



## Agenda

**Meeting: Planning and Regulatory Functions Committee**

**Venue: Remote meeting via Microsoft Teams**

**Date: Tuesday, 12<sup>th</sup> January 2021 at 2pm**

Pursuant to The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020, this meeting will be held using video conferencing with a live broadcast to the Council's YouTube site. Further information on this is available on the committee pages on the Council website - <https://democracy.northyorks.gov.uk/>

The meeting will be available to view once the meeting commences, via the following link - [www.northyorks.gov.uk/livemeetings](http://www.northyorks.gov.uk/livemeetings) Recording of previous live broadcast meetings are also available there.

### Business

1. Welcome and Introductions
2. Minutes of the Meeting held on 15 December 2020. (Pages 5 to 8)
3. Declarations of Interest.

Enquiries relating to this agenda please contact Steve Loach Tel: 01609 532216 or e-mail [stephen.loach@northyorks.gov.uk](mailto:stephen.loach@northyorks.gov.uk) website: [www.northyorks.gov.uk](http://www.northyorks.gov.uk)

OFFICIAL

#### 4. Public Questions or Statements.

Members of the public may ask questions or make statements at this meeting if they have given notice of their question/statement to Stephen Loach of Democratic Services (*contact details below*) by midday on Thursday 7 January 2021. Each speaker should limit themselves to 3 minutes on any item. Members of the public who have given notice will be invited to speak:-

- at this point in the meeting if their questions/statements relate to matters which are not otherwise on the Agenda (subject to an overall time limit of 30 minutes); or
- when the relevant Agenda item is being considered if they wish to speak on a matter which is on the Agenda for this meeting

If you are exercising your right to speak at this meeting, but do not wish to be recorded, please inform the Chairman, who will instruct anyone who may be taking a recording to cease while you speak.

5. **Planning application for the purpose of the construction of a 3.9 km long two-way, single lane (with overtaking lanes) carriageway realignment on the A59 between the west of North Moor Road and Blubberhouses. The realignment lies north of the existing A59 and incorporates modifications to the junctions at North Moor Road, Hall Lane and Church Hill. The existing road from Blubberhouses to Botham's Farm and Paradise is proposed to be downgraded, reduced in width and, in turn, would function as a private access and public right of way for part of its length. The existing road from Paradise to where public footpath (ref. no. 15.14/4/1) joins the existing A59 is proposed to be removed and returned to moorland habitat as part of the areas of land designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) (under the EU Birds Directive). Associated works include the diversion of Hall Beck watercourse, landscaping, environmental mitigation, new culverts, 100 metre long retaining wall, SUDS drainage including two attenuation basins, replacement signage, construction of two underpasses, diversions to, and increase of 1,526 metres of bridleways and public rights of way on land at the A59 at Kex Gill from the west of the junction with North Moor Road and Blubberhouses**

(Pages 9 to 100)

6. **Other business which the Chairman agrees should be considered as a matter of urgency because of special circumstances.**

**The next formal remote meeting of the Committee is scheduled to take place at 10am on Tuesday 19<sup>th</sup> January 2021 – papers for this meeting will be published in due course and Members will be advised accordingly.**

Barry Khan  
Assistant Chief Executive (Legal and Democratic Services)  
County Hall,  
Northallerton

January 2021

**For all enquiries relating to this agenda or to register to speak at the meeting, please contact Stephen Loach, Democratic Services Officer on Tel: 01609 532216 or by e-mail at: [stephen.loach@northyorks.gov.uk](mailto:stephen.loach@northyorks.gov.uk)**

# Planning and Regulatory Functions Committee

## 1. Membership

County Councillors (11)						
	<i>Councillors Names</i>				<i>Political Party</i>	
1	BLADES, David (Vice-Chairman)				Conservative	
2	BROADBENT, Eric				Labour	
3	GOODRICK, Caroline				Conservative	
4	HESELTINE, Robert				Independent	
5	HUGILL, David				Conservative	
6	JORDAN, Mike				Conservative	
7	McCARTNEY, John				NY Independent	
8	METCALFE, Zoe				Conservative	
9	PEARSON, Chris				Conservative	
10	PEARSON, Clive				Conservative	
11	SOWRAY, Peter (Chairman)				Conservative	
<b>Total Membership – (11)</b>				<b>Quorum – (3)</b>		
<b>Con</b>	<b>Lib Dem</b>	<b>NY Ind</b>	<b>Labour</b>	<b>Ind</b>	<b>Total</b>	
<b>8</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>11</b>	

## 2. Substitute Members

<b>Conservative</b>		<b>Labour</b>	
	<i>Councillors Names</i>		<i>Councillors Names</i>
1	WELCH, Richard	1	RANDERSON, Tony
2	JEFFELS, David	2	
3	SWIERS, Roberta	3	
4	LUNN, Clifford		
5			
<b>NY Independent</b>			
	<i>Councillors Names</i>		
1			
2			
3			
4			
5			

## North Yorkshire County Council

### Planning and Regulatory Functions Committee

Minutes of the meeting held remotely via Microsoft Teams on 15 December 2020 at 2.00 pm.

**Present:-**

County Councillors Peter Sowray (Chairman), David Blades, Caroline Goodrick, David Hugill, Mike Jordan and Chris Pearson

Apologies were submitted by County Councillors Eric Broadbent, Robert Heseltine, Zoe Metcalfe and Clive Pearson.

The meeting was available to watch live via the County Council's website and a recording of the meeting is now available on the website via the following link [www.northyorks.gov.uk/livemeetings](http://www.northyorks.gov.uk/livemeetings)

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**Copies of all documents considered are in the Minute Book**

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**164 Welcome and Introductions**

The Chairman welcomed everyone to the meeting and those present introduced themselves.

**165. Minutes of the meeting held on 17 November 2020**

**Resolved -**

That the Minutes of the meeting held on 17 November 2020, having been printed and circulated, be taken as read and confirmed, to be signed by the Chairman as a correct record at the next available opportunity.

**166. Declarations of Interest**

There were no declarations of interest.

**167. Public Questions or Statements**

The representative of the Assistant Chief Executive (Legal and Democratic Services) stated that, other than those that had indicated that they wished to speak in relation to the application below, there were no questions or statements from members of the public.

**168. Planning application for the demolition of the existing prefabricated double classroom building with associated toilet and storage facilities (180m<sup>2</sup>) and covered areas (66m<sup>2</sup>), erection of single storey classroom extension (227m<sup>2</sup>), wall mounted external lighting, erection of two glazed canopies (76m<sup>2</sup>), removal of hedge, perimeter footpath (184.4 sq. metres), relocation of two storage sheds and shelter, installation of artificial grass, hard and soft landscaping works on land at Spofforth C E Primary School, School Lane, Spofforth**

Considered -

The report of the Corporate Director - Business and Environmental Services requesting Members to determine a planning application for the demolition of the existing prefabricated double classroom building with associated toilet and storage facilities (180m<sup>2</sup>) and covered areas (66m<sup>2</sup>), erection of single storey classroom extension (227m<sup>2</sup>), wall mounted external lighting, erection of two glazed canopies (76m<sup>2</sup>), removal of hedge, perimeter footpath (184.4 sq. metres), relocation of two storage sheds and shelter, installation of artificial grass, hard and soft landscaping works on land at Spofforth C E Primary School, School Lane, Spofforth

The application was subject to objections having been raised in respect of this proposal on the grounds of access, lighting, design and landscaping and management of the construction phase; and was, therefore, reported to the Committee for determination.

A representative of the Head of Planning services presented the Committee report, highlighting the proposal, the site description, the consultations that have taken place, the advertisement and representations, planning guidance and policy and planning considerations. The report also provided a conclusion and recommendations.

She noted that paragraph 7.22 contained an error and the initial sentence should read as follows:-

“The Highway Authority have not commented in relation to highway safety or capacity.”

Detailed plans, photographs and visual information were presented to complement the report.

Members undertook a detailed discussion of the application and the following issues and points were highlighted during that discussion:-

- A Member asked, in respect of Condition 11, whether consideration had been given to placing nets over nearby trees and hedgerows, to prevent birds from nesting, rather than potentially delaying the project as no work could take place if birds were nesting. In response it was stated that NYCCs Ecologist had warned against using this technique due to the potential detrimental effect on wildlife, therefore, the Condition had been developed with that taken account of. The Member noted that, potentially, the scheme could be delayed for several months due to this.
- It was asked whether account had been taken of the lighting to be used on the outside of the classroom extension to ensure there was no detrimental effect on the neighbouring residential properties. In response it was confirmed that only low level lighting would be used and would be automatically turned off at 8pm. It was also noted that Environmental Health had reviewed the proposed lighting scheme and considered it to be appropriate.
- Clarification was provided as to the location of the access to the site when the building work was taking place and how every effort was being made to reduce the impact on the neighbouring community, whilst allowing vehicles to safely access the site.
- It was noted that the proposals for artificial grass related to the replacement of existing artificial grass that was likely to be damaged during the building phase.
- Details were provided of the trees that were likely to be affected by the proposals and it was noted that none of those in Castle Ings or School Lane would be. It was noted that the only trees affected were highlighted in the compound plan for the

scheme.

- Members asked that, going forward, similar projects provide details of how the County Council's aim of being Carbon neutral by 2030 is being addressed.
- It was considered that the replacement of a temporary prefabricated building with a permanent modern building would assist in addressing environmental issues and would be beneficial to the local area and the school.

**Resolved -**

That the Planning Permission be granted for the reasons stated and subject to the conditions outlined.

**169. Publication of Developer Contribution Agreements – Infrastructure Funding Statements.**

Considered –

The report of Assistant Director, Growth Planning and Trading Standards setting out the information required to be published and how, as part of the County Councils Infrastructure Statement.

The Community Infrastructure Levy (CIL) regulations require all local planning authorities that issue a CIL liability notice or enter into section 106 planning obligations during a reporting year to publish an infrastructure funding statement (IFS) at least annually. The information required to be published is set out in an IFS pursuant to Community Infrastructure Levy (Amendment)(England)(No 2) Regulations 2019.

The regulations require:

- (a) A statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies) (“the infrastructure list”);
- (b) A report about CIL, in relation to the previous financial year (“the reported year”), which includes the matters specified in paragraph 1 of Schedule 2 (“CIL report”);
- (c) A report about planning obligations, in relation to the reported year, which includes the matters specified in paragraph 3 of Schedule 2 and may include the matters specified in paragraph 4 of that Schedule (“section 106 report”).

North Yorkshire County Council is required to publish these on the Council's website. The appendices to the report highlight what is to be published on the website. The reporting year is 1 April 2019 to 31 March 2020. The County Council can update the report at any time during the year, though must report on the previous reporting year's activity by 31 December each year.

The County Council is not a CIL charging Authority and has not received any CIL funds from District Councils during the reporting period. Therefore, the report is limited to s106 agreements that the County Council is party to.

**Resolved -**

That the report be noted.

The meeting concluded at 10.42am.

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## North Yorkshire County Council

## Business and Environmental Services

## Planning and Regulatory Functions Committee

12 JANUARY 2021

**PLANNING APPLICATION FOR THE PURPOSE OF THE CONSTRUCTION OF A 3.9 KM LONG TWO-WAY, SINGLE LANE (WITH OVERTAKING LANES) CARRIAGEWAY REALIGNMENT ON THE A59 BETWEEN THE WEST OF NORTH MOOR ROAD AND BLUBBERHOUSES. THE REALIGNMENT IS LOCATED NORTH OF THE EXISTING A59 AND INCORPORATES MODIFICATIONS TO THE JUNCTIONS AT NORTH MOOR ROAD, HALL LANE AND CHURCH HILL. THE EXISTING ROAD FROM BLUBBERHOUSES TO BOTHAM'S FARM AND PARADISE WILL BE DOWNGRADED, REDUCED IN WIDTH AND WILL FUNCTION AS A PRIVATE ACCESS AND PUBLIC RIGHT OF WAY FOR PART OF THE LENGTH; THE EXISTING ROAD FROM PARADISE TO WHERE FOOTPATH 15.14/4/1 JOINS THE EXISTING A59 WILL BE REMOVED AND RETURNED TO MOORLAND HABITAT AS PART OF THE SPECIAL AREAS OF CONSERVATION AND SPECIAL PROTECTION AREAS. ASSOCIATED WORKS INCLUDE THE DIVERSION OF HALL BECK WATERCOURSE, LANDSCAPING, ENVIRONMENTAL MITIGATION, NEW CULVERTS, 100M LONG RETAINING WALL, SUDS DRAINAGE INCLUDING TWO ATTENUATION BASINS, REPLACEMENT SIGNAGE, CONSTRUCTION OF TWO UNDERPASSES, DIVERSIONS TO, AND INCREASE OF 1,526M OF BRIDLEWAYS AND PUBLIC RIGHT OF WAYS ON LAND AT THE A59 AT KEX GILL FROM THE WEST OF THE JUNCTION WITH NORTH MOOR ROAD AND BLUBBERHOUSES ON BEHALF OF THE CORPORATE DIRECTOR (BUSINESS & ENVIRONMENTAL SERVICES) (HARROGATE DISTRICT) (PATELEY BRIDGE ELECTORAL DIVISION)**

## Report by the Head of Planning Services

**1.0 Purpose of the report**

- 1.1 To determine a planning application for the purpose of the construction of a 3.9 km long two-way, single lane (with overtaking lanes) carriageway realignment on the A59 between the west of *North Moor Road* and *Blubberhouses*. The realignment lies north of the existing A59 and incorporates modifications to the junctions at *North Moor Road*, *Hall Lane* and *Church Hill*. The existing road from *Blubberhouses* to *Botham's Farm* and *Paradise* is proposed to be downgraded, reduced in width and, in turn, would function as a private access and public right of way for part of its length. The existing road from *Paradise* to where public footpath (ref. no. 15.14/4/1) joins the existing A59 is proposed to be removed and returned to moorland habitat as part of the areas of land designated as *Special Areas of Conservation (SACs)* and *Special Protection Areas (SPAs)* (under the *EU Birds Directive*). Associated works include the diversion of *Hall Beck* watercourse, landscaping, environmental mitigation, new culverts, 100 metre long retaining wall, SUDS drainage including two attenuation basins, replacement signage, construction of two underpasses, diversions to, and increase of 1,526 metres of bridleways and public rights of way on land at the A59 at *Kex Gill* from the west of the junction with *North Moor Road* and *Blubberhouses* on behalf of the Corporate Director, Business & Environmental Services.

- 1.2 This application is subject to objections having been raised in respect of this proposal on the grounds of potential adverse impacts upon residential amenity arising from noise from the road, potential increase in adverse effects upon air quality and detrimental visual impacts as well as the potential for adverse economic impacts upon local business interests in addition to potential landscape impacts and impacts upon local flora and fauna and cultural heritage.
- 1.3 In accord with the County Council's adopted *Officers' Delegation Scheme* (within *Schedule 4* of the [Constitution](#)), delegated powers to determine any application do not exist where "*there are unresolved objections on material planning grounds*". Thus, in light of the objections raised in respect of the proposed development, this application is brought before Members of this Committee for determination.

## 2.0 Background

- 2.1 The route of the A59 is critical in providing east-west connectivity in the county, linking Harrogate and Skipton. In turn, it provides onward connection with vital sections of the *Strategic Road Network* (SRN), such as Junction 31 of the M6 and Junction 47 of the A1(M). Moreover, it forms part of *Transport for the North's* plans for a *Major Route Network* (MRN). On a more local level, the A59 provides important links for the smaller settlements and communities that exist within this area and provides the requisite accessibility to the wider transport network and key facilities and services.
- 2.2 The particular section of the A59, which is the subject of this current application, has a long history of landslips on the land both above and beneath. Those above, deposit material onto the A59 carriageway that can lead to unpredictable closures of the road. By way of example, a closure lasting approximately eight weeks resulted from a landslip in 2016. The applicant has explained that an analysis of existing geotechnical information indicates that the primary cause of these landslips is heavy rainfall, coupled with relatively unstable land on the hillside slopes, leading to earthwork failures. Further explanation points to landslip events being frequently related to individual extreme rainfall events or years with generally higher winter rainfall and, more recently, experiences have indicated that landslip has also been directly related to the failure of the ground beneath the carriageway. Those advising the Highway Authority hold the view that climate change predictions are likely to see increasing amounts of winter rainfall levels that, in turn, would have increasing likelihood of landslips occurring. Significantly, the retention of the A59 along its existing alignment in this specific location is likely to remain vulnerable to landslides and related disruption and, moreover, given the risk area's sizeable land coverage and potential landslip features, full stabilisation of the area is expected by the applicant to be costly and unlikely to be either practicable or acceptable in terms of environmental consequences.
- 2.3 Road safety has also been highlighted by the applicant as a justification for the proposed scheme explaining that a fifth of all accidents were weather-related and, of those, just over a tenth were associated with objects in the road.
- 2.4 Bringing all these elements together, the applicant's appointed expert advisers conclude that the scheme "*provides significant ancillary benefit through more reliable east to west connectivity, supporting economic growth and improving road safety*" as well as being able to safeguard against lengthy diversions (up to 9km) upon road closure events, improve journey times and reliability and reduce severance.
- 2.5 The proposal is the culmination of '*whittling down*' numerous options, through various environmental and geotechnical considerations, to the one '*preferred option*' that is the subject of this application. The submitted [Design & Access Statement](#) (dated October

2019) explains that the evolution of the design has been guided by the known highway, environmental and geological constraints on and around the site and an original candidate list of sixteen routes (as described within the submitted [Options Assessment Report](#) (dated May 2017) which involved a 'sifting exercise' based upon capital and revenue costs, implementation timescales, environmental impacts and feasibility. The list was reduced to four options which were then considered for further scrutiny which was subsequently followed by a [Technical Appraisal Report](#) (dated December 2018); culminating with the eventual 'preferred option' (Option 9) chosen to be the subject of this current application. This 'preferred option' has been assessed by the applicant to have the least negative impact upon the sensitive *blanket bog* and *dry heath* habitats of the *North Pennine Moors Special Area of Conservation* and the ability to avoid other environmentally and geotechnically sensitive areas. The alignment shown within Appendix A to this Report is the one that the applicant proposes as being the "only viable [and preferred] option, meeting the requirements of the scheme objectives which was able to best avoid the environmental and geotechnical sensitivities identified within the study area".

### Site Description

- 2.6 The line of the proposed new section of road lies halfway between *Skipton* (approximately 19 kilometres (or just under 12 miles) to the west) and *Harrogate* (approximately 16 kilometres (or 10 miles) to the east). The town of *Ilkley* is approximately 8 kilometres (or 5 miles) to the south beyond *Blubberhouse Moor* and the village of *Blubberhouses* is approximately a kilometre (or  $\frac{2}{3}$  of a mile) to the south-east in the valley of the *River Washburn* just to the north of *Fewston Reservoir*. The small settlement of *Thruscross* is approximately 2 kilometres (or 1.2 miles) to the north on the northern side of *Thruscross Reservoir*.
- 2.7 The area in which the proposed development is situated is sparsely populated with residential properties, for the most part, being located in the lower reaches of *Kex Gill* and the *Washburn Valley*. The nearest residential properties are those along *Church Hill*, *Hall Lane*, *Cooper Lane*, *Hardisty Hill*, *Meagill Lane*, *West End Lane* (including *Burnt House Farm*, *Redshaw Hall*, *Redshaw Grange*, *Nethernooks* and *Spittle Ings House*) and *Kex Gill Road* (including *Kex Gill Farm* and *Kex Gill Lodge*). *Botham's Farm* lies adjacent the existing A59. The locations of many of these have been identified within the application details; an extract of which is provided with this Officer Report at Appendix B.
- 2.8 The land which is subject to the application has been described as lying "within an upland landscape of open and exposed gritstone moorland, an area characterised by extensive moorland plateaus and a radial network of gills and valleys" and, more specifically, the applicant has described the land within the application boundary as "predominantly in agricultural use with the upland pasture land on the slopes of the *Kex Gill valley* being managed for grazing by sheep". The application site's terrain is undulating with the existing road alignment which makes use of the naturally formed valley and cutting through the hillside. Land use changes from moorland to arable farm land along the alignment on the approach from *Kex Gill Farm* to *Blubberhouses*.
- 2.9 The site proposed for the realignment transverses a landscape which is both rural and open in nature. The site lies within the *National Character Areas* (NCAs) of the [Yorkshire Dales](#) (no.21) and the [Pennine Dales Fringe](#) (no.22). NCAs are areas that share similar landscape characteristics and which follow natural lines in the landscape. For each area, has been produced a 'profile' which includes a description of the natural and cultural features that shape the landscape, how the landscape has changed over time, the current key drivers for ongoing change, and a broad analysis of each area's characteristics and ecosystem services. The characteristics of these areas, in particular, have been described as being dominated by exposed high moorland with

*blanket bog and heath*. Field boundaries are defined by drystone walling on higher ground and hedgerows on lower ground.

- 2.10 The [Yorkshire Dales](#) is characterised as a “*landscape of high, exposed moorland dissected by sheltered valleys or dales, each with their own character*” with “*a network of walls continues with scattered stone field barns often appearing as distinctive features. The steepest slopes are frequently marked by the presence of sparse woodlands or sometimes open rock scree. There are large areas of actively managed grouse moorlands in the north and the east*”.
- 2.11 The [Pennine Dales Fringe](#) has “*a varied topography of exposed upland moorland fringes and plateaux dropping to lower foothills, separated by major river valleys and incised by numerous minor tributary valleys*” and “*broadleaved woodlands (many of them of ancient origin), coniferous and mixed plantations, and numerous small woods and hedgerow trees all contribute to the well-wooded character of the area*”.
- 2.12 The site of *Blubberhouses Quarry*, a mineral resource of *silica sand* within a sandstone deposit of *carboniferous* age, which contains a high proportion of silica (99% SiO<sub>2</sub>) in the form of quartz, lies to the north of the alignment of the proposed new section of road.

Constraints affecting the proposed development (also shown within Appendix C accompanying this report):

Landscape & ecological constraints:

- 2.13 The area of land which is the subject of this application occupies an area which lies wholly within the designated *Nidderdale Area of Outstanding Natural Beauty* (AONB) (an area designated for the quality and importance of its open rural landscapes and geological and ornithological interest) and 1.5 kilometres (or just under a mile) east of the boundary of the *Yorkshire Dales National Park*. The *Landscape Character Areas* of *Gritstone Moor* (LCA1), *Upper Washburn Valley* (LCA14), *Forest Moor Undulating Grassland Plateau* (LCA15) *Middle Washburn Valley* (LCA16) and *Timble Gill Beck Upland Fringe Grassland* (LCA17) also form constraints.
- 2.14 In addition, it falls within areas designated as *Common Land* and those designated as *Sites of Importance for Nature Conservation* (SINC) (including the SINC known as *Thruscross Reservoir* (over 500 metres distant), *West End Marsh*, *Timble Ings* (over a kilometre distant) and *Fewston/Swinsty Reservoirs*) and *Sites of Special Scientific Interest* (the *West Nidderdale*, *Barden and Blubberhouses SSSI*). This particular SSSI is designated for its nationally important assemblage of moorland breeding birds including *merlin*, *golden plover*, *snipe*, *curlew*, *redshank*, *teal* and *short-eared owl* and the European designations of *Special Protection Areas* and *Special Areas of Conservation* (the *North Pennine Moors*). The SPA, also an *Important Bird & Biodiversity Area* (the *North Pennine Moors IBA*), is designated for its internationally important populations of breeding raptors such as *merlin*, *peregrine falcon* and *hen harrier* and also waders and other upland birds such as *golden plover*. Bats are potentially present at *Hall Beck Bridge*. Habitats within the SAC include *Blanket Bogs* and *European Dry Heath*. The area also provides the potential for habitats suitable for badgers, reptiles and otters, water voles, fish and invertebrates.
- 2.15 *Ancient Woodlands* are also present at *Blubberhouses Hall Wood* (46 metres (or just under 160 feet)) and *Hewness House Wood* as are areas of potential soft soils and areas of peat of thicknesses of approximately 1 to 2 metres and potentially over 2 metres in places.

Cultural heritage constraints:



- 2.16 There are also designated Listed Buildings around the area of the land subject to the application. The nearest *Grade I* Listed Building, *Swinsty Hall*, lies on the western flank of the *Swinsty Reservoir*, a clear distance, *as the crow flies*, of over 3 kilometres (or nearly 2 miles) to the south-east of the proposed scheme. The nearest *Grade II\** Listed Buildings are *Scow Hall* and the *Church of St Lawrence* (4.5 kilometres (or nearly 3 miles) and 3 kilometres (or nearly 2 miles) respectively). *Grade II* Listed Buildings are more numerous; namely *Blubberhouses Hall* and *Myer's Lair Barn*, Hall Lane; the *Church of St Andrew*, Shepherd Hill Road; *Renshaw Hall*; *Skaife Hall Farmhouse*, Hardisty Hill, and *High Apprentice House*, Hardisty Hill, *Hardisty House* and No.s 1 & 2 *Hopper Lane*. Non-designated heritage assets identified by the applicant also include *Keepers House*, *Manor House*, *Bothams Farm*, *Woodview House* and *Pace Gate Bridge*.

Public Rights of Way constraints:

- 2.17 The following public rights of way comprise the principal non-motorised use infrastructure affected by the proposed development and they connect with the network of paths further afield and the long-distance footpaths of the [Yorkshire Water Way](#) (a 103 mile walk from *Kettlewell* (North Yorkshire) to *Langsett* (South Yorkshire) and the [Six Dales Trail](#) (a 38.5 mile permissive long-distance footpath linking *Otley* and *Middleham/Leyburn*):

- public footpaths:
  - 15.14/4/1 (east of the A59/*North Moor Road* junction heading north-east to re-join *North Moor Road* where it terminates south of *Blubberhouses Quarry*) and 15.14/7/1 (located approximately 350m west of the A59/*Church Hill* junction running north-west to *Hall Lane*) & 15.14/18/1 (some 350m west of the A59/*Church Hill* junction leading south-east from the A59, connecting towards an unclassified road and dwellings accessed off *Church Hill*) within the area of the application itself at the western and eastern ends of the proposed scheme respectively; and,
  - 15.14/2/1; 15.14/21/1; 15.14/3/1 (connects the existing bridleway (15.14/17/1) near *North Moor Road* heading north-east through *Kex Gill Moor*, before re-joining *North Moor Road*, north of *Blubberhouses Quarry*); 15.14/4/1 (east of the A59/*Church Hill* junction linking to further PRoWs south of the *Fewston Reservoir Car Park*); 15.14/6/2 and 15.14/6/1 (north-west of the A59/*Hall Lane* junction connecting *Hall Lane* north-west to *West End Lane*) within the vicinity of the application area.
- bridleways:
  - 15.14/5/1 within the area of the application itself is located to the north of the existing A59, running west to east between *Kex Gill Moor* and *Blubberhouses* connecting *North Moor Road* with *West End Lane / Hall Lane*; and,
  - 15.14/17/1 (to the north of the existing A59, running west to east between *Kex Gill Farm* and *North Moor Road*) and 15.14/13/1 (south of the existing A59) within the vicinity of the application area.

Agricultural land constraints:

- 2.18 While the land, which is the subject of the application for the proposed re-aligned A59, is, for the most part, already a public highway, land outwith the immediate confines of the highway is classified as being *Grade 4*, i.e. poor quality agricultural land, or *Grade 5*, i.e. very poor quality agricultural land.

Hydrological and/or hydrogeological constraints:

- 2.19 *Hall Beck* and its associated culverts are directly affected by the proposed scheme lying within the red line boundary of the application site; while *Kex Beck*, a tributary to the *River Wharfe* flows from east to west, crossing the A59 approximately 50 metres east of the junction with *Kex Gill Road* and *North Moor Road*. The *River Washburn* runs through the boundary of the proposal at its eastern end; as do the areas of flood

zones, *Flood Zone 2* and *Flood Zone 3*, partly through which the scheme's eastern boundary runs.

### Planning History

- 2.20 There is no planning history relating to the land within the red line boundary of the application site materially relevant to the application's determination; although the proposed re-alignment dissects consents relating to mineral working at the nearby inactive and dormant *Blubberhouses Quarry* for which there is an application under consideration seeking an extension to the time-period for permitted mineral extraction of silica sand (planning application ref. no. [NY/2011/0465/73](#)). The original permission for the quarry having been granted, on 'call-in', by the Secretary of State at the time in 1985. Information provided by the applicant states that the quarry was last worked for a period of four years between 1987 and 1991 and has been 'mothballed' since that time. The processing plant complex (including the crusher, scrubber, screening plant and washer) that was present on site (the principal area of which approximating to a coverage of 2.3ha) was demolished in 2007 for health and safety reasons. It states there are currently no buildings on the site and that significant planned reserves (4.05m/t) remain to be worked over the site covering an area of 38.66 hectares (ha) (part of a larger quarry site which covers 83.43ha).

## **3.0 The Proposal**

- 3.1 Planning permission is sought for the re-alignment of a 3.94 kilometre (or 2½ mile) section of the A59 at *Kex Gill* covering a stated area of 22.1 hectares; although the application site covers a wider area of 38.6 hectares). The proposal would provide a single 2-lane rural all-purpose road, including, *inter alia*, a 2.5 kilometre 'climbing lane', two *underpasses* to allow for *Public Rights of Way* (the *Western Underpass* (5m wide, 3.6m high and 28.2m in length) being for the diverted *bridleway* and the *Eastern Underpass*, which connects a *restricted byway* and allows for the passage of mounted horse-riders and footpath users alike, is proposed to be some 5m wide, 6m high and 32.6m in length), new *culverts* (to be faced with natural gritstone), a *retaining wall* (100 metres in length and varying in height between 0.1 metres and 5 metres with an average of 3 metres) to be situated on the northern edge of the realignment, three new road junctions (*North Moor Road*, *Hall Lane* and *Church Hill*), improved pedestrian experience, two *attenuation basins* and installation of boundary features, landscape planting and ecological mitigation. The existing A59, between *Botham's Farm* and *Church Hill Road*, is planned to be decommissioned and, west of *Paradise*, removed from public access due to ongoing landslip risk.
- 3.2 The proposal scheme stretches from the existing A59 junction with *North Moor Road* travelling in a north-eastward direction towards *Blubberhouses*. The proposed new road would run in north-easterly direction from this junction passing south of the *Blubberhouses Quarry* site prior to following the route of an existing *bridleway* between *North Moor Road* and *Hall Lane*. As the new road approaches *Hall Lane*, it turns south-easterly, returning to the existing A59 carriageway just short of its junction with *Church Hill* and *Hall Lane*. The scheme would provide an additional 'climbing lane' comprising a 3.4 metre wide lane (eastbound) and two lanes of 3.2 metre and 3.4 metre widths (westbound) where the new road climbs from the existing A59 to the north side of the *Kex Gill Valley*.
- 3.3 The carriageway of the re-aligned road is proposed to be 7.3 metres in width (with running lane widths each of 3.65 metres) with a 1 metre hardstrip and a 2.5 metre verge. At 'climbing lane' sections, the carriageway width would extend to 10 metres and, at any ghost island junctions, the width of the carriageway would be 10.3 metres. On the basis of the proposed 1:3 'cut & fill' slope, the road would sit a maximum of 14 metres within the cutting at its maximum depth as it passes the communication masts

and a maximum of approximately 9 metres above the existing ground level as it approaches the existing A59.

- 3.4 The proposed diversion of the existing bridleway between *North Moor Road* and *Hall Lane* would run along the edge of the earthworks. *Bridleway 15.14/5/1*, is proposed to be diverted in two locations. At its western end, it is proposed to be realigned to the south, passing under the diverted A59, via use of the *Western Underpass*, before running parallel to the proposed new road. Towards the eastern end of the existing *bridleway*, a second diversion is proposed, connecting with the proposed new *Restricted Byway*. *Footpath 15.14/4/1* is proposed to be diverted at its eastern end to follow on the south side of the diverted A59 and connect to the diversion for the west end of *Bridleway 15.14/5/1*. The application details cite an overall public access net gain of 1,526 metres.
- 3.5 Two telecommunication masts exist at the western end of the proposed scheme after *North Moor Road* and, as the proposed new road alignment passes south of these, a retaining structure would be required to protect the masts from the cut slope. The final materials and finishes of the proposed *retaining structure* would ensure it assimilates as far as possible into the landscape character setting; together with maintainable landscaping.
- 3.6 Additional accesses are proposed to be provided along the route of the proposed new scheme where there are three junctions including the provision of:
- a proposed a 'ghost island' junction with *North Moor Road*;
  - a 'ghost island' left-right staggered junction between *Hall Lane* and *Church Hill* at the eastern end of the proposed scheme; and,
  - at *Church Hill*, being the eastern end of the staggered 'ghost island' junction with *Hall Lane*.
- 3.7 In order to improve visibility against earthworks or vehicle restraint systems, verge widening would be required at the junctions. It would also be required for the tight radius curve within the cut slope as the road bends away from the north of the valley. An access road to *Botham's Farm* would make use of the existing A59 and field accesses would be provided along the route too.
- 3.8 As earlier referred, the scheme proposes two new *culverts* (of the eight new culverts proposed) to pass *Hall Beck* underneath the road as the diversion approaches the existing A59 in the east. One *culvert* would be a long *skew culvert* and the other would pass underneath the access road that leads to *Hall Lane*. Six other culverts within the proposed scheme would be new, one existing culvert would be retained and two remaining existing culverts are proposed to be removed. The applicant has explained within the submitted *Planning Statement* that all of the culverts would be enclosed to allow for landscaping and groundworks to be laid over the exposed concrete and that natural gritstone facings would be used for the culvert elevations (*headwalls & wingwalls*) to visually enhance their appearance. Measures have been incorporated into the design of the culverts to encourage use by otter and fish species including reducing their length as far as possible to ensure maximum light penetration levels, use of fish '*baffles*' and mammal ledges and the applicant has explained that the diversion of *Hall Beck* will be designed such that it would replace physical form and function (habitat) lost as a result of the proposed road scheme. The design is described as being "a *sinuous planform, with diverse physical habitats, including pools, riffles, point bars, and low-level berms, which would be planted with a native mix of wetland species*". In addition, the riparian corridor is proposed to be planted to a native wet woodland species mix.
- 3.9 In respect of materials proposed to be used in the scheme, the bridleway would be delineated by drystone walls and natural gritstone is proposed to be used in the

construction of the two underpass structures. Other materials include timber posts and stock-proof fencing. Where embankments and cuttings are proposed, these would have a slope of 1 in 3 and are proposed to be hydro-seeded to enable slope establishment of seed mixes of wildflower and grasses to be effective and enable quicker establishment.

- 3.10 Insofar as ecological enhancement (or in some instances, compensation), the applicant proposes a number of measures in mitigation proposed within its submitted [Outline Environmental Management Plan](#) (OEMP) containing a *Record of Environmental Actions and Commitments* (REAC) (to be secured through both the mechanism of a legal agreement and through conditions offered up by the applicant), which amongst others includes the installation of twenty bat boxes. While the exact location of these is yet to be determined by the applicant, the first ten are proposed to be installed prior to construction in areas of retained suitable habitat or created habitat such as mature trees, to provide artificial roosting opportunities until planted vegetation has established. The remaining ten are proposed to be installed upon the opening of the road and are provided for within a proposed *Bat Species Protection Plan*. This was originally set out within [Appendix 18A](#) of the application details as submitted and paragraph 3.52 below explains that this has evolved over the course of the processing of the application as a result of responses to consultation. In addition, at least ten wildlife refuge piles, twenty nesting boxes, five *Barn Owl* nesting boxes and two *wildlife towers* are proposed; although this would have to be by agreement with third party land owners as the location of a number of the ecological enhancements would require locations on land owned by others such as, in the case of the bat boxes by Yorkshire Water. The applicant has explained that the OEMP would, in turn, inform the development of a more comprehensive *Construction Environmental Management Plan* (CEMP) as well as a *Site Lighting Plan* during the construction phase, a *Traffic Management Plan*, a *Dust & Mud Management Plan*, a *Landscape Mitigation Plan*, and *Protection Plans* for *herpetofauna (reptiles and amphibians)*, *birds*, *bats*, *badgers* *otters* and enhancement measures for *birds (especially barn owls)*, *bats*, *wildlife refuges* and *kerbs*, in addition to a *Pollution Prevention Plan* and a *Biodiversity Action Management Plan*,
- 3.11 It is proposed to close and remove the existing A59 between its junction with *North Moor Road* and the entrance to *Botham's Farm* using the existing road for access to the farm and as a public right of way.
- 3.12 A *Sustainable Drainage Scheme* (SuDS) has been incorporated into the proposal's design. Surface water drainage, designed to ensure that flow does not drain onto the carriageway, would be passed through a collection system which, considering the most suitable drainage and pollution control option, would comprise filter drains.
- 3.13 Improvements are also proposed to ensure safe pedestrian crossing of the road by users of the *Six Dales Trail / Yorkshire Water Way* from the *Fewston Reservoir* car park and, with regards additional safety provision, the underpasses would allow access for users to the land north and south, without the need to cross over the A59 at-grade.

