



## Report of the Chief Planning Officer

### NORTH AND EAST PLANS PANEL

Date: 22<sup>nd</sup> March 2018

**Subject: 17/02450/FU – Variation of condition 1 of previous approval 06/00542/FU to allow changes to the restoration plan and phasing all in line with submitted addendum to the Environmental Statement at Peckfield Landfill Site, Ridge Road, Micklefield.**

#### APPLICANT

Caird Peckfield Ltd

#### DATE VALID

18<sup>th</sup> April 2017

#### TARGET DATE

29th March 2018

#### Electoral Wards Affected:

**Kippax & Methley**

Yes

Ward Members consulted  
(referred to in report)

#### Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

**RECOMMENDATION: DEFER and DELEGATE to the Chief Planning Officer for approval subject to the recommended planning conditions (and any others which he might consider appropriate) and the completion of a Deed of Variation to the existing 2 no. Section 106 agreements. In the circumstances where the Deed of Variation has not been completed within 3 months of the resolution to grant planning permission, the final determination of the application shall be delegated to the Chief Planning Officer.**

1. In accordance with approved plans
2. Deemed implemented on date of issue
- 3 to 4: Timescales for restoration
- 5 to 7: Highway Safety
- 8 to 13: Soil storage and protection
14. Security fence
15. Ensure stability of adjoining land
16. Pit Lane gates
17. Removal of flytipped waste
18. Capacity of balancing pond (north)
19. Liaison group to be set up and attended
20. No blasting

- 21. PD rights removed
- 22. No Haz Waste
- 23. No processing/recycling of waste
- 24. Liquid storage to be bunded
- 25 to 27: limits to dust & noise
- 28 to 30: drainage/flood risk alleviation
- 31 to 44: Restoration and aftercare/landscaping

## **1.0 INTRODUCTION**

- 1.1 This application relates to an existing landfill site situated at a former quarry near the village of Micklefield between Garforth and Aberford. The site accepts non-hazardous putrescible waste with a general classification of industrial and commercial, ie mainly residual waste transferred from recycling centres. The waste can be odorous and gives rise to landfill gas and leachate, both of which are collected on site. Leachate is exported for disposal at a licenced facility, the gas is used to power four generators located on site. Electricity produced by the generators is fed to the grid.
- 1.2 Leeds City Council's former Safer and Stronger Communities Board undertook an inquiry into the management of the landfill site during 2014/15 following a formal public request. The inquiry concluded in March 2015 and a report setting out the Scrutiny Board's findings and recommendations was published in April 2015. The successor Environment and Housing Scrutiny Board monitored the implementation of the recommendations made by the inquiry until the issuing of its Position Report in May 2017. Paragraph 5 of the Position Statement referred to the planning application under consideration and states that a decision should be recommended to the North and East Plans Panel.
- 1.3 The Chair considers that the current application should be referred to the relevant Plans Panel for determination because of the significance, impact or sensitivity of the proposal.

## **2.0 PROPOSAL:**

- 2.1 The proposal is for an amendment to the approved phasing and final restoration plan to allow a low-level restoration of an area of the site known as the 'Eastern Neb'. Rather than being filled to a previously approved level in general conformity with the surrounding landscape, the proposal is to part-fill the area with inert waste then engineer a drainage pond to accept surface water run-off from the surrounding land. The pond would soakaway to the underlying aquifer. The phasing implications of this are that the Eastern Neb will now be restored concurrently with the active cell (cell 11), rather than prior to it. Planting to the adjacent phases will also have to work round the continued use of the haul road which accesses the Eastern Neb. A previous amendment to the restoration scheme, which effectively acts as the main permission for the landfill activities, was considered to be Environment Impact Assessment development. As a subsequent application, the current proposal also falls to be considered Environmental Impact development as a matter of course. As such, an addendum to the Environmental Statement addressing the issues raised by the current proposal has been submitted.

## **3.0 SITE AND SURROUNDINGS:**

- 3.1 The site forms part of the Green Belt surrounding the Leeds urban area. The

closest settlement is the village of Micklefield which lies approximately 200m, at its closest point, from the boundary of the site. Further afield, the settlements of Garforth and Aberford are approximately 2km and 3km distant. The underlying geology of the area is known as Magnesian Limestone which, as well as being an important mineral resource, also gives rise to particular conditions on the surface which influence the flora and fauna to be found there. Consequently the way in which this former quarry is restored should be approached by taking its landscape and ecological setting into account. A large portion of the site has already been restored, prior to the current operator's tenure, and can be characterised as being well established woodland, pastureland with a wetland area to the north-west. More recent restored areas of the landfill can be found immediately surrounding the void area which is in the southern part of the site. These areas have not yet established and are subject to a regime of maintenance and aftercare. Beyond the site's boundaries can be found agricultural fields and a low-density scattering of dwellings. Pit Lane runs adjacent to the site and along here there are residential dwellings and, further along a small light industrial estate.

