
Report of the Head of Planning and Development

STRATEGIC PLANNING COMMITTEE

Date: 24-Mar-2022

Subject: Planning Application 2021/92486 Erection of 5 buildings for a mixed use of educational, agricultural and community uses former Spenborough Wastewater Treatment Works, Smithies Lane, Heckmondwike, WF16 0PN

APPLICANT

H Cook

DATE VALID

18-Jun-2021

TARGET DATE

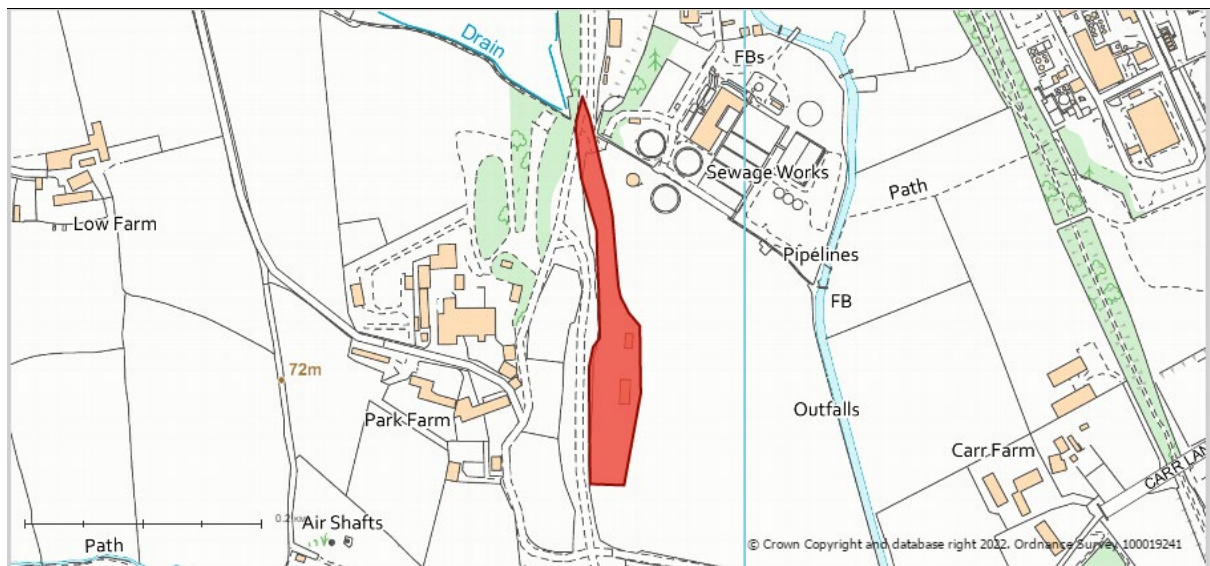
13-Aug-2021

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

[Public speaking at committee link](#)

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral wards affected: Heckmondwike

Ward Councillors consulted: Yes

Public or private: Public

RECOMMENDATION:

REFUSE

1. The proposed development of five new buildings on previously undeveloped land within the Green Belt would represent inappropriate development which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The buildings would result in significant impacts on openness and harm to the character and appearance of the Green Belt. The considerations that have been put forward by the applicant, individually or cumulatively do not outweigh the harm to the Green Belt and therefore, the very special circumstances that are necessary to justify this inappropriate development in the Green Belt do not exist. The development would therefore conflict within guidance at Chapter 13 of the National Planning Policy Framework.

2. The visual harm of the proposal buildings, via their scale, quantity, urban design and siting in a rural landscape is considered detrimental and unacceptable to the rural character with regard to visual amenity. The associated benefits are not considered to outweigh this harm. To permit the development would also be contrary to Local Plan policies LP24 and Chapter 12 of the National Planning Policy Framework.

3. The proposed development lies within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network, Insufficient information has been provided within the application to demonstrate that the proposal would minimise impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist, or safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network. For this reason, it is considered to be contrary to Local Plan policy LP30 and Chapter 15 of the National Planning Policy Framework.

