

## COMMITTEE REPORT

Date: 15 November 2018      Ward: Rural West York  
Team: Major and                  Parish: Hessay Parish Council  
Commercial Team

**Reference:** 17/00670/FUL  
**Application at:** Land Adjacent Sewage Works At Hessay Industrial Estate New Road Hessay York  
**For:** Erection of asphalt plant with associated infrastructure  
**By:** Anthea Tate  
**Application Type:** Full Application  
**Target Date:** 15 November 2018  
**Recommendation:** Refuse

### 1.0 PROPOSAL

1.1 Hessay Industrial Estate comprises a medium sized employment site of some long standing occupying a former MOD depot on land within the general extent of the York Green Belt to the north of Hessay village. The wider site was given planning permission in 1999 for a mix of B1/B2 and B8 uses. Planning permission is sought for erection of a coated aggregates manufacturing plant situated within a building incorporating a mixing tower with associated chimney to be located at the western edge of the site. The proposal has subsequently been amended to include a detailed scheme of off-site highway works to attempt to address concerns in respect of both the access to the Industrial Estate and the nearby junction of the A59 with New Lane approaching the site.

1.2 The site has a planning permission for erection of a fuel storage depot ref:- 10/00861/FUL dating to 2010 which was not implemented and has subsequently expired. A previous proposal incorporating an asphalt plant linked with the reinstatement of the rail head within a materially larger section of the site was submitted in 1999 but subsequently withdrawn.

1.3 The total application site comprises some 7,200 sq metres in area which sets it within Schedule 2 of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations for which the application has been screened. A further Screening Direction has been made by the Secretary of State for Communities and Local Government which identifies the potential for significant environmental effects in respect of noise impacts and impacts upon the setting of Designated Heritage Assets. A formal EIA covering these issues has been subsequently submitted and consulted upon on 26<sup>th</sup> June 2018.

1.4 Subsequent to the proposal being submitted amended details have been supplied to address concerns in respect of impacts of increased traffic flows on the adjacent highway network notably the junction of New Lane Hessay with the A59 directly to the north. Further consideration of the proposals has been deferred from consideration at

the 17<sup>th</sup> August 2017 Committee to enable the detailed design and feasibility of the proposed off-site highway works to be established.

## 2.0 POLICY CONTEXT

See Section 4 below.

## 3.0 CONSULTATIONS

### INTERNAL:-

#### Public Protection:-

3.1 Raise no objection in principle to the scheme as amended subject to the imposition of detailed conditions in respect of controlling noise from later working along with the potential for light pollution. It is also recommended that any permission be conditioned to secure remediation in the event of potential land contamination.

#### Highway Network Management:-

3.2 Objected to the proposals on the grounds that they would give rise to significant harm to highway safety at the junction of New Lane with the A59 due to a material increase in large and slow moving vehicles seeking to turn in and out across the usual flow of traffic at peak hours. Extensive negotiations have subsequently taken place in order to address the concerns. The local highway authority has sought a robust demonstration that the tendered highway works are wholly achievable within the boundary of the public highway. The developer has provided very detailed surveys of the highway, together with highway engineering, construction and drainage submissions with additional reference to public utility apparatus. Such details are more extensive than would normally be required for planning purposes but have been deemed necessary given the constraints existing. These submissions have demonstrated to officers that the highway improvements are physically deliverable within the confines of the current highway boundary.

Whilst on balance it is the officer opinion that such works fall within the highway and would therefore be acceptable, it is the proximity on the western side of New Road to the adjacent boundary hedge which remains an issue which has not been addressed by the developer/agent. Arboricultural surveys and trial excavations have been undertaken to seek to assess the impact that the construction of the highway works may have on the adjacent hedgerow. It is the view of highway officers that the nature and extent of any harms in such circumstances may not become clear until works have commenced on site.

In respect of the Industrial Estate access itself the existing situation gives rise to a number of concerns with clear evidence of heavy goods vehicle traffic crossing to the opposite side of the carriageway and mounting the verge and pavement in order to

leave and gain access to the site. It is felt that the submitted off site works would satisfactorily address this situation.

Strategic Flood Risk Management:-

3.3 Raise no objection in to the proposal subject to any permission being conditioned to require submission and approval of a surface water drainage scheme and subject to the appropriate soakaway tests being undertaken to demonstrate that that would be the most appropriate surface water treatment method.

Planning and Environmental Management (Ecology):-

3.4 Raise no objection in principle to the proposal subject to adequate measures being put in place to deal with newt mitigation.

EXTERNAL:-

Network Rail:-

3.5 Raise no objections in principle subject to the operation of the nearby manual level crossing not being compromised by the vehicle movements too and from the site and the construction and operation of the plant not compromising the operational requirements of the railway where it passes the site in close proximity.

Environment Agency:-

3.6 Raise no objection to the proposal identifying no harm in respect of contaminated land or the underlying aquifer. They further draw attention to the fact that it would be subject to regulation under the Environmental Permitting Regulations.