- 3.2 The Eastern Neb is a discrete area still accessible from the main void to the south as well as via the rim of the void to the north-west. Access from the south will become increasingly restricted as restoration of this area approaches completion, with the main vehicular access being from a haul road to the north-west. This road cuts across a recently restored area and will be removed once operations are complete. Access will still be required to the Eastern Neb for monitoring and maintenance purposes so some sort of access track is to be expected as a permanent feature of the landscape as a consequence of the current proposal.

#### **4.0 RELEVANT PLANNING HISTORY:**

- 4.1 H33/244/75 - First permission for limestone extraction, approved 25.09.75
- H33/264/88/ - Amended permission, including S106 agreement, approved 02.01.90
- 33/230/92/FU - Office, toilets, weighbridge and wheel wash, approved 17.08.92
- 33/191/98/MIN - Landfill gas electricity generating plant and flare stack, approved 17.09.98
- 06/00542/FU - Current permission for extraction and subsequent landfill, approved 11.09.06
- 12/02453/FU - Additional gas engine and flare, approved 25.09.15
- 13/03756/FU - Site office area and storage compound, approved 05.11.13

#### **5.0 HISTORY OF NEGOTIATIONS:**

- 5.1 In 2016 waste planning officers raised concerns that that the pace of restoration on the landfill site was generally slow in comparison to the rapid rate of infilling. Site inspections of the landfill site identified that the approved phasing arrangement for the latter phases of infilling operations was not being strictly adhered to by the landfill operator. It was also noted that the Eastern Neb had been permitted by the Environment Agency to be infilled with inert waste rather than non-hazardous putrescible waste, as approved in the detail of the extant planning permission. Some alternative access issues were also likely to negatively impact on the final restoration of the landfill site. Waste planning officers sought to expediently resolve

these issues by entering into formal discussions with the landfill operator and a formal request was made for these issues to be addressed at the earliest time, to avoid further delays in the swift restoration of the site.

- 5.2 The circumstances surrounding the case has created a situation where an amended restoration scheme is technically the only viable option available to the landfill operator. The alternative would be for the landfill operator to seek to amend its Environmental Permit to re-align the infilling of the Eastern Neb with the extant planning permission. This is not something that is likely to be accepted by the Environment Agency for pollution prevention reasons specific to odour reduction.

## **6.0 PUBLIC/LOCAL RESPONSE:**

- 6.1 The application was advertised as a major planning application including Environmental Impact Assessment development. The Secretary of State was notified, site notices were posted around Micklefield and close neighbours were notified by letter. The application was also advertised in the Yorkshire Evening Post on 02.05.17. Micklefield Parish Council were also notified.

- 6.2 Two letters of representation have been received from members of the public raising the following concerns:

- The aftercare of the whole site should include trimming the hedging along the north-western boundary adjacent to Pit Lane;
- Fly-tipping has occurred from Pit Lane;
- The potential for pollution of the underlying aquifer – current and future maintenance would be required and this is not guaranteed;
- The drainage channels feeding the proposed waterbody may cause flooding;
- Public Safety issues concerning a waterbody adjacent to the boundary of the site; and,
- The filling of the Eastern Neb to previously agreed levels with inert waste would be preferable.

- 6.3 The extant planning permission requires the landfill operator to hold regular community liaison meetings with members of the local community, in accordance with the Council's 'Memorandum for the operation of liaison groups for mineral working, waste management and energy sites' (Jan, 2016). The landfill operator holds quarterly meetings with the Community Liaison Committee (member of the public, Ward Members and the Waste Planning Authority) generally in accordance with the agreed constitution. The group has been kept abreast of the content of the planning application and its progress by officers and the landfill operator. The concerns identified in para. 6.2 have also been discussed at the liaison group meetings.

## **7.0 CONSULTATIONS RESPONSES:**

### Statutory

- 7.1 Environment Agency – no objection, initial objection relating to security of groundwater resource, overcome by a supplementary report;  
Coal Authority – requested to refer to the Standing Advice as laid out in the consultation response;

Highways - no objection;

Natural England - agree with the advice provided by the Council's Ecologist below.

## Non-statutory

Flood Risk Manager - no objection subject to planning condition to secure compliance with the submitted drainage scheme;  
Landscape Team - no objection subject to planning condition to ensure the submitted aftercare scheme is adhered to;  
Nature Team - the site (once restored) should be managed by an organisation such as the Land Trust or Yorkshire Wildlife Trust;  
Public Rights of Way – no objection but would like to be kept informed of any relevant issues;  
Contaminated Land – no comments to be provided;  
Open Spaces Society – no response received.

