



Planning Statement

S73 application to vary approved application reference
2017/62/91676/W – Haggwood Quarry, 23 Crossland Edge, Holmfirth,
Meltham, HD3 5RS

for Abacus Stone Sales Ltd

Emery Planning project number: 19-563

Project : 19-563
Site address : Haggwood Quarry, 23
Crossland Edge,
Holmforth, Meltham,
HD3 5RS
Client : Abacus Stone Sales Ltd

Date : 28 August 2020
Author : Lynn Jones

Approved by : Rawdon Gascoigne

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1. Introduction

- 1.1 This application seeks planning permission to vary the planning conditions for planning permission reference 2017/62/91676/W.
- 1.2 The planning permission has been implemented and works on site are underway. However, recent excavations for the construction of the approved road have uncovered an adjacent area of 'made ground' which has become unstable and has partially collapsed. Engineering works are required to stabilise the ground and prevent further collapse of the slope. These works necessitate a deviation from the approved drawings and amendments to the Tree Protection Plan, Arboricultural Method Statement and Planting Scheme (referred to in the decision notice).

2. The application

- 2.1 The application seeks to vary the following conditions:

- 2) *The development hereby permitted shall be carried out in complete accordance with the following approved plans and specifications submitted in support of the planning application except as may be required by other conditions attached to this permission, which in all cases shall take precedence: Drawing No. (0-)04 'Site Location Plan'; Drawing No. (0-)03 Rev F 'Proposed Site Plan*
- 9) *The development hereby permitted shall be carried out in accordance with the amended supporting Arboricultural Method Statement, Ref: 12757-F/AJB, revised on 15 November 2017*
- 11) *Within 7 days of any tree works being carried out on site, written and photographic evidence demonstrating that the arboricultural supervision detailed in Sections 2.2 and 3.1 of the Arboricultural Method Statement (Ref: 12757-F/AJB, revised 15 November 2017) was carried out shall be submitted to the Local Planning Authority.*
- 12) *The planting scheme specified in the Arboricultural Method Statement (Ref: 12757-F/AJB revised on 15 November 2017) shall be fully implemented within 12 months of the commencement of the development hereby permitted.*

- 2.2 The proposed revised wording for the above conditions is suggested as follows:

- 2) *The development hereby permitted shall be carried out in complete accordance with the following approved plans and specifications submitted in support of the planning application except as may be required by other conditions attached to this permission, which in all cases shall take*

precedence: Drawing No. (0-)04 'Site Location Plan'; Drawing No. (0-)01B 'Proposed Site Plan and Sections S73'

9) *The development hereby permitted shall be carried out in accordance with the amended supporting Arboricultural Method Statement, Ref: 16082/AJB*

11) *Written and photographic evidence demonstrating that the appointed arboriculturalist has inspected the protective fencing referred to at section 3.1 of the Amended Arboricultural Method Statement (Ref: 16082/AJB) and confirmed that it is in the correct position and has been constructed in accordance with the Method Statement, shall be submitted to the Local Planning Authority prior to any further work being undertaken on the construction of the access road, or in connection with the engineering and reprofiling works approved under this application.*

12) *The planting scheme specified in the Amended Arboricultural Method Statement (Ref: 16082/AJB) shall be fully implemented within 12 months of the commencement of the development hereby permitted.*

2.3 The variation of the conditions in the manner proposed will enable:

- Re-profilng of the slope to the West of the new access road and a retaining wall to be constructed in order to stabilise the land and safeguard high quality trees and allow the development to be completed as approved.
- The removal of a small number of lower quality trees not marked for removal on the original permission and removal of the remaining trees that were originally approved for removal, to facilitate the engineering/stabilisation works.
- An enhanced tree planting scheme to compensate for the additional tree loss.
- Adherence to an updated Arboricultural Method Statement that has been prepared with reference to the scheme changes.

2.4 The details of the proposed retaining wall and reprofiling works are set out in the letter from Ashton Bennett which is attached at appendix EP1 of this statement. In summary, it is proposed to reprofile the slope for 7.5m alongside the approved access road, by battering the ground to form a 33 degree angle. Engineers have determined that this is the maximum angle that would provide a stable slope. A 2m stand off zone would be retained in front of the fence along the western boundary of the site and the reprofiled area would be covered with coir matting to retain the material, seeded with grass and left to vegetate.

- 2.5 An additional 4.5m of level ground needs to be retained around the trunk of a mature oak tree that is situated 2m east of the fence (to preserve the roots). In order to achieve this whilst maintaining the gradients required for slope stability, a retaining wall with a maximum height of 4.5m would be constructed along a 6.5m section of the roadway to the East of the tree (T44 on the Tree Protection Plan that accompanies the application). The final levels in this location (Section B1 on drawing reference (0-)10B) would not be significantly different to those for the approved application, with the main difference being that the vertical face alongside the road would be concrete interlocking blocks as opposed to stone in the form of a bare excavated rockface as had originally been envisaged.
- 2.6 The potential need for reprofiling of the slope in the area proposed under this application was noted at the time of the original submission and referred to on the application drawings as there was a suspicion that the area could be made ground.

3. Context

Site location and description

- 3.1 The site is part of a quarry that was historically used by the council as a salt stocking yard and is now used for the storage and dressing of stone. It is situated approximately 0.25km West of Brockholes and 1.7km south of Honley Village and on the edge of a large area of woodland known as Hagg Wood, which surrounds the site on three sides.
- 3.2 The site adjoins and wraps around another stone yard which is in separate ownership and operates independently of the application site. The neighbouring stone yard contains a number of buildings, the largest of which runs along the roadside. A line of conifers is situated along the southern boundary of the neighbouring yard. The hedge and the buildings both restrict views of the application site from Woodhead Road.
- 3.3 The land is designated as Green Belt and part of the site is designated as a scheduled ancient monument. The site is also designated as part of a larger local wildlife site, local habitat network, and biodiversity opportunity zone in the Local Plan.
- 3.4 The whole of the site and the adjoining land is washed over by a 'strategic green infrastructure' designation and the Government's 'Magic' mapping system shows ancient woodland wrapping around the site. The woodland is the subject of Tree Preservation Order reference HO1/49/w3f.

Relevant planning history

- 3.5 Planning permission was originally granted for the current use of the site in 2003. Since that time, there have been a number of planning applications at the site which are summarised in the table at appendix EP2.
- 3.6 On 2 January 2018, an application was refused for the formation of an access road from the stoneyard on the southern portion of the site to the storage area on the northern portion of the site, including excavation/engineering works (application reference 2017/62/91676/W). The decision was made by the council's planning committee and was contrary to officer recommendation. It was overturned at appeal on 17 October 2018 and planning permission was granted. A copy of the appeal decision is attached at appendix EP3.
- 3.7 All pre-commencement conditions have been discharged, scheduled ancient monument consent has been obtained, the planning permission has been implemented and the development is underway.

Consultation and background

- 3.8 The LPA has been kept fully informed of activities at the site both prior to the commencement of development and following the structural issues that were encountered after work began on the access road.
- 3.9 It was agreed that a Section 73 application was required to amend the existing planning permission and provide for the reprofiling works needed to stabilise the banking, together with the removal of a small number of trees that had been undermined by the collapse of the slope and which need to be removed to facilitate the stabilisation works.
- 3.10 Advice was taken from JCA (Arboricultural consultants) to develop an engineering solution that was acceptable from an arboricultural perspective and which ensured the long term protection of high quality trees in the vicinity of the made ground.
- 3.11 Historic England were also consulted and an application was made for an amendment to the Scheduled Ancient Monument Consent for the original scheme. Historic England confirmed that the archaeological monitoring surveyor had not reported any archaeological finds in that area and acknowledged the existence of a concrete road running through the land and trees to the top of the banking and along the top of the banking.

3.12 Historic England confirmed their agreement to amend the consent on 11 May 2020 to allow for the reprofiling work. A copy of the authorisation letter/consent is attached at appendix EP4 of this statement.

4. Policy context

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (The Framework) is material a consideration in planning decisions.

Development plan context

4.2 The development plan for the area comprises the Kirklees Local Plan, which was adopted on 27 February 2019. The policies of most relevance to the determination of this application are as follows:

- LP21 Highways and access
- LP10 Supporting the rural economy
- LP30 Biodiversity and geodiversity
- LP31 Strategic Green Infrastructure Network
- LP33 Trees
- LP35 Historic environment

National planning policy and guidance

4.3 The National Planning Policy Framework sets out Government's planning policies for England and how these should be applied.

4.4 It states that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7). Paragraph 8 advises that achieving sustainable development means that the planning system has three overarching objectives: economic, social and environmental.

4.5 Paragraph 11 sets out a presumption in favour of sustainable development. For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

4.6 Where a development is likely to have a significant effect on a habitats site, the presumption in favour of sustainable development does not apply unless an appropriate assessment has concluded that the development will not adversely affect the integrity of the site (paragraph 175).

4.7 Paragraph 80 states that:

"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development."

4.8 Paragraph requires planning policies and decisions to enable the sustainable growth and expansion of all types of business in rural areas.

4.9 Section 13 of the documents sets out the Government's approach to the protection of Green Belt land. It identifies 5 purposes of the Green Belt:

- 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.

4.10 Paragraphs 145 and 146 set out a number of forms of development that are not inappropriate within the Green Belt. Development that does not fall within any of the categories laid out in these paragraphs is 'inappropriate' and harmful by definition. Paragraph 143 advises that such development should not be approved unless there are very special circumstances. Paragraph 144 states that,

"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."

4.11 One of the exceptions to inappropriate development at paragraph 146 of the Framework is engineering operations that preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

4.12 Section 15 sets out Government policy for conserving and enhancing the natural environment. Paragraph 170. Requires planning policies and decisions to contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan). It also underlines the importance of minimising impacts on and providing net gains for biodiversity; and remediating unstable land.

4.13 Paragraph 175 states that:

"if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"

4.14 It goes on to advise that:

"development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists"

- 4.15 It confirms that opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 4.16 Paragraph 204 states that planning policies should safeguard existing, planned and potential sites for the handling and processing of minerals.

5. Planning considerations

- 5.1 The site is located in the Green Belt. The Local Development Plan does not have a policy that relates specifically to development (of this nature) in the Green Belt and therefore the planning policies set out in the National Planning Policy Framework (the Framework) apply.
- 5.2 The Framework specifies a limited number of forms of development that are 'not inappropriate' in the Green Belt. These include engineering operations which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The proposed regrading works would fall within this exception to inappropriate development. This reflects the Inspector's conclusions in allowing the development that has been implemented at appeal. This application seeks a variation of that planning permission, but we consider that the variations proposed are not materially different to the approved development when looked at in the wider sense of the principle of development. The works would still comprise appropriate development.

The effect of the development on the openness of the Green Belt

- 5.3 The planning inspector for appeal reference APP/Z4718/W/18/3197069 assessed the effect of the access road and found the proposal to "*comply with the relevant guidance within the Framework*". The inspector's decision also noted that the development would:

"facilitate the permitted use of the site rather than result in an intensification or physical expansion of it within the Green Belt"

- 5.4 A copy of the appeal decision is attached at appendix EP3. The findings were generally consistent with those of the planning officer at the application stage, who noted that.

"...the physical works involved and its subsequent use would be screened to a significant degree.

10.7 The working and storage of stone within the application site already has the benefit of planning permission and it is therefore considered that this development would not represent an intensification of that use but would simply act to facilitate the permitted use.

