

# **Gale Common Extraction Project**

**Cobcroft Lane, Cridling Stubbs, Knottingley, North Yorkshire WF11 0BB**

**Green Belt - Summary of Applicant's Position**

**Application Reference: NY/2019/0091/ENV**



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**Applicant: EP UK Investments Ltd**  
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<b>Author</b>	Jake Barnes-Gott (JBG)		
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<b>Signed</b>	GB	<b>Date</b>	November 2019
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**GLOSSARY**

<b>Abbreviation</b>	<b>Description</b>
AMR	The NYCC Annual Monitoring Report
AOD	Above Ordinance Datum – a spot height (an exact point on a map) with an elevation recorded beside it that represents its height above a given datum.
AONB	Area of Outstanding Natural Beauty: area designated under section 82(1) of the Countryside and Rights of Way Act 2000 for the purpose of conserving and enhancing its natural beauty.
AQMA	Air Quality Management Area: if a local authority identifies any locations within its boundaries where the air quality objectives are not likely to be achieved, it must declare the area as an air quality management area. The local authority is subsequently required to put together a local air quality action plan.
ASDP	Ash Slurry Dewatering Plant
BEIS	Department of Business, Energy and Industrial Strategy
CEGB	Central Electricity Generating Board
CEMP	Construction Environmental Management Plan
EIA	Environmental Impact Assessment – a term used for the assessment of environmental consequences (positive or negative) of a plan, policy, program or project prior to the decision to move forward with the proposed action.
EIA	Environmental Impacts Assessment
EIA Regulations	Environmental Impact Assessment Regulations 2017
EPL	Eggborough Power Ltd
EPUKI	EP UK Investments – The Applicant
ES	Environmental Statement - A report in which the process and results of an Environment Impact Assessment are documented.
FRA	Flood Risk Assessment
Ha	Hectares
HGV	Heavy Goods Vehicle: vehicle weighing more than 3500 kg.
KM	Kilometres
LDF	Local Development Framework
MPA	Minerals Planning Authority - the planning authority responsible for planning control of minerals development. County councils are normally responsible for mineral and matters for their area.
MW	Megawatt
MWJP	Minerals and Waste Joint Plan

<b>Abbreviation</b>	<b>Description</b>
NCA	National Character Area – a natural subdivision of England based on a combination of landscape, biodiversity, geodiversity and economic activity.
NGR	National Grid Reference
NPPF	National Planning Policy Framework
NPPW	National Planning Policy for Waste
NTS	Non-Technical Summary
NYCC	North Yorkshire County Council
OTMP	Operational Traffic Management Plan
PFA	Pulverised Fuel Ash – a by-product of pulverised fuel fired power stations.
PLAN Selby	Sites and Policies Local Plan
PRoW	Public Right of Way: a highway where the public has the right to walk. It can be a footpath (used for walking), a bridleway (used for walking, riding a horse and cycling), or a byway that is open to all traffic (include motor vehicles).
SAC	Special Area of Conservation – high quality conservation sites that are protected under the European Union Habitats Directive, due to their contribution to conserving those habitat types that are considered to be most in need of conservation.
SCI	Statement of Community Involvement
SDC	Selby District Council
SINC	Site of Interest for Nature Conservation
SPA	Special Protection Area: strictly protected sites classified in accordance with Article 4 of the EC Birds Directive.
SPZ	Source Protection Zone – zones defined by the Environment Agency to protect groundwater sources such as wells, boreholes and springs from potential contamination.
SSSI	Site of Special Scientific Interest: area of land notified by Natural England under section 28 of the Wildlife and Countryside Act 1981 as being of special interest due to its flora, fauna or geological or physiological features.
TA	Transport Assessment
TCPA 1990'	Town and Country Planning Act 1990
The Site	The land defined by the planning application boundary
UKQAA	UK Quality Ash Association
ZTV	Zone of Theoretical Visibility – a computer generated tool to identify the likely (or theoretical) extent of visibility of a development.

**CONTENTS**

<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>1.0 INTRODUCTION.....</b>	<b>3</b>
Overview .....	3
The Site and Green Belt .....	3
NYCC comments.....	3
The purpose and structure of this report .....	3
<b>2.0 GREEN BELT – THE LEGAL AND POLICY POSITION.....</b>	<b>5</b>
Introduction.....	5
The Development Plan .....	5
Material considerations – NPPF.....	5
Material considerations – PPG.....	7
Case law aiding the interpretation of Green Belt policy .....	7
<b>3.0 APPLICABILITY OF NPPF PARAGRAPHS 145 AND 146 .....</b>	<b>13</b>
<b>4.0 IPOTENTIAL CONFLICT WITH THE PURPOSES OF GREEN BELT AND IMPACT ON OPENNESS.....</b>	<b>15</b>
Introduction.....	15
Purposes of the Green Belt with relevance to the Proposed Development .....	15
Proposed use of the Gale Common Site and activity on it.....	15
Proposed built development at the Gale Common Site .....	18
Whitefield Lane works.....	19
HGVs on public highways within Green Belt .....	19
Overall summary of Proposed Development impacts on Green Belt purposes and openness .....	20
<b>5.0 HARM TO THE GREEN BELT AND ANY OTHER HARM FROM THE PROPOSED DEVELOPMENT.....</b>	<b>21</b>
Introduction.....	21
Harm to the Green Belt.....	21
Other harm .....	21
<b>6.0 VERY SPECIAL CIRCUMSTANCES.....</b>	<b>25</b>
Introduction.....	25
Use.....	25
Sustainability .....	26
Limited remaining supplies of PFA.....	28
Need, mineral sterilisation and effect on reserves.....	29
Public access and biodiversity .....	30
Jobs and economy – direct and indirect.....	31
<b>7.0 WHETHER OTHER CONSIDERATIONS CLEARLY OUTWEIGH THE HARM .....</b>	<b>32</b>
Introduction.....	32
Potential and perceived harm .....	32
Very special circumstances .....	33
Summary .....	34
<b>8.0 CONCLUSION.....</b>	<b>35</b>

**TABLES**

**TABLE 2.1 – MAIN CASES.....9**  
**TABLE 3.1 – TESTS RELATIVE TO PARAGRAPHS 145 AND 146.....13**

**APPENDICES**

**APPENDIX 1: H+H CELCON LETTER**

## EXECUTIVE SUMMARY

This report sets out the summary of the Applicant's position on the Green Belt and has been prepared by DWD on behalf of EP UK Investments Ltd ('EPUKI' or the 'Applicant') in response to comments made by North Yorkshire County Council ('NYCC') in respect of planning application reference NY/2019/0091/ENV (the 'Application') submitted to NYCC. The planning application site (the 'Site') lies within the Metropolitan Green Belt.

NYCC has requested further information in respect of the following matters:

- the potential impact of the Proposed Development on the openness of the Green Belt and the demonstration of the 'very special circumstances' required to justify inappropriate development within the Green Belt; and
- the potential for 'other harm', particularly that associated with heavy goods vehicle ('HGV') movements generated by the Proposed Development.

The purpose of this report is to draw together the Applicant's submissions in relation to the Green Belt matters raised and demonstrate, with reference to the legal and policy position relating to development within the Green Belt, that the Proposed Development (i) would not conflict with the purposes of including land within the Green Belt or adversely impact on the openness of the Green Belt and, notwithstanding this, (ii) that very special circumstances exist which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm that may result from the Proposed Development.

In terms of impact on openness and whether the Proposed Development is appropriate within the Green Belt, there is a compelling case that the general principle of the Proposed Development within the Green Belt is acceptable, and moreover, that the extension of the operation life of the Site is proportionate and not harmful. Furthermore, it should be noted that the proposed land use associated with the extraction of Pulverised Fuel Ash ('PFA') can only occur where the resource is found and the Site comprises around 50% of the available national resource, based on government figures<sup>1</sup>.

Post operation there are beneficial effects derived from partial removal of the 'tip landform' and a restoration scheme which increases openness from both a visual and spatial perspective. Perhaps unusually for a mineral operation, the Proposed Development offers an opportunity to locally reinstate the landform which pre-dated its use for PFA disposal and by doing so, contribute to increased openness by permitting public access and a permanent reduction in a detracting element in the Green Belt. A beneficial outcome that, along with many other significant benefits, means the Proposed Development is wholly appropriate within the Green Belt.

Even if NYCC does not agree with the above assessment, and it concludes that there is conflict with the purposes of including land in the Green Belt and an impact on openness, the potential and perceived harm is limited (localised) and temporary. Furthermore, when considering harm, this should be in the context that the Gale Common Site has been an operational waste management site since the 1960s. It was permitted in 1963 and since 1967 has been used for the disposal of PFA from both Eggborough and Ferrybridge 'C' coal-fired power stations.

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<sup>1</sup> Fly Ash and Blast Furnace Slag for Cement Manufacturing: BEIS Research Paper No. 19

Notwithstanding the above, it is considered 'very special circumstances' exist that justify the location of the Proposed Development within the Green Belt and outweigh any potential or perceived harm. Those circumstances are:

- very significant, including that the PFA resource can be considered nationally significant and the potential carbon savings could be in the order of 10,966,800 tonnes of carbon dioxide (equal to around 34 million return car journeys from London to Edinburgh or tree planting covering an area similar to the City of Bath); and
- long-term, when considering the post-operation public recreation use (including footpaths and welfare facilities) that is secured by the Proposed Development (an asset for the local community).

The Proposed Development would make a significant contribution to the low carbon economy and addressing the 'climate emergency' that has been declared by UK Parliament and many local authorities. This simply cannot be ignored. It follows that this, along with the other very special circumstances, clearly outweigh any harm to the Green Belt and other harm.



## 1.0 INTRODUCTION

### Overview

- 1.1 This report sets out the summary of the Applicant's position on the Green Belt and has been prepared by DWD on behalf of EP UK Investments Ltd ('EPUKI' or the 'Applicant') in response to comments made by North Yorkshire County Council ('NYCC') in respect of planning application reference NY/2019/0091/ENV (the 'Application') submitted to North Yorkshire County Council ('NYCC').
- 1.2 EPUKI is seeking planning permission for the extraction of pulverised fuel ash ('PFA') from the Gale Common Ash Disposal Site, Cobcroft Lane, Cridling Stubbs, Knottingley, North Yorkshire, WF11 0BB. The proposal is hereafter collectively referred to as the 'Proposed Development'.
- 1.3 The report responds specifically to comments made in relation to the location of the planning application site (the 'Site') within the Green Belt, including the potential for adverse impacts on openness and other harm as a result of the Proposed Development. The comments were made in a meeting between the Applicant and NYCC on 4 October 2019 and in subsequent consultation feedback from the planning and landscape departments of NYCC on 9 and 14 October 2019 respectively.

