



Planning Services

Merrion House
110 Merrion Centre
Leeds LS2 8BB

DELEGATION REPORT

REPORT OF THE CHIEF PLANNING OFFICER

WARD: Pudsey
Address: Land Off
Fartown
Pudsey
Application: 18/05570/FU
Applicant: EP Homes Ltd - Mr Cliff
Proposal: Infilling of former railway cutting with inert material for future residential development

Application advertised by means of:

Site Notice	21 September 2018
Advert Posted	5 October 2018
Neighbour Notification letters posted	17 September 2018
Publicity Expires on	31 October 2019

Introduction:

The following assessment relates to a planning application for engineering operations on land. The proposal was screened under regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the local planning authority determined that an Environmental Statement is not required for Environmental Impact Assessment purposes. The following assessment covers the relevant material planning considerations in the context of both national and local planning policy, including those relevant and material considerations raised by members of the public. The assessment concludes that the proposal is not, in its current form, in accordance with policy and a recommendation for refusal of the application is made.

Proposal:

The proposal is for the infilling and regrading of a former railway cutting and adjacent road bridge, with the formation of a banking adjacent to the bridge on the opposite side of the cutting. Materials to be used are inert, non-waste materials, as defined by the CL:AIRE protocol. This means that the material would have to be recognised as necessary preparatory work to a construction scheme and either:

- Excavated materials, treated and re-used on site
- Treated materials from a 'hub and cluster' project. (ie temporary and demonstrably local - a group of sites including a Hub site and one or more sites that use the treatment capacity and capability of the Hub site. Requires EA approval to set up.)
- Naturally occurring clean materials.

Other, non-waste materials could be used such as virgin or processed aggregate which has ceased to be waste.

Site and Surroundings:

The proposal site is a former railway cutting in a built up residential area of Pudsey. The site abuts the junction of Carlisle Road and Station Road, with a road bridge crossing over the cutting. Infilling arch beneath the road bridge forms part of the proposal, as does the formation of a banking adjacent to the bridge on the eastern side, on land which is Council owned. To the east of the proposed banking is a small industrial estate at the same level as the current ground level of the cutting. Access to the site would be via Carlisle Road. Adjacent to the south of the access/tipping/manoeuvring area there are recently built houses, not yet occupied. The houses have been built by the applicant and are therefore under the developers control at this moment in time. The cutting travels east to west, from the bridge to a tunnel entrance, covering a length of 85m. To the north, across Station Road, there is a pub on the corner, with a row of dwellings facing the road thereafter. To the west there is a community building adjacent, with more dwellings accessed off Greenside, a road 55m to the west of the application site.

Relevant Planning History:

25/237/94/FU: Tipping of inert waste to disused railway cuttings and tunnel; refused 04.07.95.
The proposal site included the length of the railway tunnel to the west of the current proposal site, stretching for an additional 540m but included the current proposal site also.

25/22/01/MIN: Tipping of inert waste to disused railway cutting; refused 11.12.01

25/356/02/MIN: Outline application for residential development and site preparation through engineering & landfill works; refused 10.04.03; allowed on appeal 04.08.03.

25/37/03/MIN: Outline application for residential development and site preparation through engineering & landfill works; allowed on appeal for non-determination 04.08.03. Lapsed.

06/04647/OT: Renewal of permission ref. 25/356/02/OT for outline residential development; approved 27.10.06. Lapsed.

14/00701/FU: Development of 13 houses with associated access road, parking and landscaping (land adjacent to application site); approved 24.11.14. Implemented subject to:

15/03420/FU: Variation of Condition 2 of approval 14/00701/FU (approved plans) to separate the garages between Plots 8 and 9 and between Plots 11 and 12 (land adjacent to application site); Approved 23.02.16. Implemented.

16/03611/FU: Retrospective application for the temporary storage of inert materials (land adjacent to application site); approved 17.10.16

16/04825/FU: Residential development of eight dwellings with associated access, parking and landscaping (land adjacent to application site); approved 29.11.16. Implemented.

17/02642/FU: Partial infilling of former disused railway cutting using inert materials; approved 17.07.17. Implemented.

Statutory Consultations:

Highways: Insufficient information

Environment Agency: No objection

Highways England: No objection with regard to the strategic road network

Highways England (Historical Railways Estate): Object due to restricted access for tunnel maintenance

Natural England: No comment

West Yorkshire Archaeology: No response

Health and Safety Executive: Does not advise against

Non Statutory Consultations:

Environmental Health: Insufficient information

Landscape Team:	No response
Nature Team:	No objection, subject to conditions
Conservation Team:	Insufficient information
Flood Management Team:	Insufficient information
Geotechnical Team:	No response
Sustainable Travel Team:	Object – feasibility study for Greenway pending
Sustrans:	Object – feasibility study for Greenway pending
Travel Wise Team:	No comment
Bridges Section:	Request consultation to be undertaken with Historic Railways Estate
Local Plans:	The proposed development is consistent with the development plan allocation for this site.
Contaminated Land Team:	No objection, subject to conditions
Yorkshire Wildlife Trust:	Insufficient information

Public/Local Response:

The proposal was advertised in the Yorkshire Evening Post on 05.10.18. and with site notices on 21.09.18. 379 letters of objection and 3 letters of support have been received.

