



Agenda

- Meeting:** Thirsk and Malton Area Planning Committee
- To:** Councillors Caroline Goodrick (Chair), Joy Andrews (Vice-Chair), Alyson Baker, Lindsay Burr MBE, Michelle Donohue-Moncrieff, Nigel Knapton and Greg White.
- Date:** Thursday, 18 September 2025
- Time:** 10.00 am
- Venue:** Council Chamber, Ryedale House, Malton, YO17 7HH

This meeting is being recorded and will be available to view [via our website](#) and uploaded to [our Youtube channel](#).

Business

1. **Apologies for absence**
2. **Minutes for the meeting held on 21 August 2025** (Pages 3 - 6)
3. **Declarations of interests**
All Members are invited to declare at this point any interests, including the nature of those interests, or lobbying in respect of any items appearing on this agenda.
4. **ZE24/00112/MFUL - Erection of a retail unit (Class E) with associated car parking, access, hard and soft landscaping and associated works at land north of Commercial Street, Norton** (Pages 7 - 92)
5. **22/01401/MOUT- Hybrid Planning Application comprising: 1) Outline planning application for residential planning permission for up to 110 dwellings with all matters reserved save for means of access; 2) Full planning permission for change of use to public open space of an adjoining parcel of land on land west side of Malton Road, Pickering** (Pages 93 - 150)
6. **Any other items**
Any other items which the Chair agrees should be considered as a matter of urgency because of special circumstances.
7. **Date of next meeting**
Thursday, 16 October 2025 at 10.00am.

Members of the public are entitled to attend this meeting as observers for all those items taken in open session.

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Contact Details

Enquiries relating to this agenda and meeting please contact:

Nicki Lishman, Senior Democratic Services Officer

E-mail: democraticservices.east@northyorks.gov.uk

E-mail: nicki.lishman@northyorks.gov.uk

Tel: 01653 638476

Website: www.northyorks.gov.uk

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

Wednesday, 10 September 2025

North Yorkshire Council

Thirsk and Malton Area Planning Committee

Minutes of the meeting held on Thursday, 21 August 2025 commencing at 10.00 am.

Councillor Caroline Goodrick in the Chair and Councillors Alyson Baker, Lindsay Burr MBE, Michelle Donohue-Moncrieff, Nigel Knapton and Steve Mason.

Officers present: Connor Harrison - Senior Planning Officer, Nicki Lishman - Senior Democratic Services Officer, Alpha Love-Koh - Solicitor, Nick Read – Development Management Team Manager and Debby York – Planning Officer.

Apologies: Councillor Joy Andrews

Copies of all documents considered are in the Minute Book

195 Apologies for absence

Apologies for absence were received from Councillor Joy Andrews, Councillor Steve Mason substituted.

196 Minutes of the meeting held on 17 July 2025

Decision

The minutes of the meeting held on 17 July 2025 were agreed and signed by the Chair as a correct record.

Voting record

3 For

3 Abstentions

197 Declarations of interests

There were no declarations of interest.

198 ZB25/00098/FUL - Construction of a new industrial building and associated external works at Compound, Dalton Airfield Industrial Estate, Dalton, North Yorkshire, YO7 3HE

The Head of Development Management sought determination of the construction of a new industrial building and associated external works at Compound, Dalton Airfield Industrial Estate, Dalton, North Yorkshire, YO7 3HE.

The application was brought to the Committee as the development was contrary to the provisions of the Local Plan.

The Senior Planning Officer gave an update that:

- As the recommendation represented a departure from the Local Plan, the Council was required to advertise its intention to deviate from the plan, which it has not yet done.
- No comments had been received from North Yorkshire Council (NYC) Highways who had not responded to the consultation.

If Councillors were minded to approve the scheme, it was requested that the decision be delegated to officers to approve the application with such additional conditions as may be recommended if the Highway Authority was satisfied, along with a legal agreement covering HGV routing and traffic management; or if the Highway Authority objected, to refuse planning permission.

Mr Jamie Moores, spoke on behalf of Topcliffe Parish Council.

During consideration of the proposal Members queried why the site was not included within the developable area in Hambleton Local Plan and asked if it had been considered and if any issues had been raised. Members were very concerned that no response had been received from NYC Highways, specifically with an assessment of the potential additional traffic generated and its impact locally.

Councillor Burr proposed and Councillor Knapton seconded that the application be deferred.

Resolved

That determination of the application be DEFERRED to:

- Obtain comments from NYC Highways
- Obtain details of any proposed traffic plan
- Obtain details of why the area site was not included as an employment site in the Hambleton Local Plan
- Consider whether any planning obligations need to be secured by a Section 106 legal agreement.

Voting record

Unanimous

199 ZF25/00403/RG3 - Demolition of toilet block at Royal Parade, Filey, North Yorkshire, YO14 9JZ, on behalf of North Yorkshire Council

The Head of Development Management sought determination of a planning application for the demolition of toilet block on land at Royal Parade, Filey, North Yorkshire.

The application had been brought to the Committee as the Council was the applicant and the landowner.

During consideration of the item Members queried

- The timescale for the demolition and the building of the replacement facility and requested that efforts be made to ensure that a replacement was available at the start of next year's holiday season.
- If the toilets could be kept open until an application for the demolition and reconstruction of a new facility was received.

Officers explained that the application was for the demolition of the toilet block and did not include details of proposed replacement facilities at the site. The service area had advised that replacement facilities would be provided but had given no timescale for this. It was possible that permission would not be required for any new facility at the site, as this may be allowed under permitted development rights.

Members raised concerns that no comments had been received from the Council's Estates Manager and that no officers from the service area were present at the meeting.

Councillor Burr proposed and Councillor Mason seconded that the application be refused.

Upon being put to the vote the motion was lost.

The Chair proposed and Councillor Donohue-Moncrieff seconded that the application be approved.

Resolved

That planning permission be GRANTED subject to the conditions listed in the report.

Voting record

4 For

2 Abstentions

To note

During consideration of both applications on the agenda Members raised concerns regarding the lack of responses from service areas within NYC to consultation on planning applications.

The Chair agreed that, on behalf of the Committee, they would raise this with the respective directorates to ensure that these concerns were addressed in future.

200 Any other items

There were no items of urgent business.

201 Date of next meeting

The date of the next meeting was confirmed as Thursday 18 September 2025.

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North Yorkshire Council

Community Development Services

Thirsk and Malton Constituency Area Planning Committee

18 September 2025

ZE24/00112/MFUL - Erection of a retail unit (Class E) with associated car parking, access, hard and soft landscaping and associated works at land north of Commercial Street, Norton, North Yorkshire

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a major planning application for the erection of a retail unit (Class E) with associated car parking, access, hard and soft landscaping and associated works at land north of Commercial Street, Norton, North Yorkshire.
- 1.2 This has been brought to Planning Committee as the land is partly owned by a Councillor and therefore excluded from the scheme of delegation the application needs to be considered by the planning committee.
- 1.3 The application was also deferred from 17 July 2025 Planning Committee for further information and changes to be provided.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That the Committee indicate that they are minded to approve the application subject to the prior completion of a Section 106 agreement to secure matters detailed below and subject to the conditions set out in the recommendation and delegate the decision to the Executive Officer Development Management and Building Control.

- 2.1. This application is for the redevelopment of a vacant site within the centre of Norton for a Class E Food store.
- 2.2. The application was deferred from the 17.7.25 Planning Committee by members for the following reasons:
 - Request that the applicant considers the installation of solar panels on the roof of the premises.
 - Obtain details of how the committed £25,000 would be spent on the upgrade to the existing pedestrian crossing.
 - Obtain further information on possible impacts on air quality and the potential for the collection of baseline air quality data.
 - Request that the applicant prepares an amended travel plan for the routing of deliveries, utilising access from the A64 and Brambling Fields.

- Request that the applicant undertakes additional transport modelling with reference to queuing traffic.
- Applicant considers the car park design to reduce vehicle speeds and its security in an evening.

2.3. The above matters have been addressed as follows:

- The building already had 200 solar panels shown on the proposed roof plan and this has been increased by 36% to show 272 panels via amended plans as shown in Appendix B.
- Appendix C shows the location of the crossing outside Derwent Arms Pub where the committed £25,000 pedestrian crossing upgrade would be spent. This will be upgraded to LED/ELV for electrical safety and to reduce carbon emissions and maintenance cost, with fault monitoring included.
- A comprehensive response on Air Quality matters has been provided by NJD Environmental and no objections are raised by the Scientific Team.
- Aldi have accepted a planning condition (No.32) to agree HGV routing as per the Transport Assessment.
- The Applicants' transport consultant (Andrew Mosely Associates) has provided a full response to the issue of traffic flows and cumulative effects and no objections are raised by the Scientific Team.
- In order to reduce vehicle speeds and improve security in an evening in the store car park the applicant has shown retractable bollards at the site entrance, which would be closed when the store is closed to trading and secondly, an ANPR car park control system to allow 90 min parking as shown in appendix D.

2.4. Part of the site is the former ATS Euromaster tyre repair centre which has since been demolished. The remainder of the site is overgrown scrub land to the rear of the properties on Commercial Street. The site is bound to the north by the railway and to the western, eastern and southern boundaries are residential and commercial uses within the town centre. The western part of the site had residential consent from 2014 (14/00947/MFUL) for 37 one bedroom apartments, 20 two-bedroom apartments and 5 three bedroom dwellings. Whilst being extant, it was never progressed as the former applicant claiming it was unviable.

2.5. The proposal involves an 1,802 sqm food store, which has 1,212 sqm of retail floor space. The proposal also includes an 89-space car park. The site is accessed from Commercial Street with the main building located towards the east of the site and car park to the west.

2.6. Norton is regarded as a 'local town centre' and the site is within the Norton Conservation Area, an archaeologically sensitive location within the development limits of Norton. A small part (approximately 10%) of the site is within and adjoining the town centre commercial limits for Norton, being the access to the site and the south western corner.

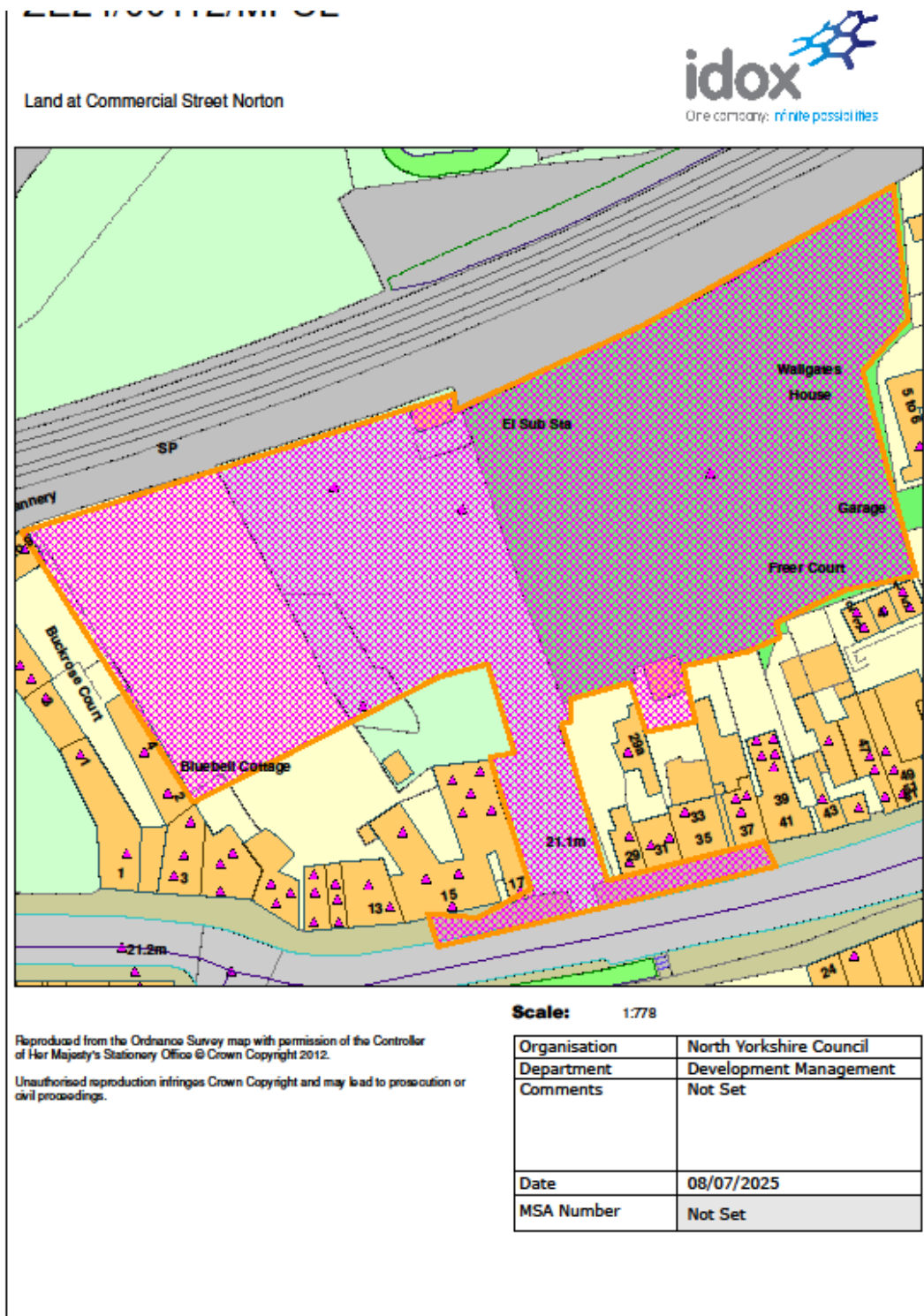
2.7. The principle of developing the site for residential purposes has previously said to be unviable, therefore alternative uses can be considered. The scheme represents a significant investment in Norton Town Centre and is sustainably located. This accords

with Chapter 7 of the NPPF 'Ensuring the vitality of town centres' states planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

- 2.8. Whilst such uses should primarily focus on Malton Town centre (Policy SP7- *Town Centres and Retailing*) the applicant through a sequential approach provided within the Planning, Retail and Heritage Statement has demonstrated that there are no more suitable sites available within the commercial area to accommodate the development. The Retail Impact Assessment has also demonstrated that the development will not cause any significant harm to existing retail provision.
- 2.9. In terms of design and impact on the character of the area, the building occupies a tight site. However, the scheme has been designed to maximise the development opportunity. The building in its amended form is considered a welcome addition to the townscape. The proposal involves very minimal tree loss, and a satisfactory landscaping scheme accompanies the submission.
- 2.10. The site utilises an existing access, proposes sufficient on-site car parking and through the Transport Assessment has demonstrated the development to be safe and can be accommodated into the highway network. An Interim Travel plan has also been provided to demonstrate sustainable transport initiatives. A legal agreement is necessary to secure payment of Travel Plan Monitoring and a contribution towards off site pedestrian improvement works on Church Street.
- 2.11. The development is surrounded on 3 sides by existing development. The size, location and scale of the development is not considered to harm residential amenity and the noise report with mitigation has been found to ensure noise from the store will not negatively affect surrounding land users. Store opening and delivery times have been conditioned.
- 2.12. The site is located partly within Flood Zones 2 and 3. The Flood Risk Assessment and Drainage Plan demonstrated that floor levels of the site will be raised to guard against future flooding and all surface water will be controlled on site and released to a combined public sewer due to unsuitable ground conditions and contamination risks. This satisfied the relevant drainage bodies. The applicants within the Planning, Retail and Heritage Statement also demonstrated that there were no sequentially preferable sites and therefore the sequential test is passed.
- 2.13. The site is in a sensitive area for nature conservation and protected species. The applicants produced a shadow Habitat Regulations Assessment, which is adopted by the Local Planning Authority and agreed by Natural England. Biodiversity Net Gain is to be provided off site.
- 2.14. The site lies within the Norton Conservation Area and key views into the site are limited. The amended building design and materials will ensure it will not detract from the Conservation Area thereby complying with the requirements of Policy SP12 of the Local Plan Strategy, Section 16 of the NPPF. Likewise, the site is sensitive for

archaeological deposits and a condition is recommended requiring a scheme of archaeological mitigation recording.

- 2.15. The scheme represents no concerns over air quality as it is outside the Air Quality Management Zone. There will also be no risks to human health as a result of contamination subject to conditions requiring a phase 2 assessment, remediation works, verification of any works and reporting of any unexpected contamination.
- 2.16. The site lies south of the railway line. Through the submission of landscaping, drainage and lighting plans, Network Rail raise no objections subject to conditions covering the need for fencing details.
- 2.17. The application site is located within an area identified for the safeguarding of mineral resources, specifically sand and gravel. This site is partially previously developed land (approximately 25%) therefore partially exempt, and the remainder of the site is within an urban location therefore unsuitable for mineral extraction which is material planning consideration weighing against the policy conflict.
- 2.18. Therefore, the proposal involves a range of sensitive planning issues. However, the scheme is considered to be acceptable and in line with the NPPF and Local Plan Strategy.



3.0 Preliminary Matters

3.1. Access to the case file on Public Access can be found here:-

[View and comment on planning applications in the Ryedale area | North Yorkshire Council](#)

Search by reference

[ZE24/00112/MFUL | Erection of a retail unit \(Class E\) with associated car parking, access, hard and soft landscaping and associated works | Land At Commercial Street Norton North Yorkshire \(ryedale.gov.uk\)](#)

3.2. The proposal has been the subject of pre application discussions (23/00323/PREAPP) and a public consultation event was held by the applicants 26.10.2023.

3.3. The application has been amended during its consideration, with amendments made to the design of the building to address its impact on the Conservation Area, changes to the layout and landscaping to resolve objections from the Environment Agency and Yorkshire Water and changes to highway information.

3.4. History

14/00697/FUL – Demolition of 2 buildings. Approved 28.8.2014. (This was the ATS Euromaster building's L shape formation)

14/00947/MFUL – Erection of 37no.one bedroom apartment, 20no two-bedroom apartments, 5 3no bedroom dwellings with under croft parking private and communal amenity areas, landscaping, alternation to existing vehicular access and erection off-street front commercial unit with one bed studio above. Granted 28.8.2015. (This was on the proposed car park area)

18/00327/COND – Discharge of conditions 02, 03, 04, 05, 10, 12, 13, 14, 16, 20, 22, 23, 24, 28 and 29 of approval 14/00947/MFUL dated 28.8.2015.

18/01366/FUL – Change of use of former garage site for use as a temporary car park (3 years). Granted 21.02.2019, expired 21.2.2022. This was only on part of the site owned by ATS Euromaster and the use has now ceased.

22/01368/FUL – Change of use and alteration of the former dance hall to form 4 no one bedroom apartments with associated access car parking, cycle store and landscaping. Approved 6.7.23. This shows access taken from the Aldi application site.

23/00323/PREAPP – Erection of a food store with associated vehicular access, parking, landscaping and associated works.

ATS Euromaster site

83/00088/OLD (3/96/391/PA) – Construction of an extension to existing tyre depot to form new office. Approved 02.08.83.

85/00102/OLD (3/96/391A/PA) – Construction of store and commercial type fitting bay. Approved 02.07.1985.

86/00108/OLD (3/96/391B/PA) – Erection of new store and commercial fitting bay. Approved 2.9.86.

87/00095 (3/96/391C/FA) – Erection of an electricity substation. Approved 28.4.87.

87/00096/ADV (3/96/391/AI) - Display of externally illuminated fascia signs together with the erection of an internally illuminated pole sign and box unit. Approved 21.1.88.

89/00117/ADV 3/96/391E/AI Display of externally illuminated wall mounted panel sign. Approved 13.11.89.

3.4 The application was accompanied by the following plans and supporting information Some of these documents have been subsequently updated:

- Planning, Retail and Heritage Statement prepared by Avison Young
- Design and Access Statement (December 2023), prepared by Projekt Architects;
- Statement of Community Involvement (January 2024), prepared by Avison Young;
- Air Quality Assessment (November 2023), prepared by NJD Environmental Associates;
- Preliminary Ecological Assessment (September 2022), prepared by Total Ecology;
- Nesting Bird Report (August 2023), prepared by Total Ecology;
- Biodiversity Metrics including Biodiversity Metric Calculation Tool (January 2024), prepared by Total Ecology; (calculation tool to follow by email due to file type)
- Arboricultural Impact Assessment (October 2023), prepared by All About Trees;
- Arboricultural Method Statement (October 2023), prepared by All About Trees;
- Flood Risk and Drainage Assessment (January 2024), prepared by Hydrock 3E;
- Phase I Geo-Environmental Desk Study (including CMRA)(August 2021), prepared by Hydrock 3E;
- Phase 2 Geo-Environmental Assessment (October 2023), prepared by Hydrock 3E;
- Noise Impact Assessment (January 2024), prepared by Paul Horsley Acoustics;
- Transport Assessment (December 2023), prepared by Andrew Moseley Associates;
- Travel Plan (Interim) (December 2023), prepared by Andrew Moseley Associates;
- Former ATS Tyre Depot Archaeological Evaluation Report (September 2014), prepared by MAP Archaeology;
- Land at Commercial Street Archaeology and Heritage Desk Based Assessment (August 2023), prepared by MAP Archaeology;

- Land at Commercial Street Archaeological Evaluation by Train Trenching (October 2023), prepared by MAP Archaeology;
- Shadow Habitats Regulations Assessment V3.

4.0 Site and Surroundings

- 4.1 The application site is located in the settlement of Norton which lies to the southeast of Malton and is separated by the River Derwent and the railway line. The site lies behind the terraced properties to the north of Commercial Street, on the former ATS Euromaster tyre site. To the north is the railway line (Malton - Scarborough), to the west are residential flats, to the east are domestic dwellings and commercial buildings fronting Wallgates Lane. To the south are the rear of the properties on Commercial Street which are mainly terraced commercial properties with residential uses above and to the rear and extend north towards the application site.
- 4.2 The site sits in the centre of Norton and is accessed from Commercial Street. The sustainable location of the site is accessible by road, on foot and close to large residential areas. The site is also located on a bus route.
- 4.3 Part of the site was last occupied by ATS Euromaster, which had 3 main buildings on part of the site that were used as service sheds. These have since been demolished and the site has remained vacant for over 9 years. The land has been temporarily used as a parking area for a 3-year period in the intervening years (application reference 18/01366/FUL).
- 4.4 The application site is broadly rectangular running east-west, and sits on 2 levels – the large concrete hardstanding left over from the demolition of the tyre services shed, and a lower overgrown untouched area.
- 4.5 The site sits within the Norton Conservation Area and is regarded as being partially previously developed land with the remaining land to the east and west being undeveloped scrub i.e. greenfield. Views into the site are somewhat limited.

