



## Report of the Chief Planning Officer

### SOUTH AND WEST PLANS PANEL

Date: 6<sup>th</sup> July 2017

**Subject: 17/02642/FU – Partial infilling of former disused railway cutting using inert materials at, land off Fartown, Pudsey, LS28**

APPLICANT	DATE VALID	TARGET DATE
E P Homes	26 <sup>th</sup> April 2017	26 <sup>th</sup> July 2017

#### Electoral Wards Affected:

**Pudsey**

No

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: GRANT PERMISSION subject to the specified conditions.**

1. 3 year time limit for commencement;
2. Plans to be approved;
3. Construction Environmental Management Plan for Bats;
4. Details of final seeding to be agreed;
5. Specified details of highway works;
6. Specified activity and delivery hours and routes;
7. Suppression of dust;
8. Noise mitigation measures;
9. Contaminated Land;
10. Informatives relating to Coal Standing Advice, access for Highways England (Historic Railway Estate), EA permit and the major hazard pipeline.

#### 1.0 INTRODUCTION:

- 1.1 This application seeks planning permission for the partial infilling of a railway cutting using inert materials. There is a long planning history dating back to 1981 and two appeals giving permission for wholesale infilling of the site were allowed in 2003.

1.2 As will be outlined below there is longstanding policy support for the infilling of the cutting, as well as previous planning permission that support the development. There is significant local concern regarding the proposal, including the from the local Branch Labour Party and Stuart Andrew MP. There are also potential impacts to a European Protected Species (bats) and as such the application has been referred to Plans Panel for consideration.

## **2.0 PROPOSAL:**

2.1 The application proposes to partially infill the existing cutting with 8 800m<sup>3</sup> of inert material. This is largely construction and demolition waste generated by the demolition of a former industrial unit on the site, as well as the site preparation works for the adjacent housing development. The material is currently stored on land immediately to the south of the cutting and the stockpile was granted temporary consent in October 2016 with a condition that the material be removed on or before the 30<sup>th</sup> April 2017.

2.2 The material will be lowered into the cutting over a two week period using a long reach excavator. To facilitate this a temporary track to the southern side of the site will be created. The earth will be mounded within the centre of the cutting maintain a buffer of 10m to the tunnel bridge entrances, and graded back to blend with the southern slope before being finished with soils and seeded.

## **3.0 SITE AND SURROUNDINGS:**

3.1 The application relates to a former railway cutting situated to the south-west of Pudsey. The site was used until the mid 1960's as part of the Pudsey-Greenside branch line. The site is located to the south of Station Street and West of Carlisle Road and is largely surrounded by residential streets. Semi-detached rendered houses and the Royal Public House are located to the north side of Station Street, with a semi-detached bungalow immediately adjacent to the cutting on the south side of Station Street. Older stone built properties and terraces are situated along Fartown and a stone built Scout hut is located to the south west of the site. Newer build housing is currently being constructed on the land to the immediate south of the site and construction and demolition waste from the housing site is currently stored in a temporary stockpile to the south-west of the cutting. Just beyond the Carlisle Road Bridge is a collection of three industrial units set at the ground level of the cutting.

3.2 The cutting itself is steeply sided and largely given over to grass and scrub. Retaining walls help to support the Carlisle Road Bridge to the western end of the cutting and also the land immediately adjacent to the scout hut. The entrance to Greenside tunnel is located to eastern end of the cutting, with the western end of the tunnel giving out just beyond Westroyd Gardens. A bat roost is located within the stonework of the Carlisle Road Bridge and the cutting is used for foraging and commuting. A major hazard pipeline runs beneath Station Street, returns around along a section of Carlisle Road before then heading east along Carlisle Street.

## **4.0 RELEVANT PLANNING HISTORY:**

4.1 The site has a planning history which dates back to 1981, a summary of which is detailed in the applications noted below. In brief outline, three applications were submitted between 1981 and 2001 for the tipping of inert waste within the cutting and were refused. Initially concerns related to the technical detail of the landfill operation (eg landfill gas and land stability) but by 1991 these had been resolved

and concerns related primarily to general noise and disturbance during the filling operations.