10.8 The proposed roadway is associated with an existing brownfield site and there would be a relatively minor impact on visual amenity and the character of the wider landscape. Officers therefore consider that this proposal would preserve the openness of this part of the Green belt and would not conflict with the purposes of including land within the Green Belt... The development is therefore considered to represent appropriate development within the Green Belt."

- 5.5 This remains true of the amended proposals, which do not seek to expand the stoneyard and do not involve a change of use of land. A copy of the delegated officer report for the original application is attached at appendix EP5.
- 5.6 The changes to the development are restricted to the creation of a concrete retaining wall and the reprofiling of small section of bank immediately to the West of the access road and are a relatively minor part of the overall scheme.
- 5.7 Case law clarifies that the concept of openness does not imply:

"freedom from any form of development. Paragraph 90 [of the Framework] shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness." (R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3).

- 5.8 It also confirms that context is an important factor in the assessment of openness:

The word "openness" is open-textured and a number of factors are capable of being relevant when it comes to applying it to the particular facts of a specific case. Prominent among these will be factors relevant to how built up the Green Belt is now and how built up it would be if redevelopment occurs (in the context of which, volumetric matters may be a material concern, but are by no means the only one) and factors relevant to the visual impact on the aspect of openness which the Green Belt presents. (Turner v SoS and East Dorset 2016 EWCA Civ 466(1.1)).

- 5.9 The regrading at Haggwood Quarry would result in a reduction in the ground level in the area of the engineering works and an altered landform adjacent to a section of the access road. However, the slope would be re-seeded and left to vegetate. The reduced ground level in

combination with the fact that the reprofiled area would ultimately become a grassy slope, would mean that the development would have no effect on openness.

- 5.10 Although the retaining wall would appear (from within the site) as a man-made structure, it must be considered in the context of surrounding built development and the manmade form of the former quarry itself. Furthermore, it would be situated immediately alongside the approved access road, would not encroach into the land beyond the authorised extent of the stone yard and would not involve a significant change to the levels of the site (the premise of its inclusion being to stabilise ground levels without the need for greater changes in levels as these could potentially affect the health of a high quality tree).
- 5.11 The application site, and in particular the area this S73 application seeks to alter, is largely screened from Woodhead Road and the surrounding area by buildings and trees. Its prominence is further reduced by the rising ground levels to the West of the site.
- 5.12 In light of the above, there would be no impact on the openness of the Green Belt

The effect of the development on the purposes of the Green Belt

- 5.13 The amendments to the approved development would have no effect on the purposes of including land within the Green Belt. The implications in respect of each of the purposes (set out at paragraph 134 of the Framework are set out below.

Purpose 1: to check the unrestricted sprawl of large built-up areas

- 5.14 The proposed amendments involve changes to ground levels within an existing stone yard and could not be perceived as urban sprawl.

Purpose 2: to prevent neighbouring towns merging into one another

- 5.15 The proposed amendments to the scheme relate to a narrow strip of land and do not involve any significant above ground development. They would not have any effect in terms of narrowing the gap between neighbouring towns.

Purpose 3: to assist in safeguarding the countryside from encroachment

- 5.16 As noted above, the development would be located within the boundary of an existing stone yard and involves no additional built development (in comparison with the approved scheme)

save for a retaining wall along a section of the approved roadway. This follows the line of the road and would not encroach into the countryside.

Purpose 4: to preserve the setting and special character of historic towns

5.17 As the site is well screened from the surrounding area (and notwithstanding the limited physical changes proposed), there would be no effect on the setting or character of historic towns).

Purpose 5: to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

5.18 The proposed development is directly related to the existing lawful use of the site and would have no effect on the fifth purpose of the Green Belt.

Effects on the character and appearance of the countryside

5.19 As noted above, the site is well screened from the surrounding area and the proposed changes to the scheme are limited in nature and extent. A small number of trees would be removed. However, additional planting is proposed to enhance tree cover in the immediately adjacent areas around the peripheries of the stoneyard. The proposed development could only be viewed from highly restricted locations.

Highways and access

5.20 The proposed changes to the approved development would have no effect on the highway network. They would stabilise the slope adjacent to a newly formed internal access road, ensuring the long term safety of that route in line with the requirements of local plan policy LP21.

Biodiversity and geodiversity

5.21 As noted earlier in this statement, the area of the site that would be subject to the changes is designated as part of a larger local wildlife site, wildlife habitat network and biodiversity opportunity zone on the council's adopted policies map.

5.22 Local plan policy LP30 indicates that proposals which have,

“a direct or indirect adverse effect on a Local Wildlife Site or Local Geological Site, Ancient Woodland, Veteran Tree or other important tree, will not be permitted unless the benefits of the development can be clearly shown to outweigh the need to safeguard the local conservation value of the site or

feature and there is no alternative means to deliver the proposal. In all cases, full compensatory measures would be required and secured in the long term."

5.23 A survey was undertaken by Gary Oliver, Principal Ecologist with SLR Consulting, on the 13th of August 2020 to establish the intrinsic ecological value of the trees within the area that would be affected by the proposed works. This included an assessment of the potential for trees in that location to support roosting bats.

5.24 The report notes that,

"Whilst Hagg Wood is designated ancient woodland (i.e. one in existence since before 1600) in the Ancient Woodland Inventory (AWI) for West Yorkshire¹, the bank on which the trees are growing comprises 'made up' ground. Proposals involve the removal of the trees concerned, as due to the unstable nature of the ground in which they are growing they need to be removed for safety reasons, and in order to stabilise the bank itself...

None of the trees to be removed were of high intrinsic nature conservation value (refer to Plates 1 and 2), and no potential bat roosting features were noted to be present in any of the trees.

Furthermore none of the trees supported active bird nests and no other potential ecological constraints, such as badger setts, were noted to be present at the top of the bank or within 30 metres of the working area. It is therefore recommended that, subject to agreement from the local planning authority, that the unsafe trees should be removed as soon as possible, and that sections of their trunk should be used to create log piles within the woodland at the top of the bank. It is then recommended that the area should then be left to vegetate naturally, once bank stabilization works have been undertaken."

5.25 As the localised area that would be affected by the changes to the approved development is not of intrinsic nature conservation value, the proposals would not have a detrimental effect on the local conservation value of the site. The provision of log piles within the wood at the top of the bank and the additional tree planting that is proposed (over and above the previously approved woodland planting scheme) would provide overall benefits in respect of ecology and would enhance the nature conservation value of the wider designated area. In light of this and given the importance of stabilising the bank, it is clear that the proposed changes to the approved development comply with the requirements of local plan policy LP30. They would also comply with policy LP31, which requires proposals to ensure the protection and enhancement of biodiversity and ecological links within and connecting to the Kirklees Wildlife Habitat Network.

Trees

5.26 Local Plan Policy LP33 states that:

"The Council will not grant planning permission for developments which directly or indirectly threaten trees or woodlands of significant amenity. Proposals should normally retain any valuable or important trees where they make a contribution to public amenity, the distinctiveness of a specific location or contribute to the environment, including the Wildlife Habitat Network and green infrastructure networks. Proposals will need to comply with relevant national standards regarding the protection of trees in relation to design, demolition and construction. Where tree loss is deemed to be acceptable, developers will be required to submit a detailed mitigation scheme."

5.27 A updated tree survey was undertaken, both to assess the condition of the trees following the partial collapse of the bank and to inform the design and method of stabilising the ground, ensuring it did not impact upon any trees with significant amenity value.

5.28 The final design of the slope and retaining wall requires the removal of a small number of trees (T41, G42 and four trees within G48 as detailed in the Arboricultural Method Statement and Tree Protection Plan that accompany this application), all of which have been assessed by JCA as having low amenity value and several of which had exposed roots following authorised excavations and the collapse of the bank. The removal of these trees would have no impact on public amenity or the distinctiveness of the location. An enhanced tree planting scheme has prepared and submitted to mitigate for the minor additional tree losses in comparison with the approved scheme, ensuring overall benefits in respect of the amenity value of the woodland. The arboricultural method statement also confirms that the enhanced planting scheme would increase the species diversity of the woodland.

5.29 There would be no loss of any trees of significant amenity value so the proposals are therefore in accordance with Local Plan Policy LP33.

Environmental protection and amenity

5.30 In terms of the requirements of Policy LP52, the proposed changes to the approved development would have no effects in respect of pollution and would not impact residential amenity.

Historic environment

5.31 Local Plan policy LP35 indicates that:

- Development proposals affecting an archaeological site of national importance should preserve or enhance the significance of the asset;
- In the case of developments affecting archaeological sites of less than national importance where development affecting such sites is acceptable in principle, mitigation of damage will be ensured through preservation of the remains in situ as a preferred solution. When in situ preservation is not justified, the developer will be required to make adequate provision for excavation and recording before or during development;
- Proposals should retain those elements of the historic environment which contribute to the distinct identity of the Kirklees area and ensure they are appropriately conserved, to the extent warranted by their significance, also having regard to the wider benefits of development.

5.32 Although the land forms part of a wider area that is designated as a scheduled ancient monument, the proposed area of reprofiling does not appear to be significant in archaeological terms.

5.33 As noted earlier in this statement, it has been confirmed that the relevant part of the application site contains a concrete road associated with the former quarry. The land appears to be part of the former quarry void, which has been infilled and has become vegetated over time.

5.34 A successful application has already been made to Historic England to amend the Scheduled Ancient Monument Consent to provide for the engineering works proposed under this application. Consent was granted on 11 May 2020 (see appendix EP5) confirming that there are no archaeology related reasons for refusing the application. HE has therefore confirmed that a site of national importance would be preserved in the context of the development going ahead as amended and therefore the requirements of the first bullet of the policy are met and complied with. The second and third bullets are not applicable to this site having met the higher test of national importance.

Sustainable development

5.35 In addition to the lack of any policy conflict (as outlined above). The proposed development would support the three objectives of sustainable development set out at paragraph 8 of the Framework.

5.36 The development would ensure that convenient, safe and suitable access is available between all parts of the stone yard, enabling it to be used to its full potential. It would increase the productivity and efficiency of an existing business and support economic growth. This would provide related social benefits through job security and creation. It will also ensure that the applicant is able to consolidate their business activities onto a single site, reducing costs and with benefits to the environment as a result of reduced vehicle movements between sites. Further environmental benefits would occur through ecological enhancements in the form of tree planting and the works recommended in the ecology assessment that accompanies this application. Given that the applicant company operate to support the traditional local building sector there are wider environmental benefits to supporting the efficient operation of this site through its subsequent positive impact on the character and appearance of the local environment.

5.37 The inspector for appeal reference APP/Z4718/W/18/3197069 considered that the economic benefits of the original application alone (which are equally relevant here as that approved development still cannot yet be used operationally) should be given significant weight in the decision making process and that notwithstanding the lack of any significant adverse impact on the Green Belt, the economic benefits represented very special circumstances.

6. Conclusion

6.1 It has been shown that variation of conditions 2, 9,11 and 12 in the manner proposed would accord with the relevant requirements of the Development Plan and national planning policy contained within the Framework.

6.2 Planning permission should therefore be granted in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and the presumption in favour of sustainable development at paragraph 11 of the Framework.

7. Appendices

- EP1. Letter from Ashton Bennet
- EP2. Summary of planning history
- EP3. Appeal decision reference APP/Z4718/W/18/3197069
- EP4. Letter from Historic England
- EP5. Officer report for application reference 2017/62/91676/W

EP1

Abacus Stone Sales,
Hagg Wood Quarry,
Woodhead Road,
Honley,
Holmfirth,
HD9 6PW

August 14th 2020

Dear Sirs,

Re: Proposed slope at Abacus Stone Sales site, Woodhead Road, Holmfirth

Further to your request for a preliminary design for retaining the made ground exposed in a newly excavated slope to enable a new roadway to be constructed, we are pleased to present sketches of a concrete block retaining wall. It is proposed to construct a roadway from the existing Abacus Stone area to a storage area for stone to the immediate north. The width of the roadway is proposed as 4.50m. The excavated slope forms the western edge of the roadway.