### The Site and Green Belt

- 1.4 The Site comprises approximately 307 hectares ('ha') of land at the existing Gale Common Ash Disposal Site (the 'Gale Common Site'), which is in the ownership of the Applicant; and approximately 5 ha of land along Cobcroft Lane and Whitefield Lane between the Gale Common Site and the A19.
- 1.5 The Proposals Map of the Selby Local Development Framework ('LDF') shows the Site as lying within the Metropolitan Green Belt. It follows that Green Belt planning policy at local and national level applies in consideration of the Proposed Development.

### NYCC comments

- 1.6 NYCC has expressed concerns and requested further information in respect of the following matters:
  - the potential impact of the Proposed Development on the openness of the Green Belt and the demonstration of the 'very special circumstances' required to justify inappropriate development within the Green Belt; and
  - the potential for 'other harm', particularly that associated with heavy goods vehicle ('HGV') movements generated by the Proposed Development.
- 1.7 The relevance of the above matters in relation to Green Belt planning policy is set out in Section 2 of this report.

### The purpose and structure of this report

- 1.8 The purpose of this report is to draw together the Applicant's submissions in relation to Green Belt and related matters, and to demonstrate with reference to the legal and policy position relating to development within the Green Belt, that the Proposed Development (i) would not conflict with the purposes of including land within the Green Belt or adversely impact on Green Belt openness and, in any case, (ii) very special circumstances exist which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the Proposed Development.
- 1.9 The remainder of this report is structured as follows:
  - Section 2 – sets out the legal and policy position relating to Green Belt;



- Section 3 – considers the applicability of National Planning Policy Framework ('NPPF') paragraphs 145 and 146, in terms of whether the Proposed Development (in part or in full) can be considered appropriate development within the Green Belt;
- Section 4 – considers the impact on openness and any conflict with the purposes of the Green Belt as a result of the Proposed Development;
- Section 5 – considers the potential harm to the Green Belt and any other harm as a result of the Proposed Development, including that perceived by NYCC and the predicted impacts reported in the Environmental Statement ('ES') submitted as part of the Application, to form a basis for comparison with the very special circumstances (see Section 6 below);
- Section 6 – sets out the very special circumstances demonstrated by the Proposed Development for inappropriate development in the Green Belt;
- Section 7 – discusses whether other considerations, including the very special circumstances, clearly outweigh any harm; and
- Section 8 – provides a summary and conclusions.

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## 2.0 GREEN BELT – THE LEGAL AND POLICY POSITION

### Introduction

- 2.1 NYCC must determine the Application *"in accordance with the [development] plan unless material considerations indicate otherwise"*, as per section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 2.2 The parts of the development plan (hereafter referred to as the 'Development Plan') relevant to the Green Belt are considered in the following paragraphs, followed by a section considering material considerations relevant to the Green Belt.

### The Development Plan

- 2.3 The Planning Statement submitted as part of the Application sets out what documents comprise the Development Plan at paragraph 7.3 onwards, and all the main relevant policies. The following are the development plan documents and their policies relating to development proposals in the Green Belt:
- North Yorkshire Minerals Local Plan (1997) – no policies directly addressing development in the Green Belt;
  - Selby District Core Strategy Local Plan (2013) – Policy SP2, which refers to Policy SP3 and national Green Belt policy. Policy SP3 also cross refers to national policy (the NPPF specifically), noting that *"planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted"*. This is a paraphrasing of the NPPF, considered below; and
  - Selby District Local Plan (2005) – none of the Green Belt policies have been saved, having been replaced by the 2013 Local Plan policies noted above.
- 2.4 In addition, NYCC is promoting a Minerals and Waste Joint Plan (2016) (here after referred to as the 'draft Joint Plan') – this has been through consultation and examination. The draft Joint Plan has not yet been adopted (and is not therefore part of the Development Plan), but given it is at a relatively advanced stage of the plan process its emerging policies may be a material consideration.
- 2.5 The draft Joint Plan includes Policy D05 which addresses minerals and waste developments in the Green Belt, and which has been the subject of proposed changes (in July 2017). The proposed form of the Policy is closely aligned with the NPPF, stating that mineral extraction will be supported where it would preserve the openness of the Green Belt. Furthermore, that where mineral extraction in the Green Belt is permitted, reclamation and after use will be required to be compatible with Green Belt objectives.

### Material considerations – NPPF

- 2.6 The NPPF identifies at paragraph 2 that its policies are a material consideration in planning decisions and sets out the Government's policies on Green Belt at section 13. This sets out the following matters (paragraphs 2.7 to 2.15 below) which are relevant to the Application.
- 2.7 It identifies that the *"fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence"* (paragraph 133).
- 2.8 The purposes of Green Belt are then set out (paragraph 134):
- "a) to check the unrestricted sprawl of large built-up areas;*
  - b) to prevent neighbouring towns merging into one another;*

- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land."

2.9 In respect of established Green Belts (as here), *"local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land."* (paragraph 141).

2.10 Paragraph 143 sets out the fundamental Green Belt policy for proposals, that inappropriate development is *"by definition, harmful to the Green Belt and should not be approved except in very special circumstances"* (emphasis added), with paragraph 144 then providing that:

*"When considering any 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 resulting from the proposal, is clearly outweighed by other considerations"* (emphasis added).

2.11 The following two paragraphs then set out two lists of development types which are not or may not be inappropriate development. Of relevance to the Proposed Development are:

- Paragraph 145 – this states that new buildings in the Green Belt should be regarded as inappropriate development, other than the categories set out which include *"b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for... outdoor recreation...; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it"* and *"c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building"* and *"d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces."*
- Paragraph 146 - this provides that *"certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it"*, and the following list includes:
  - "a) mineral extraction;*
  - b) engineering operations; and...*
  - e) material changes in the use of land (including changes of use for outdoor recreation)."*

2.12 It is therefore clear that the NPPF requires NYCC to carry out an assessment of the Proposed Development, as follows:

- identify the proposed uses and all built development;
- establish whether the proposed use and built development would come within the scope of paragraphs 145 or 146 – with regard to those paragraphs of the NPPF, it is clear that the proposed uses/development can be considered to be 'appropriate' to the Green Belt (being related to mineral extraction) provided these can be shown to preserve its openness and not conflict with the purposes of including land within it; and

- given the proposed uses/development in this case, those paragraphs then require consideration of both whether the Proposed Development would preserve the openness of the Green Belt and whether it would conflict with the purposes of including land within the Green Belt.

2.13 If those tests are:

- passed, then the Proposed Development would be appropriate development in the Green Belt, and no further consideration of Green Belt policy is required; or
- not passed (either in part or in full), the Proposed Development would be ‘inappropriate development’, and then the following would be relevant:
  - identify the harm to Green Belt arising from the inappropriate development and any other harm arising from the Proposed Development;
  - identify the very special circumstances which exist in relation to the Proposed Development; and
  - weigh the very special circumstances against the harm (Green Belt and other harm) and establish if the former clearly outweighs the latter.

2.14 Planning permission can only be granted if a) the Proposed Development is appropriate development or b) the very special circumstances clearly outweigh the harm, with substantial weight having been given to any harm to the Green Belt (but not necessarily to other harm).

#### **Material considerations – PPG**

2.15 In addition to the NPPF, the Government has also published Planning Practice Guidance (‘PPG’), including a section on factors which where relevant should be taken into account when considering the impact on openness of the Green Belt<sup>2</sup>.

2.16 This sets out that assessing impact on openness requires a judgment based on the circumstances of the case, and relevant matters may include:

- both spatial and visual aspects;
- duration of the development, and its remediability, including taking into account provisions to return land to its original state or an equivalent; and
- the degree of activity likely to be generated, such as traffic generation.

2.17 It is very likely that the PPG will be a material consideration to the determination of the Application. However, a recent case<sup>3</sup> clarified the position of the PPG and the above paragraphs need to be viewed in light of that. The court noted that the PPG is not consulted upon, is not subject to external scrutiny, can change without warning, and is intended to be guidance, not policy. The weight attached to the PPG is therefore less than the NPPF and the Development Plan.

#### **Case law aiding the interpretation of Green Belt policy**

2.18 A number of cases have considered Green Belt policy and provide guidance to local planning authorities determining planning applications for development in the Green Belt.

2.19 The following table sets out the main cases (chronologically) and the key points (so far as relevant to the Proposed Development) arising from each.

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<sup>2</sup> Paragraph 001 reference ID 64-001-20190722, revised 22 July 2019

<sup>3</sup> *Solo Retail Limited v Torridge Borough Council* (High Court, 2019)

2.20 The assessment undertaken in the following sections of this report, where relevant, adopts the approach required by these cases.

**Table 2.1 – Main cases**

Case	Topics	Key points confirmed
<i>Kemnal Manor Memorial Gardens Ltd v The First Secretary of State</i> (Court of Appeal, 2005)	Development including different uses some of which are (or may be) appropriate development and some of which are (or may be) inappropriate development.	In considering whether a proposal is within the categories in paragraphs 145 or 146 (and may therefore be appropriate development), it should be treated as a single development. A part of the development or use which is not insignificant and which in itself is inappropriate development cannot be ignored or subsumed into the part of the development which is appropriate.
<i>Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government</i> (Court of Appeal, 2014)	"any other harm", as per NPPF paragraph 144 <sup>4</sup> .	<p>The words "<i>any other harm</i>" are unqualified and cannot be construed as limited to harm to the Green Belt. Where it is relevant to consider harm (i.e. for inappropriate development), it is both harm to the Green Belt and other harm which must be included in the weighing exercise.</p> <p>The Inspector took account of proposed mitigation measures (secured through conditions and obligations) in considering the harm.</p>
<i>Europa Oil and Gas Limited v Secretary of State for Communities and Local Government</i> (Court of Appeal, 2014)	<p>Mineral development/ extraction.</p> <p>Openness of the Green Belt.</p> <p>Appropriate and inappropriate development.</p>	<p>A correct analysis of the proviso to paragraph 145 has to start from the premise that exploration (held to be within the ambit of "mineral extraction") can be appropriate, not the other way around. There is nothing inherent in mineral development which would necessarily compromise the objectives of the provisos (openness and purposes of the Green Belt). A decision maker's mindset must adopt this, to avoid a potentially unlawful approach.</p> <p>Considerations of appropriateness, preservation of openness and conflict with Green Belt purposes are not exclusively dependent on the size of buildings/structures but include their purpose. The NPPF requires different treatment of buildings for different uses, for example a house may necessarily harm the Green Belt whereas a sports pavilion may not. For minerals developments, the duration of development, their</p>

<sup>4</sup> The cases discussed all considered previous forms of the NPPF, with different paragraph numbers setting out Green Belt policy. For ease the current paragraph numbers are used, there is no difference of substance between the previous and current paragraphs.

