Permitting decisions - Refusal

We have decided to refuse the permit application EPR/JP3342YM/A001 for Middleton Quarry Landfill.

The proposed facility location is Heck & Pollington Lane, Pollington, DN14 0DS.

The application is for a bespoke environmental permit for disposal of inert waste within the existing quarry void. The site is located in the village of Pollington in the East Riding of Yorkshire and was originally an open cast quarry for the extraction of sands and gravels. The applicant proposed to restore the site to agricultural pasture and creation of a wetland habitat. The site would accept 100,000 m³ of inert waste per year, totalling 426,900 m³ over 5 years when the project should be complete.

We consider that in reaching that decision we have taken into account all relevant considerations and legal requirements.

Purpose of this document

This decision document provides a record of the decision making process. It:

- highlights key issues in the determination
- gives reasons for refusal.
- summarises the decision making process in the decision considerations section to show how the main relevant factors have been taken into account.
- summarises the engagement carried out because this is an application of high public interest.
- shows how we have considered the Consultation responses.

Unless the decision document specifies otherwise, we have accepted the applicant's proposals.

Read the permitting decisions in conjunction with the refusal notice.

During the determination, we became aware of the significant concern the public has for the development of the wider site. Whilst this, and the range of concerns,

went beyond our remit, there was sufficient level of concern in relation to matters within our remit (such as noise) for us to consider the application a High Public Interest application. Further detail of the engagement is below.

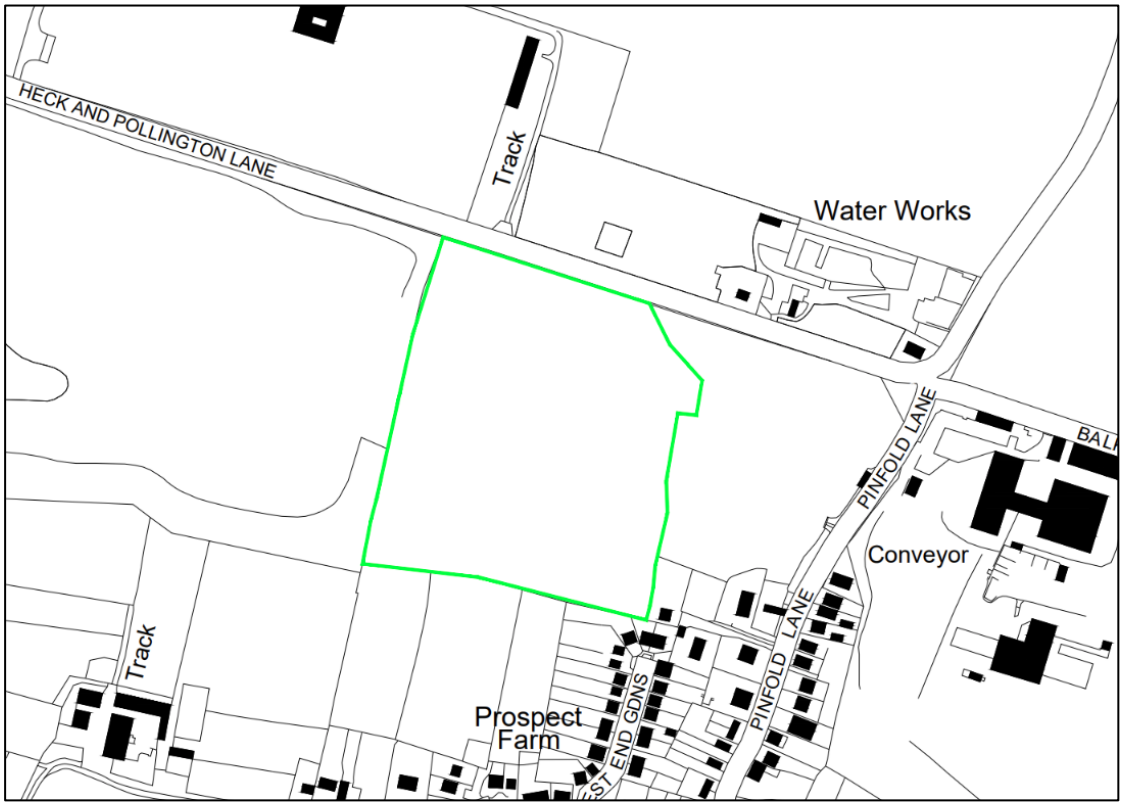
Key issues of the decision

Overarching summary of decision

The high risk of the site operation causing a significant adverse impact on nearby noise receptors makes it unreasonable to issue the permit. Proposed mitigation measures would not sufficiently reduce the impact to a permittable level that would meet the requirements set out in Environment Agency guidance[1] or the standard permit condition for noise. We offered opportunities for the applicant to update their Noise Impact Assessment and propose additional mitigation measures during determination. Details of the assessment are shown on pages 3-11.

