

## **DURHAM COUNTY COUNCIL**

At a Meeting of **County Planning Committee** held in Council Chamber, County Hall, Durham on **Monday 11 September 2023 at 9.30 am**

### **Present:**

**Councillor G Richardson (Chair)**

### **Members of the Committee:**

Councillors J Atkinson, A Bell (Vice-Chair), D Boyes, M Currah, J Elmer, C Martin, E Peeke (substitute for P Jopling), I Roberts, K Shaw, A Simpson and S Wilson

### **Apologies:**

Apologies for absence were received from Councillors J Higgins, P Jopling, M McKeon, A Savory and S Zair

#### **1 Apologies**

Apologies for absence were received from Councillors P Jopling, A Savory and S Zair.

#### **2 Substitute Members**

Councillor E Peeke as substitute Member for Councillor P Jopling.

#### **3 Declarations of Interest**

There were no declarations of interest from Members.

#### **4 Minutes of the meeting held on 4 July 2023**

The minutes of the meeting held on 4 July 2023 were confirmed by the Committee as a correct record and signed by the Chair.

#### **5 Applications determined**

- a DM/22/00010/MIN - Former Colliery Spoil Heap, Hesleden, Durham**

The Committee considered a report of the Senior Planning Officer regarding an application for the continued restoration of colliery spoil heap, including extraction, processing and export of combustible material, limestone and sand for a period of 10 years (for copy see file of Minutes).

C Shields, Senior Planning Officer informed the Committee that there had been an update to the NPPF on 5 September 2023 but this had made no material change to the way this application was assessed.

The Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photograph, site layout and site photographs from the south, the west, the east and the north. Members had previously attended a site visit.

L Wardle of Monk Hesleden Parish Council addressed the Committee to object to the application. The Parish Council had objected to the original planning application relating to this site in May 2014 and 9 years later had resolved once again to object to the current application. The objections in 2014 of traffic movement, road safety and enforcement of planning conditions were still relevant today together with, and perhaps the most concerning, the impact of this application on the health and wellbeing of the residents of Hesleden village.

The committee report referenced National Planning Policy, County Durham Minerals Local Plan, County Durham Plan, and relevant emerging policies together with consultation involving statutory consultees and internal consultees. Monk Hesleden Parish Council was a statutory consultee.

Parish Councils were statutory bodies and the voice of communities. The report was dismissive of the voices of the community. Monk Hesleden Parish Council submitted their objections in April 2023 detailing 17 material planning considerations and Ms Wardle highlighted some of the points raised.

The Highways Authority had highlighted the need for pre and post development surveys for the length between the site entrance and the junction with the B1281, this was a condition of the previous application. The report detailed that since worked started on this site in 2018 only one repair had been completed, there was no mention of a further survey and the site is now working at full capacity, this raised concerns with regards to monitoring and the current condition of the highway.

It should be noted the Parish Council agreed to erect the Multi-Games Arena in 2019 as it was anticipated the reclamation of the spoil would be completed shortly after and therefore no additional traffic safety measures were required. Due to the continuation of this site, there was a need for additional

safety measures to be considered. This matter had been raised at the community liaison committee with the promise of the erection of netting by the applicant but to date this has not been installed. At the request of the Hesleden Residents Association the Parish Council were asked to install this facility with funding from the Hesleden Restoration Community Fund Community of £25,000. To provide residents with an immediate benefit from the restoration it was agreed the Parish Council would fund the project at a cost of £49,000 and the grant to be paid in instalments as the materials were removed. There was currently an amount owed of £5,000 which despite constant invoices had not been paid.

The County Durham Plan had a core principle to promote health communities. Paragraph 5.308 of the County Durham Plan stated that "Many people in County Durham today live in different social circumstances and experience differences in health, well-being, and length of life. Improving the health of the whole population and reducing health inequalities is key. Good health is central to people's happiness and wellbeing. It is important at an individual and social level, as it creates social and economic value. Alternatively, the cost of poor health can be measured in both human terms – lost years of life and active life, and in economic terms – the cost to the economy of additional illness. Research consistently reports that the majority of our health outcomes are explained by factors other than healthcare." The continuation of quarrying within the community extended the impacts of quarrying, especially in terms of noise, dust, and air quality to the detriment of the amenity and well-being of residents. Durham County Council's Public Health Team, in their response to the consultation makes reference to a Health Impact Assessment and stated that the author of the comment had not had access to documents submitted in the course of the original application made in 2014; therefore, could not comment further on the need for an HIA. It was also noted that requesting such an assessment as this stage could be academic, as the site had been operating for several years, and the current application was for an extension of time for the existing operation. An HIA might only be relevant in circumstances where there was a material change to the operation in question. If this was not the case, an HIA was not likely to add further benefit at this stage. It was concerning the author had not had access to the previous application and whilst it was acknowledged this was a new application there had been a material change due to the removal of limestone and sand. The Parish Council considered that the application should have been supported by a HIA.