Issues Raised

Objection:

- Impact on biodiversity/protected species
- Japanese Knotweed present on site
- Traffic – damage to roads, mud on roads, congestion, harm to amenity, air quality, public safety, harm to heritage (vibration).
- Tunnel should be used for a cycleway/green space
- Contrary to Leeds Core Strategy 2014 (LCS 2014), including the spatial vision of a well connected district, by failing to facilitate the delivery of new sustainable infrastructure.
- Contrary to the aims and objectives of the Leeds Cycling Starts Here Strategy
- Contrary to paras 91, 102, 104, 110, 185 and 197 of the NPPF and supplementary guidance in the NPPG.

- Contrary to LCC's ambition for Leeds to become a more prosperous, liveable and healthy city with its drive to improve air quality standards as part of the emerging air quality plan for Leeds.
- Contrary to The Transport Strategy 2040
- Contrary to Leeds Health and Wellbeing Strategy 2016-2021
- Contrary to government's Cycling and Walking Investment Strategy 2014
- Premature with regard to the creation of a Local Cycling and Walking Infrastructure Plan.
- Impact on heritage – contrary to Policy P11 of the Leeds Core Strategy
- Impact on access to tunnel for maintenance
- Potential build-up of gas if the access is blocked up
- Housing not guaranteed
- Infrastructure not in place for additional housing – schools, doctors etc.
- Impacts on amenity, health and well-being during filling operations – dust and noise
- Harm to buildings caused by vibrations from compaction of the inert material
- Applicant will make money
- Applicant has not adhered to regulations in the past
- No affordable housing or green space provided by the development
- Loss of existing green space
- Numbers of houses planned would have little impact on current requirements
- Proximity to Greenside Primary School
- Contrary to Leeds City Council's Child Friendly City policy
- Runs counter to Leeds' plans to promote active travel.
- Previous refusals for the same proposal
- No alternative proposals were in prospect at the time of the allowed appeal for infill.
- The appeal decision of 2003 is now outdated
- The site is greenfield, not brownfield
- Land contamination issues
- Structural damage to adjacent properties
- Properties not aimed at affordable markets
- Adjacent development has restricted access to the site
- Potential land stability issues
- Not in accordance with the Government's 25 year Environment Plan
- Not in accordance with Leeds City Region's Green and Blue Infrastructure Strategy
- Adjacent houses as part of same development are poorly designed and laid out
- Overdevelopment in Pudsey generally
- Cumulative impact of on-going developments nearby.
- Loss of learning and exercise opportunities for children
- Remediation of existing contamination from the use as a railway has not been addressed.
- The infilling operation will prevent the site from storing surface water in times of intense rainfall and this will increase the likelihood of flooding to neighbouring land and properties.
- Environmental impacts do not outweigh the benefits of a small number of additional houses

- As a nationally significant infrastructure project, determination of the proposal is outside the scope of local planning authority powers.
- It is not demonstrated that the fill material would provide a suitable building platform.
- Material previously tipped is contaminated and should be disposed of properly.
- Sustainability of Leeds SAP questioned

Support:

- Will improve the visual character of the area
- Housing needs require the site to be developed
- The site serves no useful purpose

Ward Cllr Mark Harrison made the following comments:

- I have grave concerns about the number of vehicles that would be required to infill the land, and the increase in vehicle movement this would create. I believe a previous planning application was refused on this basis.
- I am concerned about the impact this application may have on wildlife, particularly bats.
- Work is likely to disturb the knotweed that is present on site.
- The applicant has a history of non compliance.
- Local residents have raised concerns about the safety aspects at the applicant's current site.
- The tunnel is a landmark. If the cutting is filled in it will block access from one side. Access needs to be maintained.

Ward Councillor Simon Seary made the following comments:

- This application was previously refused due to the number of vehicles that would be needed to infill the land. I can see no reason why this should have changed.
- I am very concerned about the loss of wildlife, particular bats, should this application be approved.
- There is knotweed present on site, and any work is likely to disturb this and spread it further afield.
- In the past the applicant has failed to adhere to restrictions placed on him by the Council on a number of occasions, and enforcement action has been taken against the applicant.
- Local residents and myself are concerned about the safety aspects at the applicant's current site.
- The tunnel is a landmark, and should remain as such. How will this be maintained if the cutting is filled in, thus blocking access from one side.
- There are too many houses sited above the tunnel and access needs to be maintained.