4.2 An outline application in 2002 sought to infill the cutting and provide residential development on the levelled land; this was also refused and the applicant thereafter submitted an appeal. A further outline application for “residential development and site preparation through engineering and landfill works” was submitted in 2003 and the applicants appealed against non-determination. The two appeals were considered together and both were allowed.

#### 4.3 Detailed Site History

H25/18/81/ Laying out of access and tipping of waste material, to disused railway cutting.

**Refused**

25/237/94/FU Tipping of inert waste to disused railway cuttings and tunnel

**Refused**

25/22/01/MIN Tipping of inert waste to disused railway cutting

**Refused**

25/356/02/MIN Outline application for residential development and site preparation through engineering & landfill works

**Refused (Appeal Allowed with Costs)**

25/37/03/MIN Outline application for residential development and site preparation through engineering & landfill works

**Refused (Appeal Allowed with Costs)**

06/04647/OT Renewal of permission ref. 25/356/02/OT for outline residential development

**Approved**

#### 5.0 HISTORY OF NEGOTIATIONS:

5.1 None

#### 6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised by site notice and in the Yorkshire Evening Post.

6.2 There has been significant local objection including from the Pudsey Branch Labour Party and Stuart Andrew MP. Leeds Cycling Campaign also object to the scheme.

6.3 The main concerns relate to the impact of the development upon protected species, loss of a heritage asset, the impact upon a potential future greenway / alternative transport scheme as well as the impact of the works upon local residents and local schools. There is also concern about the nature of the waste to be used, safety of the tunnel, future applications to infill the whole cutting and the impact of possible new houses.

#### 7.0 CONSULTATIONS RESPONSES:

7.1	Nature Conservation:	No objection subject to a Construction Environmental Management Plan for Bats
	Bridges Team:	No objection
	Highways England (roads):	No objection
	Highways England (HRE):	Express concern regarding access to the Carlisle Road Bridge and Greenside Tunnel
	Coal Authority:	No objection subject to an informative regarding the CA's Standing Advice
	HSE:	No objection – note NGN major hazard pipeline
	NGN:	No response
	Travelwise:	No objection but note the cycling officer should be consulted
	Cycling Officer:	No response
	Contaminated Land:	No objection subject to conditions
	Landscape:	No objections
	EA:	Note the need for a permit
	Sustrans	Note that the cutting has the potential to form a greenway but the feasibility of such a route is uncertain
	Highways	No objection subject to conditions relating to delivery hours, noise and dust, and details of works to highway structure

## 8.0 PLANNING POLICIES:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy (2014), saved policies within the Leeds Unitary Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013) and any made Neighbourhood Development Plan.

### Local Planning Policy

8.2 The following Core Strategy policies are relevant:

<u>SP1:</u>	Seeks to concentrate the majority of new development within the main urban areas and ensure that development is appropriate to its context.
<u>SP7:</u>	Distribution of housing land and housing allocations.
<u>H1</u>	Seeks to ensure the managed release of sites in accordance with Spatial Policy 7.
<u>P10:</u>	Seeks to ensure that new development is well designed and respect its context.
<u>P11:</u>	Seeks to ensure that the city's heritage assets are preserved and enhanced
<u>P12:</u>	Seeks to ensure landscapes are maintained.
<u>T2:</u>	Seeks to ensure that new development does not harm highway safety.
<u>EN6:</u>	Strategic Waste Management.

The following Natural Resources and Waste Local Plan policies are also relevant:

<u>Waste 1</u>	Strategic Waste Management
<u>Waste 2</u>	Existing waste management sites shown on the Policies Map are safeguarded for continued use during the plan period. Increases in

capacity or other improvements at these sites will be acceptable provided that the requirements of WASTE 9 are demonstrated.

Waste 9 seeks to ensure that waste management proposals resolve detailed planning considerations, including amenity.

The following saved UDP policies are also relevant:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

BD5: Seeks to ensure new development protects amenity.

Emerging Site Allocations Plan:

The submission draft plan was formally submitted to the Secretary of State for Communities and Local Government on 5<sup>th</sup> May 2017 and the hearing sessions are likely to take place in Autumn 2017. The plan is now highly advanced and has material weight in considering planning applications.

The site is allocated for housing (HG2-74) within the SAP. As such policies H1 and H2 of the Site Allocations Plan (Section 3: Area Proposals: 11.Outer West) are applicable. These policies identify the allocated housing sites and note that they will be phased for release in accordance with the Core Strategy policy H1.

