
Report of the Head of Strategic Investment**STRATEGIC PLANNING COMMITTEE****Date: 09-May-2019****Subject: Planning Application 2018/94092 Restoration of derelict land for agriculture, involving importation of 90,000 tonnes of top soil and sub soil Emley Fields, Liley Lane, Grange Moor, Huddersfield, WF4 4EN****APPLICANT**

J Taylor

DATE VALID

04-Feb-2019

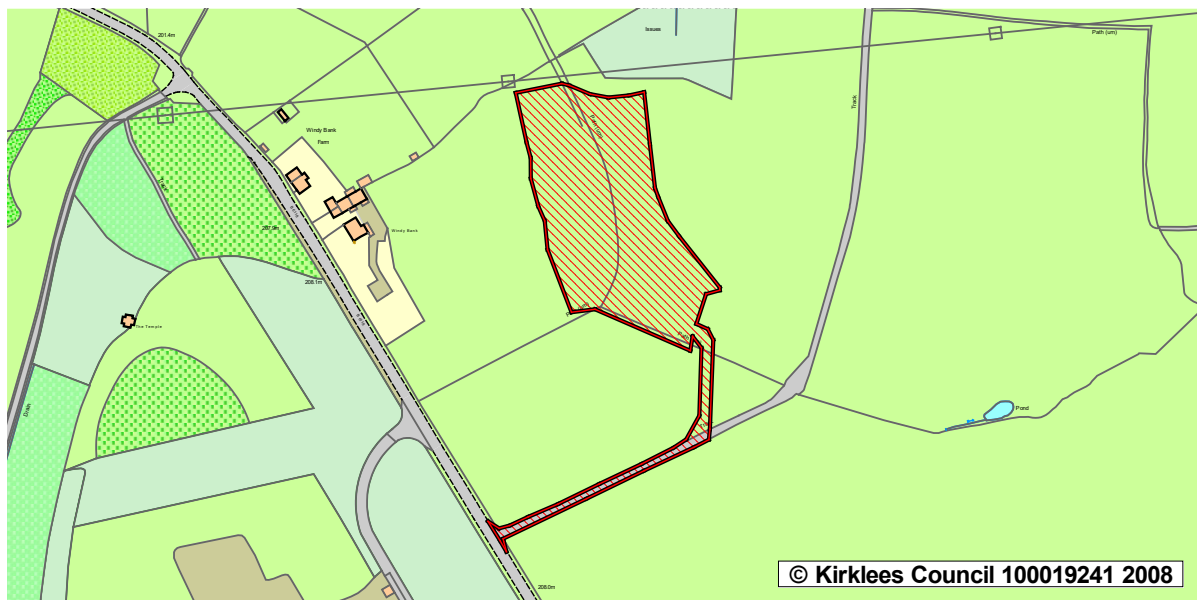
TARGET DATE

06-May-2019

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.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN

Map not to scale – for identification purposes only

Electoral Wards Affected: **Kirkburton**

☐ Yes Ward members notified

RECOMMENDATION:

DELEGATE refusal of the application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of reasons including those contained within this report.

Reasons for refusal:

1. The site lies within an area of designated Green Belt within which it is intended that new development be severely restricted. The proposals would constitute inappropriate development and it is considered that there are no very special circumstances which would clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm. As such the proposals are considered contrary to planning policy guidance in Section 13 of the National Planning Policy Framework.
2. It is considered that a development of this nature, in this prominent location, would create a discordant feature within the local landscape which would have a significant detrimental impact on the area's distinctive landscape character and therefore adversely affect the visual amenity of the area. This would be contrary to Local Plan policy PLP32 and planning policy guidance contained in Section 15 of the National Planning Policy Framework.

1.0 INTRODUCTION:

- 1.2 This application is brought to the Strategic Planning Committee as the proposal is non-residential and exceeds 0.5ha.

