

## COMMITTEE REPORT

**Date:** 20<sup>th</sup> November 2014    **Ward:** Rural West York  
**Team:** Major and Commercial Team    **Parish:** Parish Of Rufforth With Knapton

**Reference:** 13/00041/FULM

**Application at:** Land To The South Of Yorwaste Harewood Whin Tinker Lane Rufforth York

**For:** Construction of a material recovery facility and waste transfer station including associated weighbridge and office facilities, concrete hardstandings, car parking, visual and acoustic screens, access roads and lighting.

**By:** Yorwaste Ltd

**Application Type:** Major Full Application (13 weeks)

**Target Date:** 27 May 2013

**Recommendation:** Referral to Secretary of State. If not called in, defer for legal agreement. On completion Officers be authorised to grant permission subject to conditions.

### 1.0 PROPOSAL

1.1 Harewood Whin comprises a waste disposal by landfill operation lying within the Green Belt to the north east of Rufforth village and to the west of the City Centre. Planning permission is sought for the erection of a domestic materials recycling facility(MRF)some 82m x 60 metres in area together with a Waste Transfer Station some 78m x32 metres in area to be used for the bulking up and transference of materials to be used in the proposed Allerton Park Waste Incinerator. The application is subject to Environmental Impact Assessment as falling within Schedule 2 to the 2011 Town and Country Planning(Environmental Impact Assessment) Regulations.

1.2 The application has been amended subsequent to submission to relocate both buildings further north within the site and to extensively re-enforce the area of landscape planting to the south and south west of the site adjacent to the B1224 Wetherby Road in order to deal with concerns in respect of the appropriateness of the development and its likely impact upon the openness of the Green Belt. At the same time the applicant has agreed to unilaterally revoke earlier planning permissions for the erection of a composting operation in the southern section of the site and the erection of an energy from Biomass Plant at the north western edge of the site.

## **2.0 POLICY CONTEXT**

### 2.1 Development Plan Allocation:

Air safeguarding GMS Constraints: Air Field safeguarding 0175

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: West Area 0004

### 2.2 Policies:

CGP15A -Development and Flood Risk

CYGB1 - Development within the Green Belt

CYGP1 - Design

CYMW5 - Landfill/landraising - considered on merits

## **3.0 CONSULTATIONS**

### INTERNAL:-

3.1 Highway Network Management raise no objection to the proposed layout as amended.

3.2 Environmental Protection Unit raise no objection to the proposal subject to a number of conditions being appended to any permission requiring the mitigation of odour nuisance and potential land contamination.

3.3 Planning and Environmental Management raise no objection to the proposal.

3.4 Strategic Flood Risk Management raise no objection to the proposals.

3.5 Design, Conservation and Sustainable Development raise no objection in principle to the proposal providing the remaining area between the developed part of the site and the B1224 Wetherby Road is left free of further development and the planting at the boundaries is substantially enhanced.

### EXTERNAL:-

3.6 Natural England raise no objection to the proposal.

3.7 Rufforth and Knapton Parish Council object to the proposal on the grounds that the proposal fails to demonstrate a case for "very special circumstances" for

location within the Green Belt, it would give rise to further problems of noise, odour and traffic nuisance and a further Section 106 Agreement would be required in order to enforce previous assurances in respect of vehicle movements through the village.

3.8 The Environment Agency raise no objection to the proposal.

3.9 Yorkshire Water Services Limited raise no objection to the proposal.

3.10 The York Natural Environment Panel raise concerns in respect of the management of odour and bio-aerosols at the site.

3.11 51 letters of objection have been received in respect of the proposal. The following is a summary of their contents:-

- \* Concern in respect of the impact of the proposal upon the open character of the Green Belt;
- \* Concern that the proposal would lead to an unacceptable increase in heavy goods vehicles using local roads through Rufforth village to the detriment of the amenity of local residents;
- \* The proposal would exacerbate existing problems with noise and odour nuisance from processes taking place at the site to the detriment of residential amenity;
- \* Concern that alternative sites to the proposal have not been properly examined notably a proposed employment land allocation in the Draft Local Plan to the north east of the site at Northminster Business Park.