The Ainsty (2008) Internal Drainage Board:-

3.7 Raise no objection to the proposal subject to a detailed surface water drainage scheme being agreed by condition as part of any permission.

CPRE:-

3.8 Object to the proposal on the grounds that:-

- 1) The impact of the proposed industrial structures on the openness of the Green Belt including the adverse impact viewed from the A59 road and passenger trains with respect to the setting on the approach to the City outskirts from the west.
- 2) The heights of some proposed structures will be significantly above the existing buildings located on the industrial estate and nearby farm properties.
- 3) The proposed development is out of keeping with existing activities on the industrial estate which are largely enclosed and are unlikely to be producing significant

emissions to the adjacent green field areas, settlements and other adjacent commercial occupiers.

- 4) The highway infrastructure including the estate access, New Road and the access to the A59 are inadequate and do not comply with the required standards for their proposed use by HGVs associated with the development.
- 5) There is a projected significant addition to vehicle movements to and from the proposed site to New Road and the A59.
- 6) Noise from late evening/night period activities are likely to cause disturbance to local residents and farm stock.
- 7) Mobile plant reversing alarms may cause annoyance to local residents.

Rufforth with Knapton Parish Council:-

3.9 Object to the proposal on the grounds that there would be a significant increase in HGV traffic through a potentially dangerous junction, it would give rise to a significant risk of noise and air pollution and it would cause serious detrimental harm to the open character of the Green Belt.

Hessay Parish Council:-

3.10 Object to the proposal on both Highway Safety and Planning Grounds. The following is a summary of the Highway Safety grounds:-

- The width and geometry of the access to the site and the adjacent New Road fall well below accepted standards in terms of regular use by the types of HGV traffic envisaged and notwithstanding the present day low level accident risk the development would give rise to conditions substantially prejudicial to highway safety;
- The width and geometry of the access from New Road on to the A59 fall well below accepted standards in terms of regular use by the types of HGV traffic envisaged and notwithstanding the present day low level accident risk the development would give rise to conditions substantially prejudicial to highway safety.

The following is a summary of the planning grounds:-

- Concern that the proposal amounts to inappropriate development in the Green Belt and that a case for "very special circumstances" to justify the proposal as required by paragraphs 143 and 144 of the NPPF have not been forthcoming;
- Concern in respect of the impact of light pollution from the site upon the pleasant rural ambience of the surroundings;
- Concern in respect of the impact of the proposed mixing tower and chimney on the wider setting of York Minster;
- Concern in respect of the impact of noise from the proposal particularly at night time and weekends upon the pleasant rural ambience of the surrounding;
- Concern in respect of the impact of dust emissions from the site upon the operation of neighbouring rural businesses and the openness of the Green Belt;

- Concern in respect of a lack of engagement with the local community by the applicant contrary to the Authority's Adopted Statement of Community Involvement (SCI).

3.11 Julian Sturdy MP objects to the proposal on the grounds of it being inappropriate development within the Green Belt without a case for "very special circumstances" in addition to concerns in respect of the creation of conditions prejudicial to highway safety at the access to the Hessay Industrial Estate as well as the junction of New Lane and the A59.

3.12 Historic England raise no objection to the proposals as the submitted EIA clearly demonstrates that there would not be any material impact arising from the proposal upon the setting of designated Heritage Assets.

3.13 224 Letters of objection have been received in respect of the proposal the following is a summary of their contents:-

- Concern that traffic movements arising from the proposal would give rise to conditions substantially prejudicial to Highway safety both at the access from Hessay Industrial Estate to New Road and the junction of New Road and the A59;
- Concern that the proposal would give rise to substantial harm to the habitat of the Great Crested Newt and the badger both species protected by law;
- Concern that the proposal would give rise to substantial harm to the setting of York Minster;
- Concern that the proposal is inappropriate development in the Green Belt and that a detailed case for "very special circumstances" to justify otherwise inappropriate development in the Green Belt as required by the NPPF has not been forthcoming;
- Concern that the applicant has not engaged constructively with the Local Community to discuss the proposal;
- Concern that the proposal would give rise to substantial harm to farming activities in the surrounding locality by virtue of odour, noise and dust emissions;
- Concern that noise and light pollution from the late night activity of the plant would give rise to substantial harm to the residential amenity of neighbouring properties;
- Concern that dust and other emissions would give rise to serious harm to the health and well-being of residents in the locality;
- Concern that noise, disturbance and increased traffic flows would disrupt services at the Methodist and Anglican Churches within Hessay village;
- Concern that the proposal would represent a serious departure from the previous light industrial activities which have taken place at the site;
- Concern that the proposal would give rise to a precedent for other similar damaging developments in the locality;
- Concern that the proposal is grossly premature pending final consultation on and adoption of the Joint Minerals and Waste Local Plan;
- Concern that the proposed off-site junction improvements would be insufficient to address the clear capacity problems at the A59/New Lane junction with clear

implications for the safety and convenience of highway users within the surrounding network;

- Concern that the proposed amended highway layout off-site would encourage rat-running through Hessay village

