



Northumberland County Council

Strategic Planning Committee
6 December 2022

ADDENDUM REPORT

Application Reference:

21/02505/CCMEIA

Proposal:

Extraction and processing of 5.8 million tonnes of sand and gravel and the phased restoration of the site to a lake and associated wetlands

Site Address:

Land North East of Anick Grange Haugh, Anick Road, Hexham

Applicant:

Thompsons of Prudhoe

Agent:

R & K Wood Planning LLP

RECOMMENDATION:

That this application be GRANTED permission subject to planning conditions and a Section 106 agreement to secure the following obligation:

- Financial contribution towards the establishment of the Hexham to Corbridge multi-user route or land offered in perpetuity/long term lease for a section or directly connected loop to the Hexham to Corbridge multi-user cycle route.

1. Introduction

- 1.1 This planning application was reported to the Strategic Planning Committee on 1 November 2022. It was resolved that the application be granted for the reasons and with the conditions as outlined in the report subject to an amendment to include the requirement for an email address in Condition 9 and subject to a S106 agreement being agreed to confirm a scheme to be submitted with a commitment to help towards either the provision of land or funding towards the Local Cycle Walking and Infrastructure Project the specifics of which to be delegated to the Director of Planning and the Chair of the Strategic Planning Committee to agree.

- 1.2 Following the Strategic Planning Committee meeting on 1 November 2022, third party correspondence has been received by the Council raising concerns that policies with the National Planning Policy Framework (NPPF) and Northumberland Local Plan on Green Belt had been wrongly applied in the report. The correspondence advises that the decision made by the Strategic Planning Committee is likely to be challenged by Judicial Review.
- 1.3 As a consequence, an updated report has been provided to the Strategic Planning Committee for consideration at the meeting on 6 December 2022. An updated report is separately presented, which provides some clarifications on how the different elements of the proposed development have been assessed against Green Belt policy in the NPPF and Northumberland Local Plan.

2. Details

- 2.1 On 6 November 2022, third party correspondence was received by the Council raising concerns that policies with the National Planning Policy Framework (NPPF) and Northumberland Local Plan on Green Belt had been wrongly applied in the officer report for this application considered at the Strategic Planning Committee on 1 November 2022. The correspondence advises that the decision made by the Strategic Planning Committee is likely to be challenged by Judicial Review for the reasons set out below.
- 2.2 The main areas of concern raised in the correspondence received are as follows:
 1. *The Planning Officer has provided recommendations within paragraphs 9.17 & 10.7 of the Officer's Committee Report (1 November 2022) that are incorrect and clearly conflict with Green Belt policies included within both the NPPF and the Northumberland Local Plan. Specifically, the officer states that the application would not constitute inappropriate development within the Green Belt and references the mineral extraction exclusion included within Para. 150 of the NPPF and STP 8 of the adopted Local Plan; however, the officer has failed to identify that these policies only apply to the mineral extraction element of the application and do not apply to the on-site processing of material thus demonstrating a clear misinterpretation or misapplication of the aforementioned policies.*

As such, the officer would need to consider the "processing" element of the application to be inappropriate and, therefore, should apply the "very special circumstances" principle stated within Para. 147 & Para. 148 of the NPPF. The "very special circumstances" provisions by design set the bar very high and the officer does not appear to set out a case for both the harm to the Green Belt and "any other harm resulting from the proposal" being "clearly outweighed". In fact, no reference to the "very special circumstances" provision is made in relation to multiple other sources of harm identified within the officer's own wider assessment. This represents an additional misapplication of Para. 148 of the NPPF.

