

DERBYSHIRE COUNTY COUNCIL
REGULATORY - PLANNING COMMITTEE

6 January 2020

Report of the Executive Director – Economy, Transport and Environment

- 1 SECTION 73 APPLICATION SEEKING PERMISSION FOR DEVELOPMENT WITHOUT COMPLYING WITH CONDITION 1 OF PLANNING PERMISSION CW1/0212/168, TO EXTEND THE DURATION OF THE DEVELOPMENT AT HEATHFIELD NOOK ROAD, HARPUR HILL, BUXTON, SK17 9PW**
APPLICANT: MR WRIGHT
CODE NO: CW1/0319/104

1.524.8

Introductory Summary

This application relates to previously granted planning permissions for the infilling of land with waste materials at Heathfield Nook Road, Harper Hill Buxton. The development has been partly carried out but should have been completed by 4 July 2018. The application is seeking permission to extend the duration of the period allowed for development for a further two years to enable the applicant to complete the development in that time. The site forms part of a wider field parcel which is currently in agricultural use. The site is not situated within a Conservation Area (CA) and the development does not impact upon the settings of any listed buildings. The adjoining land is currently being developed as part of a housing scheme and would potentially be impacted by the proposed. However, the impacts are not considered to be significant and would be for a temporary period. An objection has been received from Network Rail in relation to site drainage, however, I am satisfied that the site drainage system is adequate and would not warrant refusal of the application. I am satisfied that the proposal complies with local and national policies and it is therefore recommended for approval, subject to recommended conditions.

(1) **Purpose of Report** To enable the Committee to determine the application.

(2) **Information and Analysis**

Site and Surroundings

The site has a surface area of 1.26 hectares (ha) and is located on the outskirts of Harpur Hill, off Heathfield Nook Road. The site occupies an elevated and prominent position, and comprises a sloping, rough area of

grassland located within a large field which is used predominantly for pasture/grazing. Further agricultural land lies to the north, a railway forms the eastern boundary, Heathfield Nook Road is located to the south, and further agricultural land lies to the west. The field slopes in a west to east direction down towards the railway line. Part of the application site and land to the west consist of a former landfill site. There are no public rights of way (PRoW) within the site, although there is one 163 metres (m) north of the site. The PRoW (King Sterndale HP18/3/1) runs north from Ashbourne Road (A515) along the existing rail track. No draft or adopted Neighbourhood Plan has been developed as yet for the area. The site is not situated within a CA and the development does not impact upon the settings of any listed buildings.

The nearest residential properties are those situated off Heathfield Nook Road, less than 20m from the access into the site and approximately 50m from the landfilling area. High Peak Borough Council approved an outline planning application (HPK/2014/04103) for residential development for up to 275 dwelling, public open space, crèche, sports pavilion and Access and Associated Infrastructure, on 11 November 2014. Subsequently, a reserved matters application was submitted and approved on 20 July 2018 (HPK/2017/0613). Works under this permission have commenced on site, the new dwellings will become the nearest receptors, once works are completed. A substation has been erected at the original gated access and the site now shares the access of the new housing site.

The Proposal

This is an application made under the provisions of Section 73 of the Town and Country Planning Act 1990 seeking permission to not comply with Condition 1 of planning permission (CW1/0212/168) which states the following:

“All operations authorised or required by this permission shall cease and the restoration of the site shall be complete on or before 4 July 2018. All structures, plant, machinery and access roads shall be removed from the site no later than three months from the date of cessation of the use of the site under this permission.”

The site was originally granted planning permission on 23 February 2006 (code no. CW1/0105/176) for improvements to agricultural land by infilling with inert materials to restore derelict land back into agricultural use. This permission required the importation of waste materials to cease within five years of the date of commencement (4 July 2018) and the final placement of soils within six months of this date. The permission was subsequently amended by an application under Section 73 of the Town and Country Planning Act 1990 (planning permission code no. CW1/0212/168), approved 4 July 2013, which extended the timeframe for completing the restoration operations for an additional five years until 4 July 2018, as the applicant had been unable to import sufficient quantities of material needed within the period

specified by a condition of the permission. At this time, the western section of the void was completed with approximately half of the permitted 20,000 tonnes of material deposited on site and it was estimated that up to 10,000 tonnes of material were still needed to be imported on to the site to complete the works.

However, the operator has not been able to complete the works within the extended timeframe specified in Condition 1 of planning permission code no. CW1/0212/168 and now seeks a further extension to the timeframe for completing the works for an additional two years.