## **8.0 PLANNING POLICIES:**

### Local

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2 The policy guidance in Annex 1 to the National Planning Policy Framework (NPPF) is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. All policies outlined below are considered to align fully with the NPPF and National Planning Policy for Waste (NPPW).
- 8.3 The adopted Leeds development plan consists of:  
  
Leeds Core Strategy (Adopted 2014, Reviewed 2016);  
Leeds Natural Resources and Waste Local Plan (Adopted 2013/15);  
Saved policies of the Leeds Unitary Development Plan (Reviewed 2006);  
Aire Valley Leeds Area Action Plan (Adopted 2017).  
Any made Neighbourhood Plans.
- 8.4 The development plan policies, supplementary development documents and national guidance as outlined below are considered to be relevant to this application.  
  
Core Strategy 2014 policies:
- 8.5 General Policy: The Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework;  
Policy G8: Protection of important species and habitats;  
Policy G9: Biodiversity improvements;  
Policy SP13: Strategic Green Infrastructure.
- Unitary Development Plan Review 2006 saved policies:
- 8.6 Policy GP5: Refers to detailed planning considerations and any loss of amenity;  
Policy N32: Site located in the Green Belt;

Policy N33: Development in the Green Belt  
Policy N37: Special Landscape Area (adjacent).

Natural Resources and Waste Local Plan 2013/15 policies:

- 8.7 GP1 The Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework;
- Minerals 4: Safeguarding existing minerals sites;  
Minerals 10: Restoration of minerals sites;  
Waste 1: Self-sufficiency for future waste management in Leeds;  
Waste 2: Safeguarding existing waste management capacity;  
Waste 9: Environmental and amenity considerations for waste development;  
Waste 11: Landfill and landraising sites;  
Water 2: Protection of water quality;  
Water 7: Surface water run-off;  
Land 2: Conservation and introduction of trees.

National Policies:

- 8.8 National Planning Policy Framework (NPPF) (2012):  
Presumption in favour of sustainable development.  
Development in the Green belt  
Enhancing the natural environment  
Promoting healthy communities.
- National Planning Policy for Waste (NPPW) (2014):  
Waste Hierarchy  
Determination of planning applications.
- National Planning Practice Guidance (NPPG/PPG) (2018):  
Supporting Guidance including advice on conditions and legal agreements.

## 9.0 MAIN ISSUES

- 1) Principle
- 2) Greenbelt
- 3) Impacts on amenity
- 4) Final Landform
- 5) Landscaping
- 6) Ecology
- 7) Drainage
- 8) Highways
- 9) Representations
- 10) Planning Conditions
- 11) Planning Obligations

## 10.0 APPRAISAL

### Principle

#### *Safeguarding Existing Waste Management Capacity*

- 10.1 The proposal involves the reduction of the site's landfill capacity by approximately 91,000 cubic metres. Policy Waste 2 states that existing waste management sites shown on the Policies Map are safeguarded for continued use during the plan period. Peckfield Landfill is an identified safeguarded site. Applications for a

change of use must demonstrate that there is no longer a need to retain the site for waste management purposes or there is an overriding case for the proposed development that outweighs the need to retain the site for waste management purposes. In this case changes to the Environmental Permit means that this part of the site is no longer available for the purposes it was safeguarded for, ie. the disposal of mixed solid waste. This would leave the Eastern Neb available only for inert construction, demolition and excavation waste.

- 10.2 Whilst the proposal offers a notable reduction in the volume of material required to complete the landfill, it should be recognised that the sourcing and securing of the required volume of inert waste to wholly backfill the Eastern Neb to level is likely to take the landfill operation beyond its currently approved end date of 2020 (stipulated in Condition 3). A time extension to the end date for the purposes of this proposal would not be supported by officers. It is also not considered to be best practice for the Eastern Neb to be filled to level with inert waste which could otherwise be recycled and re-used rather than landfilled. This is entirely in accordance with the national waste hierarchy as defined within the NPPW.
- 10.3 Furthermore, the alternative proposed scheme is considered to improve land drainage and provide some spare capacity for surface and flood waters. The creation of the proposed waterbody would also support ecological diversity and allow species suited to wetland areas to establish.

#### *Safeguarding Mineral Extraction Sites*

- 10.4 Peckfield Quarry is a safeguarded minerals site in the adopted Leeds development plan. Policy Minerals 4 stipulates that applications for change of use will be required to demonstrate that there is no longer a need for the site for mineral purposes. As extraction at this site was completed and ceased in 2010, restoration is well under way and as such, there is demonstrably no longer a need for the site to be safeguarded for mineral purposes.

