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**Report of the Head of Planning and Development**

**STRATEGIC PLANNING COMMITTEE**

**Date: 02-Mar-2023**

**Subject: Planning Application 2022/93465 Variation condition 30 (minerals) on previous permission 2000/90671 for extension of Carr Hill Quarry including the extraction of sandstone and clay, associated activities and its restoration by means of infill with inert wastes**

**Carr Hill Quarry, Barnsley Road, Upper Cumberworth, Huddersfield, HD8 8XG**

**APPLICANT**

**DANNY WATSON, PMW  
QUARRIES LTD**

**DATE VALID  
21-OCT-2022**

**TARGET DATE  
20-JAN-2023**

**EXTENSION EXPIRY DATE  
31-MAR-2023**

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[Public speaking at committee link](#)

**LOCATION PLAN**



**Map not to scale – for identification purposes only**

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**Electoral wards affected: Kirkburton and Denby Dale**

**Ward Councillors consulted: Yes**

**Public or private: Public**

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**RECOMMENDATION:**

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the rewording of condition 30, on receipt of accurate final site layout drawings showing appropriate contouring details and the completion of a Section 106 Agreement to link the existing structures and their use on the application site, to the applicant's haulage business situated 240m to the west, on the A635 Holmfirth Road.

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

**1.0 INTRODUCTION:**

- 1.1 This application is submitted under Section 73 of the Town and Country Planning Act 1990 (as amended) and seeks to vary condition 30 (restoration scheme) of previous permission ref: 2000/90671.
- 1.2 The application is brought to Strategic Planning Committee (SPC) for determination due to previous committee interests.
- 1.3 The SPC Chair has confirmed that this is appropriate given the SPC resolution to refuse a similar proposal under application reference 2021/91826.

**2.0 SITE AND SURROUNDINGS:**

- 2.1 The site lies approximately 1km southeast of Shepley village and is situated south of and immediately adjacent to the A635 Barnsley Road. Access into the site is approximately 120m metres east of the sovereign crossroads junction with the A629 Penistone Road. The surrounding area is rural in character and the site lies within the green belt.
- 2.2 A mobile crusher / screen plant for recycling of construction, demolition and exaction waste is in operation within the northeast part of the site. This was granted permission under planning application ref: 2011/91942. The permission expired on 31/08/2022 which is the same time the previously approved restoration scheme should have been completed under application ref: 2000/90671. Planning permission to extend the time on both these two applications for a further period to 31<sup>st</sup> August 2025 is pending decisions, the recommendations on both will be dependent on the outcome of the application before Members on this agenda.

- 2.3 The site also accommodates a workshop / garage west of the site entrance. This was recently confirmed to be lawful for the purpose of planning control under a certificate of lawful development application ref: 2020/93854. Both facilities are served by the existing gated access from Barnsley Road. The site is bound by a palisade fence and an earth bund with landscaping which has matured over time along this road frontage. The site has been restored in part with higher land levels along the southern end of the site adjacent to Penistone Road. Part of this boundary also benefits from mature landscaping. The character of the landscape in the vicinity of the site is that of gently undulating managed pasture / scrub and arable fields with pockets of woodland and intermittent residential elements.
- 2.4 Two other metal clad containers are present on site, one to the side of the garage/workshop and the other to the rear of it. These are stated to be used in association with the operations of garage/workshop
- 2.5 The character of the landscape in the vicinity of the site is that of gently undulating managed pasture / scrub and arable fields with pockets of woodland and intermittent residential elements.

### 3.0 PROPOSAL:

- 3.1 The application is a resubmission of planning application 2021/91826, refused by Members on 17/12/2021.
- 3.2 This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended) to amend / vary the previously-approved restoration scheme under planning permission 2000/90671 by varying the wording of condition 30, which reads:

*After completion of minerals extraction, the site shall be reclaimed progressively in accordance with a detailed scheme submitted for the approval of the Mineral Planning Authority prior to the commencement of backfill operations using imported waste. Unless otherwise agreed in writing by the Mineral Planning Authority the submitted scheme shall provide for;*