The application details state that the works at the site are now almost complete. Areas identified as Phase 1 and 2 infilling works are complete and requiring landscaping. The submitted details also explain that only 2,250 tonnes of inert materials is now required to complete works on site. The application does not seek to change any other aspects of the approved development at the site. The intended use for the site once restored to agricultural land, is for bale storage.

Relevant Planning History

The application site and the adjoining land, currently being developed for housing, were previously a quarry and used for a railway repair works. The quarry was infilled and partially restored in 1991 using excavated waste materials arising from a large construction project in Buxton.

In June 2001, an application for infilling the site was submitted to the Waste Planning Authority (WPA). This was subsequently withdrawn in September 2001 in order to amend the application, specifically to address concerns raised by residents regarding the scale of the proposal and amenity issues.

In December 2001, an application was submitted for a proposed landfill, CW1/0102/122. This was refused on 27 September 2002. The reason for refusal related to highway issues, and absence of a demonstration of an overriding need for the development, and the proposed development not representing the best practicable environmental option. The applicant appealed against this decision of the WPA and a Public Inquiry was held in September 2003. In January 2004, the appeal was dismissed. The Planning Inspector concluded that there was a conflict with the Development Plan policies, in particular, Waste Management policies 1 and 3 of the Derby and Derbyshire Joint Structure Plan, and likelihood of failure to achieve Best Practical Environmental Opinion.

Other relevant Planning Applications:

- Application Code No. CW1/0105/176 – Improvements to Agricultural land by inert waste materials and demolition of a former industrial building (Approved 23 February 2006).

- Application Code No. CW1/0212/168 – Section 73 not to comply with condition 3 (duration of development) of planning permission CW1/0105/176 for the improvements to agricultural land by infilling with inert materials to restore derelict land back into agricultural use. (Approved 4 July 2013).

Consultations

Local Member

Councillor Grooby has been notified of the application.

High Peak Borough Council – Planning

No objections.

High Peak Borough Council – Environmental Health Officer

Has been notified of the application.

Highway Authority

No objections.

Environment Agency

Had no comment to make on the application. However, the Environment Agency did highlight that the applicant may need to vary its permit, given the proposed change to the duration of the development.

Derbyshire Wildlife Trust

Had no comment to make on the application.

Natural England

Had no comment to make on the application.

Network Rail (Planning)

Network Rail originally placed a holding objection to the proposal and provided the following comments:

“The applicant has stated that the railway line is dismantled adjacent to the proposal.

The railway land in question is owned by Network Rail and therefore asset protection measures must be undertaken by the applicant.

The proposed site plan shows alterations to the land and drainage and therefore the applicant will undertake the following:

(1) Agree all excavation, earthworks including alterations to ground levels with Network Rail.

(2) All surface water drainage must be directed away from the direction of Network Rail land to ensure that the proposal both during construction and as a permanent arrangement does not import a risk of flooding, soil slippage or pollution on to the railway. All drainage proposals on site must be agreed with Network Rail.

(3) Risk assessments and method statements for the works.

(4) Agreement to works to ensure that Network Rail's boundary treatments are not impacted including vegetation and roots."

Network Rail also requested that the applicant complete and submit to it an asset protection form.

Following the submission of further information from the applicant in relation to site drainage, Network Rail provided the following further comments:

"Network Rail's objection could be removed if the proposed soakaway is removed from the application.

The applicant appears to have re-submitted the soakaway design that they sketched.

Again, there are no dimensions on the diagram between toe of embankment and soakaway, so essentially Network Rail's position is completely unchanged."

Lead Local Flood Authority

Given the nature of the scheme and the involvement of Network Rail, the County Council, as the Lead Local Flood Authority (LLFA), has not commented on this application.

Hartington Upper Quarter Parish Council, Peak District National Park, Buxton Mineral Water Co Ltd, Cadent Gas Limited and Western Power Have been notified of the application.

Publicity

The application has been advertised by site notice and press notice (Buxton Advertiser) with a request for comments by 31 May 2019. No representations have been received in response to this publicity.

Planning Considerations

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications are determined in accordance with the development plan unless there are any material considerations which indicate otherwise. In respect of this application, the relevant development plan policies are contained in the saved policies of the adopted Derby and

Derbyshire Waste Local Plan (DDWLP) (2005) and Adopted High Peak Local Plan (HPLP) (April 2016).