#### *Green Belt*

- 10.5 With regard to the proposal site's location within the Green Belt, the principles of extraction and subsequent infilling have been previously established, most recently in and by planning permission ref. 06/00542/FU. Paragraph 90 of the NPPF states that mineral extraction is not inappropriate development provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The current proposal is for the decrease of the amount of landfill to the part of the former quarry known as the 'Eastern Neb' and consequent amendments to restoration and aftercare phasing that this will require. The land will be returned to nature, providing a drainage pond instead of trees, although replacement trees will be planted elsewhere. None of the work proposed is considered to reduce openness or conflict with the purposes of including land within the Green Belt and the proposal is considered to be not inappropriate.
- 10.6 With regard to the restoration scheme as a whole, the creation of a new landform which will be landscaped and put to an agricultural use, is not considered to be inappropriate development in accordance with paragraph 90. It is considered that the final landform and use will preserve the openness of the Green Belt and will not conflict with the purposes of including land within it. On the whole the principle of the proposal to reduce the volume of material required to complete the Eastern Neb and provide an additional waterbody for drainage purposes is considered to be acceptable development in the Green Belt.

#### Amenity

- 10.7 Policy Waste 9 requires consideration to be given to the duration of development and other amenity aspects such as noise, dust, litter, odour, vermin and gas emissions. In this case, the terms of the Environmental Permit issued by the Environment Agency have been amended to allow the Eastern Neb to be filled with inert rather than non-hazardous putrescible waste. The proposed solution posed in the application is therefore considered to be an improvement for local amenity than the existing permission currently allows. The creation of a drainage waterbody would also assist to ensure that the expected completion date for landfilling will be met, something which should be afforded significant weight. The discrete nature of the proposal is therefore considered to be acceptable with regard to local amenity.

#### Landform

- 10.8 Policy Minerals 10 states that proposals for the restoration of former minerals sites must demonstrate that site-specific conditions together with local characteristics and initiatives have been fully reflected in the proposed scheme. Proposals which can be shown to be feasible and will enhance the environmental quality and biodiversity of a particular area will be supported. Policy Waste 9 requires consideration to be given to visual amenity and Policy N37 requires consideration for the adjacent Special Landscape Area. The proposal involves a significant amendment to the final landform to that which was previously permitted. The existing void of the Eastern Neb is not now to be filled to meet surrounding land levels and will therefore be left as a water containment area. The area would be steeply sloped on three sides, with bush planting provided to soften the visual impact and help to keep the area secure, along with appropriate boundary fencing. The fourth side would consist of a gentler slope, intended to create a wetland fringe area. It is likely that the collection pond would drain during dry periods and would reach its full depth only in times of excessive rainfall. The new drainage feature would help to protect the surrounding landscape from flooding during times of inundation and should also prevent waterlogging of adjacent agricultural land during normal conditions. The adjacent Special Landscape Area is woodland and would not be harmed by this feature and, given the biodiversity and drainage benefits, may well be enhanced by it. Surrounding planting will ensure that, from a distance the landscape will be continue to be read as woodland, with views of the pond being restricted to within the boundaries of the site and within the immediate vicinity. Should the site, at some point, be opened up for public access, the proposed wetland area would help to create a more diverse landscape, visually as well as ecologically, than the current permission provides.

The proposed new landform is considered to be a beneficial addition to the landscape and is acceptable with regard to restoration and Special Landscape Area policies.

#### Landscaping

- 10.9 Policy Waste 9 requires consideration, where appropriate, of restoration and aftercare. Policy N37 also requires consideration for the adjacent Special Landscape Area. The Environmental Statement Addendum, submitted by the applicant in support of the application focuses primarily on restoration and aftercare of the site. According to this document, the restoration concept for the whole site will be unaffected by the proposed amendments and have been used to guide the amended restoration proposals for the Eastern Neb. To compensate for the reduced area of proposed woodland on the Eastern Neb itself, additional woodland planting is proposed along the slopes of the eastern boundary, north of the Eastern



Neb. As well as ecological benefits, this will help to visually integrate the new landscape into its surroundings and assist to soften the visual effect of the steep eastern slopes.

- 10.10 With regard to aftercare, a scheme was approved in 2015 and this has been re-submitted as part of the current proposal. The Environmental Statement addendum brings the scheme up to date and includes aftercare arrangements for the Eastern Neb. The Council's Landscape Team are satisfied with the restoration and aftercare proposals for the site, provided that the approved measures are implemented by the landfill operator and a planning condition is applied to ensure that the updated details are also implemented.
- 10.11 Some parts of the aftercare plan go beyond 5 years. The NPPG advises that aftercare cannot be imposed on operators without their agreement. Although such agreement is implicit within the submission, it is recommended that, as the current S106 agreement requires amendment anyway (see below) formal agreement to aftercare for a lengthier period is agreed and incorporated into an amended S106 Agreement. This could also include a commitment to review and secure options for parts of the restored site to be opened to the public, or parts of the site to public access if it is considered appropriate and safe to do so once restoration is complete and aftercare requirements are less.
- 10.12 On the whole, the landscaping proposals for the landfill site, including the Eastern Neb, are considered to comply with planning policy, subject to the above.