2.0 SITE AND SURROUNDINGS:

- 2.1 The application site is located approximately 1.5 kilometres north west of Grange Moor within a wider area of agricultural land. The application site occupies an area of approximately 1.4 ha and comprises a rough grass land area which forms part of a larger field system. The immediate wider area surrounding the site is rural in character although Temple Quarry, a large sandstone quarry, is located approximately 300m to the east of the site on higher ground. A number of isolated residential properties are located in the vicinity, the closest of these are Windy Bank Farm approximately 100m to the east from the site and Liley Clough Farm which is approximately 130m to the north. Public Right of Way (PROW) KIR//34/10 crosses the site and links to PROW KIR/35/40 which follows the route of the proposed access from its junction with Liley Lane.

3.0 PROPOSAL

- 3.1 The applicant proposes to import approximately 90,000 tonnes of inert soils and subsoils in order to remediate previously worked land associated with coal workings and to re-profile the land to provide a more efficient agricultural unit. The applicant has indicated that the benefits associated with this proposal would include:
- Achieving a smooth profile to allow cultivation using modern farm machinery
 - Improved safety for operating farm machinery, plus aiding members of the public who may walk over the site from the nearby public footpath
 - Increasing the productivity of the land
 - Restoring an area of degraded land
- 3.2 The fill material would be sourced from development sites and transported to the application site by 20 tonne lorries and tractors and trailers. The fill material would be stockpiled on site prior to being worked into a hollow area which was associated with a former mine (Whitley Colliery) which closed in 1947.
- 3.3 Access to the site would be taken from an existing field access which adjoins Liley Lane (B6118).

4.0 RELEVANT PLANNING HISTORY (including enforcement history):

93/03773 – Agricultural notification for erection of storage building (Approval of details withheld)

95/92663 – Erection of agricultural building and construction of vehicular access road (Granted)

2004/95153 – Erection of agricultural building, formation of 4no. worm beds and vehicular access road (Granted)

2015/93320 - Agricultural notification for the prior approval for the deposit of 90,000 tonnes of inert waste in order to remodel existing land form. (Approval of details withheld)

2016/90904 – Agricultural notification for the prior approval for the deposit of 90,000 tonnes of inert waste in order to remodel existing landform (Approval of details withheld)

4.1 Enforcement History

A complaint was received in February 2015 that unauthorised tipping was being carried out on land adjacent to this site. Subsequent investigations found this to be the case and the land owner was served with a Planning Contravention Notice on 19 February 2015.

A response was subsequently received on 15 March 2015 which indicated an intention to submit a retrospective planning application to regularise the unauthorised development. No such application was made and the development therefore remained unauthorised.

However, following a review of this case, it was concluded that it was not expedient to pursue further formal enforcement action as the development had been completed to an acceptable standard and the removal of the tipped material would create further disruption to the area. The case was therefore closed in June 2015.

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

5.1 Following the receipt of this application negotiations with the applicant resulted in the following information being submitted:

- A Coal Mining Risk Assessment and subsequent amendments
- A Transport Statement
- A Flood Risk Assessment
- A Supporting Planning Statement
- Contour and sectional plans

The applicant also agreed that areas on the periphery of the site could be set aside to provide habitat opportunities to enhance local biodiversity.

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 Development Plan for Kirklees is the Kirklees Local Plan which was adopted by the Council on 27 February 2019.

6.2 Kirklees Publication Local Plan (KLP): Submitted for examination April 2017

PLP3 – Location of new development

PLP 21 – Highway safety and access

PLP 32 - Landscape

PLP44 – New waste management sites

PLP43 – Waste management hierarchy

PLP 46 – Waste disposal

PLP51 – Protection and improvement of air quality

PLP52 – Protection and improvement of environmental quality

6.3 National Planning Guidance:

Section 6 – Building a strong, competitive economy

Section 12 – Achieving well designed places

Section 14 – Meeting the challenge of climate change, flooding and coastal change