National Planning Policy

- 8.3 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 8.4 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. It is considered that the local planning policies mentioned above are consistent with the wider aims of the NPPF.
- 8.5 The National Planning Policy for Waste (2014) sets out detailed waste planning policies, derived from the strategic Waste Management Plan for England. The NPPW identifies the need to appropriately consider waste management capacity and location through the creation of local plans and also identifies the main material issues that should be considered when determining applications, including odour, noise and dust.
- 8.6 The Planning Practice Guidance (PPG) provides comment on the application of policies within both the NPPF and the NPPW. The PPG also provides guidance in relation to the imposition of planning conditions. It sets out that conditions should only be imposed where they are necessary, relevant to planning and; to the development to be permitted; enforceable; precise and; reasonable in all other respects.

**9.0 MAIN ISSUES**

- 1) Principle of Development
- 2) Protected Species
- 3) Visual Amenity / Non-designated Heritage Asset
- 4) Residential and General Amenity
- 5) Other Matters

## **10.0 APPRAISAL**

### Principle of Development

- 10.1 The Natural Resources and Waste Local Plan set out the Council's strategic waste management strategy, and notes that as the major city within the region Leeds should plan to meet its own waste management needs and not be reliant upon potential capacity elsewhere (Waste 1). To achieve this aim existing landfill sites across the city, as well as those that have previously granted permission have been safeguarded. As outlined within policy Waste 2 this means that the sites should remain available for waste management purposes and can only be put to other uses if it can be demonstrated that there is no need to retain the site for waste purposes. The land at Station Street/Carlisle Road has been safeguarded as an inert landfill site (site 182). This means that subject to detail, a proposal to fill the cutting with inert material is supported in principle.
- 10.2 The site history also strongly suggests that a proposal to fill the cutting should be supported. The decision notice relating to the two allowed appeals in 2003 explains the background to the applications, noting that the former Pudsey Local Plan proposed that the cutting be reclaimed by landfilling for "amenity purposes as and when resources and priorities permit." This was not carried through to the UDP due to a disagreement between the council and the landowner about the identified end use of the reclaimed land. In reaching his decision the Inspector drew attention to the fact that it was the identified end use of the land, and not the principle of filling the cutting which prevented the land being identified for landfill purposes in the UDP.
- 10.3 An outline application in 2002 sought to infill the cutting and provide residential development on the levelled land; this was also refused and the applicant submitted an appeal. A further outline application for "residential development and site preparation through engineering and landfill works" was submitted in 2003 and the applicants appealed against non-determination. The two appeals were considered together and both were allowed. The appellants also submitted a costs claim which was partially awarded against the council. Essentially the inspector drew attention to the historic identification of the cutting for landfill, gave weight to the reclamation of former industrial land and the provision of housing, and considered that the amenity concerns relating to the filling of the site could be overcome. Because site is now allocated as a safeguarded landfill site within the Natural Resources and Waste Local Plan (site 182) this means that since the allowed appeals there is now a stronger policy case for the infilling of the cutting than when the appeals were allowed.
- 10.4 It is therefore considered that the principle of the development is acceptable and must carry significant material weight.

### Protected Species

- 10.5 Policy G8 notes that development will not be permitted which would...cause harm to the population or conservation status or UK or West Yorkshire Biodiversity Action Plan Priority Species and Habitats. As is identified within the submitted Planning Statement and Bat Activity Surveys there is a known day roost on the Carlisle Road Bridge and bats have previously been identified as roosting within the tunnel, low to moderate levels of bat activity in respect of foraging and commuting behaviour has been observed. This is at both the eastern and western entrances to the tunnel, along the cutting and under the road bridge. The report acknowledges that the wholesale infilling of the cutting would result in significant changes to the Greenside Tunnel, the loss of the roosts and the loss of roosting and foraging opportunities. This observation is noted within a number of the objection letters, and the impact upon bats is a significant concern for residents, the Branch Labour Party and Stuart Andrew MP.
- 10.6 The wholesale infilling of the cutting would undoubtedly have a significant and probably harmful impact upon bats, however the works that are currently proposed are for only the partial infilling of the cutting. As noted above (paragraph 2.2) it is intended to mound the temporary stockpile within the centre of the cutting, grading the material to blend with the southern slope. This will mean that the bat roost on the bridge remains untouched, as do those within the tunnel, and the altered landform will retain a commuting and foraging corridor. A Construction Environmental Management Plan will be required before works commence to identify bat protection zones and ensure that the impacts of construction are avoided or mitigated. This plan will also require times when an ecologist will be present on site to oversee works. A licence from Natural England will also likely be required. As such, with the identified protection measures it is considered that the partial infilling of the cutting will not cause harm to the bats.