Case	Topics	Key points confirmed
		<p>reversibility and the fact that they can only be extracted where found are examples of factors which make them potentially appropriate development.</p>
<p><i>Timmins v Gedling Borough Council</i> (Court of Appeal, 2015)</p>	<p>The paragraph 145 and 146 lists of development which is or may be appropriate.</p>	<p>The lists of developments which are or may be appropriate development are closed lists, and it is not therefore open for local planning authorities to consider other forms of development.</p> <p>Since this case the NPPF has been updated, and now specifically refers to material changes of use of land in paragraph 146(e), and this is not limited to any particular uses. The examples provided (such as outdoor recreation) are not a closed list.</p> <p>Construction harms openness, irrespective of its impact in terms of its obtrusiveness or aesthetic qualities.</p>
<p><i>R (on the application of Luton Borough Council) v Central Bedfordshire Council</i> (Court of Appeal, 2015)</p>	<p>Proposals in the Green Belt brought forward by planning application, not changes to Green Belt boundaries.</p> <p>Very special circumstances.</p>	<p>There is no requirement or presumption in the NPPF that the boundaries of the Green Belt should first be altered before development should be promoted on the relevant site. Paragraphs 145 and 146 clearly contemplate that development may be permitted within the Green Belt, without the need to change its boundaries, and provided it is appropriate development or very special circumstances apply.</p> <p>The test of very special circumstances applicable to planning applications is stricter than that applying to proposals to change Green Belt boundaries.</p>
<p><i>Turner v Secretary of State for Communities and Local Government</i> (Court of Appeal, 2016)</p>	<p>Openness of the Green Belt.</p> <p>Built development compared to shifting/ transient vehicles.</p>	<p>The Inspector's consideration of the difference between the <u>transient</u> nature of the lorries parked on the site compared to the <u>permanent</u> nature of the proposal (a house) was rational and legitimate.</p> <p>Openness is not limited to an approach of considering only the volume of the proposed development compared to the existing position, it is "open-textured" and a number of factors are capable of being relevant in any particular case.</p> <p>Openness is capable of having a visual dimension as well as its spatial aspect (see also the Samuel Smith case further below).</p>



Case	Topics	Key points confirmed
<i>R. (on the application of Boot) v Elmbridge Borough Council</i> (High Court, 2017)	Extent of impact on openness.	If a proposal has an adverse impact on openness, the inevitable conclusion is that it does not comply with the NPPF policy requiring openness to be preserved. A local planning authority does not have latitude (or 'planning judgment') to find otherwise on the basis (for example) of a finding of limited impact on openness.
<i>Samuel Smith Old Brewery (Tadcaster), Oxton Farm v North Yorkshire County Council</i> (Court of Appeal 2019 <sup>5</sup> )	Openness.	<p>Paragraphs 145 and 146 are framed differently – the former has no general provisos applicable to all categories, whereas the latter includes the provisos relating to openness and purpose of the Green Belt, applicable to all bullets in that paragraph.</p> <p>The concept of openness is not defined in these paragraphs nor anywhere else in the NPPF. Its meaning must be taken from the specific context in which it falls to be applied – as noted above, this is different between the two paragraphs.</p> <p>Different factors are capable of being relevant to openness when applied to a particular development. Visual impacts and spatial impacts are implicitly part of openness. An absence of 'other' visual harm (i.e. to matters other than the Green Belt) does not in itself indicate an absence of visual harm to the openness of the Green Belt. A realistic assessment under paragraph 146 will often have to include the likely perceived (i.e. visual) effects, as well as spatial ones ("<i>the very fact of its being there</i>"). It is a planning judgment – for the decision-maker – to decide whether any effects are harmful or benign.</p> <p>It is not necessary to find that the openness of the Green Belt would be "<i>entirely unchanged</i>" by a proposal, in order to conclude that openness is preserved. Instead, the effects on openness must not be harmful.</p> <p>Some developments may have no effect on openness, such as the re-use of existing permanent buildings. Mineral extraction may have long-lasting visual effects on openness and those may be repaired in the restoration phase - whether any particular</p>

<sup>5</sup> Permission to appeal to the Supreme Court has been granted, and it is understood will be heard in early December 2019.

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Case	Topics	Key points confirmed
		<p>mineral extraction scheme would actually harm the openness of the Green Belt is through a matter to be considered in each case, by the decision-maker.</p> <p>All aspects of a proposal should be considered – for example landscaping may reduce landscape or visual effects, but in itself should be considered for any effect on openness of the Green Belt (such as by shutting off long distance views).</p> <p>It was open to the local planning authority to take into account that the proposed development was an extension to an existing quarry which had been operating for a long time – these were not immaterial factors and were relevant to the consideration of the impact on the openness of the Green Belt.</p>

### 3.0 APPLICABILITY OF NPPF PARAGRAPHS 145 AND 146

3.1 The submitted application form sets out the development for which planning permission is sought. In discussions with NYCC, the Applicant has agreed to amend the description of development, which is now as follows:

*"The extraction and export of pulverised fuel ash ('PFA') from Lagoons C and D and Stages II and III of the Gale Common Ash Disposal Site and associated development, including the provision of processing plant, extended site loading pad, upgraded site access arrangement and facilities, additional weighbridges and wheel wash facility, extended site office and other ancillary development; highway improvement works on Cobcroft Lane/Whitefield Lane between the site and the A19 and at the Whitefield Lane junction with the A19; and a new access from Cobcroft Lane, car parking and ancillary development in connection with proposals for public access to Stage I."*

3.2 The following table considers each of the main elements of the Proposed Development, and whether each comes within any of the categories in paragraphs 145 and 146 of the NPPF. The conclusion is that all parts of the Proposed Development fall within the remit of paragraphs 145 and 146, therefore are considered appropriate within the Green Belt.

**Table 3.1 – Tests relative to paragraphs 145 and 146**

Element of the Proposed Development	Relevant paragraph of NPPF / comments	Does either paragraph apply?
PFA extraction and export	146(a) – the extraction and export of PFA is clearly within the 'mineral extraction' category. Case law <sup>6</sup> has held that this category is broadly construed, for instance to include mineral exploration, not just the physical extraction.	Yes – as per paragraph 146.
Processing plant, site loading pad, site access, weighbridges, wheel wash, site office and ancillary development	146(a) – these are all development directly associated with and necessary for the mineral extraction.  145(c) or 145(d) – the site office extension, security cabin and driver welfare facilities do not result in disproportionate additions over and above the size of the original buildings and structures, and the new or replacement buildings and structures would be in the same use and not materially larger than the ones they replace or extend. This is clear when viewing the plans that form part of the Application.	Yes – as per paragraphs 145 and 146.

<sup>6</sup> See the *Europa Oil and Gas Limited* case referred to in Table 2.1 earlier in this report.

Element of the Proposed Development	Relevant paragraph of NPPF / comments	Does either paragraph apply?
Highway improvement works	146(b) – both the highway improvement works, and the highway re-alignment works are ‘engineering operations’	Yes – as per paragraph 146.
Access works, car park and ancillary development related to public access	145(b), 146(a) or 146(e) – whilst development for public access is often associated with minerals extraction (146(a)), it is considered more appropriate that this is considered as ‘facilities (in connection with... a change of use) for... outdoor recreation’ (145(b)) since public access is not a necessary part of mineral extraction. It is also considered that the spatial and temporal extent of public access proposed is not likely to amount to a change of use, and therefore 146(e) is not relevant.	Yes – as per paragraph 145.

## 4.0 IPOTENTIAL CONFLICT WITH THE PURPOSES OF GREEN BELT AND IMPACT ON OPENNESS

### Introduction

4.1 This section considers each element of the Proposed Development in terms of both potential conflict with Green Belt purposes and impact on openness, as follows:

- proposed use of the Site and activity on it;
- proposed built development at the Site, including all buildings and structures;
- proposed Whitefield Lane works, including the re-alignment and widening works; and
- additional HGVs on the public highways within the Green Belt.

4.2 The above elements have been determined as relevant having regard to planning policy, case law (see Section 2 of this report) and the comments made by NYCC.

### Purposes of the Green Belt with relevance to the Proposed Development

4.3 In order to consider whether the Proposed Development conflicts with any of the purposes of the Green Belt, it is firstly necessary to identify these, and which are relevant to the Proposed Development.

4.4 Paragraph 144 of the NPPF confirms the five purposes of the Green Belt as:

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

4.5 Purposes a, b, d and e are not relevant to the Proposed Development. This is because the location of the Site and nature of the Proposed Development mean that it would not impact on the ability to check unrestricted urban sprawl and would not cause neighbouring towns to merge (the Site is located in a countryside location, remote from urban areas); it would not impact on the ability to preserve the setting and special character of historic towns (there are none nearby); and it is not specifically related to and would not affect the Green Belt aim of assisting in urban regeneration as it is not a type of development that could be accommodated within an urban area.

4.6 The sole Green Belt purpose that is relevant to consider when assessing the Proposed Development is therefore that relating to safeguarding the countryside from encroachment (purpose c), which should be considered alongside the requirement to preserve openness.

### Proposed use of the Gale Common Site and activity on it

4.7 The proposed uses at the Site would include (i) mineral extraction and (ii) outdoor recreation (the latter forms an inherent part of the site restoration proposals, including public access and footpaths). These uses, as per paragraph 146 of the NPPF, can be appropriate in the Green Belt. They are considered in turn below.

#### Mineral extraction

4.8 The consideration of the proposed mineral extraction use is focussed on the operational activities and landform changes at the Gale Common Site, including the presence of

machinery and vehicles, the movement of material around the Gale Common Site, landscaping, gradual changes to the landform and final restoration. Importantly, the consideration here is confined to the Gale Common Site itself, with the consideration of HGVs on the highway and the Whitefield Lane works (i.e. operations and works not on the Site) considered later in this section.