Section 15 – Conserving and enhancing the natural environment

National Planning Policy for Waste

6.4 Other Guidance

West Yorkshire Air Quality Emissions Strategy and associated technical planning guidance

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by the erection of 4 site notices in the vicinity of the site, the mailing of 4 neighbourhood notification letters and an advertisement in the Local press. Six representations from member of the public have been received which raised concerns regarding the following issues:

- The proposal does not indicate the route lorries would take to access this site and these activities may exacerbate existing accident blackspots and therefore compromise highway safety
- Noise associated with this development will cause nuisance to nearby residents
- Waste material brought to the site may not be adequately checked and non-inert waste may incorporated into the fill material.
- Supporting information included with the application is contradictory regarding the numbers of HGVs visiting the site.
- The proposal is likely to lead to problems with mud and debris being deposited on the public highway.
- This proposal is likely to lead to HGVs travelling through Upper Hopton to access the site.
- Unauthorised tipping has previously taken place on land adjacent to this site.
- The land drains to the nearby Liley Clough Beck which may become contaminated as a result of run off from this site.
- Not all landowners in the vicinity of this site have been notified of this planning application.

- This proposal would result in the loss of trees and detrimentally impact on local biodiversity.
- Problems with mud on the highway along the B6118 previously required extensive road cleaning and improvement works to improve the safety of the route.

7.2 Ward members from the Kirkburton ward, within which this site is located, and all adjacent wards have been consulted on the proposal and the following comments received:

Cllr Bill Armer (Kirkburton) 1. – “I note from the applicant's documentation that it is anticipated that the majority of HGV trips to this site will travel from Wakefield Road. This will of course involve up to 160 (80 each way) daily HGV movements past the school at busy periods. Leaving aside the Road Safety implications for the moment, do we have any air quality data for the vicinity of the school? Do we intend getting any? Do we have any plans to monitor air quality during the lifetime of the site?”

If HGVs are expected to approach from Wakefield Road, it is reasonable to suppose that a proportion would wish to use Barnsley Road through Flockton. This road is heavily used and is very narrow in places, and a current RTO prohibits HGVs from using it to travel from Grange Moor through Flockton. Could we impose a Traffic Management Plan requiring HGVs going to/from this site to avoid Flockton centre?”

Cllr Bill Armer (Kirkburton) 2. – “I am minded to oppose any movements in excess of, say, 3 loads per hour (6 movements). The Transport Statement paints an overly optimistic picture of the state of the B6118. I am also very uneasy at having a large number of HGVs passing the Primary School on both road safety and air quality grounds. FYI, there have been three RTCs in the vicinity of the school in the past couple of weeks (a Ford Focus attempting to climb a telegraph pole, a vehicle damaging the traffic island outside the Church and another vehicle exiting the road via a hedge, directly opposite the school. These may not be recorded, as I think there were no injuries.

I note that this application is slated for Strategic Planning Committee. Have you any idea when?”

Cllr A Munro (Almondbury) - “Thank you for contacting me. I see it's a road leading off the B6182 to Whitley. Thank you for bringing it to my attention. I guess one of the problems will be in transporting the top soil and sub soil and which direction and roads will be used.”

Cllr M Bolt (Mirfield) – “Clearly an important issue to determine the traffic flow or impose routes and timings and also to ensure suppression of dust during operations? The failure of planning/highways to ensure that other operators in the district don't track detritus onto the highway , in breach of planning and highways laws doesn't instill me with confidence,”

Cllr V Lees Hamilton (Mirfield) – “The residents of Upper Hopton will be very concerned about these issues. You only have to take a look at Calder Road at Ravensthorpe and the effects of mud on the surrounding roads.”