Former Ward Councillor, incumbent at the time of submission of the application, made the following comments:

- My main practical concern remains the impact of a large number of vehicle movements on the local road network as a whole and Carlisle Road and its environs in particular. The vagueness of the current proposals is particularly unhelpful. We don't know whether journeys to and from the site will be using predominantly one route or be split between a number of routes. We don't know whether the works will take place over the minimum (17 week) period or the maximum 52 weeks – or whether it could go on for longer. At least Ogden's were clear on these aspects when they put forward similar proposals some years ago, even if we didn't like what they offered. Here we have a huge amount of uncertainty for all Pudsey residents who live on our main roads, although the impact will obviously be greatest on those living, working or being educated close to the site.
- Greenside Primary is only a couple of hundred yards away from the site. The maximum number of two-way trips is around 100 per day over 8 working hours. This is not going to be a negligible figure for those experiencing the full brunt of the extra traffic. I actually feel the 0900 start and 1600 re-commencement time as being on the optimistic side in terms of potential overlap with school arrivals and departures.
- The practical on-site arrangements to deal with the anticipated wagon arrivals do not seem to have been thought through and I would query how long it would take for each vehicle to discharge its load and leave the site. I think it probable that there would be queueing on the site and on Carlisle Road, with a noise and traffic impact there. There also appears to be some massaging down of the figure for the number of vehicle movements required to bring in 28,330 cubic metres (roughly 3,400) when compared to the figure used by EP Homes of 2,250 vehicle movements for the removal of 8,800 cubic metres requiring of waste.
- When there was last an application for a full infill there was little discussion about alternative uses. The only human activity that took place was the periodic destruction of saplings and other vegetation by the owners. In contrast, there is a renewed interest in the potential of the cutting and tunnel for leisure and other uses. A feasibility study for a greenway is being pursued. Until work has taken place to fully explore the appetite for different uses, this strikes me as the wrong time to agree an application that would rule them out altogether.

STUART ANDREW MP made the following comments:

- I write to object to the above application to completely fill the Greenside Railway Cutting by the developer, EP Homes. I have been contacted by local group Greenside Greenway and Pudsey councillors Mark Harrison and Simon Seary with their concerns.
- The shared concerns of the Greenside Greenway Group, local Councillors, residents and myself are that the tunnel will be lost forever before a feasibility study for a potential greenway has been completed. There are concerns over the detrimental impact on local wildlife and to residents living in the Pudsey area, with large trucks

having no specified route to the site included in the application, The heritage of the tunnel must also be considered as once it is lost, it can never be replaced.

- The developer has a poor record on this site, including not adhering to previous planning conditions. The lack of trust between residents and their representatives and this developer has only worsened following the deliberate attempt to fill the cutting without permission previously. I encourage you to intervene and reject this application until all options for the site have been explored, including that of a Greenway.

Planning Policies:

Local

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise.

The policy guidance in Annex 1 to the National Planning Policy Framework (NPPF) is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. Except where otherwise stated, all policies outlined below are considered to align fully with the NPPF and National Planning Policy for Waste (NPPW).

The adopted Leeds development plan consists of:

The Leeds Site Allocations Plan (Adopted 2019)
Core Strategy 2014 (as amended by the Core Strategy Selective Review 2019)
Leeds Natural Resources and Waste Local Plan (Adopted 2013/15)
Saved policies of the Leeds Unitary Development Plan (Reviewed 2006).
Aire Valley Leeds Area Action Plan (Adopted 2017)
Any Made Neighbourhood Plan

Site Allocations Plan (2019):

HG2 – site no 74, Outer West HMC area

Core Strategy Selective review 2019:

SP1: Location of Development: to concentrate the majority of new development within and adjacent to urban areas, promoting economic prosperity, job retention and opportunities for growth.

SP4: Regeneration Priority Area: priority given to developments that improve access to employment.

SP5: Review of existing allocations.

G8: Protected species

G9: Biodiversity enhancements

H3: Density of residential developments

T2: New development to be located in accessible locations.
P10: Design
P11: Conservation
G1: Enhancing and Extending Green Infrastructure
ID2: Planning Obligations

Unitary Development Plan Review 2006 Saved Policies:

N1: Protection of Urban Green Space
H4: Main and smaller urban areas
N25: Development and site boundaries
GP5: General policy relating to material considerations
T30C: Aerodrome Safeguarding Area

Natural Resources and Waste Local Plan 2013/15:

Minerals 3: Mineral Safeguarding Area - Coal
Air 1: Management of Air
Water 1: Water Efficiency
Water 2: Protection of Water Quality
Water 6: Flood Risk Assessments
Water 7: Surface Water Runoff
Land1: Contaminated Land
Land 2: Development and Trees

National Policies

NPPF (2018):

Section 2: Achieving sustainable development
Section 4: Decision making
Section 9: Promoting sustainable transport
Section 11: Making effective use of land
Section 12: Achieving well-designed places
Section 14: Climate Change
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment

NPPW (2014):

