
Report of the Head of Development and Master Planning**STRATEGIC PLANNING COMMITTEE****Date: 11-Jul-2019**

Subject: Planning Application 2019/90616 Importation of inert waste, conversion of existing sewerage tank to form meeting room, demolition of existing sewerage infrastructure and change of use of site to agricultural land former Spenborough Wastewater Treatment Works, Smithies Lane, Heckmondwike, WF16 0PN

APPLICANT

Dome Regeneration Co
Ltd

DATE VALID

15-Mar-2019

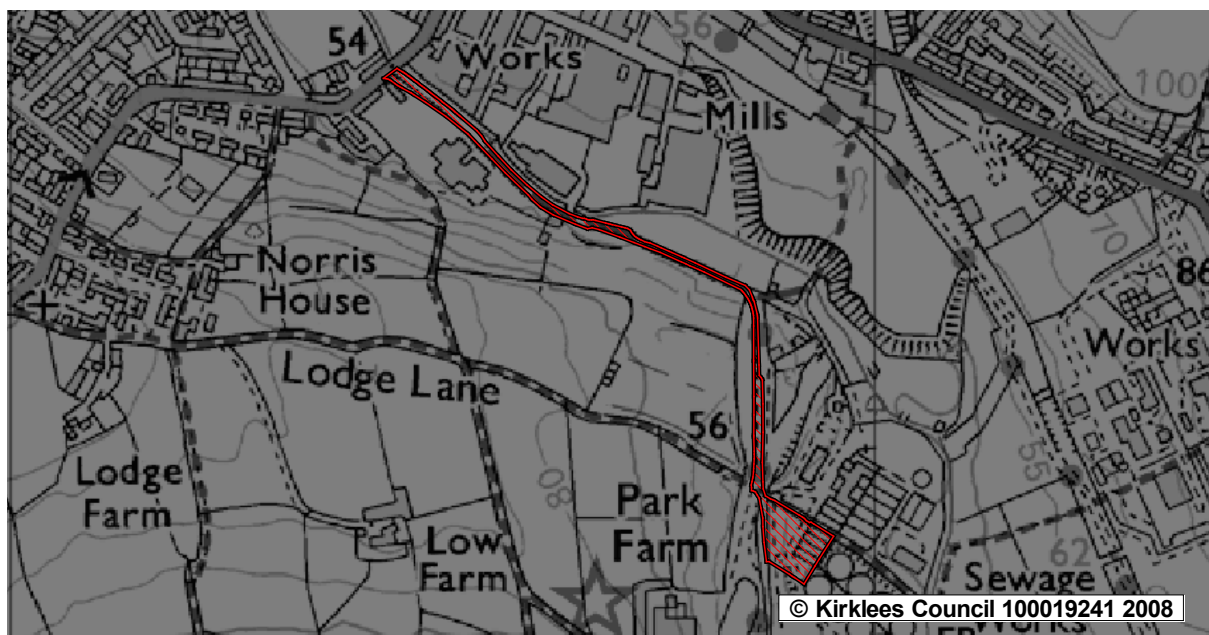
TARGET DATE

14-Jun-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: Heckmondwike

Yes

Ward Members consulted
(referred to in report)

RECOMMENDATION: Delegate approval of the application and the issuing of the decision notice to the Head of Development and Master Planning in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

1. To ensure that this planning permission is not started until all of the inert waste has been imported into the site under planning permission 2019/91277.

In the circumstances where the S106 agreement has not been completed within three months of the date of the Committee's resolution then the Head of Development and Master Planning shall consider whether planning permission should be refused on the grounds that the proposals are unacceptable in the absence of this mechanism to ensure that highway safety is achieved, and if so, the Head of Development and Master Planning is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

1.0 INTRODUCTION:

- 1.1 This application is reported to the Strategic Planning Committee due to the size of the site. The proposal relates to non-residential development and the site exceeds 0.5 Ha. In area.
- 1.2 The Chair of the Strategic Planning Committee has confirmed that this item can be referred to Strategic Planning Committee and is in line with the Councillors' Protocol for Strategic Planning Committee.

2.0 SITE AND SURROUNDINGS:

- 2.1 The site relates to the part of the old Sewerage Works at Smithies Lane in Heckmondwike. The site accommodates old sewerage equipment including the old sewerage beds and tanks. The majority of the former sewerage works has been restored to create agricultural land under planning application ref 2014/91575.