The slope comprises weathered sandstone at the north and south ends of the slope with a height of around 3m. In the central 18.5m length of the slope made ground was encountered to a height of 3m. The eventual height in the central area, once the roadway is finalized to level, is designed as 5.50m. The weathered sandstone is standing vertical and comprises cobbles and boulders of sandstone in a sandy clay matrix. The made ground comprises loose fine grained sand and clay with various gravel and cobbles and is spilling onto the partly constructed roadway.

For such loose made ground, the maximum angle for a stable slope should be 33 degrees to the horizontal provided it is covered in matting and seeded to stabilise the slope. This would necessitate cutting into the banking for 7.5m, or a location 2m from the existing fence. The level land at the top of the slope which can be used to batter the ground into a shallower slope is 7.5m as it is understood that a 2m stand off zone is required in front of the fence.

In addition, a mature oak tree, T44 with an 0.50m trunk, stands 2m east of the fence and should be retained with 4.5m of level ground around the trunk to preserve the roots. This necessitates the use of a retaining wall, otherwise land would need to slope in excess of 33 degrees to maintain a 4.5m roadway. Therefore, a retaining wall of 4.50m in height from the roadway, with a 1.0m high slope at 33 degrees above, has been designed to retain the made ground in the area in front of the tree where the cut back slope will be at its highest. This location, in front of T44 will be 3.0m from the northernmost end of the retaining wall. The extent of the retaining wall in order to preserve tree roots along the slope needs to be 6.50m in length and is annotated as R2 on the longitudinal drawing attached.

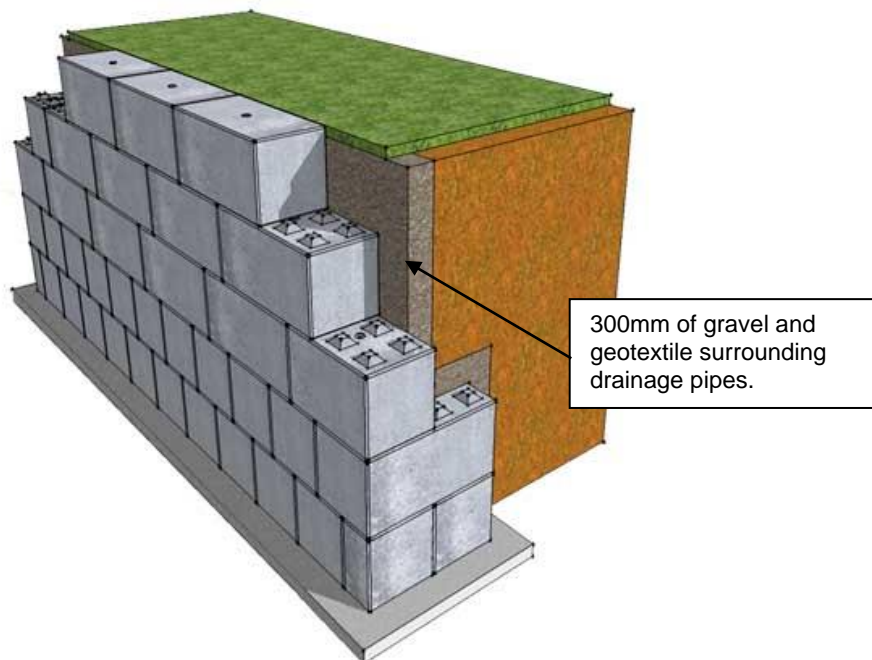
At the southernmost point of the made ground in the slope, annotated as R1 on the accompanying drawings the roadway will lie at 154m above OD. At this point the made ground profiled to 33 degrees to the horizontal will intersect the roadway and no retaining wall will be required. In addition, the competent sandstone is encountered throughout the slope at this location. To the north of R1 the slope will require retaining by a 800mm block wall. Between R1 and R2 the retaining wall will need to gradually increase in height from 800mm at R1 to 4.5m at R2. The design attached is based on the use of concrete blocks of 800mm height and width with various lengths extending into the slope for stability.



The design of the wall is based on using Legato concrete interlocking blocks of 800mm by 800mm in height and width and up to 2400mm in length. The wall should be constructed on a 500mm thick reinforced concrete base founded on material of a suitable bearing capacity to accommodate the wall without ground settlement. This depth can only be determined following ground investigation or when the excavation is undertaken. The foundations are illustrated on the accompanying drawing as stepped to accommodate the slope of the roadway. It is possible that the foundations could be stepped at smaller intervals to reduce the number of blocks and this can be assessed once the foundation stratum is researched.

The first 2400mm concrete blocks should be set 300mm below the final road level with the 2400mm length extending into the wall. For the 4.5m high wall a preliminary design indicates 2 number 2400mm blocks placed into the wall with a further 3 number 1600mm blocks placed into the wall and surmounted by one 800mm square block to complete the 4.5m high wall. The blocks are interlocking and therefore easy to assemble once the foundations are constructed. The wall should be set at 6 degrees to the horizontal leaning into the face.

The blocks restrict drainage out of the slope and therefore to prevent hydrostatic pressure build up and movement of the wall, a drainage scheme should be installed behind the wall as illustrated below. A drainage pipe extending horizontally behind the wall should be connected to upright pipes at intervals along the wall and all pipes buried in 300mm of clean gravel and surrounded by a geotextile to prevent the drainage system getting clogged up with fines from the made ground.



This design is preliminary only and may need to be adjusted following investigation of the depth to suitable bearing strata for the foundations and following calculations to ensure there is a Factor of Safety of at least 2 against the wall toppling, sliding or settling or a circular slip within the made ground.

The made ground above the wall should be battered back to no greater than 33degrees to the horizontal and covered in coir matting to retain the material. The coir matting should be seeded with grass to retain the loose surface of the slope.

The coir matting is a natural material which rots into the ground after 3 to 5 years, leaving the grass to become established and retain the soil on the slope by means of its roots. The seeded matting is held in place by metal pins which can be removed once the grass is established, leaving a natural slope.



Example of coir matting

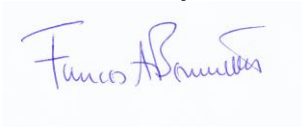


Example of grass growing through coir matting

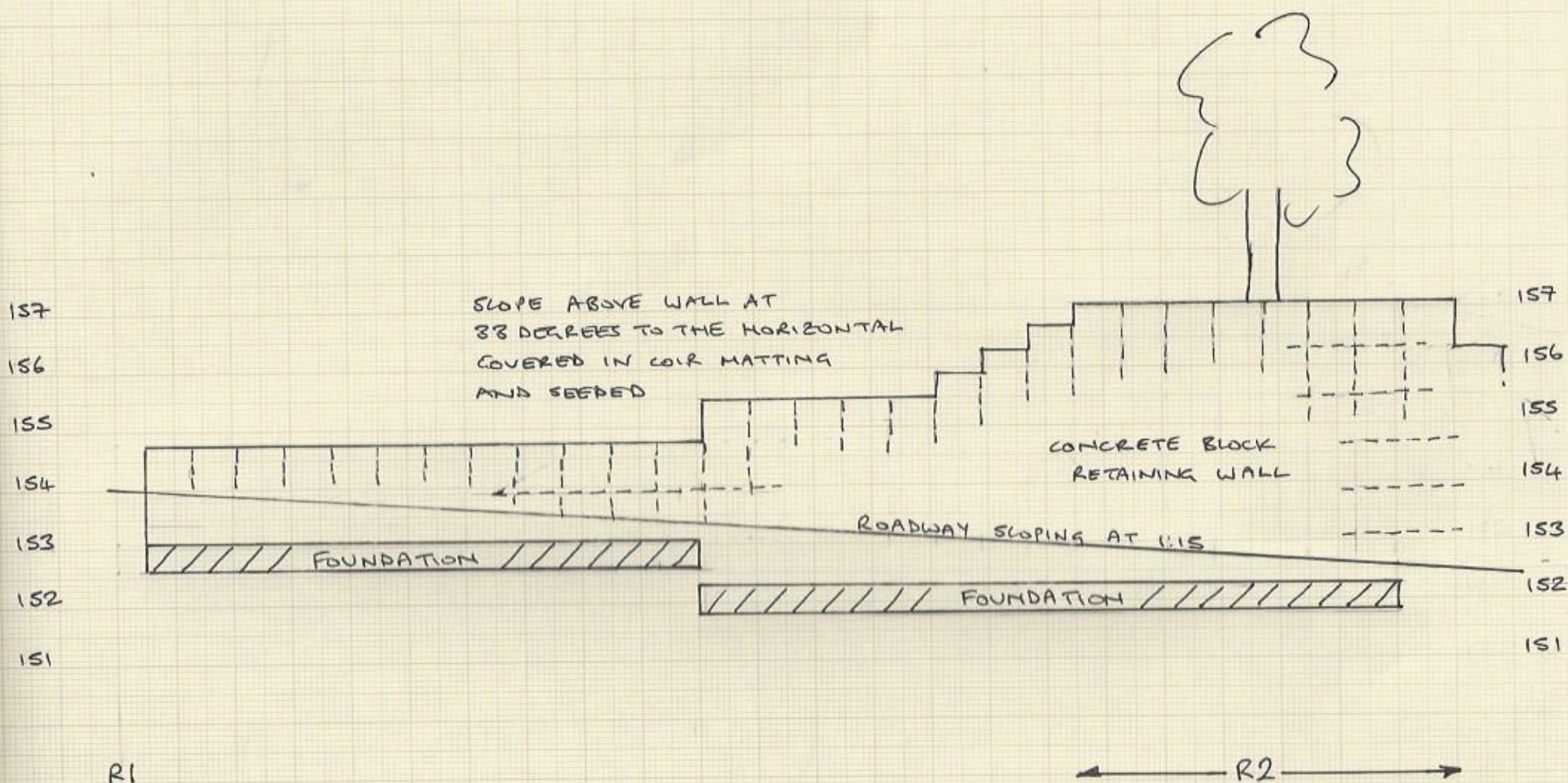
Prior to any work taking place it would be prudent to investigate the top of the slope by scraping with a mini digger to ascertain the extent of the made ground behind the proposed slope. If for example sandstone is encountered between the presently excavated slope and the fence line, a smaller final excavation may be achieved.

I trust this is in line with your requirements and please do not hesitate to contact us if you require further information.