1.1 The application has been bought before the Strategic Planning Committee given that the site exceeds 0.5ha in size and is non-residential.

2.0 SITE AND SURROUNDING

2.1 The application site extends to 0.7 ha and comprises of land to the western part of the former Spenborough Wastewater Treatment Works. The wider site is 6.1ha and originally contained 28 circular concrete filter beds and associated infrastructure including walkways, water tanks and ancillary buildings.

2.2 The site was redundant for several years and following a planning permission granted in 2014, the infrastructure has since been demolished and removed from site and the resultant site being partially landfilled and landscaped. It is now considered to be a Greenfield site having regard to the definition in the NPPF that excludes the following from the definition of previously development land: land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

- 2.3 The application site is also set within the allocated Green Belt as well as within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network as set out in the Kirklees Local Plan.
- 2.4 The application site is set to the west of the main treatment works site and did not previously contain any equipment associated with the treatment works. It was development land (not quite sure what you mean by development land? - not sure you need this paragraph?) prior to this retrospective planning application. The landscaping referenced in paragraph 2.1 included the removal of grass and shrubbery to the application site.
- 2.5 The application site is located off Smithies Lane and is bounded to the east by the River Spen, public rights of way Spe/141/30 to the north and Spe/143/30 to the south and by the access road to the Ponderosa Therapeutic Centre to the west.

3.0 PROPOSAL

- 3.1 The application is seeking permission for the erection of 5 buildings for a mixed use of educational, agricultural and community uses.
- 3.2 The proposed uses of each building, as set out by the agent, are as follows:
- Building 1 – Security building with two floors (sui generis) (does this include any accommodation?)
 - Building 2 – open side agricultural building together with cardboard recycling (agricultural use / class E)
 - Building 3 – agricultural style building used for project workshop and training (class F1)
 - Building 4 – training and education use (class F1)
 - Building 5 – Feed store (agricultural use)
- 3.3 The full details of the dimensions, design, scale and materials of each building can be found within the submitted plans. The application is retrospective and therefore the buildings can also be seen on site.
- 3.4 The site will be access via vehicle from the existing unadopted access track from Smithies Lane. Access via foot can be gained from footpath SPE/143/30. The buildings would be used for projects and schemes ran by the site owner. The uses will be discussed further where relevant in the report. The landscaping currently ongoing on the site, which represents an expansion to Ponderosa Zoo is not a part of this application.

4.0 RELEVANT PLANNING HISTORY

- 4.1 2021/90599 – Erection of open sided agricultural buildings – withdrawn.
- 2021/90156 – Change of use of land and erection of 2 buildings – withdrawn.
- 2020/92608 – Change of use of land and erection of 2 no. security and management buildings and 1 no. educational workshop building – withdrawn.

2019/20493 - Pre-application advice sought for the erection of 3 buildings associated with the adjacent Ponderosa Zoo. In summary, the applicant was advised that the buildings represented inappropriate development in the Green Belt and there were no other considerations in favour of the proposal that clearly outweighed the harm arising from inappropriateness such that it was felt the buildings could not be supported based on the evidence submitted with the pre-application.

2018/93292 – Non material amendment on previous application 2014/91575 for demolition of existing filter beds. Land fill site and change of use from redundant sewerage beds to agricultural land – approved.

2017/91470 – Variation of condition 3. (time limits) on previous permission no.2014/91575 for demolition of existing filter beds. Land fill site and change of use from redundant sewerage beds to agricultural land – approved.

2014/93869 - Discharge of conditions 10 (Vehicle Management Plan, 11 (Surfacing & Drainage), 12 (Phase One Report), 17 (Scheme for Removal of Suspended Solids), 18 (Construction & Environment Statement), 19 (Land Stability), 24 & 25 (Demolition & Landfill Sequence) – approved.

2014/91575 – Demolition of existing filter beds. Landfill site and change of use from redundant sewerage beds to agricultural land – approved.