5.0 Description of Proposal

- 5.1 This application is a major application for the erection of a retail unit (Class E) with associated car parking, access, hard and soft landscaping and associated works.
- 5.2 The proposed development consists of a single storey Aldi store described in the submission as a blade-roof building, being a single mono pitch with the main frontage elevation facing west and the roof sloping from the south to the north. This main building will occupy the eastern part of the site to the rear of No29-55 Commercial Street.
- 5.3 The existing access to the site will be upgraded and walled with vehicular access serving an 89-space car park and landscaping to the west of the site to the rear of No.3 -17 Commercial Street.

- 5.4 The Aldi store would broaden the range of food retail facilities and improve choice for nearby residents. The proposed opening hours of the store are 0800 to 2200 hours Monday to Saturday and for six consecutive hours between 0900 and 1800 on Sundays.
- 5.5 The overall application site area is 0.71 Ha, being a neighbourhood shopping facility. The proposed foodstore is 1,802sqm gross external area (1,660sqm gross internal area) with a net sales area of 1,212 sqm. The proposal also includes 3 no. parking bays on the western part of the access road to replace the on-street parking that will be removed from Commercial Street by the junction improvement works.

6.0 Planning Policy and Guidance

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is the
Ryedale Plan, Local Plan Strategy (adopted September 2013)
Ryedale Plan - Local Plan Sites Document (adopted June 2019)

- 6.3. The relevant policies in the RPLPS (2013) are considered to be:

Policy SP1 General Location of Development and Settlement Hierarchy
Policy SP7 Town Centres and Retailing
Policy SP12 Heritage
Policy SP14 Biodiversity
Policy SP16 Design
Policy SP17 Managing Air Quality, Land and Water Resources
Policy SP19 Presumption in Favour of Sustainable Development
Policy SP20 Generic Development Management Issues

The Ryedale Plan - Local Plan Sites Document (2019)

SD1 -Existing residential commitments
SD14 – Retail commitments

Minerals and Waste Joint Plan, adopted 2022

The site is within a minerals safeguarding area and the following policies contained within the MWJP are relevant:

Policy S01: Safeguarded Surface Mineral Resources
Policy S02: Developments proposed within safeguarded Mineral Resources areas.
Policy S07: Consideration of applications in Consultation Areas

Emerging Development Plan – Material Consideration

- 6.4. The North Yorkshire Local Plan - no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

The Malton and Norton Neighbourhood Plan

- 6.5. The Neighbourhood Plan adopted 13.11.2024 is given full weight in the planning balance.

Guidance - Material Considerations

- 6.6. Relevant guidance for this application is:
- National Planning Policy Framework 2024
 - National Planning Practice Guidance
 - National Design Guide 2023
 - The Planning (Listed Buildings and Conservation Areas) Act 1990

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below. Please see online planning register for full comments. Full public consultation initially took place in early 2024, with further consultations with specific consultees in early 2025 in response to specific issues raised.

- 7.2. Norton Town Council: No objection.

The Town Council have agreed to back this project. The increased footfall to the town centre and the associated increase in job opportunities will support the other local businesses around it and ensure that an area of wasteland is turned into a more pleasant shopping area. However, the council have concerns regarding traffic management and associated increase in air pollution that will need to be addressed by the applicant before the groundworks begin to be laid. Ultimately, the council believe this will be a benefit to the area but hope that North Yorkshire will look closely at the traffic management issues prior to permission being granted.

- 7.3. Ward Member(s): No representations were received from ward members.

- 7.4. Natural England: No objection following amendments to the information submitted.

(11.4.24) – Initial objection from Natural England due to insufficient information being submitted in respect of a Habitats Regulations Assessment (HRA) due to the application site being in close proximity to the River Derwent Special Area of Conservation (SAC). The HRA should also include an assessment of potential water quality impacts from leachate. Natural England also note that there is no assessment of potential impacts of the proposal on the River Derwent SSSI site. This should

include assessment of potential noise impacts on birds associated with the SSSI during construction and operation.

(3.7.24) – In response to shadow Habitat Regulations Assessment V1 – As submitted, the application could have potential significant effects on the River Derwent Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- Further assessment of potential water quality impacts from leachate.
- Further information relating to potential noise impacts on otter.
- Further information relating to potential noise impacts on birds associated with the River Derwent SSSI.

(13.8.2024) – In response to sHRA V3 July 24. No objection following the submission of the July 2024 shadow Habitat Regulations Assessment. The following mitigation options should be secured by condition or obligation:

- Implementation of all relevant mitigation measures as outlined in the shadow Habitat Regulations Assessment (July 2024).

7.5. NYC Ecology: No objection based on the revised information and given Natural England were satisfied with the shadow HRA.

(14.2.2024) – The Preliminary Ecological Appraisal (PEA) and biodiversity net gain (BNG) report describes the site as supporting a mixture of hard-standing, scrub and urban woodland. Few risks to protected/important species are identified.

Impacts on the River Derwent

The River Derwent upstream and downstream of the centre of Norton is a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). In paragraph 5.3 of the PEA, it is stated that effects on the SAC/SSSI are unlikely. This statement isn't really evidenced; for example, has the discharge of foul and surface water (including drainage from the large car park) been considered?

The ecology team advice is that due to the location of the site south of the railway line and off the floodplain, there are unlikely to be any direct effects on the River Derwent or the features for which the SAC/SSSI is notified. However, the council must consider whether any other significant effects are likely, particularly in relation to drainage and hydrology. These issues are outside the professional remit of the ecology team, and advice should be sought from an appropriate specialist. If significant effects cannot be ruled out, the council will need to undertake an appropriate assessment under the Conservation of Habitats & Species Regulations 2017, in consultation with Natural England. This is known as Habitat Regulations Assessment (HRA). The council must record its decisions in relation to HRA, e.g. in officers' reports.

Biodiversity Net Gain

The BNG report (page 22) projects a net-loss for area-based habitats of 51.88%. The applicant will need to demonstrate how they would make good this deficit, either on-site, off-site or via a third-party provider.

Construction Environmental Management Plan

The PEA sets out a number of recommendations in relation to ecological mitigation (see section 5.5). Construction-phase measures should be incorporated into a Construction Environmental Management Plan. Ecological enhancement measures should be detailed in a Landscape & Ecological Management Plan along with an explanation of how new/retained habitats would be created, managed and monitored for a period of at least 30 years. The CEMP and LEMP should be submitted for approval prior to commencement.

(14.3.24) Paragraph 4.4. of the Preliminary Ecological Appraisal states that no invasive plant species were recorded within the site boundary, yet the Ground Investigation Report by Hydrock (dated 30 October 2023) refers to (and delineates) “a large area of Japanese Knotweed”. This needs to be clarified.

The Phase 1 Geo-environmental report refers to the risk of leachate affecting the River Derwent (reflecting the prior use of the site for various industrial purposes). This will need to be considered as part of the HRA screening assessment.

(14.3.24) - Impacts on the River Derwent – if surface water is to be disposed of via the combined Yorkshire Water sewer, this prevents any significant impacts on the River Derwent Special Area of Conservation. However, drainage matters are outside the ecology team’s remit.

BNG delivery – as the applicant will deliver Biodiversity Net Gain partly via a third-party off-site provider, a Biodiversity Gain plan will need to be submitted by Condition. This should include evidence that units have been allocated by a registered provider.

(20.3.24) - Japanese Knotweed: The ecologist agreed for a condition to submit a plan or Method Statement for removal of Japanese Knotweed, either as a stand-alone document or as part of the CEMP or remediation plan.

Habitat Regulations Assessment: Because leachate and hydrology are outside the ecology team’s professional expertise, this will be down to Planning to commission relevant specialists to prepare the HRA.

BNG: The application pre-dates the introduction of Mandatory BNG and can be secured by condition.

(5.6.24) The Shadow Habitat Regulations Assessment (sHRA) identifies construction noise and risks of accidental pollution (from chemical spills or airborne) as having potentially significant effects on the River Derwent SAC/SSSI and the features for which it is designated. Stage 2 assessment identifies mitigation measures which

would control these risks to the extent that significant effects are unlikely. These measures, summarised in Table 9, would form part of the CEMP for the development. No significant effects are likely to arise from the operation of the site once construction is completed.

The findings and conclusions from the Assessment seem reasonable and proportionate as far as they go, although pollution is outside the professional remit of the ecology team and it is essential that Assessment is reviewed by an appropriate expert. However, the ecologist notes that Natural England's response of 11 April 2024 stated:

"The HRA should also include an assessment of potential water quality impacts from leachate... We will provide further advice once this information is submitted".

The ecologist was surprised Natural England's advice has not been referred to in the Assessment. While risks of chemical and fuel spillage, dust and construction-phase pollution are identified, there is no mention of leachate and it is suspected Natural England would therefore reject the sHRA.

On the matter of potential disturbance to breeding birds during the construction phase, e.g. from noise, this relates to a feature for which the SSSI is designated but not the SAC.

Our approach would have been to first establish the sensitivity of the location in terms of riparian breeding birds. To the best of the ecologists knowledge, the urban river at Malton/Norton is not important for the bird assemblage referred to in the SSSI citation. It lacks habitat such as extensive shingle bars and sandy cliffs required by some of these species and is subject to high levels of urban pressures. Checks of the river banks from publicly accessible locations and Council-owned land (e.g. Norton Ings) would confirm this.

(16.6.24) Concerned that leachate risk is still dealt with quite superficially and this may need some technical input from a specialist; As a risk is identified in the Phase 1 Geo-environmental Report, this needs to be addressed. Otherwise, the ecologists only comment would be that paragraph 6.2 might be misconstrued: "Without appropriate mitigation measures in place, it is likely that pollution to the river could occur via air (dust) and land (siltation/ chemical/ leachate)."

7.6. Flood Risk Management Team: No objection. The following documents are noted:

- Flood Risk and Drainage Assessment, Hydrock, Ref P21-173-HYD-XX-XX-RP-C-0500 Revision P02 dated 10/4/2024.
- Proposed drainage layout, Hydrock, Reference 79-E1625-HYD-ZZ-X-DR-C-1000 Revision P02, dated 09/04/2024.

Run off – The applicant has highlighted that the site will discharge to a nearby combined sewer, following the drainage hierarchy of discharge locations, this is acceptable to the LLFA.

Flood Risk- The site is listed flood zones 3 and 2. The applicant has used EA models to show that the development benefits from defences up to a standard protection of 1:50 from fluvial flooding. The applicant has shown, based on EA modelling that the site would have a flood of 19.887m AOD for the 1:100 plus 20% climate change event. A 600mm freeboard has been proposed to set Finished Floor levels at 20.500m AOD.

The LPA should satisfy itself as to the need for an exception test and consider if it is satisfied. Peak Flow control – A peak flow rate of 5l/s is proposed which is acceptable to the LLFA. Volume Control – New hydraulic calculations have been submitted which has been designed appropriately with storage volume of 299.95m³. The submitted documents demonstrate a reasonable approach to the management of surface water on the site. Conditions are recommended.

- 7.7. Conservation Officer – (21.2.24) No objection in principle. The external facing materials that better reflect the Conservation Area such as brick should be used on the walls of the building. If the application is to be approved, please condition details of any lighting, signage in order to be in keeping with the conservation area.

22.10.24 – (Comments following amended plans) A red brick and more visually recessive grey cladding as the revised proposal sets out will better reflect the surrounding materials.

- 7.8. Archaeology – No objection subject to conditions.

The application includes an archaeological desk-based and heritage assessment prepared by MAP Archaeological Practice. The desk-based assessment is supported by reports on archaeological trial trenching including a previous report from 2015 on the western half of the site and newly commissioned work in the eastern part of the site.

The trial trenches have demonstrated that deposits of the Roman period survive within the development area but that these are differentially preserved. The earlier trenching, followed by a set piece archaeological excavation, revealed evidence of well-preserved Roman features and possible buildings within the western part of the site. The more recent trenching demonstrated that modern overburden, of considerable depth, overlays natural alluvial deposits.

The proposal is for a new supermarket and associated car parking. The new build elements are located in the eastern half of the development area and this should have a limited impact on the basis of the presence of modern overburden. The car park to the west is situated in the area of higher potential and in theory, this should have a low impact. Further information on formation levels, drainage and services would be required to establish the exact impact.

The archaeological desk-based assessment concludes that archaeological remains will either be preserved in situ, either below formation level, or where this is not achievable then archaeological mitigation recording will take place prior to development. The Councils' archaeologist agrees with this recommendation which could be secured by means of a planning condition.

The archaeologist advises that a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, excavations for new foundations and new drainage or services, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed.

Condition: Written Scheme of Investigation required.

7.9. Designing out crime officer – (23rd Feb 2024) No objection. Overall design of the proposed development is appropriate and raises no significant concerns in relation to Designing Out Crime. However, there are some measures, which if incorporated, would enhance the security of the scheme and these are listed below.

- Provision of designated parking for powered 2-wheeled vehicles.
- Cycle parking should be under cover.
- Security lighting should be fitted to all elevations
- Provision of appropriate lighting to car park
- Installation of CCTV to cover the loading bay area.

15.8.24 – (Comments on lighting plan) In relation to car park lighting, this should meet the current BS5489 standards, and the applicants should confirm this. In relation to comments suggesting that all external elevations containing a doorset or window at ground floor level, should be illuminated with security lighting, the lighting drawing does not appear to show any security lighting fixed to the building and therefore does not deal with this matter.

7.10. Highways – No objection subject to conditions and the inclusion of a Section 106 agreement.

(27th Feb 24 - Initial response) - Holding objection. Initial concerns raised over the site visibility due to the bus stop east of the entrance and the accuracy of the plans i.e. entrance footways and swept path analysis. Parking provision was found to be in line with the NYC parking standards of 1 space per 18m² GFA in market town locations. Further information was required to inform the Transport Assessment i.e. trip data, delivery routes, trip distribution, committed development, footpath routes and no road safety audit has been carried out.

The site is regarded to be in a good location to be able to promote sustainable travel options, especially if staff live locally to the store in the nearby residential areas. The Travel Plan also required adjustment.

(14.5.2024 – 2nd highway comments).

The following additional documents submitted April 2024 have also been reviewed following the LHA's response in February.

- AMA Highways Technical Note - Commercial Street, Norton
- AMA Travel Plan - 48014 - Commercial Street, Malton
- Commercial Street, Malton - 48014 - Transport Assessment

Concerns still raised over the access and conflict with the bus stop over visibility splays. The bus stop needs relocating. Officers were satisfied with swept path analysis and the revised Transport Assessment. The travel plan requires a minor adjustment and RSA stage 1 / 2 road safety audit should be conducted.

(20.2.25 final response) - The LHA has received additional technical notes and information since their previous consultations and subsequent comments.

Access - At the request of the LHA, the applicant has considered alternative options to the proposed relocated parking on the site entrance road to improve access/egress for delivery vehicles to and from the public highway. This has concluded that the removal of the parking bays would have no effect on the swept path of the HGV'S. Due to the tight nature of the site and the High Street, the installation of a right turn lane is not feasible, however HGV deliveries will be restricted to quieter times outside of peak hours, with the 20mph speed limit along the high street offering other road users sufficient time and visibility of a turning HGV in and out of the site.

The applicant has confirmed that the bus stop will be re-located further west along Church Street, ensuring the hourly bus service does no longer stop within the site entrance, access is not blocked, and visibility not restricted.

Therefore, the LHA consider the access proposals satisfactory, with the majority of pedestrians accessing the store via a 2m wide footway, from the eastern side of the entrance, the 1m footway to the western side of the access will predominantly serve the 3 parking bays located here, with pedestrians able cross from the west to the east via a proposed dropped tactile crossing at the entrance. The footway extensions at the site entrance will accommodate the required visibility splays that will result in the loss of on street parking bays, as discussed above. The relocation of the bays has been reviewed in consultation with local businesses on the high street.

The LHA has recommended a condition covering the requirements.

Cycle parking - As part of the travel plan and cycle facility provision, cycle parking is provided. Cycle parking for employees and shoppers arriving by bicycle is provided at the front of the store to ensure natural surveillance. The scheme proposes eight Sheffield cycle hoops.

Transport Assessment - The development is calculated to generate 52 two-way PM and 71 SAT two-way trips through the Church Street/Castlegate/Welham Road junction, the trip type associated with the development is 50% pass-by trips and 50% new trips. This is stated in the Transport Assessment.

In likelihood, the development would generate less traffic than this as the TRICS assessment for the store has been re-run with the parameters requested by the LHA with the latest data indicating the store would generate less traffic than that which

has already been assessed in the Transport Assessment. This assessment has also removed surveys that were collected in 2020 and 2021.

Observed queue data has also been provided, indicating queues are longer than what is stated in the TA, a possible reason for this is due to the operation of the railway line level crossing which is closed twice an hour. The information provided in the TA is considered a robust assessment of the impact on the highway network.

Travel Plan - The amended travel plan now makes reference to the bus stop relocation. The relocation of the bus stop on Church Street will trigger an increase in pedestrians using the existing pedestrian crossing to access the bus stop. The LHA therefore seek a contribution, as detailed in the recommendation, to upgrade this crossing and mitigate the increased use as a result of this development.

In addition, the LHA has recommended a £5000 travel plan monitoring fee to be included within any S106 agreement.

RSA 1 / 2 - A stage 1/ 2 Road Safety Audit has been carried out on the design proposals, problems identified include the location of existing service covers and drainage. These matters will be addressed during detailed design and as part of any S278 review process.

28.8.25 – (Response following deferral at planning committee)

The pedestrian crossing improvements will occur at the signalised crossing outside the Derwent Arms on Church Street, with the bus stop that is currently outside of the site being relocated to this area of Church Street, and the increase in footfall the crossing will see because of this.

The £25,000 contribution will enable to existing crossing to be upgraded to LED/ELV for electrical safety and to reduce carbon emissions/maintenance cost. A fault monitoring unit will also be installed so faults can be responded to quicker rather than relying on the general public.

The inclusion of a planning condition to agree HGV routing is also agreed, and that is what was detailed in the transport assessment, with no HGV's travelling through Malton. Regarding the car park security, it's not normally something the LHA would get involved with, but the measures in place such as the retractable bollards will ensure the car park can be used as intended.

- 7.11. Environmental Health – (27.6.24) – No objection subject to conditions. The development is located near sensitive receptors which may be adversely affected by construction noise during the construction phase. The Environmental Health unit therefore recommends the hours of construction / demolition be controlled by condition to ensure that the residential amenities of nearby occupiers are protected.

The EHO accepts the finding of the Noise Assessment together with the recommendations for the mitigation of noise from the car park, noise from the deliveries and noise from the fixed plant. This unit recommends that a verification

condition for noise be placed on this application, that Prior to first occupation of the development, verification that the approved sound insulation scheme has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.

With regards to land contamination, the submitted documents above have been reviewed and this unit accepts the finding of the reports that there is land contamination on the site and this unit accepts the recommendations from the phase 2 report that all areas of soft landscaping will be required to mitigate any potential risk to future end users. This will require a minimum of 600mm of clean 'suitable for use' imported soil. A verification report that the soil used is clean must be submitted to the local planning authority for approval. This unit also recommends that the fragments of (ACM) on the site be removed prior to construction. This unit notes that further ground water and ground gas investigations are required in order to establish the likelihood of contamination and therefore the remediation if contamination is present.

7.12. Network Rail – (5.6.24) No objection. Initially highlighted that further information would be required and controlled through condition. The applicants submitted details of lighting, drainage and landscaping which prevented the need for conditions. Final response dated 14.8.2024 and suggested conditions covering the need for vehicle incursion and lineside fencing.

7.13. Scientific team (Air quality) – No objection. (22.8.2025)

Thank you for consulting the Scientific Team regarding the briefing note produced by Avison Young following the deferral of the above planning application. The Scientific Officer has reviewed the supporting information relating to air quality, traffic flows, and the cumulative impact concerns raised in a late paper submitted prior to the Planning Committee held on 17 July, and makes the following comments:

Air Quality

The air quality consultant has justified the use of 2019 as the verification year for the air quality modelling, rather than 2020, 2021, or 2022. This is because 2019 is the most recent monitoring year unaffected by COVID-19, which could have resulted in atypical NO₂ emissions and uncertainties in monitoring reliability.

Emission factors and background concentrations for 2023 were used to assess the 2025 opening year scenario. This provides a more conservative, 'worst-case' estimate of pollutant concentrations, as it does not account for potential improvements in vehicle standards.

The Scientific officer has no concerns with this methodology, as it offers a reliable and robust model for assessing the air quality impact of the development without underestimating pollutant concentrations. This approach is recommended by Defra.

Traffic Flows

A traffic count was conducted as part of the traffic assessment to verify the modelling used in the air quality assessment. Contrary to the statement in the late paper, modelled data was not used. Traffic surveys were carried out on:

- Friday 30 June 2023, between 07:00–10:00 and 16:00–19:00

- Saturday 1 July 2023, between 11:00–14:00

These surveys included queue length assessments at key junctions on the local highway network, specifically:

- B1248 Commercial Street / Wold Street mini roundabout
- B1248 Church Street / Welham Road / B1248 Castlegate priority junction
- B1248 Castlegate / Old Maltongate / Wheelgate / Yorkersgate signalised junction

Based on the traffic count data, the busiest typical network hours were identified as:

- Friday: 16:30–17:30
- Saturday: 11:00–12:00

In addition to verifying the air quality modelling, the traffic counts were used to estimate trip distribution and generation for the development. It is estimated that the development will generate:

- 160 two-way trips during the Friday PM peak
- 218 two-way trips during the Saturday peak

Trip generation is expected to consist of 50% pass-by trips and 50% new trips, with 80% of trips arriving from the west and 20% from the east. The transport assessment concludes that most traffic generated by the new development would already be present on the network, diverted from neighbouring retail stores such as Lidl, Morrisons, and Asda. It is expected that traffic will balance out, resulting in no material change to the local road network. The town centre location of the development is also likely to encourage a higher proportion of non-motorised travel.

The Local Highway Authority's consultation response states that "the information provided in the TA is considered a robust assessment of the impact on the highway network."

Cumulative Development Impacts

Policy SP17 of the Ryedale Local Plan considers the cumulative impact of developments on air quality. It states: "Only permitting development if the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured."