3.14 Subsequent to the receipt of the EIA Screening Direction from the Secretary of State for Communities and Local Government a full re-consultation was undertaken in respect of the proposal in accordance with the requirements of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations. A further 88 letters of objection have been received, the following is a summary of their contents:-

- Concern that the landscape and visual analysis submitted within the EIA has been provided in wide angle format which has the result of distorting the visual perspective of the proposed development making it appear smaller than it actually is;
- Concern that measurements of noise impact contained within the EIA have not been arrived at by precisely the same methodology as previously submitted and therefore appear misleading;
- Objection to the significant impact upon the open character of the Green Belt caused by the height of important elements of the plant;
- Concern that the submitted case for “very special circumstances” relates purely to commercial and competition considerations and does not fulfil the test of outweighing any harm by reason of inappropriateness or any other harm as required by paragraph 144 of the NPPF.
- Objection that the nature and volumes of traffic entering and existing the site via the A59/New Lane junction notably at peak times would give rise to conditions substantially prejudicial to highway safety.
- Concern that the plant would result in the release of dust and other pollutants substantially prejudicial to human health.
- Concern that the application site is not “previously developed land” within the standard definition.

## 4.0 APPRAISAL

### KEY CONSIDERATIONS:-

#### 4.1 KEY CONSIDERATIONS INCLUDE:-

- \* Impact upon the open character and purposes of designation of the York Green Belt;
- \* Impact upon landscape;
- \* Impact upon the safety and convenience of highway users on the local network;
- \* Impact upon the habitat of the Great Crested Newt, a protected species;
- \* Impact upon strategic views of York Minster;
- \* Impact upon the amenity of neighbouring properties by virtue of noise and light pollution through late working;
- \* Impact upon human and animal health by virtue of odour, dust and other emissions.

- \* Environmental Impact Assessment.
- \* Impact upon Designated Heritage Assets.
- \* Off-site highway works.
- \* Other Issues.

## POLICY CONTEXT:-

### 4.2 NPPF

In the absence of a formally adopted local plan the most up-to date representation of relevant policy is the National Planning Policy Framework (NPPF). It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

At the heart of the NPPF is a presumption in favour of sustainable development (paragraph 11). However, this presumption in favour does not apply when policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.

### Development Plan

4.3 Section 38(6) of the Planning and Compensation Act requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt, saved in 2013. These policies are YH9(C) and Y1 (C1 and C2) and the key diagram insofar as it illustrates the general extent of the Green Belt. It is for the local plan process to identify the precise boundaries of the Green Belt around York but the application site lies within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. ('DCLP 2005'). Whilst the draft Plan does not form part of the statutory development plan for the purposes of s.38(6), its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. Such policies carry very limited weight. The main draft policies that are relevant to matters raised by this application are:-

CGP15A Development and Flood Risk

CYE3B Existing and Proposed Employment Sites

CYGB10 Major development sites in GB

CYGP1 Design

CYGP9 Landscaping

4.4 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The main draft policies of relevance to this application are:-

D1 Place Making

D2 Landscape and Setting

GB1 Development in the Green Belt

4.5 The Publication Draft North Yorkshire and York Joint Minerals and Waste Local Plan was examined in public at a series of hearings in Spring 2018. Policy IO2 (Ancillary Minerals Infrastructure) is of particular relevance. This supports the development of ancillary minerals processing facilities providing development would not compromise Green Belt policy, the site would be located on employment or industrial land, it would not have a significant adverse impact upon the local community and environment and would not unacceptably increase the volume of traffic by road. The Plan was considered in detail at an Examination in Public in Spring 2018 and so the Policy may be afforded moderate weight in consideration.

4.6 GREEN BELT:- As noted above, the general extent of the York Green Belt is defined within saved Yorkshire and Humber RSS Policies YH9C and Y1C as such Central Government Policy in respect of Green Belts as outlined in the National Planning Policy Framework applies. Central Government Planning Policy as outlined



in paragraph 143 of the National Planning Policy Framework indicates that inappropriate development within the Green Belt is by definition harmful to the Green Belt and should not therefore be approved other than in very special circumstances. Paragraph 144 states that when considering a planning application Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. "Very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations.

**4.7 SAFEGUARDING OF PROTECTED SPECIES AND HABITATS:-** Central Government Planning Policy in respect of biodiversity as outlined in paragraph 175 of the National Planning Policy Framework states that Local Planning Authorities should refuse planning permission for new development which would give rise to significant harm to a rare species and or its habitat which can not be mitigated, avoided or as a last resort compensated for and at the same time it is clearly indicated that the presumption in favour of sustainable economic development does not apply in such cases.

**4.8 IMPACT UPON RESIDENTIAL AMENITY: -** Central Government Planning Policy in respect of amenity as outlined in paragraph 127f) of the National Planning Policy Framework "Key Planning Principles" states that Local Planning Authorities should give significant weight to the need to secure a good standard of amenity for all new and existing occupants of land and buildings.