Noise is the only factor preventing issue of this application.

Description of the facility



[1] Noise and vibration management: environmental permits - GOV.UK

The proposal is for an inert landfill facility to fill the existing quarry void at the site. Waste would enter the site from Heck and Pollington Lane on the northern boundary. A main haul road would run southwards through the centre of the site, branching to the east and west when depositing. Surface water would be managed through a swale draining clockwise around the boundary of the site towards a soakaway in the west of the site.

There is a Source Protection Zone 1 (SPZ 1) to the northeast corner of the site, and the entirety of the site sits within a SPZ 2. The site borders residential properties to the south and southeast.

The key noise receptors are the residents at the following locations:

- farm to the north
- a dwelling to the northeast
- Pinfold Lane to the southeast
- West End Gardens to the southeast

The closest receptors are the roughly 15 to 30 houses to the southeast, which are within 15-50 m of the site boundary.

To the northeast of the site is an illegal waste deposit, but this is not part of the site or affected by the proposal. The facility does not involve the disturbance of this deposit based on the proposal, therefore this has not been considered in the determination of the application.

Environmental issues: likelihood of pollution from noise

Guidance

The following documents, associated with the assessment of noise, have been considered in the determination of the application:

- **Noise Policy Statement for England, 2010**

  This specifies when sound is considered noise and outlines the general principles which drive government policies on sustainable development. It clearly states that noise pollution depends not just on the physical aspects of the sound itself, but also the human reaction to it.

  The aims of the Noise Policy Statement are to:
  - avoid significant adverse impacts on health and quality of life;
  - mitigate and minimise adverse impacts on health and quality of life; and

- where possible, contribute to the improvement of health and quality of life.

- **British Standard 4142: 2014 + A1: 2019 - Methods for rating and assessing industrial and commercial sound**

  This describes how to assess noise risk based on impact; determined by the rating level of the proposed activity (specific sound level with acoustic feature corrections added if appropriate), minus the background (referred to as "LA90, dB"). There is a focus on considering the context of the existing local soundscape, rather than prescribing specific noise levels or limits to adhere to (which is common through planning).

  BS 4142 categorises the level of risk from noise emissions, by comparing the derived rating level to the background sound level at the sensitive receptors, based on the following tiers:

  - A difference of 10dB or more is likely to be an indication of a significant adverse impact, depending on context.
  - A difference of 5dB is likely to be an indication of an adverse impact, depending on context.
  - The lower the rating level is relative to the measured background sound level, the less likely it is that the specific sound source will have an adverse impact or a significant adverse impact. Where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context.

- **Our guidance, on Noise and Vibration Management[1] and the Method Implementation document (MID) for BS4142[2]**

  These documents set out how we regulate noise pollution from industrial facilities, through the aims of the Noise Policy Statement for England and the assessment method outlined in BS 4142: 2014 + A1: 2019.
  Our guidance[1] defines an 'unacceptable level of audible or detectable noise' as follows:

  "This level of noise means that significant pollution is being, or is likely to be, caused at a receptor (regardless of whether you are taking appropriate measures).

[2] Method implementation document (MID) for BS 4142 - GOV.UK

You must take further action or you may have to reduce or stop operations. The environment agencies will not issue a permit if you are likely to be operating at this level.

The closest corresponding BS 4142 descriptor is 'significant adverse impact' (following consideration of the context)."

Noise Impact Assessment and modelling – initial submission

The applicant submitted a Noise Impact Assessment (NIA)[3] to support their application, carried out in line with BS 4142: 2014 + A1: 2019. The applicant also submitted a Noise Management Plan (NMP)[4] with their application. The NMP is a 'live' document which is intended to be updated throughout the operational duration of an environmental permit and allows noise to be controlled on an ongoing basis through documented measures and procedures. The NIA and NMP were required in line with our requirements[1].

The applicant's NIA considered the noise risk generated by the proposed activity (inert waste disposal) on the nearest noise sensitive receptors, with mitigation measures included. The NIA described the key noise sources to be onsite plant, such as an excavator or wheeled loader, and HGV vehicles driving through the site and depositing waste.