- 4.9 Firstly, it should be noted that the Gale Common Site has been an operational waste management site since the 1960s. It was permitted in 1963 (Reference: OG/1376) and since 1967 has been used for the disposal of PFA from both Eggborough and Ferrybridge 'C' coal-fired power stations. The importation of PFA ceased in 2018, however, some operations at the Gale Common Site have continued, including the export of PFA (up to 30,000 tonnes per annum ('tpa')). Prior to closure of the power stations around 50 million tonnes of PFA was deposited, with up to around 1 million tonnes deposited in any given year.
- 4.10 The permitted waste management use requires the presence of machinery and includes the movement of PFA around the Gale Common Site and some processing (e.g. screening). The past operations have included, for example, the movement between 2014 and 2015 (by excavator and dump truck) of approximately 575,000 tonnes of PFA from the Stage II area to the Stage III area – all necessary to work towards creating the permitted landform. Importantly, notwithstanding such significant operations carried out over a number of decades, there is no known history of complaints from the local community.
- 4.11 The 1963 consent essentially permitted a land raising operation, which has resulted in an incongruous, man-made landform that contrasts with the natural, relatively flat topography of the area, which pre-dated PFA disposal/deposit. This man-made landform has effectively reduced the openness of the Green Belt, including by obstructing long distance views.
- 4.12 Taking the above into consideration, it is important to note that the permitted waste management use is comparable to the proposed mineral extraction use, which essentially comprises the extraction and movement of PFA within the Gale Common Site and some limited processing (e.g. screening). This means that the Proposed Development would essentially maintain the status quo by permitting the continuation of a comparable use at an established waste management facility, which has been operating in the Green Belt for decades with no known history of complaints.
- 4.13 It should also be recognised that removal of part of the man-made landform, through the extraction of PFA, would reinstate openness visually and partially mitigate effects on landscape character by resulting in a landform that is more in keeping with the surrounding area. The Landscape and Visual Impact Assessment ('LVIA') of the Proposed Development, reported in the ES (Volume I, Chapter 6), concludes that post restoration (long-term) effects on visual amenity and landscape character would be beneficial. Photomontages shown on Figure 6.20, 6.21 and 6.22 in the ES (Volume III) illustrate the beneficial effect of landform removal. This is a positive impact on the Green Belt and its openness.
- 4.14 It is acknowledged, however, that the Proposed Development would effectively mean that the operational life of the Gale Common Site is extended by 25 years, rather than being restored sooner in accordance with the approved restoration scheme (including that approved in 2008 – Reference: NY/2007/0172/SDL).
- 4.15 Notwithstanding the above, it is considered that the general principle of the Proposed Development within the Green Belt is acceptable, and moreover that the extension of the Gale Common Site's operational life is proportionate and not harmful. This is on the basis that:

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- similar operations have been taking place since the 1960s with no known history of complaints; and
  - the approved restoration scheme does not expressly secure public access upon completion of restoration or provide facilities to support it.
- 4.16 Furthermore, it should be noted that, as per the Europa Oil and Gas Limited case (see Table 2.1 earlier in this report), the temporary and reversible land use associated with the PFA extraction can only occur where the material is found, and hence – when considering the significant need for the material, the sustainability benefits and the fact that proposed restoration would lead to a beneficial outcome, amongst other things (see Section 6 of this report) – it is appropriate within the Green Belt, notwithstanding that an extension to the operational life is required. Indeed, it is reasonable to consider that if the extraction use does not commence at the Gale Common Site, then alternative mineral extraction would need to take place at an alternate site (or possibly multiple sites), which in all likelihood would be greenfield and in the countryside.
- 4.17 Putting the above matters to one side, which relate more to the general principle and the duration of the Proposed Development, the specific spatial and visual implications of the proposed use require consideration (see below).
- 4.18 From a spatial perspective, the proposed use would not adversely impact on the purposes of including land within the Green Belt or its openness. This is on the basis that the Gale Common Site already exists, including the deposit of millions of tonnes of PFA in the Green Belt and the creation of a large man-made landform, and there is currently no permitted public access to the land, either during operation or expressly following restoration. Importantly, it could be argued that the public access that is facilitated by the restoration scheme associated with the proposed mineral extraction use actually means that it would result in a beneficial impact, by improving access to the Green Belt and, by extension, increasing openness and decreasing encroachment on the countryside.
- 4.19 From a visual perspective, the key considerations are as follows:
- The Gale Common Site already benefits from mature woodland and boundary vegetation that provides screening, and a maturing restoration scheme within the Stage I ash disposal area which assists in integrating the it into the surrounding landscape. The vast majority of the vegetation would be retained and maintained for purposes of screening, landscape integration and biodiversity benefit. For the avoidance of doubt, these elements already exist and are not relevant to the consideration of openness (in terms of detracting from it), as they form part of an already approved scheme.
  - Although there would be very brief periods when extraction machinery and vehicles would be visible, the Proposed Development is designed to provide comprehensive screening of extraction activity through the phasing of the works and using the existing landform. This is demonstrated by the phasing drawings and the mitigation on visual impact is described in the ES. For example, machinery for the most part would operate behind the existing ash faces at the Gale Common Site, with machinery working behind a wall of ash, which would be gradually stepped down over time (not a dissimilar operation to the historic waste management use). Glimpsed views of vehicles may be visible on occasion when working in an elevated position and thereby visible over the top of the ash face, however, there would be very limited instances of this, and vehicles would not be visible for long periods. There would therefore be no adverse impact on openness.
  - In terms of the changing landform, there would be a reduction in the scale and extent of the overall elevated landform caused by the extraction of materials from



the Gale Common Site. This would result in a reduction in obstructed views within the Green Belt as a result of the Proposed Development and therefore improving openness in this respect.

- It is acknowledged that additional woodland planting associated with the restoration of the Gale Common Site has the potential to impact on openness in itself; however, it is secondary to other forms of habitat creation driven by ecological enhancement proposed as part of the restoration package and it is located in areas which typically reinforce existing woodland (for example in and around Lagoons C and D and adjacent to Stage III) or on the already elevated slopes of Stage II. It should also be considered that the currently permitted restoration scheme provides for woodland planting, amongst other things, therefore there is no notable change to the existing baseline. Taking these factors into account, the additional woodland would not impact openness.

4.20 It follows that whilst the Green Belt is not unchanged<sup>7</sup>, there is no adverse impact on openness or notable encroachment on the countryside. Furthermore, it must be considered that there would be beneficial impacts, in terms of facilitating public access, opening up the Green Belt and reducing encroachment on the countryside. On this basis, the use accords with paragraph 146 of the NPPF and is appropriate within the Green Belt.

#### Outdoor recreation (public access)

4.21 The outdoor recreation use comprises the proposal to provide public access to the Stage I area at the earliest possible opportunity and, following the cessation of operations, to provide public access to other appropriate parts of the Gale Common Site through the provision of footpaths, etc.

4.22 It is considered that this use would not impact on the purposes of including land within the Green Belt or its openness on the basis that such a use is entirely appropriate and should be expected within the Green Belt. Furthermore, in terms of the spatial impact, it should be noted that the approved restoration scheme does not expressly secure public access to any part of the Gale Common Site. The Proposed Development would increase public access, through the provision of an outdoor recreation use, thereby significantly improving the openness of the Green Belt from a spatial perspective.

4.23 It follows that the proposed outdoor recreation use is wholly appropriate within the Green Belt from both a visual and spatial perspective, in accordance with paragraph 146 of the NPPF. It is notable that the proposed outdoor recreation use includes some built development, including a car park, which is considered under 'Proposed built development at the Gale Common Site' below.

#### **Proposed built development at the Gale Common Site**

4.24 During operation potential impacts on openness (in the sense of the addition of built development) would arise from both the processing plant and the conveyor and hardstanding associated with them. The processing plant itself is mobile and would be located at the lowest part of the Gale Common Site and the conveyor would be located on lowered land with perimeter screening landforms retained. Effects on landscape character and visual amenity in this respect would be localised, temporary and reversible.

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<sup>7</sup> See the *Samuel Smith Old Brewery case* referred to in Table 2.1 earlier in this report

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- 4.25 The other buildings and structures proposed at the Gale Common Site (e.g. the site office extension, security cabin and driver welfare facilities) comply with paragraph 145 of the NPPF. This is on the basis that the extensions, alterations and additions do not result in disproportionate additions over and above the size of the original buildings and structures, and the new or replacement buildings and structures would be in the same use and not materially larger than the ones they replace or extend. This is clear when viewing the plans that form part of this planning application.
- 4.26 The built development proposed to facilitate public access to Stage I and on final restoration of the Gale Common Site is limited in extent and located within a lower section in an area well screened by existing woodland and landform, preventing or limiting visual effects on openness. In addition, there would be a limited intensity of use, and the built form is of a scale which is proportionate to the wider Gale Common Site, occupying a relatively small footprint, which can be accommodated within the landscape context. This type of development is encouraged within the Green Belt, where appropriate.
- 4.27 It follows that, whilst the Green Belt is not unchanged, its openness would be preserved and no notable encroachment on the countryside would occur. The built development is therefore appropriate within the Green Belt in accordance with paragraph 145 of the NPPF.

#### **Whitefield Lane works**

- 4.28 These works include (i) the re-alignment of the eastern end of Whitefield Lane near Whitley; and (ii) localised repair works and widening along Whitefield Lane, bend improvement on Whitefield Lane, and installation of advance warning signs near the Gale Common Site entrance on Cobcroft Lane.
- 4.29 The realigned section of Whitefield Lane includes the addition of new highway infrastructure on agricultural land. However, the new highway is in keeping with other highways in the area in terms of both scale and appearance and the overall footprint and associated works are modest. The effects are therefore very localised and small-scale. It is recognised that the new section of highway would be subject to a fence and landscaping (hedgerow planting), which in itself has the potential to impact on openness. However, hedgerows (which would obscure the fence) are a common feature in the area and views beyond the hedgerow planting would still be possible, thereby maintaining openness, as is demonstrated by Figure 6.25 in ES Volume III.
- 4.30 The small-scale nature of the other works to Whitefield Lane, i.e. road widening and bend improvement, mean that that there would be no noticeable impacts from a visual or spatial perspective.
- 4.31 In terms of construction, it is estimated that the road works would require no longer than 4-6 months for each element, reflecting their small-scale nature.
- 4.32 It follows that whilst the Green Belt would not be unchanged as a result of the works, there would be no adverse impact on openness or notable encroachment on the countryside. On this basis, the works (as an 'engineering operation') accord with paragraph 146 of the NPPF and are appropriate within the Green Belt in this instance.

#### **HGVs on public highways within Green Belt**

- 4.33 The existing highways to be used are well under capacity in terms of the number of vehicles currently using them. For instance, Whitefield Lane has a design capacity of up to 13,000 vehicles per day (TA 46/97) and the traffic flow with the Proposed Development in operation (and including other committed developments) is predicted to be 1,084, which is only 8.3% of its theoretical design capacity (1,084 AADT/ 13,000 = 8.3%).

4.34 The primary consideration is visual impact as a result of HGVs using the public highway. In this respect, it is acknowledged that HGV movements could impact openness on the area of the route within the Green Belt (Whitefield/ Cobcroft Lane) in comparison with the current baseline. However, it should be considered that vehicles would be taking the shortest route to the M62 and for much of that route would be viewed in the context of vehicles on the M62, which already influences character and openness in a similar way but to a much greater degree given the scale of the motorway and level of usage. For instance, when viewing Whitefield Lane from the south, the M62 and vehicles (including a large number of HGVs) moving along it are clearly visible to the north.