Accompanying information in support of the application:

- 3.14 The application has been accompanied by the following supporting information:
- [Design & Access Statement \(October 2019\)](#);
  - [Planning Statement \(October 2019\)](#);
  - [Statement of Community Involvement \(October 2019\)](#);
  - [Biodiversity Net Gain Report \(October 2019\)](#);
  - [Habitat Regulations – Information to inform Appropriate Assessment \(October 2019\)](#);
  - [Transport Assessment \(October 2019\)](#);
  - [Non-Motorised Users Report \(October 2019\)](#);
  - Environmental Statement (dated October 2019):



- [Non-Technical Summary \(October 2019\)](#);
- [Introduction: The Existing Environment; Description of the Proposed Scheme; Consideration of Alternatives & Approach to EIA \(November 2019\)](#) (Chapters 1 – 5);
- [Biodiversity \(October 2019\)](#) (Chapter 6);
  - [Preliminary Ecological Appraisal Report \(October 2019\)](#);
  - [National Vegetation Classification Report \(October 2019\)](#);
  - [White-clawed Crayfish Survey Report \(December 2018\)](#);
  - [Aquatic Ecology Survey Report \(October 2019\)](#);
  - [Great Crested Newt Habitat Suitability Index and eDNA Report \(October 2019\)](#);
  - [Reptile Survey Report \(October 2019\)](#);
  - Barn Owl Survey Report including Method Statement (confidential);
  - [Breeding Bird Survey Report \(December 2018\)](#);
  - [Upland Wader Survey Report \(October 2019\)](#);
  - [Nightjar Survey Report \(October 2019\)](#);
  - [Wintering Bird Survey Report \(October 2019\)](#);
  - [Bird Flight Activity Survey Report \(October 2019\)](#);
  - [Bat Roost Inspection and Activity Surveys - Buildings, Built Structures and Rock Formations - Survey Report \(October 2019\)](#);
  - [Bat Roost Inspection and Activity Surveys - Trees – Survey Report and Outline Licence Application \(October 2019\)](#);
  - [Bat Activity Surveys - Transects, Crossing Points and Static Surveys \(October 2019\)](#);
  - Badger Survey Report (confidential);
  - [Riparian Mammal Survey Report \(December 2018\)](#).
- [Landscape & Visual Impact Assessment \(October 2019\)](#) & Appendices (Chapter 7) including:
  - [Arboricultural Impact Assessment \(October 2019\)](#);
- [Cultural Heritage Assessment \(November 2019\)](#) (Chapter 8) (including:
  - an [Historic Environment Desk-based Assessment \(October 2019\)](#);
  - [Geophysical Survey Report \(October 2019\)](#);
  - [Palaeoenvironmental & Geo-archaeological Desk-based Assessment \(October 2019\)](#);
- [Air Quality Impact Assessment \(October 2019\)](#) (Chapter 9);
- [Noise & Vibration Impact Assessment \(October 2019\)](#) (Chapter 10);
- [Road Drainage & the Water Environment \(October 2019\)](#) (Chapter 11) including:
  - Water Framework Directive Assessment;
  - Hydrogeological Assessment;
  - Water Quality Assessment (HAWRAT); and,
  - Flood Risk Assessment (FRA);
- [Geology & Soils Assessment \(October 2019\)](#) (Chapter 12) including:
  - Phase 1 Geo-Environmental Desk Study (2019); and,
  - [Peat Baseline Report \(October 2019\)](#);
- [Materials & Waste \(October 2019\)](#) (Chapter 13);
- [Climate \(October 2019\)](#) (Chapter 14);
- [Population & Health \(October 2019\)](#) (Chapter 15);
- [Major Accident & Natural Disasters \(October 2019\)](#) (Chapter 16);
- [Cumulative Effects \(November 2019\)](#) (Chapter 17); and,
- [Summary of Environmental Effects \(November 2019\)](#) (Chapter 18) including:
  - [An Outline Environmental Management Plan](#)

**Design & Access Statement:**

- 3.15 The *Design & Access Statement* sets out how the scheme’s design has evolved chronologically and how accessibility has been one of the key elements of the scheme’s design.

**Planning Statement:**

- 3.16 The submitted *Planning Statement* provides an overview of the proposed scheme and sets out the arguments of need (including overcoming community severance problems (caused by the access difficulties by bus, cycle and on foot) and the legacy of landslips within the locality of the proposed scheme). The arguments also include those with regards improvements in road safety and journey times as well as reliability, in addition to cost implications together with economic growth and spatial planning impacts and, finally, air quality impacts.
- 3.17 In addition to the arguments of need, the *Planning Statement* also provides a summary of the spatial context of the proposed development in terms of the constraints that affect the site in question and this is then followed by a summary of the proposed

scheme itself. It also conveys the public consultations undertaken prior to the submission of the scheme to the County Council as the relevant Planning Authority (explained in further detail within the submitted [Statement of Community Involvement \(October 2019\)](#)) and the planning policy context as well as providing an explanation of the survey and analysis work undertaken to assess the principal environmental effects of the proposed scheme; namely, biodiversity; landscape and visual impact; cultural heritage; air quality; noise and vibration; road drainage and the water environment; geology and soils; materials and waste; climate; population and health; major accident and natural disasters as well as cumulative effects.

*The Town & Country Planning (Environmental Impact Assessment) Regulations 2017*

- 3.18 The provisions of the [Town & Country Planning \(Environmental Impact Assessment\) Regulations 2017](#) apply in this particular instance and an *environmental impact assessment* (EIA) has been required to be undertaken in light of the proposal falling within the identified types of development within *Schedule 2 Part 10(f)* to those regulations and, having met the relevant criteria and thresholds, has been deemed to be likely to give rise to significant environmental effects by virtue of factors such as the size, nature and location of the proposed development.
- 3.19 Due to the high sensitivity of the site, a formal EIA *Screening Opinion* to confirm the need for EIA was not sought from the County Planning Authority. Instead, a formal request for a *Scoping Opinion* was submitted on 11<sup>th</sup> January 2019 in accordance with *Regulation 15* of the aforementioned regulations. A formal [Scoping Opinion](#) was subsequently adopted by the County Planning Authority on 15<sup>th</sup> February 2019.
- 3.20 The submitted *Environmental Statement* comprises the assessment of environmental effects undertaken by the applicant which has been approached from two angles; namely, the effects during construction and the effects during operation (i.e. the road when open or in use).

*Biodiversity impacts:*

*Construction phase:*

- 3.21 **No significant residual effects** during the construction phase have been concluded through the assessment undertaken by the applicant; although the applicant has acknowledged that both permanent and temporary loss (albeit relatively small) as well as habitat degradation in respect of the *North Pennine Moors SAC & SSSI* in addition to both permanent and temporary loss, degradation and fragmentation of important ecological features outside the designated sites are likely to occur. It goes on to explain that adverse effects on sensitive ecological receptors including important ecological habitats, *barn owls*, breeding birds, foraging raptors, *bats*, *otters*, *badgers* are possible as a result of activities such as vegetation clearance, earthworks and vehicle movements that, in turn, could potentially adversely affect breeding success and result in mortality of individuals from amongst these species. Other ecological impacts could include adverse impacts upon species such as *brook lamprey*, *brown trout* and *otter* as well as other aquatic species present in the beck. However, providing appropriate measures in mitigation are put in place, the applicant's assessment has concluded that these effects would **not be significant**.

*Operational phase:*

- 3.22 **No significant residual effects** during the operational phase have been concluded through the assessment undertaken by the applicant upon thirteen of the sensitive receptors identified. However, this is not the case insofar as the effect upon *brown trout* due to the loss of permanent adult passage and juvenile habitats under the footprints of the culverts. The identified adverse effects upon sensitive ecological receptors have been assessed as potentially resulting from changes in air quality, traffic-related incidents causing injury/fatalities, disturbance as a result of traffic noise or shining

vehicle headlights and possibly the road presenting a 'barrier' within the habitat area. However, the assessment has identified **beneficial effects** insofar as providing *acid grassland* and *heath* habitats along the alignment of the existing section of the A59 and wildlife towers, twenty bat boxes, amongst other enhancements, once decommissioned. The assessment concludes, providing appropriate measures in mitigation are put in place, the applicant's assessment has concluded that these effects would **not be significant**. However, this same conclusion cannot be applied to fish and other aquatic species (including *brown trout*) which would encounter **significant residual adverse effect** through population loss.

#### Landscape & visual impacts:

##### Construction phase:

- 3.23 The applicant's assessment points to **adverse** impacts resulting from construction activity (including noise, external lighting and built structures e.g. 5m high retaining wall), vegetation clearances (as well as new planting areas) and changes in local topography and concludes **significant adverse residual landscape and visual effects** will arise from the scheme.
- 3.24 With regards the effects of the proposal upon the trees within its vicinity, the applicant has prepared an [Arboricultural Impact Assessment](#) which identifies both the proposal's direct and indirect effects as well as recommending necessary mitigation to ensure the long-term well-being of any retained trees. A total of 146 arboricultural features were surveyed. Four veteran trees and one ancient tree (described within the application details as a "standing ancient oak of 5.67m girth and the condition includes decaying wood in the crown and on the ground, holes or water pockets and hollowing trunk") were found within the study area and within the area of the proposal itself, no *ancient woodlands* were found; although *Woodpasture* and *Parkland* (which are woodland blocks) have been identified through the desk-based assessment undertaken. The Assessment has concluded there are potential significant effects due to tree loss and recommends mitigation during construction of protection of existing trees and woodland with replacement planting of trees and woodland. The residual effects arising from the construction of the proposal, vary between 'minor adverse' and 'major adverse'.

##### Operational phase:

- 3.25 In creating new features (e.g. embankments, cuttings, structures etc.) which, in the opinion of the assessor, would be "out-of-keeping" with the surrounding landscape, the scheme would not be able to avoid **significant adverse residual landscape effects** upon the AONB and surrounding landscape within the first kilometre; notwithstanding the native deciduous tree and shrub planting etc. proposed to attempt to assimilate such new features into the surrounding landscape. This is similarly the case in respect of visual impact with the applicant's experts concluding that '**significant adverse residual visual effects**' "are expected to occur to recreational receptors" i.e. those using the public rights of way network and residential receptors; notwithstanding that these effects are likely to "diminish over time".
- 3.26 With regards the effects of the proposal upon the trees within its vicinity during the operational phase of the proposed development vary between 'minor' and 'moderate' effects with the most significant effect being tree loss and the potential deterioration of the ancient and veteran arboricultural features. The Assessment has recommended mitigation in the form of long-term management for the existing and new planting, increasing the diversity of newly created woodland edges, management of retained trees to improve structural and physiological condition as well as sourcing of appropriate provenance and diversity for the new planting.

#### Cultural heritage impacts

- 3.27 Fifteen buildings within the study area have been identified as being designated as *Listed Buildings*, non-designated heritage assets of pre-historic date amount to thirty-eight, non-designated heritage assets of Roman to modern date number two hundred and eleven, and there exist twenty-three *Historic Landscape Characters*.

Construction phase:

Below-ground features:

- 3.28 The assessment of these impacts has identified the permanent and irreversible loss of *known below-ground* remains of non-designated heritage assets, such as what remains of a post-medieval *Old Turnpike Road*, former mineral workings; all of which have been assessed as being of either *low* or *negligible* value and the potential loss of *unknown below-ground* heritage assets (although their potential to remain intact is limited due to the amount of ground disturbance that has taken place over time). Notwithstanding the incorporation of measures proposed so as to mitigate against these effects, such as preservation *in situ* or preservation by record, **significant adverse residual effects** “are expected” in respect of a number of these assets due to direct impacts as a result of the nature, scale and location of the proposed development.

Above-ground features:

- 3.29 An example of a direct *above-ground* adverse impact includes stone wall removal and, though not direct, there has been assessed a **moderate adverse effect** upon the *Grade II Listed Buildings* (namely, *Blubberhouses Hall & Sundial*, *Skaife Hall Farmhouse*, *Barn & Cattle Shelter*), a **major adverse effect** in respect of *Myer’s Lair Barn*, and *Church of St Andrew*, and **moderate adverse effect** upon non-designated heritage assets (namely, *Manor House*, *Keepers’ House & Woodview House*) as a result of their proximity to the proposal and changes to their setting as well as the character of the historic landscape; although in the case of all of these three assets, the sensitivity has been assessed as ‘low’.

Operational phase:

- 3.30 Upon the scheme becoming operational, the expert’s advising on the EIA are of the opinion that **moderate adverse effects** will remain in respect of *Myer’s Lair Barn & Blubberhouses Hall & Sundial*, and the non-designated heritage assets of *Woodview House & Keepers’ House*, but this reduces to **slight adverse residual effects** insofar as *Church of St Andrew*, *Skaife Hall & Manor House* are concerned.

Air quality impacts

Construction phase:

- 3.31 The principal impact upon air quality during construction is likely to be dust. Appropriate mitigation is proposed to be implemented through the means of a *Construction Environmental Management Plan* (which would be a further development of the submitted [Outline Environmental Management Plan](#)). The applicant’s *Planning Statement* explains it “will describe the mitigation measures, procedures and processes required to manage potential environmental impacts from the Proposed Scheme and these will be agreed with the relevant authorities in advance of construction commencement”. The experts conducting the EIA have concluded an **absence of significant residual effects** in respect of dust and any residual effects associated with the temporary emission of vehicle exhausts during the construction phase have been assessed as being ‘**minor adverse**’ (i.e. **not significant**).

Operational phase:

- 3.32 Similar to the assessment of the construction phase, the operational phase of the development is also **not expected to give rise to significant effects** upon air quality and again, similarly, in respect of emissions associated with vehicle exhausts, the conclusion reached by the assessment is one of ‘**minor adverse**’ effect arising.

Noise and vibration impacts:



- 3.33 Sensitive receptors to the effects of noise and vibration have been identified and include residential premises adjacent to the site boundary, the *Church of St Andrew*, *Blubberhouses Cricket Ground*, the designated areas of the National Park, the AONB and the SPA/SAC/SSSI, as well as the users of the PRoWs within the vicinity of the proposed new road.

Construction phase:

- 3.34 Whilst elevated levels of noise and vibration are likely during the phase of construction, the applicant's expert advisers conclude that, provided appropriate mitigation is in place, the residual effects of the proposed scheme are **unlikely to be significant**.

Operational phase:

- 3.35 Where the road moves away from certain existing noise receptors i.e. those living alongside the existing A59, these receptors are expected to experience reduced nuisance through road noise; although, conversely, increases (and in some cases large increases in respect of the AONB) are anticipated by those affected that are near to and along the re-aligned route; thereby resulting in a **significant noise effect**. The applicant has explained that mitigation measures have been proposed, having in mind, the objective of reducing the risk of adverse noise implications without creating a concurrent adverse effect upon the landscape.

Road drainage and the water environment impacts

Construction phase:

- 3.36 While risks, such as a surface water contamination, are considered to exist during this phase, the applicant's expert advisers consider the *Construction Environmental Management Plan* (a further development of the submitted [Outline Environmental Management Plan](#)) (making provision for specific pollution prevention control measures) to be sufficient to mitigate such risks. The scheme's residual effects upon water bodies, water quality, short-term flood risk and ground water flow, during construction and excavation was found to be '**minor adverse**' to '**neutral**' and sufficiently so, as to concluded that **no significant adverse effects** would arise. Furthermore, as peat is so important in terms of the water environment, the assessment considered the effects and found the residual effects, during construction, to be '**neutral slight adverse**'.

Operational phase:

- 3.37 Again, while risks exist, the applicant's expert advisers consider the residual effects to range from '**slight adverse**' to '**neutral**' and, moreover, consider the sustainable drainage features to be sufficient to control both water quantity and quality to ensure any effects are **not significant**.

Impacts upon geology and soils

Construction phase:

- 3.38 During the construction phase, the potential residual effects upon ground stability, mineral resources, and impacts on agricultural land have been assessed as '**neutral**' to '**minor adverse**'; though there would be a '**slight adverse**' effect upon the significance of peat. So long as appropriate measures in mitigation are implemented, the applicant's expert advisers concluded there to be **no significant effects** as a result of the proposed development in terms of its impact upon local geology and soils.

Operational phase:

- 3.39 On the basis of **no significant effects** being identified once the scheme is operational, no measures in mitigation have been advised by the applicant's experts.

Materials and waste impacts:

Construction phase:

- 3.40 There is an expectation that the proposed development will give rise to wastes as a result of demolition works connected with the existing junction alterations and existing

infrastructure. Waste also has the potential to be produced during site preparation works including that arising from vegetation removal and other above ground materials and any potential contaminated material that may lie beneath. The applicant's experts advise that the consumption of materials and recovery of any on-site materials as well as any materials requiring disposal will form part of a *Construction Environmental Management Plan* (a further development of the submitted [Outline Environmental Management Plan](#)) and, as a result, **no significant effects**, in their opinion, are envisaged.

Operational phase:

- 3.41 Once opened, with the exception of minor modification, maintenance and/or repair to the road, **no significant effects** are anticipated by the applicant during this phase.

Climate change impacts

- 3.42 There are dual impacts in respect of assessment of a development effects in this case i.e. effects upon climate change and effects of climate change upon a development.

Construction phase:

- 3.43 While an increase in *greenhouse gas* (GHG) emissions has been assessed as resulting from the construction of the scheme, the effects of this increase are **not expected to be significant** according to the applicant's expert advisers. With regards the impacts of climate change upon the proposed scheme, i.e. the scheme's vulnerability to climate change, these are also **not considered to be significant** either.

Operational phase:

- 3.44 Although slight, an increase in GHG emissions is thought to be likely due to increasing population and, consequently, increasing levels of traffic; however, its effects are **not considered to be significant** by the applicant. Based upon contemporary knowledge with regards the scheme's vulnerability to climate change, any residual effects are, in the opinion of the applicant's expert advisers, **not considered to be significant**.

Impacts upon population and health:

Construction phase:

- 3.45 The applicant's expert advisers consider there to be **no significant effects** arising in respect of air quality, noise and vibration-related population and health effects and any effects that may arise are capable of being mitigated.

Operational phase:

- 3.46 **Beneficial effects** are anticipated by the applicant through proposed improvements in access to open space and the local Public Rights of Way network.

Intra-project (in-combination) effects:

- 3.47 **No significant in-combination effects**, i.e. effects combined with one another e.g. visual effects and noise effects together etc. greater than an effect when considered in isolation, have been identified by the applicant's expert advisers.

Inter-project (cumulative) effects:

- 3.48 While the applicant's expert advisers consider it to be "*highly unlikely that quarry site re-mobilisation would occur at the same time as construction of the Proposed Scheme, which is anticipated to commence in May 2020 and be completed by July 2021*", a **significant long-term cumulative visual impact** has been identified upon highway users. This impact has been deemed to be capable of diminishing with the passage of time as the landscape planting schemes associated with the proposed road begin to mature and work towards assimilating the scheme into the surrounding landscape and, furthermore, upon mineral extraction recommencing, as the quarry experiences progressive restoration and after-care following the extraction of the mineral.

Summary of ES conclusions:

- 3.49 The effects of the proposed development, during the *construction phase*, have been assessed and summarised as:

<b>Significant adverse effects in respect of:</b>	<b>No significant adverse effects in respect of:</b>	<b>Beneficial effects in respect of:</b>
Landscape & visual impacts Cultural heritage (upon below ground interests with moderate effects insofar as above ground interests)	Biodiversity Air quality Noise & vibration impacts Road drainage & water impacts Geology & soils Materials & waste Climate change Population & health Intra-project (in-combination) effects	-

- 3.50 The effects of the proposed development, during the *operational phase* i.e. after the road has opened, have been assessed and summarised as:

<b>Significant adverse effects in respect of:</b>	<b>No significant adverse effects in respect of:</b>	<b>Beneficial effects in respect of:</b>
Biodiversity (i.e. impacts upon fish and other aquatic species) Landscape (i.e. upon the AONB and surrounding landscape within a kilometre) Visual impacts (i.e. upon those using the public rights of way network and residential receptors as well as inter-project cumulative visual effects) Cultural heritage (i.e. in respect of the setting of both designated and non-designated assets) Noise impacts (i.e. increases (and in some cases large increases in respect of the AONB) affecting those near to and along the proposed route)	Biodiversity (with the exception of impacts upon fish and other aquatic species) Air quality Vibration impacts Road drainage & water impacts Geology & soils Materials & waste Climate change	Biodiversity (i.e. provision of acid grassland and heath habitats) Population & health (i.e. through proposed improvements in access to open space and the local PRoW network)

- 3.51 In the opinion of the applicant's expert advisers "*the principal adverse residual effects relate to landscape, visual amenity, cultural heritage, noise and arboriculture*" [and] "*Measures are embedded in the design and are proposed as part of construction phase management to mitigate these effects as far as possible and are considered to reduce adverse effects to a degree where they are acceptable in the planning balance*". In the opinion of the applicant's expert advisers, the scheme gives rise to no adverse effects sufficient enough to outweigh the benefits that the proposed scheme would provide.

Further information submissions

- 3.52 Further and additional environmental information has been provided by the applicant during the course of the processing of the application arising as a result of a [formal request for information](#) under the provisions of *Regulation 25* of the [Town & Country](#)

[Planning \(Environmental Impact Assessment\) Regulations 2017](#). The additional and further environmental information was received on 22<sup>nd</sup> June 2020 and comprised a revised and updated [Landscape & Ecology Mitigation, Monitoring and Management Plan](#) together with consequential revisions to the previously submitted information. The Plan was also accompanied by [draft Heads of Terms](#) dated 19<sup>th</sup> June 2020 (which have been subsequently updated in [draft Heads of Terms](#) dated 23<sup>rd</sup> October 2020) that the applicant intends to take forward in a future *unilateral undertaking* to deliver the *biodiversity net gains* and provide for off-site landscaping measures offered up within an *Offsite Measures Fund* to the sum of £593,619. Subsequent to the submission of the aforementioned *Plan*, a number of revisions have been made between August and October of this year culminating with the latest version, [version 5](#). This and all previous versions have been made available for public viewing on the online planning register.

*The Conservation of Habitats and Species Regulations 2017*

- 3.53 These regulations require competent authorities to consider any application received affecting a European site, and, subject to certain exceptions, restrict permission where the integrity of the site would be adversely affected. Where proposals are likely to have a significant effect on a European site “*either alone or in combination with other plans or projects*”, a *competent authority* “*must make an appropriate assessment of the implications of the plan or project for that site in view of that site’s conservation objectives*”. In this instance, the *competent authority* is the County Council.
- 3.54 In satisfying *Regulation 63(2)*, the application has been accompanied by [Information to Inform Appropriate Assessment](#) dated October 2019. Insofar as affects the *North Pennine Moors SAC*, the assessment of the potential likely significant effects upon the SAC’s integrity is summarised within Table 5.1 ‘[Assessment of Effects of the Proposed Scheme on Site Integrity](#)’ which concludes there to be **no residual adverse effect on site integrity** due to there being a *de minimis* direct loss of qualifying habitats. The information, while predicting the proposed development would give rise to a direct habitat loss of 0.32ha (or, for comparison, an area approximately 56.5m by 56.5m or half a football pitch) of *bracken* (an acid grassland) and a combined temporary and permanent loss of up to 0.1ha (or, for comparison, an area of approximately 31m by 31 m or four tennis courts) of *European dry heath*, concludes this to be *de minimis* by dint of the size, location and condition of these habitats. The assessment makes the point that in respect of the *bracken* habitat in particular, this was not a qualifying habitat at the time of the SAC’s designation. The assessment then goes on to state that an enhancement through the provision of connectivity between areas between the non-qualifying site fabric and the wider SAC is capable of resulting from the proposed scheme. Insofar as affects the *North Pennine Moors SPA*, there too are **no predicted residual adverse effects on site integrity** due to *de minimis* direct loss of qualifying species’ habitat. Furthermore, the assessment explains that enhancement is to be provided through the scheme’s design due to the return of 0.43ha (or, for comparison, an area 65.5m by 65.5m, or just over half of a football pitch) to the designated areas currently occupied by the A59, the subsequent replanting over this area and improved connectivity with the SAC and SPA designation. The ‘*planting up*’ of earthworks over the removed *bracken* would allow for the creation of acid grassland habitat that would otherwise not occur without the road proposal.
- 3.55 This has been scrutinised by the County Council’s in-house adviser on matters of ecology and under the provisions of *Regulation 63(1)*, the expert adviser has prepared a [Habitats Regulations Appropriate Assessment Report](#). Such an assessment considers the implications of the proposal in view of the affected European site’s conservation objectives. It is the view of the in-house expert adviser on ecology matters that the information submitted in relation to the *North Pennine Moors SAC SPA* is sufficient and the conclusion of **no residual adverse effects** following *Stage 2 (Appropriate Assessment)* of the HRA is supported. *Regulation 63(3)* requires “*the*



*competent authority* [i.e. the County Council] ... *for the purposes of the assessment consult the appropriate nature conservation body* [i.e. Natural England] *and have regard to any representations made by that body within such reasonable time as the authority specifies*" Natural England has responded to consultation in respect of this specific matter regarding 'appropriate assessment' and, on [21<sup>st</sup> October 2020](#), returned a position of 'no objection' to the appropriate assessment undertaken by the County Planning Authority. For the sake of clarification and to reflect the comments made, a [revised assessment](#) (revision dated 2<sup>nd</sup> December 2020) has been received from the County Council's in-house expert adviser on matters of ecology.

## 4.0 Consultations

- 4.1 Pre-application discussions were instigated by the applicant prior to the submission of the application; an approach which is encouraged by national policy (NPPF Paragraph 128 advising "*applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot*"). The applicant advises that pre-application discussions with other statutory and non-statutory consultees and other stakeholders included those with the following:
- Natural England - in respect of the provision of a *Habitat Management Area* to compensate for designated habitat lost from the SAC;
  - Environment Agency;
  - Nidderdale AONB;
  - Yorkshire Water;
  - Sibelco;
  - Hanson;
  - Public Rights of Way User Groups; and,
  - other landowners.
- 4.2 The consultee responses summarised within this section of the report relate to responses to consultation undertaken between 10<sup>th</sup> December 2019 and 7<sup>th</sup> January 2020 and the subsequent re-consultation at the beginning of July 2020 following the receipt of further/amended information relating to the [Landscape and Ecology Mitigation, Monitoring & Management Plan](#) (LEMMMP) dated June 2020. The responses range from support, no expressed comments or objections, conditional responses through to expressed objections in respect of certain elements of the proposals and are summarised below (please note that while the responses to consultation are not reproduced in full within this report, they are nevertheless available to view on the County Council's [Online Planning Register](#) and weblinks have been provided within this report where possible to do so).
- 4.3 **NYCC Lead Local Flood Authority (LLFA)** – made an interim response to consultation on [18<sup>th</sup> December 2019](#) highlighting that matters, summarised in the following, would have to be submitted before any determination of the application:
- A. details of any works in, over, under or near an Ordinary Watercourse (outfall, retaining wall);
  - B. network-specific catchment plans of all impermeable/permeable areas to be positively drained;
  - C. including within the submitted *Drainage Strategy* of another watercourse running adjacent to Hall Lane;
  - D. in cases of watercourse widening or adoption of cascades, a scheduled maintenance plan to mitigate against any impacts such as sediment accumulation; and,
  - E. a plan with cascade sections, culverts, widening details, meanders and any other relevant drainage features.
- The response of the LLFA went on to outline matters relating to:
- flood risk including:
    - pluvial flooding – need to "*identify likely flood levels and confirm that any affected infrastructure/highway will have suitable mitigation, without increasing flood risk either on or off site*";

- changes to the geomorphology of the watercourse – in order to profile and project watercourse geomorphology changes, the applicant should “*provide details of the 1 in 5 and 1 in 30 for the baseline, proposed and comparative analysis*”
- peak flow control:
  - surface water – in the view of the LLFA, the proposed discharge rates “*look excessive*”; thus, clarification is requested as well as provision for resultant attenuation;
  - groundwater contributions – “*confirmation is requested as to any groundwater contribution from Cutting 1. If there are additional flows as a result, these must be identified and mitigated where necessary*”
- volume control – request microdrainage calculations for each of the 8 networks identified in the *Drainage Strategy*;
- designing for exceedance – request an *Exceedance Plan* be provided;
- construction – submission of temporary flood risk measures; and,
- maintenance – submission of arrangements for SUDS surface water runoff attenuation feature maintenance.

The applicant has returned its response to the matters raised by the LLFA, within its submitted [Technical Note 1](#), dated 16<sup>th</sup> January 2020 and, having reviewed the applicant’s submitted *Technical Note 1*, the LLFA responded on [18<sup>th</sup> February 2020](#) returning the comment that “*the proposals and submitted documents demonstrate a reasonable approach to the management of surface water on the site*” and recommending the imposition of a condition requiring the submission of a surface water drainage scheme prior to commencement of the development.

- 4.4 **Harrogate Borough Council’s Environmental Health Officer** – made an interim response to consultation on [3<sup>rd</sup> January 2020](#) seeking the submission of further information as to context and discussion on the methodology, findings, and results. In a later response, dated [14<sup>th</sup> May 2020](#), the EHO noted that the construction phase would be subject to limited hours of operation regarded as “*a good method of noise control*”. It was also noted that, once in operation, the road would give rise to “*11 dwellings showing a small difference from existing noise levels (1.0 to 2.9dB) (considered adverse minor) in accordance with guidance; one property [Botham’s Farm] is beneficial with a reduction in noise, one property, Old Badger experiencing an increase of 2.7dB with the remaining properties being considered negligible (and increase of being 0.1 to 0.9dB)*”. However, a **major adverse effect** is noted on a bridleway.

The EHO advises the imposition of the following conditions:

- *Mitigation measures detailed in WSP report ref 70049554 dated October 2019 (as amended) shall be undertaken as detailed in the report to achieve the predicted noise levels in the above mentioned report;*
- *Monitoring measures detailed in WSP report ref 70049554 dated October 2019 (as amended) shall be undertaken as detailed in the report to ensure predicted noise levels in the report are being met;*
- *Information methods and dealing with complaints from the public shall be carried out in accordance with N1 of Appendix 18A of the report and paragraph 10.7.14 WSP report ref 70049554 dated October 2019 (as amended); and,*
- *Works shall be restricted to 08:00 until 18:00 Monday to Saturday and from 10:00 until 16:00 on Sundays, in order to control and minimise noise to local receptors.*

- 4.5 **NYCC Highway Authority** – responded to consultation on [8<sup>th</sup> January 2020](#) recognising the proposal would improve road safety and connectivity required of such a strategically important route, but at the same time, highlighting the need for caution over the potential for continuing ground movement into the future. Attention was drawn to the pedestrian experience at *Church Hill* as a safety issue; as had underpass drainage. A *Construction Management Plan* condition has been recommended.

The applicant responded to these points on [17<sup>th</sup> January 2020](#) highlighting the disproportionate cost over benefit that such alterations to the scheme would provide and, furthermore, that extensive pre-application/design consultations had failed to

highlight this as a particular issue; also stating that improved (compliant to standards) viewing distances when crossing the road would be offered by the revised alignment and junction arrangement at the proposed at-grade crossing on *Church Hill* and, in their view, is considered entirely adequate.

The Highway Authority, in an updated consultation response on [17<sup>th</sup> January 2020](#), subsequently confirmed, having received an explanation regards the design of the highway and how the surrounding environment will be stabilised along with information regarding the pedestrian crossing facilities, satisfaction that the issues have been addressed.

Upon re-consultation on [14<sup>th</sup> July 2020](#), the Highway Authority offered '**no objections**'; noting the maintenance of highway verges and visibility splays throughout the length of the improvement and at junctions and tree planting '*set back*' avoiding overhang.

4.6 **NYCC Archaeology** – responded to consultation on [17<sup>th</sup> January 2020](#) (re-iterated in response dated [20<sup>th</sup> July 2020](#) to reconsultation) summarised as follows:

- a finalised copy of the *Archaeological and Palaeoenvironmental Watching Brief* (Draft; AOC Archaeology Group, March 2018) should be provided as they are “*a critical part of the evidence base and should be included with the submission*”;
- “*insufficient evidence has been provided to fully assess the impact of the proposal on the significance of the remains*”;
- “*it would be usual, and in line with policy, to carry out [...] evaluations prior to making a planning decision, rather than carrying them forward to the mitigation stage. No justification is given in the chapter for not providing the information at this stage*”;
- “*the proposal will require a robust archaeological mitigation phase, particularly addressing enhancing our understanding of the environment and early prehistoric use of the moor. Similarly, the recording of lead mining activity at the western end of the route may be a significant piece of work with two structures that appear to be shafts marked on early edition of Ordnance Survey maps. These may also present an engineering issue if this has not been picked up previously.*”

A **pre-commencement condition** is recommended as follows:

A) *No demolition/development shall commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:*

1. *The programme and methodology of site investigation and recording including research questions*
2. *Community involvement and/or outreach proposals*
3. *The programme for post investigation assessment*
4. *Provision to be made for analysis of the site investigation and recording*
5. *Provision to be made for publication and dissemination of the analysis and records of the site investigation*
6. *Provision to be made for archive deposition of the analysis and records of the site investigation*
7. *Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.*

B) *No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).*

C) *The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.*

*Reason: In accord with Paragraph 199 of Section 16 of the NPPF as the site is of archaeological significance.*

4.7 **Environment Agency** – responded to consultation on [17<sup>th</sup> January 2020](#) with the following comments in summary:

- Flood risk – **no objections**;
- Waste: water quality – advisories provided;
- Biodiversity – **no objections**;

- Fisheries – “We are not convinced of the worth of keeping old sections of beck connected to the new channel. The entrance is likely to silt up over time and could, potentially, lead to the issue of fish being stranded in shallow ponded sections”;
- Geomorphology - the proposed development will only be acceptable if the following planning condition is included:  
*The development shall be carried out in accordance with the submitted Water Framework Directive (WFD) assessment, including the drawings within appendix B, the culvert detail drawing (titled ‘A59 KEX GILL CULVERTS TYPICAL CULVERT DETAILS’) and the following mitigation measures that they detail:*
  - *As per Tables 4-2 and 4-4 of the WFD assessment and drawing ‘A59 KEX GILL CULVERTS TYPICAL CULVERT DETAILS’, to limit their impact on the sediment regime and to facilitate fish and mammal passage, all culverts will be sized so as to not surcharge during mean annual flood events, have depressed invert, a minimum of 300mm of natural bed substrate and low flow channels and baffles to limit sediment loss. Where stated, culverts will also include mammal ledges.*
  - *As per Tables 4-2 and 4-4 and figures 4-1, 4-2 and 4-3 of the WFD assessment, to mitigate for the loss of aquatic and marginal habitat associated with the proposed culverting and channel modifications, the realigned channel will have a variety of desirable features including a sinuous profile, appropriately sized natural bed substrate, pool-riffle sequences, berm and point-bar features and a two-stage channel cross-section with varied bank profiles. Where hard revetments exist, all boulder material will be removed from the channel banks to create a more natural channel bank profile. All sections of realigned channel banks and berms will be seeded with the specified plant mix.*
  - *As per figures 4-1, 4-2 and 4-3 of the WFD assessment, sections of the existing channel will be retained to create backwater habitat and fish refuge areas during high flows.*
  - *As per tables 4-2 and 4-4 and figures 4-1, 4-2 and 4-3 of the WFD assessment, to mitigate for the loss of riparian habitat associated with the proposed culverting and channel modifications, the entire length of the realigned channel will be subject to riparian planting. Riparian planting will include a varied vegetation structure of native wetland, woodland and wet-woodland species seed mixes.*
- Water resources – advisories provided.

In response to re-consultation on [22<sup>nd</sup> July 2020](#), the Environment Agency responded stating their pleasure at seeing that a *Bio-Diversity Net Gain Assessment* has been undertaken.

- 4.8 **Nidderdale AONB Joint Advisory Committee** – responded to consultation on [29<sup>th</sup> January 2020](#) returning the comments that, in their view, the applicant “*has carried out a detailed and rigorous assessment of environmental impacts*” including “*adverse impacts on the AONB’s landscape, on tranquillity arising from disruption of the rights of way network and increased noise, on features of the historic environment linked to sub-surface archaeology and the setting of designated assets, and on biodiversity*”. They “*accept that some of the impacts can be mitigated*”, acknowledge reference to “*financial provision for maintenance of mitigation features*” and would “*be pleased to take part in negotiations about the detail and implementation of a landscape, habitat and access infrastructure maintenance programme for the long term*”. However, they also note that some post-mitigation impacts are not capable of being successfully mitigated e.g. “*the impact on the tranquillity of the receptor landscape in the Washburn Valley*”, the cumulative impact and land-use change in the AONB. They note “*there will be a significant residual impact that can and must be compensated for by investing in off-site measures*” and, **provided agreement on this can be made**, they offered **no objection** in principle.

In a response to re-consultation which is dated [17<sup>th</sup> July 2020](#), the AONB Joint Advisory Committee, having been party to the preparation of the submission which now comprises the LEMMMP, welcome the decision to develop a *Net Gain Plan* and confirm their **broad support** for the scheme; while at the same time, making clear that lasting



damage to nationally designated landscape would arise as a result of the implementation of the scheme.

On the [8<sup>th</sup> October 2020](#), the AONB Joint Advisory Committee responded further welcoming the updated *Outline Landscape & Ecology Mitigation, Monitoring and Management Plan* (OLEMMMP) and, in particular, the revised cost schedule, which, in their view, “now provides a realistic level of funding to deliver the off-site biodiversity and landscape mitigation measures” and they remain confident that the Plan “will result in a measurable benefit for biodiversity and that the off-site landscape fund will be able to deliver meaningful positive landscape impact”.