- 2.2 The application site was formerly part of the sewage treatment works for the Heckmondwike area where sewage was processed before the resultant treated water was released into the adjacent River Spen. However, the site has been redundant for several years and shows evidence of vandalism and is starting to appear derelict.
- 2.3 The application site is located off Smithies Lane and is bounded to the east by the River Spen, public right of way SPE 142/10 to the north and SPE 143/30 to the south. To the west is the access road to the site which adjoins Smithies Lane.
- 2.4 The land to the south of the site has been developed to form agricultural land (approved under 2014/91575). This land is grassed over, with a slight incline to the south.
- 2.5 The site is allocated as green belt on the Kirklees Local Plan.

3.0 PROPOSAL:

- 3.1 Planning permission is sought for the importation of inert waste, conversion of existing sewerage tank to form meeting room with viewing terrace, demolition of existing sewerage infrastructure and change of use of site to agricultural land.
- 3.2 The applicant proposes to demolish the existing site infrastructure (existing waste treatment tank) and export the resultant demolition rubble from the site to use as secondary aggregates. Approximately 15000 cubic metres of inert waste (To be confirmed in the update) would then be imported to the site to remodel the landform to create an area which can subsequently be used for agricultural purposes. Plan 13/201/L/D labels the area as an allotment and orchard area.
- 3.3 There would be a change in the site levels. The proposed development would see the raising of land levels across the site to create a more even site, similar to the remaining part of the site. The applicant has confirmed that this process will take up to 6 months.
- 3.4 The proposed development also includes the conversion of the existing sewerage tank for use as a meeting room. The converted meeting room would include a viewing terrace. The building is to be reclad in timber boarding.
- 3.5 Access to the site would remain as existing from Smithies Lane and the current access road that serves the Ponderosa Therapeutic Centre. Parking would be included within the site and access would be from Smithies Lane. The plan also shows a 3 metre wide cycle track.

4.0 RELEVANT PLANNING HISTORY:

- 4.1 2014/91575 – Demolition of existing filter beds, land fill site and change of use from redundant sewerage beds to agricultural land (Old Sewerage Works) APPROVED
- 4.2 2017/91470 - Variation of condition 3 (time limits) on previous permission 2014/91575 for demolition of existing filter beds, land fill site and change of use from redundant sewerage beds to agricultural land (Old Sewerage Works) APPROVED

- 4.3 2018/91277 – Infill of former quarry (Ponderosa Rtc Park Farm, Smithies Lane)
APPROVED (approved by members at Strategic committee on 20th June)

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 The case officer has been in discussions with the agent to ensure that the required information was provided in relation to highways and flood risk, as well as to understand how the meeting room element of the proposed development would operate. The information provided is adequate to allow officers to make an informed assessment of the proposed development.

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 27th February 2019).

The site is allocated as Green Belt on the Kirklees Local Plan.

6.2 Kirklees Local Plan (KLP)

LP1– Achieving sustainable development
LP3– Location of new development
LP21– Highway Safety and Access
LP22 - Parking
LP24– Design
LP30 – Biodiversity and geodiversity
LP31 – Strategic Green Infrastructure Network
LP32 – Landscape
LP37 – Site restoration and aftercare
LP43 – Waste Management hierarchy
LP44 – New waste management facilities
LP46 – Waste disposal
LP51– Protection and improvement of local air quality
LP52– Protection and improvement of environmental quality
LP53 – Contaminated and unstable land

6.3 National Planning Policy Framework (NPPF):

Chapter 2 – Achieving sustainable development
Chapter 6 – Building a strong, competitive economy
Chapter 8 – Promoting healthy and safe communities
Chapter 9 – Promoting sustainable transport
Chapter 12 – Achieving well designed places
Chapter 13 – Protecting the green belt
Chapter 14 – Meeting the challenge of climate change, coastal change and flooding
Chapter 15 – Conserving and enhancing the natural environment

7.0 PUBLIC/LOCAL RESPONSE:

7.1 1 public representation has been received raising the following points:

- Strangers driving along private section of Smithies Lane and turning in driveway
- Right hand turn to Ponderosa is sign posted but people ignore this and drive past 4 signs
- Want to ensure that volume of traffic will not be exacerbated as a result of the new plans
- Would like more signage to be erected to clearly indicate entrance to ponderosa and to show where I live is private
- Right of way going out of Smithies Lane past Ponderosa entrance
- Ensure that we maintain the right of way and that before any work commences, the road is clearly marked to show that anyone existing Ponderosa and going onto Smithies Lane gives way to traffic coming from the right.