**4.9 POLLUTION CONTROL AND MITIGATION: -** Central Government Planning Policy in respect of planning and pollution control as identified in paragraphs 120-123 indicates that Local Planning Authorities should ensure that new development is appropriate for its location. The effects including cumulative effects of pollution on health or general amenity and the potential sensitivity of the area to adverse effects from pollution should be taken into account. Furthermore Local Planning Authorities should focus on whether the development itself is an acceptable use for the land rather than control the processes or emissions themselves where these are subject to approval under different pollution control regimes. Local Planning Authorities should assume that these regimes will work effectively.

#### **IMPACT UPON THE YORK GREEN BELT:-**

**4.10 Policy GB1 of the Draft Plan (2018) sets out a clear policy presumption that planning permission for development within the Green Belt will only be forthcoming where the scale, location and design of such development would not detract from the open character of the Green Belt, it would not conflict with the purposes of including land within the Green Belt and it is for one of a number of purposes identified as being appropriate within the Green Belt.**

4.11 Central Government Policy as outlined in paragraph 133 of the National Planning Policy Framework establishes their fundamental characteristics as being their openness and permanence and the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 134 of the Framework identifies that the Green Belt serves 5 purposes:

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

Paragraph 143 of the Framework further indicates that inappropriate development is by definition harmful to the Green Belt and may only be permitted in very special circumstances. Paragraph 144 indicates that very special circumstances will not exist unless any harm to the Green Belt by reason of inappropriateness and any other harm can be outweighed by other considerations. Paragraph 145 indicates that new building would automatically be inappropriate development within the Green Belt unless it comes within one of a number of specific categories which includes (g) the limited infilling or re-development of previously developed land subject to the new development not giving rise to additional harm to the openness and purposes of designation of the Green Belt.

4.12 PRINCIPLE OF THE DEVELOPMENT:- In terms of the principle of the development it consists of the erection of a chimney of 21.5 metres in height together with a mixing tower of 20 metres in height. Associated with that would be an area of storage bins, a modular single storey office building and a weigh bridge. with associated vehicle parking. The site comprises a former marshalling yard associated with a military depot use that ceased operation in the early 1990s. A lighting tower associated with the former use survives at the north eastern edge of the site and the ballast covering of the former marshalling yard survives with only limited over-growth by vegetation. Directly to the east and south east lie a series of Nissan Hut and much larger hanger type structures presently under a variety of storage and processing type uses. The application site was previously subject to a proposal for an asphalt plant in the late 1990s, however that was significantly larger in scale and involved the reconstruction of the marshalling yard and rail head for the purposes of rail borne transport of the product. The proposal was subsequently withdrawn due to concerns in respect of its impact upon the open character of the Green Belt.

4.13 It is felt that the application site comprises previously developed land having been laid out within the clearly defined curtilage of the military depot to fulfil a clearly ancillary use. Despite the use having been ceased for a considerable period of time the previous physical relationship remains clear. The ballast bedding of the marshalling yard remains intact and other features from the previous use including gates on to the operating railway and a lighting tower remain. However, the degree of harm to the openness of the Green Belt caused by the scale and height of the

chimney and mixing towers would be substantial and as such the proposal is inappropriate development within the Green Belt and the exception contained within paragraph 145 of the Framework does not therefore apply.

4.14 GREEN BELT HARMS:- Paragraph 133 of the NPPF is clear that Green Belts are defined by their openness and their permanence. Openness may be defined as an absence of development which has both a visual and a spatial aspect. The proposed development notwithstanding the previous use as a marshalling yard would significantly extend the built footprint of development to the west of the former military depot buildings whose broad configuration has been followed by subsequent development. More fundamentally the proposed chimney and mixing tower whilst relatively tall and narrow in form would give rise to significant visual harm notably in views west to east along the line of the Harrogate to York Railway and north from Hessay village in the vicinity of Hessay Methodist Chapel. Harm to the openness of the Green Belt may therefore be defined as substantial.

4.15 In addition to the substantial harm caused to the openness of the Green Belt caused by the proposal harm in respect of the purposes of designation of the Green Belt also needs to be assessed. Two of the five defined purposes; the prevention of encroachment into open countryside and the safeguarding of the setting of historic towns and cities are of relevance in the consideration of the proposal. The application site lies within the defined curtilage of the former military depot and whilst it would extend the formally developed built footprint to an extent, it would not lead to an extension of the pattern of development into what is at present open countryside. In terms of safeguarding the setting of the historic City its significance is largely defined by its skyline and associated views into it from surrounding areas. A detailed landscape and visual impact assessment has been submitted with the proposal which clearly demonstrates that the proposal would not harm key strategic views of the Minster. However, the alien, vertical and engineered character of the development would give rise to substantial harm to the presently uncluttered nature of the wider skyline and the largely rural character of its immediate surroundings.

4.16 The proposal therefore constitutes inappropriate development within the Green Belt by virtue of harm to openness and also by virtue of harm to the setting of the historic City. This creates a requirement for the submission of a case for very special circumstances that would outweigh such harm and any other harms as required by paragraphs 143 and 144 of the NPPF. The applicant has submitted a case for very special circumstances which will be examined in detail below.