- (a) the phasing and direction of the backfilling of the site with imported waste.*
- (b) **the removal of plant, buildings and structures, machinery and haul roads.***
- (c) the whole of the area indicated by a brown line on Drawing No.CH006 revision 1 to be planted as amenity woodland.*
- (d) the location of areas to be restored to woodland, agriculture and the location of hedges, fences and gates.*
- (e) the use of cell grown tree and shrub plants only; in the approved planting scheme submitted on 5th May 2000 quercus petraea specimens being replaced by quercus robur and the nurse species larix euroleptis and picea sitchensis being replaced by quercus robur anfraxinus excelsior.*
- (f) on areas of the site to be restored for agriculture a minimum combined depth of 1 metre of topsoil, subsoil and subsoil forming materials shall be placed on the surface of the final waste deposit.*
- (g) on the areas of the site to be restored for woodland a minimum depth of 1.5 metres of subsoil and subsoil forming materials shall be placed directly on top of the final waste deposit.*

*(h) the ripping of any compacted layers of final cover on the backfilled waste deposit to ensure adequate drainage and aeration before the spreading of topsoil.*

*(i) the final levels and contours of the restored land graded to prevent ponding and promote good drainage*

*(j) grass seeding of any areas to be reclaimed to agriculture*

*(k) details of trees and shrubs to be planted, species, size, density and method of planting, protection against pests by the use of tree shelters, weed control, trees and shrubs to be native specie*

*(l) a land drainage scheme for the restored land to be implemented after the completion of settlement.*

*(m) the removal of all soil storage mounds.*

*(n) new fences, gates and stiles to be in the local style.*

*(o) programme of works.*

3.3 The variation and new wording sought is:

*After the completion of quarrying and backfill, the site shall be reclaimed in accordance with the revised supporting statement received 02/02/23 and drawing references: Members to note final accurate plans are awaited including those to show appropriate land level contouring to be created beyond proposed fence.*

3.4 The revised restoration plans seek to incorporate the garage/workshop, area of hardstanding, and the introduction of a retaining structure for remedial works and long-term stability of the slope. This will include a gabion wall to protect the garage and area of hardstanding from potential slope failure. The proposed restoration plans also seek to retain two existing metal containers, one to the side and the other to the rear of the garage workshop, creation of a formal parking area for staff/ customers and soft landscaping. The use of the garage/workshop is stated would only be for the maintenance of vehicles used by the Applicant's haulage business based at Holmfirth Road, Shepley. A plan is provided showing the location of the haulage yard.

3.5 The application is accompanied with:

- a Stability Analysis Investigation and Geotechnical Design Report,
- Retaining wall assessment, the stability requirements for the site and the mechanics of remedial solutions for the slopes

#### **4.0 RELEVANT PLANNING HISTORY (including enforcement history):**

4.1 2022/93464 - The retention of garage, storage containers (x3), a cabin, hardstanding and access, and the construction of a gabion retaining structure and extension of hardstanding area -**Pending decision**

4.2 2022/90168 - Variation condition 4 (Time Limit) on previous permission 2000/90671 for extension of Carr Hill Quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – **Pending decision**

4.3 2022/90169 - Variation of condition 3 (Time Limit) on previous permission 2011/91942 use of land for the recycling of construction, demolition and excavation waste – **Pending decision**

- 4.4 2021/94062 - Change of use from car sales to haulage depot with retail sales  
– **Pending decision**
- 4.5 2021/91826 – Variation of Condition 30 (Restoration Scheme) of previous permission 2000/90671 for the extension of Carr Hill Quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes, consolidating permission 1987/05723 Extension of a disused quarry for winning minerals and subsequent backfilling with approved inert waste – Refused 17/12/2021
- 4.6 2020/93854 – Certificate of lawfulness issued 29/01/2021 for existing use of detached garage for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry.
- 4.7 2019/93039 – Variation of condition 30 (restoration scheme) of previous permission 2000/90671 for extension of Carr Hill quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – refused 17/12/2019.
- 4.8 2011/91942 – Use of land for recycling of construction, demolition and excavation waste – granted 22/12/2011 subject to all recycling activities at site ceasing by 31/08/2022 under condition 3)
- 4.9 2005/93719 – Telecommunications notification for the prior approval of details for erection 15 metres column 3 pole width, 2 antennas, 1 transmission dish and 1 equipment cabinet – refused 10/10/2005.
- 4.10 2005/90132 – Parking of heavy goods vehicles – refused 13/05/2005 – appeal dismissed November 2005 in relation to the creation of a level area (see assessment below, paragraphs 10.7 and 10.8).
- 4.11 2002/94011 – Erection of detached garage for the maintenance and storage of vehicles associated with ongoing activities at Carr Hill quarry – granted 20/01/2003 for a limited basis to expire on 31/12/2007.
- 4.12 2000/90671 – Extension of Carr Hill quarry including the extraction of sandstone and clay, associated ancillary activities and its restoration by means of infill with inert wastes – granted 31/08/2000 and condition 30 subsequently discharged.
- 4.13 1987/05723 – Extension of disused quarry for winning minerals – granted 23/02/1988.