7.2 Councillor Steve Hall has commented on the planning application as follows:
"It's good to see the site coming to fruition"

7.3 Officer comments will be made in Section 6 of this report.

7.4 No town/parish council comments are required.

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K.C Highways Development Management – no objection subject to a number of conditions.

The Environment Agency – no objection. Standing advice.

Local Lead Flood Authority - not enough information has been provided to comment. FRA resubmitted – no objection.

8.2 Non-statutory:

K.C Environmental Health – no objection subject to conditions.

K.C Ecology – no objection subject to condition to ensure that the Construction and Environmental Management Strategy is conditioned.

9.0 MAIN ISSUES

- Principle of development
- Visual amenity/local character
- Residential amenity
- Highway issues
- Representations
- Other matters

10.0 APPRAISAL

Principle of development

- 10.1 Although the site was previously used in connection with an industrial process, the site falls within the Green Belt. Chapter 13 of the National Planning Policy Framework states that there is a presumption against inappropriate development in the Green Belt in such areas unless there are very special circumstances to allow the development. In this case, the key issues are whether the proposed development is inappropriate development and if so, whether there are very special circumstances which outweigh the presumption against inappropriate development.
- 10.2 The use of land for the importation of inert material would in itself be inappropriate development within the Green Belt.
- 10.3 Paragraph 133 of the National Planning Policy Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, with the essential characteristics of the Green Belt being its openness and permanence.
- 10.4 The Local Planning Authority should give substantial weight to any resultant harm to the Green Belt from the development proposed. Inappropriate development is by definition harmful to the Green Belt and very special circumstances will not exist unless the potential harm, by reason of that inappropriateness and any other harm to the Green Belt is clearly outweighed by other considerations.
- 10.5 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.
- 10.6 It is considered that the development proposed would not contradict these 5 purposes and would not cause harm to the openness of the Green Belt in this regard.
- 10.7 In addition to the harm by definition due to inappropriateness, there would also inevitably be some harm to the openness of the Green Belt because of the nature and extent of development proposed.
- 10.8 These aspects constitute the negative impacts of the development in Green Belt terms.
- 10.9 Whilst acknowledging the potential harm to the Green Belt, paragraph 141 of the NPPF indicates that local planning authorities should also plan positively to enhance the beneficial use of the Green Belt, including:
- looking for opportunities to provide access;

- to provide opportunities for outdoor sport and recreation;
- to retain and enhance landscapes; or
- to improve damaged and derelict land

- 10.10 It is considered that the development proposed would contribute positively to the use of the Green Belt in that it would help retain and enhance the existing landscape and would help to improve existing damaged and derelict land which currently accommodates derelict and unsightly sewerage infrastructure.
- 10.11 It is accepted that this does not in itself overcome the harm to the Green Belt, but it is considered that this improvement to the landscape should be afforded some weight in addition to any very special circumstances.
- 10.12 In terms of very special circumstances, the former sewage treatment works is now redundant and has fallen into disrepair, with evidence of vandalism and ongoing liabilities in terms of security and maintenance. This part of the site accommodates a circular filter bed and a former sewerage tank.
- 10.13 The extent of the existing development detracts from the openness of the Green Belt and is harmful to the visual amenity of the area.
- 10.14 The opportunity to demolish the redundant sewage treatment filter bed and to convert the former sewerage tank to a meeting room, as well as to remodel the landform in order to accommodate an agricultural after use would significantly enhance the appearance of the area and would regenerate a redundant site within the Green Belt, accommodating an after use that is wholly appropriate within the Green Belt. This would be consistent with the previous application that was approved in 2014 on the wider part of the former wastewater treatment works.
- 10.15 The restoration of the site would also relate well to the wider surrounding landscape, including the larger part of the site which has had approval for change of use to agricultural land.
- 10.16 It is therefore considered that the long term benefits associated with allowing the development would outweigh any potential harm to the Green Belt.
- 10.17 The remodelling and re-profiling of the site using imported inert material would involve engineering operations which would ultimately see the restoration of a redundant derelict site to an agricultural use. Para. 146 of the NPPF states that:
- “Certain other forms of development are also not inappropriate in Green Belt Provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.”
- 10.18 Such other forms of development include engineering operations. This proposal would lead to what is considered to be an acceptable final landform which would return the site to agricultural use. Whilst the engineering works would inevitably have some impact upon the openness of the Green Belt, it is considered that the openness of the Green Belt would still be preserved and that the development would not conflict with the purposes of including land within it.