4.17 ALTERNATIVE SITES:- To support the proposal the applicant has submitted details of 6 alternative sites both within and outside of the Green Belt which have been assessed against a range of criteria including a minimum site area of 0.6 hectares, an established employment land use away from other incompatible uses, close proximity to major transport routes and availability at the time of search. It is the view of the applicant that none of the other sites are suitable for the proposal notably

those outside of the Green Belt. However, the situation in respect of each of the sites will be examined in detail below.

4.18 RUFFORTH AIRFIELD:- The applicant considers that the site is suitable by virtue of its accessibility, availability and overall site area. The site is however within the Green Belt with a predominant recreational aviation use which would be fundamentally incompatible with the proposal. Substantial harm would also be caused to the open character of the Green Belt in that location.

4.19 HANSON AGGREGATES SITE OUTGANG LANE OSBALDWICK:- The applicant considers that the site is suitable in all respects to accommodate the proposal however it is not available and has poor accessibility from the strategic highway network. It is however it is within a 10 minute drive time from the York Outer Ring Road and lies outside of the Green Belt.

4.20 MOOR LANE INDUSTRIAL ESTATE THOLTHORPE:- The applicant considers the site suitable in land use terms and is available. The site is however physically remote and not a formal employment site but a loose collection of uses occupying buildings associated with a former airfield operation.

4.21 MARTIN'S SITE OSBALDWICK LANE:- The applicant considers the site suitable in terms of its area, its availability and its land use status but not suitable in terms of its access and proximity to the strategic highway network. It is however in close proximity to the York Outer Ring Road and lies outside of the Green Belt. It does not have a B2 General Industrial Use and there is residential property in close proximity.

4.22 FULL SUTTON INDUSTRIAL ESTATE:- The applicant considers the site is otherwise suitable however it is not readily accessible from the strategic highway network and is not readily available. The site is however located outside of the Green Belt, East Riding of Yorkshire Council identifies in the region of 5.8 hectares of land with a B2 General Industrial use as presently available and whilst the East Yorkshire Employment Land Availability study indicates that there is not a direct road link to York it lies within a 20 minute drive time of the Outer Ring Road.

4.23 PIDGEON COTE FARM HUNTINGTON:- The applicant considers that the site is suitable in terms of its access and proximity to the strategic highway network. It would not be suitable in terms of its site area and layout, it does not have a B2 General Industrial Use and it is not presently available. The site is however presently occupied by a concrete batching plant which is a similar use to that applied for in terms of its fundamental characteristics. It covers a site area of 1.04 hectares significantly above the minimum threshold. It lies outside of the York Green Belt. It has an extant planning permission for B2 General Industrial Use and it is presently available.

4.24 The submitted site evaluation exercise does not therefore demonstrate that suitable alternative non-Green Belt sites are not available.

## IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS ON THE LOCAL NETWORK:-

4.25 Serious concern has been expressed by objectors in relation to the impact of the proposal on the safety and convenience of highway users at the access to the Industrial Estate with New Road and more significantly the junction of New Road with the A59 which the application details indicate would be the feeder route for traffic to and from the site. The available accident statistics indicate a series of four minor collisions since 2013 at or in close proximity to the junction of the A59 and New Road with no recent recorded accidents at the site access with New Road. In each case the cause has been established as driver error rather than through the nature of the traffic involved.

4.26 Material has been brought forward (by who) Highway Network Management which indicates that both New Road and the existing site access fall below the accepted standard in terms of the design and layout of new industrial estate roads and access points. Anecdotal evidence has also been brought forward in respect of near misses involving vehicles entering and leaving the site with buses and agricultural traffic accessing the village. In order to address the detailed concerns in respect of the impact of the proposal upon the local highway network the applicant has come forward with a package of measures involving offsite works which involve junction improvements to the New Lane and A59 junction which will be considered in more detail below and their effectiveness assessed. The section of New Road to the south of the site access into Hessay village is subject to a 7.5 tonne weight restriction and as such heavy vehicles seeking to access the strategic highway network via Hessay village may be committing an offence.

4.27 Concern has also been expressed by objectors in relation to the impact of increased traffic on the existing manually operated level crossing. The applicant has agreed to carry out a dilapidation survey in respect of the level crossing and to make good any damage identified. The proposals are felt not to give rise to any harmful impact to the operation of the level crossing.

## IMPACT UPON THE HABITAT OF PROTECTED SPECIES:-

4.28 The application site falls partially within a Great Crested Newt habitat and a series of surveys have identified Great Crested Newt activity taking place within the site. The applicant has agreed to secure the provision of a suitable pond with wet grassland habitat directly to the west of the site which would be the subject of a licence from Natural England. The newts within the site would be trans-located and suitable fencing to the site provided prior to construction being undertaken. It is felt that the proposals would comply with the requirements of paragraph 175 of the NPPF and are therefore acceptable for the purposes of complying with that paragraph.