The National Planning Policy Framework also addresses cumulative development impacts on air quality under paragraph 199: "*Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, 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. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.*"

The Institute of Air Quality Management's Land-Use Planning & Development Control: Planning for Air Quality guidance (2017) states:

- 6.21 – “The possibility of cumulative impacts should also be considered. Therefore, there may be a case for modelling another future scenario, with committed development excluded, to allow the cumulative impact of all such future developments with planning permission to be assessed as one combined impact at selected receptors. In most circumstances it is more likely that committed development would be included in the future baseline where the information exists to facilitate this. It is difficult to include other planning applications yet to be determined, as the outcome is not certain.”
- 6.22 K – “Cumulative impacts and effects. In many cases, the impact of the development being assessed will have a cumulative effect with other planned developments, which may or may not have planning permission. Where these developments have been granted planning consent and are therefore ‘committed’ developments, their impacts should be assessed cumulatively with those of the application site.”

The planning application 21/01115/MOUTE, referred to in the late paper (by Simon Thackery), is not yet ‘committed’ as it has not been determined. Therefore, it is difficult to assess the cumulative impact of hypothetical developments, as noted in section 6.21 of the guidance.

However, the traffic assessment for the ‘2028 Future Year’ scenario adjusted the 2023 base traffic flow data using TEMPRO software. This programme accounts for local traffic growth and future developments agreed within the Local Plan. The hybrid application (21/01115/MOUTE) is included in the Ryedale Plan under “SD3 – Land to the east of Beverley Road, Norton,” so traffic generated by the adjacent site is incorporated into the TEMPRO growth. Although 21/01115/MOUTE is yet to be determined, the cumulative impact of both developments has been considered. The 2025 air quality assessment included both ‘with development’ and ‘without development’ scenarios to evaluate the proposed development’s impact on air quality.

Based on the additional information provided, the Scientific Team has no objections relating to air quality, traffic flows and the cumulative impact relating to the proposed development.

- 7.14. Environment Agency – (15.5.25) – No objection subject to a condition ensuring the development is carried out in accordance with flood risk assessment, titled ‘P21-173-HYD-XX-XX-RP-C-0500’, dated 27/03/2025 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 20.287 metres above Ordnance Datum (AOD)
- Compensatory storage shall be provided as detailed in the FRA.

(13.1.25) – Objection maintained. The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to

21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to: Address the need for compensatory flood storage.

(5.11.24) Objection. The site lies within Flood Zone 3, with a high probability of flooding from rivers. The application for a retail unit, is considered to be a 'less vulnerable' land use in Annex 3 of the National Planning Policy Framework. The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site-specific flood risk assessment checklist. The FRA does not therefore adequately assess the flood risks posed by the development. In particular, the FRA fails to address the need for compensatory flood storage.

- 7.15. Yorkshire Water – No objection (10.7.25) subject to a condition requiring compliance with the Flood Risk and Drainage Assessment Issue P05.

9.6.25 – Objection remains. The submitted revised, Proposed Landscape Plan NSH 013 P101 (revision G) dated 07/05/2025 is unacceptable. The revised submitted drawing appears to show new tree planting (5 *Acer campestre* species proposed) over the public sewer located along the northeastern corner. The submitted drawing should show the site-surveyed position of the public sewer crossing the site and the drawing should show the required building stand-off from public sewer or an agreed alternative scheme. Although a 10 metre sewer easement is shown along the eastern red line boundary but it is not shown at the north east corner of the site.

13.11.24 – Objection. It appears from the submitted site landscaping that tree planting will be sited in close proximity the public sewer located within the site. This could seriously jeopardise Yorkshire Water's ability to maintain the public sewerage network and is not acceptable. YW advise site layout is amended to allow for adequate protection of the sewers.

The drainage details submitted on drawing NSH 013 P101 (revision D) dated 25/01/2024 that has been prepared by Nicola Hills Studio require amendments. The submitted drawing appears to show tree planting within close proximity to the public sewer crossing the site, this is unacceptable.

On the Statutory Sewer Map, there are two 300 mm diameter public combined water sewers and a small diameter combined sewer recorded to cross the site. It is essential that the presence of this infrastructure is taken into account in the design of the scheme.

- 7.16. Trees and Landscape officer – No objection. The site is mainly covered in self-seeded scrub, with little regard to any tree protection or replacement of a potential ecological oasis. Tree planting should be included as part of the car park design.
- 7.17. Economic Development – No response received.

Local Representations

7.18. The application was advertised via site notices 5.3.25 & 19.3.2024 and via the press notice in the Gazette and Herald published 14.2.24. Neighbour letters were also sent.

7.19. Local representations have been received of which 9 are in support and 2 are objecting. The council also received a representation from Rapleys on behalf of Lidl objecting to the scheme along with a response from Cora IHT highway consultants representing Lidl. A further representation from Cllr Thackray was received commenting on air pollution. A summary of the comments is provided below. Please see website for full comments.

7.20. Comments in Support:

- Malton/Norton has a range of small independent shops but very few good quality, large supermarkets. If it is approved, this will give residents a much better choice of grocery shopping, and at better prices too, which is valuable in these times.
- It will also help boost Commercial Street in Norton - which currently is seldom a shopping venue of choice.
- It will support employment locally, creating new jobs for local people which is very helpful, when other employers are cutting back.
- It would boost the local economy and provide a greater shopping experience for residents.
- It would provide a significant investment by Aldi of approximately £6m into the local economy. It will promote competition between stores and keep prices competitive.
- It will ease congestion in Malton.
- Huge boost for the community and support the expanding towns of Malton and Norton. It will reuse a brownfield site and remove the current eyesore.
- The positives far outweigh the negatives of the scheme.

7.21. Objections:

- Concerns raised from adjacent landowners to the west of the site that the development may cause additional surface water flooding through run off, with nearby basements already having to pump out water in the area during extreme weather. The planning application fails to address any of these concerns or provide adequate mitigation measures i.e. no water storage tanks on site.
- Concerns over access for maintenance of boundary wall to the west.
- Additionally, a large tree has been positioned in the south west of the car park. This will obstruct light and poses a risk of root damage to property foundations. Boundary fencing will cause a loss of light.
- Construction may block access from Commercial Street and cause distribution.
- The supermarket will cause noise pollution when operational.
- A new supermarket is going to mean a further increase in traffic on Commercial Street, leading to more queuing traffic and fumes in the town centre and harmful air pollution.
- Concern over late night deliveries, this would cause noise and disturbance to residents living in Commercial Street & Scarborough Road through the constant buzz of refrigerated trailers, horns blowing to alert staff in the shop that a delivery has

arrived or the reversing alarms as the HGV's reverse into the loading bays and the rattle of trolleys as the HGV's are unloaded.

- Concerns over ecology with a nett loss on BNG. The site is the natural habitat of protected species- both crested newts and also toads, where they hibernate overwinter. During spring, they migrate in large numbers and cross the main road to get into the ponds & back gardens of the houses opposite the proposed entrance to the proposed Aldi site.
- The proposed car park at the Aldi site is also a natural flood plain for the river, during times of high water (which is a number of times a year) over half the land appears to be flooded. If Aldi managed to maintain water drainage of the proposed car parking area, the displaced extra water that is diverted into the river, is likely to put even more strain on County Bridge, which is a short distance downstream and it could possibly have a knock-on effect causing more local homes to be flooded.
- Concerns over the accessibility for wheelchair users given the level differences.
- Loss of Residents Unrestricted Parking on Commercial Street.
- The building of a supermarket in Norton is likely to have a detrimental effect on the existing independent small food shops that are already open on Commercial Street. Also, the large factories around Norton attract many international workers who buy their food from Malinka Market (Eastern European food) and Cubis/Candycrush (Romanian/Turkish food) which offer a diversity of international foodstuffs. These shops are likely to be at risk of closure if Aldi were to open nearby and also, having an Aldi store so close to the existing shops would be likely to decrease the diversity that Norton presently possesses.
- Concerns over the accuracy and content of the Planning Retail Heritage Statement as this fails to demonstrate that the proposal meets the requirements of paragraph 91 of the NPPF, as well as Policy SP7.
- The retail sequential site assessment is inadequate.
- Concerns raised by transport consultants over the content of Transport Assessment.
- Concern that the Air Quality Impact Assessment for the Aldi store doesn't take account of cumulative impact of the Taylor Wimpey AQIA.

17.7.25 Planning Committee Pre/Post

- 7.22. Prior to 17.7.25 Planning Committee an additional letter from Simon Thackery was received which requested the application be deferred due to concerns that the air quality assessment submitted as part of the planning application hadn't taken into account the cumulative impact on air quality and had not been updated with the 2023 NY Highways traffic count data (which was measured, not 'modelled'). The application AQA relies on 'modelled' data which is inaccurate when compared with the actual measured traffic data. This was report in full to the planning committee.
- 7.23. A further letter of objection was received 22.7.25 from Phillip Spence OBE raising the following issues:
1. Traffic congestion which is already troublesome as it backs up on to Wold Street and the Railway junction.
 2. Noise pollution as the traffic and deliveries are planned to go to 10pm most days.

3. Concerns over air pollution from the increase in traffic and its impact on the health of residents.
4. Inadequate road and crossing infrastructure for increased motorists, pedestrians and cyclists. Putting in additional safety measures will simply increase congestion and noise which will back up into town.
5. Concerns over the impact on the Conservation Area and the impact on wildlife along the river caused by increased pollution.
6. Section 106 funding whilst welcome should hopefully not be a driver for cash strapped councils.
7. Support is given to the development of Commercial Street in line with the 2017 Conservation Plan but this should be small independent shops rather than multi national corporations with a car park for 89 cars.
8. The town would benefit from out of town supermarket served by local transport for non drivers such as the new BP and McDonald's on Pickering Road.

8.0 Environment Impact Assessment (EIA)

- 8.1. The development falls within Schedule 2 Category 10(b) Urban Development Projects of The Environmental Impact Assessment Regulations 2017 (as amended), however is only 0.71 hectares and therefore does not exceed the 1-hectare threshold. The pre application response confirmed that the Local Planning Authority have screened the development and found that it is not EIA development, and no Environmental Statement was required to be submitted with the application.

9.0 Main Issues

- 9.1. The key considerations in the assessment of this application are:
 - Principle of development including sequential test and retail impact
 - Design and Impact on the Character of the Area
 - Trees and Landscaping
 - Impact on Highway Safety & Highway Matters
 - Impact on Residential Amenity
 - Noise Environment
 - Flood Risk and Drainage
 - Nature Conservation and Protected Species
 - Heritage Assets
 - Archaeology
 - Land Contamination & Air Pollution
 - Impact on Railway
 - Minerals and Waste

10.0 ASSESSMENT

Principle of Development

- 10.1. In assessing the principle of development, it is first important to assess the NPPF which sets out the main key areas for consideration. Paragraph 11 of the NPPF

states that decisions should apply a presumption in favour of sustainable development and that development proposals which accord with an up-to-date development plan should be approved.

- 10.2. Paragraph 12 of the NPPF re-emphasises that the development plan is the starting point for decision making, adding that where a planning application conflicts with an up-to-date Development Plan, permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. Paragraph 48 reiterates that planning law requires that applications for planning permission be determined in accordance with the development plan.
- 10.3. The development plan for this site is Ryedale Local Plan Strategy (2013) and Local Plan sites document (2019). This makes site-specific policies and identifies areas of land for specific uses i.e. allocations.
- 10.4. The Local plan sites document shows the western part of the site where the car park is proposed as being a committed housing site governed by Policy SD1 'Existing Residential Commitments'. This relates to the extant planning consent 14/00947/MFUL - Erection of 37no.one bedroom apartment, 20no two-bedroom apartments, 5 3no bedroom dwellings. This was judged to be lawfully commenced in 2018.
- 10.5. The Local Plan Sites Document, Policy SD1 states:
- Residential development sites shown on the Policies Map as existing Residential Commitments will be treated as allocations for residential development. Residential Development should be consistent with the site's existing permission, in the event that the current permission expires.*
- 10.6. The developers of the proposed residential application concluded that the scheme wasn't viable in 2019, and therefore it is considered to not be deliverable. Since early 2020 this site has been identified as such in the Local Planning Authority SHLAA, and it is accordingly not included in the 5 year land supply position in terms of being a deliverable site.
- 10.7. The site was not included in the Local Plan to deliver planned requirements, but to reflect the Development Plan context of the production of the Ryedale Plan, in which there was a six year gap between the adoption of the Local Plan Strategy and Local Plan Sites Document. Therefore, planning consents in the interim (and indeed prior to the Local Plan Strategy's adoption) which were under construction, or which could reasonably form part of a land supply which contributed to meeting planning requirements, were identified as commitments to ensure that there was a robust supply of housing sites, which was still in conformity with the spatial approach and housing requirement of the Local Plan Strategy.
- 10.8. This site has not been judged deliverable for some years now, and the planning application now under consideration is testament to this lack of deliverability. This is a significant material consideration. Therefore, due to the site's allocation this proposed

application is regarded as a departure from the development plan, however alternative uses for the site as a whole can be considered. The alternative use is also identified in the more recent Neighbourhood Plan, which is now given full weight.

10.9. The eastern part of the site is just land within development limits governed by policy SP1. A small section of the site (approximately 10%) i.e. western edge and the main access is within the Town Centre Commercial Limits. The site therefore best described as edge of centre, albeit directly next to the commercial limits of the town centre and sustainably located.

10.10. In terms of the Local Plan Strategy Section 3 'Aspirations and Strategy' details the vision and aims and objectives of the plan. Paragraph 3.17 of the Local Plan states:

“Enhancing Malton Town Centre is integral to the Strategy of developing the role of the twin towns [of Malton and Norton] as Ryedale’s Principal Town. The redevelopment of key sites and buildings, public realm improvements, an improved choice of shopping and the creation of a stronger evening economy are examples of the opportunities that will help to improve and revitalise the Town Centre. The arc of underused buildings and spaces which wraps around the north of town provides an excellent opportunity to accommodate a mix of new uses to support the existing town centre. Ensuring that future changes at the Town Centre complement and respect the qualities that are integral to its character, such as high quality independent retailing and the quality of the built environment, will be key to success”.

10.11. Policy SP1 'General Location of Development and Settlement Hierarchy' controls the former Ryedale legacy areas future growth and ensures development will be distributed in line with the Spatial Strategy. Malton and Norton is the principal town and the primary focus for growth. It identifies Malton and Norton's opportunities for growth being 'redevelopment of underused Town centre/edge of centre sites and rail/river corridor sites subject to flood risk.'

10.12. Local Policy SP7 *Town Centres and Retailing* states that new retail development will be accommodated in line with the following Town Centre Hierarchy:

Principal Town Centre: Malton

Local Town Centres: Norton, Pickering, Kirkbymoorside and Helmsley

10.13. Paragraph 5.23 of the Ryedale Local Plan provides further context for the policy stating that *“current commitments [for food/convenience retail] granted consent account for most if not all of the quantitative additional food retail required to 2026. However should any commitments fail to come forward, **any outstanding requirements will be directed to Malton** in order to improve the range and choice of food stores in the District’s main Town Centre. Any new retail development needs to link closely with the town centre and be sensitively accommodated in the townscape. To ensure that the effects of any proposals that come forward in edge or out of centre locations are adequately taken into account, a local floor space threshold has been set. Any proposals for retail development that would meet or exceed the identified floor space requirements, will be required to undertake an assessment of impacts to*

ensure that there will not be an unacceptable impact on existing town centre retailers”.

- 10.14. Policy SP 7 ‘Town centres and Retailing’ states “*The Town Centres will be the focus for a diverse range of uses in the District. This will principally include retail activity and will also provide a focus for commercial and leisure uses, entertainment facilities, cultural activity and tourism. New retail development will be accommodated in line Malton being the principal town and Norton being a local town centre. The policy states ‘Retail and other town centre development of a scale appropriate to these roles will be supported where proposals maintain and enhance the vitality and viability of each Town Centre.’* The plan also describes how Malton and Norton have their own distinct town centres which serve different functions.
- 10.15. Malton Town Centre is the main town centre serving the District, offering the most extensive range of retail and other town centre uses. Norton acts as a local centre with shops that meet more everyday needs and is principally located along the linear ‘High Street’ of Commercial Street. The supporting text to the 2013 Local Plan Strategy at paragraph 5.18 describes Norton as not performing as strongly in retail terms and there are indications that it risks falling into decline. This was written in 2013 and obviously some changes have occurred in this period. However, the Local Plan Strategy states that given its local centre role and its role as a gateway into Malton, it is essential that Commercial Street has an inviting appearance to attract and retain custom. Officers still regard this to be the case, and Norton needs to be an attractive destination with a variety of uses to promote increased footfall on Commercial Street and linked trips. The development of the proposed supermarket will work towards this, providing linked trips within the centre due to its location and providing new investment to the area.

SP7 - Food (Convenience) Retail

- 10.16. SP7 ‘Food (Convenience) Retail’ states “current commitments account for the quantitative food convenience retail to 2026. Should any commitments fail to come forward, any additional convenience floorspace will be directed to Malton. Appropriate land allocations at Malton will be made through the Local Plan Sites Document to accommodate the identified retail need at the time, taking into account commitments. A local floorspace impact threshold will be applied for the assessment of planning applications for town centre uses outside of the defined Town Centre Commercial Limits and not in accordance with this Plan. This will be applied as follows:
- 500 square metres gross for comparison only schemes
 - 750 square metres gross for convenience only schemes and,
 - Where a proposal involves a combination of convenience and comparison floorspace, the threshold is set at 1000 square metres of the total retail gross floorspace of the scheme.
- 10.17. Therefore, the Development Plan is clear in that Policy SP7 requires new retail development to come forward firstly within Malton Town Centre. The proposal is therefore contrary to SP 7. However, it is noted that the evidence base for the

quantitative food convenience retail requirement under policy SP7 is now relatively old, having been compiled prior to 2013 and designed to cover the period to 2027.

- 10.18. It was therefore suggested to the applicants at the pre application stage that they should set out clear and convincing arguments as to why they consider that the current commitments for food/convenience retail already granted consent are not likely to come forward, with particular reference to planning approval 15/00612/MREM -Livestock Market or that there is evidence of additional need/requirements for food/convenience retailing, and set out why the development is necessary and cannot be located within the Town Centre Commercial Limits of Malton.
- 10.19. A Retail Impact Assessment which considers the impact of locating a supermarket in Norton, outside the Principal Town Centre of Malton was advised in the pre application response. This is consistent with paragraph 91 of the NPPF which states *“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”*
- 10.20. Paragraph 92 of the NPPF does allow for edge of centre locations “When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.” This site is precisely that, being mainly on the very edge of the commercial limits of Norton but directly accessible to the public and wider Commercial Street.
- 10.21. Policy SD14 ‘Retail Commitments’ of the Local Plan Sites Document states “The Malton Livestock Market Site, Malton will continue to be supported for retail development in principle in the event that existing permission is not implemented.” The livestock market permission has existed since 2012 and commenced in 2017.

The sequential test

- 10.22. Section 6 of the applicants Planning, Retail and Heritage Statement contains the sequential test and discusses the site opportunities located within Malton Town Centre. This assesses the catchment area likely to be served by the proposal and then to identify any alternative sites located within or on the edge of existing centres which serve an equivalent catchment, and which could accommodate the scale and form of development proposed.
- 10.23. The assessment describes how the operation of a LAD (Limited Assortment Discounters) discounter (such as Aldi) requires a standard store format with the layout allowing the optimal interaction between the warehouse, sales floor, servicing and access arrangements. Such a layout is very similar across their entire store portfolio. This rules out irregular shaped sites as it would make the store unviable.

- 10.24. This proposed store is smaller than the typical minimum requirements for a modern Aldi foodstore development and the applicants describe how some compromises have been necessary.
- 10.25. The sequential test examines 3 sites i.e the Livestock Market Site, Wentworth Street Car Park and Water Lane Car park. Appendix 5 of the Planning, Retail and Heritage Statement provides a detail proforma for each site. The assessment is detailed and the conclusions are detailed below:
- 10.26. Livestock Market Site 0.8 hec – Various constraints which include existing uses on the site, its location in terms of heritage impacts, the nature of the current planning permissions, its overall suitability with levels, servicing, viability, car parking and access. The applicant's conclusions were that even with a revised planning application it is unsuitable to accommodate the minimum requirements of an LAD retailer without significant operational and cost implications. The applicants' conclusions were "in view of challenges associated with the site from a heritage perspective, the available space, levels and significant access issues, it would not be possible to accommodate a retail development of the form and scale proposed by Aldi at this location. Furthermore, the planning permission already in place is not appropriate to accommodate the form of development proposed as part of this application. The site cannot be considered a 'suitable' alternative to the application site. Furthermore, there are significant concerns regarding availability of the site. The site is therefore discounted due to its unsuitability and lack of availability."
- 10.27. Wentworth Street Car Park 1.17 ha - The development of the site for any use which does not include a substantial amount of car parking would not be supported as it would not comply with the council's ambitions for the site. This follows recent committee decisions on this matter. Furthermore, there are technical constraints with the development of a store on this site and therefore the site is discounted as 'unsuitable'. Furthermore, the site is 'unavailable' for sale (and therefore development) and as such can be discounted on this basis.
- 10.28. Water Lane Car Park 0.6 hec – The site is regarded as being insufficient in size to accommodate the proposed development, does not offer road prominence and there are questions regarding whether the site can be serviced. In addition, it is not clear if the site is available. Based on these reasons, the site is 'unsuitable' and can be discounted on this basis
- 10.29. The assessment describes how there are no sequentially preferable development sites within or better located on the edge of any of the centres within the catchment area, which could realistically accommodate the scale and form of retail development for which planning permission is sought. Officers have no reason to disagree with this assessment and consider the sequential test to be passed. The sequential test is also a matter for the Local Planning Authority to determine and not the Environment Agency, who incidentally removed their objection of flood risk grounds.