## **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 levels of traffic generation on the local rural road network;
- \* Impact upon the residential amenity of properties in Rufforth village and the surrounding area;
- \* Consideration of Alternative Sites;
- \* Other Environmental Impact Assessment Issues.

### **PLANNING POLICY CONTEXT:-**

4.2 GREEN BELT:- Saved Policies YH9C and Y1C of the Yorkshire and Humber Side Regional Strategy define the general extent of the York Green Belt and as such Central Government Planning Policies in respect of the Green Belt apply. Central Government Planning Policy as outlined in paragraphs 79 to 90 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. New built development is automatically taken to be inappropriate and therefore harmful to the Green Belt unless it comes within one of

a number of excepted categories. Other development may only be permitted where a case for "very special circumstances" has been forthcoming. Paragraph 88 of the National Planning Policy Framework indicates that "very special circumstances" will only be held to exist where potential harm to the Green Belt and any other harm is clearly outweighed by other considerations. Policy GB1 of the York Development Control Local Plan also applies and sets a firm policy presumption against inappropriate development within the Green Belt. The Draft Local Plan is also a material consideration although it may only be afforded limited weight by virtue of the consultation process having been paused.

**4.3 WASTE PLANNING:-** Central Government Planning Policy in respect of Waste Planning as outlined in the National Planning Policy Statement for Waste (October 2014) paragraph 4 urges Local Planning Authorities to give significant weight to the need to co-locate waste management facilities wherever possible and to have clear regard to the proximity principle so that waste facilities are located as close as possible to the areas where the waste is generated.

**4.4 AMENITY:-** Central Government Planning Policy as outlined in paragraph 17 of the National Planning Policy Framework "Core Principles" urges Local Planning Authorities to give significant weight to the need to provide and safeguard a good standard of amenity for all new and existing occupiers of land and buildings.

**4.5 ENVIRONMENTAL IMPACT ASSESSMENT:-** The 2011 Town and Country Planning(Environmental Impact Assessment) Regulations through schedules 1 and 2 identify clear categories of development including waste management facilities which are likely to have significant non-local environmental effects. Schedule 3 and the accompanying Circular gives clear guidance as to how those effects can be assessed and mitigated against.

#### **IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-**

**4.6** The application site comprises a waste management facility of long standing within the site of a former military airfield within the York Green Belt. The proposal which comprises the erection of two substantial industrial shed type units to house a domestic Materials Recycling Facility and a Waste Transfer Station associated with the proposed Energy from Waste Incinerator at Allerton Park are clearly inappropriate development within the terms of paragraph 89 of the National Planning Policy Framework. The area surrounding the site comprises a gently rolling agricultural landscape broken up by traditional hedges and small copses of mature trees. Concern has clearly been expressed in respect of the visual relationship of the proposal to this open landscape and in particular to the surviving airfield structures to the south of Wetherby Road.

**4.7** In order to lessen the impact of the proposal upon the open character of the Green Belt after a protracted period of negotiation the proposed buildings have been

relocated further to the north and re-orientated in order to lessen their visual presence on the road frontage and adverse impact upon the open character of the Green Belt. At the same time a detailed case for "very special circumstances" has been brought forward based upon the advantages of co-locating at the site with the existing waste management facilities including a commercial materials re-cycling facility. At the same time a detailed and exhaustive examination of alternative sites was undertaken which established an absence of available and serviceable non-Green Belt location for the proposal. In view of the relocation of the two buildings away further away from the boundary of the site with Wetherby Road and the opportunities this provides for further landscape planting and the formation of a nature area with public access, this is on balance felt to be acceptable.

4.8 To reinforce the case for "very special circumstances" the applicant has also agree to the unilateral waving of the right to implement previously granted planning permissions for erection of a biomass plant with in the centre of the site ref:- 12/00908/FULM and two large concrete compost pads at the south eastern edge of the site adjacent to Wetherby Road ref:- 07/02914/FULM. This would be secured by means of a Section 106 Agreement. At the same time the applicant has agreed to make a formal pledge not to develop the area between the application site and Wetherby Road and to dedicate it as a landscaped nature area with an off-road cycle track provided along the site frontage. This again may be secured by means of a Section 106 Agreement. Taken together it is felt that the proposed mitigation measures together with the submitted case for "very special circumstances "would fulfil the test outlined in paragraph 88 of the National Planning Policy Framework and the development would therefore be acceptable on that basis.