#### Visual Amenity / Non-designated Heritage Asset

- 10.7 The National Planning Policy Framework states that “good design is indivisible from good planning” and authorities are encouraged to refuse “development of poor design”, and that which “fails to take the opportunities available for the improving the character and quality of an area and the way it functions, should not be accepted”. Core Strategy Policy P10, Waste 9 of the NRWLP DPD and saved Unitary Development Plan Policy GP5 all seek to ensure that new development is of high quality and protects visual amenity. Policy P11 of the Core Strategy seeks to preserve and enhance the city’s heritage assets, including the 19<sup>th</sup> century transport network and policy P12 requires that the city’s landscapes, including their historical significance will be conserved and enhanced.
- 10.8 The Greenside cutting is not identified as a designated heritage asset; it is neither listed nor located within Pudsey’s Conservation Area. However, it is clear from the level of local interest that the cutting is important and thus should be considered as a locally significant, undesignated heritage asset. As such paragraph 135 of the NPPF is applicable. This notes that when considering the impact of development upon a non-designated heritage asset a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset.
- 10.9 The proposal to partially infill the cutting will have an impact upon its character, but will not lead to its loss. The northern slope of the cutting, as well as the tunnel entrance and the bridge will remain unaltered and be visible aspects of the surrounding streetscape. Thus whilst there will be some change to the landform of

the cutting, its former character will remain discernible and the important elements of its appearance such as the stonework of the tunnel entrance and bridge will remain unaltered. This slight harm to the character of the cutting must be weighed against the strong policy weight for the total infilling (and thus total loss) of the cutting and its associated structures, as well as the fact that the lower level of the cutting means it is not a prominent aspect of the surrounding streetscene(s).

- 10.10 The land itself does not carry any landscape protection or designation. The open areas of land to the south of Pudsey form the Cockersdale River Valley, the key characteristics of which include steep sided valleys, urban settlements on ridge tops, small intact hedged fields, grazed pastures, pockets of arable and market gardening, pockets of industrial development and semi-natural woodland along becks. The site lies some distance from the main River Valley and there is no direct visual connection between the two areas. Landscape colleagues have been consulted on the proposal and raise no objection, noting that the cutting itself is generally inaccessible and is situated within the urban area of Pudsey. A condition will be imposed which ensures that the stockpile is finished with appropriate soils and seeded so that it blends into the current grassed cutting. As such the impact upon general landscape character is not considered to be harmful.
- 10.11 It is acknowledged that the works will cause some harm to a non-designated heritage asset, unfortunately this harm does not outweigh the longstanding support for the infilling of the cutting, the planning history of the site and the current safeguarded status of the land. The proposal is thus acceptable in this regard.

#### Residential and General Amenity

- 10.12 National and Local Planning Policy make it clear that development should protect the amenity of those living and working in proximity to new development. The National Planning Policy for Waste states at Appendix B that when determining planning applications waste planning authorities should consider a range of impacts, including air emissions and dust, odours, as well as noise, light and vibration. These are carried through to a local level within Core Strategy Policy P10, NRWLP policy Waste 9 and saved UDP policy GP5.
- 10.13 The works to partially infill the cutting will take approximately two weeks. It is intended that the material will be lowered into the cutting using a long arm excavator, with two bulldozers used to gradually move the material toward the edge of the cutting. The works therefore have the potential to cause noise and disturbance to surrounding houses from the workings of machinery, and also through the creation of dust as the material is agitated.
- 10.14 As outlined within the submitted Planning Statement it is intended that the works will take place between 08.00 and 17.00 hours, Monday to Friday with no working on Saturdays, Sundays or Bank/Public Holidays. The delivery of plant to the site would take place between the hours of 09.30 and 15.00 hours to avoid peak commuting and school times. The Planning Statement also commits to using vehicle silencers where possible, and to machinery being switched off when not in use. These hours and management commitments will be secured by condition and thus it is considered that there will be no unduly harmful impact upon residential amenity.
- 10.15 The Planning Statement also identifies a number of measures to minimise the impact of dust as the material is being relocated. These include maintaining a



speed limit of 5mph, keeping the site clean and tidy, using mobile sprays to dampen the stockpiles and roads in dry or windy conditions, and the temporary cessation of operations in exceptionally windy conditions. These management commitments will be secured by condition and thus it is considered that there will be no unduly harmful impact upon residential amenity through the creation of excessive dust.