Referring to monitoring and enforcement Ms Wardle informed the Committee that Durham County Council was consulting on budget proposals for 2024/25 and Medium-Term Financial Plan 2023-28. Despite some additional government funding and assuming that there would be continued annual increases in council tax, the Council was forecasting the need to make £56

million in savings over the next four years, with savings of £12.1 million required next year. The consultation proposed savings from back office and efficiencies and the deletion of posts within the planning services team. This raised the question how could this site be effectively monitored, and conditions enforced when it could be argued the planning authority did not have the resources? The applicant was required to provide accurate and correct information as and when requested by the planning authority and it was essential for there to be a pro-active and swift management by the Council. The Parish Council were of the view this had not been the case up to now and could not envisage there would be any improvement going forward.

Referring to restoration and aftercare, Ms Wardle informed the Committee that these were matters requiring subsequent approval, and the Parish Council had assumed this would not involve consultation with the Parish Council. Transparency was essential to ensure residents were well informed and not being made aware of matters via third parties. The report referred to a 5-year aftercare period and clarity was needed. Monk Hesleden Parish Council did not have the resources to take over the ownership of this site. There was every possibility there would be no aftercare, thereby leaving the village of Hesleden with the legacy of a dangerous eyesore for perpetuity

In conclusion the Committee was urged consider the impact of the application on the residents of Hesleden, the surrounding area, Durham County Council and tax payers who may ultimately be responsible for the management and maintenance of this area. Monk Hesleden Parish Council asked that the application be refused.

Councillor R Crute, local Member informed the Committee that the other Ward Member, Councillor S Deinali was unable to attend the meeting and therefore he would be presenting Councillor Deinali's representations before presenting his own.

Councillor Deinali was both a ward Member and a resident of Hesleden, having lived in Hesleden and surrounding villages all of her life and she wished to provide local knowledge that might help to convince the Committee that the pit heap did not contribute towards promoting a safe and healthy community.

The day-to-day running of the site could exacerbate already present hazards and the local area was not suitable for the quantity, weight and size of the vehicles that frequently go in and out of the village.

The operation of the site impacted upon residents' amenity in ways that were not outlined in the report and the application had a negative impact upon health and living conditions.

Hesleden was a small village connected to Castle Eden via a country road that had a mixed speed limit of 60mph and 40mph. The road had quite a lot of bends which were demonstrated by chevron signs. When driving along the road on a general day, it was just wide enough for two cars to pass on a bend at a slow speed without having to move to the side. In some places, there was a solid wall of mud on either side and therefore nowhere to move to should the need arise.

Quite often, when using this road, the lorries from the pit heap had to span the road to be able to get around the bends. This caused a significant hazard on top of the already present hazard of the bends. Not only that but when on the bends adjacent to the footpath on this road, the lorries often crossed onto the footpath to manoeuvre, which was proven by the eroded verge. This presented a hazard for pedestrians using this footpath.

To get onto this road from Hesleden, the lorries must exit the junction at the top of Gray Avenue. The exit was on a bend and could often have poor visibility due to the bushes, both for the traffic turning onto the road and also that which was on the road. To exit the junction, the lorries had to make a wide turn onto the road or risk hitting the footpath on the corner. The visibility on the corner required a rapid turn and therefore the lorries had frequently clipped the footpath, again demonstrated by the damage and erosion. This demonstrated that the operation of the lorries was contributing towards an already hazardous route.

Moving into the village, at the other end of Gray Avenue, there was a tight bend on the road which led on to Front Street. Councillor Deinali had many concerns raised regarding poor visibility along with parked cars and speeding lorries coming down Gray Avenue towards the pit heap site. As the lorries go straight ahead on this road and did not take the bend, they often crossed to the opposite side of the road to enter the closed footpath leading down to the site. This hazard had caused many near misses with residents' vehicles.

The next part of the lorries journey required it to go down a closed footpath, very much like a dirt track. This track passed very closely to the village MUGA where children and young people played. Although there was a low fence around the MUGA, balls frequently escaped the area and had children chasing after them. Despite a speed limit on this track, the lorries did not have full visibility of the play area due to the Workingmen's Club building. Once again, this caused a hazard.