Para 3: Identifying need for waste management facilities
Para 5: Identifying suitable waste sites

MAIN ISSUES

- Principle
- Heritage
- Amenity

- Highways
- Ecology
- Air Quality/Climate Change
- Drainage
- Public Safety
- Representations

APPRAISAL

Principle

Landfill Operations

The proposal is for the landfilling of a railway cutting with inert material. It was initially proposed to use inert waste as fill material, however, on closer analysis, and to accord with the principle of moving waste up the waste hierarchy, as required by para 3 of the NPPW, the applicant came to the view that the landfill could be achieved under the CL:AIRE protocols, meaning that clean, non-waste materials would be used. CL:AIRE is a method of self-certification for the use of inert material in connection with development sites. Consequently, waste policies in the NRWLP do not apply in this case. As there is no development scheme currently associated with the proposed landfill, it is not certain that CL:AIRE will apply, however it would be safe to assume this as a condition could be added to a permission preventing waste from being tipped at the site.

The applicant has declined to provide a construction methodology at this stage, so an assessment of how the building platform would be created and whether or not it would be fit for purpose, cannot be carried out. The application, therefore, is essentially for final land-levels only, with no commitment on the part of the applicant to build housing on the site post-fill, or to landscape it in any other way.

It is noted that planning permission for site preparation through engineering and landfill works, in combination with an Outline planning permission for residential development with all matters reserved except access was permitted on appeal under planning application 25/356/02/MIN. The Inspector was clear that the application was to 'landfill a long-disused former railway cutting with inert waste and then to develop the site with housing.' The Outline residential development was renewed under application 06/04647/OT, but this did not include landfilling, which was assumed as part of the application. This latter permission lapsed in 2009 with no reserved matters being submitted. The site was subsequently safeguarded as a waste site in the NRWLP, restricted to inert material with a view to allowing landfill for housing development. This allocation is recognised within the SAP, under which the site is allocated for housing as no. 74.

It is clear, therefore, that from at least as far back as 2003, the site was considered acceptable for landfilling to facilitate residential development. Indeed, the Inspector noted the housing element as the main benefit of the 2002 proposal, providing 'a small but valuable brownfield site for housing in a sustainable location.'

There are several significant differences between the development and its policy context as allowed by the Inspector and the current proposal some sixteen years further down the line. The current proposal does not include any residential development, even in Outline. Access arrangements and phasing are different from those previously permitted. New housing has since been developed adjacent to the site which was formerly an industrial building, and access is to be taken adjacent to this housing. Furthermore, tipping will take place from the upper edge of the cutting, something frowned upon by the Inspector in 2003, with an alternative method from beneath Carlisle Road Bridge from Carlisle Avenue seen as mitigating previous refusals for landfill applications.

The eastern face of Carlisle Road Bridge was to be retained within the earlier approvals and the Planning Inspector did not consider impacts on heritage in his 2003 report. This bridge is now considered to be a non-designated heritage asset. Since the renewal application was permitted in 2007, paragraph 197 of the NPPF has been introduced requiring the significance of non-designated heritage assets to be taken into consideration when determining a planning application. Also, paragraph 198 has been introduced which stipulates that local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

It is by no means demonstrated within the application that the construction methodology will facilitate the development of housing on the site, nor that a suitable housing scheme cannot be achieved using less fill in a way which might be better suited to the historical character of the surroundings. On balance the proposal is not considered to be acceptable in principle at this stage, due to a lack of detail in the submission relating to construction methods and the associated final use.

Proposed Cycleway - prematurity

Much has been made, from objectors, Ward Councillors and consultees, including the Council's own Highways Team, of a proposed feasibility study by Sustrans for the provision of a cycleway running under the railway tunnel from its western entrance and through the railway cutting. It is argued by all of these parties that the current proposal is premature because the cycleway, if considered to be feasible, would conform to various sustainable travel and health related strategies and policies. The Council's Highways Team state:

'Since the first submission, revised core policies have been adopted and significant progress made on supporting initiatives to promote cycling and walking with a feasibility study expected into the Greenside Greenway route. As submitted, the proposal to infill the cutting at this stage prejudices this opportunity and to fulfil wider policy and investment outcomes.' The Highways team also state, 'If, however, after feasibility, these proposals prove to be undeliverable, it would be difficult to maintain an objection on these grounds.'

It should first be understood that the objectives and core policies referred to are intended to be delivered through the preparation and implementation of local plans, they are not criteria against which every decision can or should be judged. Paragraph 50 of the NPPF is clear about when the refusal of an application on grounds of prematurity would be appropriate. In this case it is not considered that prematurity is relevant as the policies/strategies referred to are not currently being considered as part of a review of the Leeds Site Allocations Plan (SAP). Indeed, the SAP has only recently been adopted; it is considered sound, up to date

and is not pending review. As the allocation on the application site is currently for housing, and the waste allocation in the NRWLP remains valid, a cycleway in this particular location would run contrary to the local plan at this point in time.