10.16 As such the application is acceptable in this regard.

#### Other Matters

- 10.17 The submitted objection letters make reference to the possibility of utilising the cutting as part of a green cycling and pedestrian network, such as the Spenny Valley Greenway between Dewsbury and Low Moor. Such a proposal would have significant sustainability benefits and help to achieve a number of Core Strategy and wider council objectives relating to carbon reduction, promoting healthy lifestyles and reducing reliance upon private car ownership. Leeds Cycle Campaign object on this specific issue.
- 10.18 Whilst the creation of safe, sustainable transport routes for cyclists and pedestrians is important, there are no firm plans for the creation of such a route within the Pudsey area. Sustrans have been consulted and note that there are longer term ambitions to form a route utilising the disused railway line, however the feasibility of such a route remains uncertain. Sections of the route are currently impassable as a number of bridges have been infilled and one section of the line has been taken into the curtilage of a private development. Whilst a future route might therefore be possible this unfortunately cannot outweigh the longstanding support for the infilling of the cutting, the planning history of the site and the current safeguarded status of the land.
- 10.19 Core Strategy policy T2 and saved UDP policy GP5 note that development proposals must resolve detailed planning considerations and should seek to maximise highway safety; this principle is also noted within Waste 9 of the NRWLP. The application will not generate significant additional traffic movements, with the only notable vehicle movements being the delivery of mobile plant to and from the site. As previously stated this will be timed to ensure that there is not conflict with peak residential and school movements. Highway colleagues are also keen to ensure that the proposed route is agreed, and these matters will be secured by condition. As such, subject to this and the other noted conditions there are no concerns relating to highway safety.
- 10.20 Concern has also been raised in relation to the safety of the material to be deposited, the need to maintain access to the tunnel and bridge structures for maintenance purposes and the presence of the major hazard pipeline. These will be addressed in turn. The material stockpile has been tested and is considered to be suitable for disposal within an inert landfill site. The Environment Agency will ultimately regulate the disposal of the material through their permitting role and will be responsible for ensuring that the material is safe. Access to the bridge and tunnel structures is essentially a private matter that must be resolved between the land owner and Highways England outside the planning process. The presence of the major hazard pipeline is noted, and the Health and Safety Executive have been consulted and do object to the application on safety grounds. Northern Gas Networks have also been consulted but have not offered a response. An

informative will be included with the decision notice advising the applicants of the major hazard pipeline and the interest of Northern Gas Networks.

- 10.21 It is noted that objectors also raise the possibility of future applications to infill the whole cutting and the possible intention of the applicant to construct houses on the land. The site is allocated as a landfill site in the NRWLP and is allocated for housing within the emerging SAP. However, the application currently under consideration is for the partial infilling of the cutting, and any subsequent applications will be considered against the policies that are relevant at that time as well as all other material considerations. As such potential applications that may be submitted at some point in the future do not weigh against the proposal.