Before reaching the entrance to the site, the lorries must cross over a frequented walkway which was used by tourists and local residents. Although the footpath that the lorries used had a diversion for pedestrians entering the walkway from the village, any pedestrians using the walkway still had to pass in the path of the lorries. Again, this did not contribute towards or promote a safe environment.

As you can see, the layout of the local area already has hazards however these hazards become much more dangerous with the lorries added to the equation.

Lorries passed by Gray Avenue, along the winding road and then also pass The Factory at Castle Eden as well as other houses that lined the main road. The lorries, in the main, were covered with dust sheets to prevent dust from spreading however this had proven to be ineffective. Residents along the streets mentioned had often had to clean their cars from the dust and occasionally had found that the dust trapped between the window of the car and the seal, causing damage. The dust sheets had also not prevented spoil from being spilled on the bends along the road, some of which had spilled out onto the adjoining footpath.

The dust from the pit heap itself had a huge impact on the day-to-day lives of the residents of Hesleden and Castle Eden. The amount of dust deposited in gardens and on houses would depend on which way the wind was blowing. Residents living in Harold Wilson Drive, Hillcrest Place, Gray Avenue and The Factory could not utilise their outdoor area fully and could not open windows of their homes. The level of dust meant that it was impossible to hang out laundry, impossible to let children play out and impossible to relax in the comfort of their homes. The inability to hang laundry out on a hot day resulted in having to use a dryer or radiators. This made living conditions unbearable in the heat but and resulted in spending of additional money at a time where there was a cost-of-living crisis and inflation was through the roof. Children could not play out because of the dust and could not use the MUGA or the field close by. This application did not promote a healthy community.

The level of dust not only impacted upon residents who lived in the streets close to the area or on the route of the lorries but also affected those who had allotments close to the site. Residents had expressed that they could not enjoy the relaxation of gardening in their allotments due to dust and the effect it had on their breathing. This was not only affecting the health of residents but also their living conditions, their leisure time and their general happiness.

This application did have an adverse effect on highway safety, impacted upon the amenity of residents, impacted upon health both directly and indirectly, impacted upon public rights of way and it adversely impacted the

living conditions of residents. It failed to promote a healthy and safe community.

Before presenting his comments Councillor Crute felt compelled to raise concerns about some rumours taking hold in the community that this planning application had already been decided. Residents had confirmed that the site operator had told anyone prepared to listen that this was a done deal.

While Councillor Crute knew this not to be the case he had concerns that those rumours circulating locally had the effect of undermining the planning process in general, but specifically they reflected a deep disrespect for the role of the Committee.

Councillor Crute set out the concerns of both local members, on behalf of local residents about the adverse impact that this development had and continued to have on the community.

Councillor Crute informed the Committee that he had submitted a letter of objection to a previous planning application at this location to the council in 2014. Many points of contention recorded at that time remained unresolved and formed the basis of objections to the current planning application.

Objections to the current planning application could be summarised in the following material planning considerations. This was simply a list of which Councillor Crute would expand on each one.

- Loss of amenity for residents, especially in Hesleden and Castle Eden
- Impact on health of dust emissions from the site
- Impact of noise and nuisance from the site
- Traffic generation and associated safety concerns
- Environmental impact on the surrounding area

Councillor Crute's comments were based on local Members own personal observations, correspondence from residents and regular contact over the years with residents from Blackhall, Hesleden and Castle Eden, all individual communities affected in one way or another by the impact of this ongoing development.

The works to remove spoil from the former pit heap in Hesleden, including preparatory works, began on site in July 2017 and since then residents and business in the area had to contend with its impact.

Traffic generation included the cumulative impact that several wagons, both empty and full, and frequently unsheeted, had when passing through the villages, leaving behind dust, mud and other debris on roads and pavements,

noise from the engines, and damage to highway surfaces and kerbstones at junctions at Gray Avenue and the Castle Eden war memorial on route to the A19 Interchange at Castle Eden.

In addition, the increased volume of traffic continued to cause concern to residents and visitors travelling between the main A19 trunk road in Castle Eden and a popular, nationally recognised holiday resort at Crimdon, and this of course had a detrimental impact on visitors from outside the area gaining safe access to the East Durham Coast which was a vital element of the council's Visitor Economy Strategy.

Residents had reported frequent dust emissions which had an impact all year round. This matter had been brought to local Members attention on a number of occasions, in correspondence, at ward surgeries at a number of local public meetings held within the past two years. The problem was reported to be particularly bad during the spring, summer and autumn months when dust was blown across the whole settlement of Hesleden, depending on the prevailing wind conditions, with dust accumulating on vehicles, on door and window ledges and clothes drying on the lines. Residents reported that during these times they were not able to leave their doors and windows open, nor were they able sit outside their homes or enjoy outdoor activities for any meaningful length of time. The site operators had given assurance that mitigation measures would be put in place, for example netting around the entrance to the site, but this had not happened.