The differences in dB between rating levels and background sound levels, as presented on page 17 of the NIA, are shown in Table 1 below. As previously stated, a difference of 10 dB or more is likely to be an indication of a significant adverse impact. A difference of 5 dB or more is likely to be an indication of an adverse impact.

BS 4142 Rating Levels Comparison to Background, dB

Dwelling	Close	Average / Typical	Far
Farm to North	+20	+14	+13
Dwelling to North East	+30	+15	+11
Pinfold Lane	+31	+20	+15
West End Gardens	+29	+18	+14

Table 1 – Difference between rating levels and background sound levels, from page 17 of first NIA

[3] Sound Impact Assessment of Landfill and Restoration of Mineral Extraction and Processing Site at Heck and Pollington Lane, Pollington, LS25 5LD. S. & D. Garritt Ltd. 17th February 2023
[4] Restoration of Middleton Quarry, Noise Management Plan, Tetron Contracts, 163407/NMP, dated July 2025.

These numerical impacts are indicative of a “significant adverse” impact for all scenarios assessed according to BS 4142, which corresponds to “significant pollution” as defined in our guidance[1].

Page 17 of the NIA concluded that noise emissions from **the proposed activity would result in a “significant adverse” impact** on the closest residential receptors, before taking the context of the operations into account. Pages 17-20 of the NIA then set out the following contextual factors:

- Temporary nature of the proposed activity;
- Daytime only operation;
- Need for the proposed works to return the land to other use; and
- The predicted specific sound levels would comply with planning guidance and criteria.

We undertook an audit of the applicant’s NIA, input data and mitigation proposals. The applicant used proprietary noise propagation calculations, so we created our own noise model using CadnaA noise modelling software (Version 2025 64 Bit), based on the input data for sound sources and operational times shown in the NIA. Our modelling outputs are in agreement with the applicant’s, in that the numerical difference (when comparing the rating level to the background sound level) at sensitive receptors would be in the range +15 dB to + 30 dB for the scenarios assessed. These numerical differences correspond to “significant pollution” as defined in our guidance[1].

We did not agree that the contextual factors listed in the NIA could be used to reduce the predicted impacts, and we concluded that significant adverse impacts are therefore unavoidable based on the proposed plant sound source levels and proximity of the site to residential properties in each of the Close Activity, Typical Activity and Far Activity scenarios (as defined by the applicant). This level of noise means that significant noise pollution is likely to be caused at the receptors, regardless of whether the operator was to take appropriate measures. We would not issue a permit on this basis, which is accordance with our guidance[1].

Noise Impact Assessment and modelling – revised submission

The applicant submitted a revised NIA[5] which re-evaluated mitigation options available, by including a noise bund skirting the east and south border of the site, intended to shield residents in the southeast.

The differences in dB between rating levels and background sound levels, as presented on page 33 of the updated NIA, are shown in Table 2, below. As

[5] Noise Impact Assessment of Landfill and Restoration of Mineral Extraction and Processing Site at Heck and Pollington Lane, Pollington, LS25 5LD. S. & D. Garritt Ltd. 26th September 2025

previously stated, a difference of 10 dB or more is likely to be an indication of a significant adverse impact. A difference of 5 dB or more is likely to be an indication of an adverse impact.

Comparison of Rating Levels to Background, dB

Receptor	Comparison of Rating Level to Background, dB			
	Zone A	Zone A Close	Zone B	Zone C
Farm to North	4	4	4	3
Dwelling to North East	-1	-2	0	2
Pinfold Lane	6	8	4	4
West End Gardens	5	5	4	3

Table 2 – Difference between rating levels and background sound levels, from page 33 of revised NIA

The revised NIA concludes that adverse impacts are likely when proposed plant operates in the east and southeast of site. Pages 24-26 of the revised NIA sets out the same contextual factors as in the first NIA (temporary nature of works, daytime only operation, need for the proposed works, comparison to planning criteria and guidance).

We undertook an audit of the applicant's revised NIA, input data and mitigation proposals. We created our own noise model using CadnaA noise modelling software (Version 2025 64 Bit), based on the input data for sound sources and operational times shown in the revised NIA.

Our noise modelling concludes that the following differences between rating levels and background sound levels are likely:

With mitigation: West End Gardens, 7-12 dB with plant in Zone A and Zone B; Pinfold Lane 7-12 dB with plant in Zone A and 11-16 dB with plant in Zone C.