#### IMPACT UPON TRAFFIC GENERATION ON THE LOCAL ROAD NETWORK:-

4.9 On-going concern has been expressed in respect of the level of heavy goods vehicles accessing the site via Rufforth village. The proposal represents a partial relocation of the existing Materials Recycling Facility from Hessay on to the Harewood Whin site. The submitted Environmental Impact Assessment examines traffic flows in detail in respect of the existing situation and in relation to the proposed development taking account of the likely significant reduction in landfill related traffic. This establishes a current maximum flow of vehicles in to the site at 48 during the normal working week with a peak hour of 1.30-2.30pm. In the event of the proposal being implemented and allowing for the predicted diminution in landfill related traffic the maximum flow would be 47 vehicles with a peak hour of 2.30pm to 3.30pm. This is felt to be acceptable in terms of overall traffic flows although the harm to amenity caused by heavy goods traffic associated with the site passing through the surrounding area is acknowledged. It is impossible in planning terms to enforce the routeing of traffic along public roads although the applicant has agreed to provide CCTV control of the site access to record vehicles entering the site from the Rufforth direction and those attempting to egress from the site in the direction of Rufforth village. The site operators would then be able to enforce by contract routeing of vehicles as far as they are able to do so. Following on from the

introduction of a degree of CCTV control the applicant has also indicated a willingness to work with the Local Highway Authority to re-design the site access to make it as difficult as possible for traffic to enter and leave the site through Rufforth village. This again may be secured by means of a Section 106 Agreement.

#### IMPACT UPON THE RESIDENTIAL AMENITY OF NEIGHBOURING PROPERTIES:-

4.10 Concern has been expressed in respect of the exacerbation of existing problems of noise and odour at the site arising from the additional building work. The submitted Environmental Impact Assessment identifies potential risks to residential amenity during both construction and operational phases of the development. These risks are however clearly capable of mitigation as with the existing largely open air activities of composting and landfill taking place at the site. The proposed processes which largely involve the unloading, sorting and batching of materials before loading them on to vehicles for onward despatch are intended to take place within the MRF building and Waste Transfer Station Buildings in a sealed system with no sorting or processing work taking place in the open air. Any noise or odour impact would thereby be lessened with the existing Commercial Materials Recycling building being only a modest source of nuisance. In order to mitigate against any further harm to residential amenity arising from noise or odour nuisance it is recommended that any permission be conditioned to secure the submission and approval of noise and odour management plans.

#### CONSIDERATION OF ALTERNATIVE SITES:-

4.11 Concern has been expressed in terms of the level of consideration given to alternative sites for the proposal, especially in relation to the availability of land at the Northminster Business Park to the north east of the site. As part of the Environmental Impact Assessment, a thorough and exhaustive analysis of alternative sites available in the locality has been undertaken. This examined issues such as accessibility via the principal road network, impact upon the amenity of neighbours, availability of land with the required configuration and availability within the required timescale. As a result of this exercise the current application site was found to be the most appropriate available within the timescale. The Northminster site referred to comprises an allocation in the Draft Local Plan which is at an earlier stage of the consultation process and can therefore be afforded little weight. At the same time it is unclear at what point the site would become available for development and it would also give rise to a potential increase in traffic movements as some traffic from Harewood Whin would head to the new site which would otherwise not need to.

## OTHER ENVIRONMENTAL IMPACT ASSESSMENT ISSUES:-

4.12 In addition to issues of amenity, landscape and location, the Environmental Impact Assessment also examined issues of water resources and flood risk, soils resource and agriculture, ecology, cultural heritage and lighting. In terms of water resources and flood risk the site lies to the south of a major water bearing aquifer and is within Flood Zone 1 and so is at the lowest deemed risk of flooding. The development is designed to channel any surface water discharges in to the existing processing system for the wider site which is subject to a system of attenuation before release in to surrounding water courses. In terms of soils resource and agriculture the site is classified as Grade 4 in terms of the agricultural land use classification and contains several buried structures associated with the former military use, as such any impact upon local agricultural land quality arising from the proposal would be modest. In terms of ecology a series of bat and breeding bird surveys have been undertaken at the site and no evidence of material harm has been forthcoming. At the same time in terms of cultural heritage an archaeological desk top survey has been submitted which relates evidence of the former airfield use of the site but no remains of such significance as to merit recording or preservation in situ are identified as being present. In terms of lighting the overall site is subject to a lighting strategy which would also apply to the new built development with the proposed new landscape planting around the southern edge of the site further contributing to its mitigation.