It was also a concern that planning conditions applied to the site had not been met which led to little confidence that planning conditions from this application would be met.

It was worth noting that in terms of health deprivation Hesleden residents were ranked in the lower quartile nationally, so it was a particular concern that frequent dust emissions from the site were having an additional unacceptable and adverse impact on residents' health and on their quality of life.

Councillor Crute informed the Committee that it was noted that the development site encroached onto Hesleden Dene. Images showed a sheer drop from the working site, down an exposed limestone cliff and into the Dene itself. For many years this area had thrived as a natural habitat for birds, insects and flora and there were local concerns that this development had already had a negative environmental impact at these locations. An extension of time allowed to remove spoil from the former pit heap would continue to erode the natural habitat, regardless of potential outcomes described in the planning report.

A major concern of residents was the management and restoration of the site after works have been completed.

Before the initial planning consent was granted the developer had assured residents that the works would be completed within 20 months and that site restoration works would return the location to an improved condition compared to what it was before works commenced. Images of the site today raised concerns that those promises were unlikely to be met. This had eroded trust in the development and the development alike.

Consequently, there were genuine concerns about the developer's ability and commitment to reclaim the site following works. It was an additional concern that the developer operating the site in future may be someone different to the current operator.

Councillor Crute asked whether any evidence was available that the operator could produce to prove that they had a track record of site restoration. As things stood, based on the persistent delays to date, residents had no faith that the site could eventually be reclaimed for the long-term benefit of the community.

Finally, in acknowledging that members would require material planning considerations at hand if they were to reject this application Councillor Crute referred to the following policies which were confirmed in the case officer's report to be relevant to this instance:

Local Plan Policy 31 confirmed that development would be permitted only where it could be demonstrated that there would be no unacceptable impact on health, living or working conditions.

In addition, the same policy confirmed that development would not be permitted where inappropriate odours, noise and vibration could not be mitigated against. Testimony from residents confirmed that noise dust and dirt from the site was both constant and unacceptable.

Policy 47 suggested that development should only be permitted where the proposal would not have an unacceptable adverse impact on either the environment, human health or the amenity of local communities.

Policy 50 in respect of the working of magnesian limestone and sand proposals for new working on prominent escarpment slopes, development would be resisted in order to avoid unacceptable landscape and visual effects.

Mineral Plan Policy M37 unless it could be demonstrated that the amenity of local communities could be protected from adverse impacts of mineral

working, mineral development would not be permitted where extraction or associated activities were within 250 metres of a group of 10 or more dwellings. There were several dwellings along Gray Avenue, Front Street, Hazel Drive, Harold Wilson Drive and Hillcrest Place all within 250 metres of the site and adversely affected by ongoing works.

Mineral Plan Policy M45 referred to the cumulative impact of past, present and future workings which it was felt would have a prolonged adverse and unacceptable impact on the community.

Minerals Plan Policy M52 referred to the ability and commitment of the site operator to operate and reclaim the site in accordance with the agreed scheme. As mentioned earlier no evidence had been seen to back up the operator's claim that the site could be properly restored.

Referring to relevant emerging Policy, Policy MW1 referred to unacceptable adverse impacts on human health and the amenity of local communities, the local strategic road network and public rights of way network. These factors were considered separately in other Policies relating to noise, relating to air quality and dust and relating to transport matters, and this policy refers specifically to vehicular traffic generated by the proposed development having an unacceptable adverse impact on highway safety.

Given the concerns raised in the comments made, all of them supported by relevant material planning considerations, and in light of the unacceptable conditions residents have had to endure for many years, Councillor Crute urged, in the strongest terms, members of the Committee to reject this planning application. It had blighted the community for many years past, and the application held out nothing more than the prospect of more filth, dust, noise and disruption for many years to come.

Councillor S McDonnell addressed the Committee as a new resident of Castle Eden, having lived there for less than 3 months.

Councillor McDonnell lived in Beech Wood which ran parallel to the B1281, with a U-shaped layby immediately opposite, behind the bus stop. The B1281 was a very busy road, as it was used for commuting from the east to either north or south via the A19, or west, towards Durham and the A1.

The road had a speed restriction of 40mph but as was too often the case, there were many people driving cars, vans and lorries, who ignored the speed limit and often, in Councillor McDonnell's estimation, hit speeds that were well in excess of 50mph.