## **5.0 HISTORY OF NEGOTIATIONS (including revisions to the scheme):**

- 5.1 Request for vehicle swept plans to include garage and all plans supporting details be revised to omit cabin, container adjacent to site access, formal c/park and van spaces and external HGV tyre changing areas, in the interests of green belt purposes. The operations of the garage can be accommodated without the need for these structures/areas as most garages will be operated on an appointment basis. The final revised drawings awaited.
- 5.2 Confirmation from applicant's structural engineers, of whether a retaining structure would be required or not if the garage/workshop is removed. Along with revised supporting statement - Received

- 5.3 Revised plans to show whether the proposed gabion structure will be within the influence zone of highway loading, so as to determine whether its design will be liable to a formal technical approval – provided 13/01/2023
- 5.4 Request for all plans to show same area of hardstanding, contours/land levels to be created and established landscaping to site frontage – 21/02/2023
- 5.5 Request for accurate vehicle swept paths and revised supporting statement to include the applicants proposals to link the application site with their haulage site through a Legal Agreement and a plan of the Haulage site and ownership clarification

## **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 27<sup>th</sup> February 2019).

### Kirklees Local Plan (2019):

- 6.2 The site is in the green belt on the Kirklees Local Plan and relates to an operational quarry where all mineral has been exhausted and restoration has been commenced in part. Relevant Local Plan policies include:

- LP21 – Highways and access
- LP32 – Landscape
- LP37 – Site restoration and aftercare
- LP38 – Minerals safeguarding
- LP52 – Protection and improvement of environmental quality
- LP53 – Contaminated and unstable land

### Supplementary Planning Guidance / Documents:

- 6.3 Relevant guidance and documents are:

- National Planning Practice Guidance
- National Planning Policy for Waste

### National Planning Guidance:

- 6.4 The National Planning Policy Framework (2021) seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. The NPPF is a material consideration and has been taken into account as part of the assessment of the proposal. Relevant paragraphs/chapters are:

- Section 6 – Building a strong, competitive economy
- Section 13- Protecting Green Belt Land
- Section 14 – Meeting the challenge of climate change, flooding and coastal change
- Section 15 – Conserving and enhancing the natural environment
- Section 17 – Facilitating the sustainable use of minerals

## 7.0 PUBLIC/LOCAL RESPONSE:

7.1 The application was advertised by site notices and a press notice published on 02/12/2022 in accordance with the adopted Statement of Community Involvement. The end date for publicity was 23/12//2022

One representation is received, the concerns of which are summarised below:

- Proposals will result in increased vehicle activity in area and increase hazard risk users of the surrounding highway infrastructure
- Result in further damage to road and pavement
- HGV's currently mount pavement entering and leaving the site
- Increase in vehicles will likely increase mud onto road
- "Has a traffic review been undertaken"

### **Denby Dale Parish Council – No objection.**

Members for both Denby Dale and Kirkburton wards were notified as the site traverses both these wards. The following comments are received from:

#### Cllr Michael Watson

*"I really would like to better understand the basis on which those recommendations might be made? It seems to me that on the face of it (and as appears to have been the view previously) that these applications ought to be refused in the absence of the Very Special Circumstances to which you refer.*

*If they do not proceed to committee what is the process for evaluation of the "Very Special Circumstances" and whether they would warrant the granting of permission?*