2. *Linked to the concerns described under point 1), the officer has failed to demonstrate consideration of key material considerations in the form of precedent set by previous planning appeals and court decisions including:*
 - a. *Jonathan King (24 September 2014) - Appeal Ref. APP/M1900/A/14/2218970 - the Planning Inspector in considering a gravel extraction and processing application application within the Green Belt determined that “processing plant, although commonly associated with mineral extraction, cannot be regarded as an integral part of it” and concluded that it comprises inappropriate development.*
 - b. *John Woolcock (25 November 2021) - Appeal Ref. APP/M1900/W/21/3278097 - the Planning Inspector determined that “‘mineral extraction’ should include plant and infrastructure necessary to facilitate the winning and working of minerals. However, any development that was not so necessary could not benefit from NPPF paragraph 150’ citing section 55 of the 1990 Act which defines mining operations to include the removal of material of any description from a mineral-working deposit.*
 - c. *Court of Appeal ([2014] EWHC Civ 612) which overturned a previous High Court judgement that limited “any other harm” to harm to the Green Belt when applying the “very special circumstances” provisions included within Para. 147 & Para. 148 of the NPPF.*
- 2.3 The main thrust of the concerns raised in the third-party correspondence is that Paragraph 150 of the NPPF is not capable of being applied to the “on-site processing of material”. The approach that has been taken to assessing this element of the development in relation to Green Belt policy is explained below.
- 2.4 In relation to ‘mineral extraction’ as referred to in Paragraph 150 of the NPPF, the use of this term in this context is not defined in either the NPPF, Planning Practice Guidance or Northumberland Local Plan. It is, however, considered reasonable to assume that mineral extraction in this context includes some level of ancillary development (i.e. the plant and infrastructure) to facilitate the winning and working of the target minerals. The level of ancillary development (and the extent to which it is genuinely ancillary) needs to be considered.
- 2.5 Minerals can only be extracted where they occur, and the impact of extraction is temporary. This form of development is considered compatible with the openness and purposes of the Green Belt, by virtue of its inclusion within Paragraph 150 of the NPPF.
- 2.6 The on-site processing plant that would be located within the compound area would have a direct role in facilitating the winning and working of the mineral deposit at the site through separating the target mineral from other excavated/non-target materials such as silts, which once separated from the sand and gravel would be used on-site to construct the restored landform. These elements of the proposed development are closely associated with the excavation of the mineral and the ancillary development has been minimised by the applicant to that necessary to facilitate the winning and working of sand and gravel from the site. As the compound would be ancillary to the extraction and would be temporary, this form of development is considered to fall within

Paragraph 150 of the NPPF. In principle, it is therefore compatible with the openness and purposes of the Green Belt.

- 2.7 It is considered appropriate to conclude that the proposed development would not constitute inappropriate development in the Green Belt in accordance with Paragraph 150 of the NPPF. Paragraph 150 states certain forms of development, which includes mineral extraction, engineering operations and material changes in the use of land, are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. The assessment of the application detailed in the officer report considers that the proposals would preserve openness and would not conflict with the purposes of including land within it.
- 2.8 This correspondence, appeal decisions and case law has been carefully reviewed by Officers. It is considered that the policies were appropriately applied in the context of the application and there is no need to change the recommendation to grant planning permission. Notwithstanding this, the section of the report that considers the application against Green Belt policy has been updated to clarify how the relevant matters have been considered.

3. Conclusion

- 3.1 The correspondence, the appeal decisions and case law has been carefully reviewed by Officers. It is considered that the policies were appropriately applied in the context of the application and there is no need to change the recommendation to grant planning permission. Notwithstanding this, the section of the report that considers the application against Green Belt policy has been updated to clarify how the relevant matters have been considered.
- 3.2 The assessment of the proposals concludes that the proposed development would not be an inappropriate form of development (by virtue of scale, impact and its justification) in the Green Belt and it accords with Policy STP 8 of the Northumberland Local Plan and the NPPF (Paragraph 150). It would preserve openness and would not conflict with the purposes of including the land in the Green Belt. The mineral excavation operations and the closely associated operational development (i.e. the plant and infrastructure) are considered to constitute mineral extraction development under Paragraph 150 of the NPPF with the proposed flood alleviation bund being considered as an engineering operation under Paragraph 150 of the NPPF and the small car park included in the restoration proposals would constitute an engineering operation and a material use of land under Paragraph 150 of the NPPF. This is considered to be appropriate when account is taken of the nature and scale of the ancillary development, its siting, the visual effects and reversibility following restoration, which mean the proposals do not pass a point where the provision within Paragraph 150 would not apply. As the proposal is considered to be not inappropriate development in the Green Belt, it is not necessary to engage Paragraphs 147 and 148 in order to demonstrate 'very special circumstances' exist to justify inappropriate development in Green Belt.

4. Recommendation

- 4.1 That this application be GRANTED permission subject to the conditions set out in the officer report and a Section 106 agreement as detailed in the officer.