Councillor McDonnell informed the Committee that she moved into Beech Wood on 23 June and it became very apparent, very quickly how many

lorries used the road. This was not just the quarry traffic, there were a number of large HGV's using the road. The road was a B road, a country road and very uneven in places. So much so, as lorries hit certain bits of it, Councillor McDonnell's informed the Committee that her building literally jolted and the noise was incredible.

After heavy rains each carriageway, just beyond the bus stops on either side of the road, became completely flooded because of the dips in the road.

Neighbours in Beech Wood also experienced the jolt.

The layby opposite was repaired by the County Council last year, but the repair couldn't possibly have been done with the number of HGV's using it in mind because it was already in a terrible state.

The quarry was only allowed to have one lorry in as one goes out, so they parked up in the layby, As a lorry left the quarry and headed through the village they gave a blast of their horn to alert the next driver who was waiting that he was good to go.

Councillor McDonnell argued that the B1281 itself was not suitable for HGV's and certainly nothing like the number of them that used it and she dreaded to think of the impact that another 7 years of HGV's would have on her building and the homes of neighbours.

While it could be argued that this could be covered by building insurance Councillor McDonnell could not imagine the underwriters would ignore the fact that there were maybe 60 – 80 HGV's thundering past every day and especially when they felt the regular jolt.

The insurers would expect residents to claim from whichever firm is running the quarry, but as B & S Waste had recently gone into liquidation and it was a new company that had submitted this application Councillor McDonnell raised doubt at the ability or success of doing this.

Mr R McKinny, a local resident from Hesleden addressed the Committee on behalf of the local community. Mr McKinney lived near to the site and was a founding member of the No To The Quarry Action Group which had been present at all three well attended community meetings. There was unanimous objection to anything but the immediate cessation of all activity within the quarry.

Mr McKinny was also present to convey the strong emotion that existed in relation to the quarry. This was the sadness the community felt for the pollution of the natural woodland, fear for the resident's health, the annoyance of sounds of large industrial vehicles barrelling down country roads and the anger at the destruction of properties from dust from the site.

Most of all there was a sense of betrayal and injustice that this application had been submitted and was being considered. The initial planning application had been supported by the community who had been asked to write letters in support of the application because for two years work the community would be provided with a perfect green space to enjoy. The community was still waiting for this. This application was a cynical cash grab by the applicant with no concerns for the community which was damaging the health of the community.

There were community concerns about health and wellbeing and Mr McKinny considered it to be outrageous that a new HIA had not been produced since limestone was started to be mined from the quarry. Limestone was a substantially different material which had its own concerns. The National Planning Framework clearly stated that it was a concern for local authorities to ensure healthy living and a healthy environment. This quarry did not promote healthy living. Healthy living would be promoted by rejecting the application and giving the community the green space it was promised. Mr McKinny urged the Committee to reject the application.

Mr G McGill addressed the Committee in support of the application. Mr McGill informed the Committee that when he first came to County Durham, immediately after the miners strike, he was responsible for the Haswell/Hart Walkway Project and was frequently called out when this site caught fire. The site had experienced frequent combustion historically because of the volume of coal deposits under the ground. That problem remained until the site was fully restored.

The coal industry in Durham created jobs and wealth, but also noise, dust, traffic and smell and mining was responsible for the urban pattern of development of the County, including villages like Hesleden.

All of the collieries had since been closed and what remained were some of the problems of the industry such as the spoil mound at Heseleden, which was being tackled by the ongoing extraction of coal and other materials to make it safe and remove inherent risks in the ground.

The work being undertaken had never been subject to enforcement action or breach of condition and the applicant had worked closely with Council officers and the community at all times to manage risks and mitigate environmental impacts.

Materials were being removed from the site on health and safety grounds because they could not be left in the ground otherwise fires would be experienced.

Reclamation was expensive and although monies had been allocated for this, it may not happen unless complete restoration took place and these risks would remain.

The application was also about creating jobs and wealth again, and dealt with climate change issues in the process, for example it avoided the need for coal imports and production of bricks from waste material rather than extraction of new clay from the ground.

Issues and problems that arose were addressed via the Liaison Committee which last met in March 2023 and by regular exchanges with various officers in different Council services who regularly visited the site.

Vehicle movements under this application would be reduced by less than half from 44 to 20 overall.

The application delivered developer contributions and a new MUGA had been created in proximity to the site £25,000 contribution, with the last £5,000 to be paid in accordance with the completion agreement. There was a total £64,000 developer contributions already agreed to be paid.

In addition, a restoration bond had been agreed, valued at £50,000 currently and if the application was approved, another amount of nearly £175,000 to facilitate restoration at completion of the extraction, to make the site safe and this would happen.