*The reason I ask is that it seems to me that the evaluation of such circumstances, whether in a decision to refuse or to permit any proposed development is something that ward councillors are well placed to have input to and indeed probably should. If the matter does not proceed to committee will the applications then simply be decided by an officer in isolation or will the ward councillors be asked for their proactive input to the decision making process and in particular the evaluation of the evidence put forward in support of the assertion that "Very Special Circumstances" exists on this occasion?"*

#### Cllr Richard Smith

*"Given the comments from my colleagues and the fact I have known the directors (and families) most of my life it's probably best if I declare this and make no other comments."*

#### Cllr John Taylor

*"As you know I have been involved in some of the conversations with the applicant regarding their proposals for this site and am supportive of these applications and would be happy for them to be determined under delegated authority. PMW Quarries is a long-standing local company which provides employment locally and it would be a shame to see this business lost"*

Cllr Bill Armer

*"My practice with planning matters such as this is to be responsive to my residents and their views. None have seen fit to contact me, so I have no reason to seek a referral"*

Cllr Tim Bamforth

*"I have no objection to the proposals"*

## **8.0 CONSULTATION RESPONSES:**

### **8.1 Statutory:**

K.C. Highways Development Management: No objection to the proposed variation of Condition 30.

K.C. Lead Local Flood Authority: No objection to the proposed variation of Condition 30.

The Environment Agency: No objection to the proposed variation of Condition 30

### **8.2 Non-statutory:**

K.C. Ecology: No comments received to date

K.C. Landscape: request for amendments to landscape details- received 20/02/23. Awaiting final comments

K.C. Structures: The proposed retaining structures design will not be in the influence of highway zone. (see paragraph 10.19 below)

## **9.0 MAIN ISSUES**

- Relevant background
- Principle of development and Impact on Green Belt
- Other harm
- The applicant's case for Very Special Circumstances
- The Green Belt balance
- Impact on surrounding amenity
- Highway matters
- Representations
- Conclusion

## **10.0 APPRAISAL**

### Relevant background

- 10.1 The proposal seeks to vary the previously approved restoration scheme approved under condition 30 of planning permission ref: 2000/90671, which would require the removal of all structures on site. The following paragraphs set out the most relevant events in relation to permissions / refusals at this site since that 2000 permission was granted.



- 10.2 Temporary permission was granted in January 2003 for the erection of a detached garage for the maintenance and storage of vehicles associated with ongoing activities at Carr Hill Quarry under application 2002/94011. That permission expired on 31/12/2007 and upon expiration the site was required to be restored. This was not done and the matter came to light and raised with the applicant by officers at the time of considering application ref: 2019/93039.
- 10.3 Subsequently, a certificate of lawful development was submitted to the Mineral Planning Authority in 2020 and decision issued for the retention of the garage / workshop under application 2020/93854. The lawful use under the certificate of lawful application is for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry. This does not override the planning permission for the approved restoration scheme which would result in removal of all structures on the site including the garage/workshop and areas of hardstanding.
- 10.4 Members resolution on a further planning application (2021/91826) to vary condition 30 was refused in December 2021, for the reason set out below:
- The proposed revision to the previously-approved restoration scheme includes the introduction of an engineered retaining structure and the retention of a level area, which would harm the visual amenities of the site and its context, would detract from local landscape character, would have an urbanising effect on the site and its surroundings, would result in development encroaching into the countryside, would result in built-up sprawl in the green belt, would fail to preserve the openness of the green belt, and would conflict with the purpose of including the land within the green belt. The proposed soft landscaping would not mitigate the harmful impact of the proposal. The proposal does not fall under any of the exceptions listed under paragraphs 149 and 150 of the NPPF. The proposal is, by definition, inappropriate development in the green belt, and very special circumstances (which clearly outweigh this inappropriateness and other harm) have not been demonstrated. The proposal is therefore contrary to policies LP32 and LP37 of the Kirklees Local Plan and guidance in the National Planning Policy Framework.*
- 10.5 The 2021/91826 proposals were almost identical to those refused previously in December 2019 by officers under planning application 2019/93039.
- 10.6 The current proposals are again seeking to incorporate (retention of) the garage/workshop, area of hardstanding, and the introduction of a retaining structure for remedial works and long term stability. This will include a gabion wall to protect the garage and areas of hardstanding from potential slope failure. The gabion wall would be constructed along the foot of the slope to the south of the garage as shown on drawing 2276- 01-DR-S-1000 P1. It would vary in height from 2.5 to 4.5m and be planted with ivy (*Hedera Helix*). In addition, the proposals now also seek to retain two existing metal containers and creation of a formal parking area for staff/ customers and soft landscaping.
- 10.7 Temporary permission was also granted at the site in December 2011 for use of land for a mobile crusher / screening plant for recycling of construction, demolition and excavation waste under application ref: 2011/91942. All activities should have ceased by 31/08/2022 under condition 3 of this permission, and the site to be restored in accordance with planning permission 2000/90671. As set out in paragraph 2.2 above, consideration is pending for the extension of time on both these which would be dependant on the outcome of this current application before Members.