7.3 Kirkburton Parish Council (KPC) was consulted and it made the following comments:

“The Parish Council strongly objects to the proposed development on the following grounds:

- Highways: The number of vehicle movements is unsustainable. The exact prediction is unknown since contradictory information is provided in the various supporting documents. Additionally, it is unclear from which direction the HGV's would access the site, but there are problems in both directions. If HGV's were to travel from the A62 (Leeds Road), it involves going over two very narrow bridges at Colne Bridge, which allow 2-way traffic and presents obvious traffic hazards. Access from the other direction would involve increasing the already problematic highways situation in Flockton and travelling past Grange Moor Primary School. This raises issues with highways safety and air quality, particularly with the style of vehicle likely to be used and the number of vehicle movements predicted on a daily basis, passing in very close proximity to young children.

Additionally, Liley Lane is a notified 'accident hot spot' and has been the subject of a number of initiatives attempting to address the safety issues. It already has to deal with a high volume of heavy traffic accessing two other sites in this vicinity.

- Detrimental impact on the residential amenity: The vehicles would cause a substantial increase in noise levels for residents living in this area.
- Inappropriate use of the Green Belt.
- The description of the application refers to importing top soil and sub soil, but the detail refers to inert waste, which would indicate that this proposed development is a tip.

If the Committee is minded to approve the application, the Parish Council requests that conditions are imposed on the developer requiring the firm/s to restore the area to the Green Belt when the project is complete, including the restoration of the hedgerows.”

7.4 Although not consulted on this application, Mirfield Town Council made the following comments:

“Mirfield Town Council would like to put forward the following on the above application, although it is not in the Mirfield Ward and we were not sent this, MTC feels that it would impact on Mirfield. Cllr Bolt Proposed MTC sends objections and concerns regarding the impact on Mirfield as follows: MTC have huge concerns regarding the surface of B6118 with the added traffic from HGV's, the concern is also for the amount of HGV traffic and the impact it will have on this already congested, accident prone route. MTC are also concerned that the current TRO is being ignored by HGV's driving through Hopton. MTC is concerned what soil is being used and has it had tests, how is it graded? Is this land allocated on the Local Plan and if so for what? MTC would like to know if Kirklees are aware what the land will be used for after restoration. MTC has grave concerns regarding flooding and any mitigating

measures in place if any future development is planned. MTC also has concerns that it is close to Whitley Beck and any contamination issues that could occur. MTC would like clarification where the topsoil is collected from to ascertain the routes the HGV's will take. Cllr Benson Seconded Vote: All in favour."

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K C Highways DM – No objection subject to a planning conditions requiring that.

- heavy vehicle movements are limited to 10 in and 10 out per day
- the applicant make an annual contribution of £5,000 towards the maintenance of the local highway network
- areas to be used for vehicle parking to be satisfactorily surfaced and drained
- site lines of 2.4m x120m across the site frontage are provided
- the provision and agreement of a construction traffic management plan
- the provision of wheel cleaning facilities

The Coal Authority – No objection subject to a planning condition which requires that intrusive site investigations are carried out prior to development commencing to ensure the implications of this development on the coal mining legacy of this site can be fully considered.

Lead Local Flood Authority – No objection

Environment Agency – No objection

8.2 Non-statutory:

K C Environmental Health – No objection subject to planning conditions which require that:

- Numbers of HGV movements are restricted
- The development does not operate outside the hours of 0800 to 1800 Monday to Friday and 0800 to 1300 Saturday and no activities take place on Sundays or Bank Holidays.
- No processing of waste takes place on site using mechanical equipment

K C Ecology – No objection subject to a planning condition which requires the submission and approval of an ecological design strategy

KC Public Rights of Way – Object as there is insufficient information to assess the potential impact of this development on PROWs KIR/34/10 and KIR/35/40

The National Grid – No objection

9.0 MAIN ISSUES

- Principle of development
- Local amenity
- Design
- Highway issues
- Flood Risk/Drainage issues
- Ecology issues
- Representations
- Other matters