Urban Green Space

Objectors have raised the loss of urban green space as a concern. Policy N1 states that development of land identified on the proposals map will not be permitted for purposes other than outdoor recreation. The proposal site is not identified as urban green space on any plan. It is identified as a landfill site under the NRWLP and as a housing site under the SAP. The proposal cannot therefore be refused on loss of green space.

Planning Obligations

Some objections have been raised regarding the absence of planning gain associated with housing on the site. While it would appear that by developing the adjacent sites, along with the proposal site in a piecemeal way, the applicant has avoided the requirement for the provision of affordable housing, any future housing will have a CIL requirement associated with it, which will be spent in an appropriate way, ie for the provision of green space or other necessary infrastructure in the locality. As no housing is associated with the current proposal, a payment of CIL would not be required.

Heritage

The proposal involves the blocking up of the entrance to the Greenside Tunnel, on the western boundary of the site, with a structure off-set from the tunnel entrance itself, designed to allow access by personnel and bats. To the east, the proposal involves filling the cutting to the level of the adjacent road, covering the stone-work of the Carlisle Road Railway Bridge on the western side. The area beneath the bridge is also to be filled with an engineered banking created at the eastern side of the bridge, again covering the entirety of the bridge's stone structure up to the level of Carlisle Road. The area between the bridge and the tunnel is to be filled up to the levels of Carlisle Road, removing all evidence of the former railway use.

A number of public representations have raised the issue of the negative impacts of the proposal on Pudsey's heritage. Policy P11 of the Core Strategy states:

'The historic environment, consisting of archaeological remains, historic buildings townscapes and landscapes, including locally significant undesignated assets and their settings, will be conserved and enhanced, particularly those elements which help to give Leeds its distinct identity:

- the Victorian and Edwardian civic and public buildings, theatres, arcades, warehouses and offices within the City Centre and the urban grain of yards and alleys,
- the nationally significant industrial heritage relating to its textile, tanning and engineering industries, including its factories, chimneys and associated housing,
- its legacy of country houses, public parks, gardens and cemeteries,
- the 19th century transport network, including the Leeds and Liverpool Canal,

Development proposals will be expected to demonstrate a full understanding of historic assets affected, including any known or potential archaeological remains. Where appropriate,

heritage statements assessing the significance of assets, the impact of proposals and mitigation measures will be required to be submitted by developers to accompany development proposals,

Innovative and sustainable construction which integrates with and enhances the historic environment will be encouraged,

Conservation-led regeneration schemes will be promoted. Priorities for new schemes will be in Regeneration Priority Programme Areas, but schemes outside these areas may also be considered where the historic environment offers potential as a catalyst for the wider regeneration of the area.'

The applicant has submitted a Heritage Statement and has updated with further details on request. The Statement identifies the cutting as part of the 19th century transport network which helps to give Leeds its distinct identity. The Statement also recognises that the Carlisle Road Railway Bridge and the Greenside Railway Tunnel are considered to have some heritage value by the local community and can be considered as non-designated heritage assets. The Council's Conservation Team agree that the structures of the road bridge and tunnel, as well as the relationship between the two are to be considered as non-designated heritage assets.

Paragraph 197 of the NPPF states that, in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The applicant's Heritage Statement states: 'the proposed earthworks will further erode the setting of the assets by the further infilling of the cutting and the void under the Carlisle Road Railway Bridge. Views of the eastern portal of the Greenside Tunnel will be lost. The visual connection between the tunnel and bridge will also be lost. The proposed earthworks will, therefore, have a degree of impact upon the contribution that the site makes to the heritage significance of the Greenside Tunnel and the Carlisle Road Railway Bridge. Overall, it is considered that any harm will be low.'

The Council's Conservation Team agrees with the above, except for the last sentence, which, it is thought, contradicts the preceding analysis. The Statement also implies that the road bridge will be visible from the west, with just the arch being filled. This is not the case. The plans show an engineered banking to the west face of the bridge, completely covering it.

The applicant has been asked to reconsider their plans in light of this issue but have declined to do so. This is unfortunate, as the Council remains mindful of the housing allocation applied to the site and would be willing to consider a scheme which was more sensitive to the landscape and historical context. Neither does the previous Inspector's report provide any guidance in this respect, as it makes no mention of heritage as an issue. This is understandable, as non-designated assets were not considered to be of any significance at the time it was written.

As such, it is not considered that sufficient attention has been given within the application to potential mitigation for those harms described. It simply dismisses them as having a low impact. Furthermore, bearing paragraph 198 of the NPPF in mind, it is not considered

unreasonable of the Council to request a more in-depth proposal, including housing and landform design which might well address some of the impacts described, bringing the proposal up to an acceptable standard.

Consequently, refusal of the application is recommended on the ground of harm to a non-designated heritage asset.