#### Ecology

- 10.13 Policy Waste 9 also requires consideration to be given to ecological impacts of waste proposals. The Environmental Statement Addendum states that the opportunity has been taken to develop wetland and damp grassland habitats within the bowl part of the Eastern Neb, increasing the overall biodiversity of the site. As the waterbody is designed as a flood attenuation area relying on percolation of the water to ground, the waterbody levels will vary considerably and it will be dry at some times, although likely to be continuously damp (likened to a Swale). Thus, within the basic engineering design, minor variation in landform will be introduced to create damp and drier microhabitats around the pond. The maximum depth of the pond will be 3 metres, to discourage infilling with reeds and provide open water. The varied pond margins will provide a habitat for a range emergent and marginal species providing shelter and food sources for invertebrates, small mammals and insects. The shelf of the waterbody will be developed to provide an open grassland occasionally inundated with water. Scrapes and minor undulations across the shelf area will create ephemeral water areas and a mosaic of wet and dry microhabitats. A progression of habitats will be created from aquatic to water's edge through damp grassland, drier open grassland then woodland on the slopes.
- 10.14 The Council's Ecologist has requested that the entire site (or majority which is being restored for ecological enhancements be entered into an agreement with an appropriate body such as the Land Trust or Yorkshire Wildlife Trust whom have experience in managing sites for both wildlife and controlled public access. Unfortunately this cannot be imposed as a planning condition as the NPPG only allows a 5-year aftercare term to be imposed in planning permissions but it could be delivered, via agreement, in an amended S106 Agreement.
- 10.15 The matter was raised with the applicant and the response was that whilst management of the site will be on-going for the longer term, a formal arrangement

with a third party would not be viable due to existing contractual arrangements with Arevon Energy, who manage gas emissions at the landfill site. The operator has, however, agreed to extend formal aftercare arrangements from 5 to 10 years via an amended S106 Agreement.

- 10.16 The Councils' Ecologist has also requested a programme of botanical monitoring for the calcareous grassland to ensure target species diversity. This is recommended to be required as part of the aftercare agreement within an amended S106 Agreement.
- 10.17 Natural England were consulted and agree with the advice of the Council's Ecologist about the restoration of areas to calcareous grassland.

#### Drainage

- 10.18 Policy Waste 9 requires consideration to be given to drainage and use of sustainable drainage, and protection of controlled waters. The current proposal is designed to assist with management of surface water run-off, especially during times of inundation. Policy Water 2 requires existing water resources to be protected from pollution. The Environment Agency have been consulted with regard to the potential for pollution of the underlying aquifer from the proposed soakaway. The Agency have come to the view that the appropriate level of monitoring and management can be put in place via the Environmental Permit to ensure that no landfill leachate finds its way either into the proposed waterbody or the underlying aquifer. The Council's Flood Risk Management Team do not object to the proposal, subject to a condition requiring Infiltration test results.

#### Highways

- 10.19 Policy Waste 9 requires consideration to be given to highway safety issues. The Highways Team are satisfied that the proposal will result in fewer traffic movements and is therefore beneficial from a highways perspective.
- 10.20 With regard to public rights of way, no existing footpaths will be affected by the proposal. The potential for opening the site to public access will be considered as part of the aftercare arrangements to be secured via an amended S106 Agreement.

#### Other Issues

- 10.21 The only remaining issue to be dealt with in association with policy Waste 9 is the impact of the proposal on the historic environment. There are no known designated heritage assets in the vicinity of the proposed site and none of known archaeological significance has been flagged up by the West Yorkshire Archaeological Advisory Service.
- 10.22 An addendum has been submitted to the existing Environmental Statement prior to the Regulation change in May 2017. The environmental impacts covered by the addendum are considered to be relevant to the proposed changes to the permitted restoration scheme. The addendum has been assessed and is considered to be acceptable in association with the Ground Water Risk Assessment received by on 26.07.17 and the Revised Surface Water Management Plan received on 23.11.17.