## IMPACT UPON STRATEGIC VIEWS OF YORK MINSTER:-

4.29 The clear skyline and views along key transport corridors of York Minster form an important element of the setting of the historic city and one of the principal reasons for designation of the Green Belt. The proposal envisages the erection of a mixing tower and chimney up to 23 metres in height as an integral element of the scheme. Concern has been expressed by objectors in terms of the impact of the structures on views of the Minster for vehicles travelling from the Harrogate direction to the west. The proposed plant would be clearly visible in glimpsed views from the A59 to the west along with longer views from the Railway. It would not however be readily visible in the same viewing plane as the Minster and its scale notwithstanding the height of the tower and associated stack would not create a visually competing structure within the wider sky line over the associated distance.. It is not felt that the strategic views of the Minster would therefore on be harmed.

## IMPACT UPON SURROUNDING LANDSCAPE:-

4.30 The site lies within open countryside to the north of Hessay village forming part of a former military depot which was densely developed with Nissan Huts and hanger type structures. The surrounding countryside is largely flat partially broken up by the characteristic local boundary treatment of mature trees and lengths of hedgerow. The site would be principally viewed from Hessay village to the south and from the A59 approaching York to the north west. It would be seen within the context of the adjacent substantial hanger type structures directly to the east.

4.31 The majority of the plant would be lower than and in proportion to the surviving hanger type structures. The mixing tower and associated stack would however be appreciably higher and would notably impact upon local landscape character when viewed from the south. The applicant has agreed to paint the cladding of the mixing tower in order to enable it to blend in with the surrounding landscape. In terms of views from the A59 the site would be visible to the south east heading eastwards towards the City and any visual harm from that direction would be modest. It is acknowledged that there will be some harm to landscape character particularly in views from the south but it is felt that because of the previously developed nature of the site, and the location of the principal view points that this harm would on balance be acceptable.

4.32 In terms of the proposed off-site highway works potential for significant harm has been identified in respect of the impact upon the boundary hedge lying directly to the west of the A59/New Lane junction. It is mature and is of itself of some landscape merit being representative of the characteristic boundary treatment of the Vale of York contributing to the pleasant rural ambience of its surroundings. The proposed works would involve significant damage to its root system which would cause dieback harming its contribution to local landscape character to an unacceptable extent.

## IMPACT UPON THE AMENITY OF NEIGHBOURING PROPERTIES:-

4.33 Policy GP1 of the DCLP 2005 sets out a firm policy presumption in favour of new development proposals which respect or enhance the local environment, are of a scale, mass and design that is compatible with neighbouring buildings, spaces and the character of the area and ensure that residents living nearby are not unduly affected by noise, disturbance or dominated by overbearing structures. Hessay village lies some 600 metres to the south with several isolated dwellings much closer. The closest properties are New Moor Farm at 270 metres and the Old Station at 460 metres. Serious concern has been expressed by objectors in terms of the impact upon residential amenity from noise and light pollution arising from the suggested night time working. The applicant has indicated that the same type of low level flood lighting used elsewhere on the Industrial Estate would be adopted and further details have been supplied. It is felt that subject to any permission being conditioned to require the submission and prior approval of a detailed lighting scheme then the proposal would be acceptable.

4.34 A detailed noise survey has been submitted with the proposal and subsequently re-calibrated to match the standard methodology adopted by Public Protection. This was taken from three locations in the vicinity, one in the village and two at the closest residential properties. The survey clearly shows an on-going level of background noise emanating from the railway and from the A59 which is audible over a fairly wide area. Some additional noise has been identified as being generated by the plant but the detail of the survey suggests that its impact would be largely masked by the background noise levels and would on balance be acceptable during normal day time working hours. It is acknowledged that during the proposed evening and occasional night time working sessions that there would be adverse impacts by virtue of the level of background noise being appreciably lower. It is therefore recommended that any permission be conditioned to prohibit later working in accordance with the recommendations of Public Protection. Concern has been expressed in respect of a 2db) difference from the now withdrawn Minerals Planning Guidance on noise in respect of Low Moor Farm. Background noise levels are however themselves noticeably higher at that location.

4.35 The EIA submitted in response to the Screening Opinion by the Secretary of State incorporates the results of further detailed noise surveys covering the impact of the proposal during the normal working time period. Whilst some concern has been expressed by objectors in terms of differences in methodology and small differences in results it is felt that there would not be a material impact upon the amenity of the surrounding area by virtue of increased levels of noise pollution.

4.36 Concern has also been expressed by terms of potential for nuisance and pollution from elements of the complex being lit at night specifically the proposed mixing tower. The applicant has indicated that a low level form of lighting similar to

that currently used for the hanger type units within the site would be adopted. It is felt that this would not give rise to a significant problem for the amenity of the wider area subject to the mode and location of lighting being subject to condition as part of any planning permission.