Retail Impact Assessment

- 10.30. The Retail Impact Assessment is within Section 7 of the 'Planning, Retail and Heritage Statement' with Appendix 6 containing the Convenience Goods Impact assessment and Appendix 8 containing the methodology. Paragraph 94 of the NPPF identifies that local planning authorities should require an impact assessment to be submitted in support of planning applications for 'main town centre uses' over 2,500sq.m (unless a local planning policy sets a lower threshold), on sites outside town centres, and that are not in accordance with an up-to-date Development Plan. The impact assessment should include a consideration of:
- The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and,
 - The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment.
- 10.31. The Local Plan in SP7 does set a lower threshold with 750 sqm for convenience only scheme. Where a proposal involves a combination of convenience and comparison floorspace, the threshold is set at 1,000 sqm of the total retail gross floorspace of the scheme.
- 10.32. The applicants also incorrectly state '*the site that is subject of this application occupies a town centre location, within the commercial limits of Norton Local Town Centre, as identified in The Ryedale Plan and that sequential testing need not apply given its location in the commercial limits of Norton.*' Whilst it can be regarded as within the development limits of the town centre only a small proportion of the site is within the commercial limits of Norton as noted in the objection letter from Rapleys on behalf of Lidl. Therefore, sequential testing is necessary.
- 10.33. When assessing applications for retail developments outside town centres, which are not in accordance with an up-to-date plan, an impact assessment is also required. The default threshold set out in the NPPF is 2,500 sqm. The local plan threshold is significantly less as described above.
- 10.34. The assessment examines the retail scenarios with the Livestock Market being developed and without. It concludes that the trading effects of the retail proposals will give rise to only minor convenience retail impacts across the majority of surrounding foodstores and centres. Each of the locations likely to be affected by the proposals overtrades currently and even with the development would still perform better than their expected benchmark levels. The assessment reveals that even with the Livestock Market site being developed it will create further competition in the catchment, its location within Malton Town Centre will overall, boost the turnover and market share of this destination.
- 10.35. Scenario B examined the effects if the Livestock site does not come forward and ultimately concludes that the proposals can be accommodated without significant impacts on Malton Town Centre. This is also a result of the overtrading currently occurring.

- 10.36. The report reiterates that the application proposals are located within Norton Town Centre. Whilst policy may afford priority to Malton, both the Livestock Market site development and the application proposals can come forward, delivering town centre development in each location and boosting the strength of each centre. The report also details number of qualitative factors which underline why an Aldi foodstore in this location will not result in a 'significant adverse' impact on the vitality and viability of any centre in particular, Aldi's Deep Discount Business Model.
- 10.37. Firstly, an Aldi discount foodstore does not represent an 'everything under one roof' shopping destination as is the case with many mainstream foodstores. The retailer will stock their 'own brand' versions of the staple food products that typically comprise a family's weekly shop alongside a very limited non-food offer. This means that mainstream foodstores and other independent convenience retailers will still be relied upon where consumers are seeking mainstream branded goods.
- 10.38. Secondly, in contrast to many larger foodstores, the proposed Aldi will not include an in-store café, post-office, dispensing pharmacy, dry-cleaners, travel agent, opticians or photo processing. Nor will there be staffed butchery, fishmonger, delicatessen or greengrocery counters. Also, Aldi do not stock tobacco – a staple of many local newsagents. Given this position, a future Aldi shopper will still be wholly reliant upon existing traders in surrounding local centres, for example, for the vast majority of their specialist food retail (i.e. butcher), non- food retail, retail service, and leisure needs. The district centres will therefore retain a strong customer base.
- 10.39. Thirdly, in terms of Aldi's non-food retail offer, this only accounts for 20% (242qm) of the store's sales area and the range of goods stocked is seasonal and continuously rotated on a 'when it's gone it's gone' basis, with no single product range predominating. Therefore, the potential for impact is very limited; with non-food goods which may cross over with a local trader's offer on sale for only a very limited period, rather than all year-round.
- 10.40. Officers are satisfied that the assessment demonstrates that overall, there would be no significant adverse impacts on town centre facilities.

Malton and Norton Neighbourhood Plan 2024

- 10.41. Finally, the Neighbourhood Plan which is now adopted can be given full weight and provides support for the proposal. Paragraph 4.11.2 states "It is considered that the land to the rear of Commercial Street in Norton would benefit from redevelopment because it is currently underused. However, the land is within an area of flood risk which limits development potential. As such, residential and other vulnerable uses, such as health services and public houses, are inappropriate in this location."
- 10.42. Paragraph 4.11.3 states "The town councils would, nonetheless, like to see the land put to better use. The land is considered to be situated in a convenient location to the shops along Commercial Street which are currently served by a restricted number of on-street car parking spaces. The land therefore provides an opportunity for additional parking spaces to support the existing shops, both in terms of parking and

servicing/deliveries. Other regeneration uses may also be appropriate. Suitable alternative road access routes to the site from Commercial Street are available.”

10.43. The site was given a specific policy in the Neighbourhood Plan i.e N1 and states:

“Regeneration of land to the rear of Commercial Street, as identified on the Neighbourhood Plan Policies Map, including for retail, light industrial uses and the development of a public car park, with associated service access to the rear of commercial properties in Commercial Street, will be supported.

Residential development or other highly or more vulnerable uses will not be supported in this location due to flood risk. Depending on the scale and location of any proposed development in relation to the flood risk zones, a Flood Risk Assessment (FRA), may be required. The FRA should be informed by flood risk modelling set out in the latest available published Strategic Flood Risk Assessment applicable to the plan area and should demonstrate that the proposal meets the requirements (including the undertaking of sequential and exception tests) and up-to-date guidance set out in the NPPF and national planning practice guidance.

The acceptability of any development supported by this policy is subject to there being no adverse effects on the integrity of the River Derwent Special Area of Conservation.

10.44. There is therefore clear support within the plan for this site to come forward for commercial purposes. This is a significant material consideration, and the Class E proposal is compliant with this.

10.45. In terms of wider national planning policy contained within the NPPF, Paragraph 85 of the NPPF states that planning decisions should help create the conditions in which business can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development. Chapter 7 of the NPPF ‘Ensuring the vitality of town centres’ states planning decisions should “support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.”

10.46. There is therefore a clear message throughout the NPPF about focusing investment within town centres. This development is partly within the commercial centre of Norton which is regarded as a ‘local town centre’ in the Local Plan Strategy compared with Malton which is the ‘Principal town’ for growth and the larger of the two. This approach is consistent with the assessment of all applications across these two distinct areas.

10.47. To conclude, this is a part brownfield windfall site that mainly lies outside but directly adjacent to the Town Centre Commercial Limits for Norton. The proposed floorspace (1,212sqm sales area) is above the 750 sqm threshold being for convenience only scheme. Its location immediately adjacent to the commercial centre weighs in favour of the scheme. The site is highly accessible, sustainably located and will provide linked trips to Norton and provide investment into the Norton town centre. Therefore,

whilst being a large retail use outside of Malton it will increase the retail offer locally and is considered sustainable in its own right, which outweighs the policy conflict with dated Policy SP7. The proposal will create around 40 jobs, and it would serve the immediate locality and outlying villages. The assessments provided demonstrate that the proposal will not have a significant adverse impact on the existing retailers in the locality. The proposal therefore complies with SP 1 in terms of the general location of development in the principal town and whilst some conflict exists with policy SP7 of the Ryedale Local Plan Strategy which firstly promotes large convenience stores in Malton, the submission has demonstrated that no other suitable sites are available in Malton and therefore other sites can be considered. The proposal is compatible with the adopted neighbourhood plan and is compliant with the development plan as a whole and with chapter 7 of the NPPF.

Section 149 of The Equality Act 2010

- 10.48. Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 10.49. The development the subject of this application would not result in a negative effect on any persons or on persons with The Equality Act 2010 protected characteristics. The sustainable food choice for all residents, will be designed to accommodate the public including disabled access, with disabled parking.

Design and Impact on the character of the area.

- 10.50. Chapter 12 of the NPPF states the creation of 'high quality' buildings and places are fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development. Paragraph 135 states that planning decisions should ensure that developments; are visually attractive as a result of layout and landscaping; sympathetic to local character, while not preventing change, and establish a sense of place.
- 10.51. Local Plan Strategy Policy SP 16 covers design and states development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which reinforce local distinctiveness, provide a well-connected public realm which is accessible and usable by all, safe and easily navigated and protect amenity and promote well-being. To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings.
- 10.52. Local Plan Strategy Policy SP20 is the generic development management policy in the local plan and states "New development will respect the character and context of

the immediate locality and the wider landscape/townscape character in terms of physical features and the type and variety of existing uses. Proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses. The cumulative impact of new development on the character of an area will also be considered.

- 10.53. In terms of the character, the site is located on a backland site north of the main Norton commercial area. The site did historically have a retail tyre centre use, therefore its redevelopment for a class E food store is not characteristic. The proposal also fully develops out the entire site, with a sensitively designed building and landscaping. This will see the removal of the current unsightly concrete pads and scrub which has taken over parts of the site.
- 10.54. The site has always been earmarked as a development opportunity which effectively infills the area of land enclosed by Wallgates Lane to the east, Commercial Street to the south, the railway to the north and Bookrose Court to the west. It also provides job creation for local people, choice of retail facility for local people and a store that is attractive and modern whilst respecting the historical environment that surrounds it.
- 10.55. The proposed site layout has a main access from the south for all vehicles and pedestrians, with crossing points to allow safe access to the store, which sits to the east of the car park in an east-west orientation. The parking arrangement is simple and compact allowing space for some limited soft landscaping. The building is set behind the main Commercial Street frontage and so has limited visibility as one passes the access point. Future signage will need a further advertisement consent. The service area is located to the northern side of the store which is a best location for it adjacent to the railway line. An acoustic fence will shield residential dwellings from noise to the east. The service area with access for the goods vehicles will be through the car parking area. Access to the service area has been designed to accommodate the turning manoeuvres of 16.5 metre articulated goods vehicles. The store entrance will be visible for pedestrians approaching from the south on Commercial Street. The overall site layout ensures the opportunities for crime and disorder are minimised with the site being open to achieve good natural surveillance. The crime prevention officer did make several other suggestions, and a condition (No.15) is imposed to ensure these are acted upon.
- 10.56. In terms of scale and appearance the maximum height of the proposed store is to the 6.25m to the blade roof. The height of the rear elevation is 5.0m from the ground. Within the immediate vicinity of the site, there is a mix of architectural styles and building materials. The residential properties close by are two or three storey, terraced, red pantiled or slate pitched roofed properties of red, brown or buff stock brick with stone detailing; some random rubble, and some rendered or painted. The proposed single storey, blade roof foodstore, reflects the scale of the buildings surrounding the site. The building also has solar PV on the southern part of the roof, which has been recently increased following the Planning Committee deferral by 36% from 200 panels to 272 panels to accord with Local Plan Strategy SP18 'Renewable and Low Carbon Energy'. Appendix B shows the roof plan.

- 10.57. The design and access statement states “The overall design of the store is a modern, contemporary style with a simple palette of materials combining silver and grey cladding, aluminium windows, steel doors and glazing. There is a canopy wrapping above the shop front which runs along the west elevation to maximise natural light in the store. The west and north elevations show the configuration of the loading bay that allows HGV’s to dock at floor level with the building.”
- 10.58. Officers considered the design of the building to be acceptable as this sat comfortably behind Commercial Street. The materials though were amended to reduce the modern appearance in favour of a local brick type and to lessen the impact on the Conservation Area. This is explained further in the heritage section.
- 10.59. Overall, the scheme develops out a part previously developed site. The layout responds to the site-specific issues and whilst accommodating Aldi’s operational requirements. Officers consider the proposed use, amount of development, layout, scale and appearance are acceptable in design terms and the proposals will deliver a modern, contemporary design which will improve the visual appearance of the site and the surrounding area. The proposed store reflects the scale and massing of the adjacent buildings, existing and proposed, in the surrounding area. The proposed development is therefore considered to be in accordance with Local plan Strategy Policies SP16 and SP 20 and national policy contained in chapter 12 of the NPPF.

Trees and Landscaping

- 10.60. Local Plan Strategy Policy SP16 on Design states the design of new development will also be expected to incorporate appropriate hard and soft landscaping features to enhance the setting of the development and/or space. Policy SP 20 states new development will respect the character and context of the immediate locality and the wider landscape/townscape character in terms of physical features and the type and variety of existing uses.
- 10.61. There are several trees within and adjacent to the site which will be affected by the proposal. As a consequence, the submission was accompanied by plans showing the existing trees within the site, an Arboricultural Method Statement, Arboricultural Impact Assessment both Prepared by (AllAboutTrees) 17.10.23 and a plan showing retained trees within the proposed layout with protective measures indicated.
- 10.62. The impact assessment noted that the site was unmanaged and overgrown with vegetation, presumably self-set and establishing through a lack of management. Portions of the site have been cleared in the recent past retaining the larger trees. Past tree management within the study area is not in line with good practice. A number of trees have been damaged with a chainsaw – possibly related to an extremely clumsy attempt at ivy removal. Additionally, there are signs of herbicide damage to some trees, possibly inadvertently applied to trees when attempting to treat ivy.
- 10.63. The trees are mainly moderate to low quality and up to 9 individual trees and groups unsuitable for retention. All of the trees within the site need to be removed as they conflict with the building and car park layout. The tree loss is to be mitigated through

new planting. The trees outside the site on the northern boundary are within the railway embankment and are retained and protected by fencing to safeguard root protection areas.

- 10.64. The scheme included a detailed landscape layout, which describes the roughly annotated planting on the site plan. This showed ornamental tree planting in the western corners of the car park i.e. one 16-18cm girth flowering cherry in the southern most corner and 3 Mahonia trees in the northern corner.
- 10.65. The northern boundary provided very little opportunity for planting due to the steep gradient between the car park edge apart from a 20 sqm area of dogwood adjacent to the service area compound. The northern boundary is however screened by existing vegetation and trees on Network Rail land, so officers are not concerned by this.
- 10.66. The northeastern corner of the site is outside of public view and is mainly laid to meadow grass with wildflowers. The applicant points out that there is a need to protect the 6m diverted sewer easement in this area, therefore there is a general resistance to anything which could cause damage to the sewer. For this reason, officers accept that the wildflower meadow planting is considered the most appropriate option. In the corner is a native planting mix and 3 No Acers to provide screening to the residents to the east. 1 No Silver Birch is also added adjacent to the northern boundary. Yorkshire Water previously objected to the planting of the acer trees, however these have been reduced from 5 to 3 to take them out of the sewer easement and no objections are now raised.
- 10.67. To the south of the store is again meadow grassland, with a small planted area comprising of mixed Euonymus and Hebe to provide some colour upon entering the site.
- 10.68. In terms of boundary treatment, the southern boundary to the east of the entrance is 2m close boarded fencing which continues to the eastern boundary and terminates in the north eastern corner where it meets the railway boundary. The northern boundary adjacent to the railway is shown as 2m weldmesh fencing for security purposes. Details of this fencing have been controlled by condition at the request of Network Rail. To the west of the access is an existing retaining wall which will have fencing on top of the wall to provide a 2m screen. In the south western corner is a new 1.8m acoustic fence set in from the existing retaining boundary wall. A new retaining wall will then run along the car parking bays to the north and wrap around the northern parking bays set in from the fence line.
- 10.69. Through discussions with the trees and landscape officer it was agreed the landscaping approach was 'on balance' satisfactory. More could have been done in the more visible car park areas, however the applicants suggested this would conflict with vehicle movements and due to the constraints of the site this wasn't possible.
- 10.70. A condition is added requiring details of the landscape management plan for the lifetime of the development. A condition is also added which requires the planting to occur within the first available planting season following the construction of the development hereby permitted and all losses made good.

10.71. Therefore, whilst some tree loss will occur, the trees are not of significant quality and some limited planting will occur in this developed urban environment where possible. Trees and landscaping are therefore not considered as significant material considerations against the determination of this application. On balance the landscaping scheme complies with SP 16 and SP 20 of the Local Plan Strategy.

Impact on Highway Safety & Highway Safety Matters

10.72. The NPPF in paragraph 116 states that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

10.73. Local Plan Strategy Policy SP20 (Generic Development Management Issues) advises that "Access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads".

10.74. The application was originally accompanied by a Transport Assessment and Interim Travel Plan both dated December 2023 and produced by Andrew Mosley Associates. Both these documents were later updated as a result of highway comments, with the last revisions being versions Rev 3 dated 5.11.24. A further Technical Note dated 1.8.25 was produced by the applicants Transport Consultants Andrew Moseley Associates (AMA) in response to queries raised by an objection in relation to the Air Quality Assessment at the 17.7.25 Planning Committee.

10.75. The Transport Assessment notes that the site is brownfield land, however, does not currently generate any traffic. The site will be accessed by all modes of transport, including HGV deliveries, via the existing dropped kerb access from the south of the site via the B1248 Commercial Street. The report examines the current local highway network, traffic base flows, an existing junction capacity analysis, personal injury and accident records and the existing sustainable transport provision. This includes the walking and cycling accessibility and public transport accessibility which includes the bus stop direct outside of the site and Malton train station 800m to the east. The report concludes "that the existing pedestrian facilities within the vicinity of the site are of a high quality. There are also good quality public transport links within the vicinity of the site. The site is considered to be located within a sustainable location and the surrounding transport links are of good quality. The site is therefore considered to be in a sustainable location for access by non-car modes and in line with local and national planning policy."

10.76. The Transport Assessment then details the proposed plans i.e. the access will include a 7m carriageway, with a 2.0m wide footway along the eastern side of the access. The visibility splays are achievable at the access point and double yellow lines are proposed along both sides of the access which will be achieved through a Traffic Regulation Order to ensure visibility at the junction. To limit the loss of on-street parking spaces along the B1248 Commercial Street, the development

proposes the relocation of three parking bays to the western side of the access road. These will be open to the public for use by both customers of the high street shops and for use by small delivery vehicles that would have previously parked on Commercial Street. Also whilst concerns were raised in the objections over the narrow west access path, the highway officer believes the majority of pedestrians accessing the store will be via a 2m wide footway, from the eastern side of the entrance, the 1m footway to the western side of the access will predominantly serve the 3 parking bays located here, with pedestrians able cross from the west to the east via a proposed dropped tactile crossing at the junction.

- 10.77. The TA originally showed the bus stop to be within the eastern visibility splay, but states “given the frequency of bus services with one service every hour, this results in a minimal obstruction to the splay. The layover time for a bus at this bus stop in approximately 30 seconds and is therefore considered an acceptable occurrence to result in a negligible impact on the visibility and operation of the junction.” The Highway officers were not satisfied with this arrangement and the applicants have agreed to move the bus stop further west along Church Street, ensuring the hourly bus service does no longer stop within the site entrance, access is not blocked, and visibility not restricted. This is controlled by condition and will not require planning permission as its works within the highway.
- 10.78. The swept path analysis within the TA also shows how HGVs can access the store and use the loading bays. The highway officer also states “due to the tight nature of the site and the High Street, the installation of a right turn lane is not feasible, however HGV deliveries will be restricted to quieter times outside of peak hours, with the 20mph speed limit along the high street offering other road users sufficient time and visibility of a turning HGV in and out of the site”.
- 10.79. In terms of parking the TA states “based on the Gross Internal Area (GIA) of 1,660m², a total of 92 parking spaces are required in line with Aldi’s operational requirements. A review of North Yorkshire Council’s (NYCs) – Parking Standards for Development (2018) design guidance requires Supermarkets over 1,000m² to provide 1 parking space per 18m² for locations in a Market Town. Based on a GIA of 1,660m² NYC design standards require a total of 92 spaces.”
- 10.80. The layout plan shows 89 spaces (reduced from 92), including nine Parent and Child (P&C) spaces and five disabled spaces. There are six active Electric Vehicle Charging Points (EVCP) of which two are accessible bays. The scheme proposes ten cycle spaces in the form of five ‘Sheffield’ cycle hoops. The site is also accessible on foot and cycle from residential areas of Norton and Malton. The highway officer was satisfied with the level of parking, with it being generally in line with NYC parking standards of 1 space per 18m² of floor space.
- 10.81. The traffic generation associated with the Aldi foodstore based on a 1,212m² RFA is forecast to generate some 160 and 218 two-way vehicle trips during the Friday PM peak and Saturday lunchtime peak hours respectively. An Interim Travel Plan has also been prepared which sets out measures to encourage sustainable travel patterns and reduce the reliance on private car use.

- 10.82. In terms of the Transport Assessment and the Interim Travel Plan, the highway officer raised a number of technical issues within both documents which needed addressing, as detailed in the consultation response dated 27th Feb 24. The Travel Plan was amended by version 2 dated 18th March 2024 and a Highways Technical Note dated 5th April 2024 provided responses to the issues raised by the Highway officer. The Transport Assessment was also amended by revision 2 dated 3rd April 24. This largely satisfied the highways officer in the consultation response dated 14th May 24, subject to some issues still being resolved. The final TA and Travel plan were dated November 2024 and fully satisfied the highway officer. The amended travel plan now makes reference to the bus stop relocation. The relocation of the bus stop on Church Street will trigger an increase in pedestrians using the existing pedestrian crossing to access the bus stop. The LHA therefore seek a contribution (£25,000), to upgrade this crossing adjacent to the Derwent Arms on Church Street and mitigate the increased use as a result of this development. The contribution will enable to existing crossing to be upgraded to LED/ELV for electrical safety and to reduce carbon emissions/maintenance cost. A fault monitoring unit will also be installed so faults can be responded to quicker rather than relying on the general public.
- 10.83. In addition, the LHA has recommended a £5000 travel plan monitoring fee to be included within any S106 agreement. The highway officer concluded by confirming the store is in a good location for sustainable travel overall. The applicant agreed to both contributions and these are detailed in the Heads of Terms at the end of the report.
- 10.84. In addition, following the deferral from the 17.7.28 planning committee at the request of members, the applicant has enhanced the car park security. This includes the introduction of physical barriers into the store car park, through the provision of retractable bollards which would be closed when the store is closed to trading. These are shown on the revised proposed site plan. Secondly, an ANPR car park control system, likely provided by Parking Eye is shown. This would place a 90-minute length restriction on parking within the store car park during trading hours and one hour either side (i.e. 6am-11pm). Outside of these hours, parking restrictions would be reduced to 5 minutes. Appendix D shows a photo of a sign typically used to control parking at Aldi locations.
- 10.85. Also due to concerns over HGV routing, condition 32 is added to ensure a routing agreement for construction and serving is agreed prior to development commencing.
- 10.86. Finally, the highway officer confirmed that a stage 1/ 2 Road Safety Audit has been carried out on the design proposals, problems identified include the location of existing service covers and drainage. These matters will be addressed during detailed design and as part of any S278 review process.
- 10.87. The application received an objection from Cora IHT who are transport consultants representing Lidl. This objection is detailed in the representation sections and raised concern over the safety of site access, the content of the Traffic Impact Assessment & Junction Capacity Assessments. This was taken account of in the highway officers' final considerations.

10.88. Overall, through a series of changes to the highway information this satisfied the highway officer, and the documents demonstrate that the traffic associated with the development proposals can be accommodated on surrounding highway network without having a severe impact in accordance with the NPPF. Therefore, there are no overriding traffic and transportation reasons preventing the local highway authority from recognising that the proposals are acceptable nor why planning permission could not be granted subject to conditions. The scheme therefore complies with the Local Authority parking standards and Local Plan Strategy Policy SP20.