- 10.19 It is therefore considered that the engineering operations proposed would not be inappropriate within the Green Belt.
- 10.20 As well as the above, the existing sewerage tank is to be converted into a meeting room. Paragraph 146 of the National Planning Policy Framework also states that the “re-use of buildings provided that the buildings are of permanent and substantial construction” are not inappropriate in the green belt provided they preserve its openness and do not conflict with the purposes of including land within it. In this case, from the site visit, it is clear that the building is of a permanent and substantial construction due to its previous use as a sewerage tank. The size of the building will not change and therefore the impact on openness is no more harmful than the existing situation. The proposed development complies with part d of Paragraph 146 of the National Planning Policy Framework and will not conflict with the 5 purposes of including land within the Green Belt. The minimal changes to its appearance, by virtue of its openings and materials, are considered by Officers to be acceptable in this location. More details of the design will be discussed in the visual amenity section of this report.
- 10.21 Appendix A of the National Planning Policy for Waste contains a waste hierarchy and 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 acceptable contours to facilitate an agricultural use rather than simply being disposed of. It is therefore considered that this proposal would see the re-use of some inert waste material which is consistent with current national planning guidance.
- 10.22 It is therefore considered that the principle of this development is acceptable providing it does not conflict with the criteria stipulated in the Kirklees Local Plan Policy LP46 which states:
- 10.23 Sites for the disposal of waste will only be permitted where they meet a need which cannot be met by treatment higher in the waste hierarchy. As discussed in Section 10.21, Officers consider this proposal to be acceptable in this regard.

Impact on Visual Amenity

- 10.24 The impact on visual amenity is acceptable. This section will assess the impact on visual amenity.
- 10.25 The above ‘principle of development’ section discusses the impact on the openness of the Green Belt that the proposed development would have.

Impact on visual amenity

- 10.26 As the site is part of a former sewage works, it already has a significant visual impact on the area. The main element of this site is the large filter bed and associated infrastructure which cover the site. The site is screened to some extent by existing vegetation and cannot be easily overlooked from the nearest residential properties. However, pedestrians using the adjacent PROWs to the north and south of the site can currently gain limited views of the existing site and would therefore be affected to some extent by the proposed works.
- 10.27 This proposal would result in the levelling of the ground to result in a final landform that would reflect the surrounding landscape – similar to the remainder of the land approved under 2014/91575. The applicant has indicated that the final restoration of the site would result in an agricultural use. There would be no harm to the streetscene given its fairly isolated position within the landscape.
- 10.28 During construction works, the site would not have any additional impact on visual amenity given the current run down appearance of the site
- 10.29 When final restoration is completed, the proposed development would result in significant improvement in the visual amenity of the area – it would tie in with the approved development which has been completed on the remaining part of the site and would result in a landform that is a significant improvement in the character and appearance of the area than the existing sewerage infrastructure.

Summary

- 10.30 The proposal complies with Policy LP24 and Chapter 12 of the National Planning Policy Framework.

Residential Amenity:

- 10.31 The impact on residential amenity is acceptable. The closest residential property to the application site is 3 Mount Villas which is over 120 metres away from the application site.
- 10.32 Waste would be transported to the site by heavy vehicles including open skip and tipper lorries. Noise will therefore be generated by the vehicles themselves and during the unloading and working/importation of the inert waste.
- 10.33 Whilst the proposal would introduce processes which will cause noise, it is not considered that the associated noise would result in a harmful increase in noise bearing in mind the previous permission on the site and the distance to neighbouring properties. However, should Members grant planning permission, conditions would be included to preclude the use of mechanical processing equipment other than in connection with the existing concrete filter bed and to restrict hours of operation.
- 10.34 The Council's Pollution and Noise Control team recommended on the previous application that operations should be carried out during normal working hours and it is considered that similar conditions would be sufficient to mitigate against any impacts resulting from noise.