Yours faithfully,

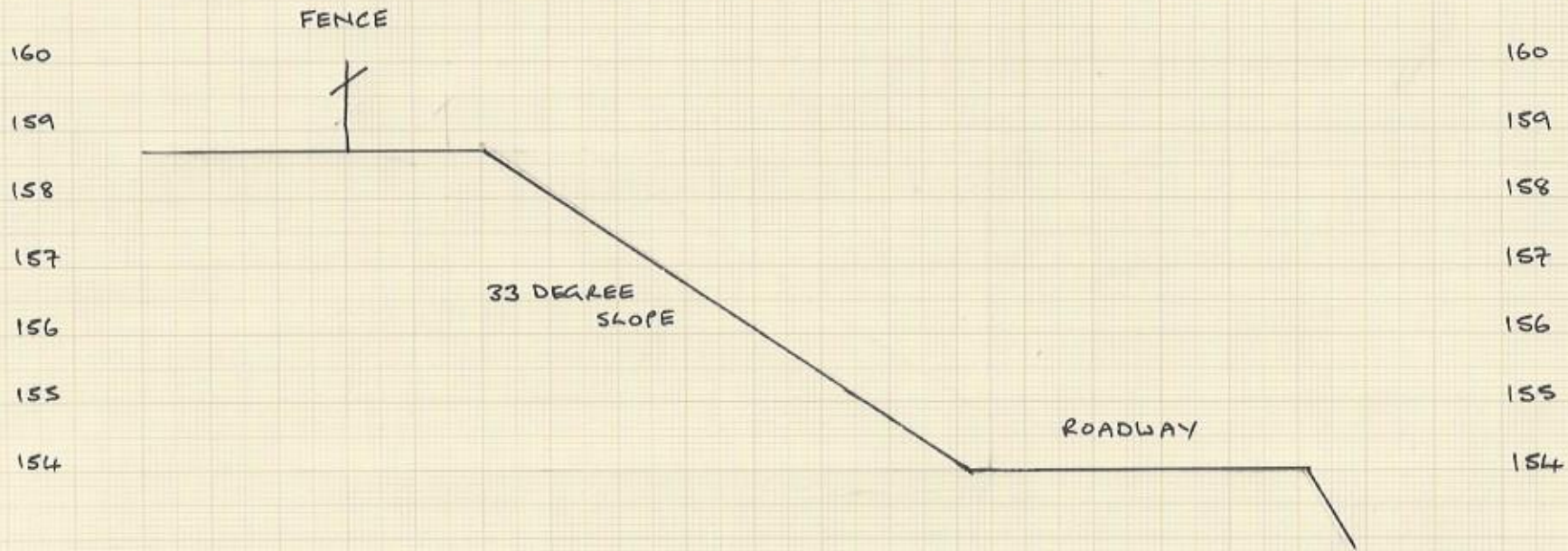


Frances A Bennett
Director



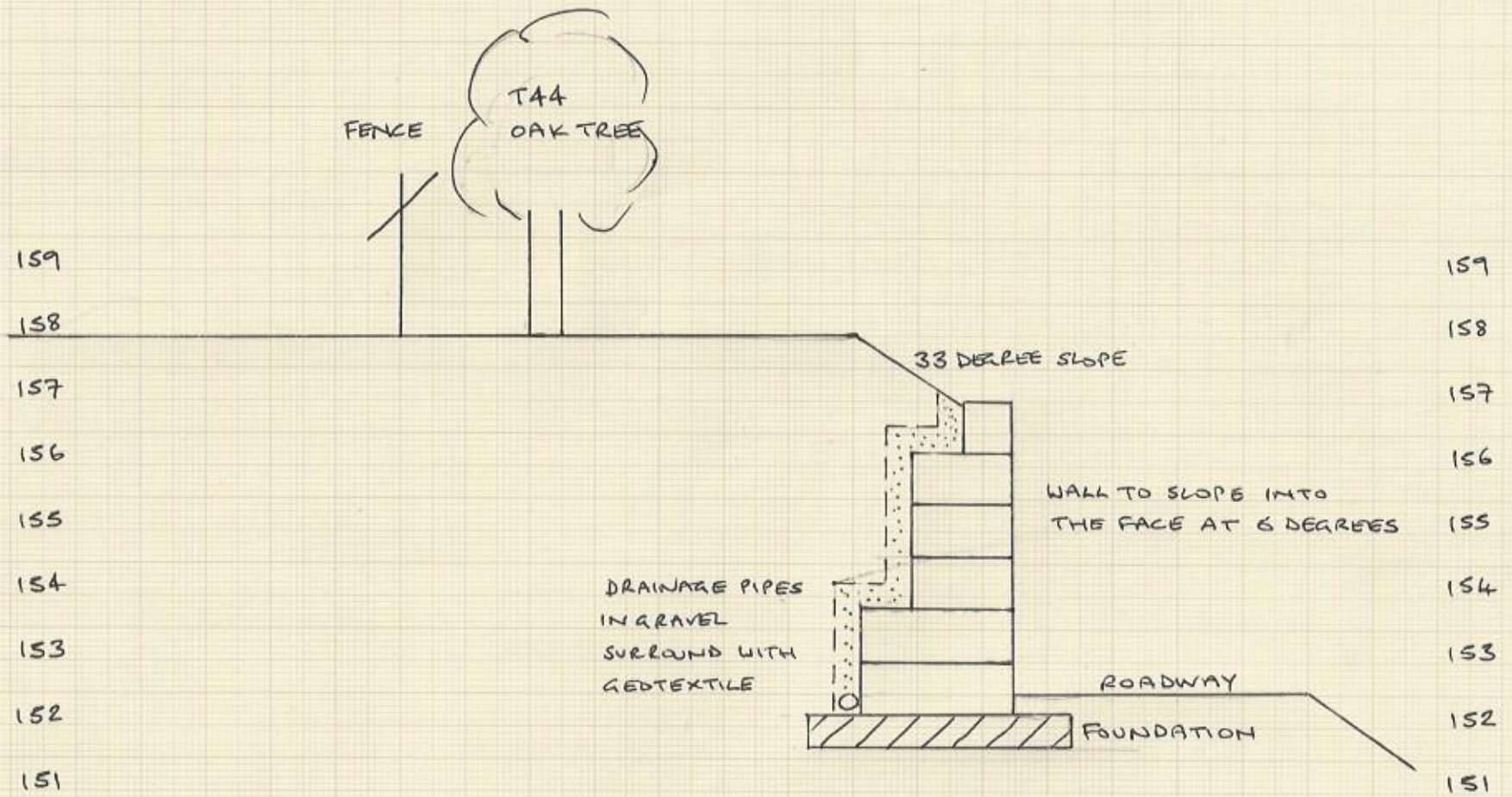
SCALE 1:100 AT A4

LONGITUDINAL SECTION ALONG WALL
RETAINING MADE GROUND



SCALE 1:100 AT A-A

SECTION AT R1



SCALE 1:100 AT ALL

SECTION AT R2

EP2

Planning history

Application reference	Detail	Decision
2019/44/92123/W	Discharge condition 6 on previous appeal APP/Z4718/W/18/3197069 (planning application 2017/91676) for formation of new access from existing stone yard to adjacent storage area including excavation/engineering works	Discharge of conditions approved 11 Oct 2019
2019/44/90385/W	Discharge conditions 3, 4, 5, 7, 8 on previous permission 2017/91676 for formation of new access from existing stone yard to adjacent storage area including excavation/engineering works	Discharge of condition(s) approved 05 Sep 2019
2017/62/91676/W	Formation of new access from existing stone yard to adjacent storage area including excavation/engineering works	Refused 02 Jan 2018, Appeal upheld 17 Oct 2018
2017/70/90201/W	Variation of conditions 2 (Materials) 4 (Opening Hours) 8 (Retailing) 12 (Trees) 13 (Vehicular Access) and 17 (Storage Height) on previous application 2001/90843 for use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate	Removal or modification of condition(s) approved 26 Jun 2017
2007/93104	Use of existing stone yard for waste facility including site offices, hardstanding and landscaping works	Withdrawn
2001/90843	Use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate (within a site of special scientific interest and ancient monument)	Approved 16 April 2003
97/92231	erection of PRU (gas control) building by Transco	Approved 8 January 1998
96/90931	Outline application for workshop and improved access	Refused 17 July 1996
80/2401	Storage compound for gas cylinders	Approved 12 May 1980
75/6107	Erection of site cabin for WYMCC	Approved 23 January 1976

EP3



Appeal Decision

Site visit made on 3 July 2018

by **Andrew McCormack BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th October 2018

Appeal Ref: APP/Z4718/W/18/3197069

Hagg Wood Stone Quarry, Woodhead Road, Holmfirth HD9 6PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Abacus Stone Sales Limited against the decision of Kirklees Metropolitan Borough Council.
 - The application Ref 2017/62/91676/W, dated 12 May 2017, was refused by notice dated 2 January 2018.
 - The development proposed is formation of new access from existing stone yard to adjacent storage area including excavation/engineering works and associated tree works to TPO trees.
-

Decision

1. The appeal is allowed and planning permission is granted for formation of new access from existing stone yard to adjacent storage area including excavation / engineering works and associated tree works to TPO trees at Hagg Wood Stone Quarry, Woodhead Road, Holmfirth HD9 6PW in accordance with the terms of application Ref: 2017/62/91676/W, dated 12 May 2017, and subject to the conditions set out in the schedule attached to this Decision letter.

Procedural Matters

2. The description of development on the application form states that the proposed development includes '*exaction/engineering works*'. However, the submissions of the main parties refer to '*excavation/engineering works*'. From what I have seen and read, it is apparent that this more accurately describes the proposal. I have therefore determined this appeal on that basis.
3. I have had regard to the planning history of the appeal site and particularly note an extant planning permission granted in 2003 which established the principle for development and use on the site relating to the appeal proposal. Whilst I must assess the proposal before me on its own merits and circumstances, this previous approval is a material consideration to which I must give due weight. Accordingly, I have considered the proposal in that context.
4. During the appeal, the Government published the revised National Planning Policy Framework 2018 (the Framework). In light of this, the Council and appellant were given the opportunity to submit comments on whether the publication of the Framework had any bearing on their respective cases. No comments were received during the specified time period. As such, I have determined the appeal on the basis of the evidence submitted.

Main Issues

5. As the proposal would be within the Green Belt, the main issues are:
- whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the character and appearance of the area; and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

6. Paragraphs 145 and 146 of the National Planning Policy Framework 2018 (the Framework) set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. Furthermore, certain other forms of development are also not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This includes engineering operations.
7. The proposal is to construct an access route to connect the existing stone yard to an identified storage area approximately 200 metres to the north. From the evidence before me, I note that the proposal would be entirely within the area of land previously approved for the related use. The appellant states that the proposal is not inappropriate development in the Green Belt as it would be an engineering operation in relation to the approved use of the site. Furthermore, it is argued that the scheme would preserve the openness of the Green Belt and would not conflict with Green Belt purposes. Therefore, the appellant states that the proposed scheme would be in accordance with the Framework.
8. Based on what I have seen and read, the existing operations taking place at the appeal site relate to stone storage, distribution and engineering operations. As such, the proposal would be relevant to those operations and, in my view, would reasonably relate to the continued approved use of the site. Therefore, I find that the proposed development would not be inappropriate development in the Green Belt as it would be an engineering operation of that use. Accordingly, the proposal would be in accordance with Paragraph 146 of the Framework in that regard.

Green Belt openness and purposes

9. The Council acknowledges that engineering operations may not be inappropriate development within the Green Belt. Nonetheless, it is argued that this is subject to such development preserving the openness of the Green Belt and not conflicting with the purposes of including land within it. It is argued that the proposal would involve substantial engineering works to remove part of the existing stone quarry face and that this would be perceived as a man-made element within the immediate setting and would detract from the area's openness. Furthermore, in combination with other identified impacts such as increased traffic and on the local landscape, it is stated that the proposal would result in a clearly perceived and distinct reduction in Green Belt openness. As such, the Council argues that it

would conflict with the Framework and the Green Belt purpose to prevent urban sprawl by keep land permanently open.