10.0 APPRAISAL

10.1 Principle of development

- 10.2 It is considered that the key issues upon which this proposal hinges are firstly, whether the proposed development is appropriate development within the Green Belt and if not whether there are very special circumstances to justify allowing it, and secondly, the development's likely impact on visual amenity and the intrinsic character of the local area and whether this impact is acceptable in terms of its effect on the Green Belt.
- 10.3 Paragraph 133 of the NPPF states that 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.
- 10.4 Paragraph 143 confirms that inappropriate development within the Green belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 10.5 Paragraph 144 goes on say that when considering any planning application, 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.
- 10.6 The NPPF sets out a number of core planning principles, one of which indicates that planning should contribute to conserving and enhancing the natural environment.
- 10.7 Para 109 of the NPPF goes on to state that "The planning system should contribute to and enhance the natural and local environment by;
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

10.8 In order to form a judgement about the harm caused, it is best to consider firstly whether harm is caused to any of the purposes of including land in the Green Belt as set out in paragraph 134 of NPPF. These are:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

10.9 The character of the landscape in this area is considered to be rolling wooded farm land close to rural fringe. The landscape in this area of the district acts to separate more urban environments and provides open areas which can be readily accessed from those urban settings. Generally this type of landscape has an open rural character comprising small fields separated by wooded areas, hedgerows and copses. Whilst this type of landscape is relatively close to more urbanised locations, the landscape retains a rural quality and provides an important rural buffer between the developed areas of Huddersfield to the west, Mirfield to the north and Dewsbury to the north east. Although containing evidence of man-made activity and structures, the quality of the landscape in the area is generally good and in the vicinity of the site, has a managed but tranquil character.

10.10 Notwithstanding that this development would be temporary in nature, the associated disturbance to the landscape is likely to be evident for at least two years. The development would involve the stockpiling of soils on site which would be perceived as a significant man made element within this natural landscape which would detract from openness. Furthermore the proposal would require a significant number of heavy vehicle movements to and from the site which would impinge on the current setting of this part of the district. It is

therefore the Council's contention these issues combined would result in a distinct and clearly perceived reduction in the openness of the Green Belt. This conflicts with the NPPF which indicates that the fundamental aim of Green Belts is to prevent urban sprawl by keeping land permanently open.

- 10.11 Whilst Paragraph 146 of the NPPF indicates that engineering operations may not be inappropriate development within the Green Belt, it makes it clear that this is subject to such development preserving the openness of the Green Belt and not conflicting with the purposes of including land in the Green Belt. For the reasons outlined above it is considered that this proposal would not preserve openness and would conflict with the purposes of including land in the Green Belt and cannot therefore be considered to be appropriate development as set out in paragraph 146 of the NPPF.
- 10.12 Consequently it is considered that this proposal would cause harm to the Green Belt in this locality and therefore constitutes inappropriate development. As indicated in the NPPF, very special circumstances therefore need to be demonstrated to outweigh this harm and justify the development.
- 10.13 With regard to very special circumstances, the remodelling of the landform would allow it's more efficient use for agricultural purposes in that it would remove an existing hollow that acts to bisect existing fields. This hollow has been exaggerated by previous unauthorised landfill operations and now includes a steep embankment that has naturally regenerated. The proposal would see the re-use of a significant quantity of waste material which would otherwise be disposed of via landfill. Appendix A of the National Planning Policy Framework contains the following waste hierarchy:

The most effective environmental solution is often to reduce the generation of waste, including the re-use of products – prevention
Products that have become waste can be checked cleaned or repaired so that they can be re-used – preparing for re-use
Waste materials can be reprocessed into products, materials or substances – recycling
Waste can serve a useful purpose by replacing other materials that would otherwise have been used – other recovery
The least desirable solution where none of the above options are appropriate- Disposal

Although this indicates that the most effective environmental solution to the generation of waste is waste prevention, it also indicates that the re-use and recycling of materials are the next best options. Waste Planning Authorities are therefore encouraged to take a positive approach towards dealing with waste in a way which moves its treatment up the hierarchy. In this instance the imported waste would be used specifically to re-engineer contours to facilitate an agricultural use rather than simply being disposed of to landfill. It is therefore considered that this proposal would see the re-use of a significant proportion of inert waste material which is consistent with current national planning guidance.