Amenity

Written objections to the proposal have included concerns about impacts on residential amenity from noise and dust associated with the landfilling operations, along with impacts of traffic in terms of vibration and noise. Policy G5 of the UDP states that issues of amenity should be resolved within planning applications. The Inspector also provided some guidance in his report of 2003 with regard to planning application 25/356/02/MIN. Although the current application does not, strictly speaking, involve the transportation of waste, it does involve the transportation and deposit of declassified bulk-fill material, which carries an equivalent impact in terms of dust and noise. The Inspector did not consider that the importation of such material would cause significant, unacceptable levels of harm. This was, however, predicated on a submitted routing plan, along with a fairly detailed tipping scheme which was 'carefully thought out and well designed so that, unlike the earlier appeal proposal, tipping would not take place from the upper edge of the cutting. It would be carried out at grade, initially, with access under the Carlisle Road Bridge and later, as the filling increased in depth, from a ramped access leading down from the bridge. When tipping in the lower parts of the cutting, the steep, high sides would protect residents from noise and dust. Later, as the filling became deeper, the sides of the cutting would provide less protection for residents but this would be for a relatively few weeks and there would still be some attenuation from noise and dust by the proposed screen fence adjacent to Station Street.'

By comparison, the current proposal would take access from Carlisle Road, adjacent to the cutting, and tip, presumably, onto an area adjacent to the void with tractors or excavators being used to push the material into the void. A construction plan has not been provided so it is not clear exactly how this would work. The plan submitted by the applicant does not show the houses which have been built directly adjacent to the proposed access and tipping area and, although these may well currently be in control of the applicant, questions remain as to whether this will remain the case over the next three years covering the extent of the permission, plus the implementation period of a further year. The Council's Environmental Health Team have requested further clarity relating to these potential sensitive receptors.

It is not considered that the proposed scheme, in the way that it is currently configured, can provide an acceptable level of protection for residents. Even if the adjacent houses were left empty for the duration of the landfill operations, other new residential properties which are now occupied would still be in close proximity to these operations. As tipping operations would be taking place from the upper edge of the cutting, those protections provided in the 2002 application are no longer evident. Refusal is therefore recommended on the ground of harm to residential amenity caused by the proposal in its current configuration.

Highways

Objectors have expressed concern regarding the impacts of traffic generated by the proposal in terms of amenity, highway safety, and impacts on the road network. With regard to amenity of residents on the wider road network, there would be little difference between the current proposal and that permitted by the Planning Inspector in 2003. Although no routing/timing plan has been submitted, it is accepted in principle that this would be possible and could be conditioned in. Similarly, it was not considered by the Inspector that the highway network could not sustain the proposed additional traffic movements without resulting in unacceptable levels of congestion or degradation of road surfaces.

With regard to the access and tipping area, given the proximity to newly constructed houses, the details supplied do not adequately demonstrate that there will not be problems associated with tipping and manoeuvring on site. The details regarding the wheelwash are particularly sparse and do not appear to be fit for purpose either in size or location. They do not demonstrate that water will not drain onto the highway. There are no parking spaces indicated for employees. As submitted, it does not appear that the proposal can be implemented without harm to both amenity and road safety and refusal is recommended on these grounds.

Ecology

Many of the objectors raised concerns about potential impact on bats. As bats are a protected species, policy G8 of the Core Strategy would apply. This states:

‘In considering development proposals affecting any designated sites and UK or WY BAP Priority species or habitats, the needs of the development and the requirements to maintain and enhance biological and geological diversity will be examined.’

particular account will be taken of:

- The extent and significance of potential damage to the interest of any national, regional or local site, or UK or WY BAP Priority species or habitat, and
- Demonstration that the need for the development outweighs the importance of any national, regional or local site, or UK or WY BAP Priority species or habitat, and
- The extent that any adverse impact could be reduced and minimised through protection, mitigation, enhancement and compensatory measures imposed through planning conditions or obligations and which would be subject to appropriate monitoring arrangements.

Policy G9 of the Core Strategy requires an overall net gain for biodiversity commensurate with the scale of the development.

Consultation responses have been received from the Council’s Nature Team, Natural England and Yorkshire Wildlife Trust. Natural England and the Council’s Nature team do not object to the proposal on the grounds of impact on protected species. Natural England have no comment to make on the proposal as it is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. The Council’s Nature Team consider that, although roosts will be destroyed and access affected, the submitted mitigation strategy, which includes extensive mitigation and enhancement measures is considered to be acceptable subject to a condition relating to licences. Yorkshire Wildlife Trust, who are not a

statutory consultee and have written in response to lobbying from local residents, have provided a more detailed response which ultimately does not contradict the findings of the Council's own team, although requests conditions which go beyond what the Council's team have asked for. However, the proposed conditions relate to the specifics of licencing, in terms of what should be licenced. This would be a matter for the licencing agency concerned (Natural England) and such a detailed condition would go beyond what would be considered reasonable from a planning point of view. If permission were to be forthcoming the condition requested by the Council's Nature Team would be recommended.

