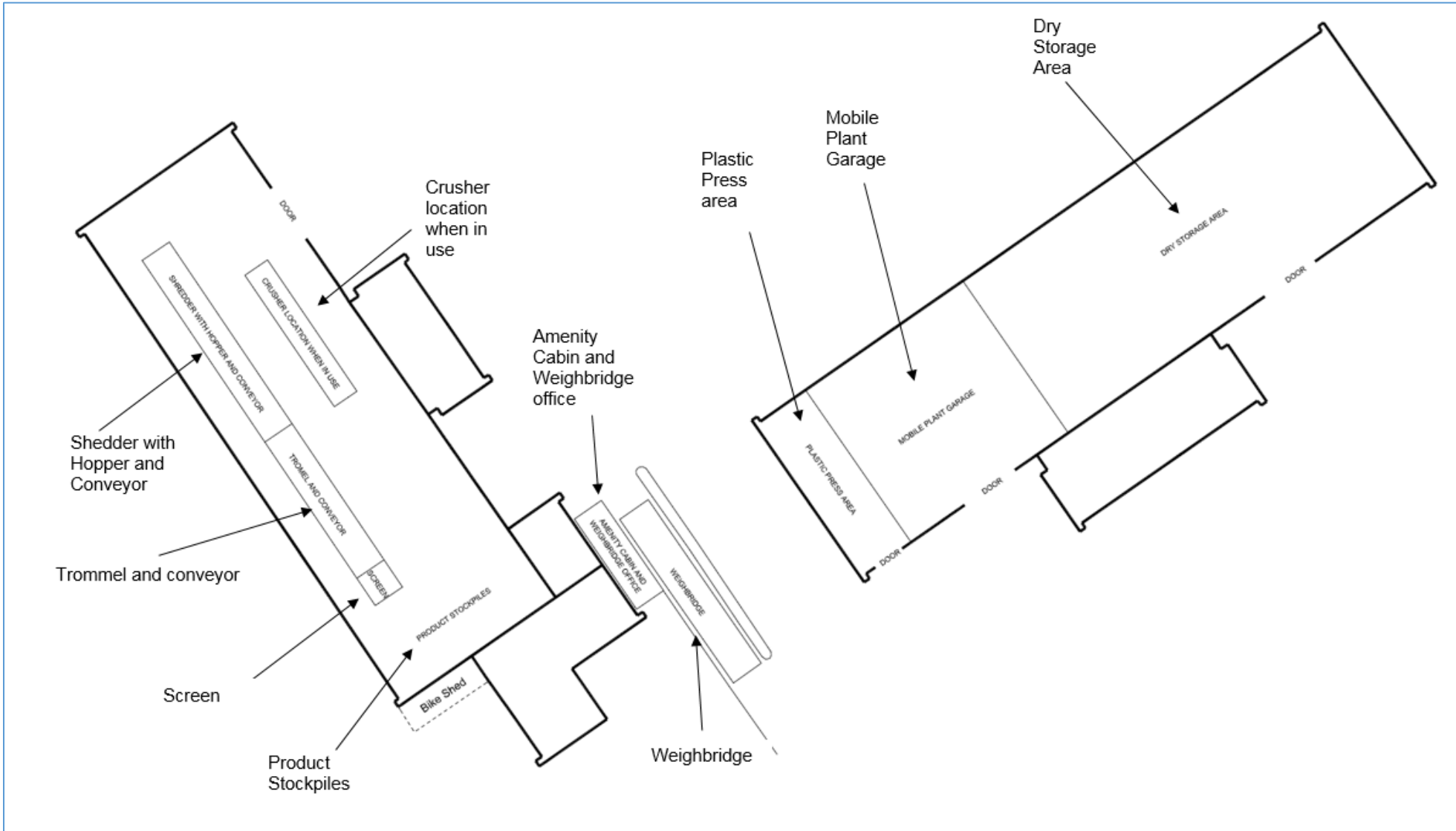


Appendix E – Proposed Site Plan

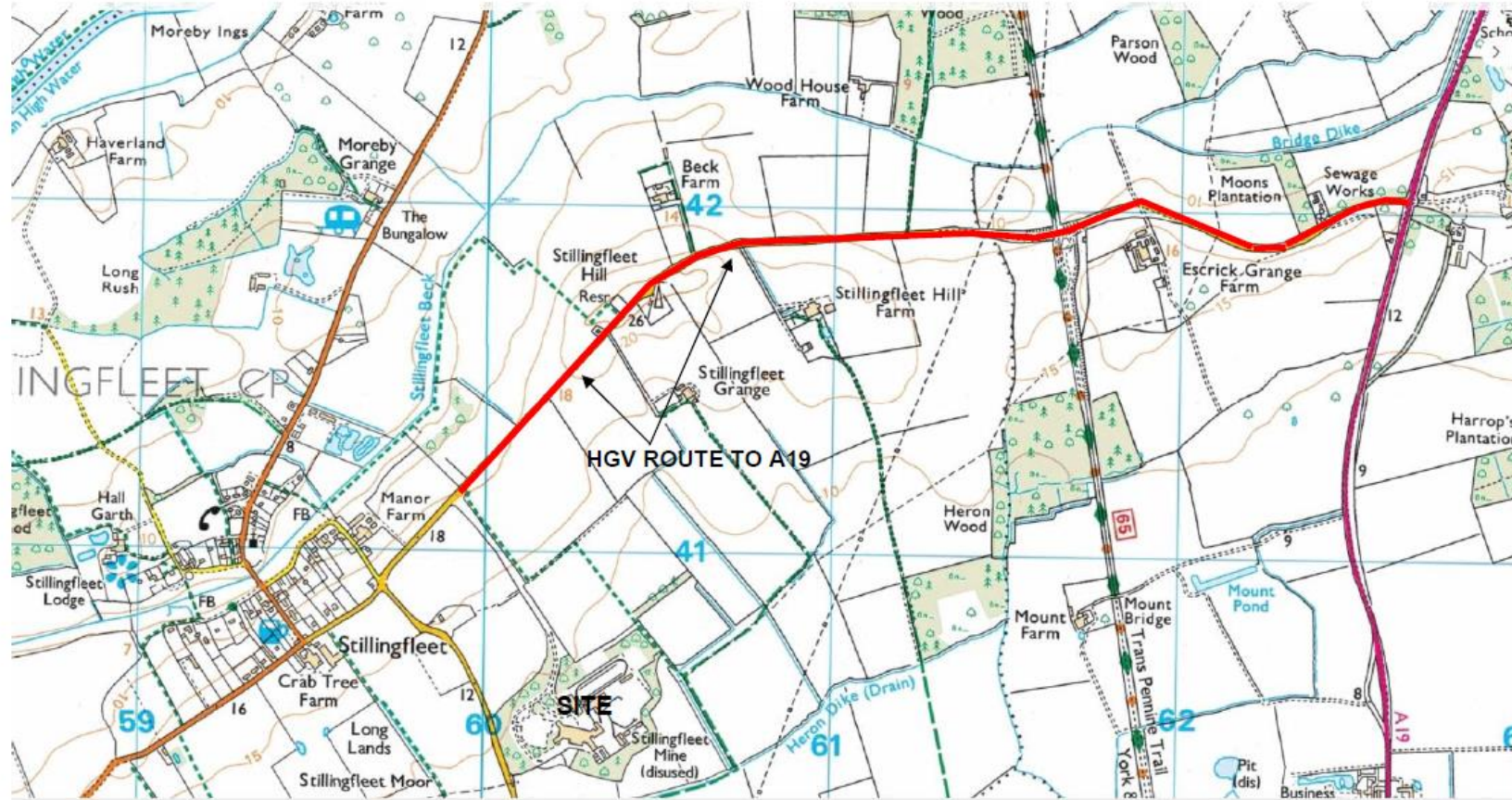


Planning and Regulatory Functions Committee
Former Stillingfleet Mine Site/70