## SECTION 106 ISSUES:-

4.13 In order to secure the effective mitigation of the harm generated by the proposal, the applicant has offered a number of items which may be effectively secured by means of Section 106 Agreement. They are summarised below and support is recommended:-

- i) Agreement not to implement Planning Permissions 12/00908/FULM and 07/02914/FULM;
- ii) Agreement that the land between the application site and the B1224 Wetherby Road shall not be developed;
- iii) Planting and maintenance of the area of land between the application site and the B1224 Wetherby Road as a nature area to be retained in perpetuity with controlled public access;
- iv) Provision of an off road cycle route across the site frontage of Wetherby Road;
- v) Provision of CCTV control of the site access and a commuted sum payment towards improvements to the site access configuration.

## 5.0 CONCLUSION

5.1 The application for the erection of a domestic materials recycling facility (MRF) and waste transfer station is subject to Environmental Impact Assessment under Schedule 2 of the 2011 Environmental Impact Assessment Regulations. It is accepted that the proposal is inappropriate development within the Green Belt. A case for "very special circumstances" based upon co-location of waste management facilities as supported by Central Government Planning Policy in the National Planning Policy Statement on Waste has been put forward. This is on balance felt to be acceptable. Concern has also been raised in respect of the consideration of alternative sites. However it is not clear that the suggested alternative site at Northminster Business Park can be delivered within the required timescale

5.2 It is considered that subject to noise and odour mitigation schemes and the landscaping and other mitigation measures offered by the application, the proposal is acceptable in all other respects and approval is recommended.

**6.0 RECOMMENDATION:** That the application be referred to the Secretary of State pursuant to Town and Country Planning(Consultation) (England) Direction 2009 paragraph 4.

Should the Secretary of State choose not to call in the application for his own determination, the application be deferred pending satisfactory completion of a legal agreement to secure the following :

- i) Agreement not to implement Planning Permissions 12/00908/FULM and 07/02914/FULM;
- ii) Agreement that the land between the application site and the B1224 Wetherby Road shall not be developed;
- iii) Planting and maintenance of the area of land between the application site and the B1224 Wetherby Road as a nature area to be retained in perpetuity with controlled public access;
- iv) Provision of an off road cycle route across the site frontage of Wetherby Road;
- v) Provision of CCTV control of the site access and a commuted sum payment towards improvements to the site access configuration.

On completion of the legal agreement, the Assistant Director Development Services Planning and Regeneration be authorised to grant planning permission subject to the following conditions :

1 The buildings shall be removed by 19th November 2039 unless prior to that date a renewal of the permission shall have been granted in writing by the Local Planning Authority.



Reason: The nature, location and use of the building is such that it is considered inappropriate on a permanent basis.

2 The development hereby permitted shall be carried out in accordance with the following plans:-

Drawing Refs:- HAR-PLOO-Y1128 -011 D; and HAR-PLOO-Y1128-012 D.

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 VISQ4 Boundary details to be supplied -

4 VISQ7 Sample panel ext materials to be approv -

5 No development shall take place until there has been submitted and approved in writing by the Local Planning Authority a detailed landscaping scheme which shall illustrate the number, species, height and position of trees, shrubs and other planting. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site.

6 Prior to the commencement of the development hereby permitted a Noise Management Protocol scheme for the management and minimisation of noise shall be submitted to and approved in writing by the Local Planning Authority. The approved Protocol shall include:

1. A protocol for the regular monitoring of noise levels from the site by site operators to ensure compliance with these conditions and/or other statutory noise limits.
2. A protocol for the use of audible reversing alarms and their alternatives.
3. Proposals for the siting, silencing, enclosure and screening of fixed plant and machinery.
4. A protocol for the use of portable acoustic screens around temporary plant.
5. A protocol for the use of quieter plant and machinery nearer to noise sensitive locations.