4.9 **Yorkshire Dales National Park Authority** – responded to consultation on [30<sup>th</sup> January 2020](#) returning the view that “a comprehensive assessment of the likely impacts [limited to visual and noise impacts] of the proposed new route in the National Park” has been provided and concluding, in terms of both visual and noise impacts on the Park, **an absence of any significantly adverse effects**. While offering **no objection** to the proposal, they are of the opinion that any remaining impacts should be minimised and suggest the exploration of further biodiversity enhancement measures on land outside that which is the subject of the application; with which they would be prepared to engage.

4.10 **NYCC Landscape Adviser** – responded to consultation on [30<sup>th</sup> January 2020](#) noting that the applicant’s assessment concludes “**significant (major and moderate) adverse landscape and visual effects are likely on local landscape, sensitive visual receptors and the Nidderdale AONB** [as well as] **major adverse cumulative landscape effects...on the AONB due to traffic noise, landscape and visual effects**” continuing on to note the likely adverse effect upon local tranquillity and loss and impact upon notable woodland, trees and habitat. The adviser recommends that “further mitigation should be provided which would reasonably reduce, offset or compensate for significant residual adverse landscape and visual impacts” together with “further information and clarification...in relation to the detailed layout and design of the proposed scheme, including establishment and long term management” including:

- clarify landscape baseline features which are changed, lost or replaced within the LVIA;
- clarify mitigation shown on the Landscape Mitigation drawings and how this reduces adverse effects identified in the assessment;
- review further opportunities to return more land to the adjacent land use using more natural grading and local plant species, to reduce the wider impact of the road corridor;
- provide an outline maintenance and management plan (an overall strategy) linked to the mitigation objectives, to ensure landscape establishment in exposed upland locations and reduction of long-term adverse effects identified in the assessment;
- review opportunities for noise reduction surfacing and how this could benefit local setting and tranquillity within the AONB and help reduce cumulative effects identified in the assessment;
- review further opportunities to reduce adverse landscape and visual effects on Hall Beck, Blubberhouses Hall and the Church of St Andrew, to ensure adverse effects of new road connections are minimised;
- review how offsite mitigation might reasonably reduce, offset or compensate for significant residual adverse landscape and visual effects (including cumulative effects), and how this might be secured and delivered;
- review tertiary and secondary mitigation needed to be secured by condition or other controls (including recommendations set out in [the applicant’s] Table 7-14).

An interim response to re-consultation was received on [15<sup>th</sup> July 2020](#) seeking further clarification on a number of detailed matters relating to the submitted LEMMMP.

On [6<sup>th</sup> October 2020](#), the County Council’s adviser on landscape matters responded to re-consultation expressing satisfaction with the proposals including the OLEMMMP and

Offsite Measures Fund (amounting to a £130,000 share of the £593,619 total funding pot) and lending general support to the approach taken by the applicant.

The response also included suggested areas for consideration insofar as conditions that could be proposed which included the following:

- *detailed hard and soft landscaping scheme for all on-site works (needed to resolve final choice of suitable plant species and associated maintenance, hard surfacing materials and boundary treatments; to take account of the contractor's working area, method, value design changes; to clarify plan graphics due to current drawn scale obscuring some boundary types);*
- *Tree Survey and Arboricultural method Statement to BS5837 (to take account of the contractor's working area, method, value design changes);*
- *requirement for acoustic noise monitoring and agreed target noise level, to protect tranquillity, character and setting of the Nidderdale AONB;*
- *provision of a detailed Landscape and Ecology Mitigation, Monitoring Management Plan (LEMMMP), based on the agreed OLEMMMP September 2020;*
- *provision of an Off-site Measures Fund, to be delivered through the agreed detailed LEMMMP;*
- *provision of landscape monitoring reports for all offsite works delivered through the LEMMMP and Offsite Measures Fund, provided to NYCC Planning and Highways (at year 5 - Establishment period, year 10 and year 15); and,*
- *provision of an outline and detailed CEMP.*

4.11 **NYCC Ecology Adviser** - responded to consultation on [30<sup>th</sup> January 2020](#) advising that there are several areas requiring further clarification and possible submission of further information relating to mitigation, enhancement and compensation together with noting the absence of securing net gain for biodiversity. Whilst acknowledging that the majority of the scheme's impacts are not significant, the scheme lacks a number of mitigation / compensation measures and a number of non-significant adverse impacts result in an overall negative impact on bio-diversity. The advice recommends clarification be provided in respect of:

- *hedgerows/linear tree lines* – calculation of and impacts upon terrestrial linear habitats and with regards the approach to compensation the adviser's view is that the *"planting of 829m of species rich hedgerows with trees is not necessarily appropriate in this location"*;
- *flowing/running water habitat (particularly Hall Beck)* – how impacts have been calculated, in the first instance, and then mitigated and compensated for and, furthermore, in the view of the adviser, the impact upon running water habitat is thought to be greater than that outlined in the applicant's submitted [Biodiversity Net Gain \(BNG\) report](#) (dated October 2019). Moreover, compensation measures over the wider *Hall Beck* and its tributaries need to be identified and secured.
- *Biodiversity Net Gain (BNG) report* – notwithstanding replaced habitats or newly created ones, an identified biodiversity loss over the entire scheme is unacceptable when compensation measures could be taken forward for implementation and *ancient* and *veteran trees* will suffer deterioration and isolation which cannot be fully mitigated and therefore requires compensation;
  - *Enhancements* – their implementation needs to be secured;
  - *Long-term monitoring & management* – requires an overall strategy and, again, secured;
  - *Veteran & ancient trees* – *"a number...will be impacted by the close proximity of the road and bridleway"* and they need protection not only during construction, but also long-term;
  - *Bats* – whilst satisfied with the measures to deal with the loss of a single tree roost and a number of potential tree roosts, foraging habitat fragmentation is a concern and, therefore, measures to encourage bats to fly at 'safe' heights need to be both identified and appropriate considering the length of time trees would need to grow to ideal metreage as well as enhancements made to foraging habitat away from the proposed re-alignment;
  - *Birds* – while supporting measures to protect *Barn Owl* during construction and the creation of two wildlife towers, as well as measures to protect *Nightjar*, waders and raptors, other recommendations in the BNG report including compensation measures, pre-commencement surveys and nest stand-off distances greater than 5m need to be secured;

- *Otter* – the length of proposed culverts (121m and 61m) may deter otter use and hinder range transverse of the species; in addition, otter-proof fencing should be provided; and,
- *Aquatic species* – significant adverse effects on fish and macroinvertebrates are identified especially along the proposed culverted 121m and 61m stretches of *Hall Beck* and a specific programme of avoidance, mitigation or compensation, particularly in relation to noise and vibration is needed and, currently, post-construction monitoring is unsatisfactory;
- *Landscape Mitigation Plans and landscape drawings* – these need to be annotated to include key ecological mitigation features with a clearer key.

An interim response to re-consultation was received on [23<sup>rd</sup> July 2020](#) seeking further clarification on a number of detailed matters relating to the submitted LEMMMP.

On [5<sup>th</sup> October 2020](#), in final response to re-consultation, the County Council’s adviser on matters relating to ecology welcomed the updating of the bio-diversity net gain assessment “*to provide an up to date quantitative and qualitative assessment of the proposals*” and also advised that the revised OLEMMMP has now included ‘*realistic*’ figures; the more detailed iteration of which would need to be secured through the imposition of a planning condition. Further suggested topics for consideration as planning conditions were also offered up within the consultation response as follows:

- *pre commencement update surveys to ensure that avoidance and mitigation measures are based on accurate information and for legal compliance;*
- *detailed Construction Environmental Management Plan (CEMP) following detailed design of the scheme. The CEMP will need to include details of the role of the Ecological Clerk of Works (ECoW), Pollution Prevention Plan (PPP), Air Quality Management Plan, noise and Vibration Plan, Construction Lighting Plan all of which must take account of the most up to date survey information;*
- *submission of Precautionary Working Method Statements (PWMS) for works within or close to sensitive habitats and designated sites;*
- *submission of Species Protection Plans (SPP) for aquatic species, herpetofauna, birds, bats, badger and otter. These plans must take account of measures set out in the ES and any changes recorded in the pre-commencement surveys;*
- *submission of an updated BNG assessment to take account of any changes during the detailed design phase; and,*
- *detailed LEMMMP (as noted above) including details of on and off site requirements.*

4.12 **Yorkshire Wildlife Trust** (incorporating the comments Yorkshire Peat Partnership) – responded to consultation on [31<sup>st</sup> January 2020](#) enclosing information relating to [peat depths](#) and [restoration areas](#) and comment:

- on the absence of any biodiversity net gain; advocating, instead, a net gain of at least 10%;
- they “**would like to see the impacts on birds found both within and outside the SPA to be seen as equally important and fully mitigated and compensated for**” [their emphasis];
- they “**would like confirmation that the provision of wildlife towers and standard trees will not conflict with mitigation for waders**” [their emphasis];
- on whether “**measures to mitigate for the impacts of noise on breeding birds [have] been fully investigated and secured?**” [their emphasis];
- on insufficient mitigation for the scheme’s impacts on bird species;
- peat restoration, providing compensation habitat, would be supported;
- they “**would like confirmation that drainage from the A59 will go into the drainage basins shown in Figure 11.5 and will not impact the areas to be restored**” [their emphasis]; and,
- they “*hope that there will be opportunities to enhance watercourses in the area for biodiversity and to support natural flood management*”.

In their interim response, [dated 27<sup>th</sup> July 2020](#), to reconsultation, the Trust sought further clarification on a number of detailed matters relating to the additional submitted information.

In response to reconsultation on [7<sup>th</sup> October 2020](#), the Trust expressed its pleasure at seeing the fund for off-site compensation increased from £400,000 to £593,619 and was hopeful that clarification in respect of the breakdown of the figures will be achieved at the detailed stage.

4.13 **Natural England** – responded to consultation on [4<sup>th</sup> February 2020](#) returning a conditional response stating that, without ‘*appropriate mitigation*’, the proposal would:

- have an adverse effect on the integrity of *North Pennines SAC & SPA*;
- damage or destroy the interest features for which *West Nidderdale, Barden and Blubberhouses Moors SSSI* has been notified; and,
- have a significant impact on the purposes of designation of *Nidderdale AONB*.

It is the opinion of Natural England that ‘*appropriate mitigation*’ would include the:

- appointment of an *Ecological Clerk of Works* to ensure specific measures related SPA/SAC mitigation is implemented in *Construction Environmental Management Plan* and other associated documents needed for construction phase:
  - timing of works, noise levels, screening, additional surveys to mitigate impacts on SPA and SSSI birds;
  - air quality (dust) and surface water/ hydrology protection measures to mitigate impacts on SAC and SSSI habitat.
- creation of mitigation fund to ameliorate the loss of local landscape distinctiveness and scheme wide biodiversity losses;
- long term habitat restoration and monitoring plan should be set out and agreed;
- further information is required to demonstrate how increased noise levels will be minimised, which are adverse to the purposes of the AONB.

Natural England goes on to explain its role as a consultee, not only in the planning process, but also that which is required under *The Conservation of Habitats and Species Regulations 2017* and offers the following in comment:

- *habitat loss* – the anticipated loss of 0.1ha dry heath and 0.32ha acid grassland/bracken within the *North Pennines SAC/SPA* is judged a ‘*likely significant effect*’. In respect of dry heath habitat loss, it advises the County Council to consider the likely loss location and duration; overall habitat impact; the habitat’s structure and function objectives and the proposal’s contribution to any cumulative loss trend. If a conclusion of adverse effect is arrived at by the County Council as competent authority, then the process of considering alternative solutions, *imperative reasons of overriding public interest* (IROPI) and compensatory measures will be necessary. Natural England notes that no regard has been had to the creation of 0.43ha of grassland, but recommend the securing of a *Habitat Monitoring & Restoration Plan*;
- *SPA Bird impact* – while surveys supporting the application point to possible breeding *Golden Plover* and *Curlew*, these lie outwith bracken/acid grassland and dry heath areas. Pre-construction surveys and a 500m ‘*buffer*’ from the SAC/SPA boundary are noted as well as the requirement to appoint a qualified ornithologist and implementation of screening and noise limits (i.e. less than 65dB within the ‘*buffer*’) so long as the peak levels do not exceed 55dB during the breeding season; together with suggested conditions covering:
  - appointment of an *Environmental Clerk of Works* to oversee compliance with *Environmental Statement* commitments;
  - creation of *Construction and Environmental Management Plan* incorporating all mitigation measures;
  - limits on construction noise;
  - further bird surveys to confirm whether breeding activity has changed from the 2018 and 2019 surveys, to inform screening and sequencing of works;
  - screening provided for all works within 500m of the SPA;
  - main works within 500m of the SPA should not start before start of August 2020.Finally, a *Habitat Restoration & Monitoring Plan* should focus earliest additional planting/landscaping on areas of embankment to the south and east of *Blubberhouses Quarry*.
- *Surface water / hydrology* – Natural England notes submitted content within the application’s supporting information relating to this specific topic area provides sufficient mitigation;



- *Air quality* - Natural England notes submitted content within the application's supporting information relating to air quality does not suggest any adverse effects and proposed mitigation in respect of dust deposition upon blanket bog and dry heath habitat should be sufficient;
- *West Nidderdale, Barden and Blubberhouses Moors SSSI* – compensation for habitat loss of dry heath (0.1ha) and acid grassland (0.32ha) requires, in their opinion, a higher ratio than 1:1 and consideration should be given to restrictions on construction in the area around *Blubberhouses Quarry* during sensitive times of the year for *Curlew, Redshank, Oystercatcher* and *Lapwing*;
- Natural England advises “*if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence*”.

With respect to protected landscapes, namely *Nidderdale AONB*, while welcoming measures to reduce the impact upon landscape character (including drystone walling and rock outcrops) and the protected habitat, Natural England raise concern regards:

- decreases in local landscape distinctiveness through woodland and hedgerow losses;
- ‘*moderate*’ and ‘*major*’ adverse impact within two local character areas;
- significant visual impact from eight of the receptors;
- localised loss of tranquillity in landscape character closest to the proposal;
- major increase across the high moorland in noise levels of magnitude (between 5 and 9db) and adjacent to the road above 10db.

Taking the above into consideration, Natural England recommend:

- the minimisation of noise levels on the moorland (particularly the western section) must be demonstrated “*no mitigation...should not be an option*”;
- details should be provided with regards mitigation against the loss of local distinctiveness and bio-diversity; and,
- agreement to be reached with consultees over the detailed design to maintain and enhance landscape character.

Insofar as *biodiversity net gain* (BNG), Natural England explains that the “*overall scheme will not result in net gains in biodiversity and therefore does not meet national planning policy requirements*” [NPPF (2019) Paragraph 170], but advises that the report's recommendations are capable of being implemented “*in order to achieve an overall qualitative and quantitative net gain in biodiversity*”. It goes on to state “*offsite habitat creation should be considered in order to compensate for the overall biodiversity losses throughout the scheme and provide the net gain required*”.

With regards other advice offered by Natural England:

- *protected species* – reference should be made to their published [standing advice](#) ;
- *local sites and priority habitats and species* – reference should be made to NPPF paragraphs 171 and 174; and,
- *ancient woodland, ancient and veterans* – reference should be made to NPPF paragraph 175.

In response to reconsultation on [30<sup>th</sup> July 2020](#), while returning ‘***no objection – subject to agreement on biodiversity and landscape mitigation being secured***’, required further clarification on a number of detailed matters.

Furthermore, in response to re-consultation, Natural England in its communication dated the [24<sup>th</sup> September 2020](#), welcomed the additional information and the proposal for a *Net Gain Plan* summarising its position once again as one of ‘***no objection – subject to agreement on biodiversity and landscape mitigation being secured***’. Furthermore, with regards the specific topic of tranquillity, Natural England advise that there will be an adverse impact and that will require to be monitored over the long-term

(i.e. over a period of at least 15 years) to measure any increases and in addition proposes that matters such as final landscape design including the proposed location of the stone wall with respect to the road and new bridleway are secured by way of a planning condition.

4.14 **Harrogate Borough Council** – responded to consultation on [6<sup>th</sup> February 2020](#) expressing **support** for the scheme, contentment that the scheme has developed with key ecological stakeholders (of required level of expertise) have been engaged and holding the view that the “*resulting proposals demonstrate that the majority of biodiversity impacts are likely to be capable of being adequately mitigated*”. However, they also hold the view that it “*less evident...that the required level of mitigation and compensation would actually been achieved through implementation of the scheme*” stating that “*the need to mitigate and compensate for impacts on featured habitats and populations may need to extend beyond the boundaries of the protected sites*”. Whilst observing that the applicant has used the recommended ‘*bio-diversity accounting*’ methodology, at the same time, in the view of the Borough Council, the applicant should have used a more recent 2019 method rather than one from 2012, but nonetheless acknowledge that the approach taken is consistent with NPPF Paragraphs 170 and 175, National Planning Guidance (July 2019) and emerging Harrogate District Local Plan Policy NE3 (“*which now carries very significant weight*”). The Borough Council comments that net biodiversity gain is not achieved by the scheme and “*consideration should...be given to how it might be possible to achieve net gain in the wider locality through a form of biodiversity offsetting.*” They recommend the scheme be re-assessed using the 2019 methodology.

4.15 **RSPB Northern England** – responded to consultation on [20<sup>th</sup> March 2020](#) emphasising they “*have concerns as to the appropriateness of the proposed mitigation in relation to the scale of the impact*” and these potential impacts include those upon the:

- “*qualifying features of the SPA – temporary and permanent disturbance and displacement and potential mortality;*
- *SAC habitat – permanent and temporary loss of habitat, and,*
- *SSSI, particularly birds listed in the citations - temporary and permanent disturbance and displacement and potential mortality.*”

They cite the key issues and potential impacts as being:

- “*40 pairs of SPA and SSSI waders, many of which are Birds of Conservation Concern – curlew (red listed), golden plover, lapwing (red listed), oystercatcher (amber listed), redshank (amber listed), snipe (amber listed) potentially affected through disturbance and displacement;*
- *Disturbance and/or displacement of at least two breeding pairs of golden plover (a qualifying SPA species);*
- *A scheme of this size requires a suitably proportional mitigation scheme which is not provided in the information we have seen. We do not consider the proposed mitigation to be sufficient to provide assurances that the impact on bird species can be minimised through alternatives if the scheme goes ahead.*”

They seek off-site enhancement which is resourced through a funded management plan and advocate that “*any mitigation or enhancement should be proportional to the potential for serious impact to numbers of breeding birds*” as well as seeking assurances that any works would avoid the bird breeding season.

The RSPB confirmed on [19<sup>th</sup> October 2020](#) that it had no further comments at this stage other than to say that they look forward to seeing the details of compensation strategy within the LEMMMP.

4.16 The following consultees responded with ‘**no objections**’ to the proposals:

- **Highways England** – responded on [19<sup>th</sup> December 2019](#) and [27<sup>th</sup> July 2020](#); and,
- **The Coal Authority** – responded on [24<sup>th</sup> December 2019](#) and [14<sup>th</sup> July 2020](#);

4.17 The following consultees expressed **no wish to comment** on the proposals:

- **Craven District Council** – responded on [14<sup>th</sup> February 2020](#);
- **Leeds City Council** – responded on [10<sup>th</sup> July 2020](#) ; and,
- **Historic England** – responded on [16<sup>th</sup> December 2019](#) and on [7<sup>th</sup> July 2020](#).

4.18 **Support** for the proposals has been received from the following:

- **Yorkshire Dales Green Lanes Alliance** – responded on [18<sup>th</sup> January 2020](#) and [28<sup>th</sup> July 2020](#);
- **NYCC Public Rights of Way Team** – responded on [6<sup>th</sup> January 2020](#); and,
- **British Horse Society** – responded on [13<sup>th</sup> January 2020](#).

4.19 At the time of publication of this Officer Report, responses remain to be received from the following:

- Civil Aviation Authority;
- Health & Safety Executive (Quarries);
- NYCC Regional & Strategic Policy Team;
- Wharfedale Naturalists Society;
- Yorkshire Water;
- NY Local Access Forum;
- Ramblers Association;
- Byways & Bridleways Trust;
- Cycling UK;
- Green Lane Association;
- Open Country;
- Trail Riders Fellowship;
- Parish Councils/Parish Meetings:
  - Mid-Wharfedale (comprising Askwith, Weston, Denton, Nesfield with Langbar;
  - Thurscross;
  - Barden;
  - Washburn, Timble Great & Little, Norwood, Fewston & Blubberhouses; and,
  - Hazlewood-w-Storiths.

#### Notifications

4.20 County Councillor Mr Stanley Lumley has been notified of the application; as has the *Secretary of State for the Ministry of Housing, Communities and Local Government*. In respect of the latter, the reason for such notification is that the application is accompanied by a formally submitted *Environmental Statement* (defined under the provisions of *Regulation 18 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017*) and the duty to send a copy of the *Environmental Statement* to the Secretary of State under *Regulation 19(3)(a)* of those regulations.

## **5.0 Advertisement and representations**

5.1 This application has been advertised by means of thirteen Site Notices posted at a number of locations along the alignment on 19<sup>th</sup> December 2019 (responses to which expired on 18<sup>th</sup> January 2020). A Press Notice appeared in the Harrogate Advertiser on 19<sup>th</sup> December 2019 (responses to which expired on 18<sup>th</sup> January 2020). Additional and further environmental information was also subject to advertisement on 9<sup>th</sup> July 2020 by both press and site notice.

5.2 In addition to the above publicity, *Neighbour Notification* letters were sent on 16<sup>th</sup> December 2019 and the period in which to make representations expired on 18<sup>th</sup> January 2020. The following properties received a neighbour notification letter:

- Blubberhouses, Otley postal area:
  - *Hall Lane*: Blubberhouses Hall; Hall Farm; Woodview Bungalow & Myers Lair;
  - Hill Top House;
  - Botham's Farm;
  - Manor Farm Mews: The Mistal; No. s 1 to 4, Manor Farm Cottages;
  - *Cooper Lane*: Manor House Farm; Hill Top Farm & Anchor Farm;
  - *Hardisty Hill*: Scaife Hall Farm; No. s 1 & 2, Airey Houses; Hardisty House Farm; Hewness House; Beechnut Cottage; Chapel House; Hardisty Croft Barn; Hardisty Farm Barn; Jopplins Cottage; No. s 1 & 2, High Apprentices; Philomas; Prospect House; Prospect House Farm Annexe; Wood Nook Farm & No. s 1 to 4, Wood Nook Cottages; High House Farm; No. s 1 to 5, Croft Cottages; High House Farm Annexe, Croft Cottages; Croft Farm;
  - *Meagill Lane*: Meagill Hall Farm; Meagill Hall Barn; Sykes House Farm; Plane Trees Farm; Sykes House Barn; Plane Trees Farm Barn; Greenacres Lodge & Greenacres;
  - No. s 1 & 2, Bridge Cottages.
- Prospect House Farm, Lindley, Otley.
- Summerbridge, Harrogate postal area:
  - *West End Lane*: Greystone Farm; Cockbur House; Greystone Farm Barn; Redshaw Grange; Redshaw Hall & Nethernooks;
  - *North Moor Road, West End*: Burnt House Farm; Brandith Barn & Spittle Ings Farm;
- Hazlewood, Skipton postal area:
  - *Kex Gill Road*: Kex Gill Farm; Kex Gill Lodge & Drivers Barn;
  - Gill Bottom, Storiths Lane;
  - Chohan Cottage;
  - Lower Pace Gate;
  - Pace Gate Farm; and,
  - Black Hill Farm.

### 5.3 Matters raised in objection to the application include:

- *increased noise impact on local residents at West End*
- *negative visual impact on local residents of West End*
- *negative visual impact within the Nidderdale AONB*
- *negative impact on the Special Area of Conservation*
- *the area contains Special Areas of Protection*
- *Site of Special Scientific Interest - West Nidderdale, Barden & Blubberhouses Moors - surrounds site boundary*
- *Important and significant area for Birds of special interest*
- *Ancient Woodland will be affected*
- *other schemes to reroute the road at the bottom of the valley should be given due consideration.*
- *the proposed scheme threatens the future viability of Blubberhouses Moor Estate as a Sporting Estate;*
- *the proposed scheme threatens the future viability of a nationally important Silica Sand deposit comprised within Blubberhouses Moor Estate; and,*
- *the proposed scheme has a materially adverse effect on residential property known as Botham's Farm comprised within Blubberhouses Moor Estate.*
- *that section of road is one of the most beautiful in the county. Almost Alpine the way it twists and turns down to the little church in the bottom of the valley;*
- *the planned replacement will look like a blot on the landscape.*
- *the changing view from our North facing windows, noise impact and the associated impact on a property value*
- *the changing degree of visibility of the listed building of Blubberhouses Hall*
- *absence of regard to the health effects attributable to long-term exposure to PM<sub>2.5</sub>*

### 5.4 Comments received, in relation to the application, rather than stated objections include:

- *"inadequate and potentially less safe"* for cyclists;
- unconvinced that the counts/camera survey accurately capture the movement of cyclists;
- the opportunity exists to enhance infrastructure provision for cyclists crossing and using the A59 at Blubberhouses; and,
- would like to see more tree planting and the use of stone rather than fencing for boundary treatments.

### 5.5 Matters raised in support of the application include:

- notwithstanding, the alignment does not continue in a westerly direction to maintain a straight path with the A59 towards Beamsley, this change to the A59 is essential and the proposal, in general, is to be “*commended*”.

## 6.0 Planning policy and guidance

- 6.1 Our planning system is a plan-led system. Section 38(6) of the [Planning and Compulsory Purchase Act 2004](#) requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. The statutory status of the *Development Plan* as the starting point for decision making is re-affirmed in the [National Planning Policy Framework](#) (NPPF) (published February 2019). In considering the application, all other material considerations also need to be taken into account. Such other important considerations, *inter alia*, include other relevant policy and guidance, particularly national planning policy in the [National Planning Policy Framework](#) (NPPF) (published February 2019) and other relevant Government policy statements, as well as that which is provided within the national [Planning Practice Guidance](#) (PPG). Key relevant planning policies and national guidance of particular relevance are identified within this section of the report.
- 6.2 Members are asked to note that extracts rather than full reproduction of policy text have been used, where appropriate to do so, for the purpose of the preparation of this report. Should Members wish to read the full text of the policies themselves and their reasoned justification, the web links to the documents in which they are contained have been provided in order to be helpful and for ease of reference. However, it should also be noted that their currency may alter with the passage of time.

### **The Development Plan**

- 6.3 In the instance of the determination of this application currently under consideration, the *Development Plan* comprises principally the [Harrogate District Local Plan \(2014-2035\)](#) (adopted 4<sup>th</sup> March 2020); although there are other policies that also comprise the *Development Plan* including the ‘saved’ policies of the [North Yorkshire Minerals Local Plan](#) (NYMLP) (insofar as having been ‘saved’ by formal *Direction* of the then *Secretary of State* in 2007).

### **Harrogate District Local Plan (adopted 4<sup>th</sup> March 2020)**

- 6.4 This *Harrogate District Local Plan* (HDLP) has been recently adopted (negating the need to assess the degree of consistency with the NPPF) and sets out the spatial vision and development strategy for land use within the administrative area of Harrogate District. Those policies of relevance to the determination of the current application include those identified within the paragraphs that follow below:
- 6.5 The Plan’s relevant growth strategy policies include:
- Policy GS5: Supporting the District’s Economy;
  - Policy GS6: Nidderdale Area of Outstanding Natural Beauty;
- 6.6 **HDLP Policy GS5** provides support to development proposals provided they demonstrate sustainable economic growth contributing to supporting a range of matters and locations including ‘*supporting the rural and agricultural economy and its diversification*’ (*Part G* refers). While acknowledging the proposed scheme would only provide direct employment opportunities in relation to its construction, once the use of the road scheme commences, this specific element of this policy continues to be relevant when considering the indirect opportunities arising from improvements to transport-related infrastructure.



- 6.7 **HDLP Policy GS6** seeks to both conserve and enhance the ‘*natural beauty and special qualities*’ of the AONB by supporting proposals only where they:
- A. Do not detract from the natural beauty and special qualities of the AONB and its setting;
  - B. Contribute to the delivery of the Nidderdale AONB Management Plan objectives;
  - C. Support the economic, social and environmental well-being of the area or support the understanding and enjoyment of the area.
- 6.8 This policy directs that any major proposals within the AONB “*will be refused unless justified by exceptional circumstances*” and should be determined according to relevant national planning policy. These elements of the policy, A-C, are engaged in the case of the current application.
- 6.9 In addition, this policy also includes reference to dark skies stating that proposals must ensure that “*lighting is directed and designed so as to reduce obtrusiveness and protect sensitive habitats*” within areas designated as ‘*Dark Skies*’ areas. Nidderdale AONB’s designated *dark sky areas* are Thruscross, Scar House Reservoir, Fewston and Toft Gate.
- 6.10 The Plan’s relevant transport and infrastructure policies include:
- Policy TI1: Sustainable Transport; and,
  - Policy TI2: Protection of transport sites and routes; and,
  - Policy TI4: Delivery of new infrastructure.
- 6.11 **HDLP Policy TI1** promotes a sustainable and improved transport system which is safe, reliable and convenient; seeks improvements in both road and rail connections within the district and with the wider area; seeks improvements in accessibility in rural areas; and makes reference to the strategic transport priorities of the County Council (one of which is the improvement of east-west connectivity). The reasoned justification accompanying this policy also echoes the policy requirements of what is now **NPPF Paragraph 111** in seeking the submission of *Transport Assessments* and *Travel Plans* in certain circumstances.
- 6.12 **HDLP Policy TI2** seeks to protect routes where they may form part of a strategy of a national and/or local highway body such as the County Council.
- 6.13 **HDLP Policy TI4** confirms that proposals involving the delivery of new or improved infrastructure “*will be supported provided it can be demonstrated that they are necessary to...rectify existing evidenced deficiencies in infrastructure*” and cause minimal disruption to existing infrastructure.
- 6.14 The Plan’s climate change policies include:
- Policy CC1: Flood Risk and Sustainable Drainage;
  - Policy CC2: Rivers; and,
  - Policy CC4: Sustainable design.
- 6.15 **HDLP Policy CC1** guards against any adverse effects on watercourses or proposals that may have the potential to increase the risk of flooding elsewhere. The acceptability of proposals will be where there exists a low risk of being affected by flooding. However, the current application under consideration is affected by areas of land, albeit in limited locations, which are identified as being subject to flooding i.e. *Flood Zone 2* and *Flood Zone 3* and these are, in the main, focussed upon the valleys of the *River Washburn* (flowing north-south to the eastern extremity of the land subject to the current application) and *Hall Beck* (flowing west-east to the southern extremity). Amongst other things, this policy requires proposals in such instances as these to conduct a *Flood Risk Assessment* (which has been undertaken for this application

currently under consideration) and have regard to the possibility of the creation of additional sustainable flood storage areas. In any event, the policy requires that proposals should be able to demonstrate that they are safe, avoid increasing flood risk elsewhere, help to reduce flood risk overall, avoid increasing surface water flow rate run-off and prioritise the incorporation of sustainable drainage systems (SuDS) which should persist for the lifetime of a proposed development.

- 6.16 Of particular note, in respect of the proposal currently under consideration, is the paragraph within the policy which reads,

*“Proposals involving building over existing culverts or the culverting or canalisation of water courses will not be permitted unless it can be demonstrated to be in the interests of public safety or to provide essential infrastructure, and that there will be no detrimental effect on flood risk and biodiversity. Where feasible, development proposals should incorporate re-opening of culverts, modification of canalised water courses and consideration of mitigation measures to achieve a more natural and maintainable state.”*

- 6.17 **HDLP Policy CC2** seeks to protect and improve the quality of water bodies and their ecological systems. The policy also requires that minimum ‘*buffers*’ or stand-off distances are provided from watercourses (in this particular instance, *Hall Beck* and the *River Washburn*) and water bodies (8 and 5 metres respectively).

- 6.18 **HDLP Policy CC4**, *inter alia*, requires “*all developments to be designed to reduce both the extent and the impacts of climate change*”.

- 6.19 The Plan’s heritage and placemaking policies include:

- Policy HP2: Heritage Assets;
- Policy HP3: Local Distinctiveness;
- Policy HP4: Protecting Amenity; and,
- Policy HP5: Public Rights of Way.

- 6.20 **HDLP Policy HP2** directs heritage assets and their respective settings be protected and, where possible, enhanced, whether they be designated or non-designated (*Part A* refers).

- 6.21 **HDLP Policy HP3** expects proposals, amongst others, to incorporate “*landscape design that protects, enhances or reinforces those characteristics, qualities and features that contribute to the local distinctiveness of the district’s rural and urban environments*” and, in particular, expects proposals to respect “*the spatial qualities of the local area, including the scale, appearance and use of spaces about and between buildings or structures, visual relationships, views and vistas*” (*Part A* refers) and “*take account of the contribution of the natural environment, including biodiversity, landscape, and green and blue infrastructure*” (*Part C* refers) (aligning with the general thrust of NPPF Paragraph 127).

- 6.22 **HDLP Policy HP4** ensures against significant adverse impacts upon residential amenity pointing specifically to impacts upon the amenity of residents in regards to overlooking and loss of privacy, overbearing development and loss of light, and matters such as vibration, fumes, odour, noise and other disturbance as well as advising that cumulative impacts should also be considered.

- 6.23 **HDLP Policy HP5** is concerned with *Public Rights of Way* (PRoWs) and seeks their protection or satisfactory diversion (*Part A*) and opportunities for their enhancement (*Part B*). Where proposals are likely to affect PRoWs, they ought to demonstrate the they are capable of providing protection in terms of both their recreational and amenity value.

- 6.24 The Plan's natural environment policies include:
- Policy NE1: Air Quality;
  - Policy NE2: Water Quality;
  - Policy NE3: Protecting the Natural Environment;
  - Policy NE4: Landscape Character;
  - Policy NE5: Green and Blue Infrastructure;
  - Policy NE7: Trees and Woodland;
  - Policy NE8: Protection of agricultural land; and,
  - Policy NE9: Unstable and contaminated land.
- 6.25 **HDLP Policy NE1**, in particular, under *Part B*), requires air quality and/or dust impact assessments to be undertaken where development proposals may give rise to emissions to air, such as dust, which can be generated during the movements of materials, be they related to construction or indeed demolition on development sites, and also, more specifically, these assessments would be required in respect of particularly sensitive sites such as SPAs, SACs or SSSIs (*Part C* refers) as well as the need to undertake such assessments in relation to proposals giving rise to significant amounts of traffic (*Part D* refers).
- 6.26 **HDLP Policy NE2** requires applicants to undertake thorough risk assessments of surface and groundwater impacts to avoid the occurrence of adverse effects and seeks the incorporation of avoidance measures before the provision of appropriate mitigation measures in schemes. Where assessments conclude, *inter alia*, that either water quality or quantity could be prejudiced (*Part A* refers) or an adverse effect upon sensitive nature conservation sites such as SSSIs (*Part B* refers), no support for development would be found within this policy.
- 6.27 **HDLP Policy NE3** is supportive of proposals that both protect and enhance features of ecological interest and those that provide *biodiversity net gain* (BNG). In order to lend policy support to development proposals, it seeks to ensure that prospective development both protects and enhances features of ecological and geological interest and provide net gains in biodiversity. This would be achieved by taking into account both direct and indirect impacts upon protected sites and species (*Part A* refers) and, in *Part B*, where alternatives to an affected site could not be found that significant harm is demonstrated to be capable of being avoided or adequately mitigated or compensated for. Proposals would only be permitted if significant harm on UK priority habitats or species or networks with the *Harrogate Biodiversity Action Plan* could be adequately avoided or mitigated for (*Part C* refers) and permission would be refused unless the need for and the benefits of a proposed development in a particular location could be shown to clearly outweigh the loss or deterioration of irreplaceable habitats (*Part D* refers). Any major scheme is expected by this policy to avoid any net biodiversity loss, while at the same time, achieve a net biodiversity gain (*Part E* refers), to connect both *green* and *blue* infrastructure (*Part F* refers) and to provide opportunities in respect of priority habitats (*Part G* refers) and aligns with the general thrust of NPPF Paragraph 175).
- 6.28 **HDLP Policy NE4** lends support to proposals that protect, enhance and restore the landscape character of the district and provide benefits to the economic, environmental and social well-being of the locality. This is to be achieved, amongst others things, by maintaining the aesthetic and biodiversity qualities of natural and man-made heritage (*Part A* refers). This policy directs that developments must be sympathetic to the distinctive landscape character areas identified in the District's *Landscape Character Assessment* and respect landscape setting (*Part B* refers) as well as protecting and enhancing a landscape's character, appearance and local distinctiveness (*Part C* refers). In addition to these is the required protection or enhancement of visually sensitive skylines, hills and valley sides and visual amenity through *Part D* of this policy



and, finally, where harm or detriment to the character of the local and wider landscape may occur, this policy directs that the granting of permission would be resisted and aligns with the general thrust of NPPF Paragraphs 170, 175 and 180).