The application brought ecology benefits with the site presenting an opportunity to create UK Biodiversity Action Plan Priority Habitats to benefit priority species. The applicant was in discussion with Durham Wildlife Trust which had expressed an interest in taking over the site and managing it in future as there was a 30 year management plan.

Some disruption had taken place locally in terms of the impacts from site operation but officers agreed that the impacts were all within acceptable tolerances and parameters.

The Senior Planning Officer informed the Committee that the issue of a HIA was discussed with the Public Health Team and Environmental Health Officers. A material change to how the site was working could trigger the need for a HIA but it was considered that simply extending the working to include limestone and sand was not a material change, the site was operating in the same way.

Concerns had been raised around monitoring and enforcement, the planning service had a dedicated monitoring enforcement officer working who only monitored minerals and landfill sites and site visits were paid for by the

developer, which funded their role. This site was visited multiple times a year by arranged visits but if any issues arose the site would be visited the same or next day.

Referring to the long term management of the site there would be 5 years of aftercare to be delivered by whoever the landowner was at the time. This application had the requirement for a s39 legal agreement to ensure the 30 year management of the site following restoration.

Councillor A Bell expressed surprise that the quarrying of lime had not triggered the need for a new HIA. Councillor Bell asked how often air monitoring was undertaken, when it was last done and what the outcomes were. Councillor Bell also sought clarity on the issue of netting which had been mentioned by the speakers.

Ms Wardle replied that she was referring to netting for alongside the MUGA which the developer had said they would provide to prevent balls going over onto the road. Councillor Crute replied that the developer had said they would put netting across the entrance to the site which never happened.

Councillor Bell added that he had attended the site visit and was amazed that at the entrance to the site there was a pile of lime dust and a pile of coal dust/spoil in an elevated position.

D Gribben, Senior Environmental Health Officer informed the Committee that monitoring was carried out on a monthly basis. The most recent results were for July from 10 July to 7 August. The parameters measured were dust deposition and dust soiling. Dust deposition was how much dust was deposited onto a surface per day. Generally, a level of 200 mg m<sup>2</sup> per day was considered a statutory nuisance. The levels had been considerably below this and for the month of July at Hillcrest was 27.8, at the Bleachery was 44.7 at Southfield Farm was 21.2 and at Johns was 35.6. Referring to dust soiling the levels at Hillcrest were between noticeable and possible complaint, with most readings being between negligible and noticeable.

Councillor Bell asked whether readings varied with seasons. The Senior Environmental Health Officer replied that generally during winter months levels reduced and levels increased during hot spells of weather. The company had installed sprinklers around the eastern boundary of the site as a way of suppressing dust.

Councillor Elmer noted that it was considered there was no need for a HIA because this application did not change from the previous application, but the materials being extracted were completely different. Limestone was an alkali and much more problematic as a dust and Councillor Elmer sought clarity on the reason for no HIA with this application.

J Hayes, Senior Environmental Health Officer replied that Public Health had determined on the HIA with some involvement from Environmental Health. Discussions had taken place with representatives from planning and Public Health. The Public Health response was that the site had been operating for some time, there had been some lime withdrawn from the site and the controls which were or could be in place would reduce the impact of any dust leaving the site. There were many sites in County Durham which quarried lime without issue. There was an environmental permit for this site and this controlled dust emissions from the site. There were process guidance notes in relation to environmental permits.

C Teasdale, Principal Planning Officer added that assessments had been undertaken in terms of noise and dust and air quality and these were key issues that had been raised. These assessments had been submitted and had been assessed by officers who had raised no particular concerns subject to appropriate mitigation conditions.

Councillor D Boyes referred to emails Members of the Committee had received regarding the financial status of the applicant and asked what weight, if any, the Committee could place on this.

The Senior Planning Officer replied that the site had been owned by the landowner throughout. The first application was submitted by Hargreaves Ltd and the landowner bought this permission back from Hargreaves. Since then the landowner had worked in partnership with another company under the name B and S Recycling Ltd, but since this application was submitted the landowner was operating solely as the landowner. There were no concerns about the Company operating the site.

Councillor Richardson asked for further details about fires at the site. Mr McGill replied that the incidence of fires had been considerably more in the past than now because coal had been removed from the site. However, there was still coal in the ground and until all of this was taken out and the ground made safe an element of risk remained.

Councillor A Bell considered the community was supportive of the initial application because of the degree of risk from the coal, but years on this risk had been reduced. Councillor Bell was asking himself why the company had diversified into lime extraction when all of the coal had not yet been removed.

The Chair then sought views of the Committee on the application.