As the site's base levels are raised and there is line of sight between the proposed plant and residential noise sensitive receptors, we predict the differences outlined above to increase by 1-3 dB at Pinfold Lane and West End Gardens, depending on the zone in which plant is operating in.

We concluded that the proposed activity would still result in a "significant adverse" impact as defined in BS 4142. The numerical differences we identified correspond to "significant pollution" as defined in our guidance[1].

Underestimation of operational noise

Operational times for HGVs and dump truck sound sources appear unrealistic and underestimated for the expected daily volumes to be delivered to the site. This underestimation means the true impact from vehicle noise could be significantly higher than predicted. The applicant has estimated that there will be 10 minutes of vehicle movements per hour. Based on the applicant's proposal of

5 deliveries per hour, this only leaves 2.5 minutes per delivery (45 seconds driving in, 30 seconds unloading, 45 seconds driving out).

It is our opinion that this is an underestimation and is not practically feasible given the size of the site and the time taken to safely unload. It is also based on the lorries driving at the site speed limit (10mph as stated in the Dust Emission Management Plan[6]). We would expect a lower speed to be considered the average for the purposes of operational noise calculations, as it would not be expected that the lorry could be driven at the site's maximum speed limit for the duration of the visit (for acceleration/deceleration as well as safety). With revised calculations, assuming slower deliveries making up more of the operational time on site, we expect sound levels to be higher than what has been presented in the applicant's NIA.

The applicant states the activity will occur for 5 years. We do not consider the proposed activity to qualify as a 'temporary activity' as the applicant has stated in the NIA. A temporary operation would be measured in weeks, not years.

Overestimation of impact of mitigation

The conclusions in the NIA assume a 3 m earth bund in place as noise mitigation to the south/southeast of the site. We confirmed the swale drain (for managing surface water drainage, as shown in Plan ref:163407/D/008, dated July 2025) occupies the same footprint as the bund in the southeast corner of the site, after seeking clarity from the applicant following the submission of the revised NIA. This noise bund is not compatible with other mitigation measures proposed in the application for this reason. We do not consider the bund practical within the restricted space on site.

The revised NIA has presented BS 4142 impacts for the post-mitigation scenario only, with the 3 m bund in place. It is therefore not possible to directly calculate the reduction which will be provided by the proposed 3 m bund in isolation based on the calculations shown in the NIA. However, comparing the worst-case impact of +31 dB in the original NIA to the +8 dB presented in the revised NIA suggests that the revised assumptions and calculations undertaken by the consultant and the implementation of the 3 m bund would reduce the numerical difference by up to 23 dB.

As noted above, additional assumptions have been made with regards to operational times for HGVs and dump truck sound sources, which contribute to the 23 dB reduction in BS 4142 difference when comparing the original and revised NIAs. We do not agree with this. Our modelling shows that the 3 m bund

[6] Restoration of Middleton Quarry, Dust Emissions Management Plan (DEMP), ref. 163407/DEMP, dated July 2024

alone would reduce operational sound levels by 5-8 dB at Pinfold Lane, and by 5-9 dB at West End Gardens depending on the zone in which plant is operating in, so the assumptions regarding operational times and locations of HGVs and dump truck sound sources are contributing significantly to the conclusions of the revised NIA.

The applicant's most recently submitted NMP[4] includes the following list of operational control measures:

- Adhering to work hours (8 am – 5 pm on weekdays, 8am to 2 pm on Saturdays).
- Regularly and effectively maintaining plant.
- Using plant conforming with 'relevant national or international standards, directives or recommendations on noise emissions'.
- Noise awareness training.
- Route planning for HGVs.
- 10 mph speed limit.

The measures above do not represent discrete mitigation measures which would be proposed to target a noise reduction target for a specific item of plant, and it is not possible to identify or rely on any numerical reduction in operational sound levels which they may achieve.

Application of acoustic feature corrections

We disagree with the consultant's application of acoustic feature corrections (AFCs). These are additional penalties to be added to the calculated noise impact, based on the potential for certain characteristics of the sound created to be audible at sensitive receptors. The applicant has chosen to only apply a correction penalty for what they deem the most significant characteristic, to account for site operations being 'readily distinctive against the residual acoustic environment'. BS 4142 states that "If characteristics likely to affect perception and response are present in the specific sound, within the same reference period, then the applicable corrections ought normally to be added arithmetically". The applicant should therefore include all relevant corrections.