#### Representations

- 10.23 Objections have been raised with regard to boundary planting along Pit Lane and specifically with the proposed amendment to the restoration scheme. With regard to the planting on Pit Lane, this would be a separate matter to be dealt with as part of the general maintenance and aftercare of the site. With regard to the concerns raised about the Eastern Neb restoration, these relate to the potential for pollution by leachate accessing the underlying aquifer, the potential for flooding of adjacent properties from the channels which direct water from the boundaries to the pond, and safety issues associated with a water body adjacent to the boundary of the site.
- 10.24 The objector suggests that the existing cap for the adjacent landfill would not be secure and that it would require an intensive maintenance programme which the operator may not carry out. Originally, further details were requested by the Environment Agency in order that they could make an assessment with regard to the potential for leachate to be released into the groundwater beneath the Eastern Neb. The Agency removed its objection on provision of this information, stating that is now satisfied that the risks posed to groundwater can be satisfactorily managed. As such, a refusal on this ground could not be sustained.
- 10.25 In respect of potential flooding, the main waterbody and associated swales are designed to ensure surface water run-off does not primarily drain onto adjacent land. The risk would therefore be increased if this system were not introduced. Previous saturation of the land close to the north-west corner of the site, where a pond is required by the current planning permission, has demonstrated that without some sort of mitigation surrounding land is indeed affected. Percolation tests have shown that this area does not drain very well and the proposed waterbody would not serve their purpose, possibly due to the surrounding topography and underlying geology. The use of the Eastern Neb area for drainage is therefore considered to be beneficial to the overall surface drainage of the site.
- 10.26 With regard to public safety, the operator/landowner would be constrained by Health and Safety regulations to ensure adequate measures were in place to prevent unauthorised access onto the site. In this case, fencing would prevent this, along with shrub planting along the steeper slopes at the boundary. If public footpaths were to be provided in the future, the health and safety aspects would have to be considered at that stage and could ultimately result in a decision not to allow public access to this or other areas. This is the main reason for not insisting on public access at this stage but to require the feasibility of public access to be assessed once restoration is complete and aftercare is underway.
- 10.27 Finally, the objector expresses a preference for the approved scheme to be continued. This would require the Eastern Neb to be filled to a higher level, around 1.5m lower (pre-settlement) than the adjacent field (and therefore using putrescible waste). This would create a soakaway for run off from all of the surrounding land which would also be planted with trees. Excess water would therefore be drained into the underlying aquifer in exactly the same way as proposed but if the area was constantly boggy the tree planting would be unlikely to establish. The proposal includes tree planting in surrounding areas which would both soften the surrounding slopes and provide an equivalent continuation of tree cover.
- 10.28 If an Environmental Permit was not granted for filling the Eastern Neb with putrescible waste, inert construction and demolition waste would have to be used. This tends to be mostly recyclable and would result in a movement down the waste hierarchy from recycling to disposal which would be less acceptable in terms of national and local waste planning policy. The use of inert fill would result in more

traffic movements and a higher risk of dust and noise being emitted from the site. Also, the use of inert would, according to research undertaken by the applicant, result in a longer timeframe being required than the current 2020 deadline. The current Section 106 agreement, which would remain in place if the current application were to be refused, requires an alternative restoration scheme to be provided and approved in the event that it is shown that the amount of waste available will not be sufficient to complete operations by the 2020 deadline. The Council would therefore, in all likelihood, be required to assess the current proposal, or something similar in line with this requirement of the Section 106 agreement. At that point we would be less well placed to secure the additional aftercare commitments which have been agreed in principle under this application. It must be pointed out that the Council would not be in a position, under the terms of the current agreement or through planning conditions, to require the operator to backfill the Eastern Neb to approved levels in the approved timescale. The Council could only compel the operator to cease works in 2020 whatever stage they happened to be at. The recommendation is therefore to allow for the proposed development to take place at this stage.

#### Use of Planning Conditions

- 10.29 The main powers relating to local planning authority use of conditions are in sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”.
- 10.30 The NPPG states that the purpose of imposing planning conditions on planning permissions is to enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls.
- 10.31 Paragraph 203 of the National Planning Policy Framework states “Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”.
- 10.32 Paragraph 206 of the National Planning Policy Framework states “Planning conditions should only be imposed where they are:
- 1.necessary;
  - 2.relevant to planning and;
  - 3.to the development to be permitted;
  - 4.enforceable;
  - 5.precise and;
  - 6.reasonable in all other respects.”
- 10.33 The applicant proposes the variation of condition no. 1 of planning permission 06/00542/FU to allow changes to the permitted restoration plan and phasing which has been assessed above as being acceptable to the Council and the relevant consultation bodies.
- 10.34 If the current application is permitted, it is recommended that the remaining conditions attached to the current planning permission ref. 06/00542/FU be

transferred to the new permission with the following amendments to take account of the current situation on site:

- Condition 3: remove reference to mineral extraction;
- Condition 6: amend to allow for on-going review of the wheelwash facilities;
- Condition 13: remove as it relates to mineral extraction and is no longer relevant;
- Condition 20: remove as the issue of liaison should form part of the S106 agreement;
- Condition 25: remove because the required bunds are now interfering with progressive restoration of the site;
- Condition 26: remove because monitoring of methane and leachate is primarily carried out by the Environment Agency (under the Environmental Protection Regulations and the Environmental Permitting (England & Wales) Regulations 2016). The Agency has pursued legal action to resolve Permit breaches primarily relating to odour. The condition is therefore unnecessary;
- Condition 30 - remove as it relates to mineral extraction;
- Condition 41: amend to take into account of proposed plans;
- Condition 42: amend as the required planting has been carried out and the associated 5-year aftercare period has ended;
- Condition 43: amended to account for subsequent approved plans;
- Condition 45: amended to take into account of proposed drainage details.

10.35 Subject to the above amendments the imposition of the recommended planning conditions to any grant of planning permission is considered to meet the tests set in paragraph 206 of the NPPF.

#### Planning Obligations

- 10.36 A S106 agreement currently exists, attached to planning permission ref. 06/00542/FU. This requires the completion of landfill operations by 20.09.20 and the completion of restoration by 30.09.22. It also requires the submission of details relating to the rate of infilling with a requirement for the submission of an amended restoration landform in the event that infill targets can't be met in the agreed timescales. The agreement will require amendment to take account of the new permission, if Panel is minded to grant planning permission.
- 10.37 There is also an agreement attached to an earlier planning permission (ref. H33/264/88/) which remains valid. The requirements of this agreement relate to the provision of an access, which has since been provided and remains in place, and for the provision of systems to prevent escape of methane gas. This was put in place before the Environment Agency was set up and its requirements now form part of the Environmental Permitting regime. This clause is therefore no longer required and an up to date agreement can revoke this agreement.
- 10.38 As part of their inquiry into the management of the site, the Environment and Housing Scrutiny Board requested waste planning officers to investigate and consider the possibility of securing a financial bond by way of an amended S106 Agreement to cover the cost of final restoration in the event that the landfill operator finds itself in financial difficulty or abandons the landfill site. However, it was acknowledged in paragraph 32 of the Scrutiny Board's Position Statement (May 2017) that the NPPF does not give the same scope for seeking financial bonds for

waste development as it does for minerals development. It is not considered reasonable for a financial contribution to be secured in this particular instance.

- 10.39 A bond for over £3.5 million is already lodged with a bondsman, for the purposes of securing the Environmental Permit, which covers environmental monitoring, capping, cap maintenance, leachate management, landfill gas management, surface water management, security (fencing and gates), production of site reports and specified events. Landform, topsoil, seeding and tree planting are not included except for where they form part of the cap protection. As the cap covers a significant part of the site soils are largely covered under this bond. Landform depends on the amount of fill and the current application is aimed at providing a final landform which is acceptable from a visual amenity perspective. For the costs of the remainder, (the final soil layer, cultivation, seeding and tree planting), officers are advised that the income from the on-site landfill gas generating facility will be utilised.
- 10.40 The Applicants have however agreed to enter in to a deed of variation to vary the extant S106 agreements to apply to this application and include a further paragraph requiring a scheme detailing the expenditure and aftercare of the Site for a period of 10 years beyond completion of landfilling including details of proposed income and expenditure for the restoration and aftercare to be submitted to and agreed by the Council. The NPPG states that any aftercare beyond 5 years must be agreed with the operator. In this case, to address local concern, the applicant has agreed to a ten year commitment, along with the provision of financial details to show how this can be achieved.

## **11.0 CONCLUSION**

- 11.1 The proposal consists of an amendment to the phasing and restoration at an established and safeguarded landfill site. With regard to all other material planning considerations, the proposal is unlikely to cause significant harm and is appropriate to the surrounding landscape. The proposed development does not constitute inappropriate development in the Green Belt as the re-phasing and restoration operations would not, in the longer term, harm the openness of the Green Belt and does not conflict with the purposes of including land within it. Account has been taken of the Environmental Assessment information provided in the applicant's Environmental Assessment Addendum. Mitigation can be secured to reduce and/or prevent land-use associated amenity impacts to acceptable levels. As the proposal does not conflict with any relevant policies and a financial bond in this instance cannot be secured and justified, it is considered that there are no material planning considerations that could outweigh local or national planning policy. As such, a recommendation for approval of planning permission is made, subject to a detailed schedule of planning conditions and an amended S106 Agreement.

### **Background Papers:**









Planning Application refs. 17/02450/FU and 06/00542/FU.

Certificate of ownership: Certificate A signed by the Agent.



Environment and Housing Scrutiny Board Position Paper, May 2017.