#### IMPACT UPON AMENITY CAUSED BY DUST, EMISSIONS AND POLLUTION.

4.37 Serious concern has been expressed by objectors in terms of the levels of dust, emissions and pollution generated by the proposal and its impact upon the amenity of neighbours and farming activities in the locality. The emissions from the site are however subject to control under Part B of the Environmental Permitting Regulations and whilst the issue of potential harm is one of considerable significance paragraph 122 of the National Planning Policy Framework makes clear that it would be inappropriate for the planning system to seek to regulate the details of the process when another form of regulatory control exists. Furthermore breaches of the Environmental Permitting Regulations are of themselves a criminal offence and so a robust regulatory framework is in place in the current context.

#### ENVIRONMENTAL IMPACT ASSESSMENT (EIA):-

4.38 On 8<sup>th</sup> December 2017 the Secretary of State issued a Screening Direction in accordance with the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations, indicating the potential for significant Environmental effects arising from the development in respect of noise impacts and impacts upon the setting of Designated Heritage Assets. That supersedes the previous Screening Direction issued by the Local Planning Authority. A detailed EIA has subsequently been submitted covering noise impacts and impacts upon the setting of Designated Heritage Assets. It is felt that the submission complies with the requirements of the Regulations.

#### IMPACT UPON THE SETTING OF DESIGNATED HERITAGE ASSETS:-

4.39 Central Government Planning Policy as outlined in paragraph 189 of the NPPF indicates that Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected by the proposal including any contribution made by its setting. The submitted EIA examines in detail the significance of a range of Designated Heritage Assets within the wider vicinity of the site including the Marston Moor Battlefield, St Everilda's Church Nether Poppleton and Beningbrough Hall. The illustrative material with the submission indicates that the proposal would not give rise to any harm to the setting of the identified Designated Heritage Assets within the wider area. The requirements of paragraph 189 of the NPPF would therefore be complied with.

#### OFF SITE HIGHWAY WORKS:-



4.40 Significant concerns have been expressed by objectors in respect of the impact of traffic entering and exiting the site both via the junction of New Lane with the A59 and along the length of New Lane itself where there is significant evidence of heavy commercial vehicles having to mount the pavement and verge facing the site entrance in order to gain access giving rise to potential hazards for pedestrians. The Highway Authority has further raised objection to the development on the basis of a risk of road traffic accidents taking place at the New Lane/A59 junction involving heavy commercial vehicles associated with the development entering and leaving whilst having to accommodate for the existing sub-standard layout which is deficient in terms of width and geometry. There would be a particular risk at peak times when vehicles are leaving and returning to the site to deliver the produced asphalt. Policy IO2 of the Publication Draft North Yorkshire and York Minerals and Waste Local Plan furthermore indicates that proposals for ancillary minerals production facilities such as asphalt plants would be supported only where they would not unacceptably increase traffic by road.

4.41 A detailed and protracted process of negotiation has taken place between the applicant and the Highway Authority in respect of a scheme of off-site works to address the identified concerns in respect of both the site entrance and the junction of the A59 with New Lane. In terms of the proposed works at the site entrance it is felt that an acceptable scheme can be achieved within the existing highway boundary that will reduce risk to pedestrians whilst enabling vehicles to enter and leave within the confines of the carriageway by delivering material improvements to both width and geometry. The scheme could be secured by means of a Grampian type condition attached to any planning permission.

4.42 In terms of the works to the junction of New Lane with the A59 a further detailed scheme has been submitted involving the widening and re-configuring of the junction layout. A broadly acceptable scheme that would deliver the required improvements has been arrived at. It would however involve excavation within the root ball of the hedge directly to the west of the junction which would result in a degree of dieback of the hedge. The hedge is of some local landscape importance which would clearly be harmed by the work and lies outside of both the application site and the land directly under the control of the Local Highway Authority. Although that harm of itself may not be so significant as to constitute a reason for refusal. The adjoining landowner would need to agree to the off site works and that third party also opposes the scheme. As there is therefore no reasonable prospect of the work being undertaken within the time limit imposed by any permission, Government guidance is that a Grampian type condition should not be used (i.e. a condition prohibiting the development or occupation of the development until the work has been undertaken). The proposal therefore remains unacceptable in terms of its impact upon the safety and convenience of highway users at the A59/New Lane junction and the requirements of Policy IO2 of the Minerals and Waste Local Plan have not been complied with.

**OTHER CONSIDERATIONS:- CASE FOR VERY SPECIAL CIRCUMSTANCES:-**

4.43 In summary, the proposal would involve inappropriate development in Green Belt, which is by definition harmful to the Green Belt due to its inappropriateness. It would result in harm to the openness and purposes of the Green Belt and harm to the safety and convenience of highway users at the junction of the A59 and New Lane Hessay. Paragraphs 143 -144 of the NPPF advise that permission should be refused for inappropriate development unless other considerations exist that clearly outweigh identified harm to the Green Belt, and any other harm, which would amount to 'very special circumstances'. Substantial weight is to be given to the harm to the Green Belt.