4.35 It follows that whilst the Green Belt would not be unchanged, there would be no adverse impact on openness or any notable encroachment on the countryside. On this basis, the works accord with paragraph 146 of the NPPF (as part of the mineral extraction operations) and are appropriate within the Green Belt.

**Overall summary of Proposed Development impacts on Green Belt purposes and openness**

4.36 When considering that similar operations have been taking place since the 1960s and with no known history of complaints, it is considered that the general principle of the Proposed Development within the Green Belt is acceptable, and moreover that the extension of the operational life of the Site is proportionate and not harmful. Furthermore, it should also be noted that, as per the *Europa Oil and Gas Limited* case<sup>8</sup>, the proposed temporary land use associated with the PFA extraction can only occur where the resource is found, and hence, when considering the significant need for the material, the sustainability benefits and the fact that proposed restoration would lead to a beneficial outcome, amongst other matters (see Section 6 of this report) – it is appropriate within the Green Belt.

4.37 In comparison with the baseline case of the Gale Common Site restored to the approved restoration scheme and the operational life not being extended, it is accepted that the Proposed Development would give rise to localised changes to the Green Belt during operation as a result of the presence of extraction operations, infrastructure and vehicles. Importantly, however, the *Samuel Smith* case (see Table 2.1 earlier in this report) indicates that it is not necessary to demonstrate that openness is ‘unchanged’ and, to the extent that openness is changed by the Proposed Development, the LVIA submitted as part of the Application concludes that there are no significant effects on landscape character and that significant effects on visual amenity are localised, often temporary and occur during operation only. It is considered that this level of impact is not harmful to the Green Belt, particularly when considering the historic use of the Site.

4.38 Post operation there are benefits to the Green Belt and, in comparison with the future baseline (the existing landform with the approved restoration proposals), there are beneficial effects derived from partial removal of the raised landform and a restoration scheme which actually increases openness from both a visual and spatial perspective. Perhaps unusually for a mineral operation, the Proposed Development offers an opportunity to partially reinstate the landform which pre-dated its use for PFA deposit/disposal and by doing so contribute to increased openness and a permanent reduction in a detracting element in the Green Belt. A beneficial outcome that, along with many other significant benefits (see Section 6 of this report), justifies a proportionate extension to operational activities at the Site.

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<sup>8</sup> See the *Europa Oil and Gas Limited* case referred to in Table 2.1 of this report

## 5.0 HARM TO THE GREEN BELT AND ANY OTHER HARM FROM THE PROPOSED DEVELOPMENT

### Introduction

- 5.1 Notwithstanding the conclusions in the previous section (Section 4), if NYCC disagrees, this section of the report (Section 5) considers the harm to the Green Belt that NYCC considers may exist and any 'other harm' from the Proposed Development.
- 5.2 The reason for including this section in the report is to consider the harm so that it can be weighed against the very special circumstances set out in the next section (Section 6).

### Harm to the Green Belt

- 5.3 It is the Applicant's understanding that NYCC considers the Proposed Development is likely to adversely affect the openness of the Green Belt due to visual and spatial effects, including:
- significant landform alterations – resulting from the extraction of PFA;
  - retained buildings and structures – buildings on the Site that might otherwise be demolished if the Proposed Development is not permitted;
  - the duration of the development and its restoration – the up to 25 year' operational lifetime and a restoration scheme that differs from that approved; and
  - the degree of activity likely to be generated – including HGV road traffic relating to the export of PFA.
- 5.4 At the time of writing this report, NYCC had not provided any further explanation on the above matters and how they could adversely impact on the Green Belt. Furthermore, it is notable that the Applicant has provided detailed reasoning in Section 4 of this report as to why the above matters, amongst other things, would not adversely impact on the Green Belt.

### Other harm

- 5.5 It is the Applicant's understanding that NYCC considers that there could be an unacceptable adverse impact on residential amenity as a direct result of the proposed HGV 'haul route' to and from the Gale Common Site along Whitefield Lane and the A19. Specifically, NYCC considers that the HGV numbers and their frequency might have an adverse impact on amenity that represents other harm for the purposes of Green Belt planning policy.
- 5.6 In addition to the above, the ES that forms part of the Application concludes that the following limited, significant adverse (residual) effects would occur:
- moderate adverse (significant) effect on visual amenity for residents at Viewpoint 13 (Whitefield Lane, Whitley) during construction of the Whitefield Lane realignment (a temporary effect during the approximately six-month construction period);
  - moderate adverse (significant) effects on visual amenity for footpath users at Viewpoint 2 (Gravel Hill Lane, Whitley), footpath and road users at Viewpoint 3 (Fulham Lane, Womersley), and residents at Viewpoint 6 (Northfield Lane, Cridling Stubbs), during operational activities;
  - moderate adverse (significant) effects on visual amenity for footpath and road users at Viewpoint 3 (Fulham Lane, Womersley) during operation as a result of cumulative impacts from the Proposed Development and Eggborough CCGT

- Project, Knottingley Power Project and Eggborough Power Station demolition works; and
- moderate adverse (significant) effects on visual amenity for residents at Viewpoint 6 (Northfield Lane, Cridling Stubbs) during operation as a result of cumulative impacts from the Proposed Development and Eggborough CCGT Project, Knottingley Power Project, Southmoor Energy Centre and Eggborough Power Station demolition works.
- 5.7 A number of other negligible or minor adverse (residual) effects (all of which are not significant) are identified in the ES, including in relation to landscape, noise, ecology, air quality, geology, hydrology, land contamination and traffic. It follows that the only significant adverse effects (residual) relate to visual amenity. It is notable that the ES does not conclude that there would be any significant adverse impact on residential amenity as a direct result of the proposed HGV route to and from the Gale Common Site along Cobcroft Lane, Whitefield Lane and the A19. The Applicant's reasoning for this is set out below.
- 5.8 The Applicant carried out an extensive assessment relating to traffic and transport, which is set out in ES Volume I, Chapter 8 'Traffic and Transport'. The assessment is based on a scenario where all PFA is exported by road. It considers the current baseline traffic and the additional traffic that would be generated by the Proposed Development once operational; to identify the effects on, amongst other things, highway safety, capacity and amenity. The chapter is supported by a Transport Assessment ('TA') presented within Appendix 8A (ES Volume II), which is accompanied by an Interim Travel Plan (an annex to the TA).
- 5.9 The assessment concludes that the roads that are to be used by the Proposed Development benefit from sufficient capacity and the existing access to Cobcroft Lane is adequate for the proposed use from a capacity and safety perspective. It is notable that NYCC Highways has not disputed this when commenting on the Application. The Applicant is however proposing a number of management and mitigation measures, primarily focused on amenity to address comments made by the local community – to further reduce the limited effects reported in the ES.
- 5.10 The measures can be summarised as follows:
- using the shortest route to the motorway for exports – east on Cobcroft Lane/ Whitefield Lane then north on the A19 to the M62;
  - limiting collection hours to 07:00 – 19:00 Monday to Friday and 07:00 – 13:00 Saturday;
  - sheeting of HGVs to avoid spillage of material onto the public highway;
  - advance warning signage erected on Cobcroft Lane prior to the site entrance to warn drivers of the potential for slow turning vehicles;
  - on-site wheel washing facility to avoid tracking of material onto the public highway;
  - visual inspection of all HGVs before they leave the Site to ensure that tyres are clean prior to leaving, with additional jet wash facility available;
  - contact name and number of site manager for members of the public to contact should there be any issues relating to operational traffic;
  - a community forum meeting held quarterly every year where residents are invited to attend to raise any concerns with EPUKI regarding any issues in relation to HGV traffic;



- school drop off and pick up restriction – EPUKI would prevent vehicles from leaving the Site and travelling to the strategic road network via Whitley / A19 for 2 x 30 minutes period coinciding with the Whitley and Eggborough Community Primary School drop off and pick up times;
  - staggering of HGVs – EPUKI would release HGVs from the Site at intervals of no less than 1 minute to reduce vehicles queuing at the Whitefield Lane / A19 junction as much as possible (this frequency is based on analysis carried out by EPUKI, which showed that it should avoid queueing);
  - school crossing – EPUKI would fund the installation of a signalised crossing on the A19 located close to the Whitley and Eggborough Community Primary School; and
  - additional highway signage – EPUKI would fund the installation of additional signage and/ or traffic calming measures in Whitley up to an agreed sum of money.
- 5.11 The above measures are to be secured as part of the Operational Traffic Management Plan ('OTMP') (see ES Volume II, Appendix 8A), draft planning conditions (see section 6 of the Planning Statement) and/or legal agreement (see the Draft Section 106 Agreement).
- 5.12 In addition to the above, to mitigate potential amenity (noise) impact on residential properties at the eastern end of Whitefield Lane resulting from additional HGVs above a certain threshold (400,000 tpa of exports), it is proposed to realign the highway further to the south and form a new junction with the A19 Selby Road. Furthermore, in order to prevent verge over-running it is proposed to undertake localised widening along some short sections of Cobcroft Lane/Whitefield Lane that do not meet the minimum width requirements for two HGVs to pass easily. In addition, bend improvements near the Whitley end of Whitefield Lane would be undertaken. These latter measures would improve safety on Cobcroft Lane/Whitefield Lane, in response to requests from the local community.
- 5.13 The assessment in the ES concludes that there would be no significant adverse (residual) traffic and transport effects in relation to amenity. Although the assessment considers the Proposed Development could potentially result in significant adverse effects on pedestrian amenity (the pleasantness of the route for pedestrians) on Whitefield Lane and the A19, it is concluded that professional judgement needs to be applied, due to the low number of pedestrians using the footway and the low volume of traffic compared to design capacity. This latter point means that whilst the percentage increase in HGVs appears high, this actually reflects the low existing numbers on the road. In addition, an alternative pedestrian route is already provided between Whitefield Lane and the A19 via Whitefield Bungalows. On this basis, the pedestrian amenity effects are considered to be minor adverse (not significant). Nevertheless, EPUKI is committed to undertaking the road improvements at the appropriate time.
- 5.14 It is also notable that the Applicant proposed that the speed limit of Cobcroft Lane and Whitefield Lane be reduced from 60 mph to 40 mph. NYCC Highways has since stated that this is not necessary for safety or other reasons.