10. A fundamental aim of Green Belt policy, as set out in Paragraph 133 of the Framework, is to keep land permanently open. Notwithstanding this, it is inevitable that the proposed development would have some impact on the surrounding area and the openness of the Green Belt. The proposal would be positioned on land approved for the existing use. Furthermore, given the nature of the proposal, I find that it would facilitate the permitted use of the site rather than result in an intensification or physical expansion of it within the Green Belt.
11. From my observations¹, I note that the physical works involved with the proposal, and its subsequent use, would be substantially screened from public view. The access route would be behind the existing office building on the adjacent property at Hagg Wood Stone Quarry and other buildings positioned along the western boundary of that site. Moreover, I noted that construction was underway on a large building within the adjacent site, positioned on its frontage to Woodhead Road. In my view, this substantial building would screen the proposed access route significantly further from view when travelling along Woodhead Road.
12. As a result, whilst the proposal would likely require a large amount of physical works to the landform of the site, I find that much of these works would be screened and would have a very limited harmful effect on the openness of the Green Belt or the purposes of including land within it. Moreover, I have given due weight to the existence of the extant permission across the appeal site for the existing use. Therefore, having regard to the above, I find that the proposal would comply with the relevant guidance within the Framework.

Character and appearance

13. The Council argues that the character of the local area is of a wooded rural valley which is attractive and has high scenic value. The valley remains generally unspoiled although interspersed with intermittent residential and commercial development along Woodhead Road between Honley and Thongsbridge. As a result, the Council states that the proposal would erode the intrinsic character of the area and local landscape by removing some woodland area and the rock wall.
14. Notwithstanding the above, I note that no statutory or non-statutory body has raised any significant objection to the proposal. Moreover, where concerns have been raised regarding the impact of the scheme on the local landscape, these can be appropriately addressed by suitably worded conditions.
15. I have had regard to the comments of the Forestry Commission with particular regard the impact on the ancient woodland. Based on the evidence before me, it is unclear whether the scheme would have a significant impact on ancient woodland. Furthermore, in my view, the loss of a relatively small number of trees to facilitate the proposal would be reasonably offset by the protection of other trees which would otherwise be lost under the terms of the original planning permission relating to the site. As such, I consider this to be a significant benefit of this appeal proposal and I am satisfied that conditions could be imposed to ensure that the related works and matters are undertaken and controlled appropriately.
16. As the appeal site and proposed access route which would be excavated is partially screened from Woodhead Road by existing buildings located on the adjacent land to the site and existing vegetation, I find that the proposal would result in limited visual impact on the surrounding area. Indeed, as I have observed, the proposal is likely to be screened further from the public highway by the large building which was under construction along the main frontage of the adjacent site at the time of

my visit. Moreover, the proposal would be set below the level of the adjacent woodland to the west of the site. As such, I find that only limited views of the proposed access route would be obtained from the surrounding area.

17. I appreciate that vehicles using the proposed route would be viewed at certain points along its length, particularly from the adjacent site. However, such views would be fleeting and, having regard to the current activity on the adjacent site, I find that this activity would not appear out of keeping with the particular setting. I acknowledge also that the proposal would result in the removal of a number of trees and vegetation in the immediate area relating to the proposed access route. Nonetheless, I find that the loss of such trees and vegetation would have no significant impact on the surrounding area. Therefore, having considered the above, I find that the proposed development would have only a limited impact on the visual amenity of the area and would have no significant diminishing effect on the visual quality, character or appearance of the surrounding area.

Very special circumstances

18. As I have determined the proposal to be not inappropriate development in the Green Belt, there is no requirement to demonstrate very special circumstances to justify the scheme in its location. Nonetheless, the proposal would facilitate the use of redundant land to the north of the existing stone yard which has planning permission to be utilised as part of a wider operation. As such, it would result in a more efficient use of the site where there has been established commercial activity for a considerable period of time.
19. Paragraph 80 of the Framework states that significant weight should be placed on the need to support economic growth and productivity. Accordingly, I have given due consideration and weight to this in determining this appeal. The Council argues that the economic and other benefits of the proposal would not outweigh the substantial harm to the Green Belt indicated and as such, very special circumstances do not exist. In my view, the proposal would assist in increasing the efficiency and productivity of the existing business at the appeal site whilst not resulting in any significant adverse impact on the Green Belt, including its openness and purposes. In addition, I note that the proposal would allow the appellant's business to be consolidated on a single site due to the end of a lease on another nearby site. As a result, having considered all of the evidence before me, I find that very special circumstances do exist in this case.

Other Matters

20. Concerns have been raised regarding matters not directly related to the main issues in this appeal and I have had due regard to these. These concerns relate to increased vehicle movements, an adverse impact on highway safety and the impact of the scheme on a nearby scheduled ancient monument. Concerns are also noted regarding the impact of the proposal on local wildlife habitats, ecology, including ancient woodland and protected trees, and the amenity of occupiers and users of neighbouring land.
21. In terms of highway safety, the highway authority has no objection to the scheme subject to conditions being in place and I have seen nothing substantive to lead me to deviate from the highway authority's view. With regard to heritage assets, I note Historic England's comments and lack of objection to the proposal. In the absence of any evidence to the contrary, and having due regard to the suggested conditions put forward to provide an acceptable development, I am satisfied that the proposal would cause no substantive harm in this respect.

22. In relation to local wildlife habitats, ecology, ancient woodland and protected trees, whilst the proposal would have an impact on some of these, based on the evidence and comments set out in the Council's delegated report, I find that such impacts would be limited and of limited significance. Furthermore, I find that mitigation measures can be secured, where necessary, through conditions which would result in the proposal being acceptable. Similarly, I am satisfied that the effect of the proposal in terms of the amenity of occupiers and users of adjacent land can be appropriately addressed by suitably worded conditions.
23. During the appeal, the appellant submitted a draft Unilateral Undertaking (UU) principally relating to tree works on the appeal site, at the request of the Council. Following the Council's comments on the draft UU, and subject to both parties agreeing the indicated amendments to the UU, I am satisfied that any works to protected trees on the site can be achieved through the UU to ensure minimal adverse impact on any protected trees on and around the site. Such matters are to be dealt with in accordance with Condition 10 attached to this Decision letter.

Conditions

24. I have had regard to the suggested conditions submitted by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the conditions to better reflect the relevant parts of the Planning Practice Guidance.
25. In addition to the standard conditions relating to time and approved plans, conditions relating to the protection of wildlife habitats and ecological enhancements are required to ensure an acceptable proposal in those respects. Furthermore, conditions relating to tree and vegetation works and the impact of the development on protected trees are necessary to minimise any adverse impact on the character and appearance of the area and on local wildlife habitats. Conditions relating to the proposed safety barrier, lighting and the surfacing and drainage of the development are required for reasons of highway safety, character and appearance and to ensure an acceptable development in terms of adequate surface water drainage. Finally, a condition relating to the suppression of dust on the site due to any related operations is necessary and appropriate in the interests of the amenity of occupiers and users of neighbouring land.
26. It is necessary that the requirements of Conditions 3, 4, 5, 6, 7 and 8 are agreed prior to the commencement of the development hereby permitted to ensure an acceptable development in the interests of protecting local wildlife habitats, local ecology, the character and appearance of the area and the amenity of the users and occupiers of neighbouring land.

Conclusion

27. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Although the effects on openness and the Green Belt purpose of safeguarding the countryside from encroachment would be limited, substantial weight is to be given to any Green Belt harm. Furthermore, very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
28. Having regard to the above and based on the evidence before me, I conclude that the proposed scheme would be not inappropriate development in the Green Belt. In any event, whilst the proposal would have some limited impact on Green Belt openness and its related purposes, I find that this harm would be outweighed by other material considerations such as the significant economic benefits of the proposal. Furthermore, the proposal would have no significant adverse impact on

the character or appearance of its surroundings. As a result, in this case, I find that very special circumstances exist in favour of the proposal.

29. Therefore, for the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Andrew McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in complete accordance with the following approved plans and specifications submitted in support of the planning application except as may be required by other conditions attached to this permission, which in all cases shall take precedence: Drawing No. (0-)04 'Site Location Plan'; Drawing No. (0-)03 Rev F 'Proposed Site Plan and Sections'; and Drawing No. (0-)02 Rev B 'Existing Site Plan and Sections'.
- 3) No development shall commence until a scheme detailing artificial lighting measures at the site has been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in full for the duration of the development hereby permitted.
- 4) No development shall commence until further survey work has been carried out which confirms that the abandoned badger sett within the site is no longer in use as an outlier sett. Should this survey indicate the sett continues to be used then a scheme detailing mitigation measures shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented for the duration of the development hereby permitted.
- 5) No development shall commence until a scheme detailing ecological enhancements to offset the loss of existing wildlife habitat has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include works such as the creation of log piles and the provision of bird and bat boxes.
- 6) No development shall commence until details of the proposed surfacing and drainage arrangements for the access road have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be fully implemented prior to the development being brought into use.
- 7) No development shall commence until a scheme has been submitted to, and approved in writing by, the Local Planning Authority which details the measures to be employed to suppress dust arising from the development hereby permitted. The submitted scheme shall deal with the suppression of dust from all operations associated with the use of the site and shall be fully implemented for the duration of the development.
- 8) No development shall commence until a scheme has been submitted to, and approved in writing by, the Local Planning Authority which details how the removal of invasive weeds at the site will be managed. The approved scheme shall be implemented in full for the duration of the development hereby permitted.
- 9) The development hereby permitted shall be carried out in accordance with the amended supporting Arboricultural Method Statement, Ref: 12757-F/AJB, revised on 15 November 2017.
- 10) Details of any tree works which may be required during the development which are not identified in the information supporting this planning permission shall be submitted to, and approved in writing by, the Local Planning Authority prior to such work commencing.
- 11) Within 7 days of any tree works being carried out on site, written and photographic evidence demonstrating that the arboricultural supervision detailed in Sections 2.2 and 3.1 of the Arboricultural Method Statement (Ref: 12757-F/AJB, revised 15 November 2017) was carried out shall be submitted to the Local Planning Authority.

- 12) The planting scheme specified in the Arboricultural Method Statement (Ref: 12757-F/AJB revised on 15 November 2017) shall be fully implemented within 12 months of the commencement of the development hereby permitted.
- 13) All tree/vegetation works associated with this development shall be carried out outside the bird nesting season which runs from March to August inclusive.
- 14) The development hereby permitted shall not be brought into use until the design if the proposed safety barrier which would run along the outside edge of the access road has been submitted to, and approved in writing by, the local highway authority. The approved barrier design shall be fully implemented before the access road is brought into vehicular use.

END OF SCHEDULE

EP4



Mr Adam Howarth
H3 Property Consultants Limited
Whitby Court
Abbey Road
Shepley
Huddersfield
HD8 8EL

Direct Dial: 07747 486255

Our ref: S00228714

11 May 2020

Dear Mr Howarth

**Ancient Monuments and Archaeological Areas Act 1979 (as amended); Section 2
control of works
Application for Scheduled Monument Consent**

**CAIRNFIELD IN HAGG WOOD, HONLEY, 375M SOUTH EAST OF UPPER HAGG
Schedule Monument No: SM 31504, HA 1018555**

Our ref: S00228714

Application on behalf of Allan Pogson and Shaune Lockwood

1. I refer to your correspondence of 17 April 2020 requesting a variation to the Scheduled Monument Consent granted on 22 November 2019, Case No. S00228714, in relation to works at the above scheduled monument.

2. The requested variation is to works to the land adjoining the approved estate road to stabilise part of the bank due to the presence of unconsolidated made ground (as outlined in the letter from Ashton Bennett, dated 14 April 2020, and located between sections B and C on drawing '(0-) 03 Rev B').