Other material considerations include national policy, as set out in the National Planning Policy Framework (NPPF) (February 2019, as amended), the associated Planning Practice Guidance (PPG) and the National Planning Policy for Waste (NPPW) (2014).

This application relates to previously granted planning permissions for the infilling and restoration of an area of a restored quarry to enable the land to be put back into agricultural use. The principle of the waste development at this site was assessed against the provisions of the development plan and relevant Government guidance in force at the time the previous applications were considered which, for the most recent permission comprised of the NPPF (2012), DDWLP, the saved policies of the HPLP (2008), and Waste Planning Policy Statement (PPS 10). Since the determination of the previous application, there have been changes in both development plan policy and national guidance. The HPLP policies were replaced on the 14 April 2016 and PPS10 no longer remains in effect. The NPPF (2012) has been superseded by the NPPF (2019).

National Planning Policy Framework

The NPPF sets out the Government's key economic, social and environmental objectives, and the planning policies designed to deliver them. The NPPF is a material consideration in planning decisions. The NPPF states that local authorities taking decisions on waste applications should have regard to policies in the NPPF, so far as relevant.

The NPPF does not change the statutory status of the development plan as the starting point for decision making. Applications for planning permission must still be determined in accordance with the development plan unless material considerations indicate otherwise. It states that the purpose of the planning system is to '*contribute to the achievement of sustainable development*' and adds that there should be a presumption in favour of sustainable development. The term 'sustainable development' is not defined as such within NPPF, however, the document does state that "*the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs*". To achieve this, the planning system has three overarching objectives, which are economic, social and environment. The objectives are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives).

The most relevant paragraphs from the NPPF for this proposal are:

11: The presumption in favour of sustainable development.

38-58: Decision-making.

54-55: Planning conditions.
80, 81, 83: Building a strong, competitive economy.
109: Considering development proposals.
118: Making effective use of land.
148,155, 165: Meeting the challenge of climate change, flooding and coastal change.
170: Conserving and enhancing the natural environment.
180,183: Ground conditions and pollution.

Adopted High Peak Local Plan Policies

S1: Sustainable Development Principles.
S1a: Presumption in Favour of Sustainable Development.
S2: Settlement Hierarchy.
EQ2: Landscape Character.
EQ 3: Rural Development.
EQ6: Design and Place Making.
EQ9: Trees, Woodland and Hedgerows.
EQ10: Pollution Control and Unstable Land.
EQ11: Flood Risk Management.
CF6: Accessibility and Transport.

National Planning Policy for Waste

The NPPW was published in October 2014, and sets out detailed waste planning policies. The NPPW should be read in conjunction with the revised NPPF, the Waste Management Plan for England (2013) and National Policy Statements for Waste Water and Hazardous Waste, or any successor documents. All local planning authorities should have regard to its policies when discharging their responsibilities to the extent that they are appropriate to waste management. The NPPW identifies that *‘Positive planning plays a pivotal role in delivering this country’s waste ambitions through: ... helping to secure the re-use, recovery or disposal of waste without endangering human health and without harming the environment’*.

The NPPW also emphasises the need to divert as much waste as possible away from landfill. In order to achieve this, the movement of waste up through the waste hierarchy is essential. Appendix A of the NPPW details the waste hierarchy. The prevention of wastes by re-use sits at the top of the waste hierarchy, however, once wastes are actually discarded, recycling is one of the preferred management routes, where value is recovered in terms of secondary materials that can be substituted for virgin resources. Wastes that still remain should be diverted from landfill through processes that recover energy, with disposal of residual waste as a last resort.

In addition to the above, the NPPW also sets out considerations, expectations and guidance for the determination of waste planning applications. An example of this which can be applied to this application is *“waste planning authorities should ... concern themselves with implementing the planning*

strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced”.

Derby and Derbyshire Waste Local Plan

The main development plan policies relevant to this planning application are:

W1b: Need for the Development.
W2: Transport Principles.
W6: Pollution and Related Nuisances.
W7: Landscape and Other Visual Impacts.
W8: Impact of the Transport of Waste.
W10: Cumulative Impact.
W11: Need for Landfill.
W12: Reclamation and Restoration.
W13: Sorting of Waste.

This Section 73 application is seeking permission to extend the duration of the works by two years to allow the applicant further time to complete infilling operations on site and restore the land to agricultural use. All other aspects of the development would remain the same as the development which was granted planning permission in 2013, the proposal would not, in my view, would result in a development that is significantly different from the development previously approved, which was considered to be acceptable.