Subject to the condition recommended, the proposal is considered acceptable with regard to the ecological impacts.

Air Quality & Climate Change

Objectors have raised the issue of pollution issuing from the HGV's on route to and from the proposal site, both with regard to impacts on human health and climate change. The Council, since submission of the proposal has declared its acknowledgement that the world is suffering from a Climate Emergency. Notwithstanding this, the EIA screening opinion issued by the Council prior to its declaration still stands. The screening opinion does not consider that the proposal requires the submission of an Environmental Statement. Even in the context of a Climate Emergency, it would not be considered necessary to require mitigation for traffic movements necessary for a temporary period of time in order to prepare a site for housing development.

There are currently no planning policies within the local plan which would restrict the movement of HGV's for site preparation purposes. However, Policy Air 1 of the NRWLP does state that all applications for major development will be required to incorporate low emission measures to ensure that the overall impact of proposals on air quality (including unpleasant odours) is mitigated. Also, paragraph 153 of the NPPF states that, when determining planning applications, local planning authorities should take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption. The current proposal does not demonstrate that a viable housing scheme can be provided on the site by using less imported fill material. However, if this could be demonstrated then a condition requiring the submission of a Transport Methodology for approval, demonstrating that imported material will be sourced locally would help to provide a basic level of mitigation for emissions to air from HGV movements. As things stand, impact on climate change is another reason for refusing the application on the grounds of insufficient information.

Trees also help to remove carbon and other pollutants from the air. The proposed landfill does not include tree planting due to the assumed after-use of housing. However, the creation of a grassed banking to the east of the road bridge would involve the unnecessary removal of existing trees and does not propose any replacement planting, for example on the banking itself. The Council's Landscape Team note that trees removed for development are subject to 3 for 1 replacement under policy Land 2 of the Natural Resources and Waste Local Plan. The Landscape Team also express the desire for any future redevelopment of the main site to pay heed to the need to restore lost visual amenity and biodiversity benefits, through significant new tree planting. As previously stated, the applicant has provided no detail as to any future uses on the site and future tree planting cannot therefore be guaranteed by condition. This

lack of detail regarding the final use is the key shortfall of the current application for many reasons, including a lack of detail regarding soft landscaping.

It is not considered that the creation of a banking to the eastern face of the road bridge is the most appropriate means of sealing off the landfill from the eastern side. Refusal of the application is recommended on the grounds of impact on existing trees and lack of information regarding replacement planting, against the requirements of policy Land 2.

Drainage

One of the objections states that the proposal falls within a Flood Zone. This is not the case. However, Policy Water 6 stipulates that all applications for new development consider flood risk, commensurate with the scale and impact of the development. Water 7 requires developments to ensure no increase in surface water runoff to the existing surface water drainage system.

The Council's Flood Risk Management Team have requested further information demonstrating that the proposed 5m fall in land levels will not lead to surface water draining onto Carlisle Road. The Team also required information relating to the potential for Yorkshire Water infrastructure to be able to accept the capacity required by new housing. The applicant has not supplied the requested information. It is recommended that the application is refused on grounds of insufficient information relating to surface water drainage.

Public Safety

The proposal includes a means of access to the railway tunnel for personnel and bats. Some objectors have raised concerns about the safety aspect of this, with regard to the possible need for plant to be taken into the tunnel for maintenance purposes. The proposed arrangement involves a retaining wall and an engineered shaft allowing enough space for a person but not for plant or machinery. The arrangement is similar to that approved in 2003, which the Planning Inspector considered to be acceptable and not detrimental to public safety. However, it is noted that sixteen years have passed since the Inspector came to a view and in that time responsibility for maintenance of the tunnel has passed to the Historical Railways Estate, part of Highways England, via the Secretary of State. The Historical Railways Estate have been consulted with regard to the application and have stated that the proposed shaft and inspection chamber is not adequate for their purposes. While access rights would normally be considered as a private matter, there is a potential issue of public safety here if adequate access for maintenance and repair is not provided for the tunnel. Policy GP5 of the UDP includes danger to health or life as a material consideration and the NPPF also promotes the fostering of a well-designed and safe built environment (paragraph 8). Given the concerns expressed by the Historical Railways Estate, it is considered on balance that a refusal on the grounds of impact on public safety against policy GP5 would be justified in this instance.

Other Issues

Concerns have also been raised regarding land contamination, both in terms of material that has already been tipped into the site under a previous permission for part-fill of the cutting,

and regarding potential imported material. With regard to imported material, this would be brought in under the CL:AIRE protocols, which is self-regulating. However, the material has to be clean in order to fulfill these protocols and it would be unlawful for the developer to bring in contaminated material. Additionally conditions are proposed from the Council's Contaminated Land Team which would require the testing of any imported material where contamination might find its way into a sensitive pathway – ie through soft landscaping areas. With regard to previous landfill, this material was generated on the adjacent development site, it was tested prior to determination of application 17/02642/FU and considered to be safe at that time.