3. The Secretary of State is also required by the Act to consult with the Historic Buildings and Monuments Commission for England (Historic England) before deciding whether or not to grant Scheduled Monument Consent. Historic England considers the effect of the proposed works upon the monument to be works with a limited effect which will not be seriously adverse to the known surviving archaeology of the monument but for which an appropriate level of archaeological supervision and recording will be required.

I can confirm that the Secretary of State has decided that the works may proceed providing that the conditions of the existing consent letter are adhered to.

4. Your attention is drawn to the provisions of section 55 of the 1979 Act under which any person who is aggrieved by the decision given in this letter may challenge its validity by an application made to the High Court within six weeks from the date when the decision is given. The grounds upon which an application may be made to the Court are (1) that the decision is not within the powers of the Act (that is, the Secretary



Historic England

of State has exceeded the relevant powers) or (2) that any of the relevant requirements have not been complied with and the applicant's interests have been substantially prejudiced by the failure to comply. The "relevant requirements" are defined in section 55 of the 1979 Act: they are the requirements of that Act and the Tribunals and Inquiries Act 1971 and the requirements of any regulations or rules made under those Acts.

Yours Sincerely

Dr Andy Hammon

Inspector of Ancient Monuments

E-mail: andy.hammon@historicengland.org.uk

For and on behalf of the Secretary of State for Digital, Culture, Media and Sport

cc: Ian Sanderson, Principal Archaeologist, West Yorkshire Archaeology Advisory Service

Daniel Edmunds, Business and Listing Officer, Historic England



37 TANNER ROW YORK YO1 6WP

Telephone 01904 601948
HistoricEngland.org.uk



EP5

Report of the Head of Strategic Investment

STRATEGIC PLANNING COMMITTEE

Date: 21-Dec-2017

Subject: Planning Application 2017/91676 Formation of new access from existing stone yard to adjacent storage area including excavation/engineering works Haggwood Quarry, Woodhead Road, Holmfirth, HD9 6PW

APPLICANT

Allan Pogson, Abacus
Stone Sales Ltd

DATE VALID

23-May-2017

TARGET DATE

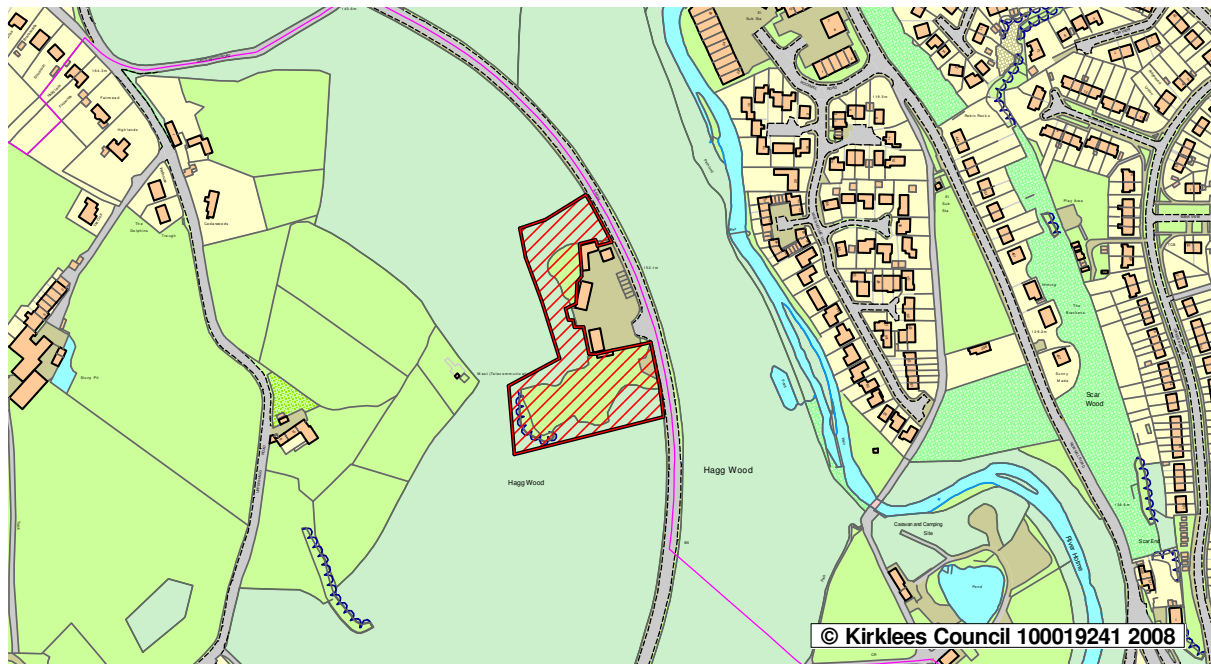
18-Jul-2017

EXTENSION EXPIRY DATE

Please click the following link for guidance notes on public speaking at planning committees, including how to pre-register your intention to speak.

<http://www.kirklees.gov.uk/beta/planning-applications/pdf/public-speaking-committee.pdf>

LOCATION PLAN



Map not to scale – for identification purposes only

Electoral Wards Affected: Holme Valley South.

Yes Ward members notified

RECOMMENDATION:

DELEGATE approval of this application and the issuing of the decision notice to the Head of Strategic Investment in order to complete the list of conditions including those contained within this report and to secure a Section 106 agreement from the applicant which limits the area that can be used to store and work stone within the site's northern quarry void.

In the circumstances where the Section 106 agreement has not been submitted within 3 months of the date of the Committee's resolution then the Head of Strategic Investment shall consider whether planning permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Strategic Investment is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers

1.0 INTRODUCTION:

This application is brought to the sub-committee for determination as the application site area exceeds 0.5 ha and the proposal relates to non – residential development.

2.0 SITE AND SURROUNDINGS:

The application site is located approximately 0.25km to the west of the centre of Brockholes, 1.7 kilometres south of Honley village and is situated on the edge of a large area of woodland known as Hagg Wood. The application site occupies an area of approximately 9920m² and forms part of what was principally an historic quarry void. The site comprises two main areas one to the south, which is currently used for the storage and dressing of stone and includes a number of buildings and associated plant. The other area which lies to the north is, at present unused although benefiting from planning permission for stone storage and dressing. These areas are linked by a strip of land which runs behind another stone processing operation which occupies the remainder of the quarry void. It is this strip of land which would be engineered/excavated to facilitate the proposed development. The immediate wider area surrounding the site has a rural wooded character with isolated residential properties to west and a concentration of residential properties to the east at Brockholes.

2.1 The site is located within a wider area designated as a site of scientific interest (SSI) in the Unitary Development Plan and is identified as a Local Wildlife Site in the Emerging local plan, is included within an area of ancient

woodland, is immediately adjacent to a scheduled ancient monument (1018555) and is located within the Green Belt.

3.0 PROPOSAL

- 3.1 The applicant has submitted a planning application which seeks permission to carry out engineering operations to form an access roadway from the operational southern quarry void to the northern void which has planning permission to be used for stone dressing and storage but has not been used. This would involve the excavation of land to the west of the current void down to a maximum depth of approximately 5m and at its widest approximately 10m beyond the toe of the historic quarry face. This would allow the construction of a roadway with an average carriageway width of approximately 4.5m. This would be sufficient to allow heavy vehicles to move between the two voids.

4.0 RELEVANT PLANNING HISTORY

75/6107 – Erection of site cabin for WYMCC (Approved 23 January 1976)

80/2401 – Storage compound for gas cylinders – (Approved 12.5.80)

96/90931 – Outline application for workshop and improved access (Refused 17 July 1996)

97/92231 – erection of PRU (gas control) building by Transco (Approved 8 January 1998)

2001/90843 - Use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate (within a site of special scientific interest and ancient monument). Approved 16 April 2003

2007/93104 - Use of existing stone yard for waste facility including site offices, hardstanding and landscaping works – Withdrawn

2017/90201- Variation of conditions 2 (Materials) 4 (Opening Hours) 8 (Retailing) 12 (Trees) 13 (Vehicular Access) and 17 (Storage Height) on previous application 2001/90843 for use of former salt stocking yard for storage and dressing of building stone, erection of portal framed building, widening of access including resurfacing of entrance and erection of 2.4m-high palisade gate. (Approved 26 June 2017 with regard to conditions 2, 4 and 14 only)

4.2 Enforcement History

- 4.3 The site was first investigated in 2001 following reports of activity on the former Council salt stocking yard. During these investigations it was found the owner was preparing the ground for storage and dressing of stone. This investigation led to the submission of the 2001 planning application ref: 2001/90843 and subsequent approval on the 16 April 2003.

- 4.4 Site was investigated again by officers in 2004 following further works carried out pursuant to the 2003 planning permission. The site had been further prepared for the storage and dressing of stone, including completion of the

access gates/walling and a degree of surfacing over the site. Officers investigating at the time were satisfied that the site was operating as a stone yard as described and approved.

- 4.5 The site operated thereafter without objection being received by the local planning authority until January 2016. The local authority received reports of the erection of a fence through the adjacent woodland, formation of “ramps” to gain access onto the upper level of the former quarry and encroachment into areas outside of the original planning permission. Further concern was raised regarding works within a site of an ancient scheduled monument within the woodland.
- 4.6 Initial visits to the site in January 2016 confirmed a number of trees had been removed in the adjacent woodland. These were protected trees and legal proceedings were pursued with respect to this matter.
- 4.7 These site visits also confirmed the site was largely operating within the terms of the 2003 planning permission. No evidence was obtained of any recent encroachments into any areas outside the 2003 permission and the “ramp” was not considered to amount to an operation requiring planning permission. It was noted there had been a small encroachment to the left of the access that was being used for storage. However, from aerial photographs held by the authority it was clear this area had been used for a significant number of years without major concern for the local authority. Historic England attending the visit did not raise any significant concern over works within the vicinity of the ancient scheduled monument. Notwithstanding this, the owner was advised of planning requirements should any works be carried out. The complainant was notified that no recent breaches of planning control had been identified in January 2016.
- 4.8 The local planning authority received further reports in February 2016 alleging an intensification of the site including lack of turning facilities for vehicles and removal of material to expand into the rear (northern area) of the site. Officers concluded that the area currently unused of the rear northern area of the stone yard benefitted from the 2003 planning permission and that based upon information obtained operations were not in breach of the 2003 planning permission.
- 4.9 Further reports in April 2016 from a second complainant alleged disturbance was being experienced through dust and noise pollution. It was also alleged operations were being carried out over the weekend. If substantiated this weekend activity would be in breach of condition 4 attached to the 2003 planning permission. However, it was noted that two adjoining stone yards operating independently both had conditions restricting weekend operations. Further evidence would have to be obtained to establish whether one or both stone yards were in breach of respective planning conditions.
- 4.10 Subsequent information obtained and received between the period of May and December 2016 demonstrated some weekend working was taking place on both stone yards. However, little evidence of substantial prolonged nuisance or harm caused could be verified. Under these circumstances and in accordance with National Planning Policy Guidance, the local planning authority would normally seek to resolve such matters through the submission of an application as opposed to the taking of formal action. An application revising the 2003 conditions was submitted and partially approved on the 26

June 2017. This allowed an extension of working hours to include Saturday morning operations between 8am and 1pm.

- 4.11 Following the approval of this application, a number of complaints were received alleging operations were commencing at 7am on Saturday morning. A Breach of Condition Notice was issued on the 9 August 2017 and required the operators to comply with the hours of operation condition by the 6 October 2017. As a result of the Notice being issued the operators have confirmed compliance with the planning condition relating to hours of work. However, in light of further allegations of Saturday afternoon operations the matter continues to be monitored.