2011/91155 – Erection of an agricultural storage barn – withdrawn (invalid)

90/06826 – Erection of parameter security fence – approved.

5.0 HISTORY OF NEGOTIATIONS

- 5.1 The case officer visited the site and discussed the matters with the applicant and two other interested parties. The agent was not present. The officer raised the Green belt concerns to the applicant and explained that very special circumstances would be required if officers were going to be able to support the application given the uses are not acceptable in the Green Belt setting. The Authority later received a few written testimonials from those who use the site of how it helps their wellbeing. Given the Green Belt issues, the retrospective nature of the application and the long planning history, it was considered beneficial to all parties that a decision should be made of the currently information submitted. Officers do not consider that any amendments or additional justification could overcome the concerns raised.

6.0 PLANNING POLICY:

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 20th July 2021).
- 6.2 The application site is set within the allocated Green Belt as well as within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network as set out in the Kirklees Local Plan.

Kirklees Local Plan (2019):

- 6.3 LP1 - Presumption in favour of sustainable development
LP21 - Highway safety and access
LP22 - Parking
LP24 - Design
LP28 - Drainage
LP30 - Biodiversity and Geodiversity
LP32 - Landscape
LP34 - Conserving and enhancing the water environment
LP51 - Protection and improvement of local air quality
LP52 - Protection and improvement of environmental quality
LP53 - Contaminated and unstable land
LP54 - Buildings for agriculture and forestry

National Planning Guidance:

- 6.4 Chapter 6 - Building a strong, competitive economy.
Chapter 12 - Achieving well designed places.
Chapter 13 - Protecting Green Belt land.
Chapter 14 - Meeting the challenge of climate change, flooding and coastal change.
Chapter 15 - Conserving and enhancing the natural environment.
Chapter 16 - Conserving and enhancing the historic environment.

Supplementary Planning Guidance / Documents:

- 6.5 • Kirklees Biodiversity Strategy and Biodiversity Action Plan (2007)
• Highway Design Guide SPD (2019)
• Planning Applications Climate Change Guidance (2021)
• Biodiversity Net Gain Technical Advice Note (2021)

7.0 PUBLIC / LOCAL RESPONSE

- 7.1 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 4th August 2021. One representation was received, which was a collection of five letters in support of the scheme. In summary this listed several benefits to the scheme which have been set out in full below, within the assessment section of the report.
- 7.2 Ward members were made aware of the application in June 2021. No representations were received from ward members.

8.0 CONSULTATION RESPONSES

- 8.1 Below is a brief summary of the consultation responses received. These comments will be discussed in further detail where relevant later on in the assessment.

KC Highways Development Management – no objections

KC Environmental Health – requested more information regarding foul drainage. Suggested conditions relating to land contamination, electric vehicle charging points, external artificial lighting, cooking pollution and hours of use.

The Coal Authority – no comments received.

9.0 MAIN ISSUES

- Principle of Development in the Green Belt
- Design
- Residential Amenity
- Highway Safety
- Ecology
- Contaminated Land
- Carbon Budget
- Artificial Lighting
- Representations

10.0 APPRAISAL

Principle of Development in the Green Belt

- 10.1 The statutory development plan is the starting point in the consideration of planning applications for the development or use of land unless material considerations indicate otherwise (Section 38(6) Planning and Compulsory Purchase Act 2004).
- 10.2 The site is located within the Green Belt on the Kirklees Local Plan. The wider site used to host the water treatment plant. However, the land where the proposed building would be sited did not host any built form and was a separate, clearly distinguishable parcel of land. This land where the buildings are proposed is therefore considered undeveloped Greenfield land. This is evidenced by the aerial images shown in appendix 1 at the end of this report.
- 10.3 The NPPF confirms that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence Paragraph 147 of the NPPF stipulates that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In paragraph 148, it goes on to state that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Paragraph 149 stipulates a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt there are exceptions to this, as listed in paragraph 149 and set out within policies LP54 to LP60 of the Kirklees Local Plan. However, as outlined at Paragraph 3.2 of this report, the proposed uses comprising Building 1 (security), building 3 (project workshop), building 4 (training and education) are clearly not covered by any of the exceptions and therefore . represent inappropriate development within the Green Belt.