- 10.8 In May 2005 an application (ref: 2005/90132) to create a level plateau area of approximately 160sqm within the site, along the road frontage, was refused on grounds of inappropriate development in the green belt and the impact on visual amenity (due to the proposed parking of vehicles on the level area). An appeal was lodged against the decision and dismissed in November 2005.
- 10.9 The Inspector concluded that creating a level area within the site approximately 160sqm in size and close to and to the east of the entrance and front boundary would be visually intrusive, despite the screening mound to the east of the site entrance. In addition, the Inspector acknowledged the examples quoted by the applicant of other green belt developments in the locality, particularly those on the opposite side of the road. The Inspector concluded none of the quoted cases could be compared to the appeal proposals. This appeal decision is valid and remains a material consideration as the circumstances in terms of considering inappropriate development in the green belt remain the same.

#### Principle of development and impact on Green Belt

- 10.10 The principle itself of a restoration scheme would not be considered inappropriate development, nor would the proposed end use, provided the restoration scheme and end use would prevent urban sprawl and would preserve the openness of the Green Belt. Planning permission ref: 2000/90671 considered the principle of restoration to be appropriate, however as no details for the restoration scheme were submitted at the time, a condition (30) was imposed on the permission to allow for full details of a restoration scheme of the site to be submitted and approved. The previously approved scheme under condition 30 did not raise concerns in relation to Green Belt and was considered appropriate development as it would result in the removal of all structures including the area of hardstanding before returning the site near to its original land levels, with soft planting and dry stone walls to match existing walls in the locality.
- 10.11 The NPPF confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and identifies five purposes of the Green Belt (paragraphs 137 and 138). The most relevant to this case being, a) to check unrestricted sprawl of large built-up areas, and c) to assist in safeguarding the countryside from encroachment. Paragraphs 147 and 148 of the NPPF state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (VSC) which clearly outweigh the harm to the green belt by reason of inappropriateness and any other harm. All proposals for development in the Green Belt should be treated as inappropriate unless they fall within the exceptions set out in paragraphs 149 or 150 of the NPPF.
- 10.12 The proposals do not fall within any of the exceptions set out in paragraphs 149 and 150 of the NPPF. They are comparable to the scheme refused in December 2021 by Members, in that it would still create (or retain) a level hardstanding, albeit now reduced in area and introduce an engineered retaining structure in the form of a gabion wall. The level hardstanding area is stated to be the area required to accommodate the manoeuvrability to and from the garage/workshop by HGV's in use by the applicant's haulage business. This is demonstrated by vehicle swept paths which also includes parking 5 vehicle parking spaces intended for staff and customers, as shown on the drawing by Paragon Highways reference 2059-102 rev F. This drawing

is for the purpose of demonstrating the vehicle swept paths only. Revised drawings are still awaited, to show the location of the proposed stockproof fence adjacent to the last car park space and land beyond to be contoured to form a gradually sloping area. This is to minimise urbanising and further encroachment into the green belt.

- 10.13 The creation of the hardstanding area and introduction of a harsh engineered retaining structure (gabion wall) would still result in an urbanising effect at the site. These elements would clearly read as a human intervention in the landscape.
- 10.14 As noted above, the previously-approved restoration scheme would have ensured a reversion almost to the sites original land levels, creating a sloping hillside in a condition that would contribute to the rural character of the area, with little obvious evidence of large-scale human intervention in the shape of the landscape. The proposed revised scheme, however, differs greatly to that earlier scheme, particularly in relation to land levels and with the introduction of permanent structures on site.
- 10.15 The current proposals would result in built-up sprawl in the green belt, and encroachment into the countryside, failing to preserve the openness of the Green Belt, and conflicting with the purpose of including land within it. The proposal is contrary to paragraph 138 points a) and c) of the NPPF and advice in National Planning Practice Guidance.