- 10.35 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.
- 10.36 Whilst it is acknowledged that this proposal may have a negative impact on air quality in the vicinity of the site, bearing in mind that the generation of dust could be adequately controlled via on site control measures and this operation would be temporary (approx. 6 months) this matter can be adequately addressed by condition that requires the submission and agreement of a dust suppression scheme should planning permission be granted.

Summary:

- 10.37 To conclude, there would be no undue harm to residential amenity and the occupiers of residential properties would not be detrimentally affected as a result of the proposal, thus complying with Policies LP24 and LP52 of the KLP and the aims of Chapters 12 and 15 of the National Planning Policy Framework.

Highway issues:

- 10.38 Highways Development Management have been consulted on the planning application and do not raise an objection. Plan 13/201/4 and the Vehicle Management Plan have been reviewed by Highways Development Management who have made comments on the documents. The trips associated with the use of the meeting are acceptable, with parking for mini buses shown on plan 19/40/A/A.
- 10.39 This plan shows that the site will be accessed from Smithies Lane using the same access as the previously approved application, with sight lines being shown from this proposed access onto Smithies Lane. Plan 13/201/4 also shows internal HGV turning and off street parking. The plan also shows the road to have a tarmac base course finish 100mm thick onto min 200mm thick compacted hard-core. Off street parking and internal turning is to be provided within the site along with a wheel wash facility, thus highway safety is not considered to be compromised in this regard.
- 10.40 The vehicle management plan includes all the requirements of the plan approved for the 2014 application include the routing of vehicles to avoid Norristhorpe Lane at all times and the number of vehicle movements is to be limited to 40 (20 in and 20 out).
- 10.41 Highways DM would have concerns if the proposal was to be brought into operation to run concurrently with the adjacent existing approved site (2018/91277), as this could result in up to 40 (20 in and 20 out) vehicle movements a day using the same access. Officers are concerned that this would result in Highway Safety issues.
- 10.42 Members should refer to the other matters section of this report to see how a legal mechanism will be put in place to ensure that the vehicle movements associated with the filling operation of this site will not run concurrently with the Ponderosa site approved on the opposite side of Smithies Lane (under ref 2018/91277).

- 10.43 As well as the unilateral undertaking mentioned above, Officers also consider that a condition is also required to limit the number of heavy goods vehicle movements coming to and from the site.

Other matters

Flood Risk

- 10.44 Initial concerns were raised in terms of the lack of a Flood Risk Assessment given that the application site is in Flood Zone 2. K.C Local Lead Flood Authority initially commented on the application to state that a Flood Risk Assessment was not provided, and subsequently this was submitted.
- 10.45 The Local Lead Flood Authority has commented on the additional information that has been provided. It has been noted that there are conflicting statements within the submission with regard to surface water drainage and therefore clarification is required. Despite this conflicting information, The Local Lead Flood Authority have confirmed that there is a solution to ensure that an emergency access can be achieved at the site. Officers recommend that Members impose a condition to require these details prior to development commencing.

Conditions

- 10.46 Given Highways Development Management concerns relating to the cumulative impact of Heavy Goods vehicles coming to and from the site from this development proposal and 2018/91277, Officers recommendation to members is that decision making is delegated back to Officers to secure a unilateral undertaking under Section 106 of the Town and Country Planning Act 1990. This is to ensure that this development proposal is not implemented until all inert waste has been imported at the site for 2018/91277, meaning that highway safety is not compromised.
- 10.47 Screening Opinion - The Case Officer has done a screening opinion on the proposed development and it has been confirmed that the proposed development does not trigger the requirement of an Environmental Impact Assessment due to its small scale and the fact that there are no features of environmental sensitivity in the area. The greatest impact on the natural environment would be in terms of its effect on visual amenity, which, due to the nature of the proposal would be temporary in nature. This is in line with National Planning Practice Guidance which indicates that planning applications for developments involving waste disposal of less than 50,000 tonnes of waste per annum are unlikely to require a supporting Environmental Impact Assessment.