5.0 HISTORY OF NEGOTIATIONS:

- 5.1 Following discussions with the applicant and their agent and relevant consultees, site investigations were carried out to assess the extent of excavations necessary beyond the existing quarry face and their impact on the adjacent woodland. This resulted in amended plans being received which indicated a reduction in excavations along the western boundary of the site.

6.0 PLANNING POLICY:

- 6.1 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 Kirklees currently comprises the saved policies within the Kirklees Unitary Development Plan (Saved 2007). The Council's Local Plan was submitted to the Secretary of State for Communities and Local Government on 25th April 2017, so that it can be examined by an independent inspector. The weight to be given to the Local Plan will be determined in accordance with the guidance in paragraph 216 of the National Planning Policy Framework. In particular, where the policies, proposals and designations in the Local Plan do not vary from those within the UDP, do not attract significant unresolved objections and are consistent with the National Planning Policy Framework (2012), these may be given increased weight. At this stage of the process the Publication Draft Local Plan is considered to carry significant weight. Pending the adoption of the Local Plan, the UDP (saved Policies 2007) remains the statutory Development Plan for Kirklees.

6.2 Kirklees Unitary Development Plan (UDP) Saved Policies 2007:

EP4 – Noise generating development

B1 – Employment needs of the district

BE1 – Design principles

BE2 – Quality of design

NE3 – Development affecting Sites of Scientific Interest

NE5 – Development involving land identified as a wildlife corridor on the proposals map

NE9 – Retention of mature trees

BE9 – Development affecting archaeological sites

T10 – highway safety

6.3 National Planning Guidance:

Section 1 – Building a strong, competitive economy

Section 9 – Protecting Green Belt Land

Section 11 – Conserving and enhancing the natural environment

Section 12 – Conserving and enhancing the historic environment

6.4 Kirklees Publication Draft Local Plan: Submitted for examination April 2017

Whilst the majority of the site has not been allocated for any specific purpose in the emerging local plan, areas on the periphery of the site fall within a wider area identified as a local wildlife site (LWS57). Furthermore a small area on the western boundary of the site falls within an archaeological site, which is a scheduled ancient monument.

Policies:

PLP24 – Design

PLP52 – Protection and improvement of environmental quality

PLP3 – Location of new development

PLP21 – Highway Safety and Access

PLP35 – Historic environment

PLP30 – Biodiversity and geodiversity

PLP33 - Trees

7.0 **PUBLIC/LOCAL RESPONSE:**

7.1 This application was publicised by the erection of 4 site notices in the vicinity of the site and the mailing of 6 neighbourhood notification letters. This resulted in the receipt of 7 letters of objection which raised a number of concerns which can be summarised as follows:

- The development would represent inappropriate development within the Green Belt as the works do not preserve the openness of the Green belt and conflict with the purposes of including land in the Green Belt.
- The proposal would result in the loss of existing mature trees and wildlife habitat
- The proposal would cause damage to a scheduled ancient monument

- The transport off site of stone removed during the proposed works would have an adverse impact on the local highway network
- The proposal would lead to an intensification of the use of the site which would increase problems associated with dust, noise and highway safety
- Access to the current unused northern area of the site can be gained without creating this new access.
- No details have been provided regarding the construction specifications of the road or the proposed safety barriers

7.2 However, it should be noted that this application was made as a result of officers advising the applicant that these proposals could not be included within previous planning application 2017/90201 to vary/delete existing planning conditions. Consequently it is considered that it is appropriate to remind members that 82 representations were previously received with regard to the proposals to vary/delete existing planning conditions and the issues raised that are relevant to this application can be summarised as follows:

- The loss of trees associated with this development would have a detrimental impact on the area.
- The enjoyment of users of the wood would be adversely affected by this proposal
- The proposal would have a detrimental impact on local ecology
- Existing planning conditions have not been satisfactorily enforced
- The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed
- The proposal would have a detrimental impact on a scheduled ancient monument.
- Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected
- Protected trees have already been illegally felled by the applicant.
- Local beavers and cubs groups use the wood for recreational activities which would be adversely affected by this proposal
- Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further
- The proposal is contrary to local planning policy as the site is located within the Green Belt, protected woodland and close to archaeological remains.

- The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.
- The current use of the site is contrary to Green Belt policy
- Activities at the site result in the generation of dust which and the problems associated with dust in the vicinity will be exacerbated by this proposal.
- Allowing this proposal would result in increased noise nuisance

7.3 Home Valley Parish Council was consulted on this proposal and responded as follows:

“Cllr J G Cropper declared a disclosable pecuniary interest and left the meeting during this item.

Object to the application on the grounds that this is a site of ancient woodland and archaeological nature. As this is a site of special interest, Historic England advice on safeguarding the site and the adjacent Scheduled Monument must be borne in mind.”

7.4 Whilst not commenting on this application directly, local members did raise concerns about the previous Section 73 application (2017/90201) to vary conditions on the original planning permission. That application did originally include the works proposed in this application before they were excluded by officers and the comments made by members were made in that context. It is therefore considered appropriate to provide a copy of those comments for members to note:

Cllr Nigel Patrick (Holme Valley South ward member) indicated in an e-mail dated 1 February 2017 that he considered that “ given ongoing problems on this site this application should go to planning committee together with a site visit.” Cllr Patrick in a further e-mail communication provided the following reasons to support his request:

- *Impact on Ancient Monument*
- *Impact on Protected Trees*
- *Impact on Ancient/ Semi Natural Woodland*
- *Impact on amenity of neighbouring properties*
- *Impact on Protected Species*
- *Road Safety*
- *Ongoing enforcement issues at site*

Cllr C Greaves (Home Valley North member which is the adjacent ward) also requested that this application be brought to committee for determination in an e-mail dated 14 February 2017 and indicated the following:

“...The reasons for referral are that development has occurred outside of existing permissions and this application has been submitted as a response to enforcement action - and that in my view the decision to ease planning restrictions should be determined by committee.

I have particular concerns around any easing of the restriction against retail activity, early operating times on a Saturday, any works at all on a Sunday, stacking of material (3m still seems appropriate) and any removal of trees or further incursion into the rock face/woodland - all of which are against current permissions and which appear to be taking place."

8.0 CONSULTATION RESPONSES:

8.1 Statutory:

K C Highways DM – No objections

Historic England – No objection. However, Historic England has requested that an informative be added advising the applicant that a Scheduled Ancient Monument consent would be required prior to development commencing and that Historic England should be contacted with regard to this matter.

8.2 Non-statutory:

K C Environmental Health – No objection subject to planning to:

- Restrict hours of operation to 0700 and 1800 Monday to Friday and 0800 to 1300 Saturdays and no activities to take place on Sundays or Bank Holidays
- The submission and approval of a dust suppression scheme prior to development commencing

K C Ecology Unit – No objection subject to planning conditions to require:

- The submission and approval of a protocol for dealing with any invasive weeds found.
- Compensatory woodland planting as indicated in the arboricultural impact assessment.
- That tree and vegetation removal is carried out outside the bird nesting season.
- The submission and approval of an artificial lighting scheme.
- Re-survey of a disused badger set prior to development commencing.
- The submission and approval of ecological enhancement works.

K C Trees Officer – No objections subject to the area used for stone storage and dressing being restricted to that shown in the amended arboricultural method statement and the inclusion of planning conditions which require:

- Works to the affected trees being carried out in accordance with the supporting arboricultural method statement
- Details of any additional tree works which have not been previously identified prior to the works being carried out

- The production of evidence to show that arboricultural works have been carried out in accordance with the approved scheme
- Compensatory tree planting works is carried out within 12 months development commencing

Forestry Commission – Standard advice provided which stresses that this proposal must be considered in accordance with para. 118 of the NPPF. Bullet point 5 of para. 118 states:

“...planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss;...”

West Yorks Archaeology – No response

9.0 MAIN ISSUES

- Principle of development
- Local amenity issues
- Ecological issues
- Heritage issues
- Highway issues
- Representations

10.0 APPRAISAL

10.1 Principle of development

10.2 Section 1 of the National Planning Policy Framework makes it clear that the Government is committed to securing economic growth through the planning process and to help achieve this paragraph 20 of the NPPF states:

“.....local planning authorities should plan pro-actively to meet the development needs of business and support an economy fit for the 21st century.”

This site is an established business which provides employment and contributes to the local economy. It is considered that this proposal would maximise the potential of this site and therefore accords with the aims of the NPPF with regard to supporting sustainable economic growth.

10.3 The application site falls within a wider area identified as Green Belt in the adopted Unitary Development Plan. Paragraph 87 of the NPPF confirms that inappropriate development within Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 goes on to say 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 is clearly outweighed by other considerations. It is considered that the principle of using this site in connection with stone storage and working

within the Green Belt was established at the time the original planning permission was granted in 2003.

- 10.4 The construction of the proposed access roadway is considered to constitute engineering operations which Paragraph 90 of the NPPF states are not inappropriate development within the Green Belt, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within the Green Belt. It is therefore considered that key issues to consider in the assessment of this application are whether this proposal is appropriate development and if not whether there are any very special circumstances which clearly outweigh the harm that would be caused to the Green Belt by reason of inappropriateness or by any other harm.
- 10.5 The NPPF indicates 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 80 of the NPPF indicates that Green Belts serve 5 purposes:
1. To check the unrestricted sprawl of large built up areas;
 2. To prevent neighbouring towns from merging into one another;
 3. To assist in safeguarding the countryside from encroachment;
 4. To preserve the setting and special character of historic towns; and
 5. To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 10.6 The proposed access roadway falls within the footprint of the previously granted planning permission to change the use of the site to allow stone storage and working albeit within an area which was specifically precluded from such activities by planning condition. The area of development associated with the engineering operations measures approximately 320m² and represents a strip of land to the rear of and adjacent to existing industrial buildings. The roadway would be accessed from the existing quarry void and would therefore be below the level of the surrounding woodland to the west of the site. As a consequence, the physical works involved and its subsequent use would be screened to a significant degree.
- 10.7 The working and storage of stone within the application site already has the benefit of planning permission and it is therefore considered that this development would not represent an intensification of that use but would simply act to facilitate the permitted use.
- 10.8 The proposed roadway is associated with an existing brownfield site and there would be a relatively minor impact on visual amenity and the character of the wider landscape. Officers therefore consider that this proposal would preserve the openness of this part of the Green belt and would not conflict with the purposes of including land within the Green Belt and comply with the provisions of paragraph 89 of the NPPF. The development is therefore considered to represent appropriate development within the Green Belt and would therefore accord with policy guidance contained within the Section 9 of the NPPF.
- 10.9 Due to the stage the emerging Local Plan has reached with regard to the examination process, it must now be given considerable weight in the consideration of planning applications. The implications of this proposal on the emerging plan must therefore be considered. The emerging local plan

identifies peripheral areas on the edge of the site as falling within a wider area designated as a Local Wildlife Site (previously an SSI in the UDP) and within part of an area containing a registered ancient monument. Officers consider that due to the limited nature of development involved in this instance, the aims of the local plan would not be prejudiced by this proposal.

10.10 Officers therefore consider that this proposal is acceptable in principle subject to there being no conflict with other local and national planning policy guidance.

10.11 Local Amenity Issues

10.12 The nearest residential properties to the proposed roadway are located approximately 160m to the east off River Holme View and 210m to the west off Upper Hagg Road. The residential properties to the east are at a lower level (approx. 40m) and are screened by dense woodland. The residential properties to the west are at a higher level (approx. 10m) and again screened by dense woodland. As a consequence direct views of the site cannot be gained from these properties.

10.13 The nearest public right of way (PROW) is located approximately 350m to the south of the site. Users of this PROW would not be able to gain direct views of the proposed roadway and it is therefore considered that the enjoyment of pedestrians using this route would not be adversely affected.

10.14 Noise would be generated by vehicle movements and as a result of stone being loaded and unloaded onto and from vehicles. However, this type of activity already takes place on the operational areas of the site. It is therefore considered that noise levels would not exceed those already associated with existing permitted operations and as a consequence this proposal would not result in a significant additional adverse impact being experienced by the nearest sensitive receptors with regard to potential noise nuisance.

10.15 The area which would be excavated to create the roadway is partially screened from Woodhead road by existing buildings and vegetation and would be set below the level of the woodland to the west of the site. Consequently only limited views of the roadway would be obtained. Vehicles using the roadway could be viewed at certain points along its route but such views would be fleeting and, bearing in mind current activity on adjacent land, would not appear as unusual in this particular setting. Officers therefore consider that this development would have only a limited impact on the visual amenity of this area and would not represent a significant degradation of the visual quality in this part of the district.

10.16 Due to the nature of operations on adjacent land this proposal could result in additional dust generation in dry conditions. However, officers consider that measures can be implemented to mitigate any associated impact.

10.17 It is therefore considered that this proposal would accord with UDP policies BE1, BE2, EP4, KPDLP policies PLP24, PLP52 and section 11 of the NPPF with regard to its impact on local amenity.

10.18 Ecological Issues

10.19 The site is located within a wider area designated as a Local Wildlife Site and was formerly allocated as a Site of Scientific Interest (SSI) in the UDP. It is therefore essential to ensure that any development does not detrimentally impact on local ecology and biodiversity associated with this area.

10.20 The applicant has provided an ecological assessment which has considered the potential ecological impacts associated with this proposal. The assessment established baseline ecological conditions and considers the likely effects of this proposal, suggested mitigation measures and ecological enhancements and its conclusions of this assessment is summarised as follows:

Ecological Receptor	Importance	Mitigation, Compensation and Enhancements	Anticipated Residual Impact
Bats	County	None of the trees to be removed have potential for roosting bats. The erection of five woodcrete bat boxes will therefore increase the potential bat roosting resource. 350 native whips to be planted around the margins of the quarry will provide increased bat foraging habitat; the access track itself will have a vertical upper edge, and will remain unlit, creating new 'edge habitat' of value to foraging bats.	Positive (Minor)
Nesting Birds	Local	If any tree or shrub removal needs to take place within the main bird breeding season (which for most species extends between March and August inclusive) an inspection shall take place first, by a suitable qualified ecologist, and any nests (if present) shall be protected, along with a suitable buffer zone, until the nesting attempt is complete. 350 native whips to be planted around the margins of the quarry will provide new nesting opportunities, as well as berries for a wide range of bird species (and other wildlife). The provision of five nest boxes will provide enhanced nesting opportunities for great tit and pied flycatcher.	Positive (Minor)
Invertebrates	Local	350 native whips to be planted around the margins of the quarry will provide new habitat and sources of nectar for a range of invertebrates, whilst the provision of at least five large log piles from felled, crown lifted or pruned trees will create suitable habitat for a range of dead wood invertebrates.	No net change
Badger	Local	Measures not disclosed here to protect location of badger activity	No net change

10.21 Whilst it is accepted that this proposal will have some effects on the potential habitat opportunities provided by this site, it is considered that these effects would be limited and measures can be secured which would potentially provide biodiversity enhancements.

10.22 Although much of the site is part of an operational stone yard, it falls within an area designated as Ancient Woodland. Paragraph 118 of the NPPF states:

“When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

... planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss...”

10.23 In this case, whilst it is accepted that some tree loss will occur as part of the proposal, it is considered that this would be offset by the protection of trees which could otherwise be removed under the terms of the original planning permission. The original grant of planning permission indicated the removal of the majority of trees within the northern quarry void in order to facilitate storage accommodation. This application provides an opportunity to restrict the area to be used in connection with stone storage and working in the northern quarry void and therefore retain a number of existing mature trees. Furthermore the proposal includes a significant amount of compensatory planting (350 native whips) around the edge of the site.

10.24 Should planning permission be approved it is proposed to require the applicant to provide a legal agreement which would require the retention of the existing mature trees located in the northern quarry void.

10.25 It is therefore considered that, in this instance, the benefits of allowing the removal of trees to facilitate this development outweigh their loss and subject to the applicant providing the agreement outlined previously; this proposal would accord with UDP policy NE3, NE5, NE9 KPDL policy PLP 30 and Section 11 of the NPPF.

10.26 Heritage issues

10.27 The site forms part of a scheduled ancient monument which seeks to protect known archaeological remains within Hagg Wood. These remains comprise several stone cairns of Neolithic origin which are located in various positions within the wood.

10.28 As this application has the potential to affect this monument, Historic England was consulted as a Statutory Consultee. Following negotiations with the applicant involving a site visit and amendments to the original proposal, Historic England has confirmed that it does not wish to object to the proposal and it is therefore considered that the development would accord with UDP policy BE9, KPDL policy PLP 35 and Section 12 of the NPPF.

10.29 Highways issues

10.30 The application site is an operational site and is served via an existing access from Woodhead road. This was identified as the access point on the original planning permission to use the site as a stone yard. This proposal would not change these access arrangements.

10.31 It is estimated that the proposed development would involve the removal of approximately 1500 tonnes of rock which would need to be transported from the site. It is therefore likely that this would require in the region of 75 HGV loads. These vehicle movements would be spread over the period of the works and would be for a temporary period only. The applicant has indicated that once operational, this proposal would not result in a significant increase in commercial vehicles visiting the site.

10.32 As it is considered that this proposal would not lead to an intensification of this access, this proposal would not have a significant detrimental impact on highway safety in the vicinity of the site. This proposal would therefore accord with UDP policies T10 and KPDLP policy PLP 21 with regard to the potential impact on the local highway network.

10.33 Representations

10.34 As previously indicated 7 letters of objection have been received in connection with this application in addition to the 82 representations received with regard to the previous proposal, the relevant issues raised and associated responses are summarised as follows:

The development would represent inappropriate development within the Green Belt as the works do not preserve the openness of the Green belt and conflict with the purposes of including land in the Green Belt.

Response: This matter has been considered in paragraphs 10.3 to 10.8

The proposal would result in the loss of existing mature trees and wildlife habitat

Response: This matter has been considered in paragraphs 10.19 to 10.21

The proposal would cause damage to a scheduled ancient monument

Response: to follow

The transport off site of stone removed during the proposed works would have an adverse impact on the local highway network

Response: This matter has been considered in paragraph 10.29

The proposal would lead to an intensification of the use of the site which would increase problems associated with dust, noise and highway safety

Response: This matter has been considered in paragraph 10.7

Access to the current unused northern area of the site can be gained without creating this new access.

Response: This may be the case. However, the applicant has submitted an application to provide improved arrangements. This application must be considered in this context and cannot simply be refused because access can already be gained. The proposal has been assessed on that basis and it is considered that the proposal should be granted planning permission.

No details of have been provided regarding the construction specifications of the road or the proposed safety barriers.

Response: It is considered that this information can be satisfactorily secured through the imposition of planning conditions.

The loss of trees associated with this development would have a detrimental impact on the area.

Response: This matter has been considered in paragraphs 10.22 to 10.23

The enjoyment of users of Hagg Wood would be adversely affected by this proposal.

Response: Hagg Wood is privately owned land and the only public access is via PROW Hol/32/40 which is over 300m from this proposal. As previously indicated it is considered that the enjoyment of pedestrians using this route would not be adversely affected.

The proposal would have a detrimental impact on local ecology.

Response: This matter has been considered in paragraphs 10.19 to 10.21

Existing planning conditions have not been satisfactorily enforced

Response: This matter has been summarised in Paragraphs 4.3 to 4.11. Whilst it is accepted that enforcement action has been required to address a breach of planning control at this site, this is not a material planning consideration with regard to this application.

The proposal would see an encroachment of current activities into ancient woodland and a site of scientific interest and should not therefore be allowed.

Response: This matter has been considered in Paragraphs 10.19 to 10.23

The proposal would have a detrimental impact on a scheduled ancient monument.

Response: This matter has been considered in Paragraphs 10.27 and 10.28

Hagg Wood is a public amenity and the rights of way within the wood would be adversely affected.

Response: Other than PROW Hol/32/40 which runs along the southern boundary of Hagg Wood, there are no other PROWs in the vicinity of the site or access rights to enter the woodland.

Protected trees have already been illegally felled by the applicant.

Response: Legal action was been taken with regard to illegal tree felling in Hagg Wood and a successful prosecution was secured in the Courts. However this matter is a separate issue and is not a material planning consideration. Consequently it cannot influence the assessment of this application.

Local beavers and cubs groups use the wood for recreational activities which would be adversely affected by this proposal.

Response: Other than PROW Hol/32/40 which runs along the southern boundary of Hagg Wood, there are no other PROWs in the vicinity of the site or access rights to enter the woodland.

Allowing activities above the level of the existing quarry would result in problems associated with noise and dust travelling further.

Response: This matter has been considered in Paragraphs 10.14 and 10.16

The development would involve the loss of part of ancient woodland which would be contrary to national planning policy guidance.

Response: This matter has been considered in Paragraphs 10.22 to 10.24

The current use of the site is contrary to Green Belt policy

Response: This matter has been considered in Paragraphs 10.3 to 10.8

11.0 CONCLUSION

11.1 This proposal would allow a site which has previously received planning permission to be used to its full potential by providing a useable vehicular link between its two main areas. As previously indicated, the site is in a sensitive location with regard the potential impact on local ecology, habitat provision including ancient woodland and local heritage assets. However, Officers consider that the impacts associated with this development would be limited in scale and mitigation measures can be included to offset and any adverse effects.

11.2 The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

11.3 This application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

12.0 CONDITIONS

1. Standard 3 years to implement permission
2. Standard condition requiring development to accord with approved plans
3. Development to be carried out in accordance with the amended supporting arboricultural method statement
4. Details of any tree work not identified in the supporting information to be submitted to and approved by the local planning authority
5. Within 7 days of works being carried out to any trees on site, written and photographic evidence to be submitted to the local planning authority demonstrating that the arboricultural supervision detailed in Sections 2.2 and 3.1 of the arboricultural method statement has been carried out.
6. The planting scheme specified in the amended arboricultural method statement shall be completed within 12 months of commencing development.
7. Prior to development commencing the submission and approval of an invasive weeds management protocol
8. Prior to development being brought into use the submission and approval of a lighting plan
9. All tree/vegetation works to be carried out outside the bird nesting season
10. Prior to development commencing re-survey work to be carried out in connection with the disused badger sett
11. The submission of details regarding ecological enhancements

12. Prior to the development being brought into use details of surfacing and drainage arrangements to be submitted to and approved in writing by the local planning authority.

13. Prior to the development being brought into use details of the safety barrier to be erected on the roadway shall be submitted to and approved in writing by the local planning authority.

14 .No Development to commence until dust suppression measures have been agreed.

Background Papers:

Application and history files.

<http://www.kirklees.gov.uk/beta/planning-applications/search-for-planning-applications/detail.aspx?id=2017%2f91676>

Certificate of Ownership –Certificate A signed: 12 May 2017