#### Other harm

- 10.16 Local Plan Policy LP37 states that mineral working will be permitted only where the council is satisfied that the site can be restored and managed to a high standard, and where the proposed restoration is sympathetic to the character and setting of the wider area and is capable of sustaining an appropriate after-use. It adds that “restoration proposals for mineral workings should be designed to (inter alia) ensure that restoration and aftercare is appropriate with regard to the characteristics of the site’s surroundings, including landscape character”.
- 10.17 The revised restoration proposals, by introducing a level platform along the road frontage, together with the harsh engineered retaining structure would create an inappropriate feature within the local landscape.
- 10.18 An engineered retaining structure is required to prevent further potential slope failure for safety of users of the garage/workshop and hardstanding areas. This is evidenced in the information accompanying the application which advises that:

*“The backfill was placed originally in order to minimise the risk from spalling and rockfall from the steep face of the quarry. This material is not supporting the road above and, if failure continues in this layer, there is no evidence that this will have an adverse effect on the A629. However, slope failure has the potential to affect the garage and the A635. As such, it was deemed that stabilising factors are needed to help prevent the slope movement.....*

*Removal of the garage and the associated infrastructure will not provide adequate space for a stable angle of slope to be built out without at least some form of artificial retention system. The recommendation would still be for a*

*gabion style wall (or another flexural wall structure such as a crib) before the highway to allow for a boxed toe (firmed up toe) that prevented minor shifts in material that lead to mass loss of volume, without creating a rigid system that has a risk of brittle decay.”*

- 10.19 In light of the above, and to accord with Local Plan policy LP53 it is recognised that a retention system would still be required in the event the garage/workshop was removed. However, this could be designed to integrate it with an appropriate restoration and landscaping scheme for the site. The Councils Structures team was consulted and requested further information to establish whether the proposed retaining structure will be within the influence zone of highway loading and whether its design will be liable to a formal technical approval. On receipt of this information, the Councils Structures team have advised that the design of proposed retaining structure, as shown on drawing 2276-01-DR-S-1010-13 alleviates the need for a formal technical approval from the structures team.
- 10.20 In summary, the resultant impact of the proposals would not only detract from the landform of the site itself and surrounding topography of the site (which consists of gently undulating fields) but would also cause long term permanent harm to the visual amenity of the area, contrary to Local Plan policy LP37 and advice in the NPPF and National Planning Practice Guidance.

#### The applicant's case for Very Special Circumstances

- 10.21 The applicant acknowledges the proposals do not fall within any of the exceptions set out in paragraphs 149 and 150 of the NPPF and as such submits the following as very special circumstances:

*“Enabling the continued use of the garage, hardstanding and access will provide the necessary facilities for the Applicant to support its haulage business based a short distance away on Holmfirth Road in Shepley. This will maintain employment levels and assist in future expansion of the business. The Application is therefore supported by the Local Plan in respect of economic growth and local employment opportunities.*

*The "Very Special Circumstances" that exists is the need of the Applicant for facilities for the maintenance and repair of its lorry fleet, in a location close to its operating base on the opposite side of the Sovereign Cross-roads. The garage, hardstanding and access has served this purpose for the past 19 years. Its retention will protect the 4 jobs based there in addition to assisting in sustaining the 25 jobs within the Applicant's business.*

*Alternative premises in the locality do not exist. The garage has a Certificate Of Lawful Use, but the building cannot be used without an adequate manoeuvring area (the Hardstanding), the access and associated facilities such as vehicle parking and the storage containers.*

*Keeping the trucks in perfect running condition is the Applicant's main priority. Although the trucks are covered on full repair and maintenance contracts, the garage has been and is used on a daily basis for all other daily maintenance and storage of spare parts. The Company's plan for the future is to be more self-sufficient with the maintenance of the vehicles. It intends to do more maintenance in house without lowering the very high standards with which it runs at the moment.*