The potential environmental and amenity impacts of this development were assessed during the consideration of the previous applications. However, in the context of the current development plan and national guidance, I have given consideration as to whether the development, as changed, would be likely to give rise to any significantly different or additional impacts to what were previously considered.

The key considerations for this the proposal are:

- The need to extend the duration of the development.
- The impact of the development on Network Rail property.

Need for the Development

The application seeks to extend the period of infilling and restoration operations for an additional two years. The applicant has been unable to complete the works within the time specified in Condition 1 of planning permission CW1/0212/168, however, the site is largely complete, and the applicant has indicated that the works would be able to be finished within a two year period.

Paragraph 38 of the NPPF states “*Local planning authorities should approach decisions on proposed development in a positive and creative way. They*

should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”

The applicant has advised that no operations have been carried out on the site, since 4 July 2018, and the Authority has no reason to doubt this. There have been delays to the determination of the application whilst negotiations over the issues raised by Network Rail have taken place, as discussed below. I am also mindful that it may not be possible to recommence infilling and restoration works during the winter period due to weather and ground conditions. Therefore, completing the development by 4 July 2020, i.e. two years from the date specified in Condition 1, is unlikely to now be achievable. Such a short timeframe to complete the operations would mostly likely result in the applicant making a further application in the future for more time to complete the works. It is beneficial for all parties for the restoration works at this site to be completed and this would potentially delay the restoration of the site further. In these circumstances, it is therefore considered reasonable that a further period of two years should be allowed from the date of any grant of planning permission under this application and that this would accord with the principles of Paragraph 38 of the NPPF.

I am satisfied that there is a need to extend the duration of the infilling and restoration works at the site development to complete the works. It is preferable that the site is completed to an acceptable standard, therefore, I do not consider allowing the continuation of operations on site, subject to the recommended conditions, would be unacceptable in context of the NPPF and Policy W11 of the DDWLP.

Impact on Network Rail Property

Network Rail has objected to the application on the basis of the potential impact on a Network Rail Asset located adjacent to the east boundary of the application area. The asset is a mineral freight line used by neighbouring quarries (Hindlow and Dowlow) to the south to transport extracted materials. The freight line connects to the main line at Hogshaw siding in Buxton. Network Rail expresses concern about the impact of surface water run-off flooding/damaging its asset. It is noted that the applicant has supplied, to Network Rail, the asset protection form and ground levels as per Network Rail's request.

The site currently has drainage infrastructure partially installed, the proposal is for the site to be drained via a French drain system which was included in the proposals for the previous application code no. CW1/0212/168 which was subsequently approved. Network Rail was a consultee on the previous application and did not raise any objections to the drainage proposals then.

The French drain installation and its location in the site already has planning approval and, whilst this work is not completed, works on the installation of this drainage system have taken place on site. The French drain is not designed to be a temporary drainage feature and is not restricted by any other conditions. This application is seeking an additional two years to complete the development, no other alterations to the site or operations are proposed. Given that the drainage regime for the site has previously been given due consideration and subsequently approved, I consider that it would be unreasonable to refuse this application on drainage grounds. However, no technical details for the drainage system have been approved and, given the nature of the objection, I suggest the inclusion of a condition requesting a scheme detailing the technical drainage details, as well as a management and maintenance plan, to be submitted and approved prior to the completion of the works on site. A draft condition to this effect has been supplied to Network Rail in an effort to overcome its objection. The Network Rail Asset Protection Engineer, whilst acknowledging that such a condition would allow it an opportunity to review drainage details, stated that the main point they would wish to be taken into consideration in such a condition is that no soakaway should be installed within 20m of the railway boundary. Network Rail maintains its objection to the application.

Network Rail would therefore wish a condition to a new permission to state that there should be “no soakaway within 20m of the railway”. However, using a Geographic Information System (GIS), it is estimated that parts of the French drain already installed are approximately 15m from the railway boundary and, therefore, the applicant would not be able to comply with such a requirement without removing and replacing the existing system. Such requirement is considered to be unreasonable in view of the fact that the drainage details (to which Network Rail did not previously object) were previously duly approved.

I therefore do not consider it would be justified or reasonable, subject to the recommended condition, for the application to be refused for drainage reasons or for its impact on Network Rail property.

Amenity and Environmental Impacts

The potential environmental and amenity impacts of this development were assessed during the consideration of the previous applications and mitigation measures were proposed and planning conditions were imposed to reduce those identified impacts where required. The potential impacts derived from the infilling operation were not considered to be significant enough to warrant refusal. However, in context of the current development plan and national guidance, I have given consideration as to whether the development, as changed, would be likely to give rise to any significant different or additional impact's to those previously considered.