**KEY**

-  Woodland planting
-  Woodland edge/shrub planting
-  Calcaereous grassland
-  Agricultural grassland
-  Hedgerows.
-  Stock proof fencing (and gates)
-  Ditches and water bodies
-  Final restoration contours. 2m contour intervals

'EASTERN NEB'  
See detail dwg CB/P/406/5

(Post settlement restoration contours shown- as on dwg no CPL/PFLS/TS-03)

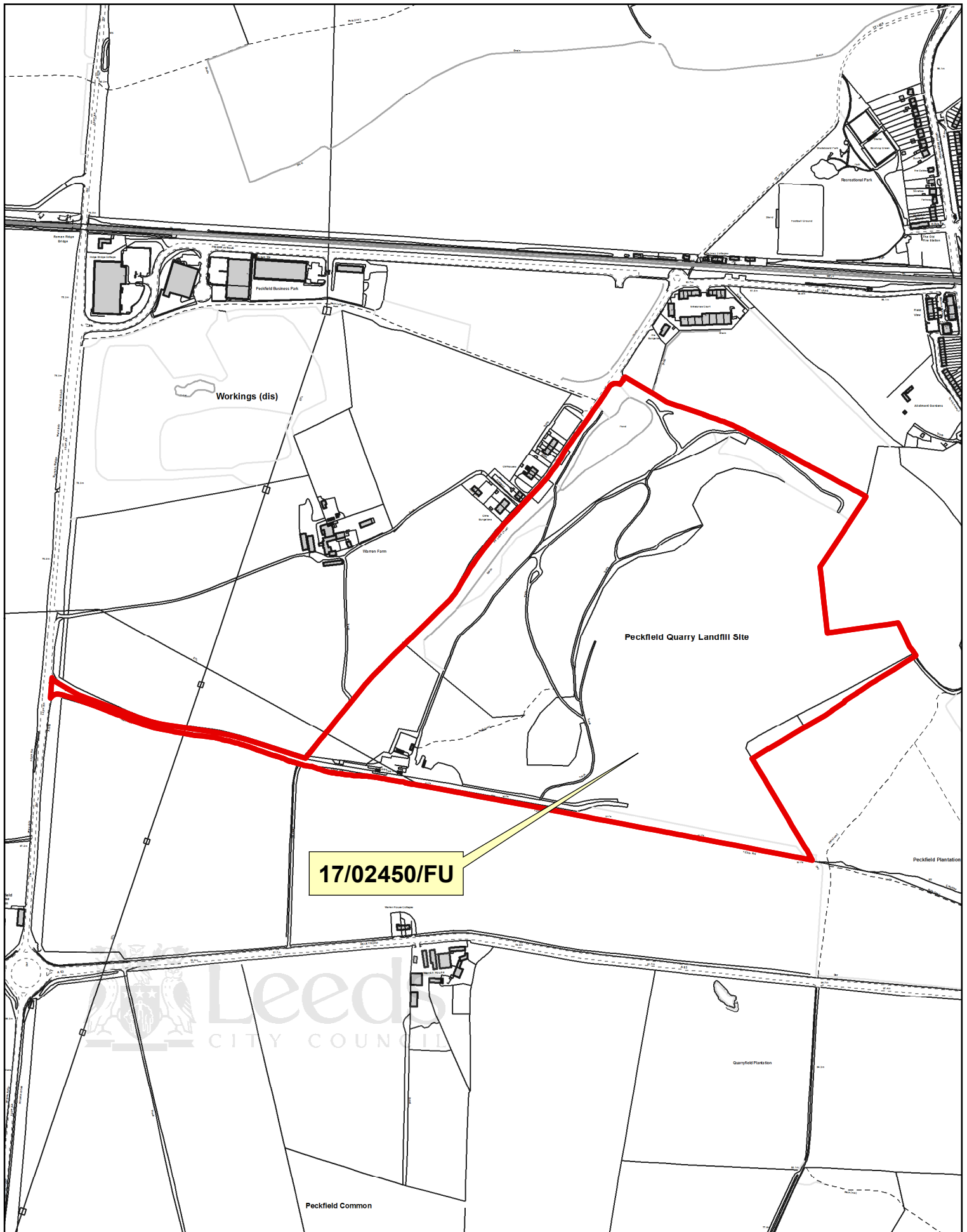
Rev A. 2 Aug 17. Revised post settlement contours added

client <b>Caird Peckfield Ltd</b>	project <b>PECKFIELD LANDFILL SITE</b>	drawing title <b>REVISED RESTORATION</b>			
		drawing scale <b>As shown at @ A3</b>	date <b>March 17</b>	drwn by <b>CTF</b>	drawing no <b>CB/P/406/1a</b>



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# NORTH AND EAST PLANS PANEL

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

SCALE : 1/7500