- 6.29 **HDLP Policy NE5** and, in particular, *Part A* thereto, requires development to protect and enhance the social, environmental and economic benefits of existing green infrastructure features and/or incorporate new green infrastructure features within their design. In addition, *Part B* requires opportunities for the enhancement or creation of links between green infrastructure features to be capitalised upon and, where located within such corridors, enhance functionality and connectedness (*Part D*); in any event, these should all be to a *'high standard'*.
- 6.30 **HDLP Policy NE7** seeks, *inter alia*, to protect and enhance existing trees that have wildlife, landscape, historic, amenity, productive or cultural value. Where proposals may lead, *inter alia*, to the loss or damage to ancient or veteran trees, they will not be supported by this policy unless there exists an overriding need which outweighs the loss or harm (*Part A*) and there are no alternatives to the chosen location of a development (*Part B*). Specifically, the policy directs that "*development that results in the loss of, or damage to trees will be required to provide replacement trees on-site or, if this is not possible, compensatory planting off-site that is equivalent to the public value of the trees to be removed*".
- 6.32 Unless the loss of *'best and most versatile'* [BMV] *agricultural land (grades 1, 2 and 3a)* can be argued to be "*necessary*", **HDLP Policy NE8** provides protection for BMV land where proposals are unrelated to agriculture or forestry. Proposals affecting sites in excess of 5 hectares are required to be accompanied by an *agricultural land classification (ALC) survey* and support can be found in this policy only in a circumstances of *'overriding need'* and either where lower grade land is unavailable (or where it is available, its value lies in other environmental value such as nature conservation) or the benefits of proposals are capable of being justified and, where this is the case, how soil resources have been protected and/or sustainably utilised.
- 6.33 **HDLP Policy NE9** is engaged in this instance in light of the fact that the area in which the proposal lies has historically been subject to land instability and, therefore, it is prudent to ensure that appropriate measures are implemented to ensure that proposals may be undertaken safely and that there are no significant risks of instability over the lifetime of the proposed development.

*Other Plans which form part of the Development Plan for the area*

- 6.34 As earlier referred within paragraph 6.3 above, there are other policies that also comprise the *Development Plan* including the *'saved'* policies of the [North Yorkshire Minerals Local Plan](#) (NYMLP) (insofar as having been *'saved'* by formal *Direction* of the then *Secretary of State* in 2007). However, while the [North Yorkshire Waste Local Plan](#) (adopted 2006) also forms part of the *Development Plan* and contains policies *'saved'* by formal *Direction* of the then *Secretary of State* in 2009, it does not contain policies of particular relevance in the determination of the application currently under consideration.
- 6.35 While there exist extant policies within the NYMLP, there are none that are *'saved'* in respect of the safeguarding of minerals. Instead, there is only textual reference to this and, therefore, the only part of the Plan of relevance to the application currently under consideration; namely the reference to the site adjacent to the land which is subject to the application, the *'mothballed'* industrial and silica sand working at *Blubberhouses Quarry*. The text notes the existence of substantial reserves. The proposal has the potential to materially affect this known reserve of *silica sand* which is a primary component of all types of standard and speciality glass and regarded as a mineral

resource of both '*local and national importance*'. NPPF Paragraph 208 requires authorities to plan for a "*steady and adequate supply of industrial minerals*" including the safeguarding and maintaining of a stock of permitted reserves, which in the case of *silica sand*, is ten years (PPG, Paragraphs 86-90 (incl.) (Section 27) also refer). It is important here to distinguish between what is referred to as a '*reserve*' and those referred to as a '*resource*'. Mineral '*reserves*' are defined in the MWJP as "*resources which are economically viable for extraction and have the benefit of planning permission*"; whereas, a mineral '*resource*' is that which is a likely or explored extent of a deposit of a mineral. In other words, a *reserve* might be regarded as that which has been proven and a likely probable deposit of a particular mineral (as in the case of the *Blubberhouses Quarry* site); whereas, a *resource* may well be an indication of the likely presence of a mineral.

- 6.36 In light of the absence of extant policies regarding minerals safeguarding within the North Yorkshire Minerals Local Plan (NYMLP), one must turn to the emerging policies of the *Minerals & Waste Joint Plan* (MWJP) which are afforded an increasing amount of weight as the Plan progresses through its stages to eventual adoption. **NPPF Paragraph 48** permits authorities to give weight to relevant policies in emerging plans according to:
- *the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
  - *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
  - *the degree of consistency of the relevant policies in the emerging plan to the policies [in the NPPF] (the closer the policies in the emerging plan to the policies [in the NPPF], the greater the weight that may be given).*
- 6.37 The degree of weight must have regard to the fact that the draft Plan is still '*under examination*' and, consequently subject to change. It must, therefore, be approached for development management purposes with an element of caution proportionate to the breadth and scope of representations made in respect of the content of the draft policies contained therein. The degree of weight should also be mindful of the fact that consultation on *Main Modifications* to the *draft Plan* has still to take place and, therefore, the precise policy wording may well be subject to change and will not become formal policy, to which full weight will be able to be afforded, until such time as *the Plan* is adopted.
- 6.38 **Part 1) of draft MWJP Policy S01** is concerned with the safeguarding of mineral resources and directs that all *silica sand* resources with an additional '*buffer*' 500 metres "*will be safeguarded from other forms of surface development to protect the resource for the future*". Appendix D accompanying this Officer Report shows the area safeguard in the vicinity of the application site for *silica sand* and Appendix E shows that application site in context of the area of known existence of the mineral resource). Appendix F shows the area safeguarded for *building stone*. The reasoned justification for this policy explains that in being a "*relatively scarce mineral*", the safeguarding of *silica sand* resources is important both now and in the longer term. It is for the reason that the proposed scheme traverses the proposed designations of *Minerals Safeguarding Areas* for both *silica sand* and *building stone* that this particular emerging policy of the Plan is engaged.
- 6.39 Furthermore, the location of the area of the current application within the relevant zone also engages **draft MWJP Policy S02** in the determination of this application. This draft policy is concerned with developments proposed within *Minerals Safeguarding Areas* and those elements of this policy relevant to the determination of this application include parts *i) to iii)* which require proposals to demonstrate:
- i) it would not sterilise the mineral or prejudice future extraction;*

- ii) *the mineral will be extracted prior to the development (where this can be achieved without unacceptable impact on the environment or local communities; or*
- iii) *the need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral.*

This draft policy goes on to direct that where non-mineral related development is proposed (as is the case in this particular instance), they should be accompanied by “*an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development*”.

- 6.40 The expressed importance of the continued supply of *silica sand* at *Blubberhouses Quarry* can be found within **Part 2) of draft MWJP Policy M12**, which directs, “*proposals for development of silica sand resources at Blubberhouses Quarry, including proposals to extend time to complete existing permitted development or proposals for lateral extensions or deepening, will be supported in principle subject, where relevant, to compliance with the requirements for major development in Policy D04, compliance with the Habitats Regulations and compliance with other relevant development management policies. Any proposals will need to demonstrate a very high standard of mitigation of any environmental impacts and high quality restoration, including protection of peat resources*”.
- Importantly, there are [Main Modifications](#) to the Plan (reported to the County Council’s BES Executive Members on 15<sup>th</sup> March 2019) upon which the Joint Authorities will consult in due course. For the purpose of this Officer Report to Members and, in respect of this specific draft policy, the relevant modifications include the proposed allocation of the site (identified as **MJP15** within the proposed *Main Modifications* to the Plan) which mirrors that which forms the boundary of the existing *Blubberhouses Quarry* and the insertion of the words “*in order to secure an adequate supply of silica sand of at least 15 years where significant new capital is required reserves are provided through a site allocation*” to replace “*proposals for development of silica sand resources*”.
- 6.41 It goes on to explain, “*the resource of silica sand located at Blubberhouses Quarry overlaps with internationally important nature conservation designations and, along with a number of other existing or former mineral workings, falls within the Nidderdale AONB. It is also in an area important for the presence of peat. The site has been dormant since 1991 and the original permission has now expired, although prior to expiry an application for an extension of time was submitted, which is currently undetermined. The national policy requirement for available reserves at the Blubberhouses site would be met in the event that the current planning application for an extension of time is granted. The location of the site within the Nidderdale AONB means that any proposals for significant further development involving minerals extraction will need to satisfy the major development test set out in Policy D04 of the Joint Plan*”.
- 6.42 The emerging Plan recognises the inter-relatedness of *Blubberhouses Quarry* and the proposed A59 realignment explaining at paragraph 5.72, “*a further relevant consideration in respect of Blubberhouses Quarry is that the Local Transport Plan for North Yorkshire has identified the need to realign the A59 road at Kex Gill, near Blubberhouses Quarry, to avoid recurring issues of land instability. A definitive proposed realignment is not yet available and there is no safeguarded route. However, there is potential for this project to overlap with the Blubberhouses quarry site. In this scenario there would be a need to ensure that the potential for conflict between the road alignment and the quarry is reflected in the design of both schemes and the potential for any cumulative impacts taken into account where necessary*”.

Other policy considerations:

- 6.43 Planning policy at the national level is provided in the [National Planning Policy Framework](#) (NPPF) (published February 2019). It sets out the Government’s planning policies for England and how these are expected to be applied. Reference has also been made, during the course of processing this application, to the more detailed guidance on specific topics within the national [Planning Practice Guidance](#), which was launched online in 2014 and, since that time, has been updated on a regular basis.

- 6.44 Where plans have been prepared post-publication of the NPPF (as is the case in this particular instance), consistency with national planning policy set down therein is assumed; negating the need to explore further the consistency of the HDLP policies with this national document. There is no other reason to consider that the relevant policies are out of date. To be helpful to Members, a summary of the relevant NPPF paragraphs is provided at Appendix G attached to this report.

## 7.0 Planning considerations

- 7.1 *Section 38(6) of the Planning and Compulsory Purchase Act 2004* requires that all planning authorities must determine each planning application in accordance with the extant planning policies that comprise the '*Development Plan*' unless there are any material considerations, including any impacts upon interests of acknowledged importance, that would indicate that planning permission should not be forthcoming. Furthermore, as well as reiterating the requirements of *Section 38(6)*, NPPF **Paragraph 11** advises decisions should be made without delay where proposals accord with the '*Development Plan*', but if such a Plan were absent, silent or relevant policies out-of-date, then decisions should be made provided that there is no conflict with the policies of the NPPF that protect areas or assets of particular importance or where "*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies*" of the NPPF when taken as a whole. In this instance, however, there are relevant policies within the documents that comprise the '*Development Plan*' against which to assess the application and the relevant policies are not considered to be out of date. Accordingly, the 'standard' planning balance applies to this application.
- 7.2 In the particular instance of this application, there are a range of policies in the *Development Plan* that must be taken into account, as well as a number of other material considerations. In considering the relationship of the proposals to the *development plan*, Members are advised to note that proposals should be judged against the *Development Plan*, as a whole, rather than just against individual policies in isolation.
- 7.3 The analysis that follows, therefore, assesses the proposed development against the extant planning policies contained within the *Development Plan*. Section 6.0 of this report refers to those policies that are considered most relevant to the determination of the planning application. This assessment will establish the acceptability, or otherwise, of the proposal against those policies to establish whether, '*in principle*', the development either is, or is not, acceptable by virtue of degree of compliance and/or conflict with policies contained within the *Development Plan*. It should be noted that it does not follow that where a proposal conflicts/complies with just one policy that a proposal must be deemed unacceptable/acceptable, but it is a question of the degree of conflict/compliance and the weight apportioned in that circumstance that gives rise to the final analysis.
- 7.4 Within the paragraphs below, the question of the need for the proposed development and its chosen location is considered and this is then followed by the consideration of the position '*in principle*'; after which lies the analysis of the proposal in respect of the effects of the proposed development upon various interests of acknowledged importance and the establishment of whether there exist any '*other material considerations*' that would outweigh/override the earlier referred '*in principle*' position.

### *The question of need for the proposed development & its chosen location*

- 7.5 The need for the proposed development has been explained by the applicant within its submitted statements accompanying the application as stemming from this particular



road section's vulnerability to landslips, and the knock-on impacts of the required traffic diversions. As earlier referred within Section 2.0 of this Officer Report, road closures, diversions and consequent increases in journey times caused by landslips over recent years have given rise to significant impacts in terms of the economy, connectivity and accessibility. The need has been recognised as most pressing more recently, given the frequency of occurrences and the likelihood of a worsening position in the context of the consequences of climate change. While significant works have been mobilised to 'shore-up' and repair, these works have proven to be both onerous and costly to the tax payers' purse.

- 7.6 While the need for the proposed works principally arises from the avoidance of continued adverse susceptibility of the integrity of the public highway along its existing alignment, anticipated 'knock-on' benefits identified by the applicant have included improvements in road safety through predicted reductions in road traffic accidents, together with improvements in connectivity maintaining the strategic east-west link, accessibility and facilitating economic growth through the provision of a more resilient and reliable public highway for all users of the public highway. The application details explain that the proposed realignment would be capable of providing clear economic benefits through the provision of an improved freight route, greater connectivity and efficiency on the transport network that would boost local business productivity by reducing the level of working hours lost as result of vehicle congestion along the diversions. It is acknowledged that the improved connectivity along this section of the A59 could also support the potential future development of the *Harrogate Relief Road* as well as supporting further local and regional economic growth and addressing local economic imbalances. Furthermore, both the County Council (within its *Local Transport Plan Part 4: Strategy and Strategic Transport Prospectus*) and the *York and North Yorkshire & East Riding Local Enterprise Partnerships* (within its strategic economic plan) identified the need for the realigned road as a key strategic priority.
- 7.7 The case for the realignment of the road is a compelling one, in the circumstances, and the alternative 'do nothing' approach, risking the occurrence of further ground stability failures, is not considered to be sustainable. The options available to the transport planners were the diversion of the *Kex Gill* section away from the 'landslip risk area' or develop a 'slope stabilisation scheme' capable of guaranteeing no further failures in the future. The applicant has explained that their extensive investigations have demonstrated that the solution does not lie in engineering works.
- 7.8 Inherent in the applicant's assessment of the likely significant effects of the proposed development is the question of whether the proposed development could take place elsewhere other than the chosen location of the planning application. The application details have explained that diversions outside of the AONB were initially considered. However, as the *Nidderdale AONB* comprises 7% (600km<sup>2</sup>) of the county's entire land coverage (8,654km<sup>2</sup>), this could not be achieved because the existing road traverses the AONB providing no opportunity for its avoidance. The applicant's assessments have concluded there exist no viable alternatives outside the designated area. While alternative alignments have been through the 'sieving' exercise, they nevertheless remain alignments of sections of road construction within the immediately vicinity of the existing alignment, but nonetheless ones which avoid the ground conditions that currently impact the road at present.

#### Principle of the proposed development

- 7.9 Relevant 'development plan' policies to this 'in principle' consideration of the proposed development include **HDLP Policy GS5**, **HDLP Policy TI1**, **HDLP Policy TI2** and **HDLP Policy TI4** (consistent with **Paragraph 80** of the NPPF). Proposals that come forward and would contribute to the achievement of supporting the local economy are supported by **HDLP Policy GS5** and, while acknowledging the proposed scheme would



only provide direct employment opportunities in relation to its construction, once the use of the road scheme commences, this specific element of this policy continues to be relevant when considering the indirect opportunities arising from improvements to transport-related infrastructure and by maintaining and ensuring the resilience of the transport infrastructure, which is key to economic prosperity. **HDLP Policy GS5** is, therefore, considered to have been satisfied in this particular instance.

- 7.10 This is similarly the case with regard to **HDLP Policy T11** seeking, amongst other things, to promote a sustainable and improved transport system that is safe, reliable and convenient; improvements in road connections and accessibility; recognising too the importance of the strategic highway priority of east-west connectivity. By removing the need for traffic to be diverted through the communities along the official and unofficial diversion routes and the detrimental impacts associated with the longer journey times and traffic build-ups on air quality, noise, severance and local businesses within these towns, policy support can also be found within **HDLP Policy T11**.
- 7.11 Again, recognition of the importance of strategic highway infrastructure in **HDLP Policy T12** and the importance of new infrastructure delivery by service providers within **HDLP Policy T14**, ensures the existence of planning policy support for the proposed development *'in principle'*
- 7.12 The chosen alignment across the other side of the valley, while presenting its own challenges with respect to safeguarding the sensitivity of the environment in which it is proposed to *'sit'* (and discussed within later paragraphs that follow), nevertheless presents the option with the least negative impacts. The continuation of strategic east-west connectivity that this route provides is recognised as being critical and this weighs heavily in the *'planning balance'*.
- 7.13 The assessment that follows comprises those that are regarded as the principal effects of the proposed development; although the order in which they appear below is not an indication of their importance relative to one another. These comprise of effects upon interests of acknowledged importance including those of both the environment (flora and fauna), local communities and the local economy and other material considerations:
- *ecological effects (including biodiversity, internationally, national or locally designated wildlife sites, protected habitats and species, ecological networks and nature conservation;*
  - *climate change, the water environment and materials & waste;*
  - *landscape and visual impact;*
  - *cultural heritage;*
  - *local amenity, population & health & public rights of way;*
  - *geology and soils; and,*
  - *cumulative effects.*

*Ecological effects (including biodiversity, internationally, national or locally designated wildlife sites, protected habitats and species, ecological networks and nature conservation)*

- 7.14 In light of the spatial context and the sensitivity of the environment in which the proposed development lies, the potential for likely significant effects upon both species and habitats has meant that they have been *'in scope'* for the purposes of EIA. The assessment of the environmental effects of the proposed development in respect of these specific considerations has been included within [Chapter 6](#) of the submitted *Environmental Statement* which itself is supported by a [Preliminary Ecological Appraisal Report \(October 2019\)](#) and a number of *protected species surveys* relating to *white-clawed crayfish, great-crested newt, reptiles, barn owl, merlin, hen harrier, peregrine falcon, upland waders – golden plover & curlew, nightjar, bats, badgers* and

riparian mammals. A summary has been provided within Section 3.0 of this report and, for the most part, the assessment has concluded that the effects of the proposed development upon biodiversity are, in the main, not considered to be significant. There is though the existence of one exception insofar as relates to the species of *brook lamprey* and *brown trout*; in which cases, a finding of ***local significant effects*** has been found to result due to the permanent loss of adult passage and juvenile habitat under the footprint of the culverts. Furthermore, through the construction of the road itself, vegetation clearance and its associated infrastructure, there is an inevitable degree of loss of species habitat caused by degradation and fragmentation which is acknowledged. However, this has to be balanced with the scheme's proposals to both mitigate and compensate which is discussed further below together with an assessment of the proposal against the relevant *development plan* policies.

- 7.15 There are a number of applicable '*development plan*' policies relating to the possible impacts of the proposed development upon biodiversity, habitats, nature conservation and protected species (consistent with **NPPF Paragraphs 170 and 175**) and those most relevant to the determination of the application include **HDLP Policy CC1, HDLP Policy CC2, HDLP Policy HP3, HDLP Policy NE2, HDLP Policy NE3 and HDLP Policy NE4**; summaries of which have been provided within Section 6.0 above. It is necessary for these policies to be applied in assessing the acceptability of potential impacts of the development upon these specific considerations.
- 7.16 While **HDLP Policy CC1** is principally concerned with flood risk and sustainable drainage, requiring proposed developments to ensure that flood risk is appropriately accommodated, designed for and managed including the use of sustainable drainage systems, this policy also seeks to ensure, where the culverting of watercourses is necessary, that no detrimental effects would occur to biodiversity. The application has been accompanied by an assessment of effects upon biodiversity and the applicant has explained that the culverts have been designed in a way so as to be as short as possible with large cross sections. This is in order to encourage their use by fish and otters. The culverts have been designed, at the inlets and outlets, so as to maximise light penetration and the planting of appropriate specimens would provide appropriate levels of transitional light so as to render species emergence from these structures less startling. HDLP Policy CC1 states that culverts will not be permitted unless they are in the interests of public safety or to provide essential infrastructure and with no detrimental effect on biodiversity. The culverts proposed are required as part of the overall project intended to benefit public safety and provide much needed highways infrastructure. The culverts are designed to avoid biodiversity impacts on fish and otters and whilst some effect remains, overall, the culverts are considered to be justified and this particular element of HDLP Policy CC1 is, therefore, considered to have been satisfied.
- 7.17 As earlier referred within Section 6.0 of this report, **HDLP Policy CC2** seeks to protect and improve the quality of both rivers and water bodies as well as the ecological systems that they support. The principal watercourses potentially affected by the proposed development include the *River Washburn*, *Kex Beck* (a tributary of the *River Wharfe*) and *Hall Beck* (fed by several springs, including the *Black Dyke* and the *Coate Hill Dyke*) and a number of drains and dykes with small bodies of standing water which are also within the vicinity of the site. The applicant has explained that while the design of the proposed scheme necessitates the diversion of the existing *Hall Beck*, along three distinct sections (which are deemed to be unavoidable), the scheme's design accommodates biodiversity considerations through the provision of pools, riffles, point bars, and low-level berms planted with a native mix of wetland species together with the planting of a native wet woodland species mix along the riparian corridor. This policy seeks to ensure that minimum '*stand-offs*' or '*buffers*' from watercourses are also provided and, in this particular instance, *Hall Beck* and the *River Washburn* and water bodies have been accommodated with 8 metre and 5 metre buffers respectively.

These measures are considered to ensure, notwithstanding the obvious disturbances arising from the works proposed to be undertaken to the beck, that the ecological systems are capable of being supported through the protection and improvement of the water environment; thereby rendering the development capable of avoiding any significant conflict with this particular policy.

- 7.18 **HDLP Policy HP3**, and in particular **part c)**, expects proposals to take account of the contribution made by biodiversity and to look for ways to protect, enhance or reinforce a local area's distinctiveness which might include its biodiversity (aligning with the general thrust of NPPF Paragraph 127) and along with HDLP Policy CC1 and CC2 together with **HDLP Policy NE3** and **part A)** of **HDLP Policy NE4**, they all seek to protect the natural environment (aligning with NPPF Paragraphs 170, 175 and 180).
- 7.19 **HDLP Policy NE3** is positively worded, setting out a list of means by which the Council will support proposals which protect and enhance proposals which benefit ecology and geology. The policy also allows any adverse effects to be weighed against the need for, and the benefits of, development. It is acknowledged that the proposals do cause *residual significant adverse effects* on ecological receptors. However, the policy does not indicate development that should be refused in such circumstances if the negative effects can be outweighed. Further, the policy is supportive of proposals where they are capable of providing *biodiversity net gain* (BNG) which has been described by the applicant as being the desired result of a process applied to the proposed development (following the hierarchical approach of *avoid, minimise & compensate*) so that, overall, there is a positive outcome for biodiversity. To this end, the application has been supported by a [Biodiversity Net Gain Report \(October 2019\)](#). While a finding of *no net biodiversity loss* in terms of area-based habitats and watercourses has resulted, the report nevertheless points to a *net biodiversity loss* in terms of hedgerows (a figure of -67%) and, at the same time, makes four recommendations for providing for '*compensation for the loss of woodland, heathland, bracken, scattered trees and acid flush and spring, as well as retention or creation of additional hedgerow habitat*'. This initial finding, understandably, gave rise to cause for concern, not only for the County Council's in-house experts, but also for those with whom the County Planning Authority has consulted, including the *Yorkshire Dales National Park Authority, Harrogate Borough Council, RSPB Northern England, Yorkshire Wildlife Trust, and Natural England*.
- 7.20 These concerns were raised in comments from the *Park Authority* encouraging the applicant to consider the exploration of further biodiversity enhancement measures on land outwith the application area and, comments from in-house experts, that compensation measures, as well as pre-commencement surveys and nest stand-offs over the wider area, needed to be identified and secured over the longer-term. These concerns, outlined within Section 4.0 above, were also echoed by the *Yorkshire Wildlife Trust, Natural England, the RSPB and Harrogate Borough Council* in that they expressed concern with regards to both measures in mitigation and compensatory measures. Furthermore, concerns raised in objection by other interested parties and members of the public also pointed, in their view, to a negative impact on the *Special Area of Conservation, Special Protection Area and Sites of Special Scientific Interest* as well as *Important Bird Areas* in addition to the impacts upon *Ancient Woodland*.
- 7.21 However, in a number of respects, the additional and further information received on 22<sup>nd</sup> June 2020, led to a change from an expression of concern during the initial stages of the processing of the application by the *Nidderdale AONB Joint Advisory Committee* to one where they acknowledge the applicant's decision to develop a *Biodiversity Net Gain Plan* culminating in their confirmation of broad support for the scheme while, at the same time, acknowledging the proposed development's long-term effects. The additional and further environmental information received on 22<sup>nd</sup> June 2020 comprised a [Landscape & Ecology Mitigation, Monitoring and Management Plan](#)

together with consequential revisions to the previously submitted information. The Plan was also accompanied by [draft Heads of Terms](#) dated 19<sup>th</sup> June 2020 (which have subsequently been updated in [draft Heads of Terms](#) dated 23<sup>rd</sup> October 2020) that the applicant intends to take forward to deliver the *biodiversity net gains* and provide for off-site landscaping measures. Subsequent to the submission of the aforementioned *Plan*, a number of revisions have been made between August and October of this year giving rise to the latest version of the Plan, [version 5](#). Further consultation in respect of the information received on 21<sup>st</sup> August 2020 and the 23<sup>rd</sup> September 2020 saw the County Planning Authority furnished with additional clarification from the applicant which has resulted in further comments from those experts within the *Yorkshire Wildlife Trust* (welcoming the funding now on offer), the *AONB Joint Advisory Committee* (commenting on a now “*realistic level of funding*” capable of delivering “*a meaningful positive landscape impact*”), *Natural England* (welcoming both the Plan and the additional information), the *RSPB* and the County Council’s own in-house experts (lending general support to the applicant’s approach); the summaries of which have been earlier outlined within Section 4.0 above.

- 7.22 Measures proposed in mitigation are also provided for with the applicant’s inclusion of a *Construction Environmental Management Plan*, the planting of *acid grassland* and *heath* habitats, wildlife towers and nest boxes, barn owl boxes and bat poles amongst other measures that have been previously outlined and to which reference has been made earlier in this report in Section 3.0 above.
- 7.23 While considerable positive changes to the detail of the proposed development insofar as its potential for impacts upon biodiversity have been shown to overcome the initial concerns of the statutory consultees, there remain safeguards sought by those experts with whom the Authority has consulted to protect and enhance biodiversity that are considered reasonable, necessary, sufficiently precise, enforceable and relevant to both the development and to planning which have been outlined within Section 4.0 and form a constituent element to the recommendation within Section 9.0 of this report and are set out within condition no.s 20 to 26 (inclusive) in the ‘*Schedule of Draft Conditions*’ appended to this report within Appendix H. This is consistent with Paragraph 54 of the NPPF(2019) which instructs the consideration of whether otherwise unacceptable development could be made acceptable through the use of conditions and, furthermore, that planning obligations are able to be used where unacceptable impacts are incapable of being addressed through planning conditions; as is the case in the proposed fund delivered through the means of a legal agreement (to the sum of £593,619) which is proposed to be managed by the *Nidderdale AONB* in partnership with the County Council and a ‘*grampian-style*’ condition to ensure the delivery of the landscape and biodiversity improvements that lie on land outwith the planning application’s red line boundary.
- 7.24 With regards to internationally designated sites, HDLP Policy NE3 is accompanied by explanatory text which references the regulations applicable insofar as the international designations of the *North Pennine Moors Special Protection Area* and *Special Area of Conservation*. The species that are known to breed within the SPA, principally the *Golden Plover*, are proposed to be protected through best practice site management, timing of works and pre-construction species surveys. The submitted assessment with regards the ecological effects explains, amongst others identified within the assessment, the example that, during construction, a potential loss of 0.1ha of *European dry heath* habitat would result. However, this would represent just 0.0003% of this particular habitat within the SAC which, in any event, has been assessed as already degraded due to its location on the boundary of the SAC and the A59. Temporary changes in respect of the water environment and dust deposition, identified as possible effects during the construction phase, have both been assessed as having short-term indirect effects.



- 7.25 An exercise to support an *appropriate assessment* has been undertaken by the applicant in its document, the [Habitat Regulations – Information to inform Appropriate Assessment \(October 2019\)](#), accompanying the application; the results of which have been highlighted by the applicant as having **no residual adverse effect** on the *North Pennine Moors SAC* integrity due to there being a *de minimis* direct loss of qualifying habitats and enhancement through the provision of connectivity between areas between the non-qualifying site fabric and the wider SAC and **no predicted residual adverse effects** on the *North Pennine Moors SPA* integrity and enhancement provided by the design of the scheme due to the return of 0.43 hectares to the designated areas currently occupied by the A59, the subsequent replanting over this area and improved connectivity with the SAC and SPA designation.
- 7.26 It is the expressed opinion of the applicant's experts that any potential for harm to the internationally designated area is outweighed by the benefits that the scheme would bring about and, at the same time, avoiding the possibility of an overall deterioration in terms of biodiversity. Requisite monitoring during the construction and operational phases would ensure this is the case and this would be facilitated through the applicant's submitted *Schedule of Environmental Commitments*.
- 7.27 The applicant's *Habitat Regulations* document has been accepted by the County Council's expert adviser on ecology as being sufficient upon which to base the County Planning Authority's own *appropriate assessment* as the competent authority under the provisions of the *Conservation of Habitats and Species Regulations 2017*. *Natural England*, which is the statutory consultee in this instance, has confirmed 'no objection' insofar as the conclusions drawn within the Authority's assessment. The County Council's in-house advisor has carefully considered all available information and has concluded that insofar as the direct habitat loss of 0.32ha of *bracken* is concerned, the finding was that it would not result in an adverse effect on the integrity of the area due to the size, condition and location of the area of habitat to be lost and that "*this area of SAC does not contain habitat which is a primary or non-primary feature for which the SAC is designated*". There is, therefore, "*no adverse effect on site integrity*". Insofar as the 0.1ha loss of *European dry heath*, again, the conclusion was that this would similarly not result in an adverse effect due to size, condition and location. Such a habitat represents just 0.0003% of the total area of this habitat coverage and lies on the edge of the SAC directly adjacent to the existing A59 and, furthermore, is in a "*degraded condition*". The loss of this small area would result in "*no adverse effect*". In addition, *no residual adverse effects* on the integrity of the SAC are considered to arise from either changes in surface water hydrology, surface water quality, dust deposition and nitrogen deposition. With regards the SPA, *no residual adverse effects* upon site integrity are considered to exist in respect of disturbance to breeding *golden plover* or transient passage of *hen harrier* other their respective habitats.
- 7.28 Linked to these important designations is **HDLP Policy NE2**. While this policy is concerned with water quality, *per se*, it is inextricably linked with the issue of biodiversity. This policy lends support, but only in a circumstance where no adverse effects occur to nationally and internationally designated sites of nature conservation importance; namely SSSIs and Natura 2000 sites amongst others. Again, similarly to the assessment of the development against HDLP Policy NE3, there is not considered to be any conflict of any significance insofar as this policy is concerned.
- 7.29 Both the submitted [Biodiversity Net Gain Report \(October 2019\)](#) and the [Habitat Regulations – Information to inform Appropriate Assessment \(October 2019\)](#) have served to demonstrate that the development is, in the case of the first, capable of providing *biodiversity net gain* and, in the case of the second, capable of ensuring that integrity of the protected areas are not adversely affected such that it is possible to conclude that these particular elements of HDLP Policy NE3 have been satisfied. It has been demonstrated that harm is capable of being minimised as far as possible and



that the need for the scheme is such that any residual harm to ecology is clearly outweighed.

- 7.30 The policy requirement to protect the natural environment continues with **Part A)** of **HDLP Policy NE4** suggesting that this could be achieved by, *inter alia*, maintaining the biodiversity qualities of natural and man-made heritage. While acknowledging the development, as proposed, would give rise to *significant effects* upon specific species, namely *brown trout* and *brook lamprey*, the effects are understood to be both *limited* and *localised* to such a degree to conclude a finding of an absence of significant conflict with this particular local plan policy.
- 7.31 This specific element of **HDLP Policy NE4** also points to applicants being obliged to have regard to such qualities in relation to trees, woodland and hedgerows and compliments policy requirements also sought by **Part D)** of **HDLP Policy NE3** in seeking to safeguard against the loss or deterioration of irreplaceable habitats that *ancient woodland* and *aged* or *veteran* trees possess; although acknowledging, at the same time, that there may well be circumstances where the need for, and the benefits of, a particular development may clearly outweigh any loss. The application is accompanied by an [Arboricultural Impact Assessment](#) (*Appendix E to Chapter 7 of the submitted Environmental Statement*) which explains that the periphery of the rooting area of one *veteran* oak tree (T13) could potentially be at risk of deterioration resulting from construction works and that three *veteran* trees are at risk of damage to rooting areas, with two of these features also likely to experience increased isolation within the landscape. In order to minimise and avoid adverse impacts to these features during the construction phase, *root protection areas* are proposed through the use of '*construction exclusion areas*' prohibiting access and tree protection fencing to avoid above-ground damaging activities. The applicant has confirmed that there are six '*trees of special interest*' including the aforementioned *ancient Oak* (T13), a *veteran Oak* (T9), a *veteran Hawthorn* (T73), a *veteran Birch* (T99), and two *notable* trees; a *Lime* (T72) and a *Holly* (T67); only the last of these is proposed to be removed and the others are proposed to be retained.
- 7.32 These policies are wholly consistent with the aims and environmental objectives in helping to improve biodiversity set down in national policy within the NPPF and, more specifically, in **NPPF Paragraphs 170** and **175**; which, in respect of the first, requires proposals to contribute to, and enhance the natural and local environment including protecting and enhancing sites of biodiversity (**part a**) and minimising impacts on and providing net gains for biodiversity (**part d**) and, in respect of the second, provides a number of principles to ensure that biodiversity is conserved and enhanced and that any development that may detrimentally affect or give rise to losses to local ecology should have benefits that clearly outweigh these impacts. In respect of the second, **part c)** of **NPPF Paragraph 175** is of particular note in seeking a suitable compensatory strategy where either a loss or deterioration of irreplaceable habitats (e.g. *ancient woodland* or *veteran* trees) might arise.
- 7.33 Those raising objection against the proposal cite, *inter alia*, that, in their view, the proposed development would give rise to a negative impact on the *Special Area of Conservation*, drawing the attention of the County Planning Authority to the existence of the area containing an important and significant area for birds of special interest, *Special Areas of Protection* and *Sites of Special Scientific Interest*; namely *West Nidderdale*, *Barden* and *Blubberhouses Moors*. However, while these are indeed material to the consideration of the potential effects of the proposed development, they have been the subject of both the environmental impact assessment and appropriate assessment under the respective regulations and, as has been explored in the preceding paragraphs, have been scrutinised by those with whom the County Planning Authority has consulted during the course of the processing of the application (including *Natural England*, *RSPB*, *Yorkshire Wildlife Trust* and the County Council's

in-house expert on ecology) such that the certain effects are capable of, in the first instance, being avoided, but where this is not achievable, minimised and thereafter mitigated as far as possible or compensated for.

- 7.34 The applicant, in providing the supporting information with the application through the means of an *Environmental Statement* which is the culmination of the outcomes of the environmental impact assessment undertaken by the applicant's expert advisers and the many and varied ecological surveys, has demonstrated that regard has been had to safeguarding, as far as is reasonably possible and practicable, the natural environment proportionate to the scale and sensitivity of the ecological receptors affected to differing degrees such that the development is capable of being considered to be acceptable in land use planning terms and capable of avoiding giving rise to significant conflict with the relevant policies identified above and that where potential conflict has been identified to exist, this is outweighed by the other considerations that pull in favour of the proposed development, providing, that the measures identified in mitigation are secured and implemented in full.

*Climate change (including the minimisation of the use of materials and the avoidance of the generation of waste), flood risk, surface water drainage and water quality*

*Climate change:*

- 7.35 The application has been accompanied by an assessment of effects upon both climate change *per se* (such as the emission of greenhouse gases (GHGs) and, *vice versa*, the effects of climate change upon the proposed development (in other words an assessment of the proposed development's *climate resilience*) and this is provided within [Chapter 14](#) of the submitted *Environmental Statement*.
- 7.36 The proposed measures in mitigation against the effects upon climate change include increasing, as far as possible, the efficiency of both resource use and waste reduction (i.e. seeking to avoid the use of resources where possible, reduce their use, improve upon the efficacy of recycling resources and avoiding the generation of waste). The details accompanying the application also draw attention in having sought to reduce the proposal's carbon footprint by re-using materials such as those used to create a natural bed layer in the culverts by way of example. As a result of carrying out the assessment and taking into account the aforementioned mitigation measures, **no significant residual effects** have been identified.
- 7.37 There is similarly an absence of significant adverse residual effects when taking into consideration the measures that are proposed by the applicant to ensure the scheme's resilience against climate change, particularly with regard to the likelihood of extremes of temperature such as increased occurrence of 'heatwaves', increased rainfall through wetter winters, drought brought about by drier summers and prevalence of higher wind speeds and more frequent storms.
- 7.38 The relevant '*development plan*' policy is **HDLP Policy CC4** (which seeks to reduce both the extent and the impacts of climate change and meet the highest technically feasible and financially viable environmental standards during construction and operation) which is consistent with **NPPF Paragraph 150** (seeking "a *proactive approach to mitigating and adapting to climate change*").
- 7.39 The specific impact of the proposed development upon climate change, or indeed its consequential vulnerability as a result of climate change, have not featured within the representations of other interested parties or members of the public in respect of this application.
- 7.40 Thus, in light of the above and in taking into account the information which has accompanied the application and the responses to consultation from those whom the

County Planning Authority has sought expert advice including the *Environment Agency* and the *Lead Local Flood Authority*, there has been an absence of any indications that might suggest the scheme being incapable of accommodating the consequences of both the effects of the development upon climate change or the proposed development's resilience against the effects of climate such that compliance with **HDLP Policy CC4** has, in this instance, been satisfied.