The proposed amendment to the duration of the development would mean the development could potentially create impacts, such as noise from site operations and vehicle movements, dust, odours and visual impacts. The potential impacts could impact upon the existing residential amenity of the area and that of the housing development on the adjoining land should it be occupied during the life of the application site. I acknowledge that the infilling and restoration development has been incomplete for a considerable period of time and the proposed extension to the overall duration of the operations for the development would see potential disturbances highlighted above to continue for an additional two years, as well as the temporary landscape and visual impact of the development.

The current planning permission CW1/0212/168 benefited from Condition 9 which restricts the hours of operation, and noise is controlled by planning conditions 10, 11, 12 and 13. These conditions require silencers and non-audible, ambient related or low tone devices to be used on all vehicles, plant and machinery used on site. In the event that planning permission is granted for this proposal, I recommend that these conditions or similar be applied to any new planning permission. It is noted, since operations originally commenced, no significant concerns have been raised regarding the site operations, and no concerns have been raised by local residents to the extension of time of this development.

The Environment Agency and High Peak Borough Council's Environmental Health Officer both have regulatory responsibilities in relation to the control of noise pollution. They were consulted on the application and neither consultee has raised any objections to the proposal on noise grounds. Paragraph 183 of the NPPF states that the "*The focus of planning ... decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.*" Therefore, in compliance with Paragraph 183 of the NPPF in determining this application, it must be assumed that these regimes will operating effectively.

Whilst I accept that the proposed amendment would result in noise emissions from the site over a longer period of time, it is unlikely to result in higher levels of noise being experienced as there are no changes to the operations on site. I consider that the proposal to be preferable for the site to be completed to an acceptable standard and to the approved scheme, particularly in view of the site's location within open countryside. The development, once complete, would provide usable agricultural land and associated landscape and visual improvements. Subject to the imposition conditions of a similar nature to those imposed on the previous planning permission, I consider that permission should be granted. The alternative to approving the time extension would be that the site is left partly restored and therefore partly unusable for agricultural

use. Therefore, I am satisfied that the proposal would accord with policies W6, W7 and W11 of the DDWLP.

Cumulative Impacts

The NPPF (Paragraph 180) states *“Planning policies and 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. ... and avoid noise giving rise to significant adverse impacts on health and the quality of life”*.

Policy W10 of the DDWLP states that *“Proposals for waste development will be assessed in the light of the cumulative impact which they and other developments would impose on local communities, concurrently or successively. Waste development will be permitted only if the development would not result in significant and detrimental cumulative impact on the environment of those communities.”*

The construction activities on the adjoining site, which is currently being developed for housing, as stated above, could result in the generation of the noise, dust and impacts on the highway which would be temporary. However, these temporary impacts have the potential to have a more significant impact on the local amenity and/or the highway when combined with the impacts of this proposal. HGVs associated within the construction related activities of the housing development, access the site off Heathfield Nook Road via a shared access frequently and would combined with vehicle movements in relation to the infilling operations at the application site. Due to the scale of the operations on the application site, and the restricted vehicle movement of a maximum of 12 traffic movements (6in/6out) per day controlled by Condition 5 (planning permission CW1/0212/168), this impact is not consider likely to be significant. It is also noted that the Highway Authority has not objected to this proposal.

Taking into consideration the housing development, as well as the guidance from the NPPF and the policies highlighted above, I do not consider that the proposed continuation of the site operations would have an adverse cumulative impact on the local amenity or on the transport network. I am satisfied that it would not cause any significant disturbance to the environment, people or communities in respect of traffic or highway safety impacts.

I am satisfied that the proposal would accord with policies W2, W8 and W10 of the DDWLP and the NPPF in this respect.

Conclusion

Having considered the above, I am of the opinion that the extension to the duration of the development is acceptable. It would be beneficial to have the site restored and functioning as agricultural land. The development as amended would not, in my opinion, generate significant amounts of traffic or pollution and related nuisances. Having taken into account the objection and comments made by Network Rail, I do not consider the time extension to the infill and restoration operations on site would have a significant impact on the Network Rail's railway land. I do, however, believe technical drainage details need to be submitted along with a management and maintenance plan to ensure that the French drain is maintained properly to avoid any impact on the railway. Subject to the recommended conditions, I am satisfied that the proposal would accord with the DDWLP and the adopted HPLP, and it is recommended for approval.

