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Our ref            2022/ENQ/00353  
Your Ref:  
Date:            24<sup>th</sup> November 2022  
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Dear Sir

Pre-Application Enquiry

**DESCRIPTION: Restoration and aftercare scheme including de-watering, re-engineering of historical quarry voids and importation of non-hazardous excavated soil materials**

**Location: Stairfoot Quarry Wombwell Lane Stairfoot**

**Applicant: Green Earth Limited**

**Site Description**

The enquiry site comprises 10,000 sqm of land off Wombwell Lane Stairfoot and comprises two areas of disused quarry previously associated with Stairfoot brickworks, and buildings now demolished following closure over 10 years ago.

The site comprises two main areas. A roughly triangular shaped area to the south east ( Yew Tree Quarry) which is steep sided and poorly vegetated on the lower slopes, though young trees and shrubs appeared to be regenerating at the upper levels on top of bedrock where thin soils remain. It has a sloping floor dipping to the south east with water in the lowest areas although at the site visit on 22<sup>nd</sup> September 2022 the weather had been exceptionally dry, there was no water or it was covered in algae. Empty bottles and rubbish etc were evident suggesting trespass by youths, although none was recent. Insubstantial post and wire fencing was evident at the western end of the quarry.

The second area is to the northwest ( Northern Quarry), and comprises a bowl shaped depression, naturalised and well vegetated with a complex mosaic of habitats including trees, shrubs, ground cover and wetland habitats. There was evidence of badgers using the site. A water body lies in the base of the depression. Unlike the Yew Tree Quarry area there was no evidence of rubbish and whilst there appeared to be footpaths, there appeared to be little damage or disturbance and this part of the site appeared to be an unspoilt naturalised area. An intact life belt was visible on its stand close to the water body, which, like the Yew Tree Quarry area, was almost dry on the day of the site visit. The quarry was unfenced.

Access to the two areas would be from Wombwell Lane via an existing access. It was indicated on site that the applicant had a right of access across the brickworks site. From there the old haul routes would be followed firstly east, parallel to the

Trans Pennine Trail (TPT), then crossing the TPT to travel north east, eventually splitting to north and south to reach the two disused quarry areas. These haul roads have regenerated since the quarries closed and are well vegetated with shrubs and trees which have grown into or overgrown the haul roads since the quarries became disused.

Residential development lies on the north along the northeastern boundary of the site, approximately 10-15m away from the quarry tops, at a higher level and separated by screening vegetation. Oakhill Primary School grounds abuts to the northwest.

The Trans Pennine Trail, public footpaths 323 and 324 are all within or on the boundary of the site. Elsecar Greenway also runs along the Stairfoot Brickworks SSSI Marine Band which lies outside the site to the south. Part of a BMBC landfill site is shown as being within the prospective red line boundary. Oaks Plantation, a wedge shaped area of Greenspace ( Typology – Natural Area) is located to the rear of St Pauls Parade through which PROW runs. The Wombwell Lane Green Space abuts along the southwest boundary and the route of a safeguarded former railway line runs southeast to northwest parallel to the Elsecar Green Way which also follows the TPT at this point.

The site lies within a Coal Authority low risk area and the whole area lies within the Dearne Valley Green Heart Nature Improvement Area where development is expected to enhance Biodiversity.

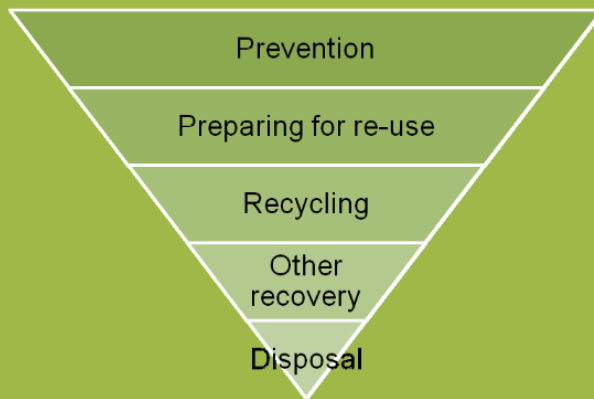
### **Site History and background**

The site was historically used for quarrying of raw material for the adjacent brickworks. Parts of the site have been restored through historic landfill. However, all extraction ceased over 10 years ago and an investigation of the records indicates that there are no extant planning permissions or approved restoration schemes. The North Quarry appears to have been dormant for a considerably longer period on the basis of the habitat mix and natural progression of vegetation.