10.14 It could therefore be argued that this proposal would see the management of waste in a more sustainable way. However, whilst it is acknowledged that there would be benefits associated with this proposal with regard to the treatment of waste and the creation of more efficient agricultural land, Officers consider that these benefits are not sufficient to constitute very special circumstances which would outweigh the significant harm this development would cause to the Green Belt.

10.15 KLP Policy PLP 46 indicates that the disposal of waste on agricultural land will not be permitted if the scheme would divert waste from former mineral workings and so prejudicing their early restoration. It is considered that in this instance, as the proposal involves a relatively small amount of waste material, its impact on minerals sites or derelict land under restoration in the district would be very limited. Consequently, subject to the development complying with policy PLP44, the development would accord with the aims of KLP policy PLP46.

10.16 Local Amenity

10.17 The site is located within an area which is rural in character. However there are isolated residential properties to the west and south of the site, the nearest being approximately 100m from the site. Whilst this proposal would introduce a different industrial process to this part of the area, it is considered that the associated noise would not have any significant increase on the existing noise climate, bearing in mind the busy highway which is close to the site. However, should planning permission be granted for this development, conditions could be included as set out in Section 8 of this report to preclude the use of mechanical processing equipment and restrict hours of operation.

10.18 This proposal has the potential to generate dust which could have a detrimental impact on the amenity of the area. The principal sources of airborne dust associated with the proposed operations, in the absence of mitigation, include:

- The unloading of waste;
- The working of waste material on site;
- site plant and haulage movements; and
- road transport

10.19 It is considered that, as a result of heavy vehicle movements to and from the site, this proposal would result in a negative effect on local air quality. However, it is considered that, in accordance with the West Yorkshire Air Quality Emissions Strategy, mitigation to offset this level of damage could be adequately provided.

10.20 Whilst it is acknowledged that this proposal will have a negative impact on air quality in the vicinity of the site, the generation of dust could be adequately controlled via on site control measures and the impact associated with vehicle emissions could be adequately offset. It is therefore considered that this proposal would accord with Local Plan policies PLP44, PLP 51 and Section 15 of the NPPF with regard to its potential impact on air quality as a result of dust and vehicle emissions.

- 10.21 The site does not sit in an area which benefits from any formal landscape designation. However, it is attractive and as previously indicated contributes to the green buffer between nearby urban areas. 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. However, the landscape does contain more industrial elements including Temple Quarry to the west and warehousing and haulage operations around Grange Moor to the south east.
- 10.22 The site is prominent in the landscape and can be viewed from the surrounding countryside and from the adjacent highway network. Public Right of Way (PROW) KIR/34/10 crosses the site and links to PROW KIR/35/40 which runs along the proposed site access. This PROW then links to the wider surrounding PROW network. This network of public footpaths allows walkers unhindered views of the site at close quarters. It is considered that the surrounding landscape enhances the experience of walkers and visitors and therefore provides an attractive recreational facility which nearby urban populations can use.
- 10.23 Although this proposal represents a temporary operation, the works would take place over a period of at least 2 years. This would include significant operations involving the creation of access and parking facilities, the stripping and stockpiling of soils and imported fill materials and the subsequent working of 90,000 tonnes of inert waste using heavy machinery. Users of the aforementioned PROWs would overlook this site and Officers consider that the visual experience of this group would be adversely affected.
- 10.24 Consequently, The proposal would not accord with Local Plan policies PLP32, PLP44 and PLP52, with regard to the development's potential impact on visual amenity and the local landscape.