Local Ecology

- 10.48 The site is located in the bat alert layer and the Kirklees Wildlife Network borders onto the site and therefore K.C Ecology have been consulted. Officers have considered LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework in this regard.
- 10.49 The applicant has provided a Construction and Environmental Method Statement which has been reviewed by K.C Ecology. The report is considered to be satisfactory to provide Officers with assurance that no significant ecological harm will result through the proposed development.

10.50 However, in order to comply with the National Planning Policy Framework, the proposals will need to demonstrate a biodiversity net gain and establish ecological links to the Kirklees Wildlife Habitat Network which includes vegetation immediately to the west of the site. This can be achieved through the provision of suitable landscaping information.

10.51 Subject to the imposition of relevant conditions, the proposed development complies with LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Representations:

10.52 1 public representation has been received raising the following points:

- Strangers driving along private section of Smithies Lane and turning in driveway
Officer comment: this is not a material planning consideration
- Right hand turn to Ponderosa is sign posted but people ignore this and drive past 4 signs
Officer comment: this is not a material planning consideration
- Want to ensure that volume of traffic will not be exacerbated as a result of the new plans
Officer comment: see highway safety section of this report.
- Would like more signage to be erected to clearly indicate entrance to ponderosa and to show where I live is private
Officer comment: this is not a material planning consideration
- Right of way going out of Smithies Lane past Ponderosa entrance
Officer comment: see other matters section of this report.
- Ensure that we maintain the right of way and that before any work commences, the road is clearly marked to show that anyone existing Ponderosa and going onto Smithies Lane gives way to traffic coming from the right.
Officer comment: see highway safety section of this report.

10.53 Councillor Steve Hall has commented on the planning application as follows:
"It's good to see the site coming to fruition"
Officer comment: this is noted.

11.0 CONCLUSION

11.1 Whilst the use of land for the importation of inert material would in itself be inappropriate development within the Green Belt, it is considered that the very special circumstances demonstrated in this instance would outweigh any limited harm to the Green Belt.

- 11.2 The engineering works to remodel and re-profile the site using imported inert material would result in an acceptable final landform which would return the site to an agricultural use which is acceptable in the Green Belt. Whilst the required engineering works would inevitably have some impact upon the openness of the Green Belt, it is considered that the openness of the land would be preserved on completion and that the development would not conflict with the purposes of including land within it.
- 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 and it is considered that the development proposals accord with the development plan and the National Planning Policy Framework for the reasons set out in the above report.

Background Papers:

Link to the application details:-

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2019%2f90061>

Certificate of Ownership – Certificate A signed and dated 20/02/2019.

Conditions:

1. Development to be in accordance with approved plans
2. 3 years to implement permission
3. Within 6 months of date of permission, import of waste shall cease
4. Limitation on number of vehicles coming to and from the site (no more than 40 trips to and from the site per day)
5. Prior cessation time period to restore land
6. Sole means of vehicular access to and egress from shall be as shown on 19/40/A
7. No commercial vehicles on the highway unless wheels cleaned.
8. HGVs – loads sheeted prior to delivery
9. Protection of footpaths – scheme to be submitted
10. Surface and drainage arrangements
11. Landscaping plan
12. No use of mechanical processing equipment other than in connection with the demolition of the existing concrete filter bed
13. Provision of adequate arrangements for the storage of any fuel and oils stored on site
14. Removal of permitted development rights
15. Use of low frequency reversing alarms
16. Speed restriction requirement for vehicles on site
17. Provision of dust suppression measures
18. Restriction on hours of operation 7.30am-6.30pm Monday to Friday 8.30am to 1pm on Saturdays with no working on Sunday or Bank Holidays
19. Provision of an aftercare scheme for a period of five years following site restoration

20. Requirement to restore the site in accordance with restoration scheme submitted with the application
21. Requirement to allow LPA to inspect soil cultivation once completed on site
22. Soil cultivation requirements
23. Requirement to allow LPA the opportunity to inspect any imported soils or soil making materials
24. Requirement to allow LPA to inspect soil re-spreading once completed on site
25. Requirement to spread soils during favourable weather conditions
26. Restriction that only inert waste is imported to the site
27. Progressive backfilling and restoration requirements
28. Requirement for emergency access details to be provided (in case of flooding)