Councillor D Boyes informed the Committee that he had sat on the Committee which determined the original application and at the time had

concerns about traffic issues and the number of HGVs using the road. At the time Councillor Boyes was also concerned about health issues regarding the amount of dust which would be produced as a result of this operation. From the representations made at the Committee it appeared that his concerns had been borne out. Councillor Boyes concern was that Environmental Health Officers considered that with mitigation processes in place the health issues would be negligible and Highways Officers considered there would not be a material increase in problems in terms of HGVs. If the Committee was to overturn officer recommendation and refuse the application he asked whether there were any material changes since 2016.

Councillor J Elmer was concerned about the application. Both at National and County level there were carbon reduction targets and the UN Secretary General had criticised the progress of the UK and other countries for not achieving their carbon reduction targets. Fossil fuels should be kept in the ground and additional extractions should not be licensed. The coal which would be extracted from this site was not high grade coal, it was very low grade coal, coal which a previous coal extractor considered unsuitable. The energy yield from this coal in relation to the amount of carbon emissions produced was as bad as it could be.

Referring to the restoration of the site Councillor Elmer informed the Committee that the existing application and the approvals relating to that existing application already required a restoration of the site. Around County Durham there were numerous disused Limestone quarries which had re-vegetated naturally to become extremely valuable wildlife habitats through plants naturally colonising on the on the floors of those quarries. In terms of restoration Councillor Elmer considered there was not much that needed to be done other than a reprofiling of the site and the areas of coal dust capped with the clay with a thick layer of magnesian limestone on top which already existed on the site. Councillor Elmer rejected the idea that the site would require an expensive restoration as all materials needed to do this were on site.

One of the objectives of the County Durham Plan, Objective 17, was low carbon to reduce the causes of climate change and support the transition to a low carbon economy. This application was far from this. Policy 31 related to amenity and pollution. The representations made demonstrated the negative impact this site had on amenity and pollution.

NPPF Policies 153 to 155 referred to planning for climate change. All of these gave the Committee the opportunity to refuse the application given the impact it would have on climate change and Councillor Elmer moved that the Committee overturn the officers recommendation and refuse the application.

Councillor C Martin, while sympathising with the views put forward, shared Councillor Boyes perspective on the application. The Committee's role was to consider applications from a planning perspective and take an objective view. Planning Policy gave significant weight to the extraction of minerals from sites and therefore the Committee needed to hit a higher bar to be able to overturn the application. Any Planning Policies used to overturn the application therefore needed to be of significant weight.

Councillor A Bell seconded Councillor Elmer's motion to refuse the application for the reasons outlined by Councillor Elmer.

Councillor K Shaw informed the Committee that he was minded to support the motion to refuse the application. The evidence provided by the working time this site had been operating was more than enough to refuse the extension of working time. Hesleden Dene ancient woodland formed barriers on three sides of the site, tree preservation orders were in place and it was in a site of high landscape value. It was within the designated Hesleden Dene Local Wildlife Site, there were protected butterflies on the site.

Councillor Boyes, while appreciating that there was a desire to refuse the application, reminded the meeting that while Environmental Health Officers, Highways Officers and Planning Officers were all recommending approval there was a danger that the Committee's decision could be overturned on appeal.

C Cuskin, Senior Regulatory and Enforcement Lawyer, sought clarity from Councillor Elmer on the reasons he was proposing for refusing the application. Councillor Elmer had mentioned Policy 31 of the County Durham Plan and the Senior Regulatory and Enforcement Lawyer understood there were two elements to Councillor Elmer's refusal, one being the threat of climate change and the other being unacceptable impacts of the scheme. The Senior Regulatory and Enforcement Lawyer expressed concern at using NPPF 153 to 155 as a reason for refusal because this related to the preparation of local plans to reduce carbon use and prepare for climate change. The Senior Regulatory and Enforcement Lawyer added that she would be more comfortable if Policy 31 was used as a reason for refusal and sought clarity on what elements Councillor Elmer thought the application unacceptable.

Councillor Elmer replied that climate change was the biggest issue to all people's health. This application was about the extraction of the most carbon emitting material which would then be burned. While NPPF 153 was about plan preparation, NPPF 154 and 155 were about carbon reduction. However, Councillor Elmer agreed that Policy 31 relating to local amenity and impacts was a stronger Policy to use for refusal.

Councillor J Atkinson informed the Committee that this application already had a load of evidence from local residents because the site had been operating for a number of years.

The Senior Planning Officer informed the Committee that should the application be refused the site would be left in its current state. From a safety point of view this would be unacceptable. Paragraphs 238 to 240 in the officer report set out an option proposed by the applicant for a basic restoration of the site of capping off the combustible material and creating a safe slope. The applicant had stated there was material on site to be able to do this but this would take time, estimated at up to 12 months. If the application was refused the Council would need to consider enforcement action to ensure restoration was delivered.

**Moved** by Councillor Elmer, **Seconded** by Councillor A Bell and

**Resolved:**

That the application be refused due to its impact on amenity and pollution contrary to Policy 31 of the County Durham Plan.

*Councillors Boyes, Higgins, Roberts, Shaw and Wilson left the meeting.*

**b DM/22/03757/FPA - Land West Of Trimdon House Lodge, Fishburn, TS21 4BA**

The Committee considered a report of the Senior Planning Officer regarding an application for the formation of a solar farm including installation of solar panels, security fencing, CCTV cameras, an internal access track, underground cabling, invertors, substations, grid connection, environmental enhancement measures and other ancillary development on land west of Trimdon House Lodge, Fishburn (for copy see file of Minutes).

The Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photograph, proposed site layout, site photographs of the existing solar panels and other site photographs. Members had previously attended a site visit.

Ms K Morgan, landowner addressed the Committee. Ms Morgan informed the Committee that she was married to Philip Morgan. Philip and his brother were the third generation to farm West House Farm, growing costs and variable markets for produce resulted in making a living and support a family on a farm of this size increasingly difficult.

The land quality of the proposed site was marginal and was now severely affected by rye grass reducing both the yield and quality of arable crops. The

rye grass was now highly resistant to herbicides which had been confirmed following analysis. This meant that the feasibility of the proposed sites to grow cereals was now borderline.

The proposed solar development was a unique opportunity to farm electricity and return fields to grass, which they were previously when the farm was operating as a dairy farm and would allow the farm business to be diversified.

Wildlife and the environment were important and sheep would be grazed around the solar panels, ensuring the land continued to be in agricultural use. Ms Morgan asked the Committee to support the application.

Mr R Hillman addressed the Committee. The West Farm Solar Project had received support from local groups including the Fishburn Flying and Shooting Clubs which would be some of the nearest neighbours to this project. Over 100 letters of support had been received and Fishburn Parish Council had voted unanimously to support the project. Discussions had taken place in the local community by holding two pre-application community open days in June 2022 and February 2023. Local residents had the opportunity to review and feedback their comments on the project and the applicant had continued to engage with the Parish Council to reach agreement on a community benefit fund that could over the 40-year life of the project deliver much needed investment of approximately £1m to the Fishburn area.

During construction the project would support around 100 jobs and throughout its operational life a further 10 to 15 roles would be created through ongoing maintenance and management. Wherever possible local labour and facilities would be used and this would contribute to economic growth within the local area. The project would deliver approximately £4m through business rates over the life of the project. There was sufficient land available to install over 40 megawatts of clean energy which was enough resource to produce nearly 60,000 megawatt hours of energy per year, equivalent to the power consumed by over twenty thousand houses. This was approximately half the number of households in the City of Durham. It was fully recognised that energy, agriculture and biodiversity were important to the UK and County Durham and by working closely with the landowners at Fishburn had have sought to deliver a balanced proposal which integrated all three land uses. It would help two farming families diversify their income from the land and over a sustained period of time reduce reliance on volatile markets and increasing fuel and fertilizer costs. County Durham had just over 36 000 hectares of land that was used for arable production. The Fishburn solar Park was 75 hectares which represented only 0.2 per cent of the arable land in County Durham. The proposal had officer recommendation for approval, had Parish Council and community support

and had been rigorously examined and tested by Council experts and found to be compliant with guidance and policy.

Councillor M Currah informed the Committee he had sought further details about the finances associated with the project and questioned whether the proposed benefit to be given back to the community was a fair amount. Mr Hillman replied that a significant level of investment was needed at the development stage which was at the risk of the applicant. The Regulatory and Enforcement Senior Lawyer advised the Committee that the profitability of the scheme was not a valid planning consideration and urged Members not take this into account when determining the application. Contributions could only be sought to make a development acceptable and in this case any proposed contribution was voluntary.

Councillor Peeke queried the lifespan of the solar panels. Mr Hillman replied that the panels would have a warranty against defects of between 12 and 15 years. The panels after 25 years produced approximately 80 to 90 percent of original capacity. There was a lot of recyclable material within the panels.

Councillor C Martin congratulated the applicant in achieving community consensus and welcomed the proposed community contribution, although he agreed this seemed to be low. Councillor Martin moved approval of the application.

Councillor J Atkinson seconded approval of the application.

**Resolved:**

That the application be approved subject to the Conditions contained in the report.