*The future of the business relies heavily on the garage at Carr Hill. The Company's operating centre and head office is on Holmfirth Road 240m to the west on the A635. However, the operating centre has no means of keeping the vehicles in excellent roadworthy condition. The garage is perfectly located and equipped to maintain the Company's high standards of safety and to enable it to run a modern fleet of environmentally friendly euro 6 engined trucks”.*

*Overall therefore, both the Local Plan and the UDP are fully supportive of this application in this location. "Very Special Circumstances" do exist sufficient to outweigh harm to the openness of the green belt”*

#### The Green Belt balance

- 10.22 Local Plan policy LP10, is in principle, supportive of rural economy which seeks to improve economic performance by supporting the needs of small and medium sized enterprises, whilst recognising that where development is proposed in the Green Belt regard must also be had to both national and local planning policy which seeks to protect the Green Belt.
- 10.23 As a consequence of the lawfulness for the existing use of the garage workshop, it is now immune from enforcement action. Nonetheless, it is important to note, the certificate of lawfulness for the existing use of the garage workshop, does not override the planning permission for the approved restoration scheme which would result in the removal of all structures on the site including the garage/workshop and areas of hardstanding.
- 10.24 The NPPF sets out that substantial weight should be given to any harm to the Green Belt and that VSC will not exist unless the potential harm to the Green Belt, by reason of inappropriateness or any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 10.25 In this case, whilst it is stated that the trucks are covered on full repair and maintenance contracts, the considerations advanced in support of the scheme carry moderate weight in its favour, in that there would be some economic benefits. These being:
- retention of 4 jobs at the application site,
  - the continued use of the garage, hardstanding and access will provide the necessary facilities for the applicant to support its haulage business based 240m to the west, on the A635 Holmfirth Road, and
  - assist the applicant's business plan for the future to be more self-sufficient with the maintenance of the vehicles in house,
- 10.26 The applicant's assertion that the building cannot be used without an adequate manoeuvring area (the Hardstanding) is not disputed. In support of this the applicant submitted vehicle swept paths for a vehicle 16.5m in length. The vehicles used by the applicant's haulage business is 8 wheel tippers approximately 9m by 3m in size.
- 10.27 Vehicle swept path analysis drawing is received which demonstrates the hardstanding area required necessary for the manoeuvrability of such vehicles. The applicant is advised the area beyond this hard standing be contoured appropriately to blend in with the proposed land levels with the remainder of the site. This together with appropriate soft planting would to some extent mitigate

the harm and resultant impact from the engineered wall/structures and the urbanising effect of the proposals. Should Members be minded to accept the applicant's VSC and approve the application, revised drawings are required to address the above matter, also referred to in paragraph 10.12 above.

- 10.28 On a very fine balance, it is considered VSC exist in support of the applicants existing business located 240m to the west on the A635 Holmfirth Road, which in the opinion of officers on balance outweighs the harm by reason of inappropriateness and the other harm as set out above.
- 10.29 Should Members accept the VSC, the applicant will be required to enter into a legal agreement (S106) to link the two sites together. The legal agreement would need to include for the garage/ workshop and associated areas to not be sold or let independently from the applicant's haulage business, and in the event the applicants existing haulage business ceases, a revised restoration scheme will need to be submitted to and approved in writing by the MPA, which shows the removal of the garage/workshop and associated areas of hardstanding. The recommendation is reflective of this to which the applicant is agreeable to.

#### Impact on surrounding amenity

- 10.30 Other than the applicant's own dwelling, beyond the south eastern boundary, the nearest other residential properties lie southwest of the site. However, these dwellings are located on a much higher elevated area of land, set back away from the site, separated by a road and adequately screened with existing mature landscaping on the application site's southern boundary. Subject to restoration proposals being carried out in accordance with relevant conditions of the 2000/90671 permission, it is unlikely that the amenity of the occupants of nearby properties including residential properties would be harmed by the proposal and continuation of use of the garage workshop.
- 10.31 Should Members accept the VSC, the location of the garage and areas of hardstanding would be adequately screened with the existing higher land levels and landscaping to the side of the garage. Therefore operations and works carried out in association with the garage/workshop on the site are unlikely to detract from the amenities of the nearby properties.

