



PLANNING APPLICATION (23/00595/DPP) FOR THE FORMATION OF RECYCLING FACILITY AND WASTE TRANSFER STATION; AND THE CONTINUATION OF LANDFILL OPERATIONS AND ASSOCIATED WORKS AT MIDDLETON LOWER QUARRY, GOREBRIDGE

PROCEDURES FOR A NATIONAL DEVELOPMENT – HOLDING A HEARING

Report by Chief Officer Place

1 PURPOSE OF REPORT

1.1 The purpose of this report is to advise the Committee of a planning application of a scale that defines it as a National Development for the formation of a recycling facility and waste transfer station; continuation of landfill operations and associated works at Middleton Lower Quarry, Gorebridge. This report outlines the development proposal and the procedures required in the assessment of a National Development.

2 BACKGROUND

- 2.1 In March 1982 planning permission 198/81 was granted for the extraction and working of limestone on both Middleton Quarries No.1 (the lower quarry) and No.2 (the upper quarry). Planning permission 198/81 was implemented.
- 2.2 In December 2012 a Breach of Condition Notice was served on Leiths (Scotland) Limited, who were the operator of the Middleton Quarry. The notice required them to take action in relation to conditions attached to planning permission 198/81, in particular those conditions requiring the infilling of the quarry and its restoration to an agricultural use by the 19 December 2016. The Breach of Condition Notice only required the reinstatement of Quarry No.2. Quarry No.2 (also known as the upper quarry) is presently being infilled in compliance with the Breach of Condition Notice.
- 2.3 Planning permission 15/00503/DPP for the infilling of Quarry No. 1 (the lower quarry) was granted subject to conditions. The planning permission was subject to a time limitation condition which required the works to be completed within seven years of commencement.
- 2.4 A section 42 application (22/00546/S42) to amend condition 1 of planning permission 15/00503/DPP (infilling of quarry), in order to extend the duration of the temporary permission until 31 March 2024, and condition 3, to allow

the acceptance of non-hazardous waste, was granted planning permission by the Committee at its meeting in January 2023.

- 2.5 A further section 42 application (23/00773/S42) to amend conditions 1 and 6 of planning permission 22/00546/S42, to extend the timeframe of operations at the Middleton Limeworks is currently pending consideration. This application is a 'major' scale proposal as defined by the regulations and will be determined by the Committee.
- 2.6 A pre-application consultation (22/00856/PAC) for change of use of land to a recycling facility and the continuation of landfill operations at Middleton Lower Quarry was considered by the Committee at its meeting of January 2023.

3 PLANNING PROPOSALS

- 3.1 The application site relates to Quarry No. 1 (the lower quarry). The application site is a former limestone quarry, located in the countryside in close proximity to the south of North Middleton.
- 3.2 Planning permission is sought through planning application 23/00595/DPP for the formation of a recycling facility and waste transfer station; continuation of landfill operations and associated works at Middleton Lower Quarry, Gorebridge, for a period of 17 years. The timescales include one year for installation of recycling plant infrastructure, 15 years operating the recycling facility and one year to reinstate the site.
- 3.3 The on-site activities proposed include the recycling of inert waste and the excavation/infilling of the quarry void with inert waste. The proposal also includes provision for waste storage prior to recycling, the storage of recycled aggregates prior to despatch, and for waste placement within the quarry void.

4 PROCEDURES

- 4.1 The National Planning Framework 4 (NPF4) sets out 18 National Developments within an annex of the document. 'National Development Four' relates to Circular Economy Materials Management Facilities and defines national developments as *a development contributing to 'Circular Economy Materials Management Facilities' in the location described, within one or more of the Classes of Development described below and that is of a scale or type that would otherwise have been classified as 'major' by 'The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009'*:

- a) *Facilities for managing secondary materials; and*
- b) *Recycling facilities*

- 4.2 Planning application 23/00595/DPP is of such a scale that it would be described as a major development. However, on account of it complying with the definition outlined above it falls within the category of being a national development.

4.3 Planning applications which fall within the definition of national developments are subject to different procedural requirements than those which are for major scale developments. The key difference between processing a planning application for a national development and a planning application for a major development is the need to comply with regulation 27 (Pre-determination hearings) of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, which states:

- (1) Before determining an application for planning permission for a development within the classes of development specified in paragraph (2), the planning authority are to give to the applicant and to persons who submit representations to the planning authority in respect of that application in accordance with these Regulations an opportunity of appearing before and being heard by a committee of the authority.*
- (2) The classes of development prescribed for the purposes of section 38A(1) of the Act (pre-determination hearings) are developments within the categories of—
 - (a) national developments; and*
 - (b) major developments which are significantly contrary to the development plan.**

4.4 The decision on whether a pre-determination hearing takes place will depend upon whether or not the applicant or representor(s) wish to take up the opportunity of appearing before a committee of the authority to make oral representations. At present the planning application has received 22 valid objections and a petition containing 163 names. Given the number of representors it is likely that some may wish to make oral representations to the Committee and, therefore, it may be necessary to hold a pre-determination hearing for this planning application.

4.5 The current expectation is to schedule a Committee site visit and hold a pre-determination hearing in May 2024 and then report the application to the Committee for determination at its meeting of 4 June 2024 (subject to the required planning application consultation responses being received in time).

4.6 Should the applicant and representors/interested parties not wish to attend a pre-determination hearing it is possible for the Committee to determine the planning application without holding a pre-determination hearing.

4.7 Should it be necessary to convene a pre-determination hearing elected members will need to be aware that they are not deciding the planning application during the hearing – the hearing is primarily an opportunity for elected members to hear oral representations from the applicant and interested parties and to ask questions for clarification of those parties making those representations. The Scottish Government's Guidance on the Role of Councillors in Pre-Determination Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a planning application. Councillors are entitled to take part in the decisions to be made by the full Council/Planning

Committee even though they may have expressed an opinion on the application at a pre-determination hearing or at the Committee.

- 4.8 The Committee may wish to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.9 The Scottish Government's Guidance on the Role of Councillors in Pre-Determination Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 Recommendation

- 5.1 It is recommended that the Committee note the contents of the report and instruct officers to make the arrangements for a pre-determination hearing and a site visit.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 1 March 2024
Application No: 23/00595/DPP
Applicant: The NWH Group
Agent: William Booth, Dalgleish Associates Ltd
Validation Date: 8 November 2023
Contact Person: Whitney Lindsay
Email: Whitney.Lindsay@midlothian.gov.uk
Background Papers: Planning applications 15/00503/DPP, 22/00546/S42, 22/00856/PAC and 23/00773/S42
Attached Plan: Location plan.



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Formation of recycling facility and waste transfer station;
continuation of landfill operations and associated works at
Middleton Lower Quarry, Gorebridge,

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