As a result a proposal to carry out any restoration on the site must be dealt with on its own merits and judged against current national and local policies and guidance. This does not necessarily mean trying to recreate an anticipated restoration scheme similar to those approved decades ago when landfill was an accepted restoration method. Indeed Government policy and the relevant guidance on the National Waste Hierarchy can be accessed here:-

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/69403/pb13530-waste-hierarchy-guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/69403/pb13530-waste-hierarchy-guidance.pdf)

## Guidance on applying the Waste Hierarchy



It gives top priority to preventing waste in the first place. When waste is created, it gives priority to preparing it for re-use, then recycling, then recovery, and last of all disposal (e.g. landfill). Landfill being least preferable and should be avoided.

It is understood that there have been a instances of trespass at the site over time and the covering letter provided by the applicant includes a lengthy extract from a Yorkshire Live article from June 2021 in relation to the potential risks of trespass and swimming in this location. The article goes on to state that “there is a potential to hand over ownership of the quarry site free of charge to any wetland conservation group, environmental group, community group or even a fishing club in the future, which will be explored”. It is unclear if the current landowner or prospective landowner has investigated these low impact non-intrusive uses further.

It is the landowner’s responsibility to keep the site safe and secure. Both the quarries in question remain insecure despite this responsibility, and the measures set out in the Yorkshire Live article of 2021 which proposed steel fencing, a border of reeds and brambles to the water’s edge and wire along the banking which do not appear to have been implemented.

It is understood that the applicant is in the process of purchasing the site in full knowledge that responsibility of the safety of the quarry rests with the landowner.

Under the Environmental Protection Act 1990 the Local Authority have enforcement powers for the Mines and Quarries Act 1954, Section 151. Section 151 (1)(c) relates to a quarry (whether being worked or not) which:

*(1) is not provided with an efficient and properly maintained barrier so designed and constructed as to prevent a person from accidentally falling into the quarry; and  
(2) by reason of its accessibility from a highway or place of public resort constitutes a danger to members of the public.*

The Local Authority could declare the unfenced quarry a statutory nuisance and are empowered to take remedial measures themselves and recover the cost from the quarry owner.

Under the Mines and Quarries Act 1954 and the Environmental Protection Act 1990, “each of the following shall be deemed to be a statutory nuisance that is to say:—  
(c) a quarry (whether in course of being worked or not) which—

- (i) is not provided with an efficient and properly maintained barrier so designed and constructed as to prevent any person from accidentally falling into the quarry; and
- (ii) by reason of its accessibility from a highway/ road (within the meaning of the Roads (Scotland) Act 1984) or a place of public resort constitutes a danger to members of the public.

## **Proposed Development**

It is understood that the applicant is in the process of purchasing the site. In the covering letter dated 11<sup>th</sup> August 2022, the applicant proposes to import non-hazardous excavated soil materials from development sites in the local area to restore the quarries. This would comprise approx. 800,000 cubic metres (1.3m tonnes) over a 4 year period and would entail 80 HGV tippers per day ( 160 movements) to progressively restore the site. Access would be via Wombwell Lane, then run parallel to the TPT which is crossed by the vehicles, and the old haul routes used to access the quarries. Public Rights of Way would also be impacted.

The letter goes on to note on page 8 that there would be an opportunity for improved public access and allow a new restoration scheme to improve the appearance of the site and allow for structured functional public amenity, however, no details are provided. On page 10 the covering letter notes that “The disposal of non-hazardous excavation soils is essential in order to ensure long-term site safety and deliver biodiversity net benefit and opportunities for improved public realm”.

Cross sections provided indicate that the depressions will be restored with sufficient material to surcharge the depressions to manage runoff. This would result in an engineered slope in the northwest of North Quarry between 3 and 7m above existing ground levels at the quarry edges with a 1:3 gradient running down to the rear boundary of the residential properties. This slope would lie to the west and south of the properties on St David’s Drive and St Paul’s Parade. A similar surcharge landform will be formed to the Yew Tree Quarry up to 3m higher than and to the southwest of dwellings on St Pauls Parade. The cross sections indicate that the depth of infill material will be approximately 17m in the North Quarry and 14m in the Yew Tree quarry.