*Minimisation of the use of materials and the avoidance of the generation of waste*

- 7.41 Though the subject of a specific chapter within the submitted *Environmental Statement* ([Chapter 13](#) refers), the minimisation of the use of materials and the avoidance of the generation of waste are intrinsically linked with climate change. This particular assessment looked at the estimated volumes of materials that would be required for the scheme and considered the nature of the effects of their use, as well as the likelihood of waste generation.
- 7.42 Of equal relevance to the consideration of climate change above, the consideration of the minimisation of the use of materials and the avoidance of the generation of waste requires due regard to be had to **HDLP Policy CC4** as referred to above.
- 7.43 The construction of the road will, inevitably involve the consumption of materials. However, the details accompanying the application explain that consideration throughout has been given to the nature of the impacts of materials to be consumed and their use as well as the likely generation, quantity and types of waste such as that arising from the taking up of the former carriageway and associated infrastructure. Where at all possible to do so, the applicant proposes the reuse on-site of materials from the excavation works and recycling of materials where appropriate; culminating in a conclusion, on the part of the applicant's expert advisers, of **no significant residual effects** upon the consumption of materials and the generation (and disposal) of waste either during construction or upon the opening of the road; a conclusion which has not been subject of challenge by those from whom the County Planning Authority has sought expert advice.
- 7.44 Again, as in the case of the consideration of climate change, the specific impact of the proposed development upon the proposed use of materials or the possible generation of waste arising from the scheme have not featured within the representations of other interested parties or members of the public in respect of this application.
- 7.45 Thus, in light of the above and upon reviewing the information accompanying the application in relation to both the material considerations of climate change, use of materials and waste and the absence of any contrary views expressed, the proposed development satisfies, insofar as is considered reasonably possible to do so, the requirements of **HDLP Policy CC4** and avoids giving rise to conflict of any significance with this policy.

*Flood risk etc.*

- 7.46 Closely linked to the material issue of climate change is the consideration of flood risk, surface water drainage and water quality. The proposed development would impact watercourses both in and within the vicinity of the application site and the potential for likely significant effects upon the water environment has meant that it has been 'in scope' for the purposes of EIA. The application has been accompanied by an assessment of effects upon drainage and the water environment within [Chapter 11](#) of its *Environmental Statement*. This has been informed by a formal site-specific *Flood Risk Assessment*, an assessment of the proposed development against the *EU Water Framework Directive*, a *Hydrogeological Assessment* and the reported outcome of the use of the *Highways Agency Water Risk Assessment Tool* (HAWRAT) culminating in a *Drainage Strategy* which all serve to demonstrate that the proposal has been

comprehensively analysed insofar as its potential effects upon the water environment. The scheme has been designed so as to follow sustainable drainage system principles.

- 7.47 The submitted *Flood Risk Assessment (FRA)* considered the scenario of a 100-year event, taking into account climate change, and concluded no risk of flooding to property and neither would the proposed scheme be at risk of flooding from rising levels in this same time period. The FRA goes on to explain that while the proposed development would affect existing floodplain provision, the creation of the new flood compensatory storage areas mitigates the risk of fluvial flooding downstream. It also explains that the new flood storage areas associated with the widened and realigned *Hall Beck*, would also help reduce the water levels downstream. There is concluded therein that no increased risk of flooding elsewhere would arise as a result of the proposed development.
- 7.48 The potential increase for contamination on surrounding surface water bodies during construction and operation has been assessed and the residual effects (i.e. water bodies, water quality, short-term flood risk, ground water flow and excavation) concluded to be **minor adverse** to **neutral**. Furthermore and with particular regard to mitigation, the element of the scheme within land designated as *Flood Zone 3* has formed part of the submitted *Flood Risk Assessment* and the applicant has demonstrated through its *Drainage Strategy* that surface water runoff can be suitably attenuated within the scheme's boundary. This would avoid giving rise to any increase in flood risk elsewhere. Mitigation has been proposed in the form of a submitted *Construction Environmental Management Plan*; the purpose of which would be to avoid the potential risk of pollution to the water environment that has been identified as a result of the assessments undertaken. Such risks may include those of surface water contamination as a result of ground disturbance during construction works and/or vegetation clearance. These and others are capable of being controlled through diligent site management practices and adherence to the requirements of any Plan so approved.
- 7.49 Also identified is the issue of *peat*. This is an important consideration as the proposed development transverses an area known to contain significant *peat* deposits and changes within the hydrological regime has the potential to have engineering implications for the proposed scheme. The residual effects during construction have been deemed by the applicant's expert advisers as '**slight adverse**' and upon the scheme's operation '**slight adverse**' to '**neutral**'. Nevertheless, assurances have been provided within the submitted documentation that appropriate design techniques (including a site-specific *Peat Management Plan* for the periods before, during and after construction) would provide the requisite mitigation.
- 7.50 The extant '*development plan*' policies against which to assess the proposed development's affect upon flood risk, surface water drainage and water quality include **HDLP Policy CC1, HDLP Policy CC2, HDLP Policy NE2 and HDLP Policy NE3**.
- 7.51 As earlier referred within paragraph 7.16 above, **HDLP Policy CC1** is principally concerned with flood risk and sustainable drainage, requiring proposed developments to ensure that flood risk is appropriately accommodated, designed for and managed including the use of sustainable drainage systems and safeguarding against proposals that would have an adverse effect upon watercourses or increase the risk of flooding elsewhere. It also requires proposals to demonstrate that they are safe, help reduce flood risk overall, avoid increasing surface water flow rate run-off and prioritise the incorporation of sustainable drainage systems (SuDS) which should persist for the lifetime of a proposed development.
- 7.52 Having applied the *sequential risk-based approach* to the proposed development at the early stages of the scheme's design, i.e. seeking to find the most appropriate



solution while, at the same time, avoiding the highest of the flood zones, the scheme has not been able to avoid Flood Zone 3 in its entirety (though only affecting it at limited sections of the scheme). Therefore, the applicant's submitted [Flood Risk Assessment](#) explains in addressing flood risk vulnerability, the 'Exception Test' has been applied. By dint of it being categorised as 'essential infrastructure' affecting an area within Flood Zone 3, The proposed development must demonstrate its capability of passing the 'exception test' which requires (i) that a proposal provides 'benefits to the community that outweigh flood risk' and (ii) that it 'will be safe for its lifetime...without increasing flood risk elsewhere and, where possible, reduce flood risk overall'. The FRA continues by explaining that proposed measures by way of mitigating against flooding include the creation of flood compensatory storage areas and stepped channels to reduce the flow velocity and flood levels downstream of the site. Furthermore, being constructed on raised embankments, fluvial flooding risk has been assessed as being 'very low' and flow water would remain unimpeded by the development. Similarly, the proposed development's vulnerability to the risk of flooding from other sources has been assessed as being between 'very low' to 'negligible' as would the risk of surface water flooding and, together, these and the aforementioned serve to demonstrate the scheme's capability of passing the 'exception test'; a conclusion which has not been subject to challenge by those experts with whom the County Planning Authority has consulted; namely, the *Lead Local Flood Authority* and the *Environment Agency*.

- 7.53 In having undertaken the requisite assessments to demonstrate the safeguarding of the water environment and the risk of flooding together with incorporating into the design of the scheme sustainable drainage principles, the proposed development demonstrates its capability of complying with **HDLP Policy CC1** and is consistent with **NPPF Paragraphs 155, 158-161, 163 & 165** which seek to safeguard against development at risk of flooding and also proposals which may give rise to increased flooding risk elsewhere.
- 7.54 Again, as earlier referred, although this time in paragraph 7.17 above, **HDLP Policy CC2** seeks to protect and improve the quality of both rivers and water bodies and seeks to ensure that minimum 'stand-offs' or 'buffers' from watercourses and water bodies are also provided. In this particular instance, the watercourse of *Hall Beck* and the *River Washburn* and water bodies have been accommodated with 8 metre and 5 metre buffers respectively which ensure water quality is protected as far as is possible to do so; thereby rendering the development capable of avoiding any conflict of any significance with this particular policy.
- 7.55 Similarly with respect to **HDLP Policy NE2**, which is concerned with water quality and is earlier referred within paragraph 7.28 above, this policy lends support, but only in a circumstance where no adverse effects occur to nationally and internationally designated sites of nature conservation importance; namely SSSIs and Natura 2000 sites amongst others. Akin to the assessment of the proposed development against HDLP policies CC1 and CC2, there is not considered to be any conflict of any significance insofar as this policy is concerned.
- 7.56 Though without specific focus upon the water environment, *per se*, **HDLP Policy NE3** is intrinsically relevant due to the support it lends to proposals that both protect and enhance features of ecological interest which include those of the water environment and, in particular, **part F** to that policy insofar as concerns 'blue infrastructure' and increasing connectivity between watercourse and water bodies which in turn links to **HDLP Policy NE5**.
- 7.57 With regards national planning policy, **NPPF Paragraph 8** (insofar as its environmental objective), **Paragraph 163** (with regards flood risk) and **Paragraph 165** (with regards SuDS) of NPPF(2019) are considered relevant in that they seek a proactive approach in mitigating and adapting to climate change, taking into account the long-term



implications of flood risk, water supply, biodiversity and landscapes and **Paragraph 160**, in particular, points to proposals needing to demonstrate that they “*would provide wider sustainability benefits to the community that outweigh the flood risk*” (a) and “*be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall*” (b). The latter paragraph is relevant due to an element of the scheme impacting upon land within *Flood Zone 3*.

- 7.58 Those with whom the County Planning Authority has consulted for their respective expertise with regards to the potential impacts upon flood risk, surface water drainage and water quality have included the *Lead Local Flood Authority (LLFA)*, the *Environment Agency* and *Yorkshire Water*. Although no response to consultation has been received from the last of the aforementioned, responses have nevertheless been received from the *LLFA* and the *Environment Agency*. Insofar as the former, it returned the comment that a reasonable approach to the management of surface water on the site has been demonstrated and, further, should planning permission be forthcoming, recommended the imposition of a planning condition; one which would require the prior submission of a surface water drainage scheme. With regard to the *Environment Agency*'s response, it offered ‘*no objection*’ insofar as flood risk; while at the same time offering advisories relating to water quality, fisheries and resources and recommended the imposition of a condition relating to the submitted *Water Framework Directive*, should planning permission be forthcoming. The recommendations in respect of either of the two returned expert views are considered to be reasonable and are reflected within condition no.s 29 and 32 of the ‘*Schedule of Draft Conditions*’ in Appendix H to this report.
- 7.59 The specific impacts of flood risk, surface water drainage and water quality have not featured within the representations of other interested parties or members of the public in respect of this particular planning application.
- 7.60 Having assessed the information submitted during the processing of this application relating to climate change and the water environment to be both adequate and sufficient upon which to make a recommendation in regards to the determination of the application, the applicant is considered to have demonstrated, that the proposed development is capable of being appropriately mitigated. The information has been subject to consultation; the responses to which have been taken into account. When weighed in the planning balance relating to the extant policies against which this proposal must be assessed in respect of flood risk, surface water drainage and water quality, it is for the reasons explained in the preceding paragraphs, that the development is not considered to be in any conflict of any significance with the relevant policies and, indeed, is capable of compliance with the general thrust of the requirements of HDLP policies **CC1**, **CC2**, **NE2**, **NE3** and **NE5**. In the absence of unacceptable and/or adverse cumulative effects upon the water environment of any material significance in light of their effects in terms of magnitude, extent, duration, timing and frequency, the aforementioned policies are considered to have been satisfied in this particular instance.

*Landscape and visual impact:*

- 7.61 In light of the spatial context and the sensitivity of the landscape in which the proposed development lies, the potential for likely significant landscape effects has meant that they have been ‘*in scope*’ for the purposes of EIA. The assessment of the effects of the proposed development in respect of landscape is included within the *Environmental Statement* which accompanies the planning application ([Chapter 7](#) refers). Landscape impacts are distinct from visual impacts in that they relate to changes in the fabric, character and quality of the landscape; whereas, visual impacts relate to specific changes in views and the attendant impacts therefrom upon others, such as those living near a site or those enjoying the outdoors along public footpaths by way of

example. The parameters of both landscape and visual impacts studied include magnitude/scale, significance and sensitivity.

- 7.62 Chapter 7 is informed, insofar as the effects upon the trees within the vicinity of the proposed development, by an [Arboricultural Impact Assessment](#) identifying both the proposal's direct and indirect effects as well as recommending necessary mitigation to ensure the long-term well-being of any retained trees. Out of a total of 146 *arboricultural features* surveyed (including trees, tree groups/linear groups, woodlands, hedges and shrubs), the assessment reports four *veteran trees* were identified, including one *ancient tree*. It concluded there are potential significant effects due to tree loss and recommends mitigation during construction in the form of protection of existing trees and woodland together with replacement planting of trees and woodland; resulting in residual effects ranging from '*minor adverse*' to '*major adverse*' at the construction phase and residual effects at the operational phase ranging from '*minor*' to '*moderate*' with the most significant identified effect being the potential deterioration of the *ancient tree* and the four *veteran trees*.
- 7.63 As has been earlier referred in paragraph 7.31 above, the application is accompanied by an [Arboricultural Impact Assessment](#) explaining that the periphery of the rooting area of one *veteran oak tree* (T13) could potentially be at risk of deterioration resulting from construction works and that, of the *veteran trees*, three are at risk of damage to rooting areas, with two of these features also likely to experience increased isolation within the landscape. In order to minimise and avoid adverse impacts to these features during the construction phase, *root protection areas* are proposed through the use of '*construction exclusion areas*' prohibiting access and tree protection fencing to avoid above ground damaging activities. In the event that Members resolve to grant planning permission, in order to control this particular aspect of the proposed development, a planning condition could be imposed. This is suggested within condition no. 16 in the '*Schedule of Draft Conditions*' that accompanies this report at Appendix H.
- 7.64 Chapter 7 of the submitted *Environmental Statement* comprises the outcome of a *Landscape & Visual Impact Assessment* (LVIA); an assessment which, as described in Section 3.0 above, points to *adverse* impacts resulting from the proposed activity in association with the road's construction (including noise, external lighting and built structures e.g. a 5 metre high retaining wall), vegetation clearances (as well as new planting areas) and changes in local topography. It is important to note that external lighting is an identified effect only insofar as the construction phase of the proposed development. Chapter 7 of the *Environmental Statement* makes clear that "*the proposed highway does not have lighting.*"
- 7.65 The applicant has explained that proposed mitigation measures would include the planting of native deciduous trees and shrubs as woodland, copses and individual scattered trees, as well as the re-introduction of upland *heath* habitat, wildflower meadow and grasslands and the reinstatement of field boundaries that would assist in assimilating the new structures into the surrounding landscape. The new planting of woodlands, tree groups and individual trees to mitigate for loss of arboricultural features has been estimated to result in an overall net increase of 1.68 ha of woodland area which the applicant intends to also be subject to a long-term management plan. The assessment finds that by specifying locally occurring plant species, the pattern of vegetation on embankments and cuttings would merge into the surrounding landscape in terms of colour, tone and texture, when viewed at distance. Once mitigated, the residual effects upon the *Nidderdale AONB* have been assessed as being *moderately adverse (significant)* with *major adverse* effects experienced within the *Middle Washburn Valley* and *Gritstone Moor* landscape character areas (reducing to *moderate* over time). While other landscape designations, including the *National Park*, have been deemed to result in *negligible or minor effects*.

- 7.66 The assessment concludes overall **significant adverse residual landscape and visual effects** are likely to arise during both the construction of the scheme and after the road would become operational which, understandably, would be inevitable when taking into consideration the high landscape sensitivity, the area's openness and the unavoidable 'change' in the landscape brought about by the re-aligned road emerging within a re-worked topography, attendant more open views until new planting becomes established and new vegetation patterns experienced by both residential and recreational receptors using the public rights of way network.
- 7.67 The LVIA has explained that while eight of the nineteen viewpoints were found to be subject to potentially significant effects during the construction and operational phases of the proposed development, five were sited within the area of the scheme itself.
- 7.68 Insofar as more permanent views of the proposed scheme, views would be possible from the property of *Blubberhouses Hall* (identified as *viewpoint no. 5*) which lies at an elevated position above *Hall Lane* and the assessment deems **significant** impact to be likely; although with diminishing magnitude over time, through the screening provided by intervening topography and maturing landscaping. This is similarly the case insofar as *Manor House* and *Botham's Farm* (*viewpoint no. 11*) and *Woodview* (*viewpoint no.s 4 & 5*). The submitted LVIA notes that visual impacts would likely be experienced to a lesser degree and over time to a degree that would be considered **negligible**, by those from *viewpoint no.s 6 & 7*; namely properties along *Hardisty Hill*. Although views from *Fewston Reservoir* car park (*viewpoint no. 8*) are stated to be likely to be subject to "considerable change" in the near, middle and far distance, they are, again, likely to diminish over time as the scheme matures. An effect of either 'no change' or 'negligible change' has been found in respect of *viewpoint no.s 1, 6, 9, 10 and 14-16 (inclusive)* over time.
- 7.69 While transient views experienced by public highway users within or in the vicinity of the proposed re-aligned road are not assessed by the applicant as being significantly adverse (with the exception of *Hall Lane* and *West End Lane*), transient views from those making use of the recreational routes, such as the public rights of way network in the vicinity of the proposed development, are likely to experience significant effects within 600 metres distance (especially insofar as the *bridleways ref. no.s 15.14/15/1 (viewpoint no.s 2-4 (incl.)), 15.14/18/1 (viewpoint no. 13), 15.14/4/1 (viewpoint no. 18) and 15.14/3/1*) and, while visual impacts are likely to be reduced by partial screening provided by vegetation of varying types along and up the valley, views are, nonetheless, considered to be adversely affected by the changes that would be brought about by the scheme.
- 7.70 While the proposed development represents the unavoidable introduction of a new linear feature in the landscape through the building of a more elevated and, thereby, more prominent re-aligned road, it nevertheless replaces, rather than duplicates, the purpose for which the existing alignment is currently used. The existing A59 will reduce in scale, returning to *acid grassland* at its western end beyond *Paradise* and, in the other direction, eastward, becoming, instead, a public bridleway and private access track to *Bothams' Farm*. The LVIA has assessed that the effects including the effect upon tranquillity are likely to be localised and also likely to reduce over time as the proposed vegetation assimilates the scheme into the landscape. There is nothing apparent within the information since the submission of further and additional information during the processing of the application that would give rise to a contrary view and, therefore, the measures proposed in mitigation are considered to be capable, over time, of assimilating the proposed new features into the landscape through the re-introduction of hedgerow field boundaries, planting of native deciduous trees and shrubs as areas of woodland, small copses and a landscape interspersed with individual trees as well as the creation of area of upland *heath* habitat together with sowing wildflower meadows and grasslands. Where such mitigation has not been

possible to be accommodated within the bounds of the application site, the applicant proposes the landscape and visual effects of the proposed development to be compensated for by undertaking to fund measures in mitigation on land that lies outwith the red line boundary of the application.

- 7.71 Turning to the extant '*development plan*' policies against which to assess the proposed development's landscape and visual effects, these include **HDLP Policy HP3**, **HDLP Policy NE4**, **HDLP Policy NE5**, **HDLP Policy NE7** together with the policy which deals specifically with the *Nidderdale Area of Outstanding Natural Beauty*, **HDLP Policy GS6**.
- 7.72 The focus of **HDLP Policy HP3** is placed upon local distinctiveness and directs the incorporation of protection, enhancement and reinforcement of landscape character, quality and features in the design of proposals coming forward in order to contribute to local distinctiveness (aligning with the general thrust of NPPF Paragraph 127). As mentioned within Section 6.0 above, **parts A** and **C** to this policy are of particular note with emphasis upon spatial quality and having regard to the contribution that the natural environment makes to local distinctiveness. These aims of protection, enhancement and restoration of landscape character are similarly sought by **HDLP Policy NE4**. In particular, it seeks to achieve this by, amongst other things, maintaining aesthetic quality (**Part A**), sympathetic design and respect for landscape character and setting (**Part B**), protecting and enhancing a landscape's character, appearance and local distinctiveness (**Part C**) as well as having regard to landscape sensitivity (**Part D**) and avoid harm or detriment (**Part E**). Along similar lines, the aims of protection and enhancement are also reflected within **HDLP Policy NE5** which focusses upon green infrastructure. It seeks to protect and enhance the social, environmental and economic benefits of existing green infrastructure features and/or incorporate new green infrastructure features (**Part A**) as well as requiring opportunities for the enhancement or creation of links between green infrastructure features to be capitalised upon (**Part B**) and where possible seek corridor improvements (**Part D**). Though the focus of concern within **HDLP Policy NE7** lies more specifically upon trees and woodland, it shares the aims and objectives of protection and enhancement.
- 7.73 As earlier referred, the conclusions of the LVIA point to there being, overall, **significant adverse residual landscape and visual effects** during both the construction and operational phases of the scheme. In acknowledging these harms as significant, they, understandably, give rise to inevitable conflict with the aims and objectives of these particular policies of the Plan, as it cannot reasonably be argued that the scheme is capable of protecting the character, appearance and local distinctiveness of the landscape as required by HDLP Policy HP3 and HDLP Policy NE4. It can neither be reasonably argued that the protection of green infrastructure (HDLP Policy NE5) and, more particularly, trees and woodland (HDLP Policy NE7) have been safeguarded in a circumstance where in order to accommodate the proposed road realignment, the removal of existing vegetation would be necessary.
- 7.74 However, where the scheme is not capable of meeting the specific aspiration of protection within these policies, it is considered that the proposed development is capable of delivering enhancement and reinforcement of the character, appearance and local distinctiveness of the landscape (as sought by HDLP Policy HP3) and restoring landscape character (as sought by HDLP Policy NE4) through the development's proposed mitigation in the form of native deciduous tree and shrub planting amounting to 7.60 ha to mitigate for the 5.92 ha loss of woodland canopy cover increasing the total woodland area by a further 1.68 ha as well as the re-introduction of upland *heath* habitat, wildflower meadow and grasslands, and the reinstatement of field boundaries as well as producing a vegetation pattern facilitating in merging as many of the changes into the surrounding landscape as possible. The scheme is, furthermore, capable of delivering the enhancements in respect of green infrastructure



that are sought by HDLP Policy NE5 through the incorporation of new green infrastructure features within its design.

- 7.75 In seeking to protect and enhance existing trees which, amongst other things, have a landscape value, **HDLP Policy NE7** (consistent with **part c**) of **NPPF Paragraph 175**) also provides the policy direction to prevent the loss or damage to *ancient* or *veteran* trees, unless there exists an overriding need which outweighs the loss or harm (**Part A**) and there are no alternatives to the chosen location of a development (**Part B**). In a circumstance of loss or damage, replacement planting either on-site or compensatory planting off-site would be sought by this policy. To this end, the proposed development not only includes the planting of native deciduous trees and shrubs as woodland, copses and individual scattered trees, the re-introduction of upland *heath* habitat, wildflower meadow and grasslands, the reinstatement of field boundaries, watercourses and rock outcrops that would assist in assimilating the new structures into the surrounding landscape, but also the securing of measures off-site through the LEMMMP and legal agreement. Furthermore, with specific regard to the trees themselves, mitigation embedded within the design of the scheme would provide for their long-term management (including those newly planted); an increase in the diversity of newly created woodland edges; ensure the management of retained trees to improve their structural and physiological condition and also provide for the sourcing of appropriate provenance and diversity for the new planting as recommended within the submitted [Arboricultural Impact Assessment](#).
- 7.76 While no loss or damage to *ancient* or *veteran* trees has been identified, there is an acknowledgement that such trees could, indirectly, be potentially vulnerable or susceptible to deterioration, HDLP Policy NE7 recognises that there might exist circumstances where potential vulnerability or susceptibility to such trees may occur; in which case, the provisions within the policy provide for arguments of an overriding need outweighing the loss or harm (**Part A**) and there being no alternatives to the chosen location of a development (**Part B**) apply. It is considered that the current proposal comprises one such circumstance.
- 7.77 Earlier paragraphs within this sub-section dealing with landscape and visual impacts have summarised the outcome of the LVIA conducted by the applicant which explicitly acknowledges the proposal's incapability of avoiding the impacts upon the landscape and visual environment by dint of its very nature and scale i.e. the construction of stretch of highway along a new alignment to replace that which exists at present. It is similarly explicitly acknowledged within the reasoned justification accompany HDLP Policy NE4 (dealing with landscape character), at paragraph 9.41, that "*pressures of development and changing land management practices lead to constant change...Planning aims to manage this change to make a positive contribution, where possible, and minimise any detrimental effects on landscape character, and is one of the key tools used to manage change to landscape character*". While significant adverse landscape and visual impacts arise as a result of the proposed development, it is evident from the LVIA and the submitted *Arboricultural Assessment* and the subsequent strategies that have been offered up by the applicant including the *Outline Landscape & Ecology Mitigation, Monitoring and Management Plan* (OLEMMMP) and ultimately the scheme design itself, that they have all been cognisant of the policy requirements of the relevant documents that comprise the *development plan*.
- 7.78 In submitting an application which has been accompanied by an *Environmental Statement* supported by an assessment of the likely significant landscape impacts of the proposed development, it has been demonstrated that the scheme has been informed by the assessment and, subsequently, designed so as to have regard to the policies of HP3, NE4, NE5 and NE7. Insofar as **HDLP Policy HP3** and **HDLP Policy NE4**, while the road scheme, *per se*, could not be regarded as providing the requisite landscape protections sought by these policies, the scheme design is such that regard



has been had to the character of the surrounding landscape and new planting designed with the aim to be as sympathetic as possible to do so to the context in which it is to be situated. Notwithstanding, the clear and obvious impacts brought about by the introduction of a new re-aligned road more prominent than the one it replaces, the scheme has been designed such that it acknowledges the sensitivity of the landscape in which it is situated and, furthermore, an undertaking is intended to extend beyond the bounds of the application site itself to secure additional landscape improvements that would enhance the assimilation of the scheme into its landscape context. Regard has been had to ensuring that the inter-connectivity of green infrastructure has been accommodated where possible to do so to accord with the aim and objectives of **HDLP Policy NE5** and finally, insofar as **HDLP Policy NE7**, where the proposal has sought to protect *ancient* and *veteran* trees and provide for an additional 5m buffer to the stated *Root Protection Area* in order to avoid impacts on these identified high value features.

- 7.79 Regard must also be had to **HDLP Policy GS6**. As outlined earlier within Section 6.0 above, this policy directs that any major proposals within the AONB “*will be refused unless justified by exceptional circumstances*” and should be determined according to relevant national planning policy which is set out at **NPPF Paragraph 172**.
- 7.80 **Paragraph 172** of the NPPF directs that ‘*great weight*’ should be given to conserving and enhancing the landscape and scenic beauty of AONBs, and that planning permission for major developments within such designations will only be granted where it can be demonstrated that it is in the public interest. Elements of proposals to be considered include the need for the development (including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy); the cost of, and scope for, development outside of the designated area, or meeting the need for it in some other way; and, any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
- 7.81 The application is subject to this particular ‘*development plan*’ policy (and NPPF Paragraph 172) due to its location within the *Nidderdale AONB* and regard has been had to the definition of ‘*major development*’ in the context of both this local and national policy; a decision which has taken into account the proposal’s nature, scale and setting and the potential significant adverse effects the proposed development could have upon the purposes for which the AONB has been designated or defined.
- 7.82 It is acknowledged that the transect of the proposed road scheme through the *Nidderdale AONB* (an area of high landscape sensitivity) renders it in direct conflict with the aims of **HDLP Policy GS6** which seeks to both conserve and enhance the ‘*natural beauty and special qualities*’ of the AONB, closely aligned with NPPF Paragraph 172. This conflict arises not only in respect of the obvious adverse landscape consequences of a new and, from some locations, a more conspicuous alignment of road set on an elevated slope and descending into the *Washburn Valley*, but also due to the disturbance brought about by the use of the road too. However, on the basis of the evidence presented, the proposal presents a compelling argument for the realignment of the existing road through the gill which requires an engineering response to the land stability issues that it continues to encounter such that there is a demonstrable recognition and an acknowledgement that there is no practical scope for a route that avoids the AONB sought by **HDLP Policy GS6** and **NPPF Paragraph 172**. The *Landscape and Visual Impact Assessment (LVIA)* and its accompanying figures and appendices have provided a detailed assessment of the potential likely impacts, secondary mitigation and residual effects of the proposed road and have addressed issues in relation to both landscape character (e.g. landforms, land use and patterns, land coverage/vegetation, open space and cultural influences) and visual impacts (e.g. those experienced by users of the public highway, Public Rights of Way, recreational

uses and residential receptors) duly acknowledging where significant adverse effects exist. As required by national policy, the need for the development (including in terms of any national transport infrastructure and connectivity considerations) has been demonstrated by the information accompanying the application. Furthermore, the impacts of both the granting of permission and *vice versa* upon the local economy have also been taken into account as has the cost of, and scope for, development outside of the designated area, or meeting the need for it in some other way. The third of the considerations set down within Paragraph 172 are those of detrimental effects on the environment, the landscape and recreational opportunities, and the extent to which they are capable of being moderated. Alongside the proposed development's acknowledged detractor from the natural beauty and scenic qualities of the AONB has to be weighed the earlier referred arguments of the need for the proposed development and the absence of any scope for its location outside the AONB; both of which, on this particular occasion, are considered to weigh heavier and overriding.

- 7.83 Alongside the assessment of the landscape and visual effects of the proposed development, the applicant has also assessed the scheme's impact upon tranquillity. The assessment concluded that the effect would be a "*temporary localised loss*" as a result of noise, additional traffic and visibility of construction activity. When it comes to the stage of the road in operation, a conclusion of '*minor to negligible*' changes within the local landscape would likely give rise to a slight reduction in tranquillity within localised areas, but it has assessed that these would diminish with time as the landscaping elements begin to mature; acknowledging at the same time that a continuation of traffic noise and the visibility of the transient movement of vehicles through the area are likely to affect tranquillity to varying degrees during both the day and the passing of the seasons.
- 7.84 Those raising objection against the proposed development cite, *inter alia*, that, in their view, the existing section of road is "*one of the most beautiful in the county*" and "*the planned replacement will look like a blot on the landscape*" and, in addition, that the proposed development would have a negative visual impact on local residents of *West End* (which is the road leading in a north-west direction from the A59 to *Thruscross Reservoir*) and the *Nidderdale AONB* as well as pointing to the potential for *ancient woodland* to be affected. One of the third party representations pointed to the preference for the use of natural stone in the formation of boundary treatments rather than fencing. Where it has been both possible and appropriate to do so, the applicant has made clear that natural stone has been the treatment of choice to keep within the local vernacular. Indeed, the applicant has offered up, in response to the representations, their agreement to the inclusion of a condition to require the submission and agreement of final details of the proposed walling and fencing should planning permission be forthcoming and this has been suggested within condition no. 12 in the '*Schedule of Draft Conditions*' that accompanies this report at Appendix H.
- 7.85 Those experts from whom views in respect of the application have been sought have included the County Council's own in-house expert on landscape matters, the *Yorkshire Dales National Park Authority*, the *Joint Advisory Committee of the Nidderdale AONB*, and *Natural England*. The consultation responses received by the County Planning Authority are the views expressed by experts in their respective fields and have returned their independent and impartial opinions insofar as their individual areas of expertise.
- 7.86 While holding concerns initially earlier this year insofar as related to the original submission topic documents on matters of landscape and tranquillity, stating that more needed to be done to address deficiencies in respect of impact minimisation, monitoring and mitigation (Section 4.0 above refers), provided an agreement on landscape mitigation can be secured, *Natural England* have welcomed the additional information submitted as part of the application and have subsequently returned '*no objection*'

adding further that in terms of tranquillity, this will necessitate monitoring over the longer term i.e. at least 15 years.

- 7.87 This initial concern was shared by the County Council's own in-house landscape adviser, returning, at the time, recommendations seeking further mitigation in order to reduce, offset or compensate for significant residual adverse landscape and visual impacts. In a final response to consultation, there was expressed satisfaction that the revised proposals now provide for an OLEMMMP and *Offsite Measures Fund* which are considered reasonable and capable of mitigating, offsetting and compensating for the adverse effects as assessed as well as a recommendation for a number of conditions for consideration should planning permission be forthcoming and these are provided for within the '*Schedule of Draft Conditions*' attached as Appendix H to this report; namely condition no.s 15 to 19 (inclusive) and no. 22.
- 7.88 Joining the concerns raised by the County Council's own in-house landscape adviser and *Natural England* were the concerns of the *Yorkshire Dales National Park Authority* who also pointed to the exploration of further biodiversity enhancement measures on land outside that which is the subject of the application. This view has been echoed by the *Joint Advisory Consultative Committee* for the *Nidderdale AONB* in that they made clear the importance of compensation for the significant residual impacts that are likely to affect the AONB. The final response of the *Committee* to consultation concluded that the compensation sought has now been satisfied through the provision of an updated *Outline Landscape & Ecology Mitigation, Monitoring and Management Plan* (OLEMMMP) which they consider to be capable of resulting in a measurable benefit for biodiversity and, furthermore, that the off-site landscape fund will be able to deliver meaningful positive landscape impact.
- 7.89 Upon reviewing the submissions of expert consultants appointed by the applicant, those consulted by the County Planning Authority have accepted the findings of the applicant's experts and are satisfied that the mitigation of the effects of the development with regard to safeguarding the local landscape and protection against adverse visual impacts are both appropriate and proportionate and that, where the consultee is of the opinion that controls are necessary, they have offered up suggested wording for the consideration of the County Planning Authority in the form of planning conditions.
- 7.90 The suite of application documents, including those received during the processing of this planning application to which reference is made above and the accompanying *Environmental Statement* with its technical appendices, the subsequent further and additional information over the course of the processing of the application, together with the objections raised against the development relating to potential landscape and visual effects of the proposed development and the applicant responses to those points of objection have all been scrutinised by the relevant experts including those Officers of the County Council and the District Council, the *Yorkshire Dales National Park Authority*, *Nidderdale AONB* and *Natural England* within their respective jurisdictions (Section 4.0 of this report refers).
- 7.91 The concerns that have been raised, while acknowledged and, indeed, understandable must be weighed against other material considerations such as those as first outlined above at the start of this particular section of this report relating to the argument of need and the absence of alternative choices to achieve the end result of a safe and stable public highway along this particular stretch of the gill. While alternative alignments have been considered and assessed, the conclusion reached has been that the proposed development comprising a key strategic transport infrastructure connection cannot be located in any other configuration than that which is proposed without giving rise to increased landscape and visual impacts of significance elsewhere.

- 7.92 Notwithstanding representations made in objection against the development (outlined earlier within Section 5.0 above) which are both acknowledged and understood as being reasonable concerns, the proposed development, appropriately mitigated as put forward by the applicant within the submitted details, when weighed in the '*planning balance*', is considered insofar as the relevant policies identified herein to give rise to policy conflicts in a number of respects. It is acknowledged that **HDLP Policy GS6** cannot reasonably be argued to have been complied with. Furthermore, it is also acknowledged that policy conflict exists, in part and in particular with the protection elements of HDLP Policies **HP3, NE4, NE5** and **NE7**. Nevertheless, the proposed development, by virtue of the measures put forward in mitigation, is capable of delivering upon the landscape and biodiversity enhancement and restoration aspirations that these policies are seeking to achieve and this has been taken into account in the overall assessment. Moreover, other material considerations to which due regard has been had on this occasion, are considered to weigh heavier in the '*planning balance*' i.e. the need to find an engineering solution to the continual degradation of the land through land slippages encountered by the existing road; together with the scheme's contribution to the continued east-west connectivity along this travel corridor and the consequent securing of economic benefits brought about by consistent open highway unimpeded by road closures and traffic delays due to ground disturbances.
- 7.93 There is nothing arising, provided that both best practice is followed and adequate mitigation is undertaken, which would give rise to a conclusion that the impacts upon the landscape would be, materially, both significant or adverse to such a degree that would warrant a refusal on this ground alone and the argument to sustain such a refusal sufficiently compelling.

#### Cultural heritage

- 7.94 With the attendant ground disturbance works that are inevitably associated with the construction of a new public highway on virgin ground of the scale and nature and in the location proposed, the potential for likely significant effects upon cultural heritage has meant that they have been '*in scope*' for the purposes of EIA. The assessment of the effects of the proposed development in respect of cultural heritage is included within the *Environmental Statement* which accompanies the planning application ([Chapter 8](#) refers). Surveys of heritage assets have been undertaken by the applicant having due regard to the NPPF definition of a '*heritage asset*' as being "*a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets [which, in this particular instance, are confined to listed buildings within the locality of the proposed site] and assets identified by the local planning authority (including local listing)*" and referred to as non-designated heritage assets.
- 7.95 Within a kilometre of the proposed development a number of *heritage assets* have been identified by the applicant including 15 no. *Grade II Listed Buildings*, 38 no. non-designated heritage assets of pre-historic date, 211 no. non-designated heritage assets of Roman to modern date and 23 no. Historic Landscape Characters. The submitted *Landscape & Visual Impact Assessment* explains that three *Grade II* listed buildings are located in close proximity to the proposed development; namely *Blubberhouses Hall*, *Myer's Lair Barn* (identified as '*empty*') and the *Church of St Andrew*. *Blubberhouses Hall* (viewpoint no. 5) and the *Church of St Andrew* (lying proximate to viewpoint no. 8) are identified as being subject to likely significant effects on visual amenity. All of the locations will experience a gradual reduction in visual effects over a period of 15 years as the proposed vegetation becomes established. While the visual effects in relation to the *Church of St Andrew* have been assessed as



remaining significant after 15 years, the assessment also concludes beneficial effects arising as a result of the diversion of *Church Lane*, taking it further away.