#### Highway matters:

- 10.32 The site is currently accessed via a gated access from the A635 Barnsley Road. The access to the site is constructed to a high standard and provides satisfactory access into the site. HGV movements would continue to be restricted under the terms of the current operative planning permission in the carrying out of and completion of the restoration scheme.
- 10.33 Highways Development Management (HDM) assessment is made on the initial vehicle swept path analysis accompanying the application which demonstrated tracking of a vehicle 16.5m in length. The fleet of vehicles used by the applicants haulage business are smaller in size and as such HDM raise no concerns from a highways perspective, stating that the smaller vehicles will be able to negotiate internally better than those submitted on the tracking drawings. The site access is wide with gates and barrier set back into the site and providing safe access and egress to large vehicles. HDM have advised no specific conditions are required.

10.34 In summary, the proposals would accommodate on site turning to allow the large vehicles to leave the site in forward gear and parking for members of staff/customers without giving rise to highway safety concerns for those using the site and the surrounding highway networks. The proposals are as such would be in compliance with Local Plan Policy LP21.

Representations:

10.35 Highway safety matters have been addressed within the preceding paragraphs. The following are matters not address and raised in the representations received.

- Result in further damage to road and pavement

- HGV's currently mount pavement entering and leaving the site

**Response:** Vehicle swept paths are submitted which demonstrates entry and egress of large HGV's to and from the site can be carried out without encroachment onto the pavement. HDM officers raise no concerns on this matter and the potential for further damage with the continued use of the applicant's fleet of vehicles in relation to their haulage business.

- Increase in vehicles will likely increase mud onto road

**Response:** The site and restoration proposals are to be continued under the 2000 permission condition which includes conditions (8 and 9) to prevent material/mud being deposited on the road.

- "Has a traffic review been undertaken"

**Response:** HDM Officers did not request nor deem this necessary for the revised restoration scheme.

## 11.0 CONCLUSION

11.1 The proposals would cause harm to the Green Belt, by reason of inappropriateness or the other harm as recognised above. On a very fine balance, it is considered Very Special Circumstances (VSC) exist in support of the applicants existing business located 240m to the west on the A635 Holmfirth Road, which is considered on balance outweighs the harm by reason of inappropriateness and other recognised harm.

11.2 The NPPF sets out that substantial weight should be given to any harm to the Green Belt and that VSC will not exist unless the potential harm to the Green Belt, by reason of inappropriateness or any other harm resulting from the proposal, is clearly outweighed by other considerations.

11.3 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.

11.4 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development proposals subject the applicant entering into a legal agreement to link the application site together with the applicant's haulage business, would on balance constitute sustainable development and recommended for approval for the above reasons.

## **12.0 CONDITIONS (Summary list. Full wording of conditions including any amendments/additions to be delegated to the Head of Planning and Development)**

- 12.1 Complete rewording of condition 30, on receipt of accurate final site layout drawings including those to show appropriate contouring details and the completion of a Section 106 Agreement to link the existing structures and their use on the application site, to the applicant's haulage business situated 240m to the west, on the A635 Holmfirth Road.

### **FOOTNOTE:**

Conditions 1-29 and 31- 53 (i.e. those conditions for which variation has not been sought as part of this application) were originally imposed by planning permission approval 2000/90671. They are reproduced on this notice to provide you with a complete record of all conditions, regardless of whether some may have already been discharged. Where the details pursuant to the above conditions in accordance with reference 2000/90671 already been submitted for discharge and approved by the Local Planning Authority and there is no change to the details required by that condition, a further discharge of condition application pursuant to this application reference will not be necessary.

**Background Papers:** Application and history files. Website link:

This application 2022/93465:

[Planning application details | Kirklees Council](#)

Application relating to previously approved restoration scheme:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2000%2f90671>

Similar scheme on previous application refused by Members:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2021%2f91826>

Certificate of lawfulness issued 29/01/2021 for existing use of detached garage for the repair, maintenance and storage of vehicles including those not associated with activities at Carr Hill Quarry

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2020%2f93854>

Similar scheme on previous application refused by Officers:

<https://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f93039>

Certificate of Ownership –Certificate A signed: