



County Planning Committee

Date Monday 11 September 2023
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies
2. Substitute Members
3. Declarations of Interest
4. Minutes of the meeting held on 4 July 2023 (Pages 3 - 10)
5. Applications to be determined
 - a) DM/22/00010/MIN - Former Colliery Spoil Heap, Hesleden, Durham (Pages 11 - 64)
Continued restoration of colliery spoil heap, including extraction, processing and export of combustible material, limestone and sand for a period of 10 years
 - b) DM/22/03757/FPA - Land West Of Trimdon House Lodge, Fishburn, TS21 4BA (Pages 65 - 102)
Formation of 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.
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
1 September 2023

To: **The Members of the County Planning Committee**

Councillor G Richardson (Chair)
Councillor A Bell (Vice-Chair)

Councillors J Atkinson, D Boyes, M Currah, J Elmer, J Higgins,
P Jopling, C Martin, M McKeon, I Roberts, A Savory, K Shaw,
A Simpson, S Wilson and S Zair

Contact: Kirsty Charlton

Tel: 03000 269705

DURHAM COUNTY COUNCIL

At a Meeting of **County Planning Committee** held in Council Chamber,
County Hall, Durham on **Tuesday 4 July 2023 at 9.30 am**

Present:

Councillor G Richardson (Chair)

Members of the Committee:

Councillors J Atkinson, A Bell (Vice-Chair), M Currah, J Elmer, J Higgins,
P Jopling, C Martin, M McKeon, I Roberts, A Savory, S Wilson, S Zair,
D Hall and B Kellett

1 Apologies

There were no apologies for absence.

2 Substitute Members

There were no substitute Members in attendance.

3 Declarations of Interest

There were no declarations of interest.

4 Minutes

The minutes of the meeting held on 6 June 2023 were agreed as a correct record and signed by the Chair.

5 DM/21/01404/FPA - Leamside Equestrian Limited, Stud And Equestrian Centre, White House Farm, Pit House Lane, Leamside, Houghton-le-Spring

The Committee considered a report of the Senior Planning Officer regarding an application for engineering operations to create a football centre incorporating the creation of 20 No grass pitches (Use Class F2), demolition of existing stable block, creation of new building to provide changing facilities, creation of car parking and widening of existing access track at

Whitehouse Farm, Pit House Lane, Leamside, Houghton-le-Spring (for copy see file of Minutes).

S France, Senior Planning Officer gave a detailed presentation of the application which included a site location plan, aerial photograph, site layout, site photographs and in-site photographs. Members had attended a site visit the previous day.

Speaking against the proposals, the Vice Chair of West Rainton Parish Council, Councillor I Diggory presented a slideshow which had been provided in advance of the meeting. The Applicant had confirmed that visitors to the Newbottle site travelled from as far away as Morpeth and Middlesbrough. To access the new site at Leamside users would have to use the A690 and exit into West Rainton village which was used as a rat run. The alternative would be to arrive at the newly installed traffic signals and whilst a welcome safety measure, they would not decrease the number of vehicles accessing the site via Station Road and Pithouse Lane.

Councillor Diggory described the existing facility at Newbottle and confirmed that it continued to have a negative impact on residents, mainly due to parking in residential streets - despite the provision of 350 parking spaces. He referred to a newspaper article in which the scheme had been described as ambitious, however only 12 out of 20 pitches would be in use, there would be less parking, and the site would only cater for players under 12. Unless there was another motive for closing, the only significant gain would be indoor training facility.

The application provided exactly the same number of pitches as the existing facility at Newbottle and 20 pitches would be constructed with only 12 in use at one time. It was reasonable to assume that if permission was granted, an extension could be sought, which had been the case at Newbottle when the number of pitches in use doubled from 6 to 12. It was also likely that the age limit on players could be extended to include 12 to 17 year olds.

Councillor Diggory suggested there would be a high number of vehicles traveling to the greenbelt site every weekend during the football season. There had been a range of responses received from various organisations, but not a single comment in support of the development. The Applicant had commissioned transport consultants who had confirmed that with no public transport provision, all access and egress would be by private vehicles. The subsequent transport plan was unreliable as it was a voluntary commitment which and could not be enforced. This had been demonstrated by the continuing issues at Newbottle.

Councillor Diggory advised that noise from the site would adversely affect residents on Carr Row. During the consultation he had suggested that the

Applicant record noise at the Newbottle site and use this as a comparison however this suggestion had not been acknowledged.

In Summary, there were material planning concerns and the Applicant had failed to respond to the local MP to investigate possible other sites. Compliance with CDP and NPPF policies had not been demonstrated.

Councillor Kellett, Local Member, agreed that the application was an intrusion on green belt. There was a lack of sustainable transport and the proposal would result in an influx of cars on match days. It would have an unacceptable impact on local residents and he fully endorsed the recommendation to refuse.

Councillor Hall, Local Member, objected to the application and remained unclear of the benefits of the scheme for the Applicant. This was a commercial development on greenbelt land with no public transport. The Parish Council had set out the issues, there was an insufficient road network with regular accidents and there were over 100 new houses being built in the local area. There was no reason why the development needed to be at this location.

Mr S Cave addressed the Committee on behalf of residents, with a slideshow which had been provided in advance of the meeting. He was pleased with the recommendation for refusal on the two grounds which had been set out in the report however he gave some insight on road safety issues which differed from that in the report. The overwhelming number of objections from local residents were due to knowledge of the road network.

Station Road and Pithouse Lane formed a busy route through the communities between the A690, the Newton Hall side of Durham and destinations to the North of Leamside. Work had started on a housing development in West Rainton with the addition of 150 new homes accessible only from Station Road. Large volumes of traffic used the route if there was a problem in the centre of Durham and thousands of extra journeys caused by this scheme would make queues and congestion more common.

There was unavoidable on-street parking on Station Road and Pithouse Lane and passing the parked vehicles requires traffic in the opposing direction to stop. The same thing occurred in Woodstone Village at the northern end of Pithouse Lane where there were also speed bumps. All other main routes to the site had bottlenecks where the road reduced to single-track and therefore it was impossible to reach the site with guaranteed free-flowing two-way traffic. There had been more accidents on Station Road and Cocken Road since the report was collated, including injuries. Two of them had resulted in each road being impassable. Parked vehicles had been damaged but were not reported or recorded in any statistics.

Mr Cave presented the Committee with an image from dashcam footage of a stationary bus on the bridge at Leamside Lane that was being passed by two large vans who had mounted the footpath. This was not a safe or adequate road. Leamside was a small village in a rural setting with agriculture, equestrianism, walking and cycling routes, set within an area of greenbelt, with no local facilities. With no public transport, access would require private vehicles. The scheme would increase traffic and cause issues similar to those reported at Newbottle. On match days noise would increase and impact on the local riding school and other riders that used the highway adjacent to the site. The roads were already busy and traffic would increase with the new housing development.

Residents supported grassroots sporting opportunities and acknowledged all that the organisation had done however, in his opinion the proposal would have a significant impact on the community and the greenbelt, with no benefits offered in return.

D Waugh, Planning Consultant, addressed the Committee on behalf of the applicant with frustration that a leisure facility that was no expense to the taxpayer was not beneficial enough to outweigh minor impact on the greenbelt or the view that people would use private vehicles to use the facility.

The minor impact on the greenbelt needed to be weighed against the benefits of the scheme. There would be an extension to a stable block to create changing facilities and increased activity caused by children aged 13 and under playing football. He referred to national issues with regards to childhood obesity and advised that the development would provide indoor pitches to help ensure games were not missed due to poor weather.

Sport England had acknowledged the value of the proposed indoor facility. There were no flood lights proposed and the noise that would be generated was by children under 13 on a Saturday and Sunday. When the benefits were weighed against the impact on the greenbelt, it was minor.

The other reason for refusal was with regards to sustainable transport. Mr Waugh confirmed that the application site was almost 35 acres and to deliver the benefits of the scheme, the site could not be disaggregated. Sites of this size were almost impossible to come by. A travel plan had been submitted and the development was 300m from the Leamside Line which had cross Parliamentary support for reopening. He struggled to see how the substantial sports and leisure benefits for County Durham, did not outweigh the minor harm of the proposed development.

Mr D Armstrong addressed the Committee as a Trustee of the Russell Foster Charitable Sports Foundation and a resident of County Durham. His children and grandchildren had benefitted from the Russell Foster leagues and he supported the proposed relocation to Leamside which would benefit future generations. He also failed to see how a leisure facility which would have no impact on the public purse was not enough of a benefit to be approved. Instead of horses, there would be boys and girls age 5 -13 and when weather was poor they would play indoors. To create an indoor facility of this size would be unaffordable otherwise. The proposal would bring a failed riding school back to life and provide much needed facilities for children. The Applicant would allow wider community use and were happy to enter into a community use agreement.

Councillor McKeon responded to the statements offered on behalf of the Applicant. She agreed with the statement that obesity was a strategic priority for the County however it was not a material planning consideration. She did not agree with the reference made to the Leamside Line. In her opinion the planning grounds made out in the report had been thoroughly considered and she was convinced by the greenbelt issue and the determination on sustainability. She had relatives who had relied on public transport to attend youth football. She also questioned why there was a proposal was for 20 pitches if they would not all be in use and moved the recommendation for refusal.

Councillor Elmer had attended the site visit and experienced the local road network. This scheme would have a significant impact on the openness of greenbelt. Protection of greenbelt was important to preserve heritage and ensure that development did not impact the city. There was a risk of losing the feeling of openness and this was a significant issue, which no special circumstances would override. Overall, the scheme would have a neutral impact on provision in the area, the nearest bus stop was some way from the site and the scheme would create car dependency. He agreed that the location was not sustainable location and that the noise and lighting associated would impact residential amenity. He seconded the proposal to refuse the application.

Councillor Atkinson confirmed that whilst he was supportive of the health benefits this scheme would bring to the County, he was curious as to how the layout of the scheme would work. He also queried whether there would be any economic benefits. Mr Waugh responded that the layout and orientation was defined by Sport England, with minimum standards. With regards to the operational aspect, the pitches were not all in use at one time and were rotated to protect the pitch from the effects of overuse. This was the reason for limiting the use to 12 at any given time.

Mr Armstrong advised that there would be a commercial element with the provision of a canteen facility to provide refreshments before, during and after games and offices would be located on the first floor. Parents paid to be Members of their local football club and the clubs paid affiliation fees for the facilities, which ensured the organisation was self-sufficient. To construct an indoor facility as large as the building on site was unaffordable for football leagues. The building on site had enough room to provide three small pitches which could be used during bad weather. The smaller outbuildings would be converted to provide other facilities. The Chair added that the cost of a similar new building of that size would be in the region of 150-200k.

Councillor Wilson noted that Sport England had not offered formal support which concerned him. Whilst he was aware of the Applicants good work, there had to be extraordinary reasons to approve an application on this site. A huge issue was the lack of bus services which would ensure that customers relied on private vehicles and there was no safe walking route.

Councillor Jopling was concerned about the level of traffic that would result from the scheme which was evident due to the amount of parking provision. There would be a lot of movement, noise and light from a development of this size and it was not a sustainable location. It would bring no economic benefit to area and only disturb local residents. The greenbelt was protected for a reason and whilst she was keen to see children playing football, this scheme would only have negative impacts, therefore she supported the recommendation.

P Harrison, Highway Development Manager confirmed that a refusal on highway safety grounds could not be sustained.

Councillor Roberts confirmed that the Applicant provided a good service, however most people had to travel by car and despite the number of parking spaces, there would always be overflow. She was not against the proposal, but she supported residents on this occasion.

Councillor Bell was also familiar with the brilliant work of the Applicant however with significant local and Parish Council objections, he could not support the case. There were road safety concerns that he could not ignore and he urged the Council to assist in finding a suitable site.

In response to a question from Councillor Zair, Mr Waugh advised that despite having their own facility in Newbottle, they also used a number of other sites which would facilitate 14-17 year olds. Mr Armstrong added that the site was simply moving from one place to another and would be able to accommodate other users such as disabled.

Councillor Savory recognised the importance of sport however the site was in wrong location and would have a significant impact on residents.

Resolved

That the application be REFUSED for the reasons outlined in the report.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/00010/MIN
FULL APPLICATION DESCRIPTION:	Continued restoration of colliery spoil heap, including extraction, processing and export of combustible material, limestone and sand for a period of 10 years
NAME OF APPLICANT:	Mr Robert Surtees
ADDRESS:	Former Colliery Spoil Heap, Hesleden, Durham
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Chris Shields, Senior Planning Officer 03000 261394, chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The village of Hesleden is located south of the B1281 Road between the A19 to the west and the A1086 Road to the east. The former Castle Eden Colliery and associated spoil heap lie adjacent to the village, immediately south of the Haswell to Hart Railway Path, now part of the Sustrans National Cycle Network. This was once a mineral railway line serving various collieries in East Durham and finally closed in 1980. The site is on the northern edge of Hesleden Dene, which links with Nesbitt Dene to become Crimdon Dene, on the northern outskirts of Hartlepool.
2. The village of Castle Eden lies approximately 1 kilometre to the west; the A19 is approximately 1 kilometre further west again and the settlement of Blackhall Rocks lies three kilometres to the north east.
3. The application site is accessed via Gray Avenue, which in turn, leads to the B1281 Road. At the corner of Gray Avenue, where it becomes Front Street, a surfaced track leads to the site. This track, which forms part of Footpath No.24 (Monk Hesleden Parish), also serves a number of smallholdings, allotments and associated buildings in different ownerships in close proximity to the site. A number of business owners have access rights along this track, including the owner of the application site. Footpath No.16 (Sheraton with Hulam Parish) runs to the south of the site, approximately 100m from the application boundary and would not be affected by the proposed development.
4. The application site is approximately 3.89 hectares and comprises the colliery spoil heap resulting from mining activities conducted in the 19th Century. The site is surrounded by woodland including the Hesleden Dene Ancient Woodland that lies

immediately to the south and forms a dense barrier on three sides. Woodlands to the west, south and east are covered by a Tree Preservation Order. The north east boundary, facing towards Hesleden, forms a less dense boundary comprising low quality scrub woodland. The land rises up to the centre of the remaining mound and falls away sharply down to the Hesleden beck on the south and south western sides of the site.

5. There is history on the site of the material combusting and requiring attendance by the fire service to extinguish the fire. As a result, prior to the commencement of reclamation works, burning material was excavated from the site and deposited in stockpiles to be extinguished and cool. Since reclamation works commenced in 2017 there have been no incidences of combustion on site, although there is evidence of burnt shale throughout the spoil heap now that it has been exposed.
6. The site lies in an Area of Higher Landscape Value as defined in the County Durham Plan The site is within the designated Hesleden Dene Local Wildlife Site (LWS) designated mainly for its former importance to dingy skipper butterflies. Hulam Fen Site of Special Scientific Interest (SSSI) is located approximately 400m to the south of the site and Castle Eden Dene SSSI and Special Area of Conservation (SAC) is located approximately 1km to the north. Durham Coast SAC and Teesmouth and Cleveland SAC are located approximately 3.3km to the east.
7. At the southern edge of the site, at the foot of the spoil heap, is the Hesleden Beck. The steep slopes of the Hesleden Dene at this point in its course limit the spread of the flood plain, nevertheless, a very small area of the site is within Flood Zones 2 and 3. In addition, the site overlies a Major Aquifer and is in a Major Groundwater Vulnerability zone as defined by the Environment Agency.
8. There are no listed buildings, Scheduled Monuments or Conservation Areas designations within the site. There are twenty five designated heritage assets within 2km of the site comprising one Scheduled Monument, one Grade II* listed building and twenty two Grade II listed buildings. Castle Eden Conservation Area lies 1km to the west. The registered Grade II parklands of Castle Eden lie around 1km to the north.

The Proposal

9. The proposed development is for the continuation of the removal of combustible material from the Hesleden Colliery spoil heap comprising of low-grade coal, shale and spoil, and in addition the extraction of deposits of sand and magnesian limestone from within and below the spoil heap. The application area of the current application is identical to that previously granted planning permission.
10. The reclamation of the Hesleden spoil heap commenced with preparatory works in July 2017 and the first extraction of combustible material occurred in January 2018. The original planning permission allowed for 2 years to complete extraction of the combustible material, and upon this timescale extraction would therefore have been due to be completed by January 2020. However, this was not the case and an application to extend the completion date for mineral extraction by 2 years was submitted in 2019.
11. The original application estimated that within the spoil heap there was approximately 278,000 tonnes (173,000m³) of combustible material. At the time that this current planning application was received in December 2021, 110,000 tonnes of combustible material had been recovered and exported off site. As the site has continued working during the determination of the application the current volume of exported combustible material totals 170,408 tonnes.

12. The original estimate of 278,000 tonnes of combustible material being within the spoil heap has been revised since working commenced and an updated geological estimate has now indicated that the total volume of combustible material in the spoil heap prior to reclamation work commencing was 410,000 tonnes. Taking into account the material that has already been removed this leaves a volume of 239,592 tonnes of combustible material remaining.
13. In addition to the original application this proposal also seeks to extract and export 125,000 tonnes of magnesian limestone and 175,000 tonnes of sand that have been found within and below the spoil heap. This material would be used for aggregate purposes. Again, works have continued during the determination of this application and to date 61,600 tonnes of limestone and 14,640 tonnes of sand have been exported from the site. This leaves 63,400 tonnes of limestone and 160,360 tonnes of sand remaining.
14. The application proposes to remove this material over a period of 9 years, however, as the site has continued to operate for the 20 months since the application was submitted the remaining time for extraction is now 7 years and 4 months. Once the combustible material, limestone and sand has been removed the site would be restored to nature conservation with the reinstatement of Footpath No.24 (Monk Hesleden Parish). Final restoration following extraction works would take a further 12 months to complete.

Working method

15. The proposed development is a continuation of works that have been underway since January 2018. The combustible material and sand to be removed from site would be selectively dug from the areas identified from the site investigation data and subsequently confirmed within the excavations and such material would be excavated and stockpiled locally for subsequent loading out to road vehicles. Stockpiles on site would contain up to a 1 week supply for export, or approximately 3,500 tonnes and would have a height of up to 5m. The stockpiles would be located on the northern side of the site, close to the site access. Material is screened on site. The remaining non-combustible material would be kept on site for use in the restoration.
16. The underlying magnesian limestone is extracted using an excavator and is soft enough to not require any blasting. The sand and combustible material are typically of a granular nature and also extracted using an excavator.
17. The sequence of extraction phases, 14 in total, began in the centre of the site and has worked outward toward the north-west corner and then in an anti-clockwise direction around the initial area of excavation before eventually working back toward the site access. The scheme has been designed in this way to deliver a progressive reduction in tip height in order to maintain maximum stability, in particular to the southern facing slope and to minimise surface water runoff.

Working hours

18. The proposed working hours for site operations, including mineral haulage, are 07:00 – 19:00 Monday to Friday, 07:00 – 12:00 Saturday with no working on Sundays or Public/Bank Holidays save in cases of emergency. Operations outside of these hours would be restricted to maintenance and pumping. These hours are identical to those previously permitted.

19. Some illumination of the site would be required, especially in the winter months, but this would primarily be in association with plant working in the void area which would be below ground level. Illumination within the stockpile areas and site office area would be lit during the hours of darkness for security purposes, as is currently required.

Traffic and access

20. An average of 20 (10 in and 10 out) HGV movements per working day are anticipated during the working period Monday to Friday with only 2 (1 in, 1 out) on Saturdays. Previously the approved HGV movements were 44 per day (22 in and 22 out) Monday to Friday and 22 (11 in and 11 out) on Saturdays. Vehicles would continue to enter and leave the site via an existing track onto Gray Avenue, approximately 380m from the junction with the B1281. Visibility splays on the junction of the B1281 with Gray Avenue were widened as part of the original planning permission. The site access road links with the site office and car parking area. Wheelwash facilities are also located in this area.
21. All HGV lorries leaving the site would turn left onto Gray Avenue then left onto the B1281 then onto the A19 as they do at present. Combustible material would be sent to cement works for electricity generation. On return to site HGVs would turn right from the B1281 to Gray Avenue then right turn into the site.
22. Additional site traffic would include vehicles moving excavation plant and other items for a short period during the final restoration phases.

Restoration

23. The purpose of the development is to remediate a colliery waste heap and therefore all works are essentially restorative in their nature. The proposal would involve removing combustible material, sand and a portion of the underlying magnesian limestone. The remaining spoil and burnt shale can be left in place to form part of the restoration. The site would be restored within 12 months of the cessation of extraction.
24. The site would be restored to primarily magnesian limestone grassland with native woodland and scrub planting on the north, east and west boundaries. Areas of wildflower sward would be developed on the northern boundary with a mix of predominantly gorse scrub and wildflower sward interspersed with large magnesian limestone blocks across the centre of the site. A limestone face would be left partially exposed on the southern slope and allowed to naturally colonise for biodiversity and geodiversity purposes.
25. The site would be subject to the statutory 5 year aftercare requirement but this would be extended to provide long term biodiversity management. The aftercare period would commence following the completion of restoration works.
26. 14.5 full time equivalent jobs (6 full time, 17 part time) would be retained for the duration of the scheme plus 4 part time jobs. The applicant has proposed a community fund equivalent to 15p per tonne of combustible material and 5p per tonne for limestone and sand (this could provide around £62,600 during the life of the site including monies that have already been delivered) to help fund local projects. This would be administered through the existing community fund liaison committee. A separate site liaison committee also exists that provides a forum for the operator and community representatives to engage with each other about site related issues, activities and concerns.

27. The application is accompanied by an Environmental Statement (ES) as it is considered an Environment Impact Assessment (EIA) development having regard to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). An addendum to the ES has also been submitted. This report has taken into account the information contained in the ES, an addendum to ES, further environmental information and information arising from statutory consultations and other responses.
28. This planning application is being reported to the County Planning Committee because it involves major minerals development.

PLANNING HISTORY

29. Planning Permission No. DM/14/00519/MIN was granted in 2016 for the reclamation of former colliery spoil mound to extract coal spoil, reprofiling of mound on completion of works and landscaping works. This permission allowed 24 months for working and restoration of the site.
30. The original planning permission was subsequently varied under Planning Permission No. DM/19/02315/VOCMW for the variation of Condition 6 (Time limit for mineral extraction) of Planning Permission DM/14/00519/MIN for extension of time of mineral extraction until January 2022. This permission allowed for a 2 year extension of time for working and restoration of the site until January 2022. This permission also allowed for the export of 4,000m³ of limestone.

PLANNING POLICY

NATIONAL POLICY

31. A revised National Planning Policy Framework (NPPF) was published in July 2021. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
32. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
33. *NPPF 2 – Achieving Sustainable Development* – The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
34. *NPPF Part 6 – Building a Strong, Competitive Economy* – The Government is committed to securing economic growth in order to create jobs and prosperity, building

on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

35. *NPPF Part 8 – Promoting Healthy and Safe Communities* – The planning system can play an important role in facilitating social interaction and creating healthy, inclusive and safe communities. Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and community facilities and services should be adopted.
36. *NPPF Part 9 – Promoting Sustainable Transport* – Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
37. *NPPF Part 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change* – The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
38. *NPPF 15 – Conserving and Enhancing the Natural Environment* – The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, site of biodiversity or geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
39. *NPPF Part 16 – Conserving and Enhancing the Historic Environment* – Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
40. *NPPF Part 17 – Facilitating the Sustainable Use of Minerals* – It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

41. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; listed air quality; climate change; determining a planning application; flood risk and coastal change; healthy and safe communities; historic environment; land affected by contamination; land stability; light pollution; minerals; natural environment; noise; planning obligations; travel plans, transport assessments and statements; use of planning conditions; water supply, wastewater and water quality

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan (October 2020)

42. *Policy 10 – Development in the Countryside* – States that development in the countryside will not be permitted unless allowed for by specific policies within the Plan or within an adopted neighbourhood plan relating to the application site or where the proposed development relates to the stated exceptions.
43. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources* – States that development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. Development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
44. *Policy 21 – Delivering Sustainable Transport* – Requires planning applications to address the transport implications of the proposed development. All development shall deliver sustainable transport by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings.
45. *Policy 25 – Developer Contributions* – advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
46. *Policy 26 – Green Infrastructure* – States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
47. *Policy 31 – Amenity and Pollution* - Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that the development can be effectively integrated with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised to an acceptable level.
48. *Policy 32 – Despoiled, Degraded, Derelict, Contaminated and Unstable Land* – requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.

49. *Policy 35 – Water Management* – Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development.
50. *Policy 39 – Landscape* – States that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse landscape and visual impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities of the landscape, unless the benefits of the development clearly outweigh its impacts. Development proposals should have regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy and contribute, where possible, to the conservation or enhancement of the local landscape.
51. *Policy 40 – Trees, Woodlands and Hedges* – States that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.
52. *Policy 41 – Biodiversity and Geodiversity* – Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as well as biodiversity net gains. Proposals are expected to protect geological features and have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitat(s) will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
53. *Policy 42 – Internationally Designated Sites* – States that development that has the potential to have an effect on internationally designated site(s), either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.
54. *Policy 43 – Protected Species and Nationally and Locally Protected Sites* – States that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.
55. *Policy 44 – Historic Environment* – Requires development proposals to contribute positively to the built and historic environment. Development should seek opportunities

to enhance and where appropriate better reveal the significance and understanding of heritage assets.

56. *Policy 47 – Sustainable Minerals and Waste Resource Management* – States that the development of a sustainable resource economy in County Durham will be promoted, encouraged and facilitated by encouraging all proposals for mineral extraction to minimise the amount of mineral waste produced in extraction, handling, processing and stockpiling; and to maximise the potential for mineral waste to be used in recycling or on-site restoration and encouraging and permitting the concurrent working of two or more minerals from the same site provided that the operation or restoration of the site is not prejudiced or significantly delayed, the overall proposal remains acceptable and does not have an unacceptable adverse impact on either the environment, human health or the amenity of local communities.
57. *Policy 49 – Primary Aggregates Provision* – States throughout the plan period a steady and adequate supply of primary aggregates will be maintained.
58. *Policy 50 – Locational Approach to Future Supply of Primary Aggregates* – States that as far as practical, the main focus of aggregate working over the Plan period should fall outside of and not adversely affect the North Pennines Area of Outstanding Natural Beauty (AONB), the County Durham Heritage Coast, or upon the county's Parks and Gardens of Special Historic Interest, Historic Battlefield, Conservation Areas and Scheduled Monuments. In addition, due to the protection afforded to them new aggregate working will be strongly resisted in locations which either contain or could adversely affect internationally and nationally designated sites and irreplaceable habitats. Proposals in or affecting any designated or defined area, site or habitat will be required to meet relevant Plan policies. In respect of the working of magnesian limestone and sand proposals for new working on prominent escarpment slopes will be resisted in order to avoid unacceptable landscape and visual effects
59. *Policy 51 – Meeting Future Aggregate Requirements* – States that over the Plan period it is anticipated that the majority of the future needs for both crushed rock aggregate and sand and gravel aggregate working will be met through the working of existing permitted reserves and through the working of sites allocated as strategic sites within the Plan or, if needed, through the working of non-strategic sites allocated in Minerals and Waste Policies and Allocations Document. Proposals for new or extended aggregate workings on land not allocated within the Plan or as a non-strategic sites in Minerals and Waste Policies and Allocations Document will be permitted subject to appropriate planning conditions where the need for the additional mineral working can be adequately demonstrated, the planning benefits of the proposal, including economic considerations, clearly outweigh and planning objections, the proposal accords with the future supply of primary aggregate minerals and it can be demonstrated that there will be no unacceptable adverse impacts on the environment, human health or the amenity of local communities.
60. *Policy 53 – Surface Mined Coal and Fireclay* – states that proposals for the extraction of coal and/or fireclay should not be granted permission unless they meet with a series of criteria to demonstrate either the environmental acceptability of the development or provide national, local or community benefits which clearly outweigh the unacceptable adverse impacts of the proposal.

COUNTY DURHAM MINERALS LOCAL PLAN (DECEMBER 2000) [MLP] POLICY:

61. *Policy M37 – Stand off distances* – states that unless it can be demonstrated that the amenity of local communities can otherwise be protected from the adverse impacts of

mineral working, mineral development will not be permitted where the extraction or associated activities are within 250 metres of a group of 10 or more dwellings.

62. *Policy M38 – Water Resources* – states that if a proposal for mineral development would affect the supply of, or cause Yes contamination to, underground, or surface waters, it should not be permitted unless measures are carried out as part of the development to mitigate those impacts throughout the working life of the site and following final restoration.
63. *Policy M42 – Road traffic* – states that mineral development will only be permitted where the traffic generated can be accommodated safely and conveniently on the highway network and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable.
64. *Policy M43 – Minimising traffic impacts* – requires that planning conditions should be imposed, and planning obligations or other legal agreements sought, to cover a range of matters such as routeing of traffic to and from the site, highway improvements or maintenance, prevention of the transfer of mud and dirt onto the public highway and operating hours of lorry traffic to and from the site.
65. *Policy M45 – Cumulative impact* – requires that when considering proposals for mineral development the cumulative impact of past, present and future workings must be considered and states that planning permission will not be granted where the cumulative impact exceeds that which would be acceptable if produced from a single site under the relevant policies of the Plan.
66. *Policy M46 – Restoration conditions* – indicates that conditions will be imposed, planning obligations or other legal agreements sought as necessary to cover a range of issues relating to the satisfactory restoration of minerals sites.
67. *Policy M47 – After uses* – provides advice in relation to proposals for the after use of mineral sites.
68. *Policy M52 – Site management* – states the ability and commitment of the intended operator to operate and reclaim the site in accordance with the agreed scheme will be taken into account.

NEIGHBOURHOOD PLAN:

69. There is no Neighbourhood Plan for this area.

RELEVANT EMERGING POLICY:

COUNTY DURHAM MINERALS AND WASTE POLICIES AND ALLOCATION DOCUMENT (PUBLICATION DRAFT PLAN NOVEMBER 2022)

70. *Policy MW1 – General Criteria for Considering Minerals and Waste Development* – This policy is permissive towards proposals where it can be demonstrated that they will not result in individual or cumulative unacceptable adverse impacts on human health and the amenity of local communities, the environment of County Durham (including its landscape, biodiversity and geodiversity, historic environment, surface and groundwater, flood risk, the best and most versatile agricultural land and soil resources), the local and strategic road network and public rights of way network, upon climate change, land stability and also aviation safety.

71. *Policy MW3 – Benefits of Minerals Extraction* – States that in determining planning applications for minerals extraction, including extensions of time to existing sites to allow full recovery of permitted reserves, great weight will be given to the benefits of mineral extraction.
72. *Policy MW4 – Noise* – This policy seeks to protect the environment and the amenity of local communities, minimise future complaints by requiring the proposed operator, to demonstrate how they propose to minimise, mitigate and whenever possible remove noise emissions at source. The policy is permissive where the operator can demonstrate that noise levels, subject to specific circumstances which may justify some small variation do not give rise to an unacceptable impact at specifically identified noise-sensitive properties and locations. Guidance on noise limits during normal working hours (07:00 to 19:00), during the evening (19:00 to 22:00), during the night time period (22:00 to 07:00), upon tonal and peak noise and noisy short term activities is provided.
73. *Policy MW5 – Air Quality and Dust* – This policy states that proposals for mineral and waste development will only be permitted where it can be demonstrated that the proposed development will not have an unacceptable adverse impact either individually or cumulatively on the environment, local amenity or human health through the emission of one or more air quality pollutants or which would result in adverse impacts on air quality, on an Air Quality Management Area within the County or as a result of dust emissions.
74. *Policy MW7 – Traffic and Transport* – This policy sets out that the transport implications of proposals of must be assessed through the use of a transport assessment or a transport statement. That proposals should always seek to maximise the use of sustainable forms of transport and minimise greenhouse gas emissions where opportunities exist and are practicable and economic. That proposals will be permitted where it can be demonstrated that: they provide safe and suitable access for all employees and visitors which optimises where practicable the use of public transport, walking and cycling; and that vehicular traffic generated by the proposed development does not have an unacceptable adverse impact on highway safety on the strategic or local road network. It also addresses the use of planning conditions, obligations or legal agreements including in relation to the number of lorry movements, their operating hours and routeing, highways improvements and maintenance, the prevention of dust and dirt onto the public highway.
75. *Policy MW19 – Water Resources* – This policy states that development which could adversely affect the quality or quantity of surface or groundwater will be required to demonstrate no unacceptable impact on the water resources both for the proposed site and the surrounding area including the water resources required for operations.
76. *Policy MW20 – Mineral Site Restoration, Landfill and Landraise* – This policy set out that proposals must include an appropriate scheme for the restoration, after-use and aftercare for the site. Proposals will be permitted where it can be demonstrated that they: deliver high quality restoration appropriate to the site and its surroundings; minimise harm to acceptable levels and are carried out at the earliest opportunity and are progressive in nature where this can reduce impacts; are designed to mitigate the effects of the development in that location and provide appropriate environmental enhancements (including where appropriate (deliver climate change adaptation and mitigation measures; provide benefits to geodiversity; enhance the character and distinctiveness of the local landscape; enhance or reveal the significance of heritage assets, historic character and the archaeology of the site; provide improved public access and recreation and assist in the delivery of all relevant plans and strategies); deliver net gains to biodiversity; provide for the aftercare of the site; make best use of

onsite materials for restoration purposes; and are feasible in technical and economic terms and the operator is capable of, and committed to, their delivery.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham> (Adopted County Durham Plan and County Durham Minerals Local Plan) <https://consult-durhamcc.objective.co.uk/file/6185265> (Publication Draft County Durham Minerals and Waste Policies and Allocations Document)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

77. *Castle Eden Parish Council* – objects to the proposal due to the further adverse effect on traffic generation and highway safety. It is also stated that the roads and footpaths on part of the route through Castle Eden are in a terrible state of repair the increased traffic will only exacerbate the problem.
78. *Monk Hesleden Parish Council* – objects to the proposal and raises concerns in respect of highway safety, rights of way, noise, dust, health, viability of the operator to restore the site and concerns that the site will not be restored and that the proposed restoration bond will be insufficient to restore the site in 10 years time due to inflation.
79. *Highway Authority* – has raised no objections to the proposal. Officers have noted that longer timescale is due to a reduced number of daily HGV movements, that being 20 per day Monday to Friday and 4 on Saturday compared with the previously approved level of 44 and 22, respectively. Officers have advised that due to the elapsed time since the commencement of the site and the conducting of the road condition assessment, another assessment should be undertaken and a further one during the term to identify any deterioration of the road. The scope of which can be identified as part of an agreement under Section 59 of The Highways Act 1980. Any defects should be rectified to help reduce the possibility of noise generated by HGVs. Conditions in respect of highways from the previous planning permission should be reiterated and the limit on HGV movements amended to reflect the proposed reduction in daily movements. Officers have noted that the personal injury accident records have been assessed for the period since the site has been operational and reveal that there have been no incidents involving HGVs along the haul route.
80. *Environment Agency* – has raised no objections to the proposal subject to conditions being imposed in respect of ground contamination in order to meet the requirements of the NPPF. Advice is also provided in respect of contaminated land, amenity impacts and waste permits and discharge consent.
81. *Natural England* – has raised no objections to the proposal and has not requested any conditions be imposed. Natural England notes that the Hulam Fen SSSI is located in close proximity to the site. However, considers that provided the development is carried out in accordance with the details as submitted it will not damage or destroy the interest features of the SSSI. Further advice is also provided in relation to protected species, soils and reclamation, biodiversity enhancements and green infrastructure potential.
82. *Coal Authority* – has raised no objections to the proposal and have not requested any conditions be imposed.

83. *Drainage and Coastal Protection (Lead Local Flood Authority)* – has raised no objections to the proposals. Officers have reiterated their comments from the original application in that the any surface water discharge from the drainage system to an outfall should be restricted to greenfield run-off in accordance with the Interim Code of Practice (ICP) mean annual flood (QBAR) rural calculation.

INTERNAL CONSULTEE RESPONSES:

84. *Spatial Policy* – has raised no objections to the proposed development. Officers identify the key planning policies and their current status relevant to the consideration of this proposal. Comments also highlight any policy related material considerations relevant to the consideration of this proposal in terms of national policy, guidance and locally derived evidence bases. Officers consider that the key determining factors are consideration of impacts to the environment, health and amenity of local communities, removal of combustible material, ensuring the timescales allow for high quality site working and restoration and ensuring that the operator is able and committed to operate and restore the site in accordance with any agreed scheme.
85. *Archaeology* – has raised no objections to the proposals.
86. *Design and Conservation* – has raised no objections to the application. Officers have commented that any impacts on cultural heritage would be equivalent to those previously accepted, irrespective of any proposed extension of time or extraction of additional materials. The spoil mound is stated to have no heritage significance and its reclamation would have no impact on nearby designated assets.
87. *Landscape* – has raised no objections to the proposals. Officers have commented that the proposals would not give rise to significant landscape or visual effects, relative to practical alternative strategies for completing the remediation of the land, other than in respect of the extended period of site operations. The restoration strategy is broadly appropriate. The final profile of the limestone face and land immediately above would need further detailed consideration to ensure that it is both safe and naturalistic in appearance. That detail would need to be agreed at an early enough stage to ensure that sufficient material was left in situ to achieve those objectives.
88. *Ecology* – has no objections to the proposals. Officers have commented that the restoration of this site presents an opportunity to create UK Biodiversity Action Plan Priority Habitats that will benefit Priority Species. Officers are also satisfied that the restoration plan is delivered at a later date once the final topographic details are known when the spoil and sand are removed, and the limestone cliff exposed.
89. *Environmental Health and Consumer Protection (Nuisance Action)* – has raised no objections to the proposals. Officers have commented that, following the submission of additional information in relation to noise and dust, and that provided the noise and dust action plans are followed as prescribed, there should be adequate controls in place to prevent noise and dust from site operations negatively impacting sensitive receptors. Officers have also recommended that conditions be imposed to secure noise and dust action plans and also in respect of operating hours, HGV movements and wheel cleaning facilities. Advice is also provided to the operator in respect of environmental permitting.
90. *Environmental Health and Consumer Protection (Air Quality)* – has raised no objections to the proposals. Officers have noted the submission of an Air Quality Assessment, Dust Action Plan and Planning Statement and the mitigation measures recommended within. Officers have commented that the mitigation measures

including damping of haul roads and stockpiles, dust netting and site shutdown, can be secured by planning condition.

91. *Environmental Health and Consumer Protection (Contaminated Land)* – has raised no objections to the proposals. Officers recommend that conditions associated with ground conditions, land contamination and water from planning permission DM/14/00519/MIN be repeated for this proposal. An informative is recommended in respect of any unexpected contamination that may be found during the working of the site.
92. *Public Health* – has raised no objections to the proposals. Officers have provided advice in respect of public health considerations and health impact assessments (HIA). Officers have, however, commented that an HIA might only be relevant in circumstances where there is a material change to the operation in question. If this is not the case, an HIA is not likely to add further benefit at this stage.
93. *Access & Rights of Way* – has raised no objections to the proposals. Officers have commented that Footpath No.24 (Monk Hesleden Parish) runs through the middle of the site, and it is noted that the request for an improved surface has been acknowledged. Officers note that Footpath No.24 would be reinstated on its legal line following restoration and it is suggested that providing connectivity with Footpath No.16 (Sheraton with Hulam Parish) would improve the public rights of way network. The options for footpath connectivity would be most appropriately dealt with by way of detailed restoration details, to be submitted at a later stage in the development of the site through planning condition.
94. *Countryside* – raise no objection advising officers have no concerns regarding the extension of the approval to allow for further removal of material. However, the development extension provides the opportunity for further improvement of the Hart to Haswell Railway Path, a valuable local community asset, and one which provides a convenient off-road link to the east and further north. Officers suggest a contribution to improving the path surface, drainage and access infrastructure would be appropriate to bring significant benefit to local users and provide well needed investment to the network.

PUBLIC RESPONSES:

95. The application has been advertised in the press, by site notices and neighbour letters were sent to 579 properties in the Hesleden and Castle Eden area. 61 objections have been received from individuals in response to the application from the local area.
96. A residents group (Hesleden No To The Quarry) has been established in opposition to the application. The group has organised public meetings, one of which was attended by a representative of the applicant and Council Planning officers. The group has periodically corresponded with the Council to request updates on determination of the application and also to report concerns regarding the operation of the site as well as queries in relation to the planning application.
97. As per the original application, many objections raise the issue of highway safety and traffic. References are specifically made to the impact upon the residential amenity of roadside communities, particularly Gray Avenue in Hesleden, the limited eastbound visibility at the junction of Gray Avenue and the B1281 and the narrowness of the roads from Hesleden to the A19. Concerns have also been raised in relation to mud being deposited on the highway from vehicles exiting the site that may cause accidents. Within the wider area objectors have stated that HGV movements on the B1281 are

causing cracks to appear in the walls of property, damage to the highway itself and HGV's travelling on the road from as early as 5:30am.

98. Air quality and noise from the development have been raised as issues by most objectors, particular in relation to health risks from PM2.5 particles released from vehicle emissions and noise from vehicles disturbing residents, as mentioned above.
99. The impacts from the development upon the flora and fauna present on the site, particularly the loss of mature trees and the resultant change to the landscape has been raised as an issue.
100. The impact of HGV's accessing and exiting the site across the Haswell to Hart Railway Path has been raised by many objectors as it is considered that the path would be damaged by this activity. There is also concern that vehicles crossing the path would cause disruption to users including walkers, cyclists and horse riders.
101. It has been stated that no work has been done to remove the spoil heap and only other minerals have been extracted.
102. It has been stated that the proposed restoration bond is insufficient in relation to the value of the site.
103. The location of the development in proximity to the village of Hesleden, residential properties, the village green and the recently built Multi-Use Games Area (MUGA).
104. Other issues that have been raised include impact upon Human Rights in respect of impact to residential amenity, devaluation of residential properties and an assertion that the site operator is not disclosing financial information relevant to the application.
105. *Local Members – Councillors Rob Crute and Stacey Deinali (Blackhall)* – both object to the proposal due to loss of amenity for residents in Hesleden and Castle Eden, impact on health and dust emissions from site, impact of noise and nuisance from the site, traffic generation and associated safety concerns and the environmental impact on the surrounding area.

APPLICANT'S STATEMENT:

106. DRS Land Regeneration Ltd. are currently remediating a former Colliery Spoil Heap at Hesleden, County Durham to restore the site as an area of potential significant ecological and geological interest and following a positive Pre Application response the applicant is seeking an extension of time to complete the works which were delayed during COVID.
107. The Remediation was required as the site had a history of spontaneous burning of the highly combustible material which is present. The site was also experiencing ongoing slope stability problems with a potential for further large scale slope failure that could affect the integrity of Hesleden Burn. Historically, the site was renowned for episodes of trespass and anti-social behaviour relating to the abuse of drink and drugs and represented a great concern to local residents and surrounding landowners.
108. The remediation scheme provides for the recovery of an estimated 410,000 tonnes of highly combustible material, 125,000 T of limestone and 175,000T of Sand. The site will be progressively restored to include ecological and geological enhancements which will be followed by appropriate aftercare.

109. The scheme has been subject to a full and rigorous independent Environmental Impact Assessment (EIA) which has resulted in the production of a comprehensive Environmental Statement (ES).
110. The results of the EIA together with the views of statutory consultees, many of whom support this application, demonstrate that the scheme is acceptable in environmental terms.
111. The principle objectives and benefits of the site remediation are as follows:
- Remove the current health, safety and environmental risk posed by the spontaneous burning of the combustible material within the site and the risk posed by slope instability, which threatened Hesleden burn.
 - Recovery of an estimated 410,000 tonnes of combustible material, for use in the building sector for creation of housing bricks and recovery of limestone and sand for the building and highways sector for use as aggregate.
 - Remediation and improvement of the local environment
 - Provision of an area of conservation and ecological and geological interest with the creation of habitat suited to the Dingy Skipper butterfly.
 - Provision of local jobs directly, and also indirectly through the provision of goods and services.
 - Provision of Developer contributions to the local community – current funds have assisted the construction of a Multi Use Games Area (MUGA) for the locals at the entrance to the site.
112. We note that there has been a level of objection from certain local residents (which is normal with such schemes). However it is pleasing to note that the proposals have also generated levels of support given that the proposal will provide a once and for all solution to the environmental and safety issues associated with the Colliery Spoil Heap. No statutory consultee has objected to the scheme.
113. In 2021 we have recorded the recolonisation of Dingy Skipper (*Erynnis tages*) butterflies on a part of the site. Together, the geological and ecological importance of this site is fast becoming clear and it is our opinion that in the near future the site will need further assessment to determine its importance in a local, district, county and regional scale.
114. Taking all the above matters into account, it is concluded that the scheme with the proposed mitigation accords with planning policies, offers benefits to the local community and the environment and is acceptable in environmental terms. DRS Land Regeneration Ltd., respectfully request that the application is approved.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

115. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, residential amenity (including noise, air

quality, dust and health, lighting and vehicle movements), contamination and land stability, access and traffic, landscape and visual impact, cultural heritage and design and conservation, ecology and nature conservation, flood risk and drainage, public rights of way, soils and agriculture, cumulative impact, alternatives, legal agreements, other matters and public sector equality duty.

Principle of the development

116. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) and the remaining saved policies of the County Durham Minerals Local Plan (MLP) comprise the statutory development plan relevant to this proposal and are the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The MLP was adopted in 2000 and was intended to cover the period to 2016. However, NPPF Paragraph 219 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. The CDP replaces the principle policies of the MLP with the remaining saved policies set out in the Policy section above.
117. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
118. The Council has an up-to-date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (Paragraph 11 c). It is considered that the key Policies for determining the principle of this application are CDP Policies 47, 49, 50 and 51. Accordingly, Paragraph 11(d) of the NPPF is not engaged by virtue that the most important and relevant policies within the CDP are considered to be consistent with the NPPF and are up to date. There are also a number of applicable environmental protection policies both within the CDP, MLP and the NPPF which are considered below.
119. A minerals and waste specific development plan document is being prepared to complement the strategic minerals and waste and environmental policies of the CDP. Once it is adopted all remaining saved MLP and County Durham Waste Local Plan policies will lapse. Consultation commenced on the Publication Draft Minerals and

Waste Policies and Allocations Document (M&WDPD) on 28 November 2022 and ended on 13 January 2023. The M&WDPD is at an advanced stage of preparation and will be submitted for examination in July 2023. There are relatively few and no significant objections to its policies (other than for the non-allocation of additional sites for mineral working and waste disposal). Given these circumstances, in accordance with NPPF Paragraph 48 it is considered that limited weight can be currently attached to its provisions. This weight will increase as the M&WDPD progresses beyond examination (subject to a favourable Inspector's Report) and is subsequently adopted.

120. Emerging policies MW1 and MW3 are also relevant to the consideration of the principle of this development. There are also a number of applicable environmental protection policies within the M&WDPD which are considered below.
121. The opening paragraph of CDP Policy 10 states that development in the countryside will not be permitted unless allowed for by specific policies in the Plan. These specific policies are set out in footnote 54 (of the CDP) and includes all applicable policies relating to minerals and waste development. As this is a minerals development it is considered that the development could be allowed for by specific policies in the plan (CDP Policies 47, 49, 50 and 51). The development therefore does not have to demonstrate an exception to CDP Policy 10, but the acceptability criteria are engaged.
122. CDP Policy 10 states that new development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for, result in the merging or coalescence of neighbouring settlements, contribute to ribbon development, impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for, be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport, be prejudicial to highway, water or railway safety; and impact adversely upon residential or general amenity. Development must also minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding; and where applicable, maximise the effective use of previously developed (brownfield) land providing it is not of high environmental value.
123. The development would not result in the coalescence of settlements or adversely impact on the townscape of neighbouring settlements. The proposals would also not constitute ribbon development.
124. The site is mainly within flood zone 1 with a small area in flood zones 2 and 3. However, the development is not of a type that is sensitive to flooding and the effective widening of the flood plain would not increase the offsite risk of flooding. The purpose of the development is to restore a former colliery spoil heap with the resultant benefit of producing aggregates for local markets and providing a combustible fuel for cement works. Whilst this would not directly combat climate change it would make a small contribution towards reducing importation and/or extraction of virgin fossil fuels.
125. The proposed development would involve the continuation of the removal of combustible material from a historic colliery spoil heap with subsequent restoration to nature conservation and amenity use. The original submission was for the removal of combustible material with the extraction and removal of a limited amount of 4000m³ limestone from the site being permitted in 2021. This current planning application seeks to continue the extraction of combustible material but also the removal of

incidental sand and additional limestone from an outcrop below the spoil heap. The extraction and export of limestone and sand is currently taking place.

126. The combustible material subject of this proposal was previously mined and discarded as it was presumably deemed unsuitable for purpose at the time of extraction from the former colliery. However, it is now possible to use this material for cement works, and other coal fuelled industries. This previously could have been used for power stations but none remain that require a coal supply. As the coal has already been extracted and is effectively stored in a waste heap the proposed development is not considered to be surface coal mining and therefore should not be assessed as such. CDP Policy 53 is therefore not applicable as this is specific to surface mined coal and fireclay.
127. CDP Policy 47 states that the development of a sustainable resource economy in County Durham will be promoted, encouraged and facilitated by encouraging all proposals for mineral extraction to minimise the amount of mineral waste produced in extraction, handling, processing and stockpiling; and to maximise the potential for mineral waste to be used in recycling or on-site restoration and encouraging and permitting the concurrent working of two or more minerals from the same site provided that the operation or restoration of the site is not prejudiced or significantly delayed, the overall proposal remains acceptable and does not have an unacceptable adverse impact on either the environment, human health or the amenity of local communities.
128. Paragraph 5.485 of the CDP explains that minerals are a finite natural resource and can only be worked where they found. In order to support their sustainable management and long term conservation it is essential to make best use of them through: providing for a steady and adequate supply of minerals including aggregates and industrial minerals to provide the infrastructure, buildings, energy and goods that the country needs; encouraging the conservation of minerals through the efficient extraction of minerals and the reduction and productive use of mineral waste; encouraging the concurrent working of minerals where two or more minerals naturally occur. It is noted that the applicant advise that the suitability of the aggregate has been confirmed by geotechnical testing.
129. The proposal seeks the recovery of colliery waste and the concurrent working of minerals including sand and magnesian limestone. The main purpose of the development is to recycle mineral waste, therefore reducing waste on the site. Residual waste within the spoil heap would be retained for site restoration. The proposal would also involve the concurrent working of sand, limestone and combustible material. The proposal, as a whole, would significantly extend the life of the development from the original exportation of 278,000 tonnes of combustible material over a 24 month period. However, this is mainly due to a combination of additional combustible material being found following ongoing works at the site and a much slower export rate than what was originally envisioned. The extraction of limestone and sand would enhance the restoration of the site by providing exposed limestone outcrops whilst also preventing sterilisation of the mineral resource. The impacts of the development in respect of the environment, human health and the amenity of local communities are considered below. Subject to the proposal being acceptable in relation to these criteria it would accord with CDP Policy 47.
130. CDP Policy 49 seeks to ensure that throughout the Plan period a steady and adequate supply of primary aggregates will be maintained. Criterion b) advises that given the extent of existing permitted reserves of magnesian limestone and dolerite the presumption within the Plan is that no further provision will be required over the Plan period. However, the key decision making policies relating to aggregates in the CDP are policies 50 and 51. In this case, the relatively low volumes of sand and limestone (compared to dedicated quarries in the County) would mean that the winning and

working of aggregate from the site would make only a minimal contribution to supply. Therefore, whilst the plan advises that no further provision of magnesian limestone is required CDP Policy 49 is permissive and does not resist additional reserves. The proposal would therefore not draw support from CDP Policy 49 but would also not conflict with it.

131. CDP Policy 50 provides locational guidance and advises upon the designations that as far as practical the main focus of aggregate working over the Plan period should fall outside of and not adversely affect and also requires that proposals in or affecting any designated or defined area, site or habitat will be required to meet relevant Plan policies. In relation to magnesian limestone and sand it advises that proposals for new working on prominent escarpment slopes will be resisted in order to avoid unacceptable landscape and visual effects. The application site is outside of the North Pennines Area of Outstanding Natural Beauty (AONB), the County Durham Heritage Coast, the County's Parks and Gardens of Special Historic Interest, Historic Battlefields, Conservation Areas and Scheduled Monuments and is sufficiently removed from these designations to not have an adverse effect in accordance with CDP Policy 50.
132. The application site is, however, located within an Area of Higher Landscape Value (AHLV) and a Local Wildlife Site (LWS), however, these designations are not specifically restricted by CDP Policy 50 and the development should be assessed against the relevant policies (CDP Policies 39 and 43, respectively). The policies are addressed later in this report.
133. CDP Policy 51 states that proposals for new or extended aggregate workings on land not allocated within the Plan or as a non-strategic sites in Minerals and Waste Policies and Allocations Document will be permitted subject to appropriate planning conditions where the need for the additional mineral working can be adequately demonstrated, the planning benefits of the proposal, including economic considerations, clearly outweigh and planning objections, the proposal accords with the future supply of primary aggregate minerals and it can be demonstrated that there will be no unacceptable adverse impacts on the environment, human health or the amenity of local communities.
134. Emerging Policy MW3 states that in determining planning applications for minerals extraction, including extensions of time to existing sites to allow full recovery of permitted reserves, great weight will be given to the benefits of mineral extraction.
135. The proposed development would permit the extraction of limestone and sand in addition to the established extraction of combustible material and would therefore constitute new aggregate working. Within County Durham existing permitted reserves of crushed rock, which include magnesian limestone, are more than sufficient to meet long term need and maintain a ten year crushed rock landbank, although through recent forecasting further sand and gravel provision is now recognised as being required to maintain a steady and adequate supply and maintain a seven year sand and gravel landbank. However, given the limited quantities of potential aggregate that could be extracted from the site it is considered that the proposal would have a negligible impact and would not prejudice the steady and adequate supply of aggregates.
136. The benefits of the development include the continued supply of combustible material for industry and energy generation, supply of aggregates, continued employment for 6 full time and 17 part time jobs (14.5 full time equivalent), indirect economic benefit to local shops, services and suppliers. The completed restoration of the site would remove a potential safety and fire risk, improve local amenity and provide biodiversity

net gain. The impact of the development in respect of the environment, human health and amenity is assessed later in this report and a balance of harm and benefits will be undertaken. In principle it is considered that the proposal would accord with CDP Policy 51 and emerging Policy MW3.

137. Paragraph 217 of the NPPF states that permission should not be granted for the extraction of coal unless the proposal is environmentally acceptable, or can be made so through conditions or obligations, or if not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh the likely impacts to justify the grant of planning permission. This paragraph is considered to be a relevant consideration for this proposal.
138. Combustible material from the site would be sent to a cement works in West Bradford for energy production. Combustible material would not be supplied to power stations and there is no longer a market in this sector. The Government has announced an intention to close the UK's remaining 2 coal fired power stations by 2024, with closure of Kilroot (County Antrim) planned for September 2023 and closure of Ratcliffe on Soar (Nottinghamshire) planned for September 2024. In July of 2023 coal fired power stations provided only 0.4% of electricity generation for the UK.

Consideration of the environmental acceptability of the proposals

139. Whilst the development involves the extraction of colliery spoil, comprising of low-grade coal, shale and spoil, it is distinctly different from a surface mining coal operation and as stated above it is considered that CDP Policy 53 is not relevant to the determination of the proposal. Notwithstanding this, the previous applications were considered against Paragraph 217 of the NPPF as the colliery spoil contains some coal. The nature of the colliery spoil has not altered. Paragraph 217 states that planning permission should not be granted for the extraction of coal unless: a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).
140. Having regard to Paragraph 217 a) of the NPPF, proposals for the extraction of coal are required to be environmentally acceptable or can be made so by planning conditions or obligations. This report will assess each identified likely environmental impact against the relevant Development Plan policy and NPPF.

Residential amenity

141. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality and water quality. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 186 of the NPPF advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. Paragraph 187 of the NPPF advises that planning decisions should ensure that new development can be integrated

effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).

142. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated. MLP Policy M37 states that unless it is demonstrated that the amenity of local communities can otherwise be protected from the adverse impacts of mineral working, mineral development will not be permitted where extraction or associated activities are within 250 metres of a group of 10 or more dwellings. MLP Policy M42 states that minerals development will only be permitted where the amenity of roadside communities is protected, and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable. Emerging Policy MW1 states proposals for minerals development will be required to demonstrate that the proposal will not result in unacceptable impacts on human health, the amenity of local communities and other sensitive receptors.
143. The PPG advises on separation zones/buffer zones noting they may be appropriate in specific circumstances where it is clear that, based on site specific assessments and other forms of mitigation measures (such as working scheme design and landscaping) a certain distance is required between the boundary of the minerals extraction area and occupied residential property. Any proposed separation distance should be established on a site-specific basis and should be effective, properly justified, and reasonable. It should take into account: the nature of the mineral extraction activity; the need to avoid undue sterilisation of mineral resources, location and topography; the characteristics of the various environmental effects likely to arise; and the various mitigation measures that can be applied.
144. The spoil heap lies immediately to the south west of the village of Hesleden. The closest properties along Hillcrest Place are approximately 220m from the excavation area. Southfield Farm is located approximately 250m to the north west and The Bleachery is located approximately 570m to the south west. There are 12 properties in Hesleden that are within 250 metres of the nearest area of working within the site and therefore the provisions of MLP Policy M37 are engaged. It must therefore be demonstrated that residential amenity can continue to be protected from the adverse impacts of mineral working for the extended duration of working. In the case of this site the main impacts to consider in relation to residential amenity are noise and air quality. Notwithstanding this, MLP Policy M37 is only partially compliant with the NPPF as the NPPF does not identify thresholds for stand-off distances.
145. The site has generated complaints from neighbouring residents from Hesleden and Castle Eden but not to the degree that the Council has considered it expedient to take enforcement action.
146. Concerns have been raised by objectors regarding noise, dust and traffic from the existing site as well as concerns that the proposed extension would generate further issues. At the time of writing this report, there have been 8 enforcement complaint cases opened relating to alleged breach of planning conditions since the site has been operational. These relate to dust, noise, working hours, vehicle movements and vehicle sheeting. Although there have been 8 enforcement cases there have been 15

complaints relating to those cases and some complainants have complained more than once. In addition, there have been queries as opposed to complaints regarding site operations. In line with the Council's Enforcement Protocol complaints are investigated and where necessary issues are raised with the site operator. No breach of planning control has been concluded on 5 of the enforcement complaint cases in relation to noise, dust management, working hours, vehicle movements and vehicle sheeting. A case relating to dust management has been resolved without requiring enforcement action. There are currently 2 open cases in relation to dust, noise and working hours. To date the Council has not considered it necessary to take enforcement action.

147. The approved noise action plan and dust action plan include a procedure for responding to complaints made directly to the site operator. The Council has its own procedure to deal with enforcement complaints.

Noise

148. Government guidance, as contained in the Minerals section of the PPG, advises that during normal working hours (0700 – 1900) and subject to a maximum of 55dB(A) $L_{Aeq}1h$ (free field), mineral planning authorities should aim to establish a noise limit, through a planning condition, at noise sensitive properties that does not exceed the background level by more than 10dB(A). It is recognised, however, that where this will be difficult to achieve without imposing unreasonable burdens on the mineral operator, the limit set should be as near to that level as practicable. During the evening (1900 – 2200) limits should not exceed background level by 10dB(A). During the night limits should be set to reduce to a minimum any adverse impacts, without imposing any unreasonable burdens on the mineral operator, but should not exceed 42dB(A) $L_{Aeq}1h$ (free field) at noise sensitive properties. This is reiterated in emerging M&WDPD Policy MW4.
149. A noise assessment has been carried out as part of the proposals, the results of which are contained in the ES submitted with the original application. The assessment identified the types of plant to be used on site, the operations that would continue to be carried out and the noise levels associated. The assessment also identified that the nearest sensitive properties are at Hillcrest Place to the north-east, Southfield Farm to the north-west and The Bleachery to the west.
150. The recorded background noise level for Hillcrest Place was 48dB, 46dB for Southfield Farm and 49dB at The Bleachery. Noise generated from the development would vary as operations continue to progress across the site. Predicted noise levels (based on a 'worst case scenario') indicated that normal site operations would not exceed the nominal limits of 55dB(A) $L_{Aeq}1h$ and would not be 10dB(A) above measured background levels.
151. The predicted maximum level for normal operations at Hillcrest Place is 50dB (potential increase in noise levels of 2dB), 48dB for Southfield Farm (potential increase in noise levels of 2dB) and 40dB at The Bleachery (0dB potential increase).
152. When considering the original application for the site Environmental Health and Consumer Protection (Nuisance Action) officers viewed the submitted noise assessment and found the predicted levels, monitoring points and mitigation measures to be acceptable. Officers recommended that a condition be imposed requiring that noise emitted from on-site operations should not result in ambient noise levels greater than 55dB $L_{Aeq}1h$ as measured at the noise monitoring locations identified. Additionally, restrictions would continue to be imposed on working hours to ensure that operations are only carried out during daytime hours of 7am to 7pm Monday to Friday

and 7am to 12pm on Saturdays. These restrictions have been in place for the duration of the operation of the site and would continue should planning permission be granted for the current planning application.

153. In assessing the current application Environmental Health and Consumer Protection (Nuisance Action) officers have considered the submitted information and advised that provided the noise and dust management plans are followed as described there should be adequate controls in place to prevent noise from site operations negatively impacting sensitive receptors
154. The NPPG does not provide guidance on appropriate noise levels for recreation areas. Previous Government Guidance (MPG11) recommended a noise level of 65dB Leq,1hr during the working day. The noise assessment submitted with the original application did not compare noise levels on the footpaths and bridleway around the site to this limit. However, given there is no limit specified in the NPPG and measures would be put in place to mitigate noise levels from the site, it was not considered necessary for such an assessment to be undertaken. It is therefore considered that the impact of noise from the proposed development would not have an unacceptable impact upon the recreational value of the countryside, and the proposal would not conflict with CDP Policies 31, emerging M&WDPD Policies MW1 and MW4 and Parts 15 and 17 of the NPPF.

Air Quality and Dust

155. Mineral sites give rise to dust issues and it is accepted that the generation of dust can only be minimised and controlled rather than eradicated. The impact would depend on wind speed, the degree of rainfall and surface topography. The National Planning Practice Guidance sets out 5 stages for carrying out a dust assessment that would provide useful ways of mitigating dust from mineral development. These are to establish baseline conditions, identify activities that could lead to dust emissions, identify site parameters that may increase potential impacts.
156. A dust assessment was carried out as part of the original application, the results of which are contained in the ES. The assessment identified baseline conditions including potentially sensitive receptors, existing dust sources, typical dust levels, topography of the site and meteorological conditions; the potential impacts including mineral extraction and haulage, erosion from bare ground and stockpiles and loading and off-site haulage; evaluation of the impacts on upon the nearest receptors, and; mitigation proposals. The addendum to the ES advises that the background concentration of PM10 for potentially affected receptors were below 17µg/m³. In accordance with IAQM guidance for minerals it is state that there is little risk that the PM10 and PM2.5 concentrations as a result of the continued operations at the site would cause a breach of air quality objectives and the impact would be negligible.
157. Those objecting to the proposal have raised health concerns. Environment, Health & Consumer Protection (Air Quality) officers recognise the health impacts associated with emissions of PM10 and PM2.5 and that there is potential for emissions of both of these air quality pollutants from mineral extraction activities. The submitted air quality assessment shows that the background levels of pollutants (Particulates and Nitrogen Dioxide) are well below the national air quality objectives at this location for both of these pollutants. The assessment shows that the change in concentrations of both particulates (PM₁₀ and NO₂) will not be significant and negligible if considered in relation to the air quality objectives.
158. The application is also accompanied by an updated dust action plan, which sets out methodology for dealing with dust. Mitigation measures that include the use of water

sprays/bowers and dampening down of the haul road, use of wheelwash facilities and sheeting of laden HGVs, and the temporary suspension of operations giving rise to fugitive dust in dry windy weather until additional equipment is provided or conditions improve. Monitoring of dust deposition levels around the site would continue to take place and results made available to the Authority upon request.

159. It is noted that objectors to the submission have referred to concerns relating to dust. However, having considered the impact of the proposed site on residential amenity in terms of dust it is considered that the impacts could continue to be controlled through requirements to mitigate any adverse effects on the nearest properties as the proposed conditions do thus according with CDP Policy 31 and emerging M&WDPD Policies MW1 and MW5 and Parts 15 and 17 of the NPPF.

Lighting

160. The existing site does not utilise outdoor lighting other than on mobile plant and attached to the site welfare cabins, where downward pointing flood lights are installed. The current application does not propose any additional lighting and it is therefore considered that light pollution from the site would cause any additional harm in accordance with CDP Policy 31 and Part 15 of the NPPF.

Vehicle Movements

161. MLP Policy M42 states that mineral development will only be permitted where the traffic generated can be accommodated safely and conveniently on the highway network and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable.
162. Objections have been received which state that disturbance is caused by HGV vehicles travelling to and from the site.
163. The number of HGV movements approved as part of the original application were 44 per day (22 in and 22 out) Monday to Friday and 22 (11 in and 11 out) on Saturdays. In reality the site has never reached these levels (although there have been claims to the contrary) and actual HGV movements are typically less than half of this. For this application an average of 20 (10 in and 10 out) HGV movements per working day are anticipated during the working period Monday to Friday with only 2 (1 in, 1 out) on Saturdays.
164. It is accepted that in the context of the residential street of Gray Avenue the presence of HGVs is likely to be more noticeable, however, once this traffic joins the B1281 road it is entering the highway network and is materially indistinct from other HGV traffic travelling to and from the A19 trunk road. Motorists driving on the B1281 may become held up behind one of these vehicles or have to take extra care when passing them from the opposing direction. These circumstances create a perception that the traffic associated with the development is more prevalent and more significant than it actually is. However, it is clear from the number of objections to the proposal that the perceived impact is sufficient to cause a degree of harm even if the actual impact is very low. On this basis it is considered that vehicle movements associated with the proposal would cause an adverse, but not unacceptable amenity impact. The proposal would therefore not conflict with the amenity protection requirements set out in CDP Policy 31, MLP Policy M42 and Part 15 of the NPPF.

Health

165. The application has been accompanied by assessments for noise and air quality with associated action plans for managing these environmental impacts, which have been considered in the sections above.
166. Objectors to the developments have raised harm to health as being main issue with the application with some objectors stating that their health has degraded since the site has been in operation. One objection has stated that the pH level of the water in their garden pond has been elevated from 8.0 to 9.5, alleging that this is the result of limestone dust from the development. It is further stated that this rise in pH level has killed the Koi carp that were kept in the pond, and it is questioned what harm is being caused to lungs and general health.
167. The Council's Public Health Team has been consulted on the proposal and have advised that planning applications involving operations that may carry the risk of significant effects of human health could benefit from a Health Impact Assessment (HIA). Knowledge surrounding 'health and place' is sometimes contested in planning matters, often with tension that emanates from lay (communities) and expert evidence, particularly as they relate to identification and assessment of local health impacts. For example, community health concerns are often cited by residents who (through the planning consultation process or on various media) articulate perceived negative impacts of the site operation, sometimes in the absence of firm epidemiological evidence, or often contrary to the findings published by experts. An HIA could consider such conflicting views in the context of the available evidence base. It should also be noted that such matters can also be addressed through provision of specialist/expert evidence without the need for such an HIA.
168. Public Health officers note that the site has been operating satisfactorily for several years and state that a HIA might only be relevant in circumstances where there is a material change to the operation in question. If this is not the case, an HIA is not likely to add further benefit at this stage.
169. Public Health officers have also commented that several issues have been raised on a local social media site that refer to the potential health impacts of this operation on local human and animal health. Commenting on such claims is not within the remit of a local authority public health team, as establishing causation would require specific, controlled enquiry that is out with the capacity of local authority public health provision.
170. Although a HIA does not support this application, as noted by Public Health officers, the site has been operating without any confirmed harm to health and whilst this proposal includes the extraction of virgin limestone, the means by which it is extracted and processed are not materially different from the way in which the colliery spoil is extracted and processed. The impacts of noise and dust from the site have been assessed and found to be acceptable when managed in accordance with established action plans. The site is subject to environmental monitoring by the Environment Agency and Environmental Health in addition to regular monitoring of planning conditions by the Councils Minerals Monitoring officer.

Summary

171. There would be some disturbance to residential properties for the duration of the proposed development and there would be operational development within 250m of a group of 10 dwellings. However, having considered the impact of the proposed development on residential amenity in terms of noise it is considered that the impacts could be controlled through condition setting limits and requirements to mitigate any

adverse effects on the nearest properties thus according with CDP Policy 31, County Durham Minerals Local Plan Policy M37 Parts 15 and 17 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policies MW1, MW4 and MW5 however given the current stage of the Plan only limited weight can be afforded to these Policies at this time.

Contamination and Land Stability

172. Part 15 of the NPPF (Paragraphs 120, 174, 183 and 184) requires the planning system to consider remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate. Noting that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. CDP Policy 32 requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
173. A Geotechnical Assessment Report has been submitted in support of this application and is contained within the ES. This assessment concludes that due to the age of the tip, documentary evidence and intrusive investigations that there are no deposits of fine discard or buried lagoon structures and that the tip was generally stable prior to the commencement of current site operations. The report states that there is no evidence of any active combustion of the tip material and it is not thought that any would be initiated during the course of the current operations
174. Environmental Health and Consumer Protection officers have raised no objections to the proposals. Officers recommend that conditions associated with ground conditions, land contamination and water from Planning Permission No. DM/14/00519/MIN be repeated for this proposal. An informative is recommended in respect of any unexpected contamination that may be found during the working of the site. The Coal Authority has also raised no objections to the proposals.
175. It is considered that the proposed development would be suitable for the proposed use and would not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities and it is considered that the proposals would provide an acceptable standard of residential amenity in accordance with CDP Policies 32 and Part 15 of the NPPF.

Access and traffic

176. Paragraph 110 of the NPPF states that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans. MLP Policy M42 states that mineral development will only be permitted where the traffic generated can be accommodated safely and conveniently on the highway network and the impact of traffic generated by the development on local and recreational amenity is otherwise acceptable. MLP Policy M43 requires that planning conditions should be imposed, and planning obligations or other legal agreements sought, to cover a range of matters such as routeing of traffic to and from the site, highway improvements or maintenance, prevention of the transfer of mud and dirt onto the public highway and operating hours of lorry traffic to and from the site. MLP Policies

M42 and M43 are considered to be consistent with the NPPF and can be afforded weight in the determination of the application.

177. Emerging M&WDPD Policy MW7 states that the transport implications of all proposed minerals or waste development which will generate significant amounts of vehicular movement must be assessed as part of any planning application through a transport assessment or transport statement. Policy MW1 seeks to resist unacceptable adverse impacts on the local and strategic road network.
178. Access to the site would be via the existing private track from the spoil heap to Gray Avenue in Hesleden. From Gray Avenue vehicles would head north to the B1281. HGV traffic would be routed to and from the A19 using the Wellfield Junction via a 3km stretch of the B1281 to Gray Avenue in Hesleden.
179. Vehicles would continue to enter and leave the site via an existing track onto Gray Avenue, approximately 380m from the junction with the B1281. Visibility splays on the junction of the B1281 with Gray Avenue were widened as part of the original planning permission. The site access road links with the site office and car parking area. Wheelwash facilities are also located in this area.
180. A Transport Statement was submitted as part of the original application and is included within the ES and the addendum to the ES. The statement identified baseline conditions and pre-development traffic flows and assessed this against the proposed development. The statement concludes that the surrounding highway infrastructure can accommodate the predicted development traffic with no discernible impact on highway safety or the operational capacity of the road network. The review of the Transport Statement within the ES advises that all of the approved highways works including surfacing, signage, surveys and improved visibility splay have been carried out and would be maintained for the duration of the development
181. This application takes into account the working of the site since operations began in 2017, which has shown that actual vehicle movements fall significantly short of the levels predicted in 2014. An average of 20 (10 in and 10 out) HGV movements per working day are anticipated during the working period Monday to Friday with only 2 (1 in, 1 out) on Saturdays. Previously the approved HGV movements were 44 per day (22 in and 22 out) Monday to Friday and 22 (11 in and 11 out) on Saturdays.
182. The main issue in terms of access and traffic that has been raised by the Highways Authority in relation to the previous application was the limited visibility afforded to drivers exiting Gray Avenue on to the B1281. To remedy this a condition was imposed to require pruning and realignment of the hedgerow adjacent to the junction. This was carried out satisfactorily and the applicant proposes to maintain this visibility splay for the duration of the development.
183. In their consideration of the original application the Highways Authority highlighted the need for pre and post development surveys along part of Gray Avenue and for repair on completion of the proposed development. In considering this current application Highways officers have requested two additional assessments at points within the duration of the development. In order to protect the amenity and safety of local residents the Highways Authority has also requested the imposition of the conditions to control vehicle numbers, wheel washing and to ensure that the visibility splays at the junction of Gray Avenue and the B1281 are maintained.
184. Concerns have also been raised by objectors in relation to HGV's travelling from Gray Avenue to the A19 through Castle Eden. Objectors have suggested that vehicles represent a safety risk to other road users due the carriageway being narrow in places

and the speed of the vehicles relatively slow speed. The Highways Authority has considered the full length of the haulage route to the A19 and reviewed the objections from local residents. Highway officers consider that the proposed haulage route is capable of carrying the proposed type and number of HGV's without impacting upon highway safety.

185. Traffic generated by the proposal could be accommodated safely and conveniently on the highway network. The Highways Authority has raised no objections to the proposal subject to conditions. The proposed development would accord with CDP Policy 21, County Durham Minerals Local Plan Policies M42 and M43 and Parts 9 and 17 of the NPPF.
186. MLP Policy M42 is consistent with the NPPF and is not time limited. Policy M42 can carry full weight in the decision-making process. MLP Policy M43 is only partially consistent with the NPPF and is not time limited. Whilst the Policy is consistent with the general principles of NPPF and PPG, the matter of planning obligations needs to align with the related legislation. The terminology used in the policy 'insofar as they fairly and reasonably relate to the proposed development' does not fully reflect Section 122 of the CIL Regulations. MLP Policy M43 is therefore afforded limited weight in the decision-making process. It is also considered that the proposal would not conflict with M&WDPD draft Policies MW1 and MW7, however given the current stage of the Plan only limited weight can be afforded to these Policies at this time.

Landscape and visual impact

187. CDP Policy 31 states that proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result. CDP Policy 39 states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Development affecting Areas of Higher Landscape Value will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. CDP Policy 40 states that proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate stand-off distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.
188. CDP Policy 50 states that proposals for new working of magnesian limestone and sand on prominent escarpment slopes will be resisted in order to avoid unacceptable landscape and visual effects.
189. The application is accompanied by a Landscape and Visual Impact Assessment (LVIA), which is contained within the ES. The LVIA identified receptors within the study area that would potentially be affected by the development. It is noted that the combination of varied topography, intervening woodland, field boundary hedgerows and trees significantly limits both the availability of views towards the site and the potential effects of the development on the wider landscape. The addendum to the

ES comments that the extension of time for the development would be undertaken within the existing site boundary and as such no adverse landscape effects have been identified.

190. The site lies in the East Durham Limestone Plateau County Character Area which forms part of the wider Durham Magnesian Limestone Plateau National Character Area (NCA 59). It lies in the Coastal East Durham Plateau character area which belongs to the Coastal Limestone Plateau landscape type.
191. The site lies within Hesleden Dene, a narrow incised wooded valley. The woodland is made up largely of ancient semi-natural woodland together with some areas of planted or secondary woodlands. To the north and south lie areas of gently rolling open farmland. The former Ferryhill and East Hartlepool Railway runs parallel with the dene to the north. The village of Hesleden lies around 200m to the north-east.
192. The site is a former colliery tip which locally modifies the natural topography of the dene standing up around 6m above surrounding levels in the north and falling steeply to the Hesleden Burn in the south. The outer flanks of the heap are clothed in young mature plantation and naturally regenerated woodland and scrub of mixed species (spruce, pine, sycamore, ash, elder and hawthorn). The site is not located on a prominent escarpment slope.
193. The site is visible in views from greater distances to the south; as a small part of visually complex panoramas from properties on higher ground on the northern edge of Hutton Henry and in shallow views from properties in Hulam and Footpath No. 14 (Sheraton with Hulam Parish) in that area.
194. The northern storage mound within the site is visible from properties and public vantage points in the south-west of Hesleden and in views from some sections of footpaths in the immediate locality. The effects in other views is not significant.
195. The continued operation of the site would lead to substantial adverse effects in views from sections of footpaths in the immediate locality during the operational period including a short adjacent section of the Haswell to Hart, and sections of Footpath No. 16 (Sheraton with Hulam Parish) to the south. There would not be a significant effect on the visual amenity of the wider network.
196. Landscape officers have raised no objections to the proposals. Officers have commented that the development would not give rise to significant landscape or visual effects, relative to practical alternatives strategies for completing the remediation of the land, other than in respect of the extended period of site operations. The restoration strategy is broadly appropriate. Officers have stated that the final profile of the limestone face and land immediately above would need further detailed consideration to ensure that it was both safe and naturalistic in appearance. That detail would need to be agreed at an early enough stage to ensure that sufficient material was left in situ to achieve those objectives. This detail could be delivered as a planning condition.
197. It is considered that none of the visual impacts on residential amenity are predicted to be high or long term and that the working method has been designed to minimise them as far as possible. Impacts on the wider visual environment of the local community include impacts on the footpath network and railway path south of the village where the main focus of countryside access lies. Considerable parts of the railway path in particular would remain unaffected and the village would still have good access to attractive countryside during the operational period. It is therefore considered that the proposal would not conflict with CDP Policies 31, 39, 40 and 50 and Parts 15 and 17 of the NPPF in respect of landscape harm. It is also considered that the proposal

would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Cultural Heritage

198. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this must be given considerable importance and weight by the decision-maker.
199. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset. NPPF Paragraph 195 states that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. CDP Policy 44 seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The continued importation of inert waste would not materially impact upon cultural heritage and waste policy is therefore not a consideration in this section.
200. There are no listed buildings, Scheduled Monuments or Conservation Areas designations within the site. There are twenty five designated heritage assets within 2km of the site comprising one Scheduled Monument, one Grade II* listed building and twenty two Grade II listed buildings. Castle Eden Conservation Area lies 1km to the west.
201. A heritage assessment was submitted with the original application and is included within the ES. The assessment identified the impact on the designated and non-designated heritage assets located within 2km of the application site including visual impact, noise, dust and vibration. The assessment concluded that no significant environmental effects in relation to archaeology and cultural heritage associated with the proposed works have been identified and the effects of the proposed works were deemed to be negligible.
202. Design and Historic Environment officers have raised no objections to the proposals. Officers have commented that any impacts on cultural heritage would be equivalent to those previously accepted, irrespective of any proposed extension of time or extraction of additional materials The spoil mound is considered to have no heritage significance and its reclamation would have no impact on any nearby designated assets. Archaeology officers have also raised no objections to the proposals.
203. It is considered that there would be no harm to designated heritage assets given the proposed development is not within the setting of, and it would not affect the significance of any heritage asset given the given the distance from the application site, intervening topography, planting and built development. Although the haulage route would pass through the Castle Eden Conservation Area it is considered that the ambience of this settlement would not be detrimentally affected by this activity and the impact would also amount to no harm being caused. Design and Conservation officers

have raised no issues in respect of harm to the Castle Eden Conservation Area. It is considered that the proposal would accord with CDP Policy 44 and Part 16 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Ecology and nature conservation

204. Paragraph 180 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible and stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. CDP Policy 41 reflects this guidance by stating that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. CDP Policy 42 seeks to restrict development that cannot demonstrate that there would no residual adverse effects to the integrity of internationally designated sites. CDP Policy 43 states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts.
205. The presence of protected species is a material consideration in planning decisions as they are a protected species under the Wildlife and Countryside Act 1981 and the European Union Habitats Directive and the Conservation of Habitats and Species Regulations 2017 (as amended). The Habitats Directive prohibits the deterioration, destruction or disturbance of breeding sites or resting places of protected species. Natural England has the statutory responsibility under the regulations to deal with any licence applications but there is also a duty on planning authorities when deciding whether to grant planning permission for a development which could harm a European Protected Species to apply three tests contained in the Regulations in order to determine whether a licence is likely to be granted. These state that the activity must be for imperative reasons of overriding public interest or for public health and safety, there must be no satisfactory alternative, and that the favourable conservation status of the species must be maintained. Brexit does not change the Council's responsibilities under the law.
206. The proposed site is not affected by statutory nature conservation designations. However, the Hulam Fen SSSI is approximately 400m to the south. Castle Eden Dene SSSI is located approximately 1.1km to the north. The Durham Coast Special Area of Conservation (SAC) is located approximately 1.1km to the north of the site. The application site is located entirely within the Hesleden Dene LWS.
207. A Phase 1 habitat survey including surveys for protected / notable species was submitted with the application and is contained within the ES. The surveys and submitted assessment concluded that no significant residual effects on the ecological receptors were identified. It is proposed to development habitat enhancement through the proposed restoration of the site. The addendum to the ES confirms that the proposed extension of time to the development would not change the ecological status and there would be no direct impacts upon species or adjacent habitats. Indirect effects would arise within the woodland setting but this would reduce in time, particularly in combination with proposed mitigation.

208. The addendum to the ES has noted that as of 2021 Priority Species Dingy Skipper butterflies have recolonised on part of the site. It is also stated that the geological and ecological importance of the site is fast becoming clear and with complete restoration could achieve high conservation value status as either SSSI or similar.
209. The Council's Ecologist is satisfied with the level of survey work submitted with the application and the restoration proposals for the site. No harm to protected species has been identified. Officers have stated that the restoration of this site presents an opportunity to create UK Biodiversity Action Plan Priority Habitats that would benefit Priority Species. Mitigation works would be secured through condition. Officers have raised no objections in relation to the LWS or the Special Area of Conservation. Natural England is satisfied that there is not likely to be an adverse effect on the SSSIs and that they do not represent a constraint in determining the application.
210. Ancient and Semi-natural woodlands located within 2km of the site are also not considered to be sensitive to potential dust impacts. No concerns have been raised by Ecology Officers in this respect. Natural England has stated that any impacts on ancient woodland and ancient and veteran trees should be considered in line with Paragraph 180 of the NPPF, which states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. No impacts to ancient woodland or veteran trees have been identified and therefore the test set out in paragraph 180 is not engaged.
211. Ecology officers have considered the proposals and raise no objections subject to appropriate long term management of the site. It is recommended that the biodiversity enhancement would be secured through a Section 39 Agreement under the Wildlife and Countryside Act 1981. Section 39 of the Wildlife and Countryside Act 1981 enables local authorities to enter into management agreements with the owner of land for its conservation (and for other related purposes) and is regarded as a suitable mechanism for securing long term land management in relation to biodiversity net gain. A Section 39 is more suited to ensuring long term management than planning condition.
212. The proposed development would provide biodiversity enhancement to the site and, whilst there may be a continued temporary displacement of wildlife during the reclamation process, the net increase in biodiversity value would adequately mitigate any residual harm. It is considered that the proposed development would not impact upon any internationally, nationally or locally protected sites. Suitable mitigation would be secured through Section 39 agreement. It is therefore considered that the proposals would not conflict with CDP Policies 25, 41, 42 and 43 and Parts 15 and 17 of the NPPF in respect of avoiding and mitigating harm to biodiversity. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Flood risk and drainage

213. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Protection of the water environment is a material planning consideration and development proposals, including waste development, should ensure that new development does not harm the water environment. Paragraph 174 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from

contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality.

214. Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.
215. CDP Policy 35 requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water. CDP Policy 10 states that new development in the countryside must minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding.
216. The Hesleden Beck is located to the immediate south of the site. The steep slopes of the Hesleden Dene at this point in its course limit the spread of the flood plain, nevertheless, a very small area of the site is within Flood Zones 2 and 3. In addition, the site overlies a Major Aquifer and is in a Major Groundwater Vulnerability zone as defined by the Environment Agency.
217. A water resources assessment was carried out the results of which are contained in the ES. The assessment identified baseline conditions for the site in relation to hydrogeology, hydrology, flood risk, groundwater levels and flow and groundwater quality. The assessment concludes that the working and restoration of the site would, through appropriate management and mitigation, present a negligible or minor impact upon the surface and groundwater environment. The addendum to the ES has confirmed that the site now has consent from the Environment Agency to discharge water at a maximum rate of 15l/s, equivalent to greenfield runoff rate. This consent includes limits on pH level and suspended solids to ensure any discharge does not adversely affect the watercourse. However, to date there has been no requirement to discharge water from the site; collected water is either used for dust mitigation or infiltrates through the strata. It is noted within the ES addendum that they Environment Agency has no found no evidence of pollution in the Hesleden Beck and water quality is being enhanced due to the clean up operations undertaken as part of the reclamation.
218. Drainage and Coastal Protection officers have considered the proposals and raised no objections. Officers have commented that any positive discharge by pipe, ditch or culvert should be restricted to QBAR Rate, taking into account of all storms up to and including the 360 minute 1 in 100 year event plus 40% Climate change. The Environment Agency has also raised no objections to the proposal in respect of harm to watercourses or the major aquifer.
219. The site is bounded by a perimeter drainage channel that leads to clay lined settlement lagoons at the lowest point with capacity for a 1 in 100 year event. The design and capacity of the drainage system was subject to agreement with Drainage and Coastal Protection officers as part of the original application and has been in place since the commencement of the development and would continue to be.

220. Provided that the above conditions are complied with it is considered that the proposed development would not cause or contribute to any pollution of groundwater resources in accordance with CDP Policies 10 and 35 and Parts 14 and 17 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policies MW1 and MW19 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Public Rights of Way

221. Paragraph 100 of Part 8 of the NPPF states that planning decision should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way. CDP Policy 26 states that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. Proposals that would result in the loss of, or deterioration in the quality of, existing public rights of way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.
222. Footpath No.24 (Monk Hesleden Parish) shares the access track to the spoil heap and also the allotments to the north of the site. The section of this footpath south of the Haswell to Hart Walkway extends into the site. In order to maintain safe operation of the site it is proposed to temporarily divert Footpath No.24 to a route through Hesleden that would lead users to the Haswell to Hart Walkway at a more easterly point. Footpath No.16 (Sheraton with Hulam Parish) runs to the south of the site and would not be affected by the proposed development. It is proposed to reinstate Footpath No.24 as part of the restoration of the site.
223. The Haswell to Hart Walkway does not have status as a Public Right of Way but is a popular walking, cycling and horse riding route. The site access crosses over the Haswell to Hart Walkway at a point where there is already a gated intersection. The crossing point has operated safely to date and it is not proposed to change the way in which this is managed. Mitigation measures include signage for both users of the Walkway and drivers accessing the site of the crossing point and including physical measures to prevent drivers from crossing the Walkway without stopping.
224. Access and Rights of Way officers have considered the proposals and have raised no objections. Officers have noted that the surface improvement for Footpath No.24 has been carried out. It has been suggested that in order to improve the network further a link to Footpath No.16 (Sheraton with Hulam Parish) should be considered during the restoration phase. It is recommended that this form part of the detailed restoration plans to be secured by condition. Officers have also stated that they would welcome an earlier restoration of Footpath No.24 but as this forms the only route into the site it would not be possible.
225. The Council's Countryside officers have also raised no objection to the proposals advising that there are no concerns regarding the extension of the approval to allow for further removal of material. Officer have however, stated that the development extension provides the opportunity for further improvement of the Hart to Haswell Railway Path, a valuable local community asset, and one which provides a convenient off-road link to the east and further north. It has been requested that the developer provide a contribution to improving the path surface, drainage and access infrastructure. The developer has committed to providing a community fund that could be used for such facilities, if the Community Fund Committee deemed it to be

appropriate. Alternatively, the developer may provide ad-hoc assistance to the Countryside team, which may include improvements to access, drainage and surfacing. For clarity, the provision of a contribution for improving the path surface, drainage and access infrastructure of the Hart to Haswell Railway Path would not be required in order to make the development acceptable.

226. Although Footpath No.24 (Monk Hesleden Parish) would continue to be temporarily diverted, users are still be able to access the Haswell to Hart Walkway via the alternative route to the east. Any adverse impact on users of the routes would be for the duration which they use the route and measures would be put in place to ensure that any potential impacts would be minimised. Impacts such as noise, dust and visual impact are addressed elsewhere in the report. It is therefore considered that the development would not have an unacceptable impact upon the recreational value of the countryside. The proposals would therefore accord with CDP Policy 26 and Part 8 of the NPPF.

Soils and agriculture

227. Paragraph 174 of the NPPF seeks to protect best and most versatile land. CDP Policy 14 states that where mineral working is proposed on best and most versatile agricultural land, proposals should seek where practicable to minimise its loss and retain its longer term capability unless the benefits of alternative restoration strategies outweigh its loss. In addition, all development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
228. The application site was the subject of a very low level reclamation project in the late 1960's or early 1970's but this focused mainly on land to north of and including the Haswell to Hart Railway Path. The site has therefore seen very limited improvement since the placement of the colliery waste. Prior to the reclamation works commencing only a small portion of the site was overlain with any soils. Within these areas the soils have already been stripped and stored in a stockpile on the northern boundary of the site.
229. The proposed restoration of the site is for non-agricultural nature conservation use where minimal soil is of benefit to encourage a more diverse range of species, particularly those that have historically inhabited the site. Natural England has raised no objections to the proposals.
230. As the site is less than 20 hectares and would not lead to the loss of any best and most versatile agricultural land it is considered that there would be no conflict with CDP Policy 14 or Part 15 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Cumulative Impact

231. Paragraph 185 of the NPPF advises that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 211 of the NPPF advises that in considering proposals for mineral extraction, minerals planning authorities should take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality. The PPG also states that some parts of a mineral

planning authority area may have been subjected to successive mineral development (such as aggregate extraction or surface coal mining) over a number of years.

232. CDP Policies 10 and 31 requires consideration of cumulative impact as does Policy M45 of the MLP also addresses cumulative impact. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. MLP Policy M45 requires that when considering proposals for mineral development the cumulative impact of past, present and future workings must be considered and states that planning permission will not be granted where the cumulative impact exceeds that which would be acceptable if produced from a single site under the relevant policies of the Plan. MLP Policy M45 is not time limited and is consistent with the NPPF which requires consideration of the multiple impacts from individual sites and/or from a number of sites in a locality. MLP Policy M45 can carry full weight in the decision-making process.
233. Paragraph 17 of the National Planning Practice Guidance section relating to Minerals require consideration of the impacts of minerals development in cumulation with other development in the area. It is recommended that when determining planning applications local planning authorities should take into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality. It is stated that the cumulative impact of mineral development is capable of being a material consideration when determining individual planning applications.
234. The applicant has submitted an assessment of cumulative impact as part of the Environmental Statement. The assessment sets out the methodology and scope for considering cumulative impact. No developments were identified within the near vicinity or area that could be deemed to have an effect on the application site. The study therefore concludes that the cumulative impact of the development would be negligible.
235. Although the assessment submitted by the applicant has considered the potential cumulative impacts from other sources in relation to the proposed development it does not consider the individual effects of the proposal. The primary impacts of the proposal being traffic and highway safety, noise, dust and air quality. These impacts have been assessed individually earlier in this report and considered to be acceptable. The operational area of the site is sufficiently distant from sensitive receptors that the impacts of noise and dust from extraction would not be perceived in conjunction with the traffic and highway safety impacts.
236. It is therefore considered that although the cumulative impacts of landscape, noise, dust and traffic are of some significance they do not constitute a degree of harm that would substantiate a refusal under the criteria set out in any of the relevant policies from the CDP, MLP. It is therefore considered that the proposal would accord with CDP Policy 31 and MLP Policy M45 and Parts 15 and 17 of the NPPF. It is also considered that the proposal would not conflict with M&WDPD draft Policy MW1 however given the current stage of the Plan only limited weight can be afforded to this Policy at this time.

Alternatives

237. In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 the applicant has provided a consideration of alternative options, should the proposed scheme not be deemed to be acceptable.

238. Option 1 would be the case where no further mineral extraction would be carried out; effectively a refusal of the planning application. In this situation all the excavations that have exposed the limestone would be backfilled and featureless graded slopes of about 26.6° to 21.8° would be formed extending across the site towards Hesleden Dene. Due to the potential combustibility of spoil material remaining in situ a covering layer of not less than 1m of compacted clay would have to be applied over and beyond the areas of remaining unprocessed colliery spoil to prevent long term ingress of air and the potential for combustion.
239. Some 246,000 tonnes of potentially combustible colliery spoil would remain on site. Site investigation has confirmed that the capping clay could be sourced on site, although any excavations would require backfilling and profiling as part of the wider programme of earthworks.
240. The total volume of required clay could amount to some 24,000m³ (48,000 tonnes). The majority would have to be simply spread and trafficked using a dozer. A vegetative cover would have to be established to prevent erosion or could be covered with spoil material for natural regeneration. Other areas could be seeded or could be achieved using compost derived from green waste and sewage filter cake, but would again this may have to be imported by road. If it is assumed that all the necessary materials could be sourced without delay and supplied at the required rate, the earthworks could take at least 6 months to complete subject to suitable weather and ground conditions. However, the applicant has advised that these are very optimistic assumptions and the whole task would realistically take 12 months.
241. Option 2 assumes that planning permission is granted for only part of the proposed extension of time (i.e. 3-4 years so that there is only partial recovery of the remaining mineral reserves). Where possible and depending on market forces, the earthworks would be very much focused on the colliery spoil. An effort would be made to retain as much of the exposed limestone scarp as possible as this would form an important element in the restored site, but there would be some trade off with the reduction in graded slope profiles elsewhere. With this in mind, most, if not all of the sand would be removed to create additional void space for the processed spoil and ensure long term slope stability.
242. The aim would be to form graded slopes of not greater than 21.8°. The remaining areas of unprocessed spoil would again have to be capped using clay. It is possible that some 12,000m³ of clay would have to be site won.
243. Option 3 would allow the recovery of all the remaining mineral reserves on the site over a 9 year period followed by 12 months of restoration (now reduced to 7 years and 4 months plus 12 months for restoration due to operations continuing while the application is being determined). Recovery of the combustible material would remove any potential health, safety and environmental risk, thereby eliminating the need for surface capping of clay.
244. Recovery of all the remaining mineral reserves would create approximately 294,000m³ of void space and provide greater scope for the creation of an extended limestone scarp along the left bank of Hesleden Dene as well as reducing the grade of the restored slope profiles elsewhere.
245. The restored site would have greater aesthetic, geological and ecological value and would take 12 months to complete. The Restoration of the site would be as the submitted Restoration Plan.

246. Option 2 is disregarded as it would not deliver the full potential of the site in terms of biodiversity and geodiversity gain and would effectively sterilise mineral. It would also potentially not properly deal with the combustion risk.
247. Option 3 is the proposal that has been assessed in this report and which would deliver the full reclamation of the site; deliver the best outcome in terms biodiversity and geological enhancement and leave the site safe from potential combustion issues in future. In the event that the Planning Committee do not agree with the recommendations of this report then, as the site is already operational, it would be in the interests of the environment and public safety for an accelerated restoration to be enacted in line with Option 1.

Legal Agreement

248. County Durham Minerals Local Plan Policy M52 states that in considering planning applications for mineral development the ability and commitment of the intended operator to operate and reclaim the site in accordance with an agreed scheme will be taken into account. Proposals will only be permitted where either the operator is capable of, and committed to, the working and full restoration of the site in accordance with the requirements of any planning permissions or there are adequate safeguards are in place, through the provisions of financial bonds, appropriate mutual funds operated through the industry, or other means, to ensure that any breach of planning conditions, particularly with regard to the restoration and after-care of the site, can be remedied without additional public cost. MLP Policy M52 is considered to be consistent with the NPPF.
249. Emerging M&WDPD Policy MW20 states that restoration schemes for mineral sites will be secured through the imposition of planning conditions and where necessary planning obligations or other legal agreements. Within the supporting text of the M&WDPD at paragraph 4.97 it is stated that where appropriate and deemed necessary the Council will encourage the establishment of additional local liaison groups. Where established, it is intended that the operator will convene the Local Liaison Group at least once every year or at such other frequency agreed by the Liaison Group Committee. The operator will also provide all practical administrative and secretarial facilities to enable the Liaison Committee to function effectively including the provision of a suitable local venue for every meeting and the production of publicly available minutes for every meeting.
250. Under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) a planning obligation is in place for the existing site. This makes provision for a £50,000 restoration bond to ensure that funds are available to safely restore the site in the event that the operator fails to do so. In addition, it requires the setting up and management of a Community Liaison Meeting and provides a Community Fund. The current Community Fund is based on a developer contribution of 10p per tonne of combustible material extracted from the site.
251. It is the intention of the applicant to enter into a new Section 106 obligation in order to provide an updated restoration bond, continuation of the Community Liaison Committee and revision to the Community Fund.
252. The proposed restoration bond has been calculated based on the full recovery of mineral from the site and therefore a 'worst case scenario'. The amount now to be provided for the bond is now set at £174,845 (including a 10% contingency), which would be index linked to account for inflation over the development period. A report has been submitted by the applicant, which includes a detailed breakdown of costs associated with restoration. An analysis of different options has been considered

ranging from no further extraction to full extraction of mineral. The scenario where there is no further extraction would attract a lower restoration cost (but also no planting or surface features) of £155,595. It is therefore considered that the proposed bond amount would be sufficient to address any eventuality.

253. The proposed amendment to the Community Fund would increase the developer contribution from 10p per tonne to 15p per tonne for combustible material. In addition, and to account for the variation in material to be extracted, a contribution of 5p per tonne of sand and 5p per tonne of limestone would also be provided. Based upon a calculation of 10p per tonne for the originally approved 278,000 tonnes of combustible material, 15p per tonne for the additional 132,000 tonnes of combustible material and 5p per tonne for the 125,000 tonnes of limestone 175,000 tonnes of sand the total developer contribution to the Community Fund would be approximately £62,600.
254. Developer contributions to date have assisted Monk Hesleden Parish Council with the construction of a Multi-Use Games Area (MUGA), for the residents of Hesleden, near the entrance to the site.
255. Paragraph 55 of the NPPF states that Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. Paragraph 57 of the NPPF states that planning obligations must only be sought where they meet all of the following tests: a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. This is reiterated in the Community Infrastructure Levy Regulations 2010.
256. Whilst beneficial to the community, the proposed Community Fund, restoration bond and Community Liaison Committee are not necessary to make the development acceptable in planning terms and therefore it cannot be considered to be compliant with regulation 122 of the Community Infrastructure Levy Regulations 2010. Consequently, no weight can be afforded to this issue in the determination of the application.
257. The National Planning Practice Guidance (NPPG) provides guidance on financial guarantees and considers that a financial guarantee to cover restoration and aftercare costs will normally only be justified in exceptional cases. These being very long-term new projects where progressive reclamation is not practicable, such as an extremely large limestone quarry; where a novel approach or technique is to be used, but the minerals planning authority considers it is justifiable to give permission for the development; and where there is reliable evidence of the likelihood of either financial or technical failure, but these concerns are not such as to justify refusal of permission. The NPPG advises that Mineral planning authorities should address any concerns about the funding of site restoration principally through appropriately worded planning conditions.
258. Notwithstanding this, the applicant has unilaterally offered a restoration bond and there is no reason for the Local Planning Authority not to accept this. The bond provides reassurance that the operator is committed to the development and that there is a fund available in the unlikely event that the operator is unable to complete the restoration so that the site can be made safe without additional public cost.
259. In accordance with MLP Policy M52 and emerging Policy MW20 the ability and commitment of the intended operator to operate and reclaim the site in accordance with the agreed scheme have been taken into account. Given advice in the NPPF and

recognising the likely concerns of members of the public and the Committee it is considered that the proposal for a restoration guarantee is reasonable on this occasion. MLP Policy M52 is considered to be only partially consistent with the NPPF as it is emphasised within the NPPF that financial guarantees should only be sought in exceptional circumstances.

260. As set out in the Ecology section above, it is also proposed to secure biodiversity net gain and long term management through a Section 39 Agreement under the Wildlife and Countryside Act 1981. Section 39 of the Wildlife and Countryside Act 1981 enables local authorities to enter into management agreements with the owner of land for its conservation (and for other related purposes) and is regarded as a suitable mechanism for securing long term land management in relation to biodiversity net gain.

Summary

261. As set out earlier in this report, regard has been given to Paragraph 217 of the NPPF as the colliery spoil, as well as containing shale and spoil, also comprises low-grade coal. Therefore, in accordance with Paragraph 217(a) of the NPPF, the environmental impacts of the proposed development in terms of residential amenity (including noise, air quality and dust), access and traffic, landscape and visual impact, cultural heritage and design and conservation, ecology and nature conservation, flood risk and drainage, public rights of way, soils and agriculture, cumulative impact have been considered. It is concluded that as a whole the proposal would be environmentally acceptable with the application of appropriate planning conditions and obligations and would accord with all relevant development plan policies and Parts 15 and 17 of the NPPF.
262. For completeness, regard has also been had to Paragraph 217(b) which requires consideration to be given to the benefits of the proposal should it be considered that the proposal would not be environmentally acceptable. Under Paragraph 217(b) the benefits of the development must be weighed against the residual harm. The benefits of the development include the continued supply of combustible material for industry and energy generation, supply of aggregates, continued employment for 6 full time and 17 part time jobs (14.5 full time equivalent), indirect economic benefit to local shops, services and suppliers. The completed restoration of the site would remove a potential safety and fire risk, improve local amenity and provide biodiversity net gain. It is considered that the benefits of the development, particularly at this mid point in the restoration of the site, would outweigh the harm.

Other Matters

263. Objectors to the proposal have raised concern that the value of their property would be reduced as a direct result of the development. Impact of development on property values is not considered to be a material consideration in the determination of planning application. However, the effects of the proposal have been thoroughly assessed in relation to residential amenity and considered to be acceptable.
264. Objectors have also suggested that their human rights to the quiet enjoyment of their possessions (Article 1 of the First Protocol) would be breached by the proposed development. A detailed noise assessment has been submitted with the application and assessed earlier in this report. Noise levels from the proposed development would not exceed the limits set out in the PPG and it is therefore considered that the proposal would not lead to a breach of human rights.
265. Objectors have queried why the application has taken so long to determine and have suggested that the Council is complicit in allowing the applicant to export the maximum

amount of material possible in advance of the Planning Committee. The frustrations are appreciated however, this is a major development subject to Environmental Impact Assessment and time has been taken to ensure officers have arrived at an informed conclusion.

266. An objector has raised in correspondence that they delayed filing of accounts by the applicant is a means to hide the value of the development. The site was previously operated by B and S Recycling, which was a partnership between the site owner and other directors. The site is now owned and operated solely by the applicant under the company name of DRS Land Regeneration Ltd. The accounts for this company are up to date but, in any case, this was not a material planning consideration.

Public Sector Equality Duty

267. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
268. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

269. Paragraph 211 of the NPPF states that when determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy. This proposal would allow for the continued reclamation of previously extracted combustible material that was deposited as colliery waste. The site would therefore provide a native source of fuel for existing coal fuelled cement works, reducing the need for imported coal or mining new reserves. This proposal also facilitates the working of sand and limestone deposits from below the colliery spoil that would otherwise not be available and would be sterilised if not extracted during the reclamation of the site.
270. Having assessed the likely impacts of the proposed development it is considered that the scheme would not have significant environmental effects of an adverse nature sufficient to justify a recommendation of refusal taking into account the proposed planning conditions and legal agreements.
271. The proposal has generated public interest with representations reflecting the issues and concerns of local residents affected by the proposed development. Whilst there would be some impacts upon local amenity associated with noise, dust, visual impact and traffic at certain stages of the development these would be at acceptable levels and can be controlled through the implementation of appropriate mitigation measures and planning conditions. These representations have been weighed along with other responses including those of statutory consultees that have raised no overriding objections to the scheme based on the submitted details and assessments. Whilst mindful of the nature and weight of public concerns it is not considered that these are sufficient to outweigh the planning judgement in favour of the proposed scheme.
272. The proposed development is considered accord with the relevant policies of the County Durham Plan, County Durham Minerals Local Plan, the emerging County

RECOMMENDATION

273. That the application be APPROVED subject to the following conditions and completion of an agreement under Section 39 of The Wildlife and Countryside Act 1981 to secure biodiversity management for the life of the development and Section 106 of the Town and Country Planning Act 1990 to secure a restoration bond, community fund and continuation of the liaison committee.

APPROVED DOCUMENTS

1. The development hereby approved shall only be carried out in accordance with the following documents and any detailed matters subsequently approved under Condition 3:
 - a. Description of the working method as contained within Appendix 1 of the Environmental Statement for the Remediation of former Colliery Spoil Heap at Hesleden dated March 2014.
 - b. Drawings:
 - Drawing No. HT WP1A3 rev.C 'Working Proposals Drawing'
 - Drawing No. 2133.01A. rev.A 'Restoration Proposals'
 - Drawing No. HT3 rev.A 'Restoration Contours and Section Locations'
 - Drawing No. HT3 rev.A 'Sections 1-3'
 - Drawing No. HT3 rev.A 'Sections 4-6'
 - Drawing No. HT3 rev.A 'Sections 7-10'
 - Drawing No. HT3 rev.A 'Sections 11-13'
 - Drawing No. JN0684-Dwg-0004 'PROW Network (Proposed Temporary Diversion)'
 - c. Documents:
 - Dust Action Plan Update Dated December 2021
 - Noise Action Plan Update Dated December 2021
 - Restoration Strategy Dated January 2023
 - Letter from DAB Geotechnics Ltd titled "HESLEDEN TIP – CONSTRUCTION OF ACCESS RAMP TO WATER TREATMENT AREA" Dated 15 May 2017
 - Letter from DAB Geotechnics Ltd titled "HESLEDEN TIP – PLANNING CONDITION 29 SURFACE WATER DRAINAGE SCHEME" Dated 1 December 2016
 - Wheel cleaning equipment

Reason: To ensure the development is carried out in accordance with the approved documents.

2. From the commencement of development to the completion of restoration a copy of this permission, including all documents hereby approved and any other documents subsequently approved in accordance with this permission and legal agreements, shall always be on display in the site offices and subsequently, shall be made available to all persons with responsibility for the site's aftercare and management.

Reason: To ensure the development is carried out in accordance with the approved documents.

MATTERS REQUIRING SUBSEQUENT APPROVAL

3. The development hereby permitted shall also only be carried out in accordance with a scheme or schemes to be approved, in writing, by the Mineral Planning Authority, which shall, amongst other matters, include provision for the matters listed below. Those details required by Condition 3(a) through to Condition 3(k) shall be submitted to and approved, in writing, by the Mineral Planning Authority at the specified times.

- a) Highway condition survey for the length of Gray Avenue between the site entrance and the junction with the B1281 road. 3 surveys shall be submitted with the following timings:
- Within 3 months of the issue of this planning permission
 - Between 47 and 48 months following the issue of this planning permission
 - Within 3 months of the cessation of works at the site

The highway condition surveys shall include an assessment of any degradation of the road surface due to activities relating to this development. If any degradation is identified works shall be carried out to remedy the road surface within 6 months of the date of the survey.

b) Details of the final restoration of the site, which shall include:

- i) the final contours for the site (at 2 metre intervals), indicating how such contours tie in with the existing contours on adjacent land;
- ii) the drainage of the restored site;
- iii) the erection of fences;
- iv) the planting of trees and hedges;
 - a. the species to be planted, and the percentage of the total to be accounted for by each species;
 - b. the size of each plant and the spacing between them;
 - c. the preparations to be made to the ground before planting;
 - d. a subsequent maintenance and management programme during the aftercare period once the hedgerow, tree, shrub planting and seeding has been carried out, which shall include the weeding of the planted area, repairing of any damaged fencing, and the replacement of any plants which die or are seriously affected by disease and a detailed schedule as to when the aftercare period commences for each area.

The final restoration details shall be provided within 5 years of the date of this permission, or upon completion of mineral extraction, whichever is sooner.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

COMPLETION

4. All mineral extraction shall cease by 31 December 2030.

Reason: To avoid unnecessary delay in the restoration of the site in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework.

5. In the event of extraction ceasing earlier than the date specified in Condition 4 the Mineral Planning Authority shall be notified in writing within one month of the date of such cessation. Within one month of that date, a revised scheme for the restoration of the site, including timescales for completion, shall be submitted to the Mineral Planning Authority for its written approval. The revised scheme shall be implemented as approved.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework.

WORKING PERIOD

6. All site operations including extraction and haulage authorised by this planning permission shall be restricted to the following periods:

07.00 hours to 19.00 hours Monday to Friday
07.00 hours to 12.00 hours Saturday

With the exception of pumping, no operations including the maintenance of vehicles and plant or working shall take place outside these hours or at any time on Bank, or other public holidays, save in cases of emergency. The Mineral Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

Reason: In the interests of residential amenity in accordance with County Durham Plan Policy 31 and Part 15 of the National Planning Policy Framework.

ACCESS AND PROTECTION OF THE PUBLIC HIGHWAY

7. Vehicular access for all vehicles to and from the site shall only be via the access as shown on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing'.

Reason: In the interests of highway safety in accordance with County Durham Plan Policy 21 and Part 15 of the National Planning Policy Framework.

8. The wheel cleaning equipment installed and detailed in Condition 1, shall be used to ensure all vehicles leaving the site access as indicated on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing' are cleaned of mud before entering the public highway.

Reason: In the interests of highway safety in accordance with County Durham Plan Policy 26 and Part 9 of the National Planning Policy Framework.

9. The total number of heavy goods vehicles entering and leaving the site shall not exceed 20 (10 in and 10 out) per operational day Monday to Friday and 4 (2 in and 2 out) on Saturdays. A record of all heavy goods vehicles leaving the site shall be

maintained by the operator and a certified copy of this record shall be afforded to the Mineral Planning Authority within 2 working days of such a request.

Reason: In the interests of residential amenity and highway safety in accordance with County Durham Plan Policies 21 and 31 and Part 9 of the National Planning Policy Framework.

10. The loads of all laden heavy goods vehicles leaving the site access as indicated on Drawing No. HT WP1A3 rev.A 'Working Proposals Drawing' shall be fully covered by sheeting to prevent any mineral from leaving the loads of that vehicle.

Reason: In the interests of residential amenity and highway safety in accordance with County Durham Plan Policies 21 and 31 and Part 9 of the National Planning Policy Framework.

SOIL HANDLING

11. No topsoil, subsoil or soil making materials shall be removed from the site or imported to the site.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46, Policy MW1 of the County Durham Minerals and Waste Policies and Allocations Document and Part 17 of the National Planning Policy Framework

SITE WORKING

12. No site clearance works or development affecting trees, scrub, ground vegetation or other semi-natural vegetation shall take place between March and August inclusive unless survey work immediately prior to the start of works confirms that breeding birds are absent. This is particularly relevant to the works to remove areas used by birds such as trees and scrub. If nesting birds are found then work in that area must be avoided until the birds have fledged.

Reason: To avoid any impacts on nesting birds in accordance with County Durham Plan Policy 43, Policy MW1 of the County Durham Minerals and Waste Policies and Allocations Document and Parts 15 and 17 of the National Planning Policy Framework.

SITE MAINTENANCE

13. From the commencement of the development, until restoration of the site, the following site maintenance operations shall be carried out:
 - a. the maintenance of fences in a stockproof and secure condition, between any areas used for development, and adjoining agricultural land;
 - b. the care, maintenance and fencing of trees and hedgerows to be retained within the site boundary and treatment of those affected by disease, in accordance with accepted principles of good woodland management and good arboricultural practice (including the provision of protective fencing);
 - c. the maintenance of all the hard surfaced access roads within the site, over which licensed road vehicles operate, clean from mud;

- d. the maintenance of drainage ditches, water treatment areas, and the clearance of mud and silt from water treatment areas to avoid reducing their capacity for intercepting sediment;
- e. all areas of the site, including undisturbed areas and all topsoil, subsoil and overburden mounds, shall be managed to minimise erosion and shall be kept free from injurious weeds (as defined by The Weeds Act 1959). Cutting, grazing or spraying shall be undertaken, as necessary and appropriate to the approved after-use of the land where the materials in mound are to be replaced, to control plant growth and prevent the build-up of a seed bank of such weeds, or their dispersal onto adjoining land.

Reason: To ensure the site is satisfactorily restored and in the interests of visual amenity in accordance with County Durham Plan Policies 31 and 39, County Durham Minerals Local Plan (December 2000) Policy M46, Policy MW1 of the County Durham Minerals and Waste Policies and Allocations Document and Part 17 of the National Planning Policy Framework

BUILDINGS, PLANT AND MACHINERY

- 14. Notwithstanding the provisions of Part 17 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, no buildings, plant, or machinery, other than detailed under Condition 1 above, shall be erected or placed on the site other than with the prior written approval of the Minerals Planning Authority.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

- 15. Plant and machinery on the site shall not be used to process, treat, or otherwise refine materials other than those extracted from the site.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

ENVIRONMENTAL PROTECTION

NOISE

- 16. The noise emitted from operations on the site shall not result in noise levels greater than those listed below at the properties/locations listed below and identified in the approved Noise Action Plan between the hours set out in Condition 6.

Hillcrest Place	55dB LAeq, 1Hr (free field)
Southfield Farm	55dB LAeq, 1Hr (free field)
The Bleachery	55dB LAeq, 1Hr (free field)

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

- 17. Noise monitoring shall be carried out in accordance with the approved Noise Action Plan. On request the operator shall, within 2 working days, furnish the Mineral Planning Authority with the particulars of the measurements recorded and the plant and equipment operating on the site at the time.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

18. All plant and machinery used on site shall be fitted with an effective silencer and operate with the doors or cowls of its engine(s) in the closed position.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

19. The details of reversing warning devices to be fitted to plant and machinery shall be approved in writing in advance with the Mineral Planning Authority and only the approved devices shall be used.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

BLASTING

20. No blasting shall take place at the site.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

DUST

21. The approved Dust Action Plan shall be implemented for the duration of the development and is intended to minimise and control dust arising from and leaving the site during the hours set out in Condition 6 from all operations, including vehicular movements, excavation operations, mineral, soils and overburden stockpiling arrangements and soil spreading operations. The Dust Action Plan shall be reviewed at six-monthly intervals and the latest version adhered to at all times.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

22. At such times when the equipment provided and the provisions in the approved Dust Action Plan are not sufficient to minimise and control dust arising from and leaving the site, operations shall temporarily cease until additional dust suppression equipment is provided in order to minimise and control dust from leaving the site.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

23. Monitoring of dust levels shall be carried out by the operator in accordance with the approved Dust Action Plan. On written request the operator shall, within two working days, furnish the Mineral Planning Authority with the particulars of the measurements recorded.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31 and Parts 15 and 17 of the National Planning Policy Framework.

SURFACE WATER DRAINAGE AND POLLUTION CONTROL

24. The surface water drainage scheme constructed at the site and detailed in Condition 1 shall be retained for the life of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to ensure there is no increase of flood risk elsewhere as a result of this development in accordance with Policy 35 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

25. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank it contains plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund. The bund shall be sealed with no drain for removal of contained liquids. Any bund contents shall be bailed or pumped out under manual control and disposed of safely.

Reason: To prevent adversely affecting watercourses passing through or outside the site in accordance with Policies 32 and 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

26. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To prevent adversely affecting watercourses passing through or outside the site in accordance with Policies 32 and 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

RESTORATION

27. Restoration of the site shall be in complete accordance with the approved documents in Condition 1 and schemes subsequently approved in accordance with Condition 3.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

28. In accordance with the restoration requirements, all areas of hardstanding, including site compounds, access road other than that part to be retained as shown on the approved Drawing No. 2290.R1 rev.B 'Restoration Proposals' and restoration details approved under Condition 3, and haul roads, shall be broken up and removed from the site or buried at sufficient depth not to affect the final restoration of the site.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

29. In accordance with the restoration requirements, all water treatment areas shall, unless to be retained in accordance with the approved plans, be emptied of slurry, filled with dry inert material, and restored to levels shown on the approved restoration plan.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

30. In accordance with the restoration requirements, all fixed equipment, machinery, and buildings shall be removed from the site.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

31. The Mineral Planning Authority shall be notified in writing of the completion of restoration works and afforded 48 hours notice to inspect the completed works.

Reason: To ensure the site is satisfactorily restored in accordance with County Durham Minerals Local Plan (December 2000) Policy M46 and Part 17 of the National Planning Policy Framework

AFTERCARE

32. The Aftercare Period shall extend for a period of 5 years effective management from the date of final restoration of the site in accordance with Drawing No. 2290.R1 rev.B 'Restoration Proposals' as confirmed in writing with the Mineral Planning Authority.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

33. Effective aftercare management, following on from the final restoration of the site shall take place in accordance with the following Aftercare Conditions, the approved documents in Condition 1, and schemes subsequently approved in accordance with Condition 3.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

ANNUAL REVIEW

34. Before 30 September of every year, or such other date approved in writing with the Mineral Planning Authority, during the aftercare period not less than 4 weeks prior to the annual review meeting held in accordance with Condition 37, a report conforming to the requirements of the Planning Practice Guidance for Minerals (refer to paragraphs 050 – 058) shall be submitted by the developer to the Mineral Planning Authority and Natural England or successor), recording the operations carried out on the land since the date of soil replacement operations were completed, or previous aftercare meeting, and setting out the intended operations for the next 12 months

(including works to rectify failures, and identified as necessary by the Mineral Planning Authority as a consequence of preceding site meeting, held in accordance with Condition 35.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

35. Every year during the aftercare period the developer shall arrange to attend a site meeting to be held before 30th November, to discuss the report prepared in accordance with Condition 34, to which the following parties shall be invited:
- a. the Mineral Planning Authority;
 - b. Natural England (or successor);
 - c. all owners of land within the site;
 - d. all occupiers of land within the site;
 - e. representatives of other statutory and non-statutory bodies as appropriate.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

MAINTENANCE OF HEDGES AND TREES

36. Hedges and trees planted in accordance with Condition 28 shall be maintained during the aftercare period in accordance with the schemes approved under Condition 3, in accordance with good woodland and/or agricultural practice, such maintenance to include the following:
- a. the early replacement of all dead, damaged or diseased plants;
 - b. weeding early in each growing season, and as necessary thereafter to prevent the growth of plants being retarded;
 - c. maintaining any fences around planted areas in a stock proof condition;
 - d. appropriate measures to combat all pests and/or diseases which significantly reduce the viability of the planting scheme.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

COMPLETION AND AFTERCARE

37. No later than 6 months prior to the target date for the completion of aftercare on any part of the site, the developer shall prepare a report on the physical characteristics of the restored land, and in respect of the agricultural land shown on Drawing No. 2290.R1 rev.B 'Restoration Proposals' and on restoration details approved under Condition 3 for such after use, incorporating proposals to demonstrate to the Mineral Planning Authority, that by the end of the aftercare period, this will be restored, so far as it is practicable to do so.

Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.

38. The period of aftercare shall be deemed to have been successfully completed following a period of 5 years effective management of those parts of the site to be restored to agriculture as identified on Drawing No. 2290.R1 rev.B 'Restoration Proposals' and on restoration details approved under Condition 3 for such after use as confirmed in writing by the Mineral Planning Authority.

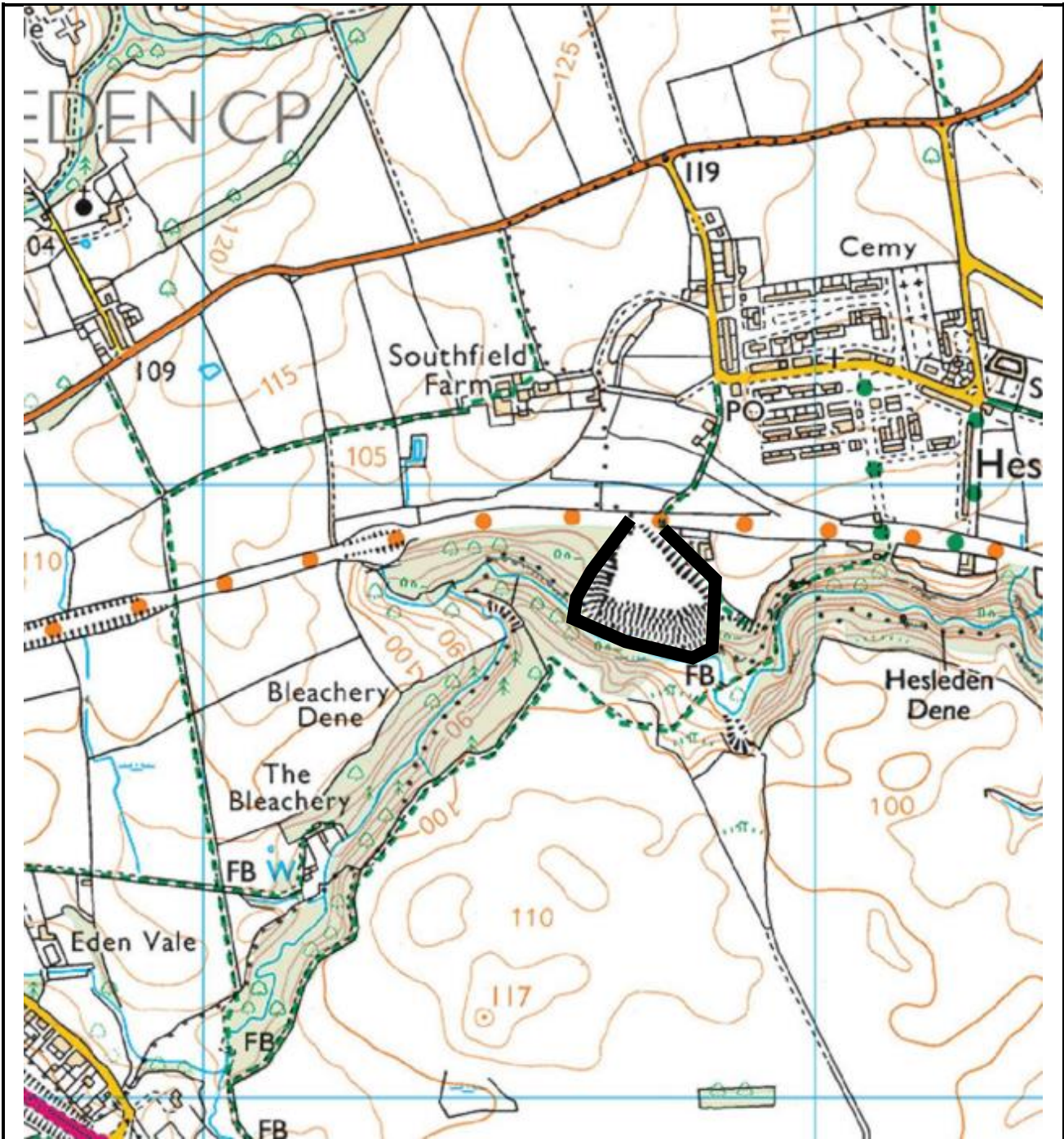
Reason: To ensure that the land is satisfactorily treated for an appropriate period after the initial restoration to bring it to a satisfactory standard as required by Schedule 5 of the Town and Country Planning Act 1990.


STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

- Submitted application form, Environmental Statement and Addendum, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- County Durham Minerals Local Plan (2000)
- County Durham Plan 2020
- Emerging County Durham Minerals and Waste DPD (2023)
- Statutory, internal and public consultation responses.



 <p>Durham County Council</p> <p>Planning Services</p>	<p>DM/22/00010/MIN</p> <p>Continued restoration of colliery spoil heap, including extraction, processing and export of combustible material, limestone and sand for a period of 10 years at the Former Colliery Spoil Heap, Hesleden, Durham</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date September 2023</p>	<p>Scale not to scale</p>

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/03757/FPA
FULL APPLICATION DESCRIPTION:	Formation of 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.
NAME OF APPLICANT:	Locogen
ADDRESS:	Land West Of Trimdon House Lodge Fishburn, TS21 4BA
ELECTORAL DIVISION:	Sedgefield
CASE OFFICER:	Chris Shields Senior Planning Officer 03000 261394 chris.shields@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The site of the proposed solar farm occupies an area of around 75.8 hectares (ha) and largely comprises agricultural land to the north west of the village of Fishburn, and to the south of Harap Road, generally sloping from north to south. The site is bound to the west by Fishburn Airfield, Spennymoor Clay Pigeon Club to the north west perimeter and a smaller solar development to the north east. A smaller 228 KW solar development, which was granted planning permission in 2014 and is now operational, is located directly adjacent to the north east of the Proposed Development opposite Trimdon House Farm at Harap Road
2. The site does not lie in an area covered by any national or local landscape designations. An area of Higher Land Value (AHLV) as defined in the County Durham Plan is located approximately 1.6km to the south west in Bishop Middleham.
3. Fishburn Grassland Site of Special Scientific Interest (SSSI) is located approximately 70m to the east of the site, Bishop Middleham Quarry SSSI is located approximately 1.6km to the west, Thrislington Plantation SSSI is located approximately 28km to the west, Charity Land SSSI is located approximately 1.8km to the north east and Raisby Hill Quarry and Raisby Hill Grassland are located approximately 1.5m to the north. Thrislington Special Area of Conservation (SAC) and National Nature Reserve (NNR) is located approximately 2.8km to the west. Captains Well Local Wildlife Site (LWS) is located approximately 1.9km to the north east, Garmondsway Moor Quarry is located approximately 800m to the west, Merryknowle Quarry LWS is located approximately 675m to the south west, Bishop Middleham Roadside Lake is located approximately 1.1m to the south, Trimdon Grange and Railway LWS is located approximately 1.5km to the north, Trimdon Grange Pit Heap LWS is located approximately 1.5km to the north, Cleveland Gorse LWS is located approximately 2.5km to the north east and

Rough Furze Quarry LWS is located approximately 2.8km to the west. There are no other national or local landscape designations within 3km of the proposed solar farm site.

4. The entirety of the site is within the lowest risk flood area, Flood Zone 1.
5. There are no designated heritage assets within the solar farm application boundary. The Grade II Listed Trimdon Hall and Hall Farmhouse, Grade II Listed Church of St Mary Magdalene and Grade II Listed Trimdon Grange Colliery Disaster Memorial are located approximately 1.4km to the north east. The Grade II Listed 13 and 14 High Street, Grade II Listed Dun Cow Public House and Grade II Listed Manor House are located approximately 2km to the south west. Trimdon Conservation Area lies approximately 1.3km to the north east and Bishop Middleham Conservation Area lies approximately 2km to the south west. Garmondsway Village Scheduled Monument is located approximately 1.5km to the north west and Middleham Castle Scheduled Monument is located approximately 2.5m to the south west.
6. There are several public rights of way in and around the site. Footpath No.12 (Fishburn Parish) crosses the south western corner of the site. Footpath No.14 (Fishburn Parish) is located approximately 500m to the north west. Footpath No.10 shares the site entrance in the north east corner.
7. The nearest residential properties are Trimdon House, Trimdon House Farm and Trimdon Lodge approximately 50m to the north, West House Farm approximately 240m to the west, Hope House approximately m to the east and Catley Hill House approximately 400m to the north. The settlement of Trimdon is located approximately 800m to the north east and Fishburn is located approximately 380m to the south.
8. The entirety of the site is located within a Coalfield Development Low Risk area. The site is within the safeguarding area for Fishburn Airfield for development greater than 15m in height. The site is also within the consultation area for High Moorsely meteorological station for any development of more than 15.2m in height, or any development involving wind farms. A small patch on the western edge of the site is a mineral safeguarding area for glacial sand and gravel. The Sabic Ethylene pipeline runs below land to the northeast of the part of the site to be occupied by solar panels but would be crossed by the underground electricity cable that would connect the site to the grid.

Proposal

9. The proposed development comprises solar panels arranged into linear arrays facing south. The solar panels would be composed of photovoltaic cells designed to maximise the absorbency of the sun's rays and to minimise solar glare. The proposed development site extends across 75.8 ha of land in total. The layout has been amended during consideration of the application to remove panels from areas of potential archaeological interest.
10. The solar panels would be mounted on a metal frame supported by pile driven foundations, without the need for concrete foundations. Between each line of solar panels there would be a gap to avoid overshadowing from one solar panel to another. All solar arrays would be tilted at 30 degrees from the horizontal axis with a maximum frame height of around 3m.
11. In addition, inverters and transformers with adjoining switchgear substations would be constructed. A 66kv substation would be located to the north east of the site and connected by a 600m underground cable. The switchgear, metering, protection

equipment and other electrical auxiliary equipment would be contained in a glass reinforced plastic (GRP) Customer substation building. The Distribution Network Operator (DNO) substation building would also have space for Northern Powergrid electrical equipment. The communication and storage buildings would be located next to the Customer substation.

12. The solar panels would be set back from the site boundaries to allow for perimeter security fencing, CCTV coverage and maintenance access. The panels would also be set back from existing footpaths that surround the site.
13. The solar PV installation would require supporting infrastructure including gravel maintenance tracks, transformers, switchgear substations and security systems. The cabling that links the solar panels and inverters to the substation would be connected via a network of shallow trenches which would be backfilled. The arrays would be set within a 2m high timber and post / deer stock fence around the application site. The openings within the mesh of the stock fence, and mammal gates located throughout the fencing, would enable free movement of hedgehogs and other wildlife such as amphibians, hare and badger. CCTV cameras would be positioned to cover the site access points in order to provide security to the site and discourage unauthorised access by members of the public.
14. The majority of the site would be reseeded with a species rich grassland mix, additional hedgerows would be created on exposed boundaries to the north and south and a 0.5 ha wildflower area would also be planted. New habitats would be created across the site including hibernaculum, bird and bat boxes, bee banks and invertebrate 'hotels'. The proposal would generate a 213.78% net gain in habitat units and an 80.04% net gain in hedgerow units.
15. The construction phase of the development would create up to 100 full time equivalent (FTE) on site jobs and a further indirect and induced FTE jobs from the supply chain and related services. The construction phase would last for approximately six months.
16. The proposed development would have an export capacity of 41.4MW. A solar farm of this size would generate and export approximately 60GWh of locally sourced renewable electricity to the national grid annually. This is equivalent to a typical annual demand of circa 20,700 UK households. The Proposed Solar Farm would offset approximately 15,240 tonnes of CO2 emissions from the national grid in year 1.
17. The development would occupy the site for a temporary period of 40 years, after which the equipment would be removed and the land reinstated.
18. The application is being reported to Planning Committee as it is a major development with a site area greater than 1 hectare

PLANNING HISTORY

19. Within the north east corner of the site is a 228kw solar farm that was approved under reference DM/14/01413/FPA at Trimdon House Farm, Trimdon Village.

PLANNING POLICY

NATIONAL POLICY

20. A revised National Planning Policy Framework (NPPF) was published in July 2021. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
21. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
22. *NPPF - 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
23. *NPPF - Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
24. *NPPF - Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive and safe communities. Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and community facilities and services should be adopted.
25. *NPPF - Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
26. *NPPF - Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
27. *NPPF - 15 Conserving and Enhancing the Natural Environment* - The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, site of biodiversity or geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from

contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

28. *NPPF - Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

29. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; listed air quality; climate change; determining a planning application; flood risk and coastal change; healthy and safe communities; historic environment; light pollution; natural environment; noise; planning obligations; renewable and low carbon energy; travel plans, transport assessments and statements; use of planning conditions; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

30. Other material considerations include EN:1 Overarching National Policy Statement for Energy (published in July 2011) and EN-3 National Policy Statement for Renewable Energy Infrastructure (published in July 2011). Both National Policy Statements are currently under review and the Draft Overarching National Policy Statement for Energy (EN-1) (September 2021) and Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) (September 2021) have been out for consultation. Draft EN-3 states that electricity generation from renewable sources of energy is an essential element of the transition to net zero). EN-3 reflects the important role that renewable will play in developing a low carbon economy and meeting the Government's targets of net zero.

LOCAL PLAN POLICY:

The County Durham Plan (October 2020)

31. *Policy 10 – Development in the Countryside* – States that development in the countryside will not be permitted unless allowed for by specific policies within the Plan or within an adopted neighbourhood plan relating to the application site or where the proposed development relates to the stated exceptions.
32. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources* – States that development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. Development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
33. *Policy 21 – Delivering Sustainable Transport* – Requires planning applications to address the transport implications of the proposed development. All development shall deliver sustainable transport by delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable

and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings.

34. *Policy 25 – Developer Contributions* – advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
35. *Policy 26 – Green Infrastructure* – States that development will be expected to maintain and protect, and where appropriate improve, the County’s green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
36. *Policy 28 – Safeguarded Areas* – Within safeguarded areas development will be subject to consultation with the relevant authority and will be permitted within the defined consultation zones of the Major Hazard Sites and Major Hazard Pipelines, where it can be demonstrated that it would not prejudice current or future public safety. The Policy also requires that development would not prejudice the safety of air traffic and air traffic services, that there would be no unacceptable adverse impacts upon the operation of High Moorsley Meteorological Officer radar and the operation of Fishburn Airfield, Shotton Airfield and Peterlee Parachute Drop Zone Safeguarding Areas.
37. *Policy 31 – Amenity and Pollution* - Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that the development can be effectively integrated with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised to an acceptable level.
38. *Policy 32 – Despoiled, Degraded, Derelict, Contaminated and Unstable Land* – requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
39. *Policy 33 – Renewable and Low Carbon Energy* – States that renewable and low carbon energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associate developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
40. *Policy 35 – Water Management* – Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new

development must ensure there is no net increase in surface water runoff for the lifetime of the development.

41. *Policy 39 – Landscape* – States that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse landscape and visual impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities of the landscape, unless the benefits of the development clearly outweigh its impacts. Development proposals should have regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy and contribute, where possible, to the conservation or enhancement of the local landscape.
42. *Policy 40 – Trees, Woodlands and Hedges* – States that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.
43. *Policy 41 – Biodiversity and Geodiversity* – Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as well as biodiversity net gains. Proposals are expected to protect geological features and have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitat(s) will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
44. *Policy 42 – Internationally Designated Sites* – States that development that has the potential to have an effect on internationally designated site(s), either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.
45. *Policy 43 – Protected Species and Nationally and Locally Protected Sites* – States that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.
46. *Policy 44 – Historic Environment* – Requires development proposals to contribute positively to the built and historic environment. Development should seek opportunities to enhance and where appropriate better reveal the significance and understanding of heritage assets.

NEIGHBOURHOOD PLAN:

47. There is no Neighbourhood Plan for this area.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

48. *Fishburn Parish Council* – supports the application and has stated that the development can accommodate new generation without the need for additional overhead power lines, that remaining land can be used for grazing whilst supporting continued arable use of the remaining fields and that projects such as this support the transition to a low carbon economy, encouraging and enabling the use of low and zero carbon technologies through the development of appropriate renewable energy sources.
49. *Highway Authority* – has raised no objections to the proposals. Officers have considered the submitted Construction Traffic Management Plan and Glint and Glare Assessment and agree with the findings. Officers have requested conditions to require a road condition survey be submitted for the highway 200m in each direction from the site entrance and have recommended an informative be included relating to the upgrading of the site access.
50. *Health and Safety Executive* – as the proposed solar farm site currently lies within the consultation distance at least one major hazard site and/or major accident hazard pipeline (6904_ Operated by SABIC), HSE needs to be consulted on any developments on this site. The HSE does not advise, on safety grounds, against the granting of planning permission in this case. As the proposed development is within the Consultation Distance of a major hazard pipeline the HSE advises that the pipeline operator is contacted before determination.
51. *SABIC* – has raised no objections to the proposals. Officers have identified that the proposed development is located in the inner, middle and outer zone of the Wilton to Grangemouth Ethylene Pipeline. Should planning permission be granted the developer would need to work with SABIC to ensure that their conditions of working in close proximity to the ethylene pipeline are met.
52. *Lead Local Flood Authority (Drainage and Coastal Protection)* – has raised no objections to the proposals. Officers have provided advice to the applicant in respect of flood mitigation.

INTERNAL CONSULTEE RESPONSES:

53. *Spatial Policy* – has raised no objections to the proposed solar farm. Officers identify the key planning policies and their current status relevant to the consideration of this proposal. Comments also highlight any policy related material considerations relevant to the consideration of this proposal in terms of national policy, guidance and locally derived evidence bases. Officers consider that the key determining factors will be the renewable energy and economic benefits of the proposals balanced against potential harm to the countryside, and possible surface water issues that could result from the development.
54. *Archaeology* – has raised no objections following the targeted trial trenching carried out to examine anomalies picked up by the geophysical assessment. A standard

phased works condition for archaeological work is recommended, which would allow for multiple phases of work if required.

55. *Ecology* – has raised no objections to the proposals. Concerns were initially raised regarding the potential risk to Skylark habitat, however, following clarifications regarding actual population and a commitment to safeguarding portions of the site as suitable habitat officers were satisfied. Officers have advised that some minor changes are required to the planting schedule, which can be provided as part of the detailed landscaping scheme by planning condition.
56. *Environmental, Health and Consumer Protection (Contaminated Land)* – has raised no objections to the proposals. Officers note that there is a potential risk associated with land contamination and ground gas and recommend a condition to require further assessment prior to the commencement of development.
57. *Environmental, Health and Consumer Protection (Air Quality)* – has raised no objections. Officers have commented that during the operational phase there would be 10-15 vehicle movements per year and during the construction phase there would be a peak of 20HGV's per day, which is below the trigger for an air quality assessment. Officers note that there is no mention of on-site emissions, but state of which there would be none. It is requested that the applicant submit a dust impact assessment as part of the Construction Management Plan.
58. *Environment, Health and Consumer Protection (Nuisance Action)* – has raised no objections to the proposals. Separate advice has been provided in relation to noise and glint and glare. Officers have advised that a condition be imposed to require mitigation measures set out in the Glint and Glare Assessment be carried out. Officers have also recommended a condition to restrict noise levels to 5dB above background during daytime hours (0700 – 2300) and 0dB above background during night time hours (2300 – 0700) for noise sensitive receptors. It is also recommended that a Construction Management Plan be submitted for the development.
59. *Landscape* – has raised no objections to the proposals. Officers have commented that the revisions to the site layout reflect some of the issues raised in discussions. The development would, however, still have a transformative effect that would result in landscape harm.
60. *Public Rights of Way* – has raised no objections to the proposals. Officers have commented that Footpath No. 10 (Fishburn Parish) is located close to the proposed development and a section Footpath No. 12 (Fishburn Parish) is located within the red outline boundary and that there is the potential for moderate adverse effects for PROW users but that these effects would be somewhat mitigated during operational years by planting. Officers have stated that any planting adjacent to the PROW must be maintained to ensure that it does not encroach onto the path.

PUBLIC RESPONSES:

61. The solar farm application has been advertised in the local press and by site notice as part of planning procedures. In addition, neighbour notification letters were sent to 1005 neighbouring properties. 16 objections and 105 letters of support (many being proforma letters) have been received in response to the consultation. A further 3 letters have received offering comments.

Objection

62. Objectors have stated that the development is not a locally led initiative and is a purely commercial venture with no evidence of vested interests in the wellbeing or development of the local community.
63. It has been stated that consultation, both from the applicant and the Council, has been insufficient. Objectors also state that the applicant has not demonstrated that the development has the support of the community and that if the development is not immediately rejected then there should be a clear statement that until such time as community support is clearly evidenced no approval will be granted.
64. Concerns have been raised in respect of harm to wildlife and the validity of desk based assessments.
65. Objectors have raised landscape and visual impact as an issue and have noted that the development would occupy an area similar in size to Fishburn.
66. Objectors have raised concerns regarding the impact to public rights of way.
67. The loss of farmland for food production has been raised and objectors have stated that food production should be prioritised, particularly in light of the war in Ukraine. It is stated that the land is fertile and not of poor quality.
68. In respect of residential amenity, it has been stated that the development would be noisy both during construction and in operation and that residents would be exposed to glare once the site is operational.
69. Objectors have raised the concerns about the inefficiency of solar panels and have stated that better alternatives are available. It is suggested that brownfield sites would be preferable, along with installing panels on factory roofs. Objectors have stated that developments such as this should be located away from where people live and travel.
70. Impact to house prices has been raised as an issue.

Support

71. *Fishburn Airfield* supports the proposed development. They have stated that the development would generate green, renewable energy and would not adversely affect the operation of the airfield.
72. Support is offered from landowners who have explained that the soil structure across the site is poor, making it difficult to grow arable crops and that it is too wet for winter livestock. In addition, animals kept on the site have been scared by dogs and fences/gates have been cut or left open allowing animals to escape with instances of them being knocked over on roads.
73. The majority of the support letters cite renewable energy to be the main benefit and the wider benefits that would flow from this.

Comments

74. A query has been raised in respect of an outline planning permission for housing the south of the proposed development and how this would be affected by the solar farm.

75. It has been alleged that sheep will not graze within the perimeter fence and the grass between and under the solar panels would be of a poor quality.
76. Concern is raised in respect of glare from the solar panels and the effect that this may have on users of Fishburn Airfield.
77. Durham Constabulary Crime Prevention Unit have provided advice to the applicant in respect of designing out crime. They have suggested securing the site with weld mesh fence and ensuring there are no gaps in the hedging or fence lines. CCTV should be functional and provide full coverage of the site with signage to indicate that the site is monitored. Barriers to prevent access to unauthorised vehicles should be considered and regular checks to ensure there are no holes or breaks in the perimeter. Forensic marking of the solar panels should be also be considered in case of theft.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

APPLICANTS STATEMENT:

78. Locogen and our partners Livos Renewables and Aukera Energy are UK based developers of renewable energy projects, actively working towards decarbonising the UK grid supply in line with UK Government targets. Locogen collaborate with local communities to ensure our projects maximise potential community involvement and benefits, while allowing landowners to diversify revenue streams in challenging economic conditions.
79. The proposed West House Solar Farm will make a significant contribution to increasing renewable energy generation and reducing carbon emissions in the context of a nationally and locally declared Climate Emergency.
80. Durham County Council declared a Climate Emergency in 2019 and subsequently adopted a Climate Emergency Action Plan, which commits to making County Durham carbon neutral by 2045. This application will make a significant contribution towards achieving these goals.
81. Securing robust renewable domestic energy supply is increasingly important in the face of climate change and geopolitical events which are contributing heavily towards socio economic challenges for everyday working people. July 2023 was also the hottest month on record, with almost each day breaking the previous monthly average record. The DEFRA Food Security Report (2021) outlines the following on the threat of climate change to UK food supply: a. "The biggest medium to long term risk to the UK's domestic production comes from climate change and other environmental pressures like soil degradation, water quality and biodiversity."
82. The Government have set out ambitions to deliver Net Zero and secure our energy sufficiency and they recognise the importance of solar in achieving these aims, particularly as it is the cheapest and quickest form of renewable energy to deploy.
83. West House Solar Farm will deliver a significant amount of renewable energy alongside a range of other benefits:
 - C.15,000+ tonnes of carbon emissions avoided every year,
 - enough clean solar energy to power the equivalent of 20,000+ homes,
 - enabling the land to remain in agricultural use through co-use of the site with sheep grazing opportunities,

- contributing to the future and long-term viability of the landowners, all of whom are local farmers, whose families have farmed here for several generations.
 - Contribution of a £15,525 indexed linked annual payment towards the local community through the provision of a Community Benefit Fund, for the operational life of the project,
 - planting of over 1.5km of new hedgerows, trees and shrubs,
 - securing a 210% biodiversity net gain through a range of ecological enhancements including:
 - Species-rich grassland,
 - Wildflower meadow,
 - Bat and bird boxes,
 - Bee banks,
 - Invertebrate Hotels,
 - Hibernacula.
84. Solar is a reliable source of renewable energy which will be a vital component in reaching net-zero targets and balancing the renewable energy mix on the grid. It is important to state that at the end of the projects operational period the land can continue to be used for agricultural purposes with panels and associated components removed and recycled.
85. Locogen held two public consultation events in Fishburn and met with various local stakeholders over the last year. In response to public comments, the scheme has been revised with panels removed from various locations including the brow of Harap Hill and further planting proposed to improve the screening of the site from Fishburn. As a result the application received over 90 letters of support. This included Fishburn Parish Council who supported the application unanimously and stated the following within their stakeholder response: “Fishburn Parish Council last night unanimously resolved to support the planning application for West House Solar Farm on land to the north of Fishburn. It was noted that the location has been chosen because of capacity at the Fishburn National Grid substation and that it is one of the few areas of the Northern Power Grid (NPG) that can accommodate new generation without the need to build additional overhead power lines or other network infrastructure; that retaining land around the proposed solar farm for grazing will expand the livestock side of both agricultural units whilst supporting continued arable use of the remaining fields; and that projects like West House Solar Farm support the transition to a low carbon economy, encouraging and enabling the use of low and zero carbon technologies through the development of appropriate renewable energy sources.”
86. We urge the committee to take this opportunity to grant consent for the proposed solar farm which will increase electricity generation, bring investment to the local area, support the local economy including local farming businesses and contribute to the reduction of Carbon in line with County Durham’s targets.

PLANNING CONSIDERATIONS AND ASSESSMENT

87. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, landscape and visual impact, access and traffic, residential amenity, contamination, flooding and drainage, ecology, recreational

amenity, cultural heritage, agricultural land, cumulative impact, safeguarded areas, community fund, other matters and public sector equality duty.

Principle of Development

88. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and is the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.
89. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Policies in this Framework taken as a whole.
90. In light of the adoption of the CDP, the Council now has an up-to-date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (Paragraph 11 c). Accordingly, Paragraph 11(d) of the NPPF is not engaged.
91. The key policy for the determination of this application is CDP Policy 33 relating to renewable and low carbon energy. This Policy supports renewable and low carbon energy development in appropriate locations, including transmission lines. The Policy advises that significant weight will be given to the achievement of wider social, environmental and economic benefits. The Policy also advises that proposals should include details of associated developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
92. The opening paragraph of CDP Policy 10 states that development in the countryside will not be permitted unless allowed for by specific policies in the Plan. These specific policies are set out in footnote 54 (of the CDP) and includes all applicable policies relating to low carbon and renewables. As this is a renewable energy development it is considered that the development could be allowed for by specific policies in the plan (CDP Policy 33). The development therefore does not have to demonstrate an exception to CDP Policy 10, but the acceptability criteria are engaged.

93. CDP Policy 10 states that new development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for, result in the merging or coalescence of neighbouring settlements, contribute to ribbon development, impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for, be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport, be prejudicial to highway, water or railway safety; and impact adversely upon residential or general amenity. Development must also minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding; and where applicable, maximise the effective use of previously developed (brownfield) land providing it is not of high environmental value.
94. The development would not result in the coalescence of settlements or adversely impact on the townscape of neighbouring settlements. The proposals would also not constitute ribbon development.
95. The site is within flood zone 1 and would not increase offsite risk of flooding. The purpose of the development is to generate renewable energy and it would therefore be inherently resilient to the impacts of climate change.
96. Paragraph 158 of the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should:
 - a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
 - b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.
97. It should be noted that the CDP has identified areas suitable for wind turbine development but not for solar.
98. The UK Government published their policy paper 'Powering Up Britain: Energy Security Plan' in April 2023. This document outlines the steps to be taken to ensure that the UK is more energy independent, secure and resilient. Within this document it is stated that to provide certainty to investors in the solar industry, in line with the 'Independent Review of Net Zero' recommendation the government will publish a solar roadmap in 2024, setting out a clear step by step deployment trajectory to achieve the five-fold increase (up to 70 gigawatts) of solar by 2035. The government will also establish a government/industry taskforce, covering both ground mounted and rooftop solar to drive forward the actions needed by government and industry to make this ambition a reality.
99. The purpose of the proposed development is to generate renewable energy on a large scale. The location affords the space requirement without significant constraints that would limit energy generation. CDP Policy 33 is permissive towards solar farm development, and it is therefore considered that the proposal is acceptable in principle. The social, environmental and economic benefits of the proposal are considered in the sections below. The acceptability of the development in relation to the issues set out

below will assist in determining if the location of the development is appropriate in the context of CDP Policy 33 and Part 15 of the NPPF

100. There are also a number of applicable environmental protection policies within the CDP and the NPPF which are considered below.

Landscape and Visual Impact

101. Paragraph 174 of the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.
102. CDP Policy 10 states that development in the countryside must not give rise to unacceptable harm intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for and must not result in the merging or coalescence of neighbouring settlements.
103. CDP Policy 39 states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Development affecting Areas of Higher Landscape Value will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm.
104. CDP Policy 40 states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Where development would involve the loss of ancient or veteran trees it will be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. Proposals for new development will not be permitted that would result in the loss of hedges of high landscape, heritage, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will not be permitted that would result in the loss of, or damage to, woodland unless the benefits of the proposal clearly outweigh the impact and suitable replacement woodland planting, either within or beyond the site boundary, can be undertaken.
105. The site lies in the *East Durham Limestone Plateau* County Character Area which forms part of the larger *East Durham Magnesian Limestone Plateau* National Character Area. It lies in the *Limestone Escarpment Ridge* Broad Character Area which belongs to the *Limestone Escarpment Broad* Landscape Type. The site is made up of sloping and undulating agricultural fields within old pre-enclosure field systems on the dip slope of the magnesian limestone escarpment.
106. The site is not covered by any national or local landscape designations. The site does not lie in an area identified in the County Durham Plan as an Area of High Landscape Value (AHLV). Trees within the site are not covered by a Tree Preservation Order (TPO).
107. The site lies on an attractive undulating south facing undulating dip slope of the magnesian limestone escarpment.
108. The proposed solar farm would be visible in shallow views from the south, east and west, where the escarpment ridge forms the skyline in these views. The views are heavily influenced by distance and filtered by vegetation, subtle variations in

topography and existing build form, which limit views where the full extent of the dip slope is visible. Due to the screening effects of topography, visibility would be limited from the north although views are typically panoramic and taking in visually complex settled landscapes.

109. Key views of the site are from the Footpath No. 12 (Fishburn Parish) that runs through the site, Harap road that bounds the site to the north (and footpaths to the north of Harap road), Front Street (C26 road) and Footpath No.13 (Fishburn Parish) to the south and Footpath No.10 (Fishburn Parish) and public amenity spaces to the northwest of Fishburn.
110. An existing operational 228kW solar array lies in the northeast corner of the proposed site, to the south of Trimdon House Farm. The escarpment ridge is crossed by two 400 KV overhead services with large 50m high pylons with smaller pylons crossing the dip slope, however these have little influence on the character and experience of the site or its wider setting.
111. There would be no material change to landform of the site to accommodate the access tracks, solar panels and other associated structures.
112. There would be the requirement to remove short sections of hedgerow, to allow access between the fields, although no notable trees or mature landscape features would be removed. To mitigate against landscape and visual impacts additional tree, shrub and hedgerow planting has been proposed. In the long term this would make some localised contribution to the conservation and enhancement of the local landscape, however refinement is required with proposals enhancing all features within the application boundary over the lifespan of the development.
113. At the level of the site and its immediate surroundings, the proposals would involve a transformative change from open arable and pastoral farmland to a solar farm dominated by features of a notably man-made/industrial character. Added to which, the internal tracks, perimeter fencing, CCTV, inverter stations, substations would increase the industrial character of the proposal in this rural location. The effects would be temporary and reversible but would last for a substantial period (40 years).
114. The transformative effect on landscape character within the site would be strongly evident from Footpath No.12 (Fishburn Parish) which runs through the southwest part of the site.
115. The effects would be notable in views from Footpath No.13 (Fishburn Parish) to the south and from Saint Catherine's Church Cemetery on the north-western edge of Fishburn where there would be a clear change in the character of the fields making up the site. This would be particularly the case for the northern parts of the site which is on the rising ground of the escarpment.
116. The effects of the development would vary in views from Harap Road to the north, the Footpath No.10 (Fishburn Parish) to the east, and the C26 to the south. In some views the site would be filtered by intervening hedgerows or trees and in others parts the development would be open to view and prominent where hedges are gappy, absent or low or through gateways.
117. The scale of the impact on the character of the landscape would be heavily influenced by distance, where the development would be less apparent in the wider landscape where views are typically shallow, and development would be screened or heavily filtered by intervening topography and vegetation.

118. Visibility of the site would generally be restricted to public viewpoints from public rights of way and highways. There would be very limited views from residential properties and from those properties where there is a view the impact would be minimal due to the intervening topography and planting.
119. The visibility of the development within the immediate locality, and therefore its effects on the character of the local landscape, would be reduced over time by a combination of tailored management of existing trees and hedges and the planting of new trees, hedges and native shrubs which would help integrate the proposals with the surrounding area. Mitigation has been accepted in principle, in the wider landholding to help create visual enclosure particularly in winter views from Harap Road and help filter views from the southwest and in particular Saint Catherine's Church Cemetery. These measures would to a degree reinforce the existing landscape framework and enhance character to a lesser degree with some of the proposed planting along the northern boundary of the site aiding in screening the development but out of keeping with the existing or historic landscape pattern. The time taken to achieve this would vary. In some cases, allowing hedges to grow taller would be effective in a few years, in other cases where new planting is proposed it would take longer – particularly from the footpath crossing the site, views from the south, elevated, open sections of road to the north and Saint Catherine's Church Cemetery.
120. Visual effects would be high for users of Footpath No.12 (Fishburn Parish) which currently enjoy an open aspect across open fields. Whilst the panels would be offset, the solar panels and associated fencing would be seen in close proximity and the proposals would dominate the users experience resulting in an adverse visually impact and loss of amenity when using this path. Landscaping has been proposed to help provide some visual screening, however at the time of development and for several years afterwards (the length of time depending on the design, quality, and performance of the planting), the development would be conspicuous and harmful. There would be some residual visual effects, albeit limited in length where a hedgerow is not proposed along the western boundary of the Footpath No.10 (Fishburn Parish).
121. The proposed development would also be noticeable from Saint Catherine's Church Cemetery, Footpath No.13 (Fishburn Parish) and in varying views from Front Street (C26) and elevated sections of Harap road to the north. From Footpath No.13, users currently enjoy an open, albeit shallow views across open arable fields and views of the proposal would be apparent until proposed mitigation matures. From Harap road there is a very open section (particularly in winter) which affords attractive views down across the Tees Plain towards the Cleveland Hills with Sedgefield and St Edmunds Church in the middle distance; and whilst there are other detractors in these views, the proposal would be very prominent again until such time that the proposed mitigation along Harap Road closed these views.
122. From Saint Catherine's Church Cemetery which is an important view having regard to the contemplative use of the site and the fact that appreciation of the view, and of the landscapes it takes in, are clearly valued through the strategically placed benches within the Cemetery. Whilst the more conspicuous area of the proposal on the elevated land to the northwest of the site have been removed from the proposed site layout, there would still be a deterioration in the quality of the framed view which is currently out over an attractive rural scene. Tree planting has been proposed (in principle) along the hedgerow to the west of the cemetery which would in time (again, the length of time depending on the design, quality, and performance of the planting) help filter and soften these views more so in summer months, although there would be residual harm.
123. Visual effects would be reduced in the wider landscape where views are typically shallower, and development is heavily filtered or screened by subtle undulations in the

topography, intervening vegetation and existing build form. In these wider views, the site would not be seen in its entirety and would not comprise a visually intrusive feature.

124. The proposed site does not lie within an AHLV and comprises reclaimed land that now forms a mixture of pastoral and arable fields, flanked by hedgerows and woodland plantations which create an appealing landscape composition. The proposals include landscape and visual mitigation, to compensate for the change brought about by the proposed solar farm and to facilitate visual screening, ultimately resulting in a more industrial and enclosed landscape character which would be transformational, given the existing baseline landscape. The proposals would be more noticeable locally and would be detrimental to visual amenity due to a loss of rural views and this would be harmful to general amenity.
125. The land within the development site forms an attractive area of countryside and the proposed development would give rise to some changes in character with adverse effects, with the potential to reduce over time. There would be adverse effects on visual amenity and general amenity. However, additional areas of planting would be created and all existing recreational routes within and around the site would remain open. It is therefore considered that there would be limited but not unacceptable harm to the intrinsic character and beauty of the countryside, in accordance with CDP Policy 10.
126. It is noted that Landscape officers consider the proposals would have an impact to visual amenity, particularly from local and recreational viewpoints but this is not unusual for a development of this scale. The proposed location on a relatively flat and raised position within the wider landscape would limit the impact of such a development. To assist in screening the development the applicant has proposed additional woodland planting and the protection and enhancement of hedgerows within the development site. It is therefore considered that the proposal would not conflict with CDP Policies 39 and 40 and Part 15 of the NPPF.

Access and Traffic

127. Paragraph 110 of the NPPF states that safe and suitable access should be achieved for all users. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans.
128. The construction access for the site would be from Harap Road on the eastern side of the site via the A177 and A1(M). A further access from the B1278 further to the east would only be utilised for the construction and operation of the Distribution Network Operator (DNO) substation located next to the grid connection point.
129. A Construction Traffic Management Plan (CTMP) has been submitted in support of the solar farm application. The CTMP has identified that the construction period for the development would be approximately 6 months with a typical maximum number of HGV deliveries being 20 per day (20 in and 20 out). There would be a total of approximately 1137 deliveries to the site during the 6 month construction period. This is likely to be similar for the decommissioning of the site. During the operational period the site would only need to be visited 10-15 times per annum by a car or van.

130. Highways officers have considered the proposal and find the access arrangements for both the construction and operational periods to be acceptable. Officers have requested conditions to require a road condition survey be submitted for the highway 200m in each direction from the site entrance and have recommended an informative be included relating to the upgrading of the site access.
131. Whilst the proposed solar farm would generate a degree of construction traffic for the 6 month construction period it would be not be unacceptable in this location due to good access and existing highway capacity. Following construction, the solar farm would be automated and would only be attended for monitoring and maintenance purposes. A further condition is recommended to ensure that vehicles accessing the site are adequately cleaned before leaving to ensure that debris is not carried onto the public highway.
132. No objection is raised by the Council as Highways Authority subject to appropriate conditions. It is considered that the proposals have been appropriately assessed through a Transport Assessment and would not result in harm to the safety of the local or strategic highway network and would not cause an unacceptable increase in congestion or air pollution. Subject to the condition set out the development would not conflict with CDP Policy 21 and Part 9 of the NPPF.

Residential Amenity

133. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality and water quality. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 186 of the NPPF advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. Paragraph 187 of the NPPF advises that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).
134. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated. CDP Policy 10 states that new development in the countryside must not impact adversely upon residential or general amenity.
135. The nearest residential properties are Trimdon House, Trimdon House Farm and Trimdon Lodge approximately 50m to the north, West House Farm approximately 240m to the west, Hope House approximately m to the east and Catley Hill House

approximately 400m to the north. The settlement of Trimdon is located approximately 800m to the north east and Fishburn is located approximately 380m to the south.

136. 16 objections have been received in response to the proposal. Many of the objections raise the issues of noise, glint and glare and visual impact.
137. A Glint and Glare Assessment has been submitted in support of the application. This provides background information for the review of legislation, assessment methodology including identification of receptors, baseline conditions and an impact assessment. Geometric analysis was conducted at 24 individual residential receptors, 25 road receptors, five runway approach paths and one air traffic control tower. The assessment identified where there was potentially an impact to receptors from the development and modifications were made (pre-submission) to provide mitigation planting. Following this revision the risk of impact to residential receptors was reduced to low at 2 receptors and none at all other receptors. The impact to road receptors is low at 1 receptor and reduced to none at all other receptors. No impact was predicted at Teesside International Airport. Yellow Glare was predicted for both runways at Fishburn Airfield. Upon inspection of the time of impact, position of the sun and where the pilot would be focussing their attention, all impacts at Fishburn Airfield can be deemed acceptable. Notwithstanding this, Fishburn Airfield has written in support of the application.
138. A Noise Impact Assessment has been submitted in support of the application. The report assesses the potential noise impact of the development on nearby noise-sensitive receptors, using the British Standard 4142:2014+A1:2019 methodology. An assessment of the acoustic impact of the proposed development was undertaken in accordance with BS 4142: 2014+A1:2019. The results showed that only low and negligible impacts during night-time periods are anticipated and therefore no mitigation is required. In addition to this, the levels at each receptor are below the Night Noise Guideline value of 40dB set out in the WHO Night-time Guidelines. This is the level recommended for the primary prevention of subclinical adverse health effects related to night noise in the population.
139. Landscape impact has been assessed in the section above, but it is acknowledged that those people living near to the site experience landscape harm as a constant rather than passing impact. Whilst the development would have a transformative impact the site would still retain green space and additional planting is proposed to lessen the visual impact. Given the existing screening and impact to a limited number of residential properties it is considered that the visual impact of the site in terms of residential amenity would not be unacceptable.
140. The proposed solar farm has very limited potential to create any noise, dust or light pollution impacts. The panels themselves would be of the static variety that are silent in operation. Environmental Health and Consumer Protection officers have considered the proposals and raise no objections in respect of potential nuisance, air pollution or glint and glare. Officers have, however, recommended a condition to control night time noise levels from the site. This would require the rating level of noise emitted from fixed plant/machinery on the site to not exceed the background (LA90) noise levels as detailed within the Noise Impact Assessment, at 1m from the façade of any noise sensitive receptor, by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00. A condition is also requested to provide a Construction Management Plan incorporating a dust impact assessment and management plan.
141. It is considered that the proposed development would not create an unacceptable impact on health, living or working conditions or the natural environment. The

proposals would not result in unacceptable noise, dust or light pollution and, subject to the imposition of the conditions recommended above, it is considered that the proposals would provide an acceptable standard of residential amenity in accordance with CDP Policies 10 and 31 and Part 15 of the NPPF.

Contamination

142. Part 15 of the NPPF (Paragraphs 120, 174, 183 and 184) requires the planning system to consider remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate. Noting that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. CDP Policy 32 requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
143. The application site is in agricultural use and historic plans do not indicate any other land use within the site boundary that may have caused any ground contamination. However, the site is located to the north of a former landfill associated with Fishburn Colliery. The proposed solar farm development is considered to be of low sensitivity with respect to Human Health, therefore the risk from any ground contamination is considered to be low. Risks to groundwater are also considered to be low given the relatively low environmental sensitivity of the site.
144. Environmental Health and Consumer Protection officers have considered the proposals and raise no objections in respect of land contamination. Officers do, however, note that there is a potential risk associated with land contamination and ground gas and recommend a condition to require further assessment prior to the commencement of development.
145. It is considered that the proposed development would be suitable for the proposed use and would not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities and it is considered that the proposals would provide an acceptable standard of residential amenity in accordance with CDP Policies 32 and Part 15 of the NPPF.

Flooding and Drainage

146. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Protection of the water environment is a material planning consideration and development proposals, including waste development, should ensure that new development does not harm the water environment. Paragraph 174 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality.
147. Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.

148. CDP Policy 35 requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water. CDP Policy 10 states that new development in the countryside must minimise vulnerability and provide resilience to impacts arising from climate change, including but not limited to, flooding.
149. A Flood Risk Assessment (FRA) and Drainage Impact Assessment have been submitted in support of the application. The site is located entirely within Flood Zone 1. The impermeable area created by the development is small relative to the site area and will only have a small impact on the runoff rates from the site. However, without mitigation the development would have a lower permeability than the existing greenfield composition.
150. A Sustainable Drainage System (SuDS) scheme, including filter drains, has been proposed to reduce the runoff rate to less than the undeveloped rates. The submitted Surface Water Drainage Scheme concludes that the proposed development is appropriate in Flood Zone 1 and with the recommendations adopted, the capacity to manage and improve surface water runoff from the development onsite without causing a detrimental risk to the groundwater is possible.
151. Drainage and Coastal Protection officers have provided general guidance in relation to flood risk in but not specifically commented on the information provided in the application. Notwithstanding this, it is considered that submitted FRA and flood mitigation measures would meet with policy requirements. It is therefore considered that the proposed solar farm development would not lead to increased flood risk, both on and off site, and through the use of SUDs would ensure there is no net increase in surface water runoff for the lifetime of the development. It is therefore considered that the proposals would not conflict with CDP Policies 10 and 35 and Part 14 of the NPPF.

Ecology

152. Paragraph 180 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible and stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. CDP Policy 41 reflects this guidance by stating that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. CDP Policy 42 seeks to restrict development that cannot demonstrate that there would no residual adverse effects to the integrity of internationally designated sites. CDP Policy 43 states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts.
153. CDP Policy 25 advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly

related to the development and fairly and reasonably related in scale and kind to the development.

154. The presence of protected species is a material consideration in planning decisions as they are a protected species under the Wildlife and Countryside Act 1981 and the European Union Habitats Directive and the Conservation of Habitats and Species Regulations 2017 (as amended). The Habitats Directive prohibits the deterioration, destruction or disturbance of breeding sites or resting places of protected species. Natural England has the statutory responsibility under the regulations to deal with any licence applications but there is also a duty on planning authorities when deciding whether to grant planning permission for a development which could harm a European Protected Species to apply three tests contained in the Regulations in order to determine whether a licence is likely to be granted. These state that the activity must be for imperative reasons of overriding public interest or for public health and safety, there must be no satisfactory alternative, and that the favourable conservation status of the species must be maintained. Brexit does not change the Council's responsibilities under the law.
155. Fishburn Grassland Site of Special Scientific Interest (SSSI) is located approximately 55m to the east of the site, Bishop Middleham Quarry SSSI is located approximately 1.6km to the west, Thrislington Plantation SSSI is located approximately 28km to the west, Charity Land SSSI is located approximately 1.8km to the north east and Raisby Hill Quarry and Raisby Hill Grassland are located approximately 1.5m to the north. Thrislington Special Area of Conservation (SAC) and National Nature Reserve (NNR) is located approximately 2.8km to the west. Captains Well Local Wildlife Site (LWS) is located approximately 1.9km to the north east, Garmondsway Moor Quarry is located approximately 800m to the west, Merryknowle Quarry LWS is located approximately 675m to the south west, Bishop Middleham Roadside Lake is located approximately 1.1m to the south, Trimdon Grange and Railway LWS is located approximately 1.5km to the north, Trimdon Grange Pit Heap LWS is located approximately 1.5km to the north, Cleveland Gorse LWS is located approximately 2.5km to the north east and Rough Furze Quarry LWS is located approximately 2.8km to the west. There are no other national or local landscape designations within 3km of the proposed solar farm site.
156. An Ecological Impact Assessment has been provided with the application. The assessment provides a baseline study of the site including the proximity of designated sites, habitats and constraints within the site and includes a Phase 1 habitat survey and breeding bird survey.
157. The assessment states that one of the designated sites, Fishburn Grassland SSSI has ecological and hydrological connectivity to the application site. Merry Knowles Quarry LWS and Garmondsway Moor Quarry LWS also have potential ecological connectivity. With the implementation of the recommended measures, it has been determined that there would be no likely significant effects on the either LWS as a result of the proposed development.
158. A total of eight habitat types were noted within the Ecological Study Area during the extended Phase 1 habitat surveys undertaken in October 2021, April 2022, and June 2022. During the survey visits, these habitats were assessed for their potential to support protected and notable species. Overall, the application site is considered to be of relatively low ecological interest in terms of habitats.
159. The construction of the proposed development would occur over land which has been identified primarily as arable habitat. Proposed security fencing would cross agricultural land only. Fences would be micro-sited to reduce disturbance, and existing

gaps would be used. The extent of habitat loss in a local context where these habitats are frequent is not considered significant.

160. From the survey findings and impact assessment conducted the assessment concludes that the proposed development is likely to have no significant adverse effects on local wildlife. However, precautionary and mitigation measures have been proposed, which include pre-commencement survey checks for badger, bats and birds and working to avoid harm to reptiles and amphibians if any suitable habitat is removed during construction. These mitigation measures would form part of the Biodiversity Management Plan (BMP).
161. The proposed solar farm site is considered of negligible importance for bats due to lack of suitable habitat and features. The boundaries will remain unlit, and retained trees will have bat boxes installed. Habitat enhancements such as native hedgerow planting and wildflower meadows will improve the site for invertebrates that bats feed on. Safeguards, such as a root protection zone buffer, will be put in place to protect potential bat roosts within boundary trees during construction. The scheme is not expected to have a significant impact on bats and may even provide improved habitat.
162. The site is of local ecological importance for breeding birds, including five priority bird species. The proposed development will result in the loss of some breeding bird habitat, particularly for ground nesting bird species. However, the proposal includes the creation of two large ecological enhancement areas to compensate for the habitat loss, which will be located in the south-western and south-eastern corners of the site. Hedgerows and hedgerows with trees, where dunnock and song thrush are likely to breed, will be retained as part of the proposal. The site was considered of negligible importance for wintering birds. The proposal involves creating shallow depressions called 'wader scrapes' in the lower lying areas of the enhancement area to support breeding waders and their chicks. The areas surrounding the solar panels shall be planted with meadow/wildflower mixtures to create improved nesting opportunities for ground nesting birds. The planting of additional native species hedgerows and trees shall provide additional nesting and foraging opportunities for various bird species. The proposal also includes the installation of two barn owl boxes. Vegetation removal and groundworks are recommended to be scheduled between September and February to avoid impacting ground nesting birds and birds nesting within woody vegetation. If not possible, an ecologist will check for active nests prior to any works. Some bird species may nest year-round, so due diligence is required by contractors when felling trees even outside the core nesting season.
163. The Ecological Impact Assessment concludes that the short-term disturbance resulting from the proposed development will not be significant if the recommended mitigation is undertaken. With the implementation of pre-commencement surveys and the proposed mitigation measures, it is considered that there would be no significant negative effects upon protected or notable species during the construction phase. The BMP and Landscape and Ecological Management Plan propose a number of habitat creation and enhancement measures centred around new hedgerows and tree planting, herptile hibernacula, bird and mammal houses/boxes. With the implementation of these, the potential of the site to support local wildlife will increase and the Proposed Development will lead to a positive effect on a number of protected or Priority species during the operational phase. It is considered that the proposed development would not result in harm to protected species.
164. Ecology officers have considered the proposals and raise no objections subject to appropriate long term management of the site. Concerns were initially raised in respect of potential displacement of breeding birds, including Skylark. However, following revisions to the site layout, land within the site has been set aside for

breeding bird habitat. Officers have provided further advice in respect of detailed seed mixes for the grassland and hedgerows, which would be dealt with as part of the detailed Landscaping scheme to be delivered by planning condition. It is recommended that the biodiversity enhancement would be secured through a Section 39 Agreement under the Wildlife and Countryside Act 1981. Section 39 of the Wildlife and Countryside Act 1981 enables local authorities to enter into management agreements with the owner of land for its conservation (and for other related purposes) and is regarded as a suitable mechanism for securing long term land management in relation to biodiversity net gain. A condition is not regarded as a suitable mechanism due to the 40 year timescale of the solar farm development and a Section 39 is more suited to ensuring long term management.

165. The proposed solar farm would provide biodiversity enhancement to the site and, whilst there may be temporary displacement of wildlife during the construction process, the net increase in biodiversity value would adequately mitigate any residual harm. It is considered that the proposed solar farm would not impact upon any internationally, nationally or locally protected sites. Suitable mitigation would be secured through Section 39 agreement. It is therefore considered that the proposals would not conflict with CDP Policies 25, 41, 42 and 43 and Part 15 of the NPPF in respect of avoiding and mitigating harm to biodiversity.

Recreational Amenity

166. Part 8 of the NPPF seeks to promote healthy communities with a key reference being towards the protection and enhancement of public rights of way and access. CDP Policy 26 states that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. Proposals that would result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.
167. There are several public rights of way in and around the site. Footpath No.12 (Fishburn Parish) crosses the south western corner of the site. Footpath No.14 (Fishburn Parish) is located approximately 500m to the north west. Footpath No.10 shares the site entrance in the north east corner.
168. The development would retain and protect all existing public rights of way on their existing alignments. Footpath No.12 (Fishburn Parish), which crosses the site, would be retained with new hedgerow planted on both sides to filter the views of the panels.
169. Access and Rights of Way officers have not objected to the proposals but have noted that Footpath No. 10 (Fishburn Parish) is located close to the proposed development and a section of Footpath No. 12 (Fishburn Parish) is located within the red outline boundary and that there is the potential for moderate adverse effects for PROW users but that these effects would be somewhat mitigated during operational years by planting. Officers have stated that any planting adjacent to the PROW must be maintained to ensure that it does not encroach onto the path.
170. Objectors to the proposal have raised harm to the recreational value of the as an issue.
171. The development would not result in the loss of public rights of way and there would no physical deterioration in the quality of the paths. However, the recreational value of the affected rights of way would be temporarily reduced while screen planting establishes. However, it is considered that the temporary harm would not be sufficient

to conflict with CDP Policy 26, due to the short section of affected footpath and limited visual harm caused by the solar panels.

172. Whilst the development would lead to a degree of change to views from established rights of way this would not lead to a deterioration in their quality and the proposal would not conflict with CDP Policy 26 or Part 8 of the NPPF.

Cultural Heritage

173. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this must be given considerable importance and weight by the decision-maker.
174. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset. CDP Policy 44 seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.
175. There are no designated heritage assets within the solar farm application boundary. The Grade II Listed Trimdon Hall and Hall Farmhouse, Grade II Listed Church of St Mary Magdalene and Grade II Listed Trimdon Grange Colliery Disaster Memorial are located approximately 1.4km to the north east. The Grade II Listed 13 and 14 High Street, Grade II Listed Dun Cow Public House and Grade II Listed Manor House are located approximately 2km to the south west. The Grade II Listed Church of St Luke, Winterton is located approximately 2km to the south. Trimdon Conservation Area lies approximately 1.3km to the north east and Bishop Middleham Conservation Area lies approximately 2km to the south west. Garmondsway Village Scheduled Monument is located approximately 1.5km to the north west and Middleham Castle Scheduled Monument is located approximately 2.5m to the south west.
176. A Cultural Heritage Assessment has been submitted in support of the application. This assessment provides baseline information including a description of the site and development, methodology and consideration of designated heritage assets.
177. The Assessment advises that indirect effects upon designated heritage assets within a 3km study area, as a result of the proposed development, are anticipated to be Negligible. The Application Site does not lie within the direction of any key views highlighted within the character appraisals for the conservation areas of Trimdon and Bishop Middleham, and views for these conservation areas and their listed buildings are also expected to be fully screened by intervening buildings, vegetation and topography. Only one other listed building was identified within the calculated Zone of Theoretical Visibility (ZTV) for the Proposed Development. This was the Church of St Luke, Winterton Hospital, for which views and intervisibility are also expected to be fully screened by surrounding buildings and vegetation. Similarly, only one scheduled monument in the 3km study area was found to be within the ZTV. This was Middleham Castle, whose setting is again expected to be mostly screened. Any possible

intervisibility with the Proposed Development would be partial and infrequent, with the closer settlement of Bishop Middleham already dominating views in this direction.

178. The Assessment advises that in respect of indirect effects upon non-designated heritage assets within a 1km study area, as a result of the Proposed Development, are anticipated to be Low in the worst case, specifically upon the settings of Trimdon House Farm and Gally Hill Farm. Low to negligible indirect effects are also anticipated for the settings of Trimdon House and West House Farm, while indirect effects upon the remainder of the non-designated sites are negligible, either due to screened views, compromised settings or the absence of any surface remains. The assessment concludes that that the development would not result in any harm to the significance of any designated heritage assets and no mitigation is required.
179. A geophysical survey was undertaken by over a total of three deployments between May and August 2022. Following the results of the survey the design of the proposed development was changed to avoid the anomalies predicted to be of highest archaeological significance. This included the implementation of 10m exclusion zones around those potentially indicating ring-ditches/barrows as well as around a cluster of anomalies possibly suggesting similarly significant sub-surface remains. Targets trial trenching was carried out during the determination of the application to test the results of the geophysical survey.
180. Archaeology officers have considered the proposals and commented that the geophysical survey and partial test trenching commissioned by the applicant revealed the existence of potential archaeological features in several areas of the site. In the light of the results, set out in the Cultural Heritage Assessment, the applicant has modified the layout of the scheme to avoid those predicted to be of the highest archaeological significance. Test trenching of the remaining areas is proposed to be carried out post-determination. Given the range of sequential mitigation measures detailed in the submitted Archaeological Mitigation Plan designed to protect any additional archaeological features identified, officers consider this approach to be acceptable. Conditions are recommended to secure the remaining archaeological investigation for the site with appropriate reporting.
181. Due to intervening topography, screening and distances it is considered that the development would cause no harm to the Trimdon Conservation Area, Garmondsway Village Scheduled Monument or any designated heritage assets.
182. Subject to the imposition of conditions requiring further trial trenching and evaluation it is considered that the proposed solar farm would not conflict with CDP Policy 44 and would cause no harm to heritage assets in accordance with Part 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Agricultural Land

183. Paragraph 174 of the NPPF seeks to protect best and most versatile land. CDP Policy 14 states that development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. It goes on to state that all development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
184. An Agricultural Land Classification (ALC) Assessment has been carried out for the site. The assessment includes a desktop study and fieldwork analysis with the

conclusion over a study area of approximately 75ha. The assessment concludes that 39.43ha of the site area is comprised of Grade 3b soils, 25.72ha is Grade 3a soils and the remaining 9.92ha of the site is Grade 2 soils. The site is therefore comprised of approximately 47% best and most versatile land.

185. The applicant has commented that the ALC Assessment provides an indication of the soil capability of the land in question, but further assessment is required to provide a true picture of the versatility of the land. Although a small area of land to the north of the site is identified as having a soil quality consistent with Grade 2, this land is mostly found within a field parcel that includes steeper ground which prevents the whole field from being cropped and is as a result retained as permanent grazing land. Of the area which is currently cropped, strips of land lie either beneath overhead lines, with underground pipes or next to hedgerows and have therefore been afforded appropriate buffers leaving a substantially reduced area available for the development of panels. Cropping these areas in isolation would not make practical or economic sense from an agricultural point of view so extending the existing grazing area and managing it on more sustainable lines with the addition of solar panels meets these broader environmental goals as well as providing a practical means of retaining this land in productive agricultural use. There are three small pockets of land which have been classified as having soils in Subgrade 3a. The ALC confirms the owners experience that soil depth and type along with slope in some situations means that yields are often adversely affected in these areas. When Subgrade 3a land which is under existing overhead lines, and or with underground pipelines and which falls within the buffer zones around tree belts and hedgerows is excluded the remaining area which is left for the addition of panels amounts to a series of small isolated pockets which again would not be practical or economic to continue to use for arable production. Once again therefore using these areas for grazing as part of the wider sustainable management of the farm unit alongside the climate change, biodiversity, landscape and wider environmental benefits of the proposed approach is considered to be in line with this part of the NPPF and other Government policies for agricultural diversification and sustainability.
186. Objectors have stated that the development would result in the loss of greenfield, agricultural land and that it should be located elsewhere on allocated industrial or brownfield land.
187. Although the impact to best and most versatile land would be temporary the test set out in CDP Policy is still engaged and an analysis of the benefits of the development compared to the loss of agricultural land should be considered.
188. The application site, as a whole, is used for a mixture of crop production and grazing land. A specific income value for the crops is not provided as this fluctuates and would, in addition, be difficult to quantify for the specific area classed as best and most versatile.
189. The proposed development would provide the landowner with a significantly increased income allowing for further investment in the agriculture business. The development would play an important role in providing renewable energy to the grid, improving energy security for the UK with less reliance upon imported energy.
190. The development would provide biodiversity net gain through additional planting and habitat creation. Finally, the development would be subject to business rates of approximately £65,000 per annum.
191. Although the development would remove a portion of land from arable use it is considered that the benefits of the development as set out above would outweigh this

loss. The proposed would therefore not conflict with CDP Policy 14 or Part 15 of the NPPF in this respect.

Cumulative Impact

192. Paragraph 185 of the NPPF advises that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment.
193. The application site is currently comprised entirely of agricultural fields and public rights of way. A small existing 228kw solar farm is located within the north eastern corner of the site, which was approved under reference DM/14/01413/FPA.
194. There are no other existing or approved solar farms within 6km of the proposed development. There are several wind farm developments within between 2km and 5km of the site.
195. The proposed solar development would cumulatively add to the amount of energy infrastructure in the surrounding area which could lead to potentially significant cumulative effects arising. However, with the mitigation planting proposed there would be no intervisibility between the existing energy developments the proposed solar farm. It would require a lengthy and contrived walking route to view each development within the same journey and it is therefore considered that the cumulative impact would be limited in this respect.
196. The proposed solar panels would be of a modest height themselves and the associated screening would bring benefits to the site. It is therefore considered that whilst there is a potential for a cumulative impact, this would not be unacceptable or overbearing. It is therefore considered that the solar farm proposal would not conflict with CDP Policy 31 and Part 15 of the NPPF.

Safeguarded Areas

197. CDP Policy 56 states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan.
198. A relatively small patch of the site is located on an area that has been designated as Mineral Safeguarding Areas for glacial sand and gravel. However, as the solar farm is time limited for a period of 40 years the mineral reserve would not be permanently sterilised and could be extracted at a future date. It is therefore considered that the proposed solar farm would not conflict with CDP Policy 56.
199. CDP Policy 28 requires that development would not prejudice the safety of air traffic and air traffic services, that there would be no unacceptable adverse impacts upon the

operation of High Moorsely Meteorological Officer radar and the operation of Fishburn Airfield, Shotton Airfield and Peterlee Parachute Drop Zone Safeguarding Areas. The application site is located within the consultation buffer zone for Shotton Airfield. Representatives of Shotton Airfield confirm that they have no objection to the development. In respect of High Moorsely the height threshold for consultation in this location is 15m and above. No part of the development would exceed this height threshold and therefore does not require consultation and would not conflict with CDP Policy 28 or Part 10 of the NPPF.

Community Fund

200. The applicant has proposed to make a financial contribution of a £15,525 indexed linked annual payment towards the local community through the provision of a Community Benefit Fund, for the operational life of the project.
201. Officers consider that the harm identified in the determination of this application could not be mitigated by a financial contribution and therefore such a contribution should not be weighed in the planning balance.

Other Matters

202. Objectors have suggested that coastal sites and brownfield sites would be preferable, along with installing panels on factory roofs. It is also suggested that wind turbines away from the general public and residential areas would also be preferable. Applicants are welcome to select previously developed land for solar development but there is no policy requirement to do so.
203. Objectors have raised the concerns about the inefficiency of solar panels and have stated that better alternatives are available. Solar is an established part of renewable energy production and whilst there are recognised limitations (day length / light intensity) this is no different from any other type of energy generation.
204. Objectors have stated that the proposal would have a negative impact on property values. Property values are affected by many factors and cannot be taken into account as a material consideration in the determination of a planning application.
205. Objectors to the proposal have raised concern that the value of their property would be reduced as a direct result of the development. Impact of development on property values is not considered to be a material consideration in the determination of planning application. However, the effects of the proposal have been thoroughly assessed in relation to residential amenity and considered to be acceptable.

Public Sector Equality Duty

206. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
207. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

208. Although there would be a degree of landscape harm, and harm to amenity of recreational routes, it is considered that the benefits of the proposal would outweigh this harm. The proposed solar farm development would provide a significant renewable energy source using solar power sufficient to provide clean energy for up to 20,700 homes whilst also reducing dependence on fossil fuel power stations. Further benefits of the scheme include significant biodiversity and landscape improvements to the site and direct employment to the construction industry. Officers consider that the proposed solar farm would accord with CDP Policy 33.
209. The site would constitute development in the countryside resulting in a degree of landscape harm. Efforts have been made to screen the solar arrays and from many public viewpoints the arrays would be obscured by vegetation or topography. In more open, and distant views the solar arrays would be seen as a developed feature within a rural landscape that could not be mitigated by screening.
210. Part of the site would occupy land that is considered to be best and most versatile agricultural land and whilst the development is temporary and reversible, the land would be unavailable for arable production for the duration of the development.
211. Whilst it is accepted that the proposed solar farm would have an impact to the landscape and best and most versatile agricultural land it is considered that the benefits of the development in terms of energy supply and security, support for renewable energy, biodiversity enhancement and job creation would outweigh that temporary harm and planning permission should be granted. All other material considerations have been taken into account in the determination of the solar farm application and found to be acceptable.
212. The proposed development has generated significant public interest, with letters of objection having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, environmental and economic benefits.
213. The solar farm proposal is considered to broadly accord with the relevant policies of the County Durham Plan and relevant sections of the NPPF.

RECOMMENDATION

214. That application be **APPROVED** subject to the following conditions and completion of an agreement under Section 39 of The Wildlife and Countryside Act 1981 to secure biodiversity management for the life of the development:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development

Reason: To ensure the development is carried out in accordance with the approved documents.

3. This consent is granted for a period of 40 years from the date of commencement when the buildings, structures and infrastructure works hereby approved shall be removed and the land restored to its former condition in accordance with details to be submitted to and approved by the Local Planning Authority. The approved details shall then be completed in full within 6 months of approval of those details.

Reason: In the interests of visual amenity, pollution prevention and reinstatement of agricultural land in accordance with County Durham Plan Policies 14, 31 and 39 and Part 15 of the National Planning Policy Framework.

4. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Drawing Number	Drawing
DES-0004-V2.0	CUSTOMER SUBSTATION
DES-0003-V1.0	CCTV POLE
DES-0005-V2.0	DNO BUILDING
DES-0006-V1.0	GATE
DES-0007-V2.0	COMMUNICATION BUILDING
DES-0001-V20	LAYOUT PLAN

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 21, 31, 33, 39 and 41 of the County Durham Plan and Parts 9, 14 and 15 of the National Planning Policy Framework.

5. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014;
- Details of methods and means of noise reduction, or controlling noise impacts during construction;
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration;
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Designation, layout and design of construction access and egress points;
- Details for the provision of directional signage (on and off site);
- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- Details of provision for all site operations for the loading and unloading of plant, machinery and materials;
- Details of provision for all site operations, including visitors and construction vehicles for parking and turning within the site during the construction period;
- Routing agreements for construction traffic;
- Details of the erection and maintenance of security hoarding;
- Details of construction and decommissioning working hours;

- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works; and
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The Construction Management Plan shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: In the interests of protecting the amenity of neighbouring site occupiers and users from the impacts of the construction phases of the development having regards to Policies 21 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be a pre-commencement condition and the details of the construction management statement must be agreed before works on site commence.

6. Construction operations shall only take place within the following hours:
 - 07.30 to 19.00 Monday to Friday
 - 07.30 to 12.00 Saturday

No construction operations including the maintenance of vehicles and plant shall take place outside of these hours or at any time on Bank, or other Public Holidays, save in cases of emergency when life, limb, or property are in danger. The Local Planning Authority shall be notified as soon as is practicable after the occurrence of any such operations or working.

Reason: In the interests of residential amenity and highway safety in accordance with the County Durham Plan Policy 21 and Part 15 of the National Planning Policy Framework.

7. Prior to the commencement of development, a landscaping scheme shall be submitted to the Local Planning Authority for approval in writing. This scheme shall include details of seed mixes, tree and hedgerow species with plan layout. The approved landscaping scheme shall be implemented on site in the first planting season following the development being brought into use. Any tree or shrub which may die, be removed or become seriously damaged within a period of 5 years from the first implementation of the approved landscaping scheme shall be replaced in the first available planting season thereafter.

Reason: In order to provide landscape enhancement and screening for the development in accordance with Policy 39 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

8. Prior to the commencement of development a road condition survey shall be carried out for 200m either side of the site entrance from Harap Road and submitted to the Local Planning Authority for approval in writing. A further road condition survey shall be carried out within 3 months of the site being brought into use. The second survey shall include a schedule identifying any degradation of the road and a scheme of works, if necessary, to remedy the damage and shall be submitted to the Local Planning Authority for approval in writing. The scheme of works, if required, shall be carried out in full within 6 months of being approved.

Reason: In the interests of highway safety in accordance with County Durham Plan Policy 21 and Part 9 of the National Planning Policy Framework. Required to be a pre-commencement condition and the details of the construction management statement must be agreed before works on site commence.

9. The rating level of noise emitted from the development shall not exceed 0dB LAeq (15 mins) above background noise levels at any noise sensitive properties during night time hours (2300 – 0700) and shall not exceed 5dB LAeq (1hr) above background noise levels at any noise sensitive properties during day time hours (0700 – 2300).

The measurements and assessment of noise levels shall be made in accordance with BS 4142:2014.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31, Part 15 of the National Planning Policy Framework.

10. The development shall be carried out in full accordance with Section 7 of the approved Glint and Glare Assessment.

Reason: To safeguard the amenities of nearby residents in accordance with the County Durham Plan Policy 31, Part 15 of the National Planning Policy Framework.

11. The development shall be carried out in accordance with the approved Flood Risk and Drainage Impact Assessment. The mitigation measures detailed with the Drainage Impact Assessment shall be fully completed prior to development being brought into use. These measures shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to ensure there is no increase of flood risk elsewhere as a result of this development in accordance with Policy 35 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

12. All vehicles leaving the site shall be sufficiently cleaned in order to ensure that mud, dirt, and treated or untreated waste is not transferred onto the public highway.

Reason: In the interests of residential amenity and highway safety in accordance with the County Durham Plan Policy 21 and Part 15 of the National Planning Policy Framework.

13. Development shall be carried out in accordance with the Construction Traffic Management Plan, dated September 2022.

Reason: In the interests of highway safety in accordance with County Durham Plan Policy 21 and Part 9 of the National Planning Policy Framework. Required to be pre-commencement to agree traffic movements ahead of any development.

14. Prior to the commencement of development of any above-ground structure, precise details of that structure shall be submitted to and approved in writing by the Local Planning Authority. The submission shall include the colours and finishes. The development shall be carried out in accordance with agreed details.

Reason: To ensure the development is carried out in accordance with the approved documents and in the interests of visual amenity in accordance with County Durham Plan Policy 39 and Part 15 of the National Planning Policy Framework. Required to be pre-commencement in order to assess the appearance of the development.

15. No development shall commence until a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

Reason: To safeguard any archaeological interest in the site, and to comply with part 16 of the National Planning Policy Framework (NPPF). Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

16. The development shall not be brought into use until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To safeguard any Archaeological Interest in the site in accordance with County Durham Plan Policy 44 and Part 16 of the National Planning Policy Framework.

17. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the Yorkshire and Lincolnshire Pollution Advisory Group (YALPAG) guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

18. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.

19. The approved development, once operational shall have an export capacity of not more than 49.9MW (AC).

Reason: To ensure that the development does not exceed the threshold level for Nationally Significant Infrastructure Projects that would require a Development Consent Order.

20. In the event that the solar farm is inoperative for a period of 6 months or longer, a scheme for the restoration of the site, including the buildings, structures and

infrastructure works, dismantling and removal of all elements, shall be submitted to and be approved in writing by the Local Planning Authority not later than 12 months following the last export of electricity from the site. The approved scheme shall be carried out and completed within 6 months of approval of the scheme.

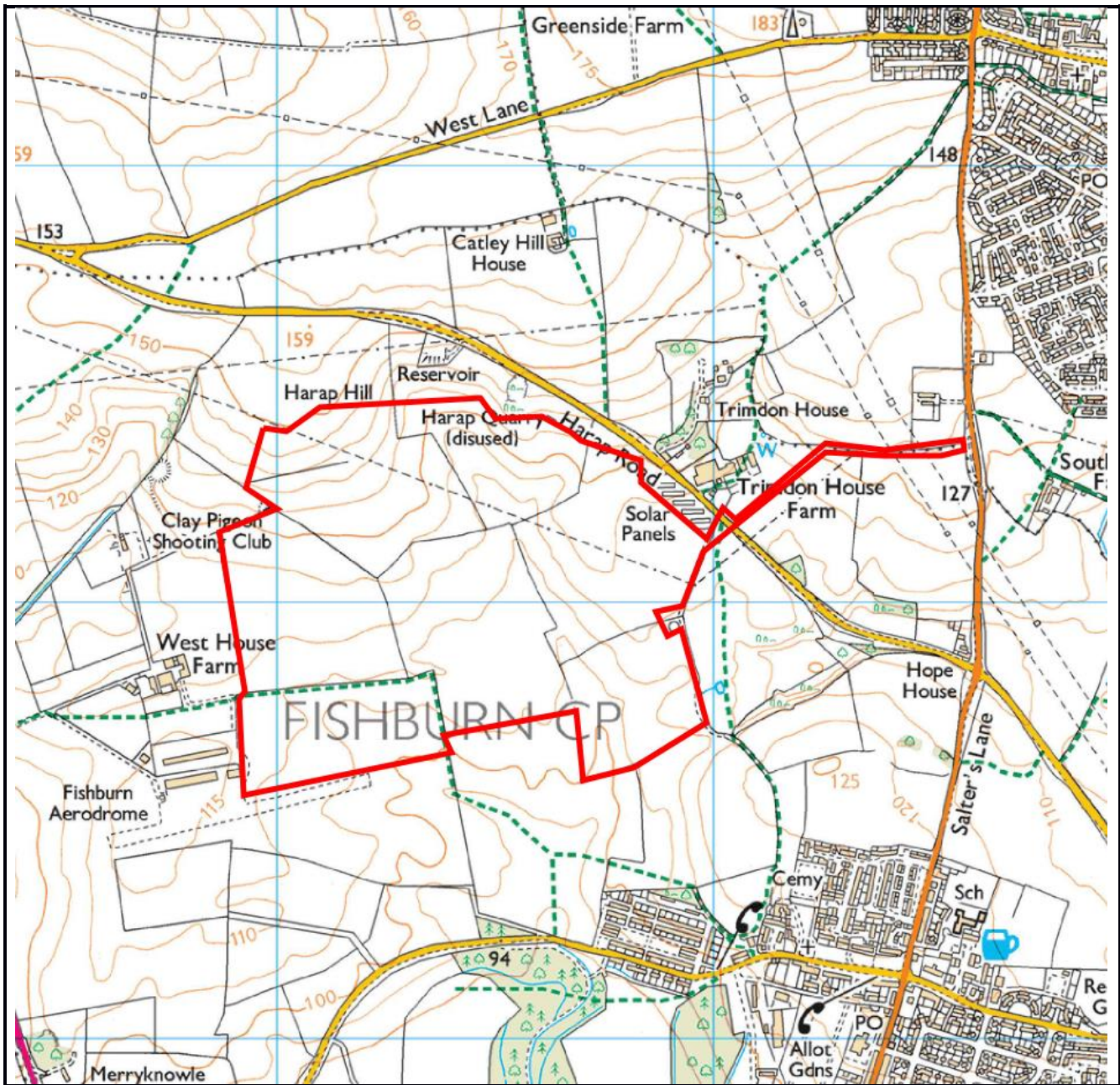
Reason: In the interests of visual amenity, pollution prevention and reinstatement of agricultural land in accordance with County Durham Plan Policies 14, 31 and 39 and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes
- County Durham Plan
- EN:1 Overarching National Policy Statement for Energy (published in July 2011)
- EN-3 National Policy Statement for Renewable Energy Infrastructure (published in July 2011)
- Draft Overarching National Policy Statement for Energy (EN-1) (September 2021)
- Draft National Policy Statement for Renewable Energy Infrastructure (EN-3) (September 2021)
- Powering Up Britain: Energy Security Plan (April 2023)
- Statutory, internal and public consultation response



Planning Services

DM/22/03757/FPA

Formation of 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.

Land West of Trimdon House Lodge
Fishburn, TS21 4BA

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Comments

Date September 2023

Scale Not to Scale

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