### Summary

- 5.15 The potential harm identified by NYCC is limited to impacts on openness as a result of landform alterations, retained buildings and structures, the duration of the Proposed Development and the Site's restoration, and the degree of activity likely to be generated, including road traffic. In addition, NYCC considers that other harm might include adverse impacts on residential amenity as a result of generated HGV traffic. No further instances of other harm have been specifically identified by NYCC.
- 5.16 The other harm identified by the ES includes the following significant effects:

- visual amenity effects at one viewpoint during the short construction period for the Whitefield Lane realignment, and three other viewpoints during operation; and
- cumulative effects on visual amenity at two viewpoints during operation due to the effects of the Proposed Development together with Eggborough CCGT Project, Knottingley Power Project, Southmoor Energy Centre and Eggborough Power Station demolition works.

5.17 All other adverse effects are judged to be negligible or minor (not significant).

5.18 In summary, therefore, the Applicant considers that the potential adverse impacts (significant and not significant) are very limited when considered relative to the number of environmental topics assessed in the ES and the potential impacts that could result from the proposed use. This is largely as a result of the robust management and mitigation measures proposed as an intrinsic part of the Proposed Development – see Table 5.1 of the Planning Statement.



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## 6.0 VERY SPECIAL CIRCUMSTANCES

### Introduction

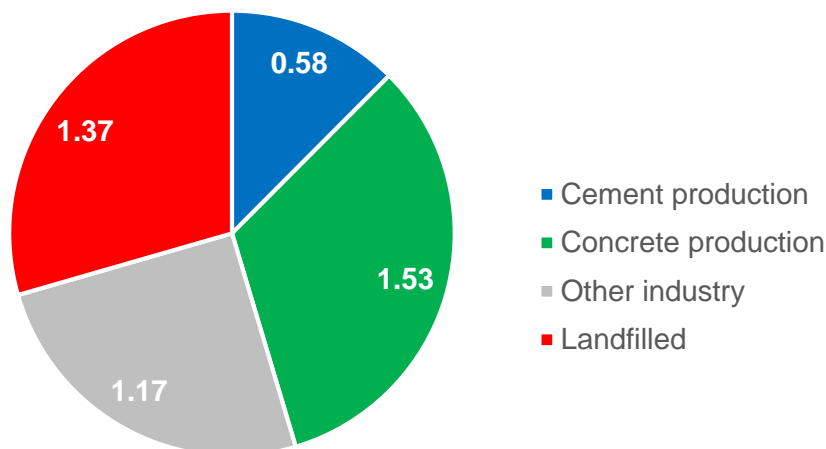
- 6.1 Paragraph 143 of the NPPF sets out the fundamental Green Belt policy that inappropriate development should not be approved except in 'very special circumstances'.
- 6.2 It is important to note that the Applicant considers that the Proposed Development is appropriate development within the Green Belt (see Section 4 of this report). However, notwithstanding that, this section of the report (Section 6), sets out the very special circumstances that exist to justify the location of the Proposed Development within the Green Belt.
- 6.3 The very special circumstances relate to the following:
- use, including the positive properties of PFA;
  - sustainability, including avoidance of use of virgin material and reduced CO<sub>2</sub> emissions through the replacement of virgin materials in building products;
  - the significant need for PFA;
  - the limited remaining supplies of PFA;
  - significantly improved restoration, including public access and biodiversity benefits; and
  - jobs creation and economic benefits.

These matters are dealt with in turn in the remainder of this section.

### Use

- 6.4 In order to fully understand and appreciate the very special circumstances associated with PFA, it is firstly necessary to understand what the material is (including its very special qualities), and how and why it is used.
- 6.5 PFA is the ash generated by the burning of coal in coal-fired power stations. The material has certain qualities that mean it can be utilised as a building product, including as an aggregate used in cement and concrete production, and other applications, such as a filler/base material in infrastructure projects.
- 6.6 The use of PFA as a building product has been established in the UK since the 1950s, although in the USA its use goes back further.
- 6.7 The sectors of use in the UK (2015) are set out in Figure 6.1 on the following page.

**Figure 6.1: PFA use in the UK in 2015 (millions of tonnes)**



Source: Department of Business, Energy and Industrial Strategy<sup>9</sup>

6.8 The Government lists some of the key drivers for the use of PFA as follows:

- PFA is classed as a sustainable/recycled aggregate: the use of which is supported by the UK Government.
- Reduction of CO<sub>2</sub> emissions: PFA can reduce the CO<sub>2</sub> emissions if it reduces the amount of clinker used in cement and concrete (note: clinker is a stony residue produced by burning coal solely for use by the cement and concrete industry).
- Reduction in the use of virgin material: when using PFA in cement and concrete, the use of virgin/raw materials (such as limestone, sand and clay) is reduced.
- Reduction of costs: as a substitute for clinker, PFA reduces the costs of cement on the basis that it is, on average, less expensive than clinker.
- Increased quality: PFA in concrete contributes to the properties of the hardness of it through hydraulic and pozzolanic activity (it combines well with the other ingredients in cement when water is added).

### Sustainability

6.9 The UK Government has set a globally leading target to achieve net zero greenhouse gas ('GHG') emissions in the UK by 2050. Together with the UK Parliament many local authorities have declared a Climate Emergency.

6.10 Local planning authorities are now challenged by the NPPF to use natural resources prudently, mitigate and adapt to climate change and shift to a low carbon economy. In order to achieve this aim, the NPPF (paragraph 204) requires that planned and potential sites for recycled and secondary aggregate related uses are safeguarded and that decision makers take account of the positive contribution that secondary and recycled materials, such as PFA, have in terms of sustainability and carbon reduction.

<sup>9</sup> Fly Ash and Blast Furnace Slag for Cement Manufacturing: BEIS Research Paper No. 19

- 
- 6.11 With the built environment accounting for 40% of UK GHG emissions, the UK construction industry is under huge pressure to shift its high carbon emitting reputation and adopt low carbon and net zero emissions practices. Moreover, the UK construction industry's requirement for ever more cement, concrete, rock and stone drives developers to seek sources from overseas; a risky strategy in today's uncertain political and trading environment. However, the 'Circular Economy' – a mindset for eliminating waste and keeping valuable resources in use and re-used for longer – is also gaining ground across industry, from power generation to construction. Taking a circular economy approach means avoiding extraction of new/virgin raw materials and keeping existing valuable materials in the supply chain – which is a more sustainable approach.
- 6.12 At local level, Policy M11 (Supply of alternatives to land-won primary aggregates) of the draft Joint Plan states that proposals which would facilitate the supply and use of secondary and recycled aggregates as an alternative to primary land-won aggregate will be permitted, including the supply of secondary aggregate from a waste disposal site (e.g. the Gale Common Site), provided it would not involve disturbance to restored ground or a landscaped feature which has become assimilated into, or is characteristic of, the local landscape, or is of archaeological value. It is notable that the parts of the Gale Common Site from which it is proposed to extract PFA have not yet been restored or assimilated into the landscape, and they are not characteristic of the local area nor are they of archaeological value.
- 6.13 Policy W01 (Moving waste up the waste hierarchy) of the draft Joint Plan states that proposals will be permitted where they would contribute to moving waste up the waste hierarchy through the increased re-use or recycling of waste. The NPPG also sets out support for moving waste up the waste management hierarchy. Policy W09 (Managing power station ash and Incinerator Bottom Ash) of the draft Joint Plan states that proposals to increase the utilisation of power station ash as secondary or recycled aggregate or for other beneficial use, in line with Policy M11 of the Draft Joint Plan, will be permitted. Paragraph 7.17 of the North Yorkshire Waste Local Plan states that "*there may be instances where the re-working of deposited waste is required...where changed economic circumstances support the re-use of deposited waste for example pulverised fuel ash (PFA)*". The required closure of coal-fired power plants by 2025 is a significant economic factor that should be considered in this instance (see 'Limited remaining supplies of PFA' later in this section for more detail).
- 6.14 Taking the above policy into consideration, there is strong in principle support for the use of PFA, particularly in terms of the positive contribution that secondary and recycled materials can make in terms of sustainability. PFA is used in the construction industry as a sustainable alternative to natural materials, such as sand and limestone. The use of PFA is therefore consistent with the NPPF requirements because it is a recycled material and it also helps the construction industry reduce its carbon emissions. The use of PFA from a waste disposal site moves a material that was deposited as a waste up the waste management hierarchy; reusing it in a beneficial way in accordance with Policies W01 and W09 of the draft Joint Plan.
- 6.15 The specific benefits of the Proposed Development include the following:
- A large deposit of PFA (around 23 million tonnes) is available for extraction from the Gale Common Site; the largest in the UK.
  - The Gale Common Site, unlike many similar disposal sites in the UK, has not been fully restored and assimilated into the landscape.
  - PFA sourced from Gale Common Site could be used in a variety of applications, which are broadly separated into non-cementitious uses (block manufacture and grouting for ground stabilisation) and cementitious uses (as a replacement for other materials in cement). Both applications confer significant carbon savings and

sustainability benefits, including reducing the use of primary aggregates, reducing the need to import PFA, and contributing to a more circular economy. In some instances, PFA also performs better than alternative materials, such as sand.

- The potential total carbon savings over the proposed 25-year operational phase of extraction are estimated to be in the order of 84,240 tonnes of carbon dioxide when used in 100% non-cementitious applications. This includes using PFA to replace sand (a primary aggregate) in the manufacture of buildings blocks. According to the Woodland Trust (website), planting 100m<sup>2</sup> of woodland soaks up 4 tonnes of carbon. It follows that application in non-cementitious uses is equivalent to planting a woodland the size of 250 typically sized rugby fields over 25 years. It is also equivalent to around 260,000 return car journeys from London to Edinburgh.
- Far greater carbon savings are available if the PFA extracted is used in cementitious applications. For instance, if 50% of PFA extracted each year is used in cementitious applications and the remainder in non-cementitious applications, the potential carbon savings could be in the order of 10,966,800 tonnes of carbon dioxide. This is equivalent to planting with trees an area equivalent to 27,000 ha or a little under the area of the City of Bath. It is also similar to around 34 million return car journeys from London to Edinburgh.

6.16 Overall, regardless of exactly how the extracted PFA is used in the construction industry, it is expected that significant carbon savings would be realised through its use. Increasing the capacity of extraction of PFA in the coming years would therefore make a positive contribution to the UK's decarbonisation targets and is supported by planning policy.

#### **Limited remaining supplies of PFA**

6.17 There has historically been an oversupply of PFA in the UK, with more produced by coal-fired power stations than could be used by the building products industry. Large quantities have therefore historically been sent to disposal sites, such as the Gale Common Site, as a waste material. In 2015, approximately 3.28 million tpa of PFA was used by the building products industry (see Figure 6.1), with the remainder going to disposal sites (around 1.37 million tpa according to the Government<sup>10</sup>).