(3) **Financial Considerations** The correct fee of £234 has been received.

(4) **Legal Considerations** This is an application under Part III of the Town and Country Planning Act 1990, which falls to be determined by the County Council as Waste Planning Authority.

I do not consider that there would be any disproportionate impacts on anyone's human rights under the European Convention on Human Rights as a result of this permission being granted subject to the conditions referred to in the Officer's Recommendation.

(5) **Environmental and Health Considerations** As indicated in the report.

Other Considerations

In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, property, social value and transport considerations.

(6) **Background Papers** File No. 1.524.8

Application documents from Applicant:

Scaled Location Plan, Location plan, Site Plan Version 2- Phase 3, Cross Section Sheet 1 of 2, Cross Section Sheet 2 of 2, Existing Plan, Existing Plan 2 and Aftercare Treatment Plan received 12 March 2019.

Application Form received 24 April 2019.

French Drain Sketch, Letter – Rail Track Boundary and Asset Protection Development Questionnaire received 13 June 2019.

Site Plan Version 2 received 31 August 2019.

Statement for DCC received 4 December 2019.

Correspondence

Draft Condition for NWR 07 CW1-0319-104 dated 14 November 2019
Draft Condition response from NWR 05 CW1-0319-104 dated 18 November 2019.

Consultation Responses:

Consultation response from the Environment Agency dated 24 April 2019.
Consultation response from the Highway Authority dated 25 April 2019.
Consultation response from the Derbyshire Wildlife Trust dated 10 May 2019.
Consultation response from the Natural England dated 14 May 2019.
Consultation response from the High Peak Borough Council – Planning dated 19 June 2019.
Consultation responses from the Network Rail dated 09 October 2019, 2 July 2019, 24 April 2019, 13 November 2019 and 14 November 2019.

(7) **OFFICER'S RECOMMENDATIONS** That the Committee resolves that planning permission be **granted** subject to conditions based on the following draft conditions:

Duration of Development

- 1) All operations authorised or required by this permission shall cease and the restoration of the site shall be complete on or before 6 January 2021. All structures, plant, machinery and access roads shall be removed from the site no later than three months from the date of cessation of the use of the site under this permission.

Reason: This condition is imposed to prevent further use of the site as described under the application in the absence of further planning consents having been granted, in the interest of the amenity of the area.

Form of Development

- 2) The development shall be carried out in accordance with the details set out in planning permission CW1/0105/176 dated 23 February 2006, as amended by application for planning permission CW1/0212/168 and accompanying documents and drawings dated 4 July 2013, unless otherwise modified or amended by planning permission CW1/0319/104. For the avoidance of doubt the approved plans and documents are:

CW1/0105/176

- Application Form dated 19 January 2005.
- Planning Statement Ref no. 04/2209/PA/W dated January 2005 by Graham Bolton Planning Partnership Limited.

CW1/0212/168

- Application Form dated 20 February 2012.
- Cover letter dated 21 February 2012.
- Existing and Proposed Contours Plan

- Drawing No. 11569/02A entitled 'Site Plan'.
- Aftercare Treatment for land off Heathfield Nook Road- CW1/0105/176.
- Planning Statement ref no. 11569/1 dated February 2012 by The Arley Consulting Company Limited.
- 2012 03 15 Network Rail CW1-0212-168.

CW1/0319/104

- Application Form dated 4 April 2019.
- Drawing No. 11569/02 entitled 'Site Plan (Version 2)'.
- Drawing No. 11569/02 Site Plan Version 2 - Phase 3.
- Scaled Location Plan.
- Location Plan.
- Cross Section Sheet 1 of 2.
- Cross Section Sheet 2 of 2.
- French Drain Sketch.
- Existing Plan.
- Existing Plan 2.
- Aftercare Treatment Plan.
- Letter – Rail Track Boundary.
- Asset Protection Development Questionnaire.

Reason: To enable the Waste Planning Authority to monitor the development in the interests of the amenity of the area.

- 3) Nothing other than inert waste material, as specified in the application documents, shall be imported and deposited at the site.

Reason: Other types of waste material could raise environmental and amenity issues not considered in the determination of this proposal and could be detrimental to the amenity of the area.

- 4) The site shall not be open to the general public and shall only be used for the deposit of waste by the applicant only.

Reason: The use of the site, other than by the applicant, could raise environmental and amenity issues not considered in the determination of this proposal and could be detrimental to the amenity of the area.