- 7.96 The assessment undertaken by the applicant concluded the residual effects arising from both the construction and operational phases of the proposed development as ranging from '*neutral*' to '*moderate adverse*'; the latter affecting *Myer's Lair Barn (Grade II)* (described by the applicant as being a late 17<sup>th</sup> to early 18<sup>th</sup> century barn, which has late 19<sup>th</sup> and 20<sup>th</sup> century alterations and located to the south of *Hall Lane*). **Moderate adverse residual effect** has also been found in respect of *Blubberhouses Hall* (described as a mid-19<sup>th</sup> century hall built in an *Elizabethan-style*) & its associated *sundial* which is also listed (both are enclosed by walls and high evergreen hedges, which obscure views of the assets from *Hall Lane*), *Skaife Hall farmhouse, barn & cattle shelter* (described as being built in the mid-18<sup>th</sup> century) and the *Church of St Andrew*; all of which are assessed as being of '*medium sensitivity*' (defined as perhaps having been subject to alterations that may detract from the asset's significance and/or perhaps having been separated in some way from its whole) while acknowledging that their settings form a substantial contribution to the significance of the assets. Due to proximity to the route of the proposed re-alignment, the potential, therefore, exists to affect the settings of these assets.
- 7.97 With specific regard to *Blubberhouses Hall*, representation has been made to the potential for negative effects to arise from the proposed development as a result of stating that their "*building will be directly visible from the roadside*". However, the applicant's assessment has explained that the existing public highway onto which the Hall gains access (*Hall Lane*) is proposed to be '*stopped up*' and will, therefore, cease to be subject to the passing traffic of *Hall Lane* in front of the Hall that exists at present. Moreover, during the course of the '*design journey*' of the realignment, the road has moved further away from the Hall to the west for an approximate distance of 83 metres; thereby, presenting a greater physical separation from the scheme than first envisaged. The change from a through-road to a non-through road and one for access only, provides the opportunity for an enhancement of the setting of this listed building by the removal of general passing traffic from its immediate vicinity.
- 7.98 The application details have also explained that upon the completion of the construction of the proposed development, the direct temporary '*moderate adverse*' (significant) effect upon *Myer's Lair Barn* would, thereafter, become a direct permanent long-term *moderate adverse effect* (substantial) upon the road being brought into use. While acknowledging that harm to setting is a likely consequence of the road scheme, taking into account the '*medium*' value of the assets concerned and the level of harm to the significance of the assets, it is not considered that substantial harm will occur.
- 7.99 Insofar as effects upon *below ground* archaeology, though *significant adverse effects* have been concluded as a direct result of the construction of the re-aligned road, they concern non-designated assets of likely '*low*' to '*medium*' sensitivity and are assessed as unlikely to be of any higher elevated interest such as the kind of the calibre of a *scheduled ancient monument*. Furthermore, the proposed overseeing of the works by those qualified in such matters would ensure the appropriate recording of any assets of archaeological interest.
- 7.100 Turning to the policy considerations against which to assess the proposed development, regard must be had to the relevant '*development plan*' policy, **HDLP Policy HP2** which focusses specifically on heritage assets and directs they themselves and their respective settings are protected and, where possible, enhanced, whether they be designated or not. Relevant national policy is contained in **NPPF Paragraph 189** which requires proposals to be accompanied by a description of the significance of any heritage assets affected by a proposed development while noting that the level of detail should be proportionate to the asset's importance to understand the potential



impact of the proposal on their significance. This requirement is considered to have been met on this occasion through the assessment of cultural heritage impacts within [Chapter 8](#) of the submitted *Environmental Statement* which accompanies the application. Where any harm or loss to a heritage asset may arise, **NPPF Paragraph 194** requires clear and convincing justification and **NPPF Paragraph 196** requires that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefit. Insofar as concerns this particular proposal and where it has the potential to affect heritage assets such as listed buildings, specific regard must also be had to the potential to affect the setting of listed buildings under the provisions of the [Planning \(Listed Buildings and Conservation Areas\) Act 1990](#) and in particular [Section 66](#) of that Act (which requires 'special regard' to be had to the desirability of preserving the setting of listed buildings).

- 7.101 In this particular instance, the effects of *major adverse effect* upon the *above ground* assets of *Myer's Lair Barn* and *moderate adverse effect* upon *Blubberhouses Hall (& sundial)*, *Skaife Hall farmhouse, barn & cattle shelter* and *significant adverse effects* upon *below ground* assets are recognised and considered to bring the proposed development into conflict with HDLP Policy HP2. However, once mitigated, no finding of any harm to, or loss of, the significance of these heritage assets (from either their alteration or destruction, or from development within their setting) has arisen. Instead, a conclusion of '*less than substantial harm*' requires consideration of the proposal against NPPF Paragraph 196 where the harm needs to be weighed against the public benefits that would be brought about by the scheme and, in this particular instance, the public benefits of the re-aligned road (i.e. a safer public highway that removes the threat of falling debris from adjacent rock faces, reduces the occurrence of road closures through the vulnerability of the road's integrity and ensures continued east-west connectivity along this strategic transport corridor) are considered to be sufficient to outweigh the level of harm that has been identified and amount to clear and convincing justification for any harm caused.
- 7.102 With the exception of reference within the representation in respect of *Blubberhouses Hall* (as referred to earlier), the specific impacts upon cultural heritage have not featured within the representations of other interested parties or members of the public and neither has this specific topic area of consideration been subject to objection from those with whom the County Planning Authority has sought expert views. The views of *Historic England* and the County Council's in-house adviser on archaeological matters have been sought and, with respect to the first, an expressed '*no wish to comment*' has been returned and, in respect of the second, a response has expressed that, in the event of planning permission being forthcoming, a pre-commencement condition for the purpose of securing a *Written Scheme of Investigation* to be submitted would be required to be imposed (condition no. 33 as set down within the '*Schedule of Draft Conditions*' refers. Furthermore, aligning with the requirements of NPPF Paragraph 196, where less than substantial harm to a heritage asset's significance arises, a case for the public benefits should be weighed in the '*planning balance*' and in this case, the public benefit brought about by the construction of the re-aligned section of this limited stretch of the A59 is considered to weigh the heavier of the two considerations. Furthermore, HDLP Policy HP2 envisages such circumstances where harm to elements which contribute to the significance of a designated heritage asset or archaeological site of national importance might arise and in such instances, it points to the public benefits of a proposed development needing to be sufficient to outweigh conflict with this particular policy. In this context and in light of the responses to consultation received from experts in their respective fields, the arguments for the proposed development, appropriately mitigated as put forward by the applicant within the submitted details, when weighed in the '*planning balance*', are considered to be, overall, capable of tipping the balance in its favour.

Local amenity (e.g. noise, vibration, light pollution and air quality (including emissions, odour and dust), population and health and public rights of way

Noise and vibration

- 7.103 In light of the environmental sensitivity of the area in which the proposed development lies and the locations of residential properties within the vicinity of the proposed development, the potential for likely significant effects upon noise and vibration has meant that they have been *'in scope'* for the purposes of EIA. The assessment of the effects of the proposed development in respect of noise and vibration is included within the *Environmental Statement* which accompanies the planning application ([Chapter 10](#) refers). While the applicant's expert advisers conclude, overall, there to be **'neutral'** to **'minor adverse'** residual effects during both the construction and operational phases, this is not the case in respect of the impacts of noise and vibration. The outcome of the EIA has found that **'negligible'** to **'minor'** effects in respect of noise and vibration would arise during construction and, once operational, residual effects, between opening and after 15 years of use have been found to range from **'minor'** to **'major adverse'**. The assessment carried out by the applicant's expert advisers has recognised that *"subsequent major (significant) residual effects from traffic noise will occur at the open space receptors immediately adjacent to the Proposed Scheme on bridleway 5.14/5/1 and the AONB"*. In order to mitigate, proposed measures put forward in mitigation include environmental barriers, low road noise surfacing and both speed and volume restrictions.
- 7.104 Receptors susceptible to the effects of noise and vibration include those residing proximate to the proposed re-alignment and those making use of community facilities such as the local church, cricket ground and the public rights of way network. By way of mitigating against the effects of the proposed development especially through noise propagation, embankment cuttings and landscaping are included within the scheme.
- 7.105 While mention is not made of vibration, the specific impact of noise has featured within the representations of other interested parties and members of the public in respect of this particular planning application. Specific reference is also made within one of the representations made against the proposed development to the property of *'Botham's Farm'*. The consideration of noise and vibration is a material consideration and one for which the expert advice of the Environmental Health Officer (EHO) at the Borough Council has been sought. The response of the EHO has been summarised for the purpose of this report in Section 4.0 above, noting the construction phase would be subject to limited hours of operation and noting, once in operation, the road would give rise to *"11 dwellings showing a small difference from existing noise levels (1.0 to 2.9dB)...; one property...with a reduction in noise, one property, Old Badger experiencing an increase of 2.7dB with the remaining properties being considered negligible (and increase of being 0.1 to 0.9dB)"*. The EHO does not return any objection to the scheme, but instead recommends that certain conditions should be applied in the event of planning permission being forthcoming. These are reproduced within condition no.s 5 and 37 to 39 (inclusive) the *'Schedule of Draft Conditions'* within Appendix H to this report.
- 7.106 In light of the requirement of *'development plan'* policy, **HDLP Policy HP4**, seeking to safeguard against significant adverse impacts upon residential amenity pointing specifically to impacts upon the amenity of residents in regards to, amongst other things, noise, vibration and other disturbances, the absence of significant adverse effects demonstrates the proposed development, once mitigated and controlled by condition, to be capable of satisfying the requirements of this policy on this occasion.

Air quality (including emissions, odour and dust)

- 7.107 In light of the environmental sensitivity of the area in which the proposed development lies and the locations of residential properties within the vicinity of the proposed

development, the potential for likely significant effects upon air quality has meant that they have been *'in scope'* for the purposes of EIA. The assessment of the effects of the proposed development in respect of air quality is included within the *Environmental Statement* which accompanies the planning application ([Chapter 9](#) refers).

- 7.108 In respect of air quality, the applicable relevant *development plan* policy is **HDLP Policy NE1** which, depending upon the particular circumstance, requires proposals to be accompanied by either *Air Quality Impact Assessment* or a *Dust Assessment* or both as well as identifying mitigation measures which can be implemented to reduce their effects to a minimum. **Part B** of this policy is engaged in this particular instance due to the fact that the proposal's likelihood to generate emissions of dust during demolition, earthmoving and construction and **Part C** because of the sensitivities associated with the *Special Area of Conservation (SAC)*, *Special Protection Area (SPA)*, *Site of Special Scientific Interest (SSSI)*, and nearby non-statutory sites. A further policy requirement, though at the national level, can be found within NPPF **Paragraph 181** which, in this instance, principally points to the need to identify opportunities to mitigate against any air quality impacts.
- 7.109 Taking into consideration the likelihood of the generation of dust as a result of activities such as earthworks etc., an [Air Quality Impact Assessment \(dated October 2019\)](#) has been undertaken and submitted by the applicant. The outcome of the EIA was that **minor adverse** effects would be expected during both construction and operation of the scheme and the overall conclusion when taking into consideration measures capable of being implemented to mitigate against any adverse effects arising such as control measures through the proposed *Construction Environmental Management Plan (CEMP)* (a development/further iteration of the [Outline Environmental Management Plan](#) submitted with the planning application). Upon the scheme commencing operation, the assessment concludes an absence of any significant adverse effects arising as a result of dust and proposed, therefore, no further or additional measures in mitigation.
- 7.110 One of the representations received by the Authority points specifically to the potential for negative effects to arise from the proposed development as a result of the dispersal of particulate matter (PM<sub>2.5</sub>). However, the applicant's assessment has not predicted there to be any exceedances of annual mean PM<sub>2.5</sub> levels and that, indeed, insofar as relates to the property of *Blubberhouses Hall*, the existing public highway onto which access is gained (*Hall Lane*) is proposed to be *'stopped up'* and will, therefore, cease to be subject to the passing traffic of *Hall Lane* that exists at present. Moreover, during the course of the *'design journey'* of the realignment, the road has moved further away from the Hall to the west for an approximate distance of 83 metres; thereby, presenting greater physical separation from the scheme than first envisaged. The application documents including those received subsequent to the application's submission (Section 3.0 refers) have been scrutinised by the relevant experts which, in the case of air quality, principally includes the expert advice sought from the Harrogate Borough Council Environmental Health Officer (EHO). However, it is noted that the EHO has not returned any specific comments with regards the effects of the proposed development upon air quality and particularly dust.
- 7.111 Although commenting in relation to the interests upon which *Natural England* is principally focussed, it has observed the implementation of the CEMP to be *'appropriate mitigation'* and also commented the proposed mitigation in respect of dust deposition upon *blanket bog* and *dry heath* habitat to be *'sufficient'*.
- 7.112 While the findings of the environmental impact assessment do not point to significant adverse effects arising with specific regard to air quality, there are clear instances where the proposals may give rise to reductions in air quality in certain circumstances such as during the movement of materials in the construction phase of the proposed

development. It is for this reason that planning conditions are considered to be warranted in order to safeguard the amenity of those communities living within the vicinity of the proposed scheme and in specific regard to dust management, condition no.s 4, 7 & 27 are included within the 'Schedule of Draft Conditions' within Appendix H to this report. In taking into account the assessments that have been undertaken, the measures put forward in mitigation and the controls that are capable of being imposed in the event of permission being granted, the proposed development is found, in this particular instance, to be compliant with HDLP Policy NE1.

#### Population and health

- 7.113 Intrinsically linked, though subject to a separate and specific chapter within the submitted *Environmental Statement*, is the material consideration of population and health which is the focus of [Chapter 15](#). This chapter pulls together the strands of the assessment relating to air quality, noise and vibration and the water environment (including drainage) as well as addressing the matters of the protection of Public Rights of Way (PRoW), road and travel safety, accessibility and overall community health. With specific regard to population and health, the assessment identified the effects upon the land take of both physical assets and land in both private and community use, disruption to community facilities finding that the effects as well as the overall health of the local community during both the construction and operational phases, once mitigated (through such means as ensuring the local population is communicated with at appropriate stages etc.), as being unlikely to be significant.

#### Public rights of way

- 7.114 The relevant 'development plan' policy of **HDLP Policy HP5** seeks the protection and enhancement of both public rights of way and access. In total, the applicant's expert advisers have calculated a net gain to the PRoW network of 1,526 metres. In terms of walking, cycling and horse-riding, it is recognised and acknowledged that, as a result of severance, the disruption to four links of the Public Rights of Way network and two permissive routes would result. One of the third party representations (as referred to earlier within Section 5.0 of this report) highlighted concerns with regard to the provision of safe routes for cyclists. The applicant has responded with reassurances that the proposed layout is compliant with current design requirements and includes several features of improvement for the safety for cyclists using the junction; a response which has not been subject to dispute by the expert advisers on this particular aspect of the proposed development. While cycle lanes, road markings for cyclists and signage have all been cited within the third party representation, the applicant has confirmed that it would not be possible to provide cycle lanes in both directions at this location, due to the constraints of the scheme and that markings and signs would not be appropriate in this particular circumstance. Through appropriate temporary diversions and timing of works, the residual effects are not considered to be of such significance to be adverse especially in the longer term when the diverted routes and the vegetation along those routes become established. The County Council's in-house advisers on the Public Rights of Way network have been consulted for their expert views and have returned a response of expressed support as have the *Yorkshire Dales Green Lanes Alliance* and the *British Horse Society* such that it is possible to conclude support arising from compliance with the relevant development plan policy, **HDLP Policy HP5**.

#### Geology and soils

- 7.115 In light of the environmental sensitivity of the area in which the proposed development lies, the potential for likely significant effects upon both geology and soils has meant that they have been 'in scope' for the purposes of EIA. The assessment of the effects of the proposed development in respect of geology and soils is included within the



*Environmental Statement* which accompanies the planning application ([Chapter 12](#) refers).

- 7.116 The relevant ‘*development plan*’ policy in respect of geology is **HDLP Policy NE9** (unstable and contaminated land) (*prohibits proposals for development on land suspected as being unstable unless it can be demonstrated either that there is no foreseeable instability, or that the effects of such instability can be reasonably mitigated and overcome*) as well as NPPF **Paragraph 170** (*protect and enhance sites of geological value and prevent new development from causing unacceptable levels of soil, pollution and land instability and remediate and mitigate despoiled, degraded, derelict, contaminated and unstable land, where appropriate*). Insofar as relates to soils and the protection of agricultural land, **HDLP Policy NE8** is engaged.
- 7.117 With regards the potential residual effects of the scheme during construction, these have been assessed as being **neutral to minor adverse** with the effect upon the important peat resource being **slight adverse**. Once operational, the residual effect upon surface water runoff and isolated release of chemicals and physical contaminants have been assessed as **neutral**. The applicant’s expert advisers have concluded **no significant residual effects** upon geology and soils overall; thereby rendering the proposed development compliant with both HDLP Policy NE8 and HDLP Policy NE9.

Major accident and natural disasters

- 7.118 These issues are the focus of a specific, but short, chapter within the submitted *Environmental Statement*, [Chapter 16](#) and refers to such issues only pertinent to the construction phase of the proposed development. Issues such as potential fire risk due to the abundance of *heath* and *peat bog* within the vicinity of the proposed development and the potential for damage to surface water infrastructure; both of which have been assessed as being anticipated to be as ‘*low as reasonably practicable*’ with the intended site management best practices proposed to be employed throughout the whole of the scheme.

Cumulative effects

- 7.119 The assessment of the cumulative effects of a proposed development is a requirement of the regulations pertaining to environmental impact assessment and the cumulative effects assessment form the focus of attention within [Chapter 17](#) within the submitted *Environmental Statement*. The assessment summarises whether a sensitive receptor group (e.g. local residents or a particular species for example) is exposed to more than one type of residual effect during the construction and operational phases of the proposed development. The assessment concluded that, during construction, the effects on the receptors of users of a number of public rights of way, the listed buildings of *Myer’s Lair Barn*, *Blubberhouses Hall*, the *Church of St Andrew*, *Scaife Hall Farmhouse* and *peat* itself would be ‘**not significant**’ since none of these would experience effects greater than the largest single residual effect. Upon the road being in use, those receptors identified that again would likely experience effects that are likely to be ‘**not significant**’ included the *Nidderdale AONB*, *Hall Beck*, users of a number of public rights of way and *Blubberhouses Hall* since none of these would experience effects greater than the largest single residual effect according to the assessment as submitted. The assessment concludes, overall, there to be no significant intra-project cumulative effects to have been identified.
- 7.120 Another aspect to the assessment of cumulative effects is inter-project as opposed to intra-project as outlined above. In this particular case, the only development to which this would relate is *Blubberhouses Quarry*; a dormant *silica sand* site. On the basis of the information available at the time of writing, the fact that further information is under consideration has led the assessment to conclude it being “*unlikely that sufficient information would be available to determine the planning application within the*



*anticipated construction phase*” of the road scheme and furthermore, “*highly unlikely that quarry site re-mobilisation would occur at the same time as construction*” of the road scheme.

- 7.121 Notwithstanding, the applicant has endeavoured to undertake an assessment based upon the limited information available and assuming a ‘*worst-case*’ scenario in order to identify the cumulative effects resulting from the proposed development. As a result of this assessment, a finding of ‘**significant**’ inter-project cumulative effect has been identified only with respect to visual effects on highway users on *Kex Gill Road* which would only occur in a circumstance of the two schemes working concurrently, i.e. the construction of the proposed road scheme and the operation of the mineral working at the same time. While changes in the landscape are an inevitable consequence of the realignment of the road, they will not necessarily be ‘*unpleasant to the eye*’ and, indeed, the perception of those changes are only likely to be most acute to those regularly using this route rather than those occasionally passing through or passing through for the first time. While the assessment acknowledges significant visual effect is likely to occur, it is also likely to lessen over time once the proposed landscaping has had the opportunity to mature and the scheme becomes ‘*absorbed*’ within its landscape context. Consideration has also been had to the planned phased extraction and restoration of the nearby mineral working which would also serve to further minimise visual effect.

#### Other material considerations

##### Safeguarding mineral resources

- 7.122 With the requirements of the NPPF in mind and having regard to ‘*mineral safeguarding*’ which is defined in the NPPF as “*an area designated by minerals planning authorities which covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development*”, the proposed scheme’s effects upon geology and, in particular, the potential sterilisation of the minerals safeguarding area (particularly in respect of *silica sand*) around the nearby *Blubberhouses Quarry* (as proposed within the emerging *Minerals & Waste Joint Plan*) have been assessed by the applicant and concluded as giving rise to between **neutral** and **minor adverse** effects during construction and **slight adverse** once operational.
- 7.123 **Draft MWJP Policy S01** and **draft MWJP Policy S02 (parts i) to iii)** are relevant in the consideration of this application by dint of the proposed site’s location within areas safeguarded for mineral extraction insofar as *silica sand* and *building stone*. **Draft MWJP Policy S01** directs that all *silica sand* resources with an additional ‘*buffer*’ of 500 metres “*will be safeguarded from other forms of surface development to protect the resource for the future*”. As earlier referred within Section 6.0 of this report, the provisions of NPPF Paragraph 208 place a duty upon the County Planning Authority to plan for a “*steady and adequate supply of industrial minerals*” including the safeguarding and maintenance of a stock of permitted reserves; which, in the case of *silica sand*, is ten years. These policies within the emerging Plan seek to deliver upon this safeguarding duty; although, importantly, safeguarding itself does not presume that such resources will be worked. Indeed, the definition of mineral safeguarding areas, associated with NPPF Paragraph 204, includes an important reference to the word ‘*unnecessary*’ which, in the relevant part, reads “*desired to be kept safeguarded from unnecessary sterilisation*”. This provides the policy means whereby sterilisation might well prove a necessary and unavoidable consequence sufficient to hold the view that permission for certain development might well be considered acceptable; even if conflict with minerals safeguarding policy might exist.
- 7.124 In the determination of this particular application, it is also important to note that the purpose of minerals safeguarding is not to prevent other forms of development on or near to a safeguarded resource, but primarily to ensure that the presence of the resource is taken into account. Text within paragraph 8.22 of the emerging Joint Plan

reinforces this by stating that the purpose “*is not to protect the minerals resource in all circumstances, but to ensure that the presence and potential significance of the resource is taken into account when other proposals in a safeguarded area are under consideration, and that sterilisation of the resource only takes place where there is appropriate justification*”. It goes on to recognise that, in some cases, “*the need for the sterilising development may outweigh the need to protect the resource*”. This helps in managing potential conflict between surface minerals resources and other non-minerals development. Notwithstanding, it is acknowledged that the route of the realignment passes through the minerals safeguarding area (including its 500m ‘*buffer*’) for ‘*silica sand*’ and for approximately two fifths of its proposed distance lies above indicated existence of the mineral resource according to known geological information and is, therefore, in conflict with this particular policy, i.e. draft Policy S01, within the emerging Plan. However, draft MWJP Policy S02 (**parts i**) to **iii**) provides a set of circumstances for which permission may be granted for non-mineral development and these comprise criteria which require proposals to demonstrate they would not sterilise the mineral or prejudice future mineral extraction (*part i*); the mineral is capable of being extracted prior to the development (with certain *provisos*) (*part ii*); or are capable of outweighing the need to safeguard the mineral by dint of the need for the non-mineral development itself (*part iii*). The remaining criteria (*parts iv to vi*) are not engaged in this particular instance.

- 7.125 In addressing these draft policies, notwithstanding its current status as emerging policy in light of the pending adoption of the Plan, the application details have explained that the proposed scheme would (i) neither sterilise or prejudice future safeguarded mineral extraction, unnecessarily, to any significant material degree, (ii) be capable of providing for the prior extraction of mineral where, in accord with NPPF Paragraph 204, it is practically and environmentally feasible to do so, and, furthermore, (iii) be justified bearing in mind the need for the realignment of the road (for which an alternative route that avoids the mineral safeguarding area cannot be found) is such that it outweighs the need for the safeguarded mineral.
- 7.126 It is noted that representations have been received in objection to the proposed development making reference to the need to undertake a minerals resource assessment stating the application “*fails to establish the quality, quantity, economic value and viability of the mineral resource*”. However, the wording of the policy requires “*an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development*”. This is not considered to be the same as that which is implied within the representation seeking an economic value and viability assessment of the mineral resource *per se*.
- 7.127 The application drawings demonstrate that, for the most part, the road scheme is proposed to ‘*lie upon*’ the mineral that lies beneath or, indeed, upon embankment along certain sections of the realignment; although, it is acknowledged that there are exceptions as in the cases of the two underpasses which would breach the underlying strata to accommodate the 5 metre wide underpasses and there are also stretches of the proposed realignment where the road would lie in cutting. Nevertheless, the application details have sufficiently explained that while the scheme proposes the ‘*take up*’ of approximately 22 hectares of the land which is safeguarded for purposes of *silica sand* extraction on a permanent basis (as shown within the Plan accompanying this report at Appendix E), this, proportionately, constitutes approximately 2.5% of the 865 hectares of safeguarded area for this particular mineral. It is noted that this has recently been recalculated to be 1.8% (dated 17<sup>th</sup> December 2020). Further, the overlap with the safeguarded area is not to be confused as being land that has the benefit of planning permission for *silica sand* working i.e. the *mineral resource* area identified as safeguarded land as opposed to the *mineral reserve* as identified as operational land within the bounds of the consented *Blubberhouses Quarry* site *per se*.

- 7.128 The emerging MWJP confirms that the national policy requirement of a ten year landbank of 'silica sand' is capable of being met by the current planning application relating to *Blubberhouses Quarry* for an extension of time in the event of permission being granted; especially in light of known *silica sand* reserves of 4.05 million tonnes of covering an area of 38 hectares (approximately 4.4% of the safeguarded area for this mineral) remaining to be worked at a maximum permitted rate of 250,000 tonnes per annum of saleable product over a period of twenty-five years. In any event and notwithstanding, the minerals safeguarding area affected by the proposed development, i.e. the area of 2.5% (more recently calculated at 1.8%), is not wholly relied upon to sustain a contribution to the 'silica sand' landbank in the county. On a wider geographic scale, the *British Geological Survey* record in their published [factsheet](#) that reserves of *silica sand* in England in 2018 stood at 39.5 million tonnes and, in Scotland, at 23.1 million tonnes, giving a Great Britain total 62.6 million tonnes.
- 7.129 In order to minimise any potential impact, as far as is reasonably and practically possible to do so, the applicant's advisers have recommended mitigation measures that provide for a sequential approach which, in the first instance, would involve the avoidance of excavation of the safeguarded mineral where possible to do so and, secondly, the prior extraction and eventual use (as opposed to disposal) of 'site-won' materials from the safeguarded area, which, in turn, would ensure the extraction of mineral prior to works taking place and the minimisation of 'land take' of safeguarded land and ultimately any mineral that may be present would remain 'in situ' for the use of future generations should the need arise; thereby, avoiding unnecessarily sterilising the mineral and meaning it would simply be unavailable until such time as the need arose for the removal of the safeguarded mineral beneath the road whenever that might be in the future. Nonetheless, it is acknowledged that, to all intents and purposes, the proposed development does in fact present a sterilisation (albeit being very limited in its extent) in the immediate short-term. Notwithstanding, the proposed development is considered to satisfy part *ii*) of draft MWJP Policy S02. The prior extraction of the safeguarded mineral is capable of being secured through the imposition of a planning condition should planning permission be forthcoming and, to this end, condition no. 44 with the *Schedule of Draft Conditions* that accompanies this report at Appendix H is proposed. In any event, it is important to bear in mind that, similarly, were an application to be made within the areas in question for the extraction of the safeguarded mineral, it would also have to be subject to numerous assessments, including a landscape and visual impact assessment, which would examine the impacts of the puncturing of the ridgeline opening up views to the more elevated land beyond potentially exposing the open mineral working within this sensitive area. It is not the case, therefore and to reiterate that to which reference is made within the emerging Plan, that there is any presumption that safeguarded resources will be worked.
- 7.130 With regards mineral for 'building stone', approximately 7.8 hectares of land take within the safeguarded area would permanently affected by the scheme which approximates to a potential sterilisation of 0.16% of the 5,000 hectares of this safeguarded area. The applicant's assessment has concluded this impact, overall, to be slight adverse and, therefore, not significant; a conclusion which is not challenged on the basis of limited impact upon any remaining reserves of 'building stone' that would continue to be considerable given the size of the remaining safeguarded area and on the basis of an absence of any significant uplift in demand for such stone at this current point in time and into the foreseeable future.
- 7.131 Insofar as the consideration of *part iii*) of draft MWJP Policy S02, taking into account the earlier identified argument of need in support of the proposed road scheme, it is considered that the need for the non-mineral development (i.e. the new road) has been demonstrated to outweigh the need to safeguard the mineral resource in this particular instance; thereby satisfying this specific policy requirement sought within the emerging Plan.

- 7.132 The assessment concluded that following mitigation, there would be a **slight adverse** residual effect on both the *silica sand* and *building stone* mineral resources which has been deemed to be '*not significant*'; a conclusion with which there is considered to be no disagreement, although there requires to be at least a recognition that the transect through the safeguarded area nevertheless renders the scheme unable to comply with the requirement to avoid safeguarded areas (as per draft MWJP Policy S01). However, it can be said that the scheme can be regarded as not giving rise to significant conflict with the aims and objectives of and is able to satisfy *Parts ii) and (iii)* of draft MWJP Policy S02.
- 7.133 The proposed development would not give rise to any severance of any future mineral operation and, as far as has been able to be taken into account in respect of a currently '*mothballed*' mineral interest at the nearby quarry, the proposed development does not impinge upon any future operation of that site. Furthermore, while the earthworks associated with the proposed development are likely to affect the underlying strata, there is no certainty that this will yield mineral of the quality for which the land is safeguarded and, indeed, controls through any grant of planning permission are capable of ensuring that any safeguarded mineral uncovered and deemed required for removal for the proposed scheme can be set aside for the purpose of the use for which the safeguarded mineral is intended. This is, however, likely to be a matter that is addressed at the detailed engineering design stage of the scheme. Moreover, in terms of resources (both time and cost) as well as sustainability considerations, the amount of earthworks have been (for the purpose of the application proposals) and would continue at the detailed engineering design stage, to be kept to an absolute minimum ensuring that the least amount of materials handling possible takes place.

#### Safeguarding the viability of the mineral interest at Blubberhouses Quarry

- 7.134 Within the representations made against the proposed development is the contention that it would threaten the future viability of the nationally important mineral deposit of *silica sand* within the *Blubberhouse Moor Estate*. The relevant applicable policies include the earlier referred draft MWJP Policy S01 in respect of minerals safeguarding and **part 2) of draft MWJP Policy M12** within the emerging Joint Plan which supports the development of the *Blubberhouses Quarry* site in principle. Though currently '*mothballed*', the applicant has both recognised and acknowledged the potential for impacts upon the further and future operations of the *Blubberhouses Quarry*. The applicant has explained that representatives of the quarry have been consulted at various stages of the scheme's design iterations and has also explained that during the scheme's design, the process has made assumptions on potential future operations at the quarry based on available information, taking into account the policy requirements expressed within the emerging MWJP and noting the potential for the proposed road scheme to overlap with the *Blubberhouses Quarry* site and being mindful of the possibility that the potential for conflict between the two operations could exist; thereby requiring the cumulative effects to also be taken into account.
- 7.135 A planning application for the extension of the time period in which to continue the extraction of *silica sand* is yet to be determined by the County Planning Authority and this application's '*status*' has been taken into account by the applicant insofar as it affects the road proposal. Account has been taken of the quarry operator's intention to erect a new processing plant and associated infrastructure such as the re-establishment of conveyor routes and mobile crushing unit locations within the extraction phases; many of which are proposed to be designed and submitted for approval prior to any recommencement of mineral working. The details provided in the application for the quarry point to infrastructure and technology (including the previous 23-metre high processing plant and conveyor belt) to be used in the event that the quarry is recommissioned to be confirmed at a later date and, therefore, those involved



with the design of the proposed road scheme have had to make a number of assumptions in the scheme's design in the absence of this more detailed information. Furthermore, consideration of the design of the scheme has had regard to the proposed zones of extraction and the application details for the road scheme have confirmed that this would not impede upon the quarry's Phase 2 operation zone (an area which in any event is already constrained by the existence of a public right of way (bridleway) which lies adjacent to its southern most perimeter) and that variations to the route of the road have provided for it to lie to the south of the quarry's former conveyor belt arrangement allowing space for planting to be undertaken for screening purposes.

- 7.136 It is accepted that the design modifications which have been incorporated into the scheme, including a realignment of the proposed road around the quarry would safeguard against any direct impact on the former processing plant area or conveyor belt route. In any event, the application for the road scheme demonstrates that the scheme (while acknowledging affecting a small percentage (2.5%) the overall safeguarded mineral resource (noting this has recently been recalculated to be 1.8% (dated 17<sup>th</sup> December 2020)) would not unduly sterilise the quarry's operation based on its assumed practices. Although not unduly sterilising the overall safeguarded mineral resource for *silica sand*, it is nevertheless acknowledged that, to all intents and purposes, the proposed development does in fact present a sterilisation (albeit being very limited in its extent) in the immediate short-term.
- 7.137 The potential also exists for the setting aside any of the safeguarded mineral excavated during the requisite earthworks associated with the proposed development; thereby safeguarding it to ensure its future use as a source of *silica sand* or, where determined to be unsuitable for such a use or of insufficient quality, to be reused within the road scheme itself to ensure minimisation of waste as far as practicable. In any event, assurances have been given that the safeguarded mineral would not be utilised in the scheme as base material; such material would be imported to the site and would comprise *crush-run* aggregate suitable for use as base material meeting the requisite specifications for the construction of the road. Furthermore, the consented area of the currently dormant *Blubberhouses Quarry* site has only been worked insofar as its first of five phases (the smallest of its planned phases) and, as a consequence, there exist significant remaining consented reserves *in situ*. Insofar as future working of the safeguarded mineral, although a constraint that would require to be taken into account, the existence of the road would not preclude future working of the safeguarded mineral.

#### Potential effect upon the future viability of the Blubberhouses Moor Estate as a Sporting Estate

- 7.138 One of the representations made in objection to the proposed development is that of the potential threat to the future viability of the *Blubberhouses Moor Estate* as a Sporting Estate. In response to this, the applicant has explained that its understanding is that the estate is used as a meeting place for grouse shooting and, further, that following extensive consultations with the landowners' representatives, the design provides for the continuation of access to *Botham's Farm* via a 3 metre wide track from the existing A59 at *Church Hill*, which will be converted into private access; thereby safeguarding against any incompatibility with the continuation of this activity on the moorland that may have been perceived between the two. In any event, this particular interest is one which is understood to be a wholly commercial private venture as opposed to a community entity and therefore no weight is afforded to this issue.

#### Legal Agreement

- 7.139 The applicant proposes a series of Grampian style conditions together with funding supplied via a '*unilateral undertaking*' to deliver the requirements sought through consultation that relates to land which lies outwith the bounds of the submitted planning



application red line boundary; the draft *Heads of Terms* dated [19<sup>th</sup> June 2020](#) (and revised [23<sup>rd</sup> October 2020](#)) and both of which have been available to view and for comment on the Online Planning Register. The proposals in the *Heads of Terms* demonstrate delivering *Biodiversity Net Gains* and providing *Off-site Measures for Landscaping* as satisfactory compensation for the impacts of the proposed development through the provision of an *Off-Site Compensation Fund* to the amount of £593,619 to provide for works such as planting tree lines alongside watercourses, alteration of conifer woodland to broad leafed woodland, enhancement of semi-improved pasture to species rich grassland, blocking up of grips on open moorland to create wet flush areas etc. These are all activities that would enhance the variety and texture of the landscape relate to the surrounding character of the AONB, assist in flood alleviation and achieving biodiversity net gain targets. Such obligations would ordinarily be secured through a Section 106 Agreement, however as the Council is the applicant this is not possible as the Council is unable to enter into a covenant with itself. It is proposed that an alternative process is followed under Section 111 Local Government Act 1972. Section 111 of the Local Government Act 1972 is a generalised catch all provision to enable local authorities to do “*anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions*”. The draft legal agreement to which Harrogate Borough Council on behalf of the AONB are a party secures the funds and the delivery of the *Off-Site Compensation Fund* in accordance with the LEMMMP. The actual works under the LEMMMP are secured through the *Grampian*-style conditions.

#### Other issues

- 7.140 It has been noted that amongst those raising objection, in a couple of instances, reference has been made to issues such as the change in one’s view from a specific property and the associated impact on a property’s value, but these, as Members will be aware, are ones to which no regard can be had in the determination of the application.