10.25 Design

- 10.26 Section 12 of the NPPF indicates that good design is a key aspect of Sustainable development and that poorly designed development should be refused.
- 10.27 This proposal would result in a final landform that would reflect the surrounding landscape and allow the majority of the site it to be used for agricultural purposes. The applicant has indicated that the final restoration of the site could include field margins around the periphery of the site which could be sympathetically planted to provide habitat opportunities for local wildlife.

Officers therefore consider that the resultant landform would not be out of keeping with the wider setting and would not appear as a discordant feature within the wider landscape. These landscape improvements are viewed by officers as the main benefits of the proposed scheme and weigh in favour of the development when assessing the proposal against the identified harm to the Green Belt.

10.28 Highway issues

- 10.29 The site is currently accessed via a field access which adjoins Liley Lane (B6118). This would be upgraded and provide the access to the landfill area.

- 10.30 It is considered that adequate sight lines can be provided at this junction and subject to the provision of adequate measures to prevent HGVs queuing on the highway, the proposed access would be satisfactory.
- 10.31 The applicant has provided a supporting Transport Statement (TS) which indicates that the development is expected to generate on average 45 lorry loads per week but could involve up to 80 loads per day during busy periods. The TS indicates that the local Highway network, which has on average between 500 and 550 vehicle movements per hour during peak periods, can accommodate this level of HGV movements.
- 10.32 As indicated above two public rights of way would be affected by this proposal. KIR/34/10 crosses the site and KIR/35/40 runs adjacent to the route of the proposed access road. The use of these rights of way would therefore need to be managed to ensure that the safety of users of these routes would not be compromised. However, the applicant has not provided any information with regard to how this would be achieved.
- 10.33 However, Officers consider that subject to the inclusion of planning conditions to deal with the issues outlined in Section 8 of this report and subject to the inclusion of satisfactory controls to manage the impact of the development on affected PROWs, this proposal would not have a significant detrimental impact on highway safety in the area and would therefore accord with Local Plan policies PLP21 and PLP44.
- 10.34 Drainage issues and flood risk
- 10.35 The application site is located within Flood Zone 1 (low risk) and the applicant has provided a Flood Risk Assessment (FRA) to support this proposal.
- 10.36 The FRA concludes that:
- The flooding risks to the proposed development from fluvial, surface water, tidal, groundwater sewer or reservoir sources are predicted to be low or very low.
 - Mitigation is not required. Off-site flood risks are not considered to be increased by the proposed development.
 - During construction, control of run-off will be required to prevent turbid water entering Liley Clough.
 - The proposed development has an acceptable flood risk within the terms and requirements of the NPPF.
- 10.37 Officers have reviewed the supporting flood risk assessment and agree with its conclusions and it is therefore considered that this proposal would accord with Local Plan policy PLP 27, PLP28, PLP44 and Section 14 of the NPPF with regard to flood risk and the provision of adequate drainage.

10.38 Ecological Issues

10.39 Due to the nature of the site, it is considered that its ecological value will be relatively low. Having said this, it is likely to provide some habitat opportunities and, as indicated in paragraph 174 of the NPPF this proposal should contribute and enhance the natural environment.

10.40 To offset the impact of this development, the applicant has indicated a willingness to provide set aside areas on the periphery of the site which would be planted to enhance biodiversity by providing habitat opportunities.

10.41 Officers consider that subject the applicant providing an ecological design strategy providing details of how such enhancements would be achieved, this proposal would accord with Local Plan policy PLP52 and guidance contained in Section 15 of the NPPF. Should planning permission be granted, this matter could be dealt with via planning condition

10.42 Representations

The proposal does not indicate the route lorries would take to access this site and these activities may exacerbate existing accident blackspots and therefore compromise highway safety.

Response: the issue of highway safety has been considered in the Highways section of this report. Routeing arrangement could be controlled by planning obligation or via a suitably worded planning condition.

Noise associated with this development will cause nuisance to nearby residents.

Response: This matter has been considered in the Local Amenity Section of this report

Waste material brought to the site may not be adequately checked and non-inert waste may be incorporated into the fill material.