Drainage

- 5) Prior to the completion of works on site, a scheme demonstrating the technical drainage details, as well as a management and maintenance plan, for the drainage shall be submitted to the Waste Planning Authority for its approval in writing. The scheme shall then be implemented as approved. The sustainable drainage system shall

thereafter be managed and maintained in accordance with the agreed management and maintenance plan.

Reason: In the interests of minimising the impact of the development on the amenity of the area and on Network Rail assets.

- 6) The site operator's shall ensure that all surface water drainage operates in an efficient manner.

Reason: To prevent pollution of the water environment and to protect groundwater quality in the area.

Access, Traffic and Highway Protection

- 7) The movement of vehicles associated with the approved operations in to and out of the application site shall be limited to no more than 12 movements (6 in/6 out) per day.

Reason: In the interest of highway safety and in accordance with Policy W8 of the Derby and Derbyshire Waste Location Plan.

- 8) The sole vehicular access into the site shall be via the existing access on to Heathfield Nook Road.

Reason: To restrict the routes for assessing the site, in the interest of highway safety and in accordance with Policy W8 of the Derby and Derbyshire Waste Local Plan.

- 9) Within six months of the completion of the proposed development, the access shall be removed and the site boundary reinstated to its previous condition prior to operations commencing at the site, unless the approval of the Waste Planning Authority for its retention has been received.

Reason: To safeguard the landscape character of the area and in the interest of local amenity of the area, in accordance with Policy W6 of the Derby and Derbyshire waste Local Plan.

- 10) No mud or dirt shall be carried out from the site on to the public highway.

Reason: In the interest of highway safety and in accordance with Policy W8 of the Derby and Derbyshire Waste Local Plan.

Hours of Operation

- 11) Operations authorised by this permission, including vehicles entering or leaving the site, shall only be carried out between:

0800 hours to 1700 hours Monday to Friday;
0800 hours to 1200 hours Saturday.

No operations shall be carried out on Sunday, Bank Holidays or other Public Holidays.

Reason: To clarify the hours of operation and to safeguard the amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

Noise

- 12) The operator shall ensure that the noise generated by the development at all times, during the duration of the works, does not exceed 50dB LAeq 1 hour free field measured at the nearest noise sensitive property. In the event that noise levels increase by more than this limit, the operation shall cease until mitigation measures have been introduced which reduce noise levels below the limit specified.

Reason: To ensure minimum disturbance from operations and avoidance of noise nuisance in the interest of the amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

- 13) All vehicles, plant and machinery operated within the site, shall be maintained in accordance with the manufacturers' specifications at all times and shall be fitted with and use effective silencers.

Reason: To ensure minimum disturbance from operations and avoidance of noise nuisance in the interest of the local amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

- 14) All reversing warning systems used on vehicles on the site, and visiting the site, shall be either non-audible, ambient related or low tone devices.

Reason: To ensure minimum disturbance from operations and avoidance of noise nuisance in the interest of the amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

- 15) No Plant, equipment, or machinery other than that described in the application documents, as referred to in Condition 2 above, shall be brought to and operated on the site, unless the written prior approval of the Waste Planning Authority has been obtained beforehand.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of floodwater is provided.

Dust and Odours

- 16) At all times during the carrying out of operations authorised or required by this permission, water bowsers, sprayers, whether mobile or fixed, or similar equipment shall be used to minimise the emissions of dust from the site. No vehicles used for the movement of materials on the site shall be equipped with downward pointing exhaust pipes. At such times as the prevention of dust nuisance by these means is not possible, movements of material shall cease until such time as conditions improve.

Reason: To provide for the control of dust impact in the interest of local amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

- 17) Each working day, the surrounds of the site shall be monitored for any odours arising from the development. If any materials result in noticeable odours, they shall be contained and removed from the site as soon as practicable.

Reason: To provide for the control of odour impact in the interest of local amenity of the area in accordance with Policy W6 of the Derby and Derbyshire Waste Local Plan.

Environmental Protection

- 18) There shall be no burning of waste on the site.

Reason: In the interest of safety and local amenity.

Statement of Compliance with Article 35 of the Town and Country (Development Management Procedure) (England) Order 2015.

The Authority worked with the applicant in a positive and pro-active manner based on seeking solutions to problems arising in the processing of planning applications in full accordance with this Article. The applicant had engaged in pre-application discussions with the Authority prior to the submission of the application. The applicant was given clear advice as to what information would be required.