6. A protocol for the recording, investigation and reporting of noise complaints to City of York Council.

Reason: to minimise noise in the interest of the amenity of residents and the area generally.

7 An odour management scheme shall be submitted to the Local Planning Authority for written approval prior to development commencing. The requirements contained in the approved odour management scheme shall be fully implemented prior to the use hereby permitted.

Reason: For the protection of the amenity of local residents from odour.

8 The noise management scheme shall be reviewed 1 year after the first use of the development. This review must be submitted in writing with any amendments to the noise management scheme to the local planning authority for written approval.

Reason: For the protection of the amenity of local residents from noise.

9 The odour management scheme shall be reviewed 1 year after the first use of the development. This review must be submitted in writing with any amendments to the odour management scheme to the local planning authority for written approval.

Reason: For the protection of the amenity of local residents from odour.

10 Before the development hereby permitted is commenced details of all external floodlighting and other illumination proposed at the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include: height of the floodlighting posts, intensity of the lights (specified in Lux levels), spread of light including approximate light spillage to the rear of floodlighting posts (in metres), any measures proposed to minimise the impact of the floodlighting or disturbance through glare (such as shrouding), and the times when such lights will be illuminated. The submitted details shall be "dark sky" compliant.

Reason: in the interest of the appearance of the site.

11 ENVA1 Surface water drainage through oil inter -

12 ENVA2 Prevention of pollution - tanks etc -

13 LC1 Land contamination - Site investigation -

14 LC2 Land contamination - remediation scheme -

15 LC3 Land contamination - remedial works -

16 LC4 Land contamination - unexpected contam -

17 Prior to commencement of the development, a Construction Environmental Management Plan (CEMP) for minimising the creation of noise, vibration, dust and lighting during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To safeguard the residential amenity of Neighbouring Properties and to Secure Compliance with Policy GP1 of the York Development Control Local Pan.

18 The hours of operation of this approved use shall be confined to 07:00 to 23:00 Mondays to Fridays, 08:00 to 18:00 Saturdays, and no working on Sundays and Bank Holidays.

Reason: To safeguard the amenities of adjoining occupants.

19 HWAY19 Car and cycle parking laid out -

20 HWAY21 Internal turning areas to be provided -

21 HWAY31 No mud on highway during construction -

22 Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, or any subsequent legislation revoking or re-enacting that Order, no fixed plant or machinery, buildings, structures or private ways, shall be erected, extended, installed or replaced at the site, other than those expressly authorised by this permission without the prior written approval of the Local Planning Authority.

Reason: - To safeguard the character of the site in the interests of visual amenity and to secure compliance with Policy GB1 of the York Development Control Local Plan.

23 Prior to the first operation of the building and plant hereby authorised, the developer shall submit a formal BREEAM assessment or equivalent, for the Design and Procurement stages for the building and plant hereby approved. All assessments shall be followed by a BREEAM Post Construction review to be submitted after construction at a time to be agreed in writing by the Local Planning Authority. All assessments shall confirm the minimum "Very Good" rating or equivalent, anticipated in the preliminary BREEAM assessment submitted with the application, and to be agreed in writing by the Local Planning Authority.

Reason: - In the interests of sustainable development, in accordance with the requirements of Policy GP4a) of the York Development Control Local Plan and the Council's Planning Guidance Interim Planning Statement (IPS) on Sustainable Design and Construction.

24 Piling or any other foundation design using invasive methods shall not be permitted other than with the express consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant risk to groundwater. The development shall be carried out in strict accordance with the approved details.

Reason: - To protect controlled waters.

25 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall include:-

\* Surface water discharge to be regulated to the green field run-off rate from a 1 in 1 year storm with the on-site drainage system able to accommodate the storm water from a 1 in 100 event without harming neighbouring properties.

Such scheme shall be implemented before the construction of impermeable surfaces draining to the system unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To safeguard the water environment and to minimise flood risk.

## **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 (paragraphs 186 and 187) 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) Clarification as to reasoning behind proposed site layout.
- ii) Amendment to Site Layout to lessen impact upon open character of Green Belt.
- iii) Submission of a further package of mitigation measures to be secured by Section 106 Agreement.

## 2. CONTROL OF POLLUTION ACT 1974:-

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

### **Contact details:**

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