Representations

Where representations are considered to be material to the application under assessment they have been addressed above. Other issues, such as the reputation or alleged previous behaviour of the applicant are not material planning considerations. Where there is an allegation of a breach of planning, these should be made direct to the planning compliance team via the Council's web-site and they will be investigated. Any previous compliance cases are treated as confidential and are not referred to in this report. Enforcement action is taken only when it is considered to be in the public interest.

Conclusion

The proposal has been assessed against the relevant policies in the local plan, along with the National Planning Policy Framework (NPPF) and the National Planning Policy for Waste (NPPW). It is considered that the proposal does not comply with policy for the following reasons. Policy P11 of the Core Strategy requires development proposals to demonstrate a full understanding of historic assets affected. It is not considered that the applicant has demonstrated this by looking into part-fill alternatives for the provision of housing. Neither is it considered that the proposal has sufficient detail regarding the potential for housing to be delivered in accordance with the Leeds Site Allocation Plan. It is considered that the proposal also fails to comply with Policy T2 of the Leeds Core Strategy Selective Review as it does not demonstrate that a safe method of entering and leaving the site can be achieved, taking into account requirements for employee parking, HGV manoeuvring and the provision of wheelwash facilities and space requirements for tipping and engineering works. The proposal does not meet the requirements of Policy GP5 in the Leeds Unitary Development Plan as it fails to adequately protect the amenities of both existing residents and those new residents expected to occupy adjacent dwellings within the three year period allowed for the implementation of approved developments. Policy GP5 also requires proposals to provide a safe environment which the current proposal also fails to do. The proposal also fails to adequately address soft landscaping and drainage and does not therefore comply with policies Land 2, Water 6 or Water 7 of the Leeds Natural Resources and Waste Local Plan. As such, refusal of the application is recommended.

RECOMMENDATION:

Refuse for the following reason(s):-

- 1) In the opinion of the Local Planning Authority the development proposal fails to demonstrate how the tipping of material and engineering of the land would provide for a suitable building platform for future housing and as such, the proposed development is considered to be contrary to adopted policy HG2 of the Leeds Site Allocations Plan.
- 2) In the opinion of the Local Planning Authority the development proposal does not adequately consider the impact of the levels of infill on non-designated heritage assets, contrary to policy P11 of the adopted Leeds Core Strategy Selective Review.
- 3) In the opinion of the Local Planning Authority the development proposal does not demonstrate how infilling of the land can be carried out in such a way as to protect the living conditions of nearby residents and as such is considered to be contrary to saved policy GP5 of the Leeds Unitary Development Plan.
- 4) The Local Planning Authority considers that the development proposal fails to demonstrate that a viable housing scheme cannot be provided on the site by using less infill material with fewer vehicle movements, contrary to policy Air 1 of the Leeds Natural Resources and Waste Plan and paragraph 153 of the NPPF. The proposal also involves the loss of trees and does not provide an adequate landscaping scheme which would mitigate against the loss of existing trees, contrary to policy Land 2 of the Leeds Natural Resources and Waste Plan.
- 5) The Local Planning Authority considers that the development proposal fails to demonstrate that the proposed tipping and engineering works can be delivered without creating a highway safety problem. The proposal does not show how HGV's will be able to manoeuvre on site without conflicting with other operations, particularly tipping and wheelwashing. It is not clear how adequate wheelwashing facilities can be provided which do not drain onto the highway or block other traffic movements. Parking spaces for employees have not been provided within the site. Consequently it is considered that the proposal does not comply with Core Strategy policy T2 or saved UDP policy G5.
- 6) The Local Planning Authority considers that the development proposal fails to demonstrate that the proposed 5m fall in land levels will not lead to surface water draining onto Carlisle Road. It is also not demonstrated whether or not existing sewerage infrastructure can sustain the input from housing on this site. Consequently it

is considered that the proposal fails to meet the requirements of policies Water 6 and Water 7 of the Leeds Natural Resources and Waste Plan.

- 7) The Local Planning Authority considers that the development proposal does not provide adequate access for maintenance of the adjacent former railway tunnel, leading to a potential problem of public safety in the future, contrary to saved policy G5 of the Leeds Unitary Development Plan.

For information:-

- 1) In coming to a decision on this application the case officer has sought to work positively with the applicant/agent in accordance with the National Planning Policy Framework but the application has been refused as the proposal did not overcome the conflicts with policy as laid out in the Decision Notice.

This recommendation relates to the following Refused Plans

Plan Type	Plan Reference	Version	Received
Site Location Plan/Red Line/OS Plan	EW/01		10.10.2019
Elevation and Section	300		31.08.2018
Sections/Cross Sections	EW/02		23.07.2019
Other	SK002		10.10.2019