Appendix F – Internal Layout Plan



Appendix G – HGV Haul Route

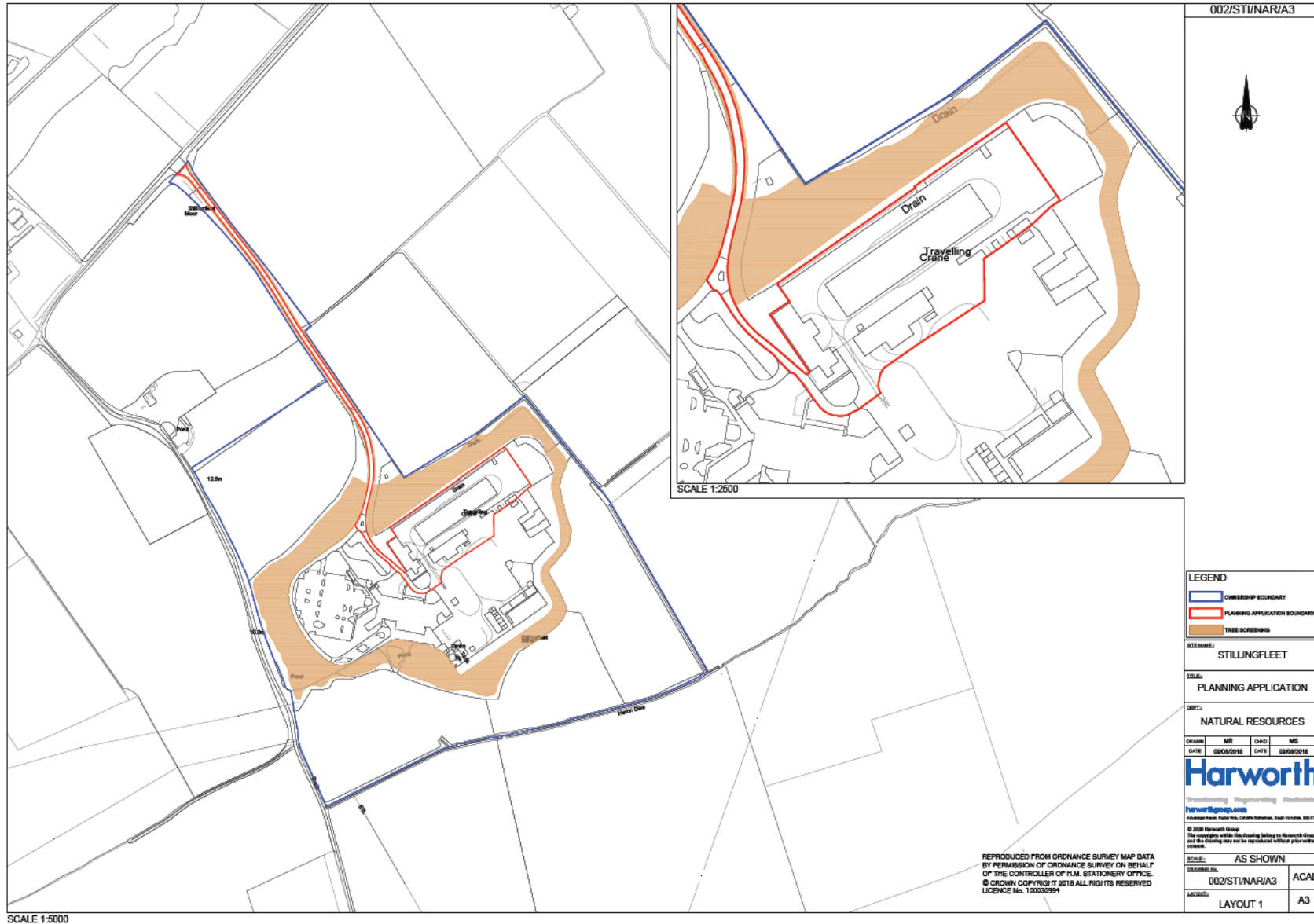


MWP PLANNING
 10 Dobroyd, Shepley
 Huddersfield HD8 8AU
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PLAN B
 HGV ROUTE
 STILLINGFLEET MINE SITE
 STILLINGFLEET, SELBY

NOT TO SCALE
 DATE: 19/06/2017

Appendix H – Screening Management Plan



Planning and Regulatory Functions Committee
 Former Stillingfleet Mine Site/73