## **11.0 CONCLUSION**

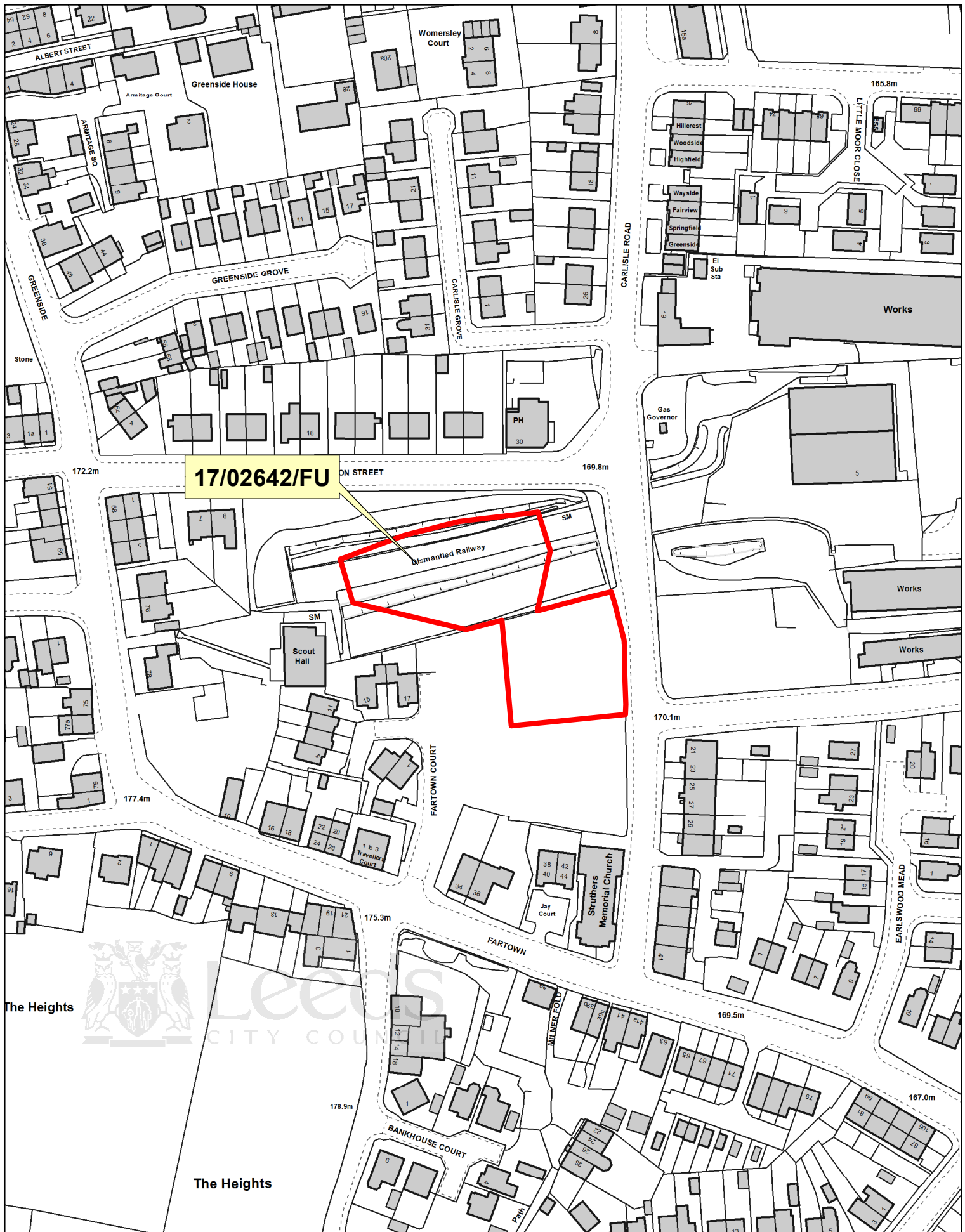
- 11.1 The application is considered to be acceptable. The designation as a safeguarded landfill site carries significant weight, as does the policy and planning history of the site. The slight identified harm to a non-designated heritage asset and the impact upon a potential future greenway do not outweigh this designation. All other matters including residential amenity, the impact upon protected species and highway safety can be adequately mitigated and thus the application is acceptable.