## **8.0 Conclusion**

- 8.1 As referred earlier within this report, under the provisions of *Section 38(6)* of the *Planning and Compulsory Purchase Act 2004*, the starting position for the determination of this planning application must be the ‘*Development Plan*’ and it must be made in accordance with the extant policies of that plan, unless there are material considerations, including any impacts upon interests of acknowledged importance that would indicate that planning permission should not be forthcoming. The assessment of material considerations within the overall ‘*planning balance*’ has been conveyed within Section 7.0 above.
- 8.2 In this particular instance, there exists a range of policies in the ‘*Development Plan*’ to which due regard must be had, as well as a number of other material considerations. In considering the relationship of the proposals to the ‘*development plan*’, Members are advised that proposals should be judged against the ‘*development plan*’ as a whole rather than against individual policies in isolation and to also acknowledge that it is not necessary for proposals to comply with all policies in order to be found compliant. Indeed, the *Introduction to the Harrogate District Local Plan 2014-2035* makes clear at paragraph 1.2 that it is “*essential that the Local Plan is read as a whole. While one Local Plan policy may suggest that a proposed development would be acceptable, there may be other policies in the plan that indicate otherwise; all proposals must comply with all relevant policies*”. Members are also advised of the need to bear in mind the relative weight to be attached to the applicable policies in the various elements of the ‘*development plan*’ relevant to this proposal against that which is laid down within national planning policy (Section 6.0 refers).

- 8.3 Furthermore, Members are also advised that while national policy within the NPPF is an important material consideration, it is merely a material consideration and does not usurp the statutory duty to determine applications in accordance with the extant policies which comprise the *'development plan'*, unless other material considerations indicate otherwise.
- 8.4 The proposed development receives support, or avoids conflict with, a number of *'development plan'* policies as identified within the preceding sections of this report such as those policies which seek to prevent, minimise or mitigate against a number of potential harms.
- 8.5 However, on the other hand, there exists the consideration of the potential for harm to the wider landscape in general and, more particularly, to the *Nidderdale Area of Outstanding Natural Beauty* as well as potential harm to important local, national and international nature conservation designations through which the proposed scheme passes together with less than substantial harm to heritage assets.
- 8.6 Even with satisfactory implementation of the range of mitigation measures proposed by the applicant, there is also anticipated to be a certain degree of residual impact, particularly with regard to noise and traffic, as explained earlier in this report and environmental impacts also referred to earlier. The identified effects of the proposed development are acknowledged to have certain degrees of impact upon those living, working and taking recreation within the vicinity of the proposed development.
- 8.7 By way of summary, the issues weighed in the *'planning balance'* include whether *'change'* in terms of both landscape and visual impacts (i.e. whether the feature changes within the landscape are to be regarded as to be so incongruous in the landscape that would render the new road any less or any more unacceptable than that which it replaces) and whether the potential impacts upon biodiversity, heritage assets and mineral resources are of such significance as to be so adverse such as to render the proposed development incapable of overcoming the issues through avoidance, mitigation or compensation even when taking into account other material considerations that may weigh positively in favour of the proposed development.
- 8.8 In the particular instance of this application, the requirements of the *Town and Country Planning (Environmental Impact Assessment) Regulations 2017* and the *Conservation of Habitats and Species Regulations 2017* have meant that the application has been accompanied by a significant amount of supporting information. The *Environmental Statement* (ES) and subsequently received further and additional information are considered to have met the requirements of *Article 18(2) (3) and (4)* of the *EIA Regulations*. The ES appropriately assesses the likely significant effects of the proposed development upon the environment and full account has been taken of all environmental information received in the planning assessment of this application. The content, methodology, mitigation proposed and conclusions of the submitted ES, and the details of the planning application documents describing and showing the proposed scheme, have been carefully scrutinised to ensure that the proposal addresses all relevant legislative and policy requirements.
- 8.9 The consideration of the effects of the proposed development has been subject to the scrutiny of those with whom the County Planning Authority has consulted and the opportunity to have due regard to those effects has been had in the assessment of this application currently before Members. The consultation responses received by the County Planning Authority are the views expressed by experts in their respective fields and they have returned their independent and impartial opinions insofar as their individual areas of expertise. Upon reviewing the submissions of expert consultants appointed by the applicant, those consulted by the County Planning Authority have accepted the findings of the applicant's experts and are satisfied that the mitigation of

the effects of the development with regard to safeguarding the natural environment and the water environment and amenity are both appropriate and proportionate and that, where the consultee is of the opinion that controls are necessary, they have offered up suggested wording for the consideration of the County Planning Authority in the form of planning conditions. In light of this, due regard has been had to NPPF **Paragraph 54** which asks for the consideration of “*whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations*”. In this particular instance, both are applicable. In respect of the former, regard has been had to ensuring that any condition fulfils the six tests i.e. necessary, relevant to the development and to planning, enforceable, precise and reasonable in all other respects (**Paragraph 55** refers). With regard to the latter, regard has been had to the requirement that obligations must only be sought where they are necessary, directly related to the development proposed and must be fairly and reasonably related in scale and kind to the development (**Paragraph 56** refers).

- 8.10 The information provided in support of the application is considered to be sufficient, so as to have been able to reasonably address the likely significant effects without giving rise to matters of any material degree warranting the re-consideration of the assessments of the proposal as presented by the applicant. The information submitted during the processing of this application is considered to be both adequate and sufficient upon which to make a recommendation in regards to the determination of the application, the applicant is considered to have demonstrated that the proposed development is capable of being appropriately mitigated. The information has been subject to consultation; the responses to which have been taken into account.
- 8.11 The scale and nature of this proposal means that a range of impacts are inevitable. Very rarely are developments entirely without harm, or entirely without benefit. The question has to be one of balancing the important considerations and consequential areas of policy conflict against those arguments that weigh in favour of the proposed development and whether any of the identified harms, together or individually, warrant a determination that the proposed development is either in conflict or compliant with the ‘*development plan*’ as a whole.
- 8.12 In this particular instance, the ‘*do nothing*’ approach cannot be sustained any longer (due to the risk of further continued and perhaps worse landslip events in the future). The demonstrable necessity to find an engineering solution to ensure a continued resilient public highway connection along *Kex Gill* (notwithstanding its greater prominence in the landscape) and the lack of an alternative route that would avoid the acknowledged adverse impacts is compelling. The arguments for improvements in highway safety for the wider public using the re-aligned highway or the benefits to the local and or regional economy with greater certainty of uninterrupted and/or unhindered connectivity are considered to be sufficiently persuasive. Therefore, the construction of an alternative alignment, free from such risks, is acknowledged as an absolute imperative and, provided any potential benefits of the proposal are maximised and any harms are avoided/minimised, mitigated or compensated for, is considered to be acceptable ‘*in principle*’ and, moreover, one of sufficient importance to materially outweigh other considerations which have been referred to in the paragraphs in Section 7.0 above; so much so that a decision in favour of its acceptability can be recommended in this particular instance.
- 8.13 When weighed in the ‘*planning balance*’, relating to the extant policies against which this proposal must be assessed, it is for the reasons explained in the preceding paragraphs, that the development, while giving rise to a degree of conflict with a number of policies, is, nevertheless, one for which there exists overriding public benefits which are considered to outweigh such conflicts.

- 8.14 For the reasons mentioned above, it is therefore considered that there are no material planning considerations to warrant the refusal of this application for the construction of a 3.9 km long two-way, single lane (with overtaking lanes) carriageway realignment on the A59 between the west of North Moor Road and Blubberhouses. The realignment is located north of the existing A59 and incorporates modifications to the junctions at North Moor Road, Hall Lane and Church Hill. The existing road from Blubberhouses to Botham's Farm and Paradise will be downgraded, reduced in width and will function as a private access and public right of way for part of the length; the existing road from Paradise to where footpath 15.14/4/1 joins the existing A59 will be removed and returned to moorland habitat as part of the special areas of conservation and special protection areas. Associated works include the diversion of Hall Beck watercourse, landscaping, environmental mitigation, new culverts, 100m long retaining wall, suds drainage including two attenuation basins, replacement signage, construction of two underpasses, diversions to, and increase of 1,526m of bridleways and public right of ways on land at the A59 at Kex Gill from the west of the junction with North Moor Road and Blubberhouses.

Obligations under the Equality Act 2010

- 8.15 The County Planning Authority in carrying out its duties must have regard to the obligations placed upon it under the *Equality Act* and due regard has, therefore, been had to the requirements of *Section 149 (Public Sector Equality Duty)* to safeguard against unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act. It also requires public bodies to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. It is considered that the proposed development would not give rise to significant adverse effects upon the communities in the area or socio-economic factors, particularly those with '*protected characteristics*' by virtue that the impacts of the proposal can be mitigated so that they will not have a significant impact on groups with '*protected characteristics*'.

Obligations under the Human Rights Act

- 8.16 The *Human Rights Act* requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of *Protocol 1* provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 8.17 Having had due regard to the Human Rights Act, the relevant issues arising from the proposed development have been assessed as the potential effects upon those living within the vicinity of the site namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering the limited interference with those rights is in accordance with the law, necessary and in the public interest.

**9.0 Recommendation**

- 9.1 Upon considering that the *Environmental Statement*, including further and other information submitted by the applicant, includes such information as is reasonably required to assess the environmental effects of the development and which the applicant could be reasonably required to compile; and

- 9.2 Having taken into account the environmental information relating to this application, namely the *Environmental Statement*, including further and other information submitted by the applicant, and duly made representations about the environmental effects of the development; and
- 9.3 Having had due regard to the *Human Rights Act*, the relevant issues arising have been assessed as the potential effects upon those living within the vicinity of the application site, namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering that the limited interference with those rights is in accordance with the law, necessary and in the public interest;
- 9.4 For the following reasons:
- i) the proposal is considered, in this particular instance, to accord with Policies GS5, TI1, TI2, TI4, CC1, CC2, CC4, HP4, HP5, NE1, NE2, NE5, NE7, NE8 and NE9 of the *Harrogate District Local Plan (2020)* and, while giving rise to conflict with elements of policies GS6, HP2, HP3, NE3 and NE4 of the Plan, provides sufficient argument of public benefit as identified within ii) below to overcome these conflicts and, furthermore, is consistent with the relevant paragraphs within the NPPF(2019) and draft Policy S02 (in part) within the emerging *Minerals & Waste Joint Plan* acknowledging the existence of the proposed development on, albeit a limited proportion of, land that lies within an minerals safeguarding area for *silica sand* (draft Policy S01);
  - ii) it is considered that through the imposition of appropriate planning conditions that the landscape and visual impacts, environmental impacts and the impacts upon residential amenity can be suitably mitigated and any adverse impacts are outweighed when considered against the proposal's strategic importance in both regional and national transport infrastructure connectivity and improvements in the resilience of the local, regional and national economy and there are no other material considerations indicating a refusal in the public interest; and
  - iii) *Biodiversity Net Gains* and *Off-site Measures for Landscaping* as satisfactory compensation for the impacts of the proposed development through the provision of an *Off-Site Compensation Fund* to the amount of £593,619 can be secured by suitably worded planning conditions together with a legal agreement under Section 111 Local Government Act 1972 .
- that, subject to prior completion of the Legal Agreement as outlined in iii) above, **PLANNING PERMISSION BE GRANTED** subject to the '*Schedule of Draft Conditions*' within Appendix H attached hereto.

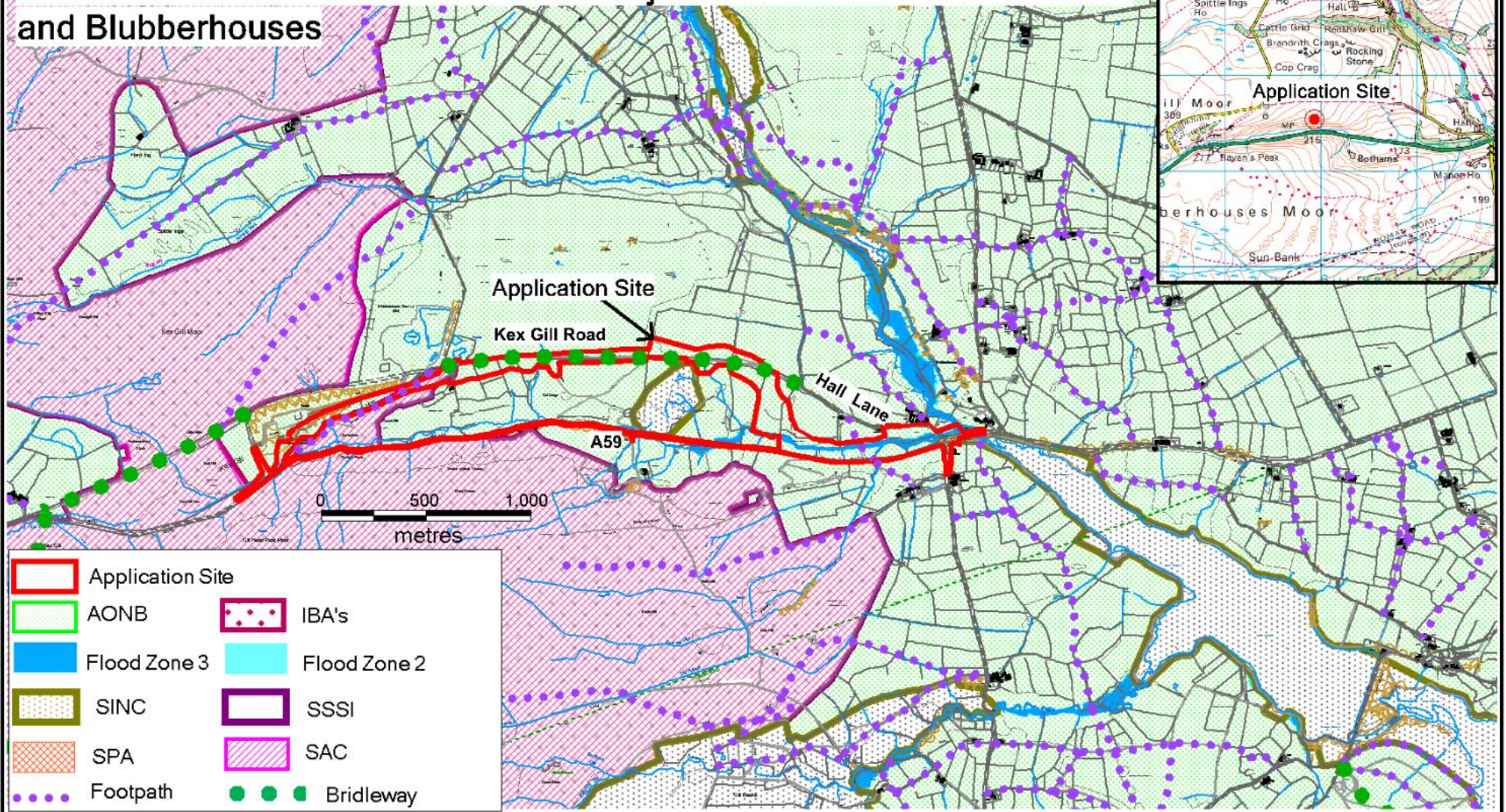
Vicky Perkin  
Head of Planning Services

#### Background Documents to this Report:

1. Planning Application ref. no. NY/2019/0191/ENV (application documents can be found on the County Council's Online Planning Register by using the following web link:  
<https://onlineplanningregister.northyorks.gov.uk/Register/PlanAppDisp.aspx?recno=10929>
2. Consultation responses received.
3. Representations received.



# The A59 at Kex Gill from the west of the junction with North Moor Road and Blubberhouses



- Application Site
- AONB
- Flood Zone 3
- Flood Zone 2
- SINC
- SSSI
- SPA
- SAC
- ..... Footpath
- Bridleway

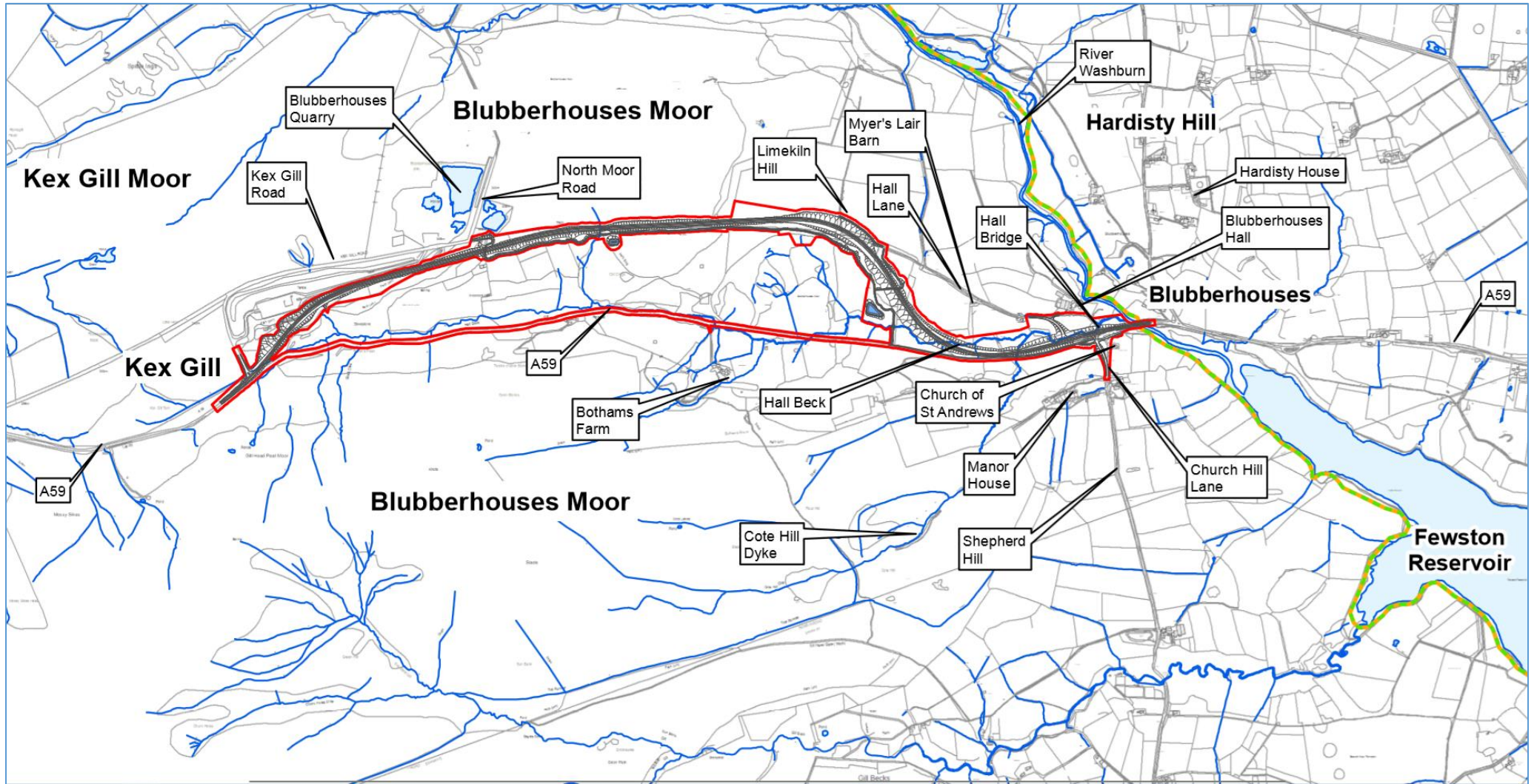
**Application No : NY/2019/0191/ENV**

Application for full planning permission for the construction of a 3.9 km long two-way, single lane (with overtaking lanes) carriageway realignment on the A59 between Blubberhouses. The realignment is located north of the existing A59 and incorporates modifications to the junctions at North Moor Road, Hall Lane and Church Hill. The existing road from Blubberhouses to Botham's Farm and Paradise will be downgraded, reduced in width and will function as a private access and public right of way for part of the length; the existing road from Paradise to where Footpath 15.14/4/1 joins the existing A59 will be removed and returned to moorland habitat as part of the Special Areas of Conservation and Special Protection Areas. Associated works include the diversion of Hall Beck watercourse, landscaping, environmental mitigation, new culverts, 100m long retaining wall, SuDs drainage including two attenuation basins, replacement signage, construction of two underpasses, diversions to, and increase of 1,526m of Bridleways and Public Right of Ways at The A59 at Kex Gill from the west of the junction with North Moor Road and Blubberhouses

**Business & Environmental Services,  
North Yorkshire  
County Council**  
County Hall, Northallerton,  
North Yorkshire. DL7 8AH

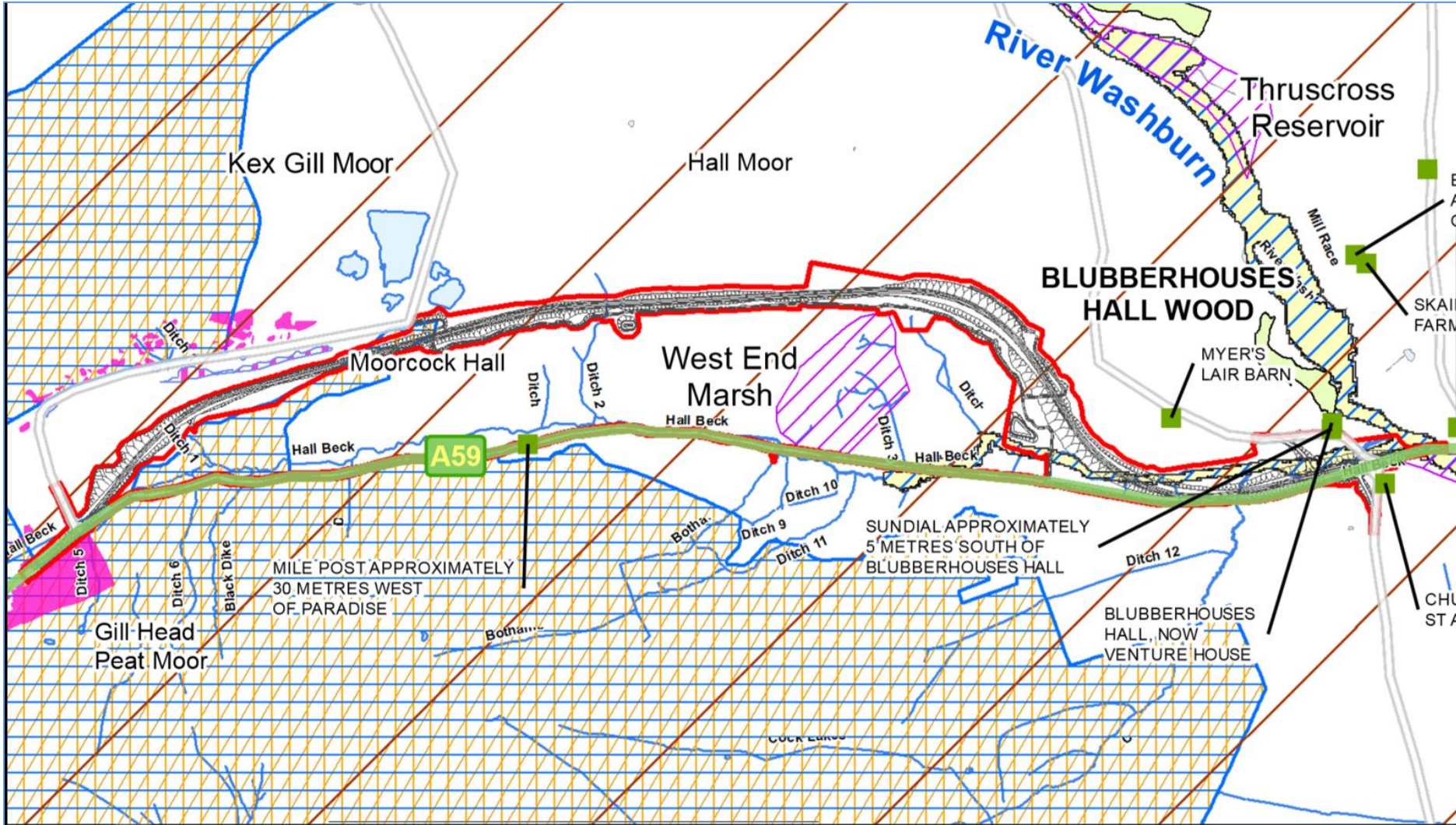
Scale: 1:25,000  
Date: Sep 2020  
Filename: Kex Gill  
Compilation & Analysis: VP/JB





Extract from Figure 1.1 Site Location Plan and Proposed Scheme Boundary (Environmental Statement, dated November 2019)





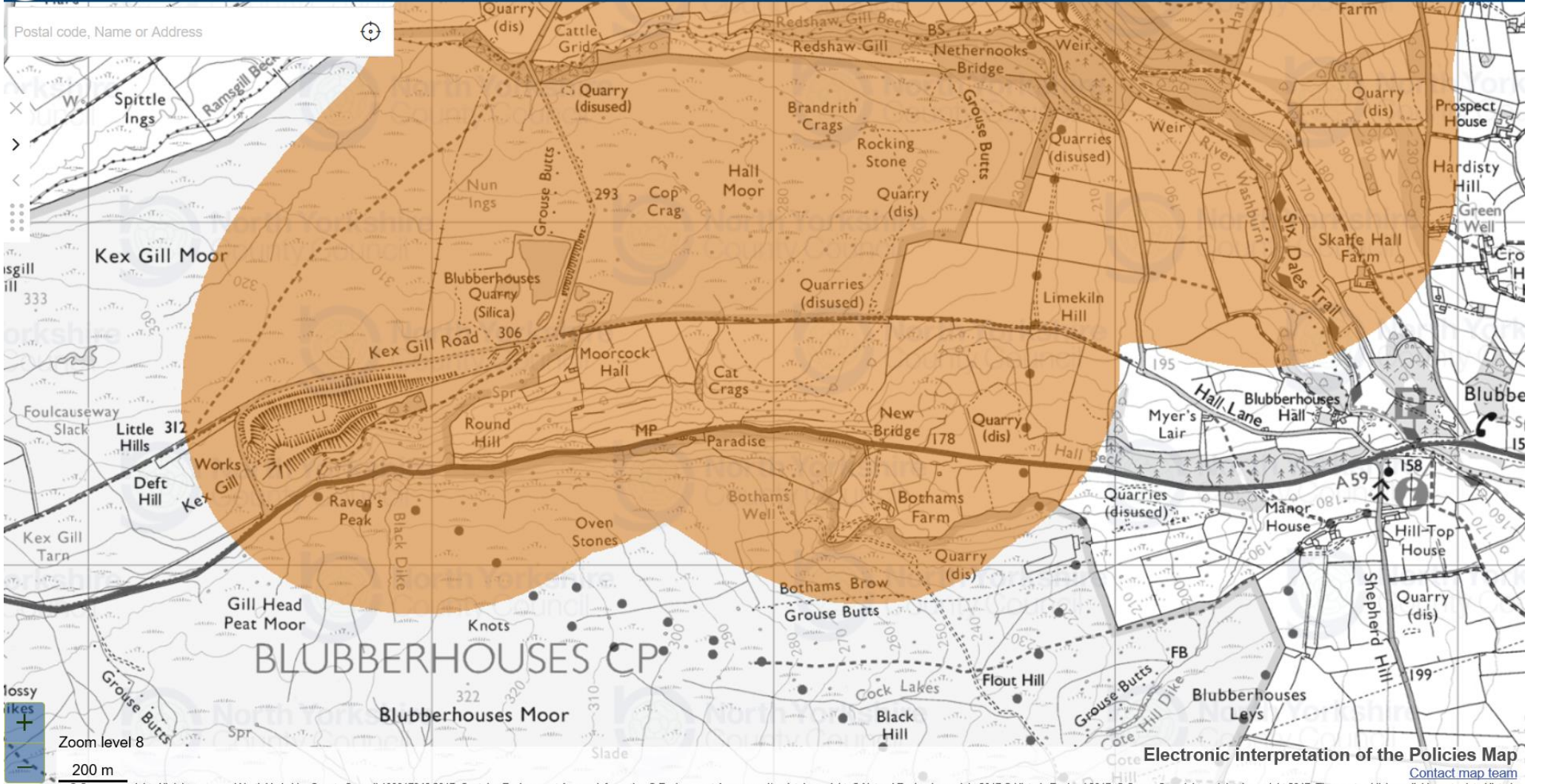
	Flood Risk Zone 2		Special Protection Area		Ancient Woodland
	Flood Risk Zone 3		Special Area of Conservation		Yorkshire Dales National Park
	Listed Buildings		Site of Special Scientific Interest		Area of Outstanding Natural Beauty
			Site of Importance for Nature Conservation		Water Bodies

Environmental constraints:  
Extract from submitted drwg no.

Figure 2.1 Key Environmental Features



Postal code, Name or Address



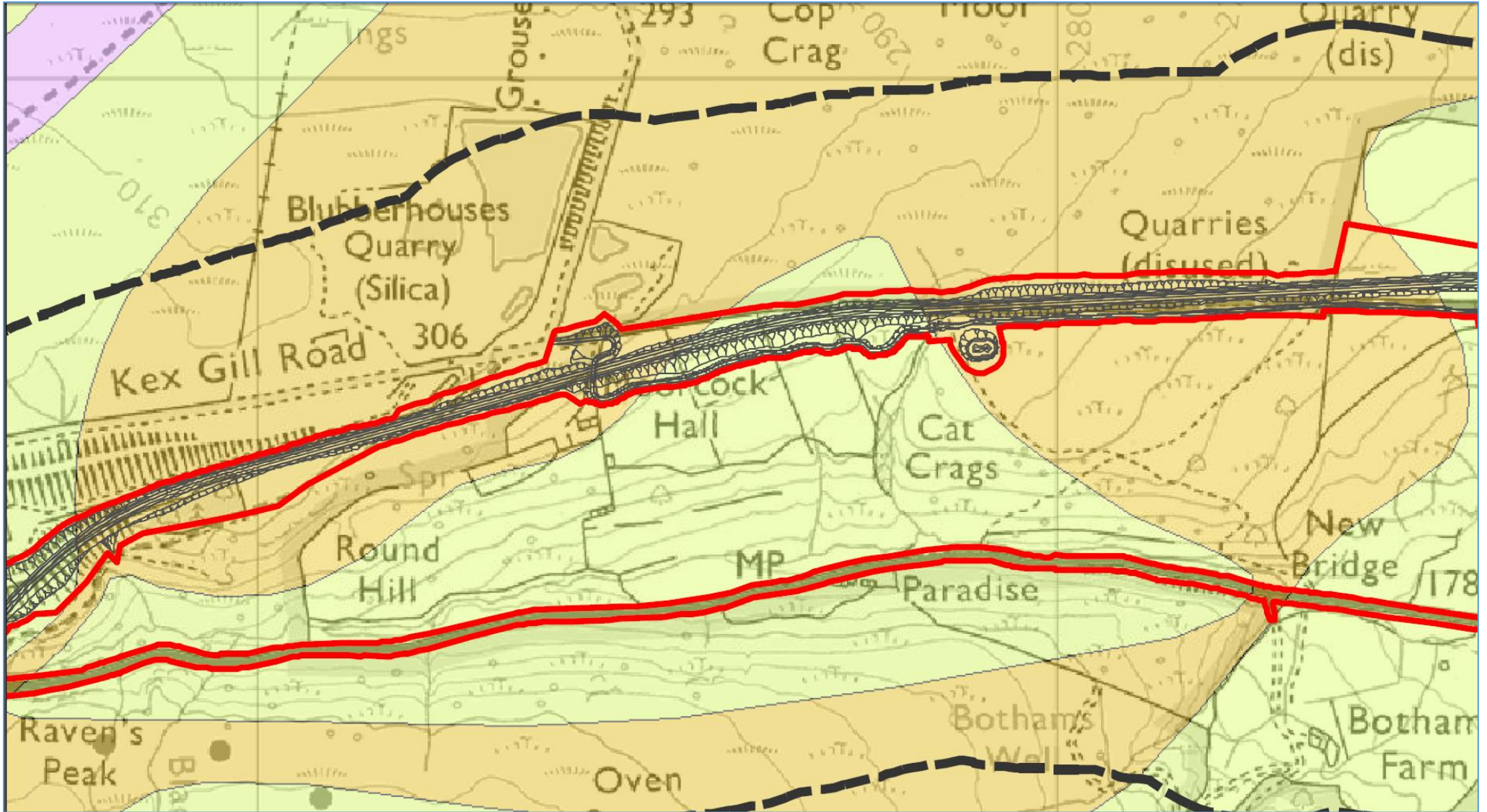
Electronic interpretation of the Policies Map

[Contact map team](#)

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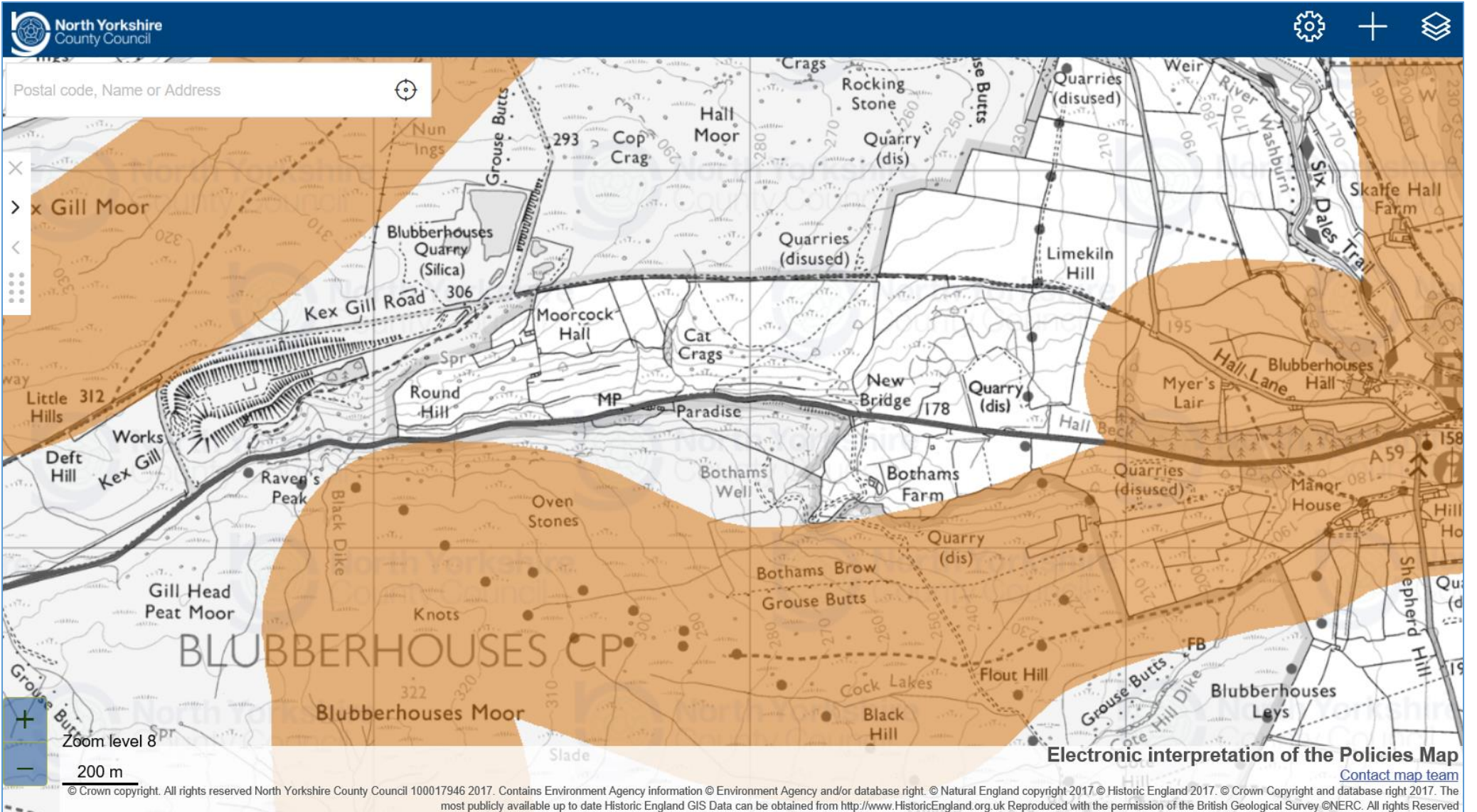
Extract from [Interactive Map](#): Safeguarded silica sand resource (including the 500 metre buffer zone) within the emerging *Minerals & Waste Joint Plan*





Extract from Figure 12.3 - Bedrock Geology (Chapter 12 of the Environmental Statement)





Extract from [Interactive Map](#): safeguarded resource for building stone (including the 250 metre buffer zone) within the emerging *Minerals & Waste Joint Plan*

Summary of relevant NPPF Paragraphs:

- 1.0 The overriding theme of Government policy in the NPPF is to apply a *'presumption in favour of sustainable development'*. For decision-making, this means approving development proposals that accord with the *development plan* without delay (if plans are up-to-date and consistent with the NPPF). The Government defines *sustainable development* (NPPF, **Paragraph 8**) as that which fulfils the following:
- a) **'an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - b) **a social objective** – to support strong, vibrant and healthy communities, by [inter alia] fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
  - c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'
- 1.1 Within the NPPF, **Paragraph 11**, advises that, when making decisions, development proposals that accord with the *development plan* should be approved without delay.
- 1.2 Aligned with the economic objective is NPPF **Paragraph 80** (within *Chapter 6 'Building a strong, competitive economy'*) directs, *"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"*.
- 1.3 Paragraph 127 seeks to ensure, *inter alia*, that proposals
- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting,...*
- etc.*
- 1.4 The relevant elements of NPPF Paragraph 150 are that new development should *"avoid increased vulnerability to the range of impacts arising from climate change"* and in respect of vulnerable development, *"care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure"*.
- 1.5 NPPF Paragraph 155 states that, within areas at risk of flooding, inappropriate development should be avoided by its direction away from areas at highest risk (whether existing or future) and continues by saying that *"where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere"*.
- 1.6 Importantly in respect to all three objectives is **Paragraph 163** (within *Chapter 14 'Meeting the challenge of climate change, flooding and coastal change'*) seeks to ensure that flood risk is not increased and *'where appropriate, applications should be supported by a site-specific flood-risk assessment [and] only...allowed in areas at risk of flooding where...it can be demonstrated that:*
- a) *within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
  - b) *the development is appropriately flood resistant and resilient;*
  - c) *it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
  - d) *any residual risk can be safely managed; and,*
  - e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

- 1.7 This protection is pursued further within **Paragraph 165** which directs the use of sustainable drainage systems  
*“unless there is clear evidence that this would be inappropriate. The systems used should:*
- a) *take account of advice from the lead local flood authority;*
  - b) *have appropriate proposed minimum operational standards;*
  - c) *have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
  - d) *where possible, provide multifunctional benefits.*
- 1.8 Again achieving all three objectives are **Parts a), b), d) & e)** of **Paragraph 170** (within *Chapter 15 ‘Conserving and enhancing the natural environment’*) which state contributions to, and enhancements of, the natural and local environment are to be achieved by:
- a) *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);*
  - b) *recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
  - d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
  - e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans...*
- 1.9 More specifically in respect of our *National Parks and Areas of Outstanding Natural Beauty (AONBs)*, **NPPF Paragraph 172** expects, *inter alia*, “great weight” to be given to “conserving and enhancing [their] landscape and scenic beauty” as they “have the highest status of protection in relation to these issues”. It goes onto state,  
*“The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight...The scale and extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:*
- a) *the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;*
  - b) *the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and*
  - c) *any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.*
- 1.10 Furthermore and with specific regard to habitats and biodiversity, **Paragraph 175**, directs the following principles to be applied:
- a) *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;*
  - b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
  - c) *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; and*
  - d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.*
- 1.11 **Paragraph 177** sets aside the ‘presumption in favour of sustainable development’ where a proposal “is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.”