- 10.4 Buildings 2 and 5 are labelled as agricultural use. However, no agricultural use has actually been demonstrated nor does any agricultural use appear to exist on the site. Local Plan policy LP54 states:

'Proposals for new buildings for agriculture and forestry will normally be acceptable, provided that;

- a. the building is genuinely required for the purposes of agriculture or forestry;
- b. the building can be sited in close association with other existing agricultural buildings, subject to the operational requirements of the holding it is intended to serve. Isolated new buildings will only be accepted exceptionally where there are clear and demonstrable reasons for an isolated location.'

The applicant has failed to meet the requirements of points a or b. There is no record or evidence any historical agricultural use nor is the site currently used for agriculture. The agent has not set out any desired future agricultural use either. Therefore, insufficient evidence has been provided to indicate that the proposed buildings are clearly not required for the purposes of agriculture or forestry. For record, the keeping of zoo animals, given the links to Ponderosa Zoo, which has been proposed, is not an agricultural use as per the definition set out section 336 of the Town and Country Planning Act. To meet this definition, the animals must be livestock which are animals raised in an agricultural setting to provide labour and/or commodities such as food and goods. The keeping of animals on the site is for 'visitors to learn about, or children to interact with or simply see animals grazing in a field' as stated by the agent, cannot be considered an agricultural use whatsoever. For these reasons buildings 2 and 5 do not benefit from the exceptions set out in paragraph 149 of the NPPF and Local Plan policy LP54 and would also represent inappropriate development in the Green Belt.

- 10.5 The buildings themselves, through the spread out positions, form, scale and layout on prominent Green Belt land would material harm the openness of the Green Belt. The structures, which are of an urban design and substantial scale, appear visually dominant in the setting, and out of character with the rural character and landscape. The development therefore causes material and detrimental harm to the undeveloped Greenfield Land set within the allocated Green Belt through the harm to the openness. Given this level of harm to the openness and the fact that no exceptions cover the development, all the proposed buildings must be assessed as to whether the harm to the Green Belt by reason of inappropriateness and openness, is clearly outweighed by very special circumstances as set out by paragraph 148.
- 10.6 The agent has set out very special circumstances, to overcome the harm generated through inappropriateness and visual development, in the form of community benefits associated with the proposed development. The case has been set out via the letters submitted in support and discussions between the Authority, agent and applicant. These community benefits come from the proposed development being a place for people to come to together who have struggled with personal issues; an education facility for local school and children's groups; and, the use of the site for projects relating to local events and community groups. Officers acknowledge these potential benefits, however, somewhat unfortunately, these do not outweigh the harm to the Green Belt in the planning balance. Many of the 'benefits'/very special circumstances set out are based upon word of mouth and subjective. There is also no reason whatsoever as to why scheme of this nature, with said

benefits, can't be elsewhere, not upon Green Belt land. Given this, the very special circumstances set out by the agent are not considered to outweigh the significant, and unacceptable harm to the Green Belt.

- 10.7 Officers also acknowledge the justification provided for the need of a security building due to break ins. However, as this application is retrospective, there is no lawful development on this site that needs 24/7 security. Furthermore, this is a separate planning unit to Ponderosa Zoo and if security is due to break ins at the Zoo, the security accommodation should be provided within the Zoo's planning unit. Finally, the security accommodation also benefits from a basement and essentially acts as a dwelling gives its size and design. Even if there were a security need, this would be deemed excessive in scale, notwithstanding the Green Belt setting. For this reason, the security benefit is not considered to outweigh the harm to the Green Belt either.
- 10.8 In conclusion, inappropriate development is, by definition, harmful to the Green Belt. The proposed siting of the five buildings is therefore harmful to the Green Belt via inappropriate development and via visual amenity for the reasons set out above. The claimed very special circumstances do not outweigh this harm in the slightest. Therefore, the proposal is considered to constitute inappropriate development in the Green Belt whereby no very special circumstances which outweigh the harm have been demonstrated. To approve the application would impact adversely upon the openness of the Green Belt contrary to 13 of the National Planning Policy Framework.