### **Background Papers:**

Application files

15/02642/FU

Certificate of ownership: Certificate A signed by the agent



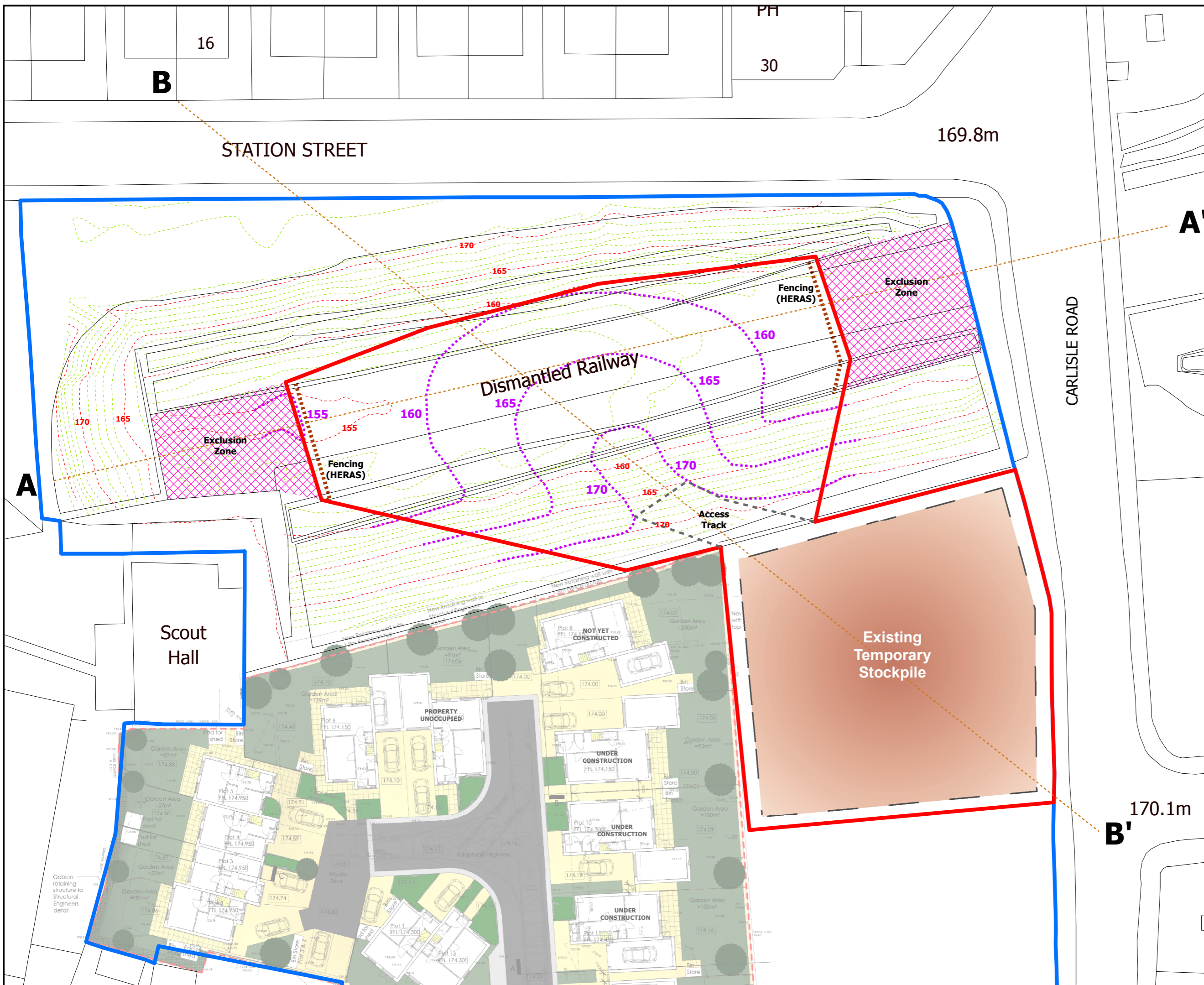
# SOUTH AND WEST PLANS PANEL

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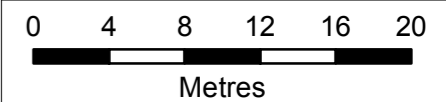
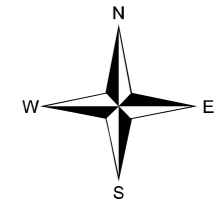
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- Legend:**
- Application Boundary
  - Applicant's Interest
  - Exclusion Area (Bats)
  - Fencing (Bat Protection)
  - Access Track
  - Proposed Infill Contours
  - Existing Contours (5m)
  - Existing Contours (1m)
  - Cross Section Locations

DRAWING FOR PLANNING PURPOSES ONLY  
HEIGHTS IN METRES AOD



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Sheet Size: **A3** Scale of Original: **1:400**



Project:  
**CARLISLE ROAD  
FORMER RAILWAY CUTTING**

Title:  
**PROPOSED LAYOUT**

Office:	Project Ref:	Drawing No:
LEEDS	A102091	<b>2</b>