- 1.12 Insofar as ground conditions and pollution are concerned, NPPF **Paragraph 178** seeks the following assurances:
- a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
  - b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
  - c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.*
- 1.13 Continuing on the topic of pollution, **Paragraph 180** directs a proposal to be, *“appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*
- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
  - b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and,*
  - c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*
- 1.14 Furthermore, insofar as relates to air quality, **Paragraph 181** requires the *“taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement”*
- 1.15 With respect to proposals affecting heritage assets, NPPF **Paragraph 189** (within Chapter 16 ‘Conserving and enhancing the historic environment’) asks applicants to describe *“the significance of any heritage assets affected, including any contribution made by their setting”*. It also asks the level of detail to be *“proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance...Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest... [developers should] ...submit an appropriate desk-based assessment and, where necessary, a field evaluation.*
- 1.16 Furthermore, **Paragraph 190** requires the identification and assessment of the particular significance of any heritage asset that may be affected by a proposal (including its setting) and that any conflict between a heritage asset’s conservation and any aspect of a proposal should be avoided or minimised.
- 1.17 **Parts a) to c)** (inclusive) of **Paragraph 192** advises taking account of: *“the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness”*.
- 1.18 In the subsequent paragraph, **Paragraph 193**, it states *“great weight should be given to [a designated] asset’s conservation (and the more important the asset, the greater the weight should be)”*. This is followed by **Paragraph 194** which states *“any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”*; by **Paragraph 195** which goes on to direct that any development leading to substantial harm or total loss of a designated asset should be refused *“unless it can be demonstrated that it is necessary to achieve substantial public benefits”* outweighing the harm or loss or the stated criteria within this policy apply; and by **Paragraph 196** which directs in cases where *‘less than substantial harm’* arises, this harm should be weighed against a proposal’s *‘public benefits’*.
- 1.19 Non-designated assets are also afforded a stated degree of policy protection within this chapter of the NPPF (**Paragraph 197**) and **Paragraph 199** has been highlighted by the County Council’s adviser on matters of archaeology as being relevant to the determination of this application; a paragraph which requires applicants to



*“record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible”*

- 1.20 With regards the matter of minerals safeguarding, the relevant NPPF paragraph is **Paragraph 206** (within *Chapter 17 ‘Facilitating the sustainable use of minerals’*) which directs that authorities *“should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working”*.

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1	The development to which this permission relates shall be begun not later than the expiration of five years from the date of this Decision Notice.																																																																																																																																																								
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2	<p>The development hereby permitted shall be carried out, except where modified by conditions to this permission, in accordance with the application details as originally submitted (dated 28<sup>th</sup> October 2019) and as subsequently amended by submissions during the processing of the planning application including the following:</p> <p>a) the letter, planning application, supporting statement and appendices received on 11<sup>th</sup> November 2019 and advertised by the County Council on 19<sup>th</sup> December 2019 and the further information submitted 22<sup>nd</sup> June 2020 and advertised on 9<sup>th</sup> July 2020;</p> <p>b) the following submitted plans, drawings and documents:</p> <table border="1" data-bbox="183 719 1522 1702"> <thead> <tr> <th>Drwg/Doc. ref. no.</th> <th>Rev</th> <th>Date/received</th> <th>Title</th> </tr> </thead> <tbody> <tr><td>NYKGDD-WSP-HGN-SG-DR-CH-00002_P01</td><td></td><td>25.04.2019</td><td>Site location Plan</td></tr> <tr><td>NYKGDD-WSP-HGN-SG-DR-CH-00003_P01</td><td></td><td></td><td>Site Plan</td></tr> <tr><td>NYKGDD-WSP-HGN-SG-DR-CH-00004_P01</td><td></td><td></td><td>Site Plan</td></tr> <tr><td>NYKGDD-WSP-HGN-SG-DR-CH-00005_P01</td><td></td><td></td><td>Site Plan</td></tr> <tr><td>NYKGDD-WSP-HGN-SG-DR-CH-00006_P01</td><td></td><td></td><td>Site Plan</td></tr> <tr><td>NYKGDD-WSP-HGN-SG-DR-CH-00007_P01</td><td></td><td></td><td>Site Plan</td></tr> <tr><td>NYKGDD-WSP-GEN-SG-SK-CH-00005</td><td></td><td>_recd18Nov19</td><td>Section</td></tr> <tr><td>NYKGDD-WSP-GEN-SG-SK-CH-00006</td><td></td><td>_recd18Nov19</td><td>Section</td></tr> <tr><td>NYKGDD-WSP-GEN-SG-SK-CH-00007</td><td></td><td>_recd18Nov19</td><td>Section</td></tr> <tr><td>NYKGDD-WSP-GEN-SG-SK-CH-00008</td><td></td><td>_recd18Nov19</td><td>Section</td></tr> <tr><td>NYKGDD-WSP-GEN-SG-SK-CH-00001</td><td></td><td></td><td>Proposed PROW Strategy</td></tr> <tr><td>AIP STR0001</td><td></td><td>18 November 2019;</td><td></td></tr> <tr><td>AIP STR0002</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>AIP STR0004</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>AIP STR0005</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>AIP STR0006</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>AIP STR0011</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>AIP STR0012</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 1 GA 1 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 1 GA 2 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 5 GA 1 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 5 GA 2 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 11 GA 1 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 11 GA 2 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 12 GA 1 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Culvert 12 GA 2 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Eastern Underpass GA 1 of 2</td><td></td><td>18 November 2019;</td><td></td></tr> <tr><td>Eastern Underpass GA 2 of 2</td><td></td><td>18 November 2019;</td><td></td></tr> <tr><td>Retaining Wall GA 1 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Retaining Wall GA 2 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Structure Location Plan 1 of 3</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Structure Location Plan 2 of 3</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Structure Location Plan 3 of 3</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Typical Culvert Details 1 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Typical Culvert Details 2 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Western Underpass GA 1 of 2</td><td></td><td>18 November 2019</td><td></td></tr> <tr><td>Western Underpass GA 2 of 2</td><td></td><td>18 November 2019</td><td></td></tr> </tbody> </table> <p>and,</p> <p>c) all schemes and programmes approved in accordance with this permission.</p>	Drwg/Doc. ref. no.	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3	A copy of this decision notice together with the approved plans and details of any schemes and programmes subsequently approved pursuant to this permission shall be kept at the site office at all times and the terms and contents thereof shall be made known to the supervising staff on the site and adhered to for the duration of the construction of the development hereby permitted.																																																																																																																																																								
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	<b>LIMITATIONS TO AND CONTROL OF THE DEVELOPMENT</b>
	<b>Submission of a Construction Environmental Management Plan</b>
4	<p>No development shall take place until a <i>Construction Environmental Management Plan</i> for that phase has been submitted to, and approved in writing by, the County Planning Authority in consultation with the Highway Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall be in accordance with the provisions set out in the Environmental Statement (ref. no. ##, dated #####) and Habitats Risk Assessment (ref. no ##, dated #####) and shall provide for the following:</p> <ul style="list-style-type: none"> <li>a. the parking of vehicles of site operatives and visitors;</li> <li>b. loading and unloading of plant and materials;</li> <li>c. storage of plant and materials used in constructing the development;</li> <li>d. erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate;</li> <li>e. wheel washing facilities and the removal of mud from the highway;</li> <li>f. measures to control the emission of dust and dirt during construction;</li> <li>g. a scheme for recycling/disposing of waste resulting clearance and construction works;</li> <li>h. to reduce HGV traffic on the road network especially at peak times;</li> <li>i. details of a Pollution Prevention Plan (PPP);</li> <li>j. details of an Air Quality Management Plan;</li> <li>k. details of measures to mitigate noise and vibration impacts to ensure adherence to the modelling within the <i>Habitats Risk Assessment</i> of no more than 55dB within the breeding territories on the SPA;</li> <li>l. details of a Construction Lighting Plan (if required).</li> <li>m. details for the protection of existing trees (including veteran trees) and vegetation to be retained (tree protection plan and arboricultural method statement);</li> <li>n. details for the protection and retention of existing drystone walls and walling stone (stone wall management plan); and,</li> <li>o. details for the protection and retention of existing soils (soil resource / management plan)</li> </ul>
	<i>Reason: To ensure that the development is carried out in accordance with the application details, as amended, and to provide for appropriate on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.</i>
	<b>Hours of working</b>
5	<p>Works carried out in association with the construction of the development hereby permitted shall only take place between the hours of 0800-1800 hours Mondays to Saturdays and 1000-1600 hours on Sundays. No works shall be carried out on Public Holidays without the prior written approval of the proposed works period by the County Planning Authority. No night-time working shall be undertaken at the site without the prior written approval of the proposed works period by the County Planning Authority. Any request for Bank Holiday working, or night-time working, shall specify the type of works and the length of time for which the night time works are required.</p>
	<i>Reason: To protect the amenity of the area, the environment and local residents from noise pollution.</i>
	<b>Traffic and highways</b>
	<b>Construction traffic routes</b>
6	<p>There shall be no establishment of a site compound, site clearance, excavation or depositing of material in connection with the construction on the site until details of the routes to be used by construction traffic have been submitted to, and approved in writing by, the County Planning Authority. Thereafter, the approved routes shall be used by all vehicles connected with construction on the site.</p>
	<i>Reason: To protect the amenity of the area, the environment and local residents and in the interest of highway safety.</i>
	<b>Precautions to prevent mud on the highway</b>
7	<p>There shall be no access or egress by any vehicles between the public highway and the application site until details of the precautions to be taken to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site have been submitted to and approved in writing by the County Planning Authority in consultation with the Highway Authority. These facilities shall include the provision of wheel washing facilities where considered necessary by the County Planning Authority in consultation with the Highway Authority. These precautions shall be made available before any excavation or depositing of material in connection with the development commences on the site and be kept available and in full working order and used until such time as the County Planning Authority in consultation with the Highway Authority agrees in writing to their withdrawal.</p>
	<i>Reason: To protect the amenity of the area, the environment and local residents and in the interest of highway safety.</i>

	<b>Vehicle parking, turning, loading and unloading</b>
8	<p>There shall be no establishment of a site compound, site clearance, demolition, excavation or depositing of material in connection with the development until proposals have been submitted to and approved in writing by the County Planning Authority for the provision of:</p> <ol style="list-style-type: none"> <li>on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway</li> <li>on-site materials storage area capable of accommodating all materials required for the operation of the site.</li> <li>The approved areas shall be kept available for their intended use at all times that the development is in operation</li> </ol>
	<i>Reason:</i>
	<b>Safeguarding of on-site soil resources</b>
	<b>Soil retention</b>
9	No topsoil, subsoil or peat shall be removed from site. Such materials shall be retained for restoration of the site.
	<i>Reason: To ensure soil resources are correctly handled and safeguarded.</i>
	<b>Soil management</b>
10	<p>Prior to the commencement of development hereby permitted, a soil and peat protection, storage and management plan (<i>Soil Resource Management Plan</i>) shall be submitted to and approved in writing by the County Planning Authority, showing the locations for protection, method of stripping, stockpiling and re-spreading, soil storage, contours and volumes of the soil storage bund(s), and identifying the soil types and units contained therein, proposals for re-use. All topsoil and subsoil shall be stored in separate mounds which do not overlap.</p>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted in the interest of the protection of the scarce resources known to be present on the site and to ensure that the soil resources are correctly handled and safeguarded.</i>
	<b>Soils handling</b>
11	All soil handling activity at the site shall take place in line with the current best practice guidelines for soil handling as set out in the DeFRA guidance ' <i>Construction Code of practice for the Sustainable use of Soils on Construction Sites, 2009</i> '
	<i>Reason: To ensure soil resources are correctly handled and safeguarded.</i>
	<b>Materials &amp; finishes (including walling &amp; fencing)</b>
	<b>Submission of final details</b>
12	<p>Prior to the commencement of the development hereby permitted, a <i>Detailed Design and Specification Scheme</i> shall be submitted to and approved in writing by the County Planning Authority. The submitted scheme shall include details at an appropriate level of detail to demonstrate the following matters have been addressed:</p> <ul style="list-style-type: none"> <li>detailed specification of materials and finishes for the proposed road, including proposed kerbing and drains;</li> <li>the detailed design of any other additional highways infrastructure required, including any barriers;</li> <li>details of the design of boundary walls, fencing and gates; and</li> <li>the detailed design of all road signage, including its size and construction, location, operation and colour.</li> </ul> <p>The above details shall be accompanied by a statement demonstrating how each element has been designed in a way to minimise its visual impact upon the surrounding landscape context. Once approved, the development shall be carried out in accordance with the approved scheme.</p>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances in the absence of the requisite information accompanying the application and imposed to protect key features of the site, character and setting.</i>
	<b>Retention of dry stone walling</b>
13	No drystone walling stone shall be removed from site. Such materials shall be retained for restoration of the site.
	<i>Reason: To protect key features of the site, character and setting.</i>
	<b>Protection of dry stone walling</b>
14	<p>Prior to the commencement of development hereby permitted, details for the protection of existing drystone walls and proposals for new drystone walls, including the storage and re-use of walling stone (<i>Drystone Wall Management Plan</i>) shall be submitted to and approved in writing by the County Planning Authority, showing the locations for protection, method of removal, storage and re-use of walling stone, detailed proposals for new walls.</p>



	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances in the absence of the requisite information accompanying the application and imposed and to protect key features of the site, character and setting.</i>
	<b>Landscaping and visual amenity</b>
	<b>Updated Tree Survey &amp; Arboricultural Impact Assessment</b>
15	<p>Prior to the commencement of development hereby permitted, an <i>updated Tree Survey and Arboricultural Impact Assessment</i> shall be provided in accordance with British Standard BS 5837: 2012 and submitted to and approved in writing by the County Planning Authority. The updated survey and assessment shall take account of the impacts of temporary working areas such as site access, contractor's compounds and material storage areas.</p> <p>Where the up to date survey and assessment indicate that changes have occurred that will result in impacts / or opportunities for further trees to be retained not previously addressed in the approved scheme, revised mitigation measures will be submitted to and approved in writing by the County Planning Authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved measures.</p>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and imposed to provide the necessary arboricultural protections.</i>
	<b>Protection of existing trees</b>
16	<p>No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree / root protection plan) and the appropriate working methods (the <i>Arboricultural Method Statement</i>) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: 2012 '<i>Trees in relation to design, demolition and construction – Recommendations</i>' has been submitted to and approved in writing by the local planning authority.</p> <p>The scheme for the protection of the retained trees shall be carried out as approved and maintained until the scheme is completed. (In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars).</p>
	<i>Reason: To ensure protection during construction works of trees, hedgerows and vegetation which are to be retained on or near the site.</i>
	<b>Landscaping Scheme</b>
17	<p>Prior to commencement of the development hereby permitted, full details of both hard and soft landscape works, shall be submitted to and approved in writing by the County Planning Authority.</p> <p>The landscape works shall also take account of the requirements for biodiversity net gain, contractor's temporary construction access, site compound and storage areas and provide details for restoration of those areas following completion of the works.</p> <p>The scheme of soft landscape as approved shall be carried out in the first planting season following completion [operational use] of the development.</p> <p>Hard landscape works shall include:</p> <ul style="list-style-type: none"> <li>(a) existing site features proposed to be retained or restored including trees, hedgerows, walls and fences, artefacts and structures,</li> <li>(b) proposed finished levels and/or contours,</li> <li>(c) proposed grading and mounding of land showing relationship of surrounding land;</li> <li>(d) proposed boundary details and means of enclosure,</li> <li>(e) car parking layouts,</li> <li>(f) other vehicle and pedestrian access and circulation areas,</li> <li>(g) hard surfacing layouts and materials,</li> <li>(h) minor artefacts and structures (e.g. furniture, signs, lighting etc.),</li> <li>(i) proposed and existing functional services above and below ground (e.g. drainage, power cables, communication cables, pipelines etc., indicating lines, manholes, supports etc.),</li> <li>(j) retained historic landscape features and proposals for restoration, where relevant.</li> </ul> <p>Soft landscape works shall include:</p> <ul style="list-style-type: none"> <li>(k) planting plans</li> <li>(l) written specifications (including soil depths, cultivation and other operations associated with plant and grass establishment) and</li> <li>m) schedules of plants noting species, planting sizes and proposed numbers/densities, means of support and protection.</li> </ul> <p>All hard and soft landscaping works shall be carried out in accordance with the approved details and British Standard BS 4428:1989 <i>Code of Practice for General Landscape Operations</i>.</p>

	<i>Reason: To ensure the provision and establishment of acceptable landscaping.</i>
	<b>Landscape replanting/replacement</b>
18	Any trees, shrubs or plants that die within a period of five years from completion of the development, or are removed and / or become seriously damaged or diseased in that period, shall be replaced in the first available planting season with others of a similar size and species.
	<i>Reason: To ensure the establishment of acceptable landscaping</i>
19	No trees, shrubs or hedges within the site which are shown as being retained on the approved plans shall be felled, uprooted, wilfully damaged or destroyed, cut back in any way or removed without the prior written approval of the County Planning Authority.
	<i>Reason: To protect any retained trees, shrubs and/or hedges.</i>
	<b>ECOLOGY</b>
	<b>Ecological Clerk of Works</b>
20	<i>No development shall take place until details of the appointment of an ecological clerk of works have been submitted to and approved in writing by the County Planning Authority. Evidence must be provided to demonstrate that the ecological clerk of works hold the relevant qualifications, skills and experience in the habitats and species present and in major construction projects. The submission shall set out the roles and responsibilities and operations to be overseen by the ecological clerk of works.</i>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and imposed to provide the necessary ecological protections.</i>
	<b>Biodiversity Net Gain</b>
21	Prior to the commencement of the development hereby permitted, an updated <i>Biodiversity Net Gain</i> (BNG) assessment shall be submitted to the County Planning Authority and approved in writing. The BNG assessment must be undertaken using the same methodology as the revised BNG assessment which forms part of the submission documents. The updated BNG assessment shall include an assessment of the impacts of temporary working areas such as site access, contractor's compounds and material storage areas and will identify any additional BNG compensation measures that are required to achieve a biodiversity net gain. The updated BNG assessment shall be submitted to the County Planning Authority for approval in writing and compensation measures carried out in accordance with the assessment.
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and imposed to provide the necessary ecological protections.</i>
	<b>Landscape &amp; Ecology Mitigation, Monitoring &amp; Management Plan</b>
22	<p>Prior to the commencement of the development hereby permitted, a detailed <i>Landscape and Ecology Mitigation, Monitoring and Management Plan</i> shall be submitted to the County Planning Authority and approved in writing. Works shall then be carried out in accordance with the agreed LEMMMP. The detailed LEMMMP shall be broadly in accordance with the Outline LEMMMP submitted as part of the submission and shall be consistent with the submissions for condition no.s ## and ##. It shall comprise the following:</p> <p>On-site measures:</p> <ul style="list-style-type: none"> <li>- details of the mitigation measures set out in the ES Chapters 6 &amp; 7 including any revisions. This includes for species, habitats and landscape features;</li> <li>- clear objectives of what is being delivered within the onsite areas in relation to landscape and ecology;</li> <li>- a monitoring schedule for mitigation and compensation features including the type and frequency of monitoring. Indicators of success and remedial measures required should the mitigation or compensation fail to meet the objectives;</li> <li>- details of the establishment and maintenance of mitigation and compensation for the first 5 years;</li> <li>- rolling 5 year management plans to be submitted for approval to cover years 6 to 30 inclusive;</li> <li>- confirmation that funding has been secured to ensure delivery of the onsite works including long term management;</li> <li>- a reporting schedule to the local planning authority; and,</li> <li>- roles and responsibilities of personnel and organisations responsible for the mitigation, monitoring, establishment, maintenance and long term management. The information shall include details of the relevant skills and experience needed for each aspect of the works.</li> </ul> <p>Off-site measures:</p> <ul style="list-style-type: none"> <li>- objectives and approach to delivery of landscape and ecology compensation;</li> <li>- approach to identifying compensation site and landowner agreements;</li> <li>- a monitoring approach for compensation including the type and frequency of monitoring. Indicators of success and remedial measures;</li> <li>- approach to establishment and long term maintenance up to a period of 30 years; and,</li> </ul>

	- a reporting schedule to the local planning authority to include progress against objectives, monitoring, management and breakdown of funds spent.
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and imposed to provide the necessary landscape and ecological protections.</i>
	<b>Pre-commencement surveys</b>
23	<p>Prior to the commencement of development, updated surveys for the following species shall be undertaken in accordance with current professional standards and submitted to the County Planning Authority and approved in writing:</p> <ul style="list-style-type: none"> <li>• Aquatic species;</li> <li>• Herpetofauna,</li> <li>• Birds;</li> <li>• Bats;</li> <li>• Badger; and</li> <li>• Otter.</li> </ul> <p>Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.</p>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and imposed to provide the necessary ecological protections.</i>
	<b>Species Protection Plans</b>
24	<p>Prior to the commencement of development, a schedule of <i>Species Protection Plans</i> for the following species shall be submitted to the County Planning Authority and approved in writing:</p> <ul style="list-style-type: none"> <li>• Aquatic species;</li> <li>• Herpetofauna,</li> <li>• Birds;</li> <li>• Bats;</li> <li>• Badger; and</li> <li>• Otter.</li> </ul> <p>These <i>Species Protection Plans</i> must take account of measures set out in the Environmental Statement and any changes recorded in the pre-commencement surveys and shall be submitted to the County Planning Authority for approval in writing.</p>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and imposed to provide the necessary ecological protections.</i>
	<b>Precautionary Working Method Statements</b>
25	<p>Prior to the commencement of the development hereby permitted, a schedule of <i>Precautionary Working Method Statements</i> (PWMSs) for works within or close to sensitive habitats and designated sites shall be submitted to and approved in writing by the County Planning Authority. The PWMSs shall be in accordance with the findings of the <i>Habitat Regulations Assessment</i> and the findings of <i>Chapter 6</i> of the <i>Environmental Statement</i>.</p>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and imposed to provide the necessary ecological protections.</i>
	<b>Prohibition of removal of any vegetation during the bird nesting season</b>
26	<p>No vegetation clearance works (including trees, hedgerows, scrub, grassland, farmland and heathland) shall take place during the bird breeding season (1 March to 31 August (annually) inclusive). Where works must take place during this period, all vegetation should first be checked by a suitably qualified ecologist and, if active nests are discovered, works must not proceed until chicks have fledged and the nests have been rechecked by an ecologist. A suitable buffer zone (which will have first be approved in writing by the County Planning Authority) shall be established to prevent disturbance.</p>
	<i>Reason: In the interests of the protection of nesting birds</i>
	<b>AIR QUALITY</b>
	<b>Control of dust emissions</b>
27	<p>Steps shall be taken in accordance with the details contained within <i>Chapter 9</i> of the submitted <i>Environmental Statement</i> (specifically the mitigation measures as outlined within paragraphs 9.7.10 to 9.7.12 (incl.)) to ensure</p>

	that the site is operated at all times to minimise dust emissions, and in particular during periods of high winds. Such measures shall include the spraying of roadways and stockpiles and discontinuance of soil movements during periods of high winds. The management of dust must take account of the mitigation measures set out in the <i>Habitat Regulations Assessment</i> (ref. no. NYKGDD-WSP-EGN-SG-RP-LE-00003 <i>Information to Inform Appropriate Assessment</i> , dated October 2019). No activity hereby permitted shall cause dust to be emitted so as to adversely affect adjacent residential properties and/or other sensitive uses and/or local environment. Should such an emission occur, the activity shall be suspended until revised details are submitted to the County Planning Authority for approval in writing.
	<i>Reason: To ensure the necessary safeguards for the protection of the amenity of the environment and the local community.</i>
<b>SAFEGUARDING OF WATERCOURSES AND DRAINAGE</b>	
<b><i>Storage of materials, bunding &amp; pollution prevention</i></b>	
28	Any facilities, above ground for the storage of oils, fuels or chemicals shall be sited on an impervious base and surrounded by impervious walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipe work shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge into the bund. Such facilities shall be constructed and completed in accordance with plans approved by the County Planning Authority and spill kits shall also be located in appropriate locations around the site and utilised in the event of any accidental discharge / spillages.
	<i>Reason: To prevent pollution of the water environment.</i>
<b><i>Detailed Drainage Design</i></b>	
29	Prior to the commencement of the development hereby permitted, a scheme detailing the surface water drainage (a 'Surface Water Management Plan') shall be submitted to and approved in writing by the County Planning Authority. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate, be sensitive to protect local landscape character and setting and accord with the avoidance and mitigation measures set out in Chapter 6 (biodiversity) of the submitted <i>Environmental Statement</i> , the revised <i>Biodiversity Net Gain Assessment</i> and the <i>Habitat Regulations Assessment</i> (ref. no. NYKGDD-WSP-EGN-SG-RP-LE-00003 <i>Information to Inform Appropriate Assessment</i> , dated October 2019). Principles of sustainable urban drainage shall be employed wherever possible. The works shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase has been completed.
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances in the absence of the requisite information accompanying the application and imposed to ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk and to ensure the measures with the said assessments are adhered to.</i>
<b><i>Prohibition on discharge to ground and / or surface waters</i></b>	
30	No ground or surface water contaminated by oil, grease or other pollutants used on or in connection with the site operations shall be discharged into any ditch or watercourse.
	<i>Reason: To protect both ground and surface waters.</i>
<b><i>Flood risk &amp; drainage</i></b>	
31	The development hereby permitted shall only be carried out in accordance with the submitted <i>Flood Risk Assessment</i> (FRA) dated ##### and the measures detailed within the FRA.
	<i>Reason: In the interest of flood risk protection</i>
<b><i>Prevention of uncontrolled discharge to groundwaters</i></b>	
32	The development shall be carried out in accordance with the submitted Water Framework Directive (WFD) assessment, including the drawings within appendix B, the culvert detail drawing (titled 'A59 KEX GILL CULVERTS TYPICAL CULVERT DETAILS') and the following mitigation measures that they detail: <ul style="list-style-type: none"> <li>o as per Tables 4-2 and 4-4 of the WFD assessment and drawing 'A59 KEX GILL CULVERTS TYPICAL CULVERT DETAILS', to limit their impact on the sediment regime and to facilitate fish and mammal passage, all culverts will be sized so as to not surcharge during mean annual flood events, have depressed inverts, a minimum of 300mm of natural bed substrate and low flow channels and baffles to limit sediment loss. Where stated, culverts will also include mammal ledges;</li> <li>o as per Tables 4-2 and 4-4 and figures 4-1, 4-2 and 4-3 of the WFD assessment, to mitigate for the loss of aquatic and marginal habitat associated with the proposed culverting and channel modifications, the realigned channel will have a</li> </ul>



	<p>variety of desirable features including a sinuous profile, appropriately sized natural bed substrate, pool-riffle sequences, berm and point-bar features and a two-stage channel cross-section with varied bank profiles. Where hard revetments exist, all boulder material will be removed from the channel banks to create a more natural channel bank profile. All sections of realigned channel banks and berms will be seeded with the specified plant mix;</p> <ul style="list-style-type: none"> <li>○ as per figures 4-1, 4-2 and 4-3 of the WFD assessment, sections of the existing channel will be retained to create backwater habitat and fish refuge areas during high flows; and,</li> <li>○ as per tables 4-2 and 4-4 and figures 4-1, 4-2 and 4-3 of the WFD assessment, to mitigate for the loss of riparian habitat associated with the proposed culverting and channel modifications, the entire length of the realigned channel will be subject to riparian planting. Riparian planting will include a varied vegetation structure of native wetland, woodland and wet-woodland species seed mixes.</li> </ul>
	<i>Reason: To mitigate the risk of harm to the in-channel and riparian habitats, and the dependant species of the Hall Beck watercourse, which forms part of the wider Washburn Source to Spinksburn Bk (Swinsty Res) WFD waterbody</i>
	<b>Protection of heritage assets and assets of archaeological interest</b>
	<b>Submission of a Written Scheme of Investigation</b>
<b>33</b>	<p>No demolition / development / clearance works shall commence until a <i>Written Scheme of Investigation</i> has been submitted to and approved in writing by the County Planning Authority. The scheme shall include an assessment of significance and research questions and:</p> <ol style="list-style-type: none"> <li>1. the programme and methodology of site investigation and recording including research questions;</li> <li>2. community involvement and/or outreach proposals;</li> <li>3. the programme for post investigation assessment;</li> <li>4. provision to be made for analysis of the site investigation and recording;</li> <li>5. provision to be made for publication and dissemination of the analysis and records of the site investigation;</li> <li>6. provision to be made for archive deposition of the analysis and records of the site investigation; and,</li> <li>7. nomination of a competent person or persons/organisation to undertake the works set out within the <i>Written Scheme of Investigation</i>.</li> </ol>
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances in the absence of a WSI accompanying the planning application and consistent with NPPF Paragraph 199 as the site is of archaeological significance</i>
<b>34</b>	No demolition / development shall take place other than in accordance with the <i>Written Scheme of Investigation</i> approved under condition no. 33 above.
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances in the absence of a WSI accompanying the planning application and consistent with NPPF Paragraph 199 as the site is of archaeological significance</i>
<b>35</b>	The development shall not be open to use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the <i>Written Scheme of Investigation</i> approved under condition no. 33 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances in the absence of a WSI accompanying the planning application and consistent with NPPF Paragraph 199 as the site is of archaeological significance</i>
	<b>Construction illumination / external lighting</b>
<b>36</b>	No construction illumination / external lighting shall be installed on the site except in accordance with the application details which shall be confined that which is associated with the construction phase. The lighting shall be implemented in accordance with those details and no other form of construction illumination / external lighting (including floodlighting) shall be implemented on the application site without the prior written approval of the County Planning Authority.
	<i>Reason: In the interests of the protection of both residential amenity and the protection of species which are sensitive to light which includes (but is not limited to) bats, barn owls, otter etc. and to minimise wider visibility within the Nidderdale AONB and Yorkshire Dales National Park.</i>
	<b>Noise</b>
	<b>Control of noise emissions – noise mitigation, management &amp; monitoring</b>
<b>37</b>	The mitigation measures, as detailed in <i>Chapter 10</i> of the <i>Environmental Statement</i> dated October 2019 (as amended), shall be undertaken in strict accordance with those details to achieve the stated predicted noise levels therein throughout the duration of the construction phase.

	<i>Reason: To protect to amenity of the local community</i>
38	The monitoring measures, as detailed in <i>Chapter 10</i> of the <i>Environmental Statement</i> dated October 2019 (as amended), shall be undertaken in strict accordance with those details to ensure predicted noise levels in the report are being met throughout the duration of the construction phase
	<i>Reason: To protect to amenity of the local community</i>
39	A mechanism for dealing with complaints from the public shall be submitted to the County Planning Authority for approval in writing. The agreed mechanism shall be carried out in accordance with N1 of <i>Appendix 18A 'Outline Environmental Management Plan'</i> (OEMP) and paragraph 10.7.14 within <i>Chapter 10</i> of the <i>Environmental Statement</i> dated October 2019 (as amended).
	<i>Reason: To protect to amenity of the local community</i>
<b>Maintenance of plant and machinery to ensure noise emissions are kept to a minimum</b>	
40	All plant and machinery shall be adequately maintained and silenced in accordance with the manufacturer's recommendations at all times
	<i>Reason: To ensure the necessary safeguards for the protection of the amenity of the environment and the local community.</i>
<b>Restoration and Aftercare</b>	
41	No development authorised by this planning permission shall take place within the site until such time as a detailed scheme for restoration and aftercare has been submitted to the County Planning Authority and approved in writing.
	<i>Reason: To ensure the appropriate restoration and aftercare of the land.</i>
<b>Restoration Scheme – details to be submitted</b>	
42	The restoration scheme and aftercare measures approved under condition number 41 above shall be carried out in accordance with the general approach to restoration and aftercare set out in <i>Environmental Statement Appendix ##</i> , together with a timescale for the work, and proposals for phasing of restoration if likely to be needed.
	<i>Reason: To ensure the appropriate restoration and aftercare of the land.</i>
<b>After-care Scheme – details to be submitted</b>	
43	Within six (6) months of the certification in writing by the County Planning Authority of the completion of development, as defined in this permission, a scheme and programme for the aftercare of the site shall be submitted to the County Planning Authority for approval in writing. The scheme and programme shall contain details of the following: a. Maintenance and management of the restored site. b. Weed control where necessary. c. Measures to relieve compaction or improve drainage. d. An annual inspection to be undertaken in conjunction with representatives of the County Planning Authority to assess the aftercare works that are required in the following year.
	<i>Reason: To ensure the appropriate restoration and aftercare of the land.</i>
<b>PRIOR EXTRACTION OF SAFEGUARDED MINERALS</b>	
44	Prior to the commencement of the development hereby permitted and where the proposed development transects identified minerals safeguarding areas, an assessment of the underlying mineral resource shall be undertaken and the results of that assessment together with a 'scheme of works' shall be submitted to the County Planning Authority for its approval in writing. Such a scheme shall include: <ul style="list-style-type: none"><li>• details of the works so required for the extraction of the safeguarded mineral including the means of extraction; and,</li><li>• depending upon the quality of the mineral, details of the quantity proposed for either export off-site (for use as intended for the safeguarded mineral) or for incorporation into the scheme itself.</li></ul> Thereafter, the works shall be carried out in accordance with the approved scheme.
	<i>Reason: This is a pre-commencement condition and one which is considered warranted given the particular circumstances and to ensure the sustainable use of any mineral found arising from the proposed development.</i>
<b>LIAISON GROUP</b>	
45	Prior to the commencement of development hereby permitted, details of a protocol for the establishment and running of a <i>Liaison Group</i> shall be submitted to and approved in writing by the County Planning Authority. The

	<i>Liaison Group</i> shall include representatives of the applicant, local Town and Parish Councils, Ward Councillors and representatives of appropriate statutory consultees and neighbouring residents. The <i>Liaison Group</i> shall be operated in accordance with the agreed protocol, unless any variation is agreed in writing by the County Planning Authority.
	<i>Reason: To ensure continued communications with the community for the duration of the development until the scheme is brought into use.</i>
<b>INFORMATIVES</b>	
<b>Public Rights of Way</b>	
<b>1</b>	No works are to be undertaken which will create an obstruction, either permanent or temporary, to the Public Right of Way adjacent to the proposed development. Applicants are advised to contact the County Council's Access and Public Rights of Way team at County Hall, Northallerton via <a href="mailto:paths@northyorks.gov.uk">paths@northyorks.gov.uk</a> prior to site restoration to obtain up-to-date information regarding the line of the route of the way. The applicant should discuss with the Highway Authority any proposals for altering the route.
<b>Protection of the water environment</b>	
<b>2</b>	The works must result in no deterioration in the WFD status of <i>Hall Beck</i> . Please ensure you have a <i>Surface Water Management Plan</i> in place for during the construction phase to deal with any sediment, before any construction begins. <i>Hall Beck</i> flows into a highly sensitive receptor, <i>Fewston Reservoir</i> , with Abstractors located downstream. A discharge permit may be needed if discharging to watercourse during the construction phase.