## **Key Points**

1. The quarries have remained unrestored for many years and there is no current planning requirement to restore the quarries. The habitats in the North Quarry in particular have benefitted substantially though benign neglect and is now of medium to high biodiversity value as are the haul roads which have become overgrown. Whilst it appears there has been trespass in the Yew Tree Quarry, none appears recent and the responsibility for safety and security at disused quarries lies with the landowner. Previous proposals to improve safety and security by the existing landowner do not appear to have been implemented.
2. A preliminary screening assessment has indicated an EIA would be required as, interpreted widely, the proposal falls under Schedule 2 column1 part 11 “installations for the disposal of waste” and exceeds the applicable threshold of 0.5ha.
3. It is unclear why the applicant considers “The disposal of non-hazardous excavation soils is essential in order to ensure long-term site safety and deliver biodiversity net benefit and opportunities for improved public realm”. Other less intrusive methods to make the site safe, improve biodiversity and

control public access should be investigated before resorting to landfill as part of any planning application.

4. Policy- Any application will be considered against National Policies and Guidance and relevant Development Plan Policies and Local Guidance which include the Local Plan, Joint Waste Plan and adopted supplementary planning documents. The impacts on the public rights of way, local residents, highways, air quality, greenspace, trees and biodiversity bring the proposal into conflict with the following Local Plan Policies GD1, D1, GI1, BIO1,GS1, GS2, POLL1, AQ1 and T4 and several adopted supplementary planning documents.
5. Biodiversity - There would be no objection on biodiversity grounds in principle, to the Yew Tree Quarry only having some minimal restoration, as it has lower biodiversity value. With an appropriate mitigation scheme, Biodiversity Net Gain is likely to be achieved. However, there are significant concerns regarding the loss of woodland and scrub to enable access to the Yew Tree Quarry site. The applicant needs to ensure the mitigation hierarchy (avoid, mitigate and compensate) and any biodiversity losses mitigated hierarchy of Policy BO11 is adhered to. The North Quarry however, has high value mosaic habitats for a variety of protected and notable species. These would be lost if the quarry was to be restored by infill and it is unlikely that biodiversity net gain could be achieved on site. The loss of regenerated woodland along the access routes is a concern and should be avoided. Infill in the North Quarry would not be supported. Overall the biodiversity hierarchy of avoid, mitigate, compensate, are not supported by this proposal.
6. Highways - Should this pre-application enquiry be submitted as a full application in its current form it would raise objections on highways grounds and a recommendation to refuse due to the failure to address highway safety concerns regarding the access and egress for the site. The Council is currently considering proposals for approx. 250 dwellings in the locality off Bleachcroft Way close to the site.
7. Drainage – SuDs techniques should be utilised to manage surface water run off, with up to 1 in 100 year flow retained within the site and a flood risk assessment would be required. A flood risk assessment would be required.
8. Residential Amenity - The 160 vehicle movements per day over a period of 4 years and which would cross public footpaths and the TPT would cause a significant negative impact, and could put users safety at risk. Impact on residential amenity and the adjacent school as a result of earthworks operations over a period of 4 years is also of concern despite any noise and dust mitigation measures. This would especially be the case when levels are close to, at, or above the surrounding ground levels. Post completion, the surcharged levels of the site would create bunds to the rear of the dwellings several metres high, affecting outlook.
9. The proposal is to maximise infill in both depressions resulting in engineered landforms which will be at a level several metres above the surrounding ground level and above the boundaries of the dwellings presumably to ensure runoff. This will affect outlook to a significant degree and appears to destroy the Boundary Oaks Plantation Greenspace and any other biodiversity habitats currently existing within the two quarry areas, contrary to BIO1 and GS2 and the biodiversity hierarchy.
10. No evidence has been provided to indicate that alternatives have been investigated or that minimal intervention or low level restoration would not be successful in the restoration of the site resulting in Biodiversity Net Gain.
11. Barnsley Council declared a Climate Emergency in 2019 with an ambitious target for the borough to become net zero carbon by 2045 and to reduce borough wide emissions by 65% of 2017 levels by 2025. The impact on air quality of 160 HGV daily HGV movements over 4 years is likely to have a

damaging effect on air quality, carbon emissions and limiting the effects of climate change and would not contribute towards the Councils net zero target or reduction in emissions. This would also be in conflict with the 3 dimensions of sustainable development set out in the NPPF. This part of the proposal would seemingly conflict with the environmental objective of achieving sustainable development and prevent the presumption in favour of sustainable development from being applied.

12. Use of landfill for restoration.

13. The proposal is to restore the site by landfill. The Waste Management Plan for England 2021 identifies that landfill is the worst option in the waste hierarchy and efforts should be made to move waste up the hierarchy.
14. The Resources and Waste Strategy recognises there is an ongoing role for landfill in managing waste, particularly for inert waste that cannot be prevented, recovered or recycled, but that its use should be minimised as much as possible.
15. However, Barnsley Doncaster and Rotherham Joint Waste Plan (JWP) has no need for any landfill for the Plan Period. The proposal, in the opinion of the Local Planning Authority, will not move waste up the waste hierarchy, does not minimise the use of landfill and there is no need for the disposal of waste in the Joint Waste Plan area. Whilst the applicants covering letter suggests it is a windfall site, the lack of need in the JWP would indicate the waste would not be local which conflicts with modern waste policy and the proximity principle. Statements from the adopted Joint Waste Plan include:-
  - The bulk of construction, demolition and excavation waste will continue to be managed on site close to where it arises.
  - Our existing landfill sites have sufficient capacity to dispose of inert construction, demolition and excavation waste during the plan period.
16. The National Planning Policy 2021 sets out in para 174(d) that planning decisions should contribute to and enhance the natural and local environment by minimising the impacts on and providing net gains for biodiversity. The proposal would destroy any existing biodiversity within the two quarry areas and along the haul roads and is therefore in conflict with this paragraph of the NPPF.

## Summary

The two quarries have been disused and unrestored for 10 years without any extant planning permission or approved restoration scheme. The landowner is responsible for the safety and security of the site, there is no obligation to undertake restoration.

The North Quarry has regenerated and now is a medium and high quality mosaic of habitats with evidence of notable and protected species. The Yew Tree Quarry has regenerated less and there appears to have been trespass though not recently.

The proposal is to infill these quarries up to approx. 14-17m deep with excavated inert waste which will surcharge the sites and lead to an engineered landform lying several metres above surrounding ground levels immediately to the rear of residential boundaries. To reach the site vehicles would have to cross the Trans Pennine Trail and other public footpaths causing disruption to users over a period approaching half a decade, and cause significant impacts to existing and regenerated woodland and other habitats which have regenerated since the quarries were abandoned including medium to high value habitats in the North Quarry and the Oaks Planation Green Space. The loss of existing established vegetation and ecological habitat would not follow the national policy of avoid, mitigate and compensate, and harm would need to be apportioned accordingly depending upon the value that is identified within

ecological and arboricultural survey reports and a biodiversity metric that would need to be carried out by suitably qualified professionals.

The impacts on the residential properties are of equal or greater concern, with development occurring on a phased basis over an extended period of time. As the depth of infill is proposed to be so great, there would be a significant period of time where operations would be close to, or at current surrounding ground levels and above, which would impact significantly on residents and the residential amenity and the adjacent school, and outlook would be affected with the resulting engineered landform. In addition, the proposals would be expected to give rise to significant impacts by way of noise, dust, air quality pollution from all of the earthworks operations and increase CO2 emissions within the Borough based upon the very high number of HGV tipper vehicle movements that are predicted to occur over a 4 year period.

Highways have raised concerns on similar themes about the impact of the development on public rights of way and the wider highway network stating that its current form the proposal would receive a recommendation for refusal due to a failure to address highway concerns.

The proposal would be in conflict with a number of national and local policies therefore.

Overall then, the negative impacts of the proposal would, in the opinion of the Local Planning Authority, significantly outweigh any benefits and it is anticipated that the presumption in favour of sustainable development set out in the NPPF would not apply

#### Alternative proposals

Alternatives to the enquiry proposals should be explored including pumping, improved security and fencing and other less intrusive measures suggested in the Yorkshire Live extract provided by the applicant. Low level restoration of Yew Tree Quarry by reducing the angle of the steep sides of the quarry and enhancement through landscaping may be acceptable *in principle*, but limited to minimal low level restoration with biodiversity enhancement on site only. Notwithstanding this, the negative impacts to trees, vegetation and habitats caused by reopening the haul roads and impacts on public rights of way including the Trans Pennine Trail are likely to be unacceptable.

No development would be acceptable in the North Quarry.

Please note that the views and opinions in this letter do not constitute a formal response or decision of the Council in relation to any future planning application.

Yours sincerely

*Elaine Ward*

For and on behalf of:  
Joe Jenkinson BA (Hons) MSc  
Head of Planning and Building Control  
[www.barnsley.gov.uk/developmentmanagement](http://www.barnsley.gov.uk/developmentmanagement)

## **Appendix 1 – 2022/ENQ/00353 Guidance**

The applicant should familiarise themselves with the Adopted Guidance that should be used to inform any future application and will be taken into account in determining any future application

<https://www.barnsley.gov.uk/services/planning-and-buildings/supplementary-planning-documents/>

### Adopted SPD's

Parking

Sustainable Travel

Biodiversity and Geodiversity

Trees and Hedgerows

Section 278 Agreements

The developer should familiarise themselves with the spds and guidance as they relate to the site and ensure any future application complies with the contents and justify if they don't.

## **Appendix 2 – 2022/ENQ/00353 Consultee Comments – summary**

Further details are found within the consultee comments which have already been issued to you and should be read in full and inform any future proposal.

### Mining Legacy

The South Yorkshire Mining Advisory Service confirms that the site does not lie within coal Authority Mining referral area therefore a coal mining risk assessment is not required. The applicant would need to demonstrate how the proposals would meet the requirements of the Joint Waste Plan, particularly in regard to the already being sufficient capacity for excavation waste. Concerns about detrimental impact on residential amenity, an, how a suitable access from Wombwell Lane would be achieved and safeguarding of the Trans Pennine Trail

### Ecology/Biodiversity

The southernmost pond was of lower value and BNG is likely to be achieved with an appropriate mitigation scheme though there are significant concerns regarding loss of woodland and scrub to enable access. The northern quarry has moderate/high biodiversity value and development proposals would not conform to Policy BIO1 and would not be supported as impacts would not be avoided. Any net loss of habitats would have to be dealt with on site only, offsite proposals for mitigation or credit payment would not be acceptable.

A Preliminary Ecological Assessment should be carried out including for protected species. Plus detailed baseline data for bird species and reptiles. Data should be sought from external bodies. A Biodiversity Net Gain Assessment, together with a DEFRA metric should be submitted. The mitigation hierarchy should be used on site, avoiding or minimizing the damage to any existing habitats of value. Mitigation proposals should include replacement of waterbodies which should be submitted as part of any application with proposals for a net biodiversity gain.

Further detailed comments are provided by the Biodiversity Officer.

### Yorkshire Water

Yorkshire Water would expect a future planning application to be accompanied by a robust surface water management plan relevant to the whole site and covering all phases of the development. The plan should follow sustainable drainage principles

### Highways

The number and type of vehicle movements proposed would be detrimental to highway safety without undertaking works to improve access and highway. A Transport Assessment and Road Safety Audit would be required, detailed comments on design are identified. A 278 agreement would be required to undertake works in the highway. Proposals for crossings to PROW will be required which give priority to pedestrians, cyclists and horse riders. A Delivery Management Plan, and construction management Plan and Highway condition survey are proposed will be required, detailed contents are proposed. In its current form the proposal would receive a recommendation for refusal due to a failure to address highway concerns. Any future proposal should be informed by the detailed comments in the consultation response.

### BMBC Drainage

The site appears on EA surface water flood map. The Council has records of a culverted watercourse on the eastern boundary. There should be no increased runoff from new development, and a balancing facility should be provide. Alternatives to conventional water storage are favoured, particularly SuDS. A flood risk assessment will be required.

### Environment Agency

The proposed dewatering may require an abstraction licence to be granted for the activity. Waste - Any development using waste or other material for works may require an Environmental Permit, unless it is exempt from the need for a permit. Waste transported to and from the development must only be carried by a registered waste carrier

### Pollution Control

The development has the potential to have an adverse impact on the quality of life of those living and/or working in the locality

### Public Rights of Way

The proposals appear to affect public rights of way which should remain untouched wherever possible. The Council will object to proposed gradients steeper than existing. Public safety must be retained as it is proposed to cross the Trans Pennine Trail a very well used multi user route. A construction management plan would be required to demonstrate how proposed crossing of TPT would prioritise the public, the crossing will need to be kept free of mud or obstructions and how PROWs within the site will be affected, and the measures taken to ensure public safety.