While the BS 4142 penalties and corrections are to some degree subjective, we believe there are some aspects of the operation which could be considered impulsive (e.g. 'clanging' of HGV rear doors) and intermittent (e.g. HGV visits). Regarding the latter, page 32 of the revised NIA states that the '*regular comings and goings from dumptrucks or HGVs… do not have identifiable on/off conditions in the manner intended to attract a penalty for intermittency*'. This is in contradiction to the 10 minutes per hour of vehicle movements stated earlier in the revised NIA (and discussed above) and is likely to cause a higher impact than shown in the applicant's assessment.

Factors not considered in NIA

Upper floor receptor locations have not been considered in the applicant's calculations. Our guidance[1] states: *"The term 'outside a building' does not just apply to external gardens or land, it applies to balconies and outside any room where occupants would expect or need quiet – studies, bedrooms, sitting rooms. If there is no clear evidence that a room is unoccupied, you must presume that it is, for example an attic window."* Receptors at first floor level will be less screened from site operations and potentially subject to higher specific sound levels. Receiver heights of 4 m have been included for some receptors, to account for first floor receptors during daytime hours, where these exist, as there are numerous residential properties with first floor windows, where occupants may be working or resting.

The revised NIA is based on the operational scenarios where proposed plant will operate within the existing quarry void, but has not considered the potential for increased impacts that occur as the site's base levels are raised and the line of sight between the proposed plant and residential noise sensitive receptors increases. The applicant did not consider the higher risk scenario (working at a level height with the receptors) or propose sufficient mitigation for this scenario to thereby reduce the overall risk to an acceptable level.

The previous quarry working sound levels are of limited relevance given the current established condition of the site. Residents have seen the site unutilised for a number of years, making the existing local soundscape a more representative baseline.

Misuse of planning guidance

The revised NIA refers to assessment criteria from National Planning Policy Framework (NPPF) "Planning Practice Guidance" on sound limits from minerals excavation and surface workings, which is not applicable to environmental permitting.

- We use 'BS 4142 Methods for rating and assessing industrial and commercial sound, 2014+A1:2019' to assess the noise impact from permitted sites, as BS 4142 is the only British Standard specifically for industrial sound, and the activities we regulate fall under the scope set out in Section 1, paragraph 1.1 of the Standard.
- BS 4142 allows for an assessment of impact which is bespoke to noise sensitive receptor(s), because the impacts are calculated relative to the background sound level (which excludes the site). Acoustic features such as intermittency, impulsivity, tonality or plant being distinguishable against the underlying sound climate are accounted for.

- BS 4142 is consistent with the aims of the Noise Policy Statement for England, which include prevention of significant adverse impacts and minimisation of adverse impacts.
- Alternative guidance such as the planning guidance quoted in the NIA cannot be used to assess the noise impact from a permitted site, as such guidance does not account for industrial sound sources and relies on achieving noise limits, which is not in accordance with the aims of the NPSE and does not account for the individual circumstances at noise sensitive receptors.

We have refused this application following sustained efforts to work with the applicant. We have engaged extensively with the applicant, providing opportunities to address our concerns regarding noise pollution through formal and informal information requests. The responses received from the operator have not sufficiently resolved the issues despite these efforts, particularly in relation to noise impacts on sensitive receptors.

Applications cannot be subject to indefinite iterations and, given the significant divergence between the operator's proposals and the standards required, we consider it appropriate to conclude the determination and refuse the application. Any more significant changes made to the application, in an effort to reduce the impact, would be tantamount to a wholly new application which would require all previous assessments and consultations to be carried out again. This is disproportionate change within the original permit application. This stance is established in our charging scheme[7].

Based on the above, we have concluded that the applicant could not propose any reasonable noise mitigation measures which would result in a reduction of noise impacts to a permittable level (i.e. below significant adverse).

It should be noted that any requirement to restore the quarry does not legitimise non-compliance and does not justify permitting the activity at the expense of the environment and local receptors.

[7] Environmental permits: when and how you are charged - GOV.UK

Decision considerations

Nature conservation, landscape, heritage and protected species and habitat designations

We have checked the location of the application to assess if it is within the screening distances we consider relevant for impacts on nature conservation, landscape, heritage and protected species and habitat designations. The application is within our screening distances for these designations.

We have assessed the application and its potential to affect sites of nature conservation, landscape, heritage and protected species and habitat designations identified in the nature conservation screening report as part of the permitting process.

There are protected habitats (Deciduous Woodland) along the southwest and southeast boundary. In line with the existing planning permission (2/371/81, dated 22 March 1983) and as outlined in the applicant's non-technical summary (163407/NTS, dated 3 March 2025) and Operational Working Plan (163407/OP, dated March 2025), the site would be restored to wetland habitat and agricultural pasture. The Deciduous Woodland habitat would be removed as part of the proposed landfilling activity and subsequently be offset and replaced by the addition of the equivalent habitat as part of the applicant's restoration. In regard to habitats, there would not be an unacceptable impact on the environment.

Section 108 Deregulation Act 2015 - Growth Duty

We have considered our duty to have regard to the desirability of promoting economic growth set out in section 108(1) of the Deregulation Act 2015 and the guidance issued under section 100 of that Act in deciding whether to grant this permit.

Paragraph 1.3 of the guidance says:

"The primary role of regulators, in delivering regulation, is to achieve the regulatory outcomes for which they are responsible. For a number of regulators, these regulatory outcomes include an explicit reference to development or growth. The growth duty establishes economic growth as a factor that all specified regulators should have regard to, alongside the delivery of the protections set out in the relevant legislation."

The guidance is clear at paragraph 1.5 that the growth duty does not legitimise non-compliance, and its purpose is not to achieve or pursue economic growth at the expense of necessary protections. This also promotes growth amongst legitimate operators because the standards applied to the operator are consistent across businesses in this sector and have been set to achieve the required legislative standards.

High Public Interest Engagement

Statutory consultation was carried out in January 2025. At the same time, we were made aware of significant public interest in the impact of site activities on the local residents and the environment. When considering the planning application responses (over 200), our public consultation in January 2025 received disproportionately fewer responses from the public (one). It was unclear if this dissimilarity was due to an oversight in our consultation process. A second consultation was open throughout July 2025 to ensure we fully engage with the local public. The local parish council were utilised to ensure local residents were aware of the consultation. Four responses were received.

Based on the low number of responses, it was no longer appropriate for us to consider the application of high public interest.

Due consideration has been given to all responses that have been received. These are outlined in the Consultation section on pages 12 and 13 below.

Consultation

The following summarises the responses to consultation with other organisations, and our notice on GOV.UK for the public and the way in which we have considered these in the determination process.

Responses from organisations

Response received from UK Health Security Agency

Brief summary of issues raised:

The only concern the UKHSA raised through the consultation was the fugitive dust emissions/particulate matter from the transport, processing, handling, deposition and compaction of wastes on site during the infilling activity.

Summary of actions taken:

The Dust Emissions Management Plan (163407/DEMP, dated January 2025) has been assessed as part of the determination of the application. The document accounted for all activities which were covered in the application, and the applicant proposed suitable mitigation measures which would have controlled fugitive emissions. The DEMP would have been considered an operational technique if we had decided to issue the permit; and the applicant would have been held to standard conditions within a permit to commit them to controlling dust.

Representations from local MPs, assembly members, councillors and parish/town community councils

Response received from Environmental Control District Team - East Riding of Yorkshire Council.

Brief summary of issues raised: The only concern the council raised through the consultation was the impact of noise and vibration on the nearby residents.

Summary of actions taken:

The assessment carried out during determination is discussed above.

Representations from individual members of the public

Members of the public have concerns related to:

- Traffic.
- Noise.
- Concerns for the risks to groundwater within Source Protection Zone 2 (SPZ 2).
- Financial competence.
- Loss of habitat on site through reduction in biodiversity.

Summary of actions taken:

- Traffic may be material to planning. Environmental permitting is concerned with emissions from the proposed facility and traffic emissions from within the site would only be relevant if they could exacerbate already poor air quality. That is not relevant here.
- The assessment of noise risk has been detailed above.

- The site is located within a sensitive location (SPZ 2). Our review of the technical assessments and the proposed engineering indicate the site can be operated in line with EPR 2016 Schedule 22, which is associated with protection of hydrogeological receptors.
- An operator of a landfill is required to make adequate financial provision before beginning disposal operations. The applicant offered an expenditure plan for assessment, and the Financial Provision would have been arranged prior to a permit being issued.
- Land use is a matter for the Local Planning Authority. We consider the impacts of emissions from the proposed activity. In line with the existing planning permission (2/371/81, dated 22 March 1983), and as outlined in the applicant's non-technical summary (163407/NTS, dated 3 March 2025) and Operational Working Plan (163407/OP, dated March 2025), the site would be restored to wetland habitat and agricultural pasture. The Deciduous Woodland habitat which would be removed as part of the landfilling activity would be offset and replaced by the addition of the equivalent habitat. Please refer to the section on habitats above.