Design

- 10.9 Local Plan policy LP24 states that 'Proposals should promote good design by ensuring: a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape.' The proposed design and siting of the buildings causes significant harm to the rural landscape. Whilst the design of each building varies, typically, the proposed buildings are of a large scale and of an urban design. This is evidenced by the modular form of the educational and security building, typical seen in urban setting such as schools. The workshop building is also in a form typically seen on an industrial site. These buildings do not respect the rural landscape and are set in a prominent position on a high bank of a valley, and in view of a public right of way to the north of the site. In the planning balance, the visual harm of the proposed buildings is also considered detrimental and unacceptable, due to their siting, scale and urban design to the rural character. To permit the development would also be contrary to Local Plan policies LP24 and Chapter 12 of the NPPF on design grounds too.

Impact on Residential Amenity

- 10.10 Local Plan policy LP24 states that proposal must ensure a good standard of amenity for neighbouring occupiers. The closest dwelling is set 70m away from the application site, to the west, with dense boundary treatment and a change of levels between. Given this, the development would not materially impact on the amenity of any dwellings through the day. However, when background noise levels are low during the night, noise could cause harm to these dwellings. Thus, subject to an hours of use operation, the scheme is acceptable on residential amenity grounds.

Impact on Highway Safety

- 10.11 The site is to use the existing access from Smithies Lane. The application is, in part, retrospective. Highways Development Management consider that the proposal is not anticipated to generate significant volumes of traffic given the proposed uses. Therefore, the proposals are considered acceptable to Highways Development Management and are deemed to accord with Local Plan policies LP21 and LP22 and Chapter 9 of the NPPF.

Ecology

- 10.12 The application site is set within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network as set out in the Kirklees Local Plan. No ecological information has been submitted with the application above and therefore this assessment is made on the limited information available. Based on the history of the site there is a risk of ecological harm due to the development proposals however, there are significant opportunities to restore biodiversity to the site and ecological connectivity of the wider landscape. Furthermore, as the waterworks were removed, greenery, shrubs and other habitats were removed unnecessarily, as shown by appendix 1 at the bottom of the report. Prior to 'restoration' of the wider water treatment site, the application area, as shown by the red line boundary, was valuable to the Kirklees Wildlife Habitat network and is still designated as such. Previous proposals (2014/91575) included creating habitats to encourage recolonisation by barn owl.
- 10.13 Given that no ecological information has been submitted, it cannot be stated that the application has sought to minimise the impact on biodiversity and provide net biodiversity gains through good design by incorporating biodiversity enhancements and habitat creation where opportunities exist or safeguard and enhance the function and connectivity of the Kirklees Wildlife Habitat Network as required by Local Plan policy LP30 and Chapter 15 of the NPPF. Therefore, due to insufficient information and considering the wider recommending, this lack of insufficient information is put forward as a further reason for refusal. Nonetheless, if members did seek to approve the application, a condition could be sought for ecological design strategy (EDS) to be submitted with 3 months and the measures implemented to be implemented within a further 3 months after agreement with the LPA.

Contaminated Land

- 10.14 Our records indicate that the site is on and adjacent potentially contaminated land due to the former use including but not limited to landfill, Park Farm Colliery and a sewage works (site references 286/5, 288/5 and 289/5). We have significant concerns that due to the historical site use that high-risk source-pathway-receptor linkages may be present at the site which may present a serious environmental health risk to site operatives and future users of the site. Risks from contaminated soils, shallow coal and the ingress of ground gases into the enclosed buildings may pose a risk to the sites end-users.
- 10.15 Whilst remediation measures are typically straightforward to implement during the construction phase, the retrofitting of remediation measures, for example gas protection membranes in existing buildings can be unfeasible. Where necessary remediation measures cannot be implemented and site occupiers may be exposed to unacceptable environmental health risks, demolition may

be required. So, the applicant must demonstrate that all contaminated land risks for all receptors related to the sites proposed use have been fully risk assessed and addressed. For these reasons, contaminated land conditions are necessary if the application is to be approved.

Carbon Budget

- 10.16 On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan Policies and guidance documents to embed the climate change agenda.
- 10.17 Highways Development Management note that no parking provision is indicated in the application forms. However, it is considered that parking will be required for staff and visitors. In an application of this nature, it is expected that facilities for charging electric vehicles and other ultra-low emission vehicles are provided in accordance with the National Planning Policy Framework and Air Quality & Emissions Technical Planning Guidance from the West Yorkshire Low Emissions Strategy Group. A condition requiring a charging points scheme would be necessary if the application were to be approved.

Artificial Lighting

- 10.18 No information has been provided regarding external lighting of the facilities., However, in the event that the application was recommended for approval, it is considered that this matter could be addressed by then a condition i to stop glare and stray lighting causing a loss of amenity to nearby residential properties.

Foul Drainage

- 10.19 It is unclear whether a mains drainage system is available for the development. Our records indicate the development is c.300 metres away from the nearest sewer. For this reason, a foul drainage report is required via condition if the application were to be approved.

Drainage at Food Premises

- 10.20 It is unclear from the application what type of staff facilities will be provided. Should this include a kitchen/canteen, it is possible that fats, oils, and grease enter the drainage network. Should these build up, they may block the sewerage system. Consequently, blockages can lead to the leakage of foul sewage or the internal flooding of properties or of neighbouring areas. For that reason, a condition would be required in relation to the prevention of these substances in the drainage network if the application were to be approved.

Representations

- 10.21 The application was advertised by neighbour notification letters, in the press and by a site notice. Final publicity expired on 4th August 2021. One representation was received, which was a collection of five letters in support of the scheme. In summary this listed several benefits to the scheme which have been set out in full below, within the assessment section of the report.
- 10.22 Ward members were made aware of the application in June 2021. No representations were received from ward members.

11.0 CONCLUSION

- 11.1 The proposed siting of the five buildings is inappropriate development in the Green Belt. Such inappropriate development is, by definition, harmful to the Green Belt. Furthermore, the design, form and layout causes material and detrimental harm to the Green Belt. For the reasons set out in the report, the claimed very special circumstances do not outweigh the significant harm to the Green Belt in terms of openness and inappropriateness and the reasons for including land within it. Furthermore, the urban form of the buildings causes harm visually along with the siting and scale harming the openness and character of the Green Belt and landscape. Additionally, no ecological information has been submitted and thus, considering the removal of habitat already, the proposal is not considered to have demonstrated a biodiversity net gain. To permit the development would therefore be contrary to LP24, LP30 and LP55 of the Kirklees Local Plan as well as the aims of Chapters 12, 13 and 15 of National Planning Policy Framework.
- 11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.
- 11.3 This development has been assessed against relevant policies in the NPPF, development plan and other material considerations. It is considered that the development would not constitute sustainable development and is, therefore, recommended for refusal.

12.0 RECOMMENDATION:

REFUSE FOR THE REASONS SET OUT AT THE BEGINNING OF THIS REPORT.

Background Papers:

Current Application to which the report relates (2021/94286):-

[Link to application details](#)

Certificate A was signed 15/06/2021

Appendix 1 – Aerial Images of the Site



Figure 1 - aerial imagery from 2009



Figure 2 - aerial imagery from 2012



Figure 3 - aerial imagery from 2018 after the water works had been removed.



Figure 4 - aerial imagery from 2021. The proposed building can be seen in situ to the west (left).