### National Trans Pennine Trail Office

Whilst upgrades to PROW are to be welcomed, there is concern about the large volume of HGVs over a 4-year period and the impact this will have on the Trail, in terms of physical quality and quality of visitor experience. Works should not impact on any of the public rights of way, including the Trans Pennine Trail in any way, including storage of materials or vehicle access. Details of how the TPT would be protected throughout development should be provided, the TPT should remain open at all times. Users of the TPT should have priority. The potential noise, vibration and dust from the restoration programme will also be a concern for some Trail users, particularly horse riders and those sensitive to noise

### Coal Authority

the site falls within the coalfield, it is located outside the Development High Risk Area as defined by the Coal Authority. Accordingly, whilst coal mining activity may have taken place beneath this site, there are no recorded coal mining legacy hazards at shallow depth that could pose a risk to land stability for the redevelopment of this site

### Yorkshire and Humber Drainage Boards

No objection, any de-watering activities that increase the volume of water entering the Board's district will require a separate Land Drainage Consent from the Board

### **Appendix 3 – 202/ENQ/00353 Validation requirements**

Although the Council's formal pre-application advice is that an application of the nature proposed in this pre-application enquiry would not be supported, it is recognized that some applicants may nevertheless choose to submit a planning application. The following is a preliminary list of documents/reports which would be required from our list of local validation requirements and as requested by consultees. This would be in addition to the National List of Validation Requirements. The scope of the EIA and the need for any other technical assessment reports would need to be agreed in advance of a planning application being submitted.

Public Consultation - the applicant would be expected to notify local residents of the application by leaflet drop and public meetings and provide a method for residents to provide comments and suggestions on the applications. Information provided to residents should be full and factual and be clear on the timescales and impacts of development together with the outcomes. The results should accompany any planning application.

A full planning application of this nature and scale would be determined by Members at Planning Regulatory Board (Planning Committee), which is usually held once per month. If accompanied by an Environmental Statement the statutory time period for determination would be 16 weeks, assuming no amendments or additional information is required. However, workload pressures of both officers and external consultees are resulting in longer time periods than expected to determine applications.

The Council does not normally enter in to PPA's with applicants.

Please read the detailed consultee comments already provided to ensure the documents include relevant information consultees required : -

- Planning statement
- Environmental Statement
- Existing and Proposed levels
- Phasing Plan
- Cross Sections
- Construction Management Plan (see highways comments and PROW officer comments) which includes, but not limited to the impacts on Public Rights of Way the TPT and demonstrate the operation and means to ensuring they remain open and pedestrians, cyclists and riders given priority (see also highway requirements for CMS)
- Detailed plan showing existing and proposed levels and gradients on all public rights of way and other potential impact which may affect the routes
- Detailed proposals and timescales for delivery of post development public access
- Air Quality Assessment ( particulates) and consideration of mitigation, cumulative effects, plus monitoring and mitigation proposals for construction phase
- Preliminary Ecological Assessment, Biodiversity Net Gain Assessment with Biodiversity Net Gain Metric and on site mitigation and enhancement proposals

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- Long term Biodiversity Enhancement and Management Plan
- Noise impact assessment with monitoring and mitigation proposals
- Phase 1 Geo-Environmental survey
- Flood Risk Assessment as over 1 ha in size
- Surface water drainage strategy
- Restoration and aftercare strategy
- Landscape Scheme and long term management plan
- Transport Assessment and draft Travel Plan details - advice set out Sustainable Travel SPD
- Road Safety Audit
- Swept Path Analysis
- Delivery Management Plan ( see highways comments)
- Highway condition survey
- Planning and Community Consultation Statement
- Tree Survey, Arboricultural Impact Assessment, Method Statement and Tree Protection Plan

Please note that any survey or report submitted must be less than 2 years old unless they are accompanied with an addenda which has reviewed the original survey or report and updated findings and mitigation proposals to satisfy current requirements where appropriate.

The council reserves the right to request additional information should that be considered necessary or be identified through the consultation process. It may also be possible to look to combine some of the documents where appropriate.

Validation will depend upon receipt of all relevant forms, fees, plans and documents.

These comments will be treated as a material consideration in relation to any planning application submitted in the next 2 years for a scheme that reflects the advice provided in this letter. Applications shall be expected to meet requirements set out in Local Plan Policies and in the adopted Supplementary Planning Documents identified above. Failure to do so may result in a refusal.