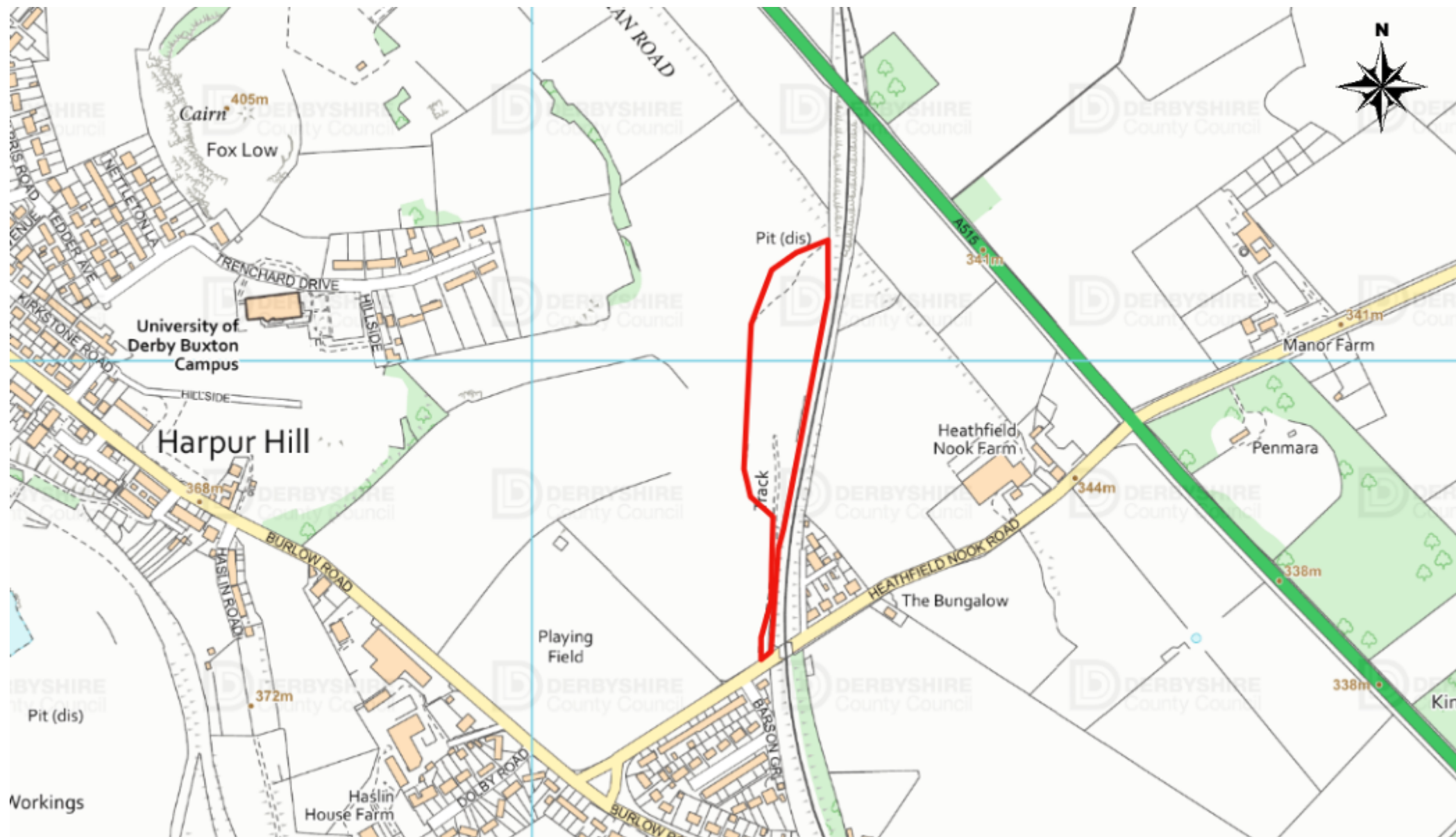
Footnotes

- 1) Pursuant to sections 149 and 151 of the Highways Act 1980, the applicant must take all necessary steps to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's responsibility to ensure that all reasonable steps (e.g. street sweeping)

are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

- 2) The applicant should ensure they have varied all necessary permits to reflect the change to the duration of the development. Any concerns or queries the applicant is advised to contact the Environment Agency regarding this matter.

Mike Ashworth
Executive Director – Economy, Transport and Environment



100 m

Scale = 5000

6-Nov-2019