6.18 Customers in the building products industry have historically taken PFA in a dry state directly from source at operational coal-fired power plants (from collection silos) – known as 'direct use'. However, in November 2016, the UK Government announced its intention to close all coal-fired power plants by 2025 and comparable actions have been announced, or are being discussed, in other European countries, including Germany and the Netherlands. Coal-fired power generation in the UK is also facing problems due to low electricity prices and the introduction of more renewable energy sources with lower marginal costs. This can be seen in the sharp decrease in coal consumption in power plants in the period 2014-2018. It is extremely unlikely that this trend will be reversed, as more renewable resources are incorporated to meet demand on the electricity grid.

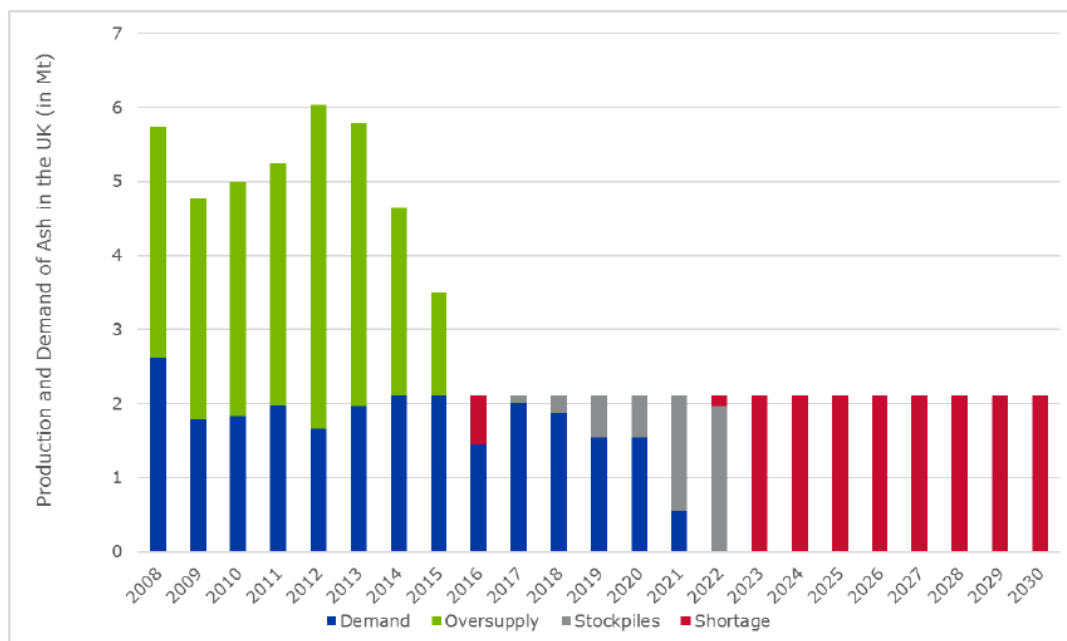
6.19 The combination of the closing of coal-fired power stations and the more difficult circumstances for such power stations in the electricity market is expected to greatly reduce the availability of domestically produced direct-use PFA in the near future and stop completely when all coal-fired power stations are closed by 2025. Modelling by the Government<sup>11</sup> suggests that there will be a significant shortage of PFA in the short to

<sup>10</sup> Fly Ash and Blast Furnace Slag for Cement Manufacturing: BEIS Research Paper No.19

<sup>11</sup> Fly Ash and Blast Furnace Slag for Cement Manufacturing: BEIS Research Paper No.19

medium term, if alternatives to domestic direct-use supplies are not identified, as demonstrated by the graph below.

**Figure 6.2: Modelled PFA supply and demand**



Source: Department of Business, Energy and Industrial Strategy<sup>12</sup>

**Need, mineral sterilisation and effect on reserves**

- 6.20 Paragraph 203 of the NPPF makes clear that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Furthermore, since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation. Paragraph 204 of the NPPF goes on to state that mineral resources should be safeguarded and known locations of specific minerals resources of local and national importance are not sterilised.
- 6.21 The NYCC Annual Monitoring Report ('AMR') 2017 echoes the above, stating that minerals are important resources which provide essential raw materials for a wide range of industries such as construction, power generation and manufacturing. The AMR shows that reserves of sand and gravel are below required levels (7-year landbank) in some areas of North Yorkshire. The AMR also shows that PFA sales in North Yorkshire have reached levels as high as 1.6 million tonnes between the years 2005 to 2014, notwithstanding that part of this period was a recession.
- 6.22 Taking the above into consideration, it is clear that domestic direct-use PFA needs to be replaced if domestic material is to continue its significant role as a building product in the UK. As an alternative, the import of PFA from abroad is possible; however, decreasing availability in Europe and high transport costs (particularly when considering imports from outside Europe, e.g. China) are prohibitive. As an alternative to direct-use and imports there is potential to recover a significant amount of PFA from disposal sites, such as the Gale Common Site.

<sup>12</sup> Fly Ash and Blast Furnace Slag for Cement Manufacturing: BEIS Research Paper No.19

- 6.23 The Government estimates there is at least 50 million tonnes of PFA available from disposal sites, which could be recovered. Furthermore, that if PFA from disposal sites was to cover national demand up to 2030, then a total of 44% (22 million tonnes) of the reserve would need to be recovered and used.
- 6.24 Importantly, there is approximately 23 million tonnes of PFA at the Gale Common Site and it is therefore not inconceivable to consider that any refusal of planning permission may sterilise a resource that could be considered of national importance – based on the figure of 50 million tonnes stated by the Government. The resource is considered significant on the basis of (firstly) its size (up to around 50% of the national resource of PFA within disposal sites) and (secondly) the significant need for it.
- 6.25 It has been demonstrated earlier in this section, with reference to modelling by the UK Government, that the combination of the closing of coal-fired power stations and the more difficult circumstances for power stations in the electricity market is expected to greatly reduce the availability of domestically produced direct-use PFA in the near future and eventually stop it completely (by 2025). The modelling suggests that there will be a significant shortage of PFA in the short to medium term, if alternatives to domestic direct-use supplies are not identified. Furthermore, it is also not inconceivable to consider that the shortage of primary aggregates (an alternative to PFA) in some parts of North Yorkshire (as shown by the AMR) could significantly increase demand for PFA beyond the 1.6 million tonnes of sales stated in the AMR. This amount is significantly higher than the up to 1 million tpa proposed for extraction from the Gale Common Site as part of the Proposed Development. Indeed, sterilising the resource could have a significant adverse effect on reserves of a valuable material.
- 6.26 On the basis of the above, it is clear that there is a demonstrable and quantifiable need for the Proposed Development, arguably of a nationally significant scale.

#### **Public access and biodiversity**

- 6.27 The Proposed Development includes a scheme of progressive restoration to an afteruse that provides for biodiversity and recreation. The biodiversity focussed elements have been designed to take account of the existing habitats and species on the Gale Common Site and in the surrounding area, and to take account of the context of the area from a landscape and visual perspective.
- 6.28 The restoration proposals and extended 30-year aftercare period are secured by the Draft Section 106 Agreement that forms part of the Application.
- 6.29 ES Volume I, Chapter 7 'Ecology' concludes that restoration of the Site is likely to have a long-term beneficial effect on ecology and nature conservation when considered relative to the approved scheme, including for most of the protected and notable species currently associated with the Site, e.g. great crested newt, badger, breeding birds, reptiles. It is also notable that ES Volume I, Chapter 6 'Landscape and Visual Amenity' concludes that once the Site is restored, it would have a beneficial effect on the local landscape.
- 6.30 Furthermore, it is notable that the restoration and aftercare proposals have been developed in consultation with the local community, particularly the proposals relating to public access. EPUKI used multiple public exhibitions (over three stages of pre-application consultation) as a forum to ask members of the local community what they wanted to see in terms of restoration and aftercare. The overwhelming response was that gaining access to restored parts of the Gale Common Site for recreational purposes is of significant interest to the local community.
- 6.31 In terms of the spatial impact (as mentioned earlier in this report), it should be considered that the extant restoration scheme for the Gale Common Ash Disposal Site does not expressly secure public access, thereby inhibiting access to the Green Belt in this



respect. The Proposed Development would increase public access through the provision of an outdoor recreation use, thereby significantly improving the openness of the Green Belt from a spatial perspective.

**Jobs and economy – direct and indirect**

6.32 Increasing PFA extraction at the Gale Common Site would provide a range of wider sustainability benefits, through contributing to the Circular Economy in the construction industry and providing up to 47 full-time jobs and approximately 60 haulage jobs. The Gale Common Site would otherwise likely close, resulting in no job generation and the loss of all existing jobs.

6.33 There would also be around £4 million of annual operating costs, which would be added to the local economy, including for plant hire and maintenance costs, etc.

6.34 It should also be noted that the Applicant has been forwarded a letter by H+H Celcon (included as **Appendix 1** to this report), a block manufacturer with a factory located at Pollington, where 137 people are employed. It is understood that the letter has also been sent to NYCC. The letter states that:

*“A key component in the manufacturing process is the PFA, which has historically been readily available from coal-fired power stations in the UK. However, the supply of PFA is now dwindling due to the closure of UK coal-fired power stations. In the last few years, two of the nearest coal-fired power stations to our Pollington Factory, at Ferrybridge and Eggborough, have closed. We are therefore looking for alternative sources of domestic supply, otherwise it may be necessary to import from abroad or use less sustainable materials. Both avenues are likely to be more expensive, are less sustainable, and may have a detrimental impact on our business.*

*We consider that being able to source PFA from Gale Common would address this problem. Gale Common would providing us with a sustainable local source of PFA that could take our business into the future, working in partnership with another local business. It would allow us to remain sustainable and provide added security for our significant UK workforce.*

*It follows that we are very supportive of a proposal that would provide job security locally, ensure a local supply of a sustainable construction material, avoid the need to import from abroad, likely provide additional jobs at Gale Common, and remove the need to potentially increase the use of virgin materials. Finally, the potential supply of PFA from Gale Common would substitute/ replace existing supply chain, therefore vehicle movements in the local area will not increase.*

*We hope that this letter demonstrates support from industry and why the Gale Common proposal is important and should be granted planning permission.”*

6.35 The Proposed Development could therefore have a very significant (positive) outcome for a local business and the economy generally.



## 7.0 WHETHER OTHER CONSIDERATIONS CLEARLY OUTWEIGH THE HARM

### Introduction

7.1 This section identifies the overall potential and perceived harm, and the very special circumstances associated with the Proposed Development. It then offers conclusions as to why the very special circumstances outweigh the potential and perceived harm. However, to reiterate, the Applicant does not consider that there is any notable harm and considers that the Proposed Development is wholly appropriate within the Green Belt.

### Potential and perceived harm

7.2 The potential and perceived harm is limited (localised) and temporary. Furthermore, when considering harm, this should be in light of the fact that the Gale Common Site has been an operational waste management site since the 1960s.

7.3 The permitted waste management use requires the presence of machinery and includes the movement of PFA around the Site and some processing (e.g. screening). In terms of the landform, the original consent essentially permitted a land raising operation, which has resulted in an incongruous, large, man-made landform which contrasts with the natural relatively flat topography in the area, which pre-dated PFA disposal/deposit. It is a man-made landform, which has effectively reduced the openness of the Green Belt, including by blocking long distance views.

7.4 The permitted waste management use is comparable to the proposed mineral extraction use, which essentially comprises, in terms operations, the extraction and movement of PFA within the Site and some limited processing (screening primarily). Removal of all or part of the landform would reinstate openness visually and partially mitigate effects on landscape character arising from the landform by reinstatement of a more natural landform, closer to that which pre-dated PFA disposal/deposit. This is a positive impact on the Green Belt.

7.5 It is acknowledged that the Proposed Development would effectively mean that the operational life of the Gale Common Site is extended by 25 years. However, as similar operations have been taking place since the 1960s and with no known history of complaints, it is considered that the general principle of the Proposed Development within the Green Belt is acceptable, and moreover that the extension of time is proportionate and not harmful. Furthermore, the proposed land use associated with the PFA extraction can only occur where the mineral/material is found. Indeed, it is reasonable to consider that if the mineral extraction use does not commence at the Gale Common Site, then it may need to take place at an alternate site(s), which in all likelihood would be greenfield and in the countryside.

7.6 Notwithstanding the above, NYCC considers that there would potentially be harm to the Green Belt. This includes impacts on openness as a result of landform alterations, retained buildings and structures, the duration of the development and its restoration, and the degree of activity likely to be generated, including road traffic. In addition, NYCC considers that other harm might include adverse impact on residential amenity as a result of generated HGV traffic. No further instances of other harm have been specifically identified by NYCC.

7.7 The other harm identified by the ES includes the following significant effects:

- visual amenity effects at one viewpoint during the short construction period for the Whitefield Lane realignment, and three other viewpoints during operation; and
- cumulative effects on visual amenity at two viewpoints during operation due to the effects of the Proposed Development together with Eggborough CCGT Project,

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Knottingley Power Project, Southmoor Energy Centre and Eggborough Power Station demolition works.

- 7.8 No residual, significant adverse effects have been identified in respect of the other topics covered by the ES, including landscape, noise, ecology, air quality, geology, hydrology, land contamination and traffic. However, a significant beneficial ecological effect has been identified following restoration of the Site.
- 7.9 In summary, therefore, the potential adverse effects (significant and not significant) are very limited when considered relative to the number of environmental topics assessed in the ES and the potential impacts that could result from a mineral extraction use. This is largely as a result of the robust management and mitigation measures proposed as an intrinsic part of the Proposed Development – see Table 5.1 of the Planning Statement.

**Very special circumstances**

- 7.10 There is strong in principle support for the use of PFA, particularly in terms of the positive contribution that secondary and recycled materials can make in terms of sustainability. PFA is used in the construction industry as a sustainable alternative to natural materials, such as sand and limestone. The use of PFA is therefore consistent with NPPF requirements because it is a secondary aggregate material and it also helps the construction industry reduce its carbon emissions.
- 7.11 The specific benefits of the Proposed Development include removing the need to develop greenfield quarries for the extraction of primary aggregates and potential carbon saving in the order of 10,966,800 tonnes of carbon dioxide. The latter is equivalent to around 34 million return car journeys from London to Edinburgh. A significant carbon saving, arguably on a national scale.
- 7.12 In terms of need, the combination of the closing of coal-fired power stations and the more difficult circumstances for coal power stations in the electricity market is expected to greatly reduce the availability of domestically produced PFA in the near future and stop it completely when all coal-fired power stations are closed (by 2025). Modelling by the UK Government suggests that there will be a significant shortage of PFA in the short to medium term, if alternatives to domestic direct-use supplies are not identified.
- 7.13 Taking the above into consideration, it is clear that domestic direct-use PFA needs to be replaced if domestic material is to continue its significant role as a building product in the UK. As an alternative to direct-use and imports there is potential to recover a significant amount of PFA from disposal sites, such as the Gale Common Site. According to the Government<sup>13</sup> there is at least 50 million tonnes of PFA available from disposal sites, which could be recovered. Modelling by the UK Government suggests that if PFA from disposal sites was to cover national demand up to 2030, then a total of 44% (22 million tonnes) of the reserve would need to be recovered and used. These figures strongly suggest that the Proposed Development is necessary to help to meet the national demand for PFA.
- 7.14 There are approximately 23 million tonnes of PFA at the Gale Common Site and any refusal of planning permission would sterilise a resource that is beneficial and could be considered of national importance. The resource is considered significant on the basis of (firstly) its size (up to around 50% of the national resource of PFA within disposal sites, when considering figures set out in BEIS Research Paper No.19) and (secondly) the significant need for it.

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<sup>13</sup> *Fly Ash and Blast Furnace Slag for Cement Manufacturing: BEIS Research Paper No.19*

- 7.15 The Proposed Development includes a scheme of progressive restoration to an afteruse that provides for biodiversity and recreation. ES Volume I, Chapter 7 'Ecology' concludes that restoration of the Site is likely to have a long-term beneficial effect on ecology and nature conservation, including for most of the protected and notable species currently associated with the Site, e.g. great crested newt, badger, breeding birds, reptiles. It is also notable that ES Volume I, Chapter 6 'Landscape and Visual Amenity' concludes that once the Site is restored, it would have a beneficial effect on the local landscape.
- 7.16 It should also be considered that the extant restoration scheme for the Site does not expressly secure public access, thereby inhibiting access to the Green Belt in this respect. The Proposed Development would increase public access, through the provision of an outdoor recreation use, thereby significantly improving the openness of the Green Belt from a spatial perspective. A long-term and significant, beneficial effect that would not be realised without the Proposed Development.

**Summary**

- 7.17 The potential and perceived harm is limited (localised) and temporary. Furthermore, when considering harm, this should be in the context that the Gale Common Site has been an operational waste management site since the 1960s, it was permitted in 1963 (Reference: OG/1376) and since 1967 has used for the disposal of PFA from both Eggborough and Ferrybridge 'C' coal-fired power stations. The very special circumstances by comparison are long-term and significant, arguably on a national scale.

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## 8.0 CONCLUSION

- 8.1 In terms of impact on openness and whether the Proposed Development is appropriate within the Green Belt, there is a compelling case that the general principle of the Proposed Development within the Green Belt is acceptable, and moreover that the extension of time (operational life) is proportionate and not harmful. Furthermore, it should also be noted that the proposed land use associated with the PFA extraction can only occur where the resource is found, while the Gale Common Site comprises around 50% of the national resource when considering research by the Government.
- 8.2 Post operation there would be beneficial effects derived from partial removal of the approved landform and a restoration scheme which increases openness from both a visual and spatial perspective. Perhaps unusually for a mineral operation, the Proposed Development offers an opportunity to locally reinstate the landform which pre-dated its use for PFA deposit/disposal and by doing so contributes to increased openness by permitting public access and a permanent reduction in a detracting element in the Green Belt. A beneficial outcome that, along with many other significant benefits, means the Proposed Development is wholly appropriate within the Green Belt.
- 8.3 Even if one does not agree with the above, the potential and perceived harm is limited (localised) and temporary. Furthermore, when considering harm, this should be in the context that the Gale Common Site has been an operational waste management site since the 1960s. The very special circumstances by comparison are long-term and significant, including that:
- the PFA resource could be considered nationally significant and therefore should not be sterilised (it is around half the nationally available resource according to government figures); and
  - the potential carbon saving could be in the order of 10,966,800 tonnes of carbon dioxide (or around 34 million return car journeys from London to Edinburgh).
- 8.4 The Proposed Development would make a significant contribution to the low carbon economy and addressing the 'climate emergency' that has been declared by UK Parliament and many local authorities. This simply cannot be ignored. It follows that this, along with the other very special circumstances, clearly outweighs any harm to the Green Belt and any other harm.

## APPENDIX 1: H+H CELCON LETTER



Date: 28/11/2019

Rachel Pillar  
North Yorkshire County Council  
Planning & Countryside Unit  
County Hall  
Northallerton  
North Yorkshire  
DL7 8AH

**H+H UK Limited**

Celcon House  
Ightham, Sevenoaks  
Kent TN15 9HZ

+44 (0)1732 886333 Telephone  
+44 (0)1732 887013 Fax

[www.hhcelcon.co.uk](http://www.hhcelcon.co.uk)

Dear Ms Pillar,

**PLANNING APPLICATION FOR PFA EXTRACTION AT GALE COMMON, NORTH YORKSHIRE**

**H+H CELCON – LETTER OF SUPPORT**

We manufacture a range of aircrete blocks in three state-of-the art factories in Kent and Yorkshire. The Yorkshire factories are located at Pollington in the north of the County. We employ around 300 people in the UK with 137 based at Pollington..

Aircrete is a lightweight masonry material, combining the strength, durability and thermal efficiency of concrete with the ease of use that comes with a lighter material, easy to cut and work on site. The materials used in the manufacture of H+H aircrete are sand, pulverised fuel ash ('PFA'), cement, lime and water. These are combined into a slurry and small amount of aluminium powder is added to the mix. This initiates a chemical reaction, generating minute bubbles which form the characteristic aircrete structure and appearance.

A key component in the manufacturing process is the PFA, which has historically been readily available from coal-fired power stations in the UK. However, the supply of PFA is now dwindling due to the closure of UK coal-fired power stations. In the last few years, two of the nearest coal-fired power stations to our Pollington Factory, at Ferrybridge and Eggborough, have closed. We are therefore looking for alternative sources of domestic supply, otherwise it may be necessary to import from abroad or use less sustainable materials. Both avenues are likely to be more expensive, are less sustainable, and may have a detrimental impact on our business.

We consider that being able to source PFA from Gale Common would address this problem. Gale Common would providing us with a sustainable local source of PFA that could take our business into the future, working in partnership with another local business. It would allow us to remain sustainable and provide added security for our significant UK workforce.



It follows that we are very supportive of a proposal that would provide job security locally, ensure a local supply of a sustainable construction material, avoid the need to import from abroad, likely provide additional jobs at Gale Common, and remove the need to potentially increase the use of virgin materials. Finally, the potential supply of PFA from Gale Common would substitute/ replace existing supply chain, therefore vehicle movements in the local area will not increase.

We hope that this letter demonstrates support from industry and why the Gale Common proposal is important and should be granted planning permission

Your sincerely,

Calum Forsyth  
Managing Director