Response: The application must be assessed on the basis that inert waste will be used as the applicant proposes. Should planning permission be granted, the applicant will be required to obtain a permit from the environment agency which will specify the type of inert waste that can be brought to the site. The EA are responsible for the day to day enforcement of operations at this type of site and have enforcement powers which can be used should breaches of the permit occur.

Supporting information included with the application is contradictory regarding the numbers of HGVs visiting the site.

Response: the applicant has indicated that this proposal is likely to generate in the region of 45 HGV vehicle movements per week but could involve up to 80 movements per day for short periods during campaign operations. The supporting transport statement has been produced on this basis.

The proposal is likely to lead to problems with mud and debris being deposited on the public highway.

Response: This problem can be associated with this type of development. However, measures such as the use of a wheel wash and regular road sweeping patrols can help to mitigate this issue.

This proposal is likely to lead to HGVs travelling through Upper Hopton to access the site.

Response: Upper Hopton is covered by a Traffic Regulation Order (TRO) which does not allow HGVs to travel through the village. This would continue to apply. Breaches of the TRO are an offence under the Road Traffic Act and enforced by the police.

Unauthorised tipping has previously taken place on land adjacent to this site.

Response: This matter has been outlined in the Planning History section of this report.

The land drains to the nearby Liley Clough Beck which may become contaminated as a result of run off from this site.

Response: Liley Clough Beck is to the north east and drainage run off from the site during landfilling operations would need to be adequately controlled to ensure the Beck is not contaminated. It is considered that this could be achieved via the use of appropriately worded planning conditions should planning permission be granted.

Not all landowners in the vicinity of this site have been notified of this planning application.

Response: Application publicity was carried out as outlined in the public/local response section of this report. This exceeds the requirements set out in Article 15 of the Town and Country Planning (Development Management Procedure) Order 2015 and it is considered to be a proportionate level of publicity for this type of planning application.

This proposal would result in the loss of trees and detrimentally impact on local biodiversity.

Response: This matter has been considered in the Ecology Issues section of this report.

Problems with mud on the highway along the B6118 previously required extensive road cleaning and improvement works to improve the safety of the route and this proposal is therefore likely to adversely affect highway safety.

Response: Highway safety has been considered in the Highways Issues section of this report.

11.0 CONCLUSION

- 11.1 Whilst it is acknowledged that this proposal has the potential to improve the landform on the site, Officers consider that this proposal would detrimentally affect the openness of the Green Belt and would conflict with the purposes of including land in the Green Belt. Consequently the development constitutes inappropriate development.
- 11.2 The NPPF indicates that inappropriate development is by definition harmful to the Green Belt and should not be allowed unless very special circumstances can be demonstrated. In this case Officers are of the view that as the potential harm to the Green Belt is not outweighed by the benefits of this proposal then very special circumstances do not exist and planning permission for this proposal should not therefore be granted.
- 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 would not constitute sustainable development and is therefore recommended for refusal.

12.0 Reasons for refusal

1. The site lies within an area of designated Green Belt within which it is intended that new development be severely restricted. The proposals would constitute inappropriate development and it is considered that there are no very special circumstances which would clearly outweigh the harm to the Green Belt by reason of inappropriateness or any other harm. As such the proposals are considered contrary to planning policy guidance in Section 13 of the National Planning Policy Framework.
2. It is considered that a development of this nature, in this prominent location, would create a discordant feature within the local landscape which would have a significant detrimental impact on the area's distinctive landscape character and therefore adversely affect the visual amenity of the area. This would be contrary to Local Plan policy PLP32 and planning policy guidance contained in Section 15 of the National Planning Policy Framework.

Background Papers:

Application and history files.

<https://www.kirklees.gov.uk/beta/planning-policy/local-plan-submission-documents-2017.aspx>

Certificate of Ownership –Certificate A signed 24.11.2018