

North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

16 MARCH 2021

C8/999/16U/PA - (NY2016/0251/FUL) - PLANNING APPLICATION FOR THE PURPOSES OF THE CHANGE OF USE OF PART OF THE FORMER COAL MINE SITE TO CREATE A WASTE TRANSFER FOR CONSTRUCTION AND DEMOLITION WASTES, INSTALLATION OF A WEIGHBRIDGE, A SKIP STORAGE AREA, PORTABLE AMENITY CABIN (30 SQ. METRES) AND THE PROVISION OF CAR PARKING SPACES ON LAND AT FORMER STILLINGFLEET MINE SITE, ESCRICK ROAD, STILLINGFLEET ON BEHALF OF HARWORTH ESTATES (SELBY DISTRICT) (ESCRICK ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

ADDENDUM TO SUBSTANTIVE REPORT TO APPLICATION

1.0 Purpose of the addendum

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

2. Representations

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

2.2 General

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

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

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

2.3 Highways

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

2.4 Amenity

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

2.5 Landscape and Ecology

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

2.6 Policy

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

2.7 Development

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

3.0 Assessment of Representations received

Principle of the proposed development

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

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

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

Policy

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

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

Highways

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

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

Amenity

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

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

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

Landscape and Ecology

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

General

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

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

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

4.0 Summary

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

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

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

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

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

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

5.0 Recommendation

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

K Battersby Corporate Director, Business and Environmental Services

Background Documents to this Report:

Published Substantive Report to Committee on 16 March 2021

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