#### APPLICANT'S CASE FOR VERY SPECIAL CIRCUMSTANCES:-

4.44 The applicant argues based upon the standard 35 mile travel distance that there is a shortage of capacity to meet needs in the locality both quantitatively and qualitatively in terms of asphalt production with resulting increases in costs and supply difficulties. A range of plants lie to the north west within quarries at the edge of the Yorkshire Dales with further plants at Selby, at the eastern edge of Leeds and at an isolated site at Fridaythorpe in the Yorkshire Wolds. In terms of travel distance there is some evidence of need demonstrated for further capacity to supply within the City and the rural area directly to the north. The submitted evidence does not indicate that the lack of capacity is a critical one which would of itself outweigh the harm caused to the openness of the Green Belt caused by elements of the proposal.

4.45 However, the submitted site identification exercise fails to identify a lack of suitable alternative non-Green Belt sites where the proposed development could be located. Both the sites identified at Pigeon Cote Farm Huntington and Full Sutton Industrial Estate lie out side of the Green Belt and are otherwise suitable in land use and access terms for the proposed development. The Hanson Aggregates site at Outgang Lane Osbaldwick lies outside of the Green Belt and is also otherwise suitable but is not presently available for redevelopment. The availability of alternative non-Green Belt sites that are suitable and the lack of evidence of a critical shortage of production capacity in the area ensures that the proposal does not meet the test outlined in paragraph 144 of the NPPF that "very special circumstances" only exist when other considerations clearly outweigh any harm by reason of inappropriateness to the Green Belt and any other harm . . "Very special circumstances" do not therefore exist to justify the inappropriate development in the Green Belt.

## 5.0 CONCLUSION

5.1 Hessay Industrial Estate comprises a medium sized employment site of some long standing occupying a former MOD depot on land within the general extent of the York Green Belt to the north of Hessay village. Planning permission is sought for erection of a coated aggregates manufacturing plant situated within a building incorporating a mixing tower with associated chimney to be located at the western edge of the site.

The site had a planning permission for erection of a fuel storage depot ref: - 10/00861/FUL dating to 2010 which was not implemented. A previous proposal incorporating an asphalt plant linked with the reinstatement of the rail head within a materially larger section of the site was submitted in 1999 but subsequently withdrawn. The total application site comprises some 7,200 sq metres in area which sets it within Schedule 2 of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations for which the application has been screened.

5.2 The development comprises inappropriate development within the Green Belt. In terms of other harms the height and design of the proposed mixing tower and chimney would detract from the setting of the historic City contrary to the purposes of designation of the Green Belt outlined within paragraph 134 of the NPPF. The height of the associated structures even not notwithstanding their relationship to the buildings of the former depot would also give rise to substantial harm to the openness of the Green Belt. At the same time it has been identified that the scheme would give rise to conditions prejudicial to the safe and free flow of traffic at the junction of the A59 and New Lane Hessay by the introduction of an increase in heavy slow moving vehicles entering and leaving the junction at peak times. A scheme has been submitted to address the junction layout however it would involve a degree of harm to the adjacent boundary hedge to the west which is in third party ownership. The landowner has indicated their opposition to the scheme and as such there is not a reasonable prospect of the scheme being implemented within the lifetime of any permission.

In order to support the proposal the applicant has provided a case for “very special circumstances” as required by paragraphs 143 and 144 of the NPPF to clearly outweigh the harm to the Green Belt and any other harms. This is based upon a shortage of production capacity within the standard 35 mile travel distance and that does demonstrate some lack of capacity within the area of the City and the rural area directly to the north with consequent impacts upon the deliverability of construction projects. The case should be read in conjunction with the submitted alternative sites exercise. This appears to indicate that no suitable non-Green Belt sites are available for the proposal. However, detailed research indicates that two sites at Pigeon Cote Farm Huntington and Full Sutton Industrial Estate which are outside of the Green Belt are both suitable and available. As a consequence attaching substantial weight to the harms identified to the Green Belt, “very special circumstances necessary to justify the inappropriate development in the Green Belt are not therefore demonstrated. Planning permission should therefore be refused.

## **6.0 RECOMMENDATION: Refuse**

1 The proposal would give rise to conditions substantially prejudicial to the safety and convenience of highway users at the junction of the A59/New Lane Hessay by introducing volumes of heavy and slow moving traffic to the junction at peak times which may not reasonably be mitigated by works within the existing highway without

harm to third party land contrary to Policy IO2 of the Publication Draft North Yorkshire and York Minerals and Waste Local Plan.

2 The proposal comprises inappropriate development within the Green Belt by virtue of the substantial harm caused by the associated structures to its openness. The submitted detail fails to demonstrate a case for “very special circumstances” that would outweigh the harm to the Green Belt caused by inappropriateness and any other harm resulting from the proposal as required by paragraph 144 of the NPPF.

## 7.0 INFORMATIVES:

### Notes to Applicant

#### 1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- i) Details of the Proposed Lighting Arrangements
- ii) Details of vehicle movements to and from the site
- iii) Detail of the proposed means of Great Crested Newt mitigation.
- iv) Sought the submission of a detailed scheme of off-site highway works in respect of both the site entrance and the junction of the A59 and New Lane Hessay.

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

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