Impact on Residential Amenity

10.89. As required by Policy SP20 (Generic Development Management Issues) the development should respect the character of the area without having a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community. This is broadly consistent with the aims of the NPPF to ensure that a good standard of amenity is achieved, in particular the new supermarkets impact on outlook, light and privacy. The impact of noise is dealt with separately in the section below.

10.90. The proposed development is effectively surrounded by built form on three of its sides, with main relief being the railway to the north. To the south are the properties on Commercial Street, which are mainly commercial in nature with some residential at first floor and some back land development. To the east of the access the site plan shows a new 2m close board fence separating the properties to the south to the new commercial property. This will screen any ground floor views into the site. In terms of outlook, the distance to existing dwellings varies, however the new store is set a minimum 7m in from the southern boundary and separated by the meadow grassed area shown on the section and site plan. Many of the properties are set much further south at a considerable distance of 25m. The pinch point is the rear outlook of No.29a, which still has a 15m outlook. Likewise, the flats 1-5 Freer Court in the south eastern corner have an minimum outlook of 11m which is considered satisfactory, as these have windows facing north.

10.91. The design of the building also helps to reduce its visual impact and dominance over the southern boundary, with the eaves height of the main roof being 6.25m and sloping away from the southern boundary. No overlooking will occur due to no windows being evident in the south elevation and only one emergency exit. The land also drops away from the elevated Commercial Street, further lessening the buildings prominence and ability to harm outlook. Finally, its position north of the dwellings on Commercial Street will mean no loss of day light or overshadowing will occur.

10.92. The same applies on the eastern boundary which is a mixture of residential and commercial properties on Wallgates Lane. The southern boundary is already enclosed by a low boundary wall and the south eastern corner of the site has a garage backing on to the site. The main impact is the 5-6 Wallgates House as this has a single storey off shot adjoining the eastern boundary of the site with windows looking west directly over the application site. The new 2m close boarded fence will again create privacy between the two uses and the building is set 10.9m away at its closest point. This is considered satisfactory as the building height at this point would

be 5.6m approximately as the building slopes from the south to the north with the lowest eaves height of 5m on the northern elevation. Again, only one rear fire door exists on this elevation, so no overlooking occurs. The residents of 2-4 Wallgates Lane are less affected as store is 30m away from the rear elevation of No.2 and screening is shown in the north eastern part of the site to lessen the visual impact once established.

- 10.93. The western part of the site adjoins Buckrose Court which overlooks the application site. A retaining boundary wall exists in this location to take account of the change in land levels. This western boundary adjoins and overlooks the car park. The amenity issues concerning this are discussed in the noise section, however relate to the use of the car park i.e. car noise movements, customers arriving and departing and car doors slamming.
- 10.94. Finally, the southern elevation west of the access is a car parking area to the dance hall conversion scheme permitted under 22/01368/FUL. Again, this is screened by a proposed 2m boundary treatment which utilises the existing wall and timber screen above.
- 10.95. The relationship between the existing residents and new building is shown on the site section plan. The plans show the store on a level platform meaning some of the land within the lower northern part will be built up. A condition has been added to control site levels as no topographical survey is submitted.
- 10.96. The applicants supplied a lighting plan which showed the lighting on the boundary of the car park, within the centre of the car park and access road. The lighting was designed and directed to illuminate the car parking and access road. The areas outside the site were shown at a maximum of +5 lumens on the southern boundary in the car park area and +3 lumens on the western boundary where the residential development exists. This satisfied the Environmental Health officer. The access road is also much brighter where it adjoins the dance hall conversion however this is within the site. No details of the lighting columns were provided, nor any security lighting to the rear or side of the store, therefore a condition is included requesting full lighting details, which also satisfied the request from the Designing Out Crime Officer.
- 10.97. Finally with regards to the building's relationship with the northern boundary, this adjoins the railway line and its impact is discussed in the latter Network rail section of the report.
- 10.98. Therefore, having regard to the above, whilst the site is relatively constrained by existing built form, the layout and design takes account of the surrounding residential properties and proposes a scheme that is compatible with the existing land use and it is not anticipated that the proposed development would give rise to any unacceptable visual intrusion, overlooking, loss of light, loss of outlook or any light pollution and as a result there would not be an adverse impact upon residential amenity in compliance with Policy SP20.

Noise Environment

- 10.99. Policy SP20 of the Local Plan Strategy deals with generic Development Management type issues and the Amenity and Safety section states *“New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence. Developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise.”*
- 10.100. The NPPF provides the following with regards to noise, set out at paragraph 198: “Planning policies and decisions should also ensure that new development is 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.”
- 10.101. The most relevant consideration in terms of likely impacts on residential amenity is that of noise associated with the various elements of the scheme and their operation. This includes the construction phase, with noise from machines, construction workers and deliveries. Once the store is operational, the car park will generate some noise from vehicles and customers visiting the store. The opening hours of the store will largely dictate the noise in the car park. Also, deliveries to the site will generate noise before and after the store closes as will any plant and machinery required to service and cool the store. Noise and disturbance were raised as concerns in the third-party representations.
- 10.102. The site is bounded to the south by a parade of terraced ground floor retail units and restaurants of Norton centre, having residential premises on the 1st floor above along the southern elevation, with the B1248, Commercial Street beyond. The eastern site boundary is formed residential dwellings consisting of terraced houses, bungalows, and 2-storey flats. The western site boundary is formed by 3-storey flats and 2-storey dwellings. The northern site boundary is formed by a railway line serving York and Scarborough. There is a Yorkshire Water pumping facility directly opposite the site on the opposite side of the railway line, with the River Derwent and an industrial unit beyond.
- 10.103. The main areas to generate noise are the main Commercial Street access, the car parking to the west of the site, the loading bay on the northern boundary and the external plant compound on the northern elevation.
- 10.104. The application was accompanied by a Noise Impact Assessment (Ref J3229 Rev 0) by Paul Horsley Acoustics Ltd. The assessment takes account of closest existing and proposed nearby residential receptors. The report identifies that the primary noise sources within the vicinity of the site are due to traffic movements along the B1248, Commercial Street and residual traffic noise from the local road network. Industrial noise from the Yorkshire Water pumping station use of external generators was also audible. Train passage noise was dominant when present. The report

assessed the base line data from noise monitoring conducted between 6th October and 18th December 2023. The report states noise sources from the proposed development fall into 3 main categories:

- Car Park Noise
- Service Yard Noise
- Fixed Plant Noise

10.105. The construction phase is not assessed as this is controlled by planning conditions which govern the time periods and other matters within the Construction Management Plan concerning noise, dust and vibration. This is added as a planning condition.

10.106. Car Park Noise Sources – The noise report concluded that the activities of concern centre on arrival and departure of vehicles, together with associated events such as engine start-up, door slamming etc. Example noise measurements were taken from other Aldi stores and assessed against the NSR receptor locations. The conclusion was no cumulative increase in background due to the carparking activities and as such no loss of existing amenity. There is only 1 No instance where there is a minimal increase in the baseline noise climate due to the proposed car park activity noise following the development of the ALDI Norton (Malton) store. This is the +3 dB increase in noise climate when considered at the facade of the NSR 2, No 4 Buckrose Court. This could be controlled by mitigation measures and is unlikely to cause a significant adverse impact on the living conditions of nearby occupiers.

10.107. Store Servicing Noise – Noise can arise from delivery vehicles, unloading of delivery vehicles and pallet returns. It is proposed that access to the store service dock will be obtained from Commercial Street to the south of the site into the car park and onward to the north to the service yard area. There are two types of deliveries to an ALDI store; Deliveries from local suppliers will take place during normal opening hours and, ALDI own vehicles, which are up to 4 No per day. These take around 35 mins. Space only exists for 1 delivery at a time ruling out cumulative noise associated with deliveries to the store. Local Supplier deliveries are usually for bread, milk, and other produce supplies and mainly involve smaller vehicles. Aldi's own vehicles are articulated lorries which will involve some noise from shunting, reversing, chiller units and engine noise. Deliveries take around 35 mins. The noise assessment concludes that the predicted noise generated would provide no adverse noise impact.

10.108. Fixed Plant - Finally in term of the fixed plant, this includes refrigeration and ventilation equipment, which is located on the north elevation to the rear of the loading dock. These are to operate 24 hours. The noise report states, "taking account of the plant location to the closest noise sensitive receptors, in this case the existing residents of Wallgates Lane to the east, NSR 9 and NSR 10, however, the residents of the flats positioned to the west NSR 1 may be exposed to noise associated with the operation of the fixed plant." The report states the residents to the east will be unaffected providing noise mitigation measures are included.

10.109. The noise report suggests additional mitigation from car park noise to be included to safeguard the resident of No 4 Buckrose Court which has a ground floor

window within its western façade, overlooking the car park area, which will be subject to an increase in the baseline noise climate. The recommendation was a fixed 1.8m high acoustic fence between the rear of the car park bays and the residential premises forming an L- shape running along the western and southern boundary. This is shown on the proposed layout.

- 10.110. The noise report also recommended additional mitigation from the fixed plant noise for residents to the east to reduce the noise levels. A 3.0m high acoustic fence fixed to the building and the northern boundary was proposed and again this is shown on the submitted plan.
- 10.111. The report concludes that “through extensive acoustic assessments and appraisals that the noise from all introduced sources, following development and inclusion of mitigating noise control measures, are not likely to have a detrimental effect or unduly impact on the existing amenity of the closest residents, both existing and potential, for daytime or nighttime operations as the design target limits have been demonstrated as being achieved.”
- 10.112. The Environmental Health Officer reviewed the proposal and noted the development is located near sensitive receptors which may be adversely affected by construction noise during the construction phase. The Environmental Health officer therefore recommends an hours of construction condition.
- 10.113. The Environmental Health Officer accepts the findings of the Noise Report together with the recommendations for the mitigation of noise from the car park, noise from the deliveries and noise from the fixed plant. The Environmental Health officer recommends a verification condition for noise be placed on this application, that prior to first occupation of the development, verification that the approved sound insulation scheme has been implemented and is fully operational shall be submitted to and be approved in writing by the Local Planning Authority.
- 10.114. Given the proximity of the nearby receptors it is necessary to control both the store opening hours and the delivery times. The store opening hours shall be limited to 08:00 to 22:00 Monday to Saturday and 10:00 to 18:00 on Sundays. The delivery period shall be limited to 07:00 to 23:00 Monday to Saturday and 08:00 to 20:00 on Sundays.
- 10.115. Should the applicant wish to change these in the future then this can be done via a variation to the condition.
- 10.116. As such having taken into account the above it is considered that the proposal would not cause a significant detrimental impact on the residential amenities of nearby residents providing the suggested conditions are adhered in accordance with policy SP20 of the Local Plan Strategy and the NPPF.

Flood Risk and Drainage

- 10.117. Relevant policies in respect of flood risk, drainage and climate change includes Policy SP17 of the Local Plan Strategy which states flood risk will be

managed by the use of sustainable drainage systems and techniques, where technically feasible, to promote groundwater recharge and reduce flood risk. Development proposals will be expected to attenuate surface water run off to the rates recommended in the Strategic Flood Risk Assessment. SP 17 states Flood Risk will also be managed by “undertaking a risk based sequential approach to the allocation of land for new development and in the consideration of development proposals in order to guide new development to areas with the lowest probability of flooding, whilst taking account of the need to regenerate vacant and previously developed sites within the towns. In considering development proposals or the allocation of land, full account will be taken of the flood risk vulnerability of proposed uses and the national ‘Exception Test’ will be applied if required.”

- 10.118. NPPF paragraph 170 requires “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.” Paragraph 174 states “The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.” The former Ryedale District Council has no supplementary planning guidance or advice notes on flooding matters.
- 10.119. The application was supported by a Flood Risk and Drainage Assessment produced by Hydrock dated 18th Jan 2024 P01. This was later revised on 4 occasions take account of the consultation responses and objections from the Environment Agency with regards to flood storage. The latest version being P05 dated 27/3/2025. In addition, a Drainage Layout was also submitted ref 79-E1625-HYD-ZZ-X-DR-C-1000 Rev P02.
- 10.120. In terms of topography, the site generally falls from south west to north east, with a highest level of 23.842mAOD in the south west to a lowest level of 17.721mAOD to the vegetated area to the north east. The online EA flood maps show that the site is located mainly within flood zone 3. The store itself is within zone 3 and the car park is within flood zones 1 & 2. The source of flooding being the River Derwent located approximately 90m to the north. The site benefits from flood defences. The FRA states “The predicted flood level at for the 1 in 100 year +20% Defended scenario is 19.887mAOD, the existing site boundary in this area sits at around. It will therefore be necessary to provide a suitable freeboard to the proposed finished floor level.”
- 10.121. The FRA also details how the site has historically flooded in March 1999 and October 2000, prior to the installation of flood defences along the River Derwent as part of the 2002 flood alleviation scheme. Surface water flooding is said to be low risk and the FRA details how a positive drainage system designed to accommodate all storm events up to and including the 1 in 100 year + climate change allowance will be installed. The FRA also notes that A 300mm combined public sewer is located within

the eastern portion of the site, running to the north east corner where it exits the site. The existing sewer will clash with the proposed building location and will therefore be diverted. The sewer will be subject to Yorkshire Water's maintenance scheme with a 6m sewer easement provided for access. This is shown to the east/rear of the store.

- 10.122. The NPPF Sequential Test requires that a sequential approach is followed to steer new development to areas with the lowest probability of flooding (i.e., Flood Zone 1, then zone 2, then zone 3). A sequential test is therefore required, and the approach is discussed in the following sections. The proposed development is for a supermarket which falls under the category of 'less vulnerable' development in accordance with Table 2 of the Flood Risk and Coastal Change - NPPF, and no exception test is therefore required. Even if it was then it would be satisfied as the Flood Risk Assessment is acceptable to the Environment Agency and there are public benefits in developing this site.
- 10.123. The FRA details flood mitigation measures the same as required in the exception test i.e. to prove the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. Given the predicted flood level data provided, it is recommended that the finished floor level (FFL) on the site be raised to include a 600mm freeboard above the 100 year plus climate change event. This would mean the minimum FFL should be set to a minimum level of 20.487mAOD. A series of other flooding measures were also suggested for instance water resistant floors, high level sensitive services, flood warnings. The scheme shows a safe egress from the site to Commercial Street which has a floor level of 21.100m AOD, as such a safe access is possible. Also, the wider sustainability benefits of the store are also evident in the submission in terms job creation, customer choice and sustainable location which are too elements of an exception test.
- 10.124. In terms of surface water, the site is currently drained to the east by a combined public sewer. In terms of the proposed surface water drainage a site investigation has been undertaken which confirms the site is underlain by peat and disposal of surface water through infiltration to ground will not be possible. The nearest watercourse to the site is the River Derwent located around 150m to the north. A direct discharge into the River will not be possible due to the presence of the existing railway line running adjacent to the northern boundary of the site. There are also ecological concerns with inflation. A review of the Yorkshire Water Sewer Records shows that there are no surface water sewers within the vicinity of the site. Therefore, a connection into the combined sewer will be necessary. Surface water discharge rates will be controlled to 5l/s per second which represents a betterment of 73% over the existing discharge rate from the land with an additional 0.41 ha of impermeable surface. Flows from parking areas will go through interceptors to manage any pollutant risks. Surface water attenuation is also included in the drainage design within the car park area, along with detail of flood exceedance rates and maintenance. Foul drainage will also connect to the combined sewer.
- 10.125. The detailed information was assessed by the LLFA who accepted the runoff destination to the combined sewer, noted the finished floor levels, accepted the peak flow and volume control and state that the submitted documents demonstrate a

reasonable approach to the management of surface water on the site. A condition was recommended to ensure the development is built in accordance with the detailed drainage design.

- 10.126. Yorkshire Water also raised no issue with the connection to the combined sewer, however raised issues with the landscaping plan and its proximity to the public sewer crossing the site. The applicant has reduced the planting in the north east corner of the site and Yorkshire Water have withdrawn their objection.
- 10.127. The Environment Agency raised concern over the lack of and appropriate Flood Risk Assessment with regards to flood storage capacity within the site. The applicants revised the Flood Risk Assessment on several occasions to satisfy the Environment Agency the last version being P05 and added a discussion regarding compensatory storage into the mitigation measures section of the report. The car park levels to the west of the site have been lowered to allow flood water to enter the site from the North West corner and utilise the car park area as an area of compensatory storage. It is considered that flood water will only enter the site from the North West corner during a 1in100+20%CC flood event or worse, with the flood level overtopping the crest level of the flood defences at the lowest end of flood defence 6 by around 200mm. The drainage design has also been updated to suit these levels. This satisfied the Environment Agency.
- 10.128. In terms of the sequential test, the initial submission made reference to the need for a sequential test in the Flood Risk and Drainage Assessment, however the applicants did not submit an assessment as such. Instead, they relied on the sequential test which was produced for retail purposes and asked the LPA to consider 3 nearby sites in Malton. The applicants also submitted a Supplementary Planning Document from Havant Borough Council (dated May 22). The applicants wanted to agree the scope of the sequential work prior to it being produced, however indicated that there are clear similarities with the retail sequential test.
- 10.129. The applicants point out that they have completed a sequential assessment in retail terms, as set out within our Planning, Retail and Heritage Statement. The applicants also state *“Despite the application site lying partly within a town centre site in Norton, the Local Plan notes that Malton should be the preferred location for retail. We therefore assessed any sites within or on the edge of the town centre of Malton. This identified only three potential sites which were either of sufficient size to accommodate the proposals, or where the proposal could be adapted (demonstrating flexibility). A result of our assessment was that all three sites could be discounted on either availability or suitability grounds.”* A sequential test was supplied in June 2024 reference P21-173-HYD-XX-XX-RP-C-0502 which detailed the 3 alternative sites.
- 10.130. The primary aim of a sequential test is to establish if the development can be provided within a lower flood zone and as such less vulnerable to flooding. The key components are the area of search, whether the sites are similar and can accept the same quantum of development and whether any sites are considered ‘reasonably available.’ National Guidance does not define the area of search and indicates this will be defined by local circumstances. The Havant Brough Council SPD example and

examples of other legacy authorities in North Yorkshire state that for town centre/retail development the area of search should be the same defined town centre as the proposals site as flood risk sequential test should not undermine other sequential test requirements for town centres.

10.131. Given the retail policies within the Local Plan Strategy and NPPF officers agree that the search area should be limited to the town centre and its immediate fringe as sites further outside the town centre would not be supported from a retail perspective. As such, the test needs to consider any sites within zone 1/2 within Malton and Norton and town centres and its immediate fringe. Once established consideration of the site's availability, size and flood zone need to be considered to see if they are sequentially preferable. Brownfield sites should also be preferred over greenfield.

10.132. Also, a site can be considered as 'reasonably available' if the following criteria is met:

- The site is within the agreed area of search;
- The site is of a reasonable size for the proposed development, having regard to the Council's density policy;
- The site is suitable for the proposed development, and could accommodate its functional requirements;
- The site could be viably developed;
- The site is available now, defined as either being owned by the applicant or available for purchase at a fair market value; and
- The site is not safeguarded or allocated in an adopted or emerging Local Plan or Neighbourhood Plan for another use, or has planning permission for another use.

10.133. The submitted sequential test covers 3 sites:

Site 1 - Livestock Market Site, Malton
 Site 2 - Wentworth Street Car Park, Malton
 Site 3 - Water Lane Car Park, Malton

10.134. Site 1 - Livestock Market site – The site lies centrally within Malton and inside the town centre boundary. It is positioned in the far west of the commercial part of the centre. The full site is currently used as a car park and also occupied by former livestock sheds/cattle pens. Current car parking on the site comprises approximately 90 parking spaces. These spaces appear well used and play an important role in parking provision for the town centre. The site is flood zone 1 so low risk with no reports of historic flooding. This would provide an alternative suitable site, however the report recognises other factors which may preclude its use. The planning history for this site is:

11/00412/MOUT Malton Livestock Market – Demolition of existing livestock market and erection of retail units, three storey car park and public square – Approved on appeal.

15/00612/MREM Malton Livestock Market – Demolition of existing livestock market and erection of retail units, three storey car park and public square - Approved 18.08.2015 – the permission is extant given it was started in 2017.

The site is shown as an existing allocated retail commitment in the Local Plan SP7 & SD14.

- 10.135. The retail sequential test indicates that the current planning permission makes the site unsuitable due to the multi storey approach as Aldi requires parking adjacent to the store on a single level to accommodate trolley shopping. Its location between conservation areas and adjacent to listed buildings means it requires an architecturally appropriate design which would make the scheme unviable for Aldi. The planning permission also requires 1,575sqm of floorspace be delivered for comparison goods. This is significantly higher than Aldi could deliver as 80% is primarily convenience offering. The sequential test also lists concerns with servicing, operational restrictions and viability with the current planning consent. A revised application could be considered as the size of the site is 0.8 hec so could accommodate the proposed food store, however the levels represent a concern and make it's a challenge to deliver a store, car park and service yard on the same level. Likewise open car parking may not meet the design aspirations for the area. It would also lead to the loss of 90 car parking spaces which are free to use for the public for up to 2 hours. Aldi have said it would not be possible to replace these. The sites availability is also a concern. Therefore, even with a revised planning application the site is said to be unsuitable.
- 10.136. Site 2 – Wentworth Street Car Park. The site lies beyond the Malton Commercial Limits and is therefore an 'edge of centre' opportunity. The current use provides 212 cars and 8 coach parking spaces. The site is flood zone 1 but has a high risk from surface water flooding. The sequential test deems this unsuitable and the retail sequential test also adds further justification as detailed in the policy section above. The site also has previously been considered for commercial use. 11/00927/MOUT – Wentworth street car park- Erection of retail units (use Class A1), offices (Class B1), petrol filling station, car park and public square. Approved 12.09.2014 permission quashed by Judicial Review.
- 10.137. Site 3 Water Lane Car Park – This lies on the fringe of the main commercial areas and is an existing car park with the River Derwent to the south. The car park is owned by North Yorkshire Council and serves the local area. The site is flood zones 3 with elements of zones 1 and 2. This wouldn't provide a suitable alternative as it isn't in a lesser flood zone.
- 10.138. Whilst no other sites in Norton have been considered this is because there aren't any as the commercial area is densely developed with the application site being one of a few undeveloped areas. Therefore, whilst the sequential test is not exhaustive, it has proven that no suitable other sites exist in Malton or Norton adjoining the commercial area. The sequential test in respect of flooding is therefore satisfied.

- 10.139. The Flood Risk and Drainage Assessment Report, accompanied by the Drainage Plan and Sequential Test has proven that by raising the site levels the site can be made safe from flooding from a 1in100 year storm event +20% climate change. The sequential test has proven that there are no other sequentially preferable sites and the due to the land conditions SuDs will not be possible. The foul and surface water will be disposed of to the combined public sewer with full agreement of Yorkshire Water subject to flow rates being controlled. The outstanding issue with Yorkshire Water was solely due to landscaping in the sewer easement. The proposal will therefore be in compliance with Local plan Strategy Policy SP17.

Nature Conservation and Protected Species

- 10.140. Local Plan Strategy Policy SP14 aims at protecting existing biodiversity states: "Proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them". This policy is consistent with chapter 15 of the NPPF which seeks to protect and enhance sites of biodiversity value.
- 10.141. Protected species include those protected under the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010. The presence of protected species is a material planning consideration.
- 10.142. The application was accompanied by a suit of documents prepared by Total Ecology, which included a Preliminary Ecological Appraisal (PEA) (Sept 2022), Nesting Bird Report (Aug 23), Biodiversity Metrics report (January 2024) and Biodiversity Metric and Net Gain Report (Sept 2023). A shadow Habitat Regulation Assessment was later supplied, the final being version 3 dated July 2024.
- 10.143. The Preliminary Ecological Appraisal (PEA) identified five main habitat land categories were identified on site under the Phase 1 system of habitat description; the main section of site is made up of hardstanding with some woodland around the north of site. Scrub and tall ruderal habitats are scattered throughout the site. Woodland and scrub areas provide most opportunities for wildlife, potentially being used by birds, bats, badgers, and hedgehogs for cover, feeding, and commuting. The report recognised that the site's location immediately south of a trainline, which creates a barrier to dispersal for species such as badger and hedgehog.
- 10.144. The report recommended that a biodiversity net gain calculation be carried out for the proposed works on site, with an aim of reaching a minimum 10% net gain in biodiversity post-construction, secured for at least 30 years, in line with the Environment Act 2021. Tree or scrub removal was recommended to take place outside bird nesting season, and it is recommended that the northern tree line is retained where possible to maintain connectivity and foraging habitat for bats and birds. Recommendations were also made for scrub clearance to allow sight of hedgehogs within the habitat and allow them to move on. The report also noted the presence of 2 statutory designated sites within 2km of the survey site, and 4 Sites of Local Nature Importance. The statutory sites are the River Derwent SAC and SSSI which is located only 115m north of site. Additionally, Norton Ings SINC is only around 50m north of site. The conclusion was the proposed works are unlikely have any significant impacts on these protected sites.

- 10.145. In terms of the net gain assessment, the report showed baseline of 2.33 habitat units on site with no river or hedgerow units present. After the landscaping is complete the site will provide 1.12 habitat units, resulting in a biodiversity loss of 51.88%. A total of 2.77 units will be required for a 10% nett gain. Officers note the application was submitted 31.1.2024 and validated 6.2.24 therefore before mandatory BNG. The applicants however have found a third party off site provider and agreed to purchase the necessary units to achieve compliance. Given units are being purchased a condition can secure this occurs. This therefore achieves compliance with SP14 which requires a net gain in biodiversity for new development schemes, and the aspirations of the NPPF in chapter 15.
- 10.146. The Council's Ecologist assessed the information and advised that The River Derwent upstream and downstream of the centre of Norton is a Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Concerns were raised that the PEA didn't evidence the statement in the PEA that effects on the SAC/SSSI are unlikely i.e. was hydrology and drainage run off considered. If significant effects cannot be ruled out a Habitat Regulations Assessment (HRA) will be required. Natural England also issued a holding objection on the basis that a HRA is required.
- 10.147. In terms of Biodiversity Net Gain, the BNG report (page 22) projects a net-loss for area-based habitats of 51.88%. The council's ecologist noted that the applicant will need to demonstrate how they would make good this deficit, either on-site, off-site or via a third-party provider. Concerns were also raised why the BNG baseline habitat map does not correlate more closely with the 2023/24 satellite imagery on Google Earth in terms of scrub/woodland cover.
- 10.148. The ecologist agreed with the PEA in that Construction Environmental Management Plan was required and ecological enhancement measures were necessary via the submission of a Landscape & Ecological Management Plan which explains how new/retained habitats would be created, managed and monitored for a period of at least 30 years. The requirement for a CEMP and LEMP can be conditioned.
- 10.149. Finally, the council's ecologist questioned why the PEA states no invasive species on the site when the Ground Investigation Report by Hydrock (dated 30 October 2023) refers to (and delineates) "a large area of Japanese Knotweed". This needs to be clarified. Also, the Phase 1 Geo-environmental report refers to the risk of leachate affecting the River Derwent (reflecting the prior use of the site for various industrial purposes). This will need to be considered as part of the HRA screening assessment.
- 10.150. The agent responded in terms of impact on the River Derwent, and detailed that no surface water run off from the site will enter the river as its being discharged into the public combined sewer already present within the site. In addition, it's not possible to reach the River Derwent due to the presence of the railway between the application site and the river. This satisfied the ecologist who agreed that this impact could be screened out however still required a HRA screening assessment.

- 10.151. The agent also explained that whilst the site appears green in nature from satellite imagery, this doesn't accurately represent the quality on site. This is supported by the submitted Preliminary Ecological Appraisal submitted with the application which highlights large areas within the site which comprise 'bare earth'. The local authority ecologist was satisfied by this explanation.
- 10.152. Regarding BNG, the agent states that the current landscaping plan maximises habitat delivery on site and an increase to this cannot be achieved on site. Therefore, the approach is to deliver the BNG requirement off site and this would be through a third party provider. The ecologist agreed that this could be conditioned, however given the significance this is to be controlled by a legal agreement.
- 10.153. The applicants submitted a shadow HRA dated May 2024 version 1. The Screening identifies construction noise and risks of accidental pollution (from chemical spills or airborne) as having potentially significant effects on the River Derwent SAC/SSSI and the features for which it is designated. Stage 2 assessment identifies mitigation measures which would control these risks to the extent that significant effects are unlikely. These measures, summarised in Table 9, would form part of the CEMP for the development. No significant effects are likely to arise from the operation of the site once construction is completed.
- 10.154. The Council's ecologist commented that findings and conclusions from the Assessment seem reasonable and proportionate but commented that pollution is outside the professional remit of the ecology team and it is essential that Assessment is reviewed by an appropriate expert. The council's ecologist comments that the HRA doesn't include any potential water quality impacts and leachate as required by Natural England. The council's ecologist indicated that Natural England are likely to reject this.
- 10.155. On the matter of potential disturbance to breeding birds during the construction phase, e.g. from noise, this relates to a feature for which the SSSI is designated but not the SAC. North Yorkshire Council's approach would have been to first establish the sensitivity of the location in terms of riparian breeding birds. The ecologist comments that, the urban river at Malton/Norton is not important for the bird assemblage referred to in the SSSI citation. It lacks habitat such as extensive shingle bars and sandy cliffs required by some of these species and is subject to high levels of urban pressures. Checks of the river banks from publicly accessible locations and Council-owned land (e.g. Norton Ings) would confirm this.
- 10.156. The shadow HRA was revised in V2 and Natural England reconsulted. Natural England maintained the view that responded the application could have potential significant effects on the River Derwent Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). Natural England required further information on the assessment of potential water quality impacts from leachate, the potential noise impacts on otter population and further information relating to potential noise impacts on birds associated with the River Derwent SSSI.

- 10.157. The Council's ecologist reiterated the need to satisfy the issues over leachate and the impact of noise on the otter population. In an attempt to progress the application, the council's ecologist produced an 'Assessment of the potential effects on the River Derwent SSSI bird assemblage.' The assessment was via desk study and site visit where accessible areas of the river corridor were visited to assess riparian habitats and record birds.
- 10.158. The conclusion was that The River Derwent at Malton/Norton is not important for riparian breeding birds, as the walled or wooded river banks do not provide suitable habitat. It is feasible that Kingfisher or Grey Wagtail could be present as local breeding birds in very small numbers but there do not appear to be any records to confirm this. The application site has been used for various industrial purposes in the recent past. It is located within a densely built-up environment supporting a mixture of residential, commercial, retail and recreational uses and is separated from the river corridor by a railway line. The sHRA prepared on behalf of the applicant suggests that background noise affecting the River Derwent at Malton/Norton under current conditions would be around 67 db.
- 10.159. Assuming that good-practice controls on noise, dust, external lighting and vibration would be in place during the construction phase of the proposed development, the assessment concludes that adverse effects on local breeding bird populations are unlikely to be significant. More detailed assessment of noise impacts is provided within the Shadow Habitat Regulations Assessment drafted by the applicant's ecologist, with mitigation recommendations summarised in Table 9.
- 10.160. This section of the Derwent corridor has never been used by wintering Bewick's Swans, which no longer winter in significant numbers in the traditional sites around 40 km downstream. On balance, it is very unlikely that development of the proposed retail store would have any significant effect on the bird communities for which the SSSI is designated, either during the construction phase or operational phase. Appropriate planning conditions will be used to ensure that construction work follows a robust Construction Environmental Management Plan.
- 10.161. The agents updated the shadow HRA as version 3 and stated that with regards to Water Quality – Leachate all drainage on site is collected and stored on site through hardstanding across the development and released at an appropriate rate into an existing public combined sewer. This will ensure that no leachate or other materials can enter the ground and would therefore not have any impact on the River. As a result, short term impacts are deemed to be low, with negligible impacts occurring over the long-term.
- 10.162. In response to the issue of noise disturbance to birds and/or otters, the applicant pointed out that the area is urban which has seen various historic industrial uses in the past, however and more importantly, a rail-line lies between the application site and the River Derwent SAC. The noise assessment demonstrates that the development will not have an adverse impact on any noise sensitive receptor, indeed the level of background noise is already high in this location (at least 44dB) due to the rail line, and also Yorkshire Water owned water pumping station to the immediate north of the site. As a result, the operation of the store does not have any

additional impact on the current baseline position for any receptor located adjacent to the site. This would be even further reduced for a receptor the 30m+ plus distance (and significant drop) which the River Derwent lies in comparison to the site. For this reason, it is considered that there would not be any noise impact on wildlife, when compared with the existing noise climate at the site.

- 10.163. The updated HRA V3, drainage plan, noise survey and River Derwent SSSI bird assemblage was sent to Natural England, who withdrew their objection in the response dated 13.8.24 subject to a condition that required the implementation of all mitigation measures outlined in the shadow Habitat Regulations Assessment dated July 2024 V3. They also indicated that the CEMP which is controlled by condition should also include the mitigation measures as set out in Table 9 of the shadow HRA. On this basis the Local Planning Authority adopts Shadow Habitat Regulations Assessment – Commercial Street Norton dated 15th July 2024 V3 prepared by Total Ecology.
- 10.164. As such, it is considered that the proposal is acceptable and in accordance with Local Plan Strategy Policy SP14, chapter 15 of the NPPF, the Wildlife and Countryside Act 1981 and Conservation of Habitats and Species Regulations 2017.

Heritage Asset & Conservation Area

- 10.165. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.
- 10.166. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving the Listed Building(s) or its setting or any features of special architectural or historic interest which it possesses.
- 10.167. Local Plan Strategy Policy SP 12 states in protecting the historic assets, the Council will “seek to ensure the sensitive expansion, growth and land use change in and around the Market Towns and villages, safeguarding elements of the historic character and value within their built-up areas, including visually Important Undeveloped Areas*, as well as surrounding historic landscape character and setting of individual settlements.” The policy also states “In considering and negotiating development proposals, the Council will seek to protect other features of local historic value and interest throughout Ryedale having regard to the scale of any harm or loss and the significance of the heritage asset.
- 10.168. The site lies within the Norton Conservation Area and a small number of Listed Buildings surround the site. Directly opposite the site entrance is the old Manor House, known as The Elms 22 Commercial Street, which is a Grade 2 Listed Building. To the of the entrance is 49 Commercial Street which is a Grade 2 Listed Building the fronts Commercial Street.

- 10.169. Both the NPPF and Policy SP12 of the LPS require the impact of the proposals upon the heritage assets to be carefully addressed. The application was accompanied by a Heritage Statement contained within the 'Planning, Retail and Heritage Statement' document. The document identifies SP12 as the main policy which states *"To assist in protecting the District's historic assets and features, the Council will: Seek to ensure the sensitive expansion, growth and land use change in and around the Market Towns and villages, safeguarding elements of the historic character and value within their built up areas, including Visually Important Undeveloped Areas*, as well as surrounding historic landscape character and setting of individual settlements"*
- 10.170. The report notes that the application site itself does not contain any historic buildings but is within the Norton Conservation Area, therefore its impact on the Conservation Area and its setting is of most relevance. Annex 2 of NPPF describes the setting of a heritage asset as "...the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the assets and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."
- 10.171. The report describes how the Conservation Area was first designated in 1999 and was later appraised in July 2017 as part of Norton Town Councils work on the preparation of a Neighbourhood Plan. The assessment shows how the maps from 1851 show the application site as being undeveloped for buildings and used perhaps as garden space for the buildings facing Commercial Street. The Conservation Area's character is described as being a small traditional town focussing on trade and commerce with land beyond the main street quickly changing in nature to become residential. The building form is largely domestic in scale, at generally 2-3 storeys in height.
- 10.172. The report picks up the commentary from the character assessment which states "The appraisal considers that there are three main character areas within the conservation area. This application falls into Area 2 – Commercial Street, with specific reference to the application site, where the appraisal states:
- "This is followed by a range of 19th and early 20th century shops unfortunately interrupted by a gap site (Nos 25-27) opening onto a large recently cleared site running down to the railway. It would be a great benefit for this site to be redeveloped,"*
- 10.173. The Heritage Assessment correctly identifies the nearby listed Buildings, the closest being No 49 Commercial Street. The report states view from No.49 are significantly restricted by the presence of new build flats to the immediate north. Furthermore, the formal listing for the building, notes under the 'details' section that the importance of the building principally relates to its elevation onto Commercial Street (facing south) rather than any other elevation. The report concludes by stating "It is therefore clear that the proposals would have no impact on this building or its setting."

- 10.174. The Heritage Assessment doesn't assess the impact on No.22 Commercial Street opposite the site entrance, however officers do not consider the setting of this building to be negatively impacted.
- 10.175. The Heritage Assessment states that the redevelopment of the site will have a positive impact on the Conservation Area through the removal of the unkept brownfield site. The report notes that the application site is 'backland' in nature with little visibility from Commercial Street. The Conservation Area Character Appraisal notes that the land to the rear of Commercial Street (both north and south) was of mixed form with some of the areas comprising commercial buildings. The Heritage Statement states that the Aldi proposals would complement this character in a subtle non-intrusive manner.
- 10.176. The Heritage Statement also notes that the form and massing is consistent in the local area. The surrounding properties are largely 2-3 storeys in height, and the proposed mono pitch (blade roof) building set on a low land level will help to blend the development into the urban landscape. The Heritage Statement details how the proposed new building will not compete with the shopfronts on Commercial Street thereby preserving the character of the conservation area. This is further clarified by the submitted site sections, which show the proposed store in context of the surrounding buildings.
- 10.177. The Heritage Statement makes the point that within the approved housing scheme ref 14/00947/MFUL, the Conservation Officer noted that a reduced scale of development there was appropriate. The site plan for those proposals includes new buildings of up to 5m eaves and 8.5m apex. This current submission proposes a building of approximately 5m to the rear and 6.5m maximum height. The report concludes by saying the building is appropriate in its context and will also be screened when viewed from the north by existing mature trees on the railway boundary.
- 10.178. The Heritage Statement also discusses the issue of reducing the gap fronting Commercial Street to lessen the impact of the existing opening on the conservation area. The report details why this cannot occur in that the space within the site needs to be maximised the loss of parking directly on Commercial Street to allow suitable visibility splays and improvements to bus stop provision needs to be addressed. The wide access way will prove 3 public car parking spaces to replace those lost on the frontage. The statement indicates that this matter is something which local residents and business feel particularly strongly about to ensure they are not unduly affected by the proposals. The gap is of course needed to accommodate both customer vehicle and pedestrian traffic, but also to allow HGV deliveries to service the store.
- 10.179. The statement demonstrates that the existing access route will be enhanced by the construction of a new brick and pier wall running along the eastern side of the access. The CGI images show this as a pale sand coloured brick which isn't overly characteristic however the material in which the wall is reconstructed can be controlled by condition.

- 10.180. In terms of materials, the Heritage Statement explains how a simple palette of materials is proposed to ensure that the store is not prominent within its setting and how the 'significant landscaping around the site' offsets the visual impact. Whilst the new planting is acknowledged, officers do not consider this as being 'significant' nor does the planting screen views from the Conservation Area.
- 10.181. The Design and access Statement explains "the overall design of the store is a modern, contemporary style with a simple palette of materials combining silver and grey cladding, aluminium windows, steel doors and glazing. There is a canopy wrapping above the shop front which runs along the west elevation to maximise natural light in the store."
- 10.182. Having assessed the detailed submitted information the Conservation Officer raised no objection in principle to the redevelopment of the site, however suggested that the external facing materials should better reflect the Conservation Area such as brick being should be used on the walls of the building.
- 10.183. Following further discussion, the plans were amended to remove the majority of cladding from the frontage and replacing this with brick which wrapped around the southern corner. The brick work extended throughout half of the southern elevation to enhance views into the site from Commercial Street. The brick type was also changed from the buff colour in the CGI images to a more red/multi coloured clamp styled brick to better reflect those used locally. A materials condition is added to the recommendation to control this further. The colour of the entrance feature wall was also amended to better reflect the surrounding building materials. The cladding on the upper part of the frontage was also made darker (RAL 7016) to reflect the colour used in the powder coated aluminium shop front and the blue slate used locally on the roofs in the area. This was viewed as a suitable compromise between achieving a modern design building whilst not competing with the heritage assets in the area.
- 10.184. To conclude the heritage impact matters, officers welcome the sensitive redevelopment of this backland site. The buildings scale and form ensure it doesn't compete with the buildings on Commercial Street and respects the character of the Norton Conservation Area. The building will be largely screened by existing development and will have no material impact on any adjacent Listed Buildings. The amended building design and materials will ensure it will enhance the Conservation Area thereby complying with the requirements of Policy SP12 of the Local Plan Strategy, Section 16 of the NPPF and legislative guidance in the 1990 Planning & Listed Buildings Act.

Archaeology

- 10.185. The application was accompanied by an Archaeological and Heritage Desk Based Assessment prepared by MAP Archaeological Practice. The desk-based assessment is supported by reports on archaeological trial trenching including a previous report from 2015 on the western half of the site and newly commissioned work in the eastern part of the site. The trial trenches have demonstrated that deposits of the Roman period survive within the development area but that these are differentially preserved. The earlier trenching, followed by a set piece archaeological

excavation, revealed evidence of well-preserved Roman features and possible buildings within the western part of the site. The more recent trenching demonstrated that modern overburden, of considerable depth, overlays natural alluvial deposits.

10.186. This information was assessed by the Council's Archaeologist who recognised that the new build elements are located in the eastern half of the development area and this should have a limited impact on the basis of the presence of modern overburden. The car park to the west is situated in the area of higher potential and in theory, this should have a low impact. Further information on formation levels, drainage and services would be required to establish the exact impact.

10.187. The archaeological desk-based assessment concludes that archaeological remains will either be preserved in situ, either below formation level, or where this is not achievable then archaeological mitigation recording will take place prior to development. The council's archaeologist agreed with this assessment and agreed that this could be controlled by a planning condition that requires that a scheme of archaeological mitigation recording is undertaken in response to the ground disturbing works. This should comprise an archaeological strip, map and record to be undertaken in advance of development, including site preparation works, top soil stripping, excavations for new foundations and new drainage or services, to be followed by appropriate analyses, reporting and archive preparation. This is in order to ensure that a detailed record is made of any deposits/remains that will be disturbed. This will ensure compliance with Section 16 of the NPPF.

Land Contamination & Air Pollution

10.188. Policy SP17 of the Local Plan Strategy Supports new uses for land which is contaminated or degraded where an appropriate scheme of remediation and restoration is agreed and in place. SP17 ensures Air Quality will be protected and improved by:

- Locating and managing development to reduce traffic congestion and air pollution and promote the use of alternative forms of travel to the private car
- Supporting measures to encourage non-car based means of travel or the use of low emission vehicles
- Reducing air quality emissions from buildings through renewable energy provision and sustainable building standards in line with Policy SP18
- Requiring development proposals within or adjoining the Malton Air Quality Management Area to demonstrate how effects on air quality will be mitigated and further human exposure to poor air quality reduced. All development impact upon air quality; which are sensitive to poor air quality or which would conflict with any Air Quality Action Plan will be accompanied by an Air Quality Assessment.
- Only permitting development if the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured.

10.189. Policy SP20 states "New development proposals which will result in an unacceptable risk to human life, health and safety or unacceptable risk to property will be resisted. Developers will be expected to address the risks/potential risks posed by

contamination and/or unstable land in accordance with recognised national and international standards and guidance.”

- 10.190. NPPF paragraph 187 (e) states “Planning policies and decisions should contribute to and enhance the natural and local environment by: 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.”
- 10.191. NPPF paragraph 196 requires decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from contamination. Paragraph 196 c) states adequate site investigation information prepared by a competent person is available to inform contamination assessment.
- 10.192. Paragraph 199 requires decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas.

Contamination

- 10.193. With regards to Contamination the application was supported by a Phase 1 Geo-environmental Assessment produced by H3e Consulting. This described the site as being a mixture lack of mixed concrete, tarmac and gravel surfacing with several man-hole covers noted across the surface. The eastern and western site areas are heavily overgrown with many semi mature / mature trees and shrubs present with the potential presence of Japanese Knotweed also noted across some areas of the site. The report noted the historical land use, which was originally part of a residential site with orchard, with various yards and unnamed buildings extending across the south-eastern portion of the site. In addition, numerous industrial processes have operated within close proximity to the site (including garages (MOT and repair), gas works, railway line / sidings, timber yards and works). The site is likely to have made ground. The report concluded that the site presents a moderate environmental risk with respect to contamination. Ground gas risk from both on-site and off-site sources is considered low to moderate. The report concludes by recommending further site investigation work to assess potential geotechnical and environment constraints in relation to the development. The applicant also includes a preliminary ground investigation by Hydrock. This also recommends that a further phase 2 ground investigation is necessary following the completion of the vegetation removal, which includes the Japanese Knotweed.
- 10.194. The Council’s Environmental Health Officer (EHO) accepted the findings of the phase 1 report and notes that there is land contamination on the site. The EHO agrees that all areas of soft landscaping will be required to mitigate any potential risk to future end users. This will require a minimum of 600mm of clean ‘suitable for use’ imported soil. A verification report that the soil used is clean must be submitted to the local planning authority for approval. The EHO also recommends that the fragments of (ACM) on the site be removed prior to construction. Finally, the EHO notes that further ground water and ground gas investigations are required in order to establish the

likelihood of contamination and remediation if contamination is present. Conditions are suggested to cover this requiring a phase 2 assessment, remediation works, verification of any works and reporting of any unexpected contamination.

Air Quality

- 10.195. With regards to Air Quality, the application was accompanied by an Air Quality Assessment produced by NJD Environmental Associates (November 23). The report noted that the site is located approximately 240m south-east of the Malton Air Quality Management Area (AQMA), declared by Ryedale District Council (RDC) due to exceedances of the annual mean air quality objective (AQO) for nitrogen dioxide (NO₂). The Site is also located in an area where air quality is mainly influenced by road traffic emissions along the B1248 Commercial Street and the local road network.
- 10.196. A qualitative assessment of the potential impacts on local air quality from construction phase activities has been undertaken. This identified that there is a medium to low risk of dust soiling impacts and a low to negligible risk of increases in particulate matter concentrations, due to unmitigated construction activities. However, through good site practice and the implementation of the recommended mitigation measures, the effects of dust and PM₁₀ releases would be significantly reduced. The residual effects of dust and PM₁₀ generated by construction activities on air quality are therefore, considered to be not significant.
- 10.197. The number of vehicular trips generated by the scheme was also assessed and was found to exceed the IAQM criteria, and as such, a detailed dispersion modelling assessment was undertaken, to determine the potential for traffic movements on the local road network, and those associated with the proposed scheme. Predicted concentrations of all pollutants were considered during the assessment scenarios for the operational phase, were below the relevant AQOs and target values. The report concluded that the proposed development is expected to result in negligible impacts concentrations at the worst-case scenarios, in closest proximity to the roads affected by the highest development flows. The residual effects are predicted to be not significant in accordance with IAQM guidance and as such, the implementation of additional mitigation measures during the operational phase is not required. Based on the results of the assessment, it is concluded that air quality should not be a prohibitive factor in the determination of the planning application.
- 10.198. Concerns were raised in the third-party objections over the Aldi stores predicted 545 additional daily vehicle movements on Castlegate, Malton (the most likely route of choice for people from Malton visiting the store). The concern is that if the Norton Road traffic scheme gets back on track, then levels will be exceeded. Also, concern was raised that neither the Aldi store AQIA, nor the Barratt Homes/Taylor Wimpey AQIA (planning reference 21/01115/MOUTE) for the proposed development, takes account of the other i.e. cumulative impact of all other developments.
- 10.199. The Council's scientific officer in the first consultation response raised no objections to the Air Quality Assessment and noted that there was no provision in the current Local Plan to take account of the cumulative impacts and will continue to assess air quality on an individual development basis. Officers however note that the NPPF at

paragraph 199 does allow for the cumulative impacts to be considered. In view of this the council will continue to monitor air quality by the diffusion tube as a precaution. In addition, a new real time monitor will be installed at the crossroads of Yorkersgate and Castlegate that will measure both nitrogen dioxide and particulates. These measures will provide some reassurance to local residents relating to the possible implications of larger developments. This will fall outside the scope of this application.

10.200. The issue of air quality was deliberated by the planning committee on the 17.7.25, particularly as there was a representation from the general public prior to the committee requesting deferral on air quality grounds. The Planning committee deferred the application to obtain further information on possible impacts on air quality and the potential for the collection of baseline air quality data and request that the applicant undertakes additional transport modelling with reference to queuing traffic.

10.201. The agents prepared response (21.7.25) on Air Quality matters by NJD Environmental (as shown in full in appendix e), who undertook the Air Quality Assessment to support the planning application. This confirms the following:

- The approach taken was agreed with North Yorkshire Council officers prior to preparation of the report.

- A 2019 base year was utilised as this is considered to be the most appropriate data. This is because 2020 onwards was impacted by the effects of COVID-19 and the implications that this had on traffic flow, and therefore baseline air quality data. The rationale for this approach was set out at paragraphs 3.2.7 and 3.2.8 of the submitted Air Quality Assessment.

- A future year test of 2025 was assessed as it was considered that this would be an appropriate opening year for the development. It is evident that this has not yet been achieved, however the AQA did undertake an assessment based on a position both with and without the proposed development.

10.202. Alongside this the agents commissioned a further Highways Technical Note dated 1.8.25 by Andrew Mosely Associates to advise on traffic data (as shown in Appendix F). This concluded “the Air Quality Assessment has been carried out based on observed July 2023 traffic data and has had growth factors applied to account for development in the local area. It should be noted the majority of vehicle trips to the new Aldi will comprise customers of existing supermarkets who will switch to Aldi, such trips are already on the road network and will not comprise a new source of emissions.”

10.203. This was assessed by the Scientific officer who concluded that the air quality consultant has justified the use of 2019 as the verification year for the air quality modelling, rather than 2020, 2021, or 2022. This is because 2019 is the most recent monitoring year unaffected by COVID-19, which could have resulted in atypical NO₂ emissions and uncertainties in monitoring reliability. Emission factors and background concentrations for 2023 were used to assess the 2025 opening year scenario. This provides a more conservative, ‘worst-case’ estimate of pollutant concentrations, as it does not account for potential improvements in vehicle standards. No concerns are raised with this methodology, as it offers a reliable and robust model for assessing the

air quality impact of the development without underestimating pollutant concentrations. This approach is recommended by Defra.

10.204. The Scientific officer also found the trip generation detail was actually recorded as opposed to modelled data being used as suggested in the objection. Trip generation is expected to consist of 50% pass-by trips and 50% new trips, with 80% of trips arriving from the west and 20% from the east. The transport assessment concludes that most traffic generated by the new development would already be present on the network, diverted from neighbouring retail stores such as Lidl, Morrisons, and Asda. It is expected that traffic will balance out, resulting in no material change to the local road network. The town centre location of the development is also likely to encourage a higher proportion of non-motorised travel. The Local Highway Authority's consultation response states that "the information provided in the TA is considered a robust assessment of the impact on the highway network". This once again satisfied the Scientific officer.

10.205. In terms of Cumulative Development Impacts the Policy SP17 of the Ryedale Local Plan states: "Only permitting development if the individual or cumulative impact on air quality is acceptable and appropriate mitigation measures are secured." The National Planning Policy Framework also addresses cumulative development impacts on air quality under paragraph 199:

10.206. "Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, 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. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan."

10.207. The Institute of Air Quality Management's Land-Use Planning & Development Control: Planning for Air Quality guidance (2017) states:

- 6.21 – "The possibility of cumulative impacts should also be considered. Therefore, there may be a case for modelling another future scenario, with committed development excluded, to allow the cumulative impact of all such future developments with planning permission to be assessed as one combined impact at selected receptors. In most circumstances it is more likely that committed development would be included in the future baseline where the information exists to facilitate this. It is difficult to include other planning applications yet to be determined, as the outcome is not certain."
- 6.22 K – "Cumulative impacts and effects. In many cases, the impact of the development being assessed will have a cumulative effect with other planned developments, which may or may not have planning permission. Where these developments have been granted planning consent and are therefore

‘committed’ developments, their impacts should be assessed cumulatively with those of the application site.”

- 10.208. The Scientific Officer correctly points out that the planning application 21/01115/MOUTE Barratt/Taylor Whimpey, referred to in the objection letter on air quality, is not yet ‘committed’ as it has not been determined. Therefore, it is difficult to assess the cumulative impact of hypothetical developments, as noted in section 6.21 of the guidance.
- 10.209. However, the traffic assessment for the ‘2028 Future Year’ scenario adjusted the 2023 base traffic flow data using TEMPRO software. This programme accounts for local traffic growth and future developments agreed within the Local Plan. The hybrid application (21/01115/MOUTE) is included in the Ryedale Plan under “SD3 – Land to the east of Beverley Road, Norton,” so traffic generated by the adjacent site is incorporated into the TEMPRO growth. Although 21/01115/MOUTE is yet to be determined, the cumulative impact of both developments has been considered.
- 10.210. The 2025 air quality assessment included both ‘with development’ and ‘without development’ scenarios to evaluate the proposed development’s impact on air quality. Based on the additional information provided, the Scientific Team has no objections relating to air quality, traffic flows and the cumulative impact relating to the proposed development. This therefore provides members with the confidence to approve the development knowing the air quality matters have been fully considered.
- 10.211. In terms of direct mitigation for this retail scheme, these involve dust suppression during construction, and this is covered in the Construction Management Plan condition.
- 10.212. The application site is also not within a Development Risk area for coal mining.
- 10.213. To conclude the development is acceptable and is not considered to be a risk to human health in respect of contamination of the land, nor will significantly impact on air quality. Therefore, subject to the contamination conditions suggested the scheme achieves compliance with Policies SP17 and SP20 of the Local Plan Strategy (2013) and guidance in the chapter 15 of the NPPF.

Impact on the railway

- 10.214. The site lies to the immediate south of the Malton - Scarborough railway line controlled by Network Rail. The application site boundary was inset from the railway boundary and the site plan shows a 2m weldmesh fence on the northern boundary to provide security to the railway.
- 10.215. Network Rail were consulted on the application and advised that due to the proximity of the railway it would be necessary for the applicant to liaise with the Asset Protection Team of Network Rail prior to any work taking place on site to ensure that the development can be undertaken safely and without impact to operational railway safety. It was agreed with Network Rail that this would be an informative on any planning approval.

- 10.216. Secondly Network Rail advised that it is imperative that drainage associated with the site does not impact on or cause damage to adjacent railway assets. Surface water must flow away from the railway, there must be no ponding of water adjacent to the boundary and any attenuation scheme within 30m of the railway boundary must be approved by Network Rail in advance. There must be no connection to existing railway drainage assets without prior agreement with Network Rail. Network Rail suggested a condition requiring details of the drainage. The application was accompanied by a drainage strategy (Hydrock 18.1.24) and applicants then produced a 'Proposed Drainage Plan Revision P02' showing all surface water being directed away from the railway line into a Yorkshire Water combined sewer. This satisfied Network Rail and prevented the need for the further drainage condition.
- 10.217. Network Rail also wanted to ensure the boundary treatments, landscaping and lighting were all appropriately designed given the adjacent asset. In terms of Trespass Proof Fencing this was annotated as weldmesh however no details were provided. Network Rail wish to see the exact fencing detail and the applicants and Network Rail were content for this to be controlled by condition.
- 10.218. Likewise, Network Rail wished to see Vehicle Incursion Measures like an Armco or similar barrier (e.g. trief kerb) be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Again, it was agreed by all parties that this could be conditioned.
- 10.219. Network Rail emphasised that it is imperative that planting and landscaping schemes near the railway boundary do not impact on operational railway safety. This could be where leaves fall onto the line, or the trees grow and impact on the asset. Sufficient room should be left for maintenance of the railway line and its fencing. They provide a list of species that are acceptable and unacceptable for planting in proximity to the railway boundary. The Network Rail officer assessed the landscape plan and raised no objections to the species or the location of the planting providing it forms an approved plan.
- 10.220. Finally, Network Rail wished to ensure that any lighting proposed did not dazzle train drivers where lighting is to be erected adjacent to the operational railway. In addition, the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. The applicants produced an External Lighting Layout Plan Revision P02 which showed very low levels of light spillage onto the northern boundary (mainly +0/+1 Lumens) which satisfied Network Rail.

Minerals and Waste

- 10.221. The application site is located within an area identified for the safeguarding of mineral resources, specifically sand gravel. Relevant policies in relation to the NYCC Minerals and Waste Plan 2022 are S01, S02 and S07, which reflect advice in the Chapter 17 of the NPPF. The policies seek to protect future mineral resource extraction by safeguarding land where the resource is found and avoiding such land being sterilised by other development.

10.222. Certain types of development are regarded as exempt development. This includes redevelopment of previously developed land not increasing the footprint of the former development. In this case only 25% of the site is previously developed land, so the site is only partially exempt. The remainder of the site does not benefit from this exemption and therefore some policy conflict exists; however, the fact that it lies within an urban location make it unsuitable for extraction purposes and this is a material planning consideration weighing against the designation conflict.

S106 Legal Agreement

10.223. The following Heads of Terms have been agreed with the applicant for this applications.

Table 1		
Category/Type	Contribution	Amount & Trigger
Travel Plan Monitoring	£5000	Payment upon commencement of the development.(index linked)
Pedestrian Crossing upgrade on Church Street	£25,000	Payment upon commencement of the development.(index linked)

10.224. The Travel Plan monitoring fee is directly related to the development and necessary to ensure the sustainable transport measures are delivered and monitored. Secondly the pedestrian crossing improvement is a direct result of the bus stop moving which is needed to enable the site to be developed and there the use of the crossing will increase and needs to be upgraded.

10.225. It is considered that the above S106 Heads of Terms are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and as such complies with the Community Infrastructure Levy (CIL) Regulations 2010.

11.0 PLANNING BALANCE AND CONCLUSION

11.1. The spatial development hierarchy outlined in Policy SP7 seeks to deliver sustainable development across the former district of Ryedale focusing large retail development primarily in the principal town of Malton or other local centres such as Norton. This site is on the very edge of Norton commercial centre, highly sustainable and supported by the newly adopted Neighbourhood Plan to stimulate new growth in Norton and tidy up the rear of the shops on Commercial Street. The applicant has also demonstrated that therefore are no other sequentially preferable sites for the development and that its development will not harm the vitality and viability of the Norton retail centre. The proposal is therefore policy compliant.

11.2. The positives of the scheme include the reuse of a sustainable brownfield site, increased consumer choice in an accessible location and help stimulate linked trips to

Norton Centre. The amended design of the building ensures it do not create harm to the Norton Conservation Area and will be a welcome addition to the townscape.

- 11.3. Neutral matters include the lack of conflict with the railway line to the north. The site-specific flood risk implications are acceptable, as is the detailed drainage design. There would be no harm arising from highway access or capacity issues and contributions are being made towards off site pedestrian improvement works on Church Street. There would be no harm to protected species following mitigation or any harm to designated sites; the site can be made safe from contamination; residential amenity would not be harmed; there is no harm to heritage; noise and air pollution matters are acceptable.
- 11.4. Whilst there has been some opposition to the proposal particularly from opposing retailers and nearby residents, the issues raised have been addressed above. It has been demonstrated that the scheme is in general accordance with development plan as a whole and should be granted as required by S.38(6) of the Planning and Compulsory Purchase Act 2004, which requires decisions to be made in accordance with the development plan unless there are material considerations indicating otherwise. There are no material considerations that suggest the application should be refused. The proposal also benefits from the presumption in favour of sustainable development. Therefore, planning permission should be granted subject to conditions and prior agreement of a S106 agreement.

12.0 RECOMMENDATION

- 12.1 That the Committee indicate that they are minded to approve the application subject to the prior completion of a Section 106 agreement to secure matters detailed in paragraph 10.209 above and subject to the conditions set out below and delegate the decision to the Executive Officer Development Management and Building Control.

Time

1. The development for which permission is hereby granted shall be begun within a period of three years from the date of this permission.

Reason:

In order to comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.

Plans List

2. The development hereby permitted shall be carried out in accordance with the plans/drawings and assessments listed below:

Location Plan

Drainage Layout Plan	Ro_50_20_11-1000 S2 Rev P02 (9.4.2024)
Proposed Levels Plan	Ro_50_20_11 – 2000 S2 P07
Proposed Elevations	PM_40_50-21-0005 S4 Rev P03
Landscape Plan	NSH 013 P101 Rev H
Lighting Plan	5092-C21-XX-XX-DR-Z Ss_37_16_90-0001-S1-P02

Site Plan	PM_40_50-21-0002 S4 Rev P07
Proposed Roof Plan	PM_40_50-21-0004 S4 Rev P02
Interim Travel Plan Report	48014-002 November 2024 Rev 3
Transport Assessment	48014-002 November 2024 Rev 3
External Lighting Plan	SS_37_16_90-0001 S1 P02

Reason:

For the avoidance of doubt and to ensure the development is carried out in accordance with the approved plans and documents.

Drainage

3. The development shall be built in accordance with the following submitted drainage designs:

Proposed Drainage Layout, Hydrock, Reference 79-E1625-HYD-ZZ-X-DR-C-1000 Revision P02, dated 09/04/2024.

The flow rate from the site shall be restricted to a maximum flowrate of 5.0 litres per second. A 40% allowance shall be included for climate change for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change plus urban creep critical storm event.

Reason:

To ensure that the development is built to the submitted drainage design: to prevent the increased risk of flooding: to ensure the provision of adequate and sustainable means of drainage in the interests of amenity in accordance with Local Plan Strategy SP17.

Store Opening Hours

4. The store opening hours shall be limited to 08:00 to 22:00 Monday to Saturday and 10:00 to 18:00 on Sundays.

Reason:

To protect the residential amenity of the locality and in order to comply with the NPPF and Local Plan Strategy Policy SP20.

Store Delivery Times

5. The store delivery period shall be limited to 07:00 to 23:00 Monday to Saturday and 08:00 to 20:00 on Sundays.

Reason:

To protect the residential amenity of the locality and in order to comply with the NPPF and Local Plan Strategy Policy SP20.

Lighting scheme

6. Prior to the use of the building becoming operational, a detailed lighting scheme based on the submitted lighting layout Ss_37_16_90 – 0001 S1 P02 shall be submitted to and approved in writing by the Local Planning Authority. This shall show all heights and designs of lighting. Once agreed, the lighting shall be installed before the building becomes operational in accordance with the agreed details and thereafter be so retained.

Reason:

In accordance with Local Plan Strategy Policies SP16 and SP 20 to ensure that lighting does not spill out from the application site and cause harm to the living conditions of neighbouring dwellings and the character of the conservation area.

Archaeological Written Scheme of Investigation

7. 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
 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:

To ensure any underground heritage is preserved and recorded in accordance with Local Plan Strategy Policy SP 12 and Section 16 of the NPPF.

Materials

8. No development shall commence above slab level until details and samples of the materials to be used in the construction of the external surfaces, i.e. external walls,

roof, cladding, boundaries, surface treatment of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason:

To ensure the materials are appropriate for the area in accordance with Local Plan Strategy Policies SP 16 and SP 20.

Network Rail -Weldmesh Fencing details

9. Prior to installation full details of the Weldmesh northern boundary fencing specification shall be submitted to and approved in writing by the Local Planning Authority. Once agreed the fence shall be installed in accordance with the approved details and thereafter retained.

Reason:

To ensure the fencing materials are appropriate for the area and provide the necessary level of security for the railway in accordance with Local Plan Strategy Policies SP 16 and SP20.

Network Rail Vehicle Incursion

10. Prior to the development being brought into use full details of vehicle incursion measures on the northern boundary shall be submitted to and approved in writing by the Local Planning Authority. Once agreed the fence shall be installed in accordance with the approved details and thereafter retained.

Reason:

To ensure the northern boundary is protected from vehicles crashing through the fence onto the railway asset area in accordance with Local Plan Strategy Policies SP 16 and SP20.

Planting first available planting season & replacement

11. All planting, seeding or turfing comprised in the approved details of landscaping (Landscape Plan - NSH 013 P101 Rev G) shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees which die, are removed or become seriously damaged or diseased within the first five years shall be replaced in the next planting season with others of similar size and species.

Reason:

In the interests of visual amenity and in order to comply with Policies SP16 and SP20 of the Local Plan Strategy.

EV charging

12. The store hereby permitted shall not open to customers until the 6 electric vehicle charging points detailed on the proposed site layout have been installed and are fully operational. These shall remain operational for the lifetime of the use and be subsequently retained for that purpose.

Reason:

To encourage the use of low emission vehicles, in turn reducing CO2 emissions and energy consumption levels in accordance with Local Plan Strategy Policy SP18.

Crime Prevention measures

13. Prior to the commencement of any aboveground construction work a scheme of crime prevention measures shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide rationale and mitigation that takes account of the observations, advice and recommendations contained within the Designing out Crime Report ref. 092-1-2024 MR, 23 Feb 2024. The agreed scheme shall then be implemented prior to the store opening and remain operational for the lifetime of the use.

Reason:

To promote safe communities and to satisfy paragraphs 96 and 135 of the NPPF and Local Plan Strategy Policy SP16.

Construction hours

14. Any excavation or construction work associated with the development hereby approved shall be carried out only between the hours of:-

0800 -1800 hours Mondays to Fridays

0800 -1300 hours Saturdays

and at no time on Sundays and Bank (or Public) Holidays.

Reason:

To protect local amenity during construction in accordance with Local; Plan Strategy Policy SP20.

Verification of Noise

15. Within 3 months of opening, the developer shall submit a verification report to provide confirmation that the approved sound insulation scheme has been implemented and is fully operational. This verification report shall be submitted to and be approved in writing by the Local Planning Authority and the measures within the sound insulation scheme retained for the lifetime of the use.

Reason:

To protect local amenity during the operational phase of the development in accordance with Policy SP20.

Construction Environmental Management Plan

16. No building, engineering or other operations shall take place until a Construction & Environmental Management Plan has been submitted to and approved by the local planning authority. The submitted Plan shall detail air, water and noise pollution prevention measures as outlined in Table 9 of the Shadow HRA July 2024 and include:
- o hours of delivery, demolition and construction working
 - o details of on-site parking capable of accommodating all staff and sub-contractors vehicles clear of the highway
 - o loading and unloading of plant and materials
 - o details of on-site materials storage area capable of accommodating all plant and materials required for the operation of the site
 - o details of measures for the mitigation and monitoring the effects upon identified species in the CEMP and their protection during development
 - o details of any temporary or construction lighting
 - o a Soil Management Plan to ensure soils are retained on site where appropriate
 - o details of measures for the mitigation and monitoring of impacts of noise, vibration, dust and dirt upon residential property in close proximity and the amenities of local residents
 - o measures to provide for regular and effective communication with local residents
 - o a scheme for recycling/disposing of waste resulting from demolition and construction works
 - o measures to control the spread of mud including, if necessary, wheel washing facilities.
 - o details of the routes to be used by HGV construction traffic
 - o a traffic management plan
 - o a communications plan

The approved Plan shall be adhered to throughout the construction works.

Reason:

This condition is necessary in order to address construction management issues before works commence and in the interests of protecting the ecological value of the site character and amenities of the area in order to comply with Local Plan Strategy Policy SP14.

LEMP

17. Before the development is first brought into use a landscape and ecological management plan including long term design objectives management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the local planning authority. The management plan shall include measures for 30 years maintenance following the first 5 years from establishment. The landscape management plan shall be carried out as approved.

Reason:

To ensure the scheme is developed and managed for future years in accordance with the approved detail and therefore maintained. This will ensure the development accords with Local Plan Strategy Policy SP14.

Biodiversity Net Gain

18. Prior to works commencing on site, a Biodiversity Gain Plan (BGP) shall be submitted to and approved in writing by the Local Planning Authority. The BGP should set out how BNG will be achieved – this can be through a combination of on-site and off-site habitat creation and enhancement, through the purchase of offsite biodiversity units or as a last resort through the purchase of National Credits.

Once approved, the development will need to proceed in accordance with the BGP.

Reason:

To comply with Biodiversity Net Gain as per Local Plan Strategy Policy SP14 and the NPPF with respect to nature conservation.

Ecological Mitigation

19. The development hereby approved shall be implemented in accordance with the mitigation measures as outlined in the para 6.3 (Proposed Mitigation) Table 9 of Version 3 of the shadow Habitat Regulations Assessment (July 2024).

Reason:

To ensure adherence to Environmental legislation, to protect adjoining Local Wildlife sites and accord with Local Plan Strategy Policy SP14 and the NPPF with respect to nature conservation.

Japanese Knotweed removal

20. Prior to the commencement of development, a method statement detailing biosecurity protocol for the treatment and eradication of invasive non-native species (Japanese Knotweed) shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall then be carried out prior to development commencing.

Reason:

To ensure adherence to Environmental legislation, to protect adjoining Local Wildlife sites and accord with Local Plan Strategy Policy SP14 and the NPPF with respect to nature conservation.

Contamination phase 2

21. Prior to development commencing, a site investigation and risk assessment must be undertaken to assess the nature, scale and extent of any land contamination and the potential risks to human health, groundwater, surface water and other receptors. A written report of the findings must be produced and is subject to approval in writing by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination and to accord with Local Plan Strategy Policies SP 17 and SP20.

Remediation

22. Where remediation works are shown to be necessary, development (excluding demolition) shall not commence until a detailed remediation strategy has been submitted to and approved by the Local Planning Authority. The remediation strategy must demonstrate how the site will be made suitable for its intended use and must include proposals for the verification of the remediation works. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the proposed remediation works are appropriate and will remove unacceptable risks to identified receptors in accordance with Local Plan Strategy Policies SP17 and SP20.

Verification

23. Prior to first occupation or use, remediation works should be carried out in accordance with the approved remediation strategy. On completion of those works, a verification report (which demonstrates the effectiveness of the remediation carried out) must be submitted to and approved by the Local Planning Authority. It is strongly recommended that the report is prepared by a suitably qualified and competent person.

Reason:

To ensure that the agreed remediation works are fully implemented and to demonstrate that the site is suitable for its proposed use with respect to land contamination. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990. This will ensure compliance with Local Plan Strategy Policies SP17 and SP20.

Unexpected contamination

24. In the event that unexpected land contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason:

To ensure that risks from land contamination to the future users of the land and

neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and to satisfy Local Plan Strategy Policies SP17, SP20 the NPPF.

Flooding

25. The development hereby permitted shall be carried out in accordance with the following requirements measures set out in the Flood Risk and Drainage Assessment P21-173-HYD-XX-XX-RP-C-0500 (issue P05) dated 27th March 2025:

Finished floor levels shall be set no lower than 20.287 metres above Ordnance Datum (AOD).

Compensatory storage shall be provided as detailed in the flood risk assessment.

The applicant should also implement the flood resilient / flood proof construction techniques as detailed in the mitigation section of the FRA.

Reason:

To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided in accordance with Local Plan Strategy Policy SP17.

Visibility Splay

26. There must be no access or egress by any vehicles between the highway and the application site at Commercial Street Norton until splays are provided giving clear visibility of 25 metres measured along both channel lines of the major road from a point measured 2.4 metres down the centre line of the access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

In the interests of highway safety and in accordance with Local Plan Strategy Policy SP20.

Off site Highway works

27. The following schemes of off-site highway mitigation measures must be completed as indicated below:

- Relocation and upgrade of existing Bus Stop at the site entrance, to a more western position on B1248 Church Street prior to first occupation

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed

engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason:

To ensure that the design is appropriate in the interests of the safety and convenience of highway users and in accordance with Local Plan Strategy Policy SP20.

Access parking and turning

28. There must be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) at Commercial Street Norton until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- vehicular, cycle, and pedestrian accesses;
- vehicular and cycle parking;
- vehicular turning arrangements including measures to enable vehicles to enter and leave the site in a forward gear, and;
- loading and unloading arrangements.

No part of the development must be brought into use until the vehicle access, parking, manoeuvring and turning areas at Commercial Street Norton have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

To ensure appropriate on-site facilities in the interests of highway safety and the general amenity of the development and in accordance with Local Plan Strategy Policy SP20.

Provision of Approved Access, Turning and Parking Areas

29. No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Commercial Street Norton have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason:

To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development and in accordance with Local Plan Strategy Policy SP20.

Travel Plan Delivery

30. The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

Reason:

To establish measures to encourage more sustainable non-car modes of transport in accordance with Section 9 of the NPPF.

Construction Phase Management Plan- Small sites

31. No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved plan.

The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. restriction on the use of Commercial Street Norton access for construction purposes;
3. wheel washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. details of site working hours;
7. details of the measures to be taken for the protection of trees; and
8. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason:

In the interest of public safety and amenity and in accordance with Local Plan Strategy Policy SP20.

HGV routing agreement

32. Prior to the commencement of development, a detailed HGV Framework Routing Agreement for construction vehicles and HGV's serving the store shall be submitted to and approved in writing by the Local Planning Authority. The HGV routing

agreement shall include a Haul Route for construction and servicing vehicles in and out of the site onto the strategic road network to avoid traffic coming through Malton and Norton Town centre and shall head east. Once agreed the development shall be carried out in accordance with the approved details.

Reason:

To ensure that the proposed development does not interfere with the free flow of traffic and conditions of safety on the public highway in accordance with Local Plan Strategy Policy SP20.

Informatives

Development Construction Phase and Asset Protection (Network Rail)

Due to the proximity of the proposed development to the operational railway boundary, it will be imperative that the developer liaise with our Asset Protection Team (contact details below) prior to any work taking place on site to ensure that the development can be undertaken safely and without impact to operational railway safety. Details to be discussed and agreed may include construction methodology, earthworks and excavations, use of crane, plant and machinery, drainage and boundary treatments. It may be necessary for the developer to enter into a Basic Asset Protection Agreement (BAPA) with Network Rail to ensure the safety of the operational railway during these works. We would also like to advise that where any damage, injury or delay to the rail network is caused by construction works or future maintenance (related to the application site), the applicant or developer will incur full liability. This could also include police investigation as it is a criminal offence to endanger the railway or obstruct the passage of rail traffic. It should also be noted that any damage that requires a line closure or repairs can result in costs which could exceed hundreds of thousands of pounds.

Contact details for Asset Protection are supplied online and we would draw the developers' attention to the attached guidance on Network Rail requirements which have been sent to the agent.

Highways

The proposals should cater for all types of vehicles that will use the site. The parking standards are set out in North Yorkshire Council's 'Interim guidance on transport issues, including parking standards' and subsequent amendments available at <https://www.northyorks.gov.uk/sites/default/files/2023-05/Interim%20guidance%20on%20transport%20issues%20including%20parking%20standards%20-%20accessible.pdf>

Travel Plan Delivery

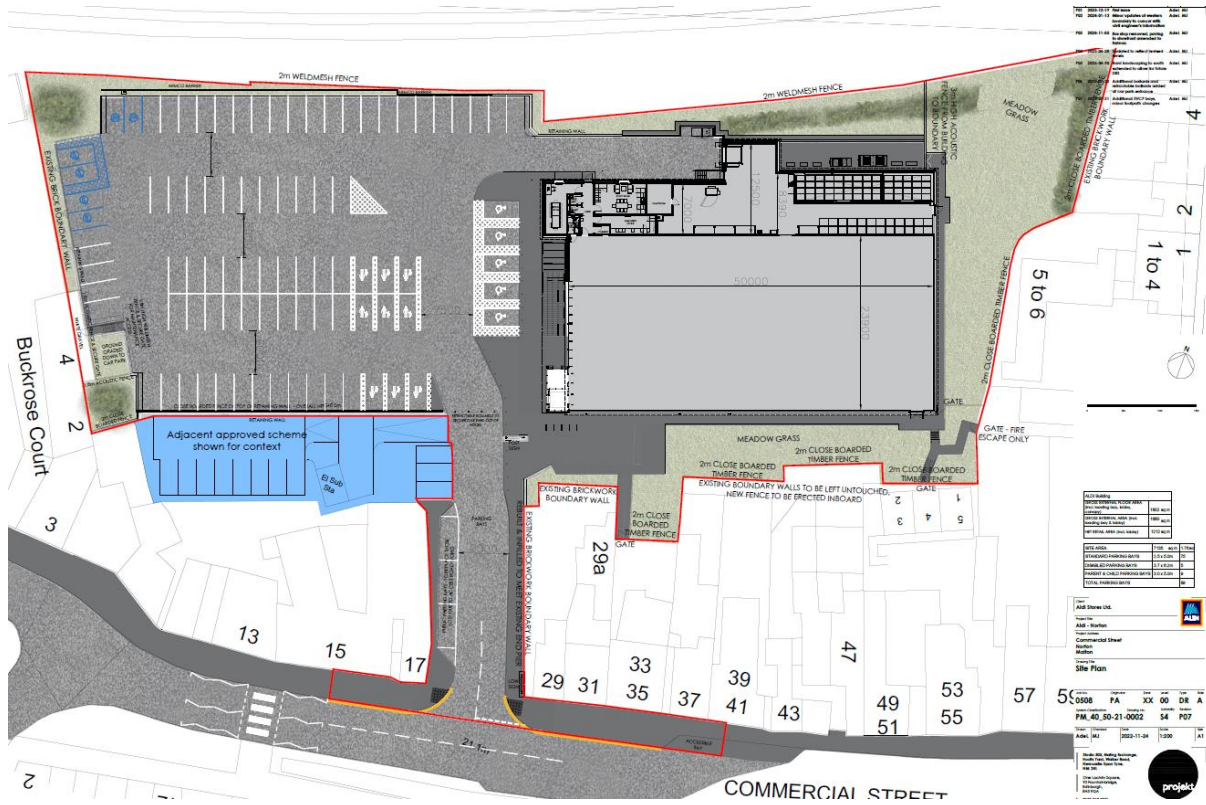
Details of issues to be covered in a Travel Plan can be found in Interim Guidance on Transport Issues, including Parking Standards at:
Interim guidance on transport issues including parking standards (northyorks.gov.uk)

Other Permissions required from the Local Highway Authority.

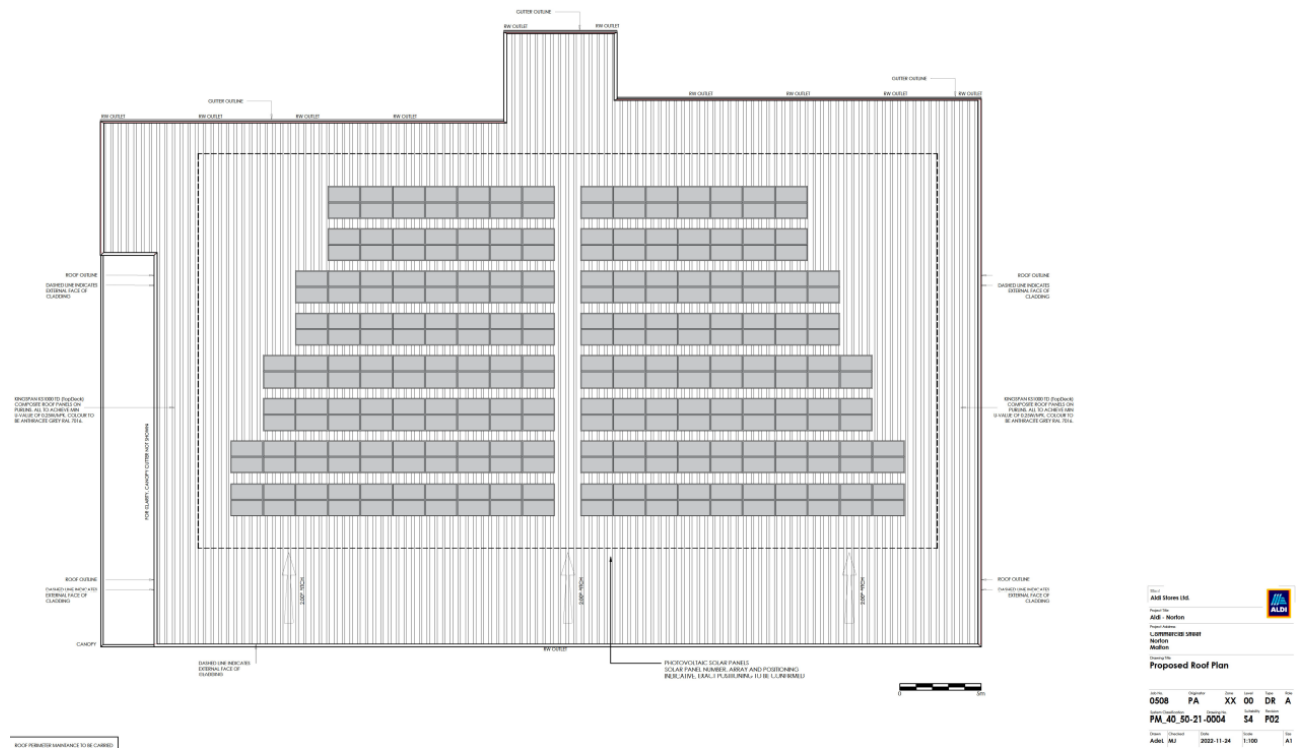
Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire County Council as Local Highway Authority. These additional permissions can include, but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions). Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place

Case Officer: Gareth Stent

Appendix A – Proposed Layout Plan

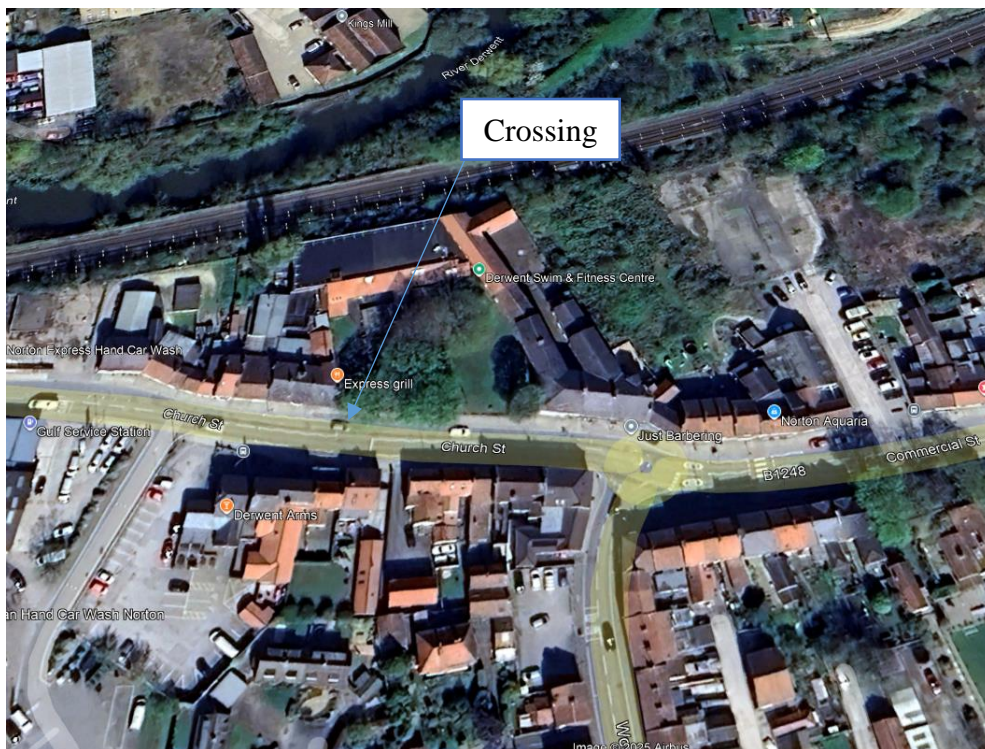
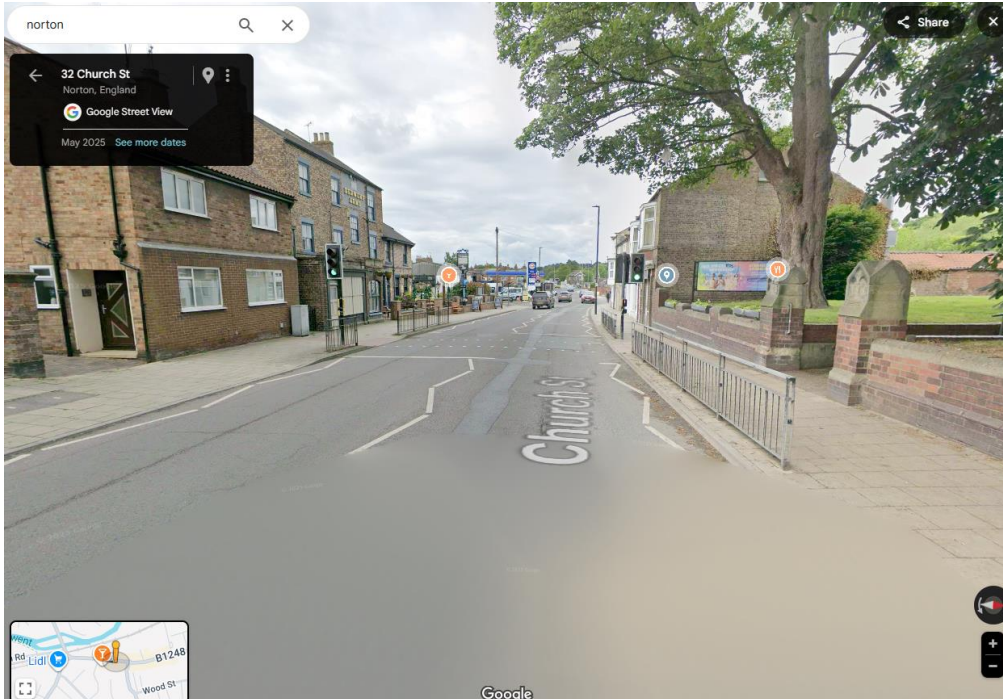


Appendix B – Roof plan showing solar panels.



Appendix C – Pedestrian Crossing

This will be to the east of the application site. It is the signalised crossing outside the Derwent Arms on Church Street that is to be improved, with the bus stop that is currently outside of the site being relocated to this area of Church Street, and the increase in footfall the crossing will see because of this. The contribution will enable to existing crossing to be upgraded to LED/ELV for electrical safety and to reduce carbon emissions/maintenance cost. A fault monitoring unit will also be installed so faults can be responded to quicker rather than relying on the general public.



Appendix D – Car park improvements

The applicants are proposing to ensure car park security in a number of ways.

Firstly, physical barriers into the store car park are proposed, through the provision of retractable bollards which would be closed when the store is closed to trading. These are shown on the submitted proposed site plan below.



Secondly, an ANPR car park control system, likely provided by Parking Eye. This would place a 90-minute length restriction on parking within the store car park during trading hours and one hour either side (i.e. 6am-11pm). Out with these hours, parking restrictions would be reduced to 5 minutes. Below is a photo of a sign typically used to control parking at Aldi locations.



Appendix E – njd Environmental Associates response to Mr Thackrays letter dated 16 July.



Collingwood Buildings
38 Collingwood Street
Newcastle upon Tyne
NE1 1JF
(0191) 2696892

Date: 21st July 2025

Our reference: NJD23-0158-001L

FAO: Case Officer, North Yorkshire Council

Planning Application ZE24/00112/MFUL – Response to Mr Thackray’s letter, dated 16th July 2025

Thank you for providing the above referenced letter. We have reviewed and provided our response below, relating to the points made on air quality.

Traffic Data

In relation to queries concerning the traffic data used to inform the air quality assessment, the project team’s transport consultant will provide a detailed response regarding the committed developments included within the traffic flows and the methodology behind the traffic counts.

2019 Assessment Year

The assessment utilised 2019 as the model verification year. At the time the assessment was undertaken in 2023, 2019 represented the most recent year with reliable, representative monitoring data, taking into account the impacts of the COVID-19 pandemic. Specifically:

1. **Monitoring Reliability:** During the pandemic, there were widespread disruptions in the operation and maintenance of monitoring equipment. Diffusion tubes may not have been changed as scheduled, and continuous analysers may have experienced higher than normal data loss, leading to potentially unreliable datasets.
2. **Atypical Emissions:** Activity levels across all sectors – including transport, industrial, commercial, domestic, and construction – were significantly altered during lockdown periods. As a result, air quality data from these years would not be reflective of typical ‘business-as-usual’ conditions.

This approach aligns with standard industry practice at the time, to avoid underestimating pollutant concentrations. Furthermore, North Yorkshire Council did not raise any concerns during the consultation regarding the use of 2019 as the verification year. The rationale for this selection is also set out in the assessment report at paragraphs 3.2.7 and 3.2.8.

Future Year Assessment

The year 2025 was assessed as the anticipated opening year of the Proposed Development. Both 'Without Development' and 'With Development' scenarios were modelled to determine the associated impacts of predicted development traffic flows.

To ensure a robust assessment, the following conservative assumptions were applied:

- **Emission Factors:** Emission factors for the assessment year (2023) were used, rather than those for the anticipated opening year (2025). This reflects uncertainty regarding actual improvements in NO₂ emissions due to newer vehicle standards, which have not always translated into expected roadside air quality benefits.
- **Background Concentrations:** Background concentrations for NO_x, NO₂, PM₁₀, and PM_{2.5} from 2023 were also applied to the 2025 opening year scenario to further ensure conservatism in the assessment.

We trust this response addresses the queries raised regarding the years assessed and provides clarity on the robustness of the methodology employed.

Yours faithfully

Nichola J Dixon-Boak CSci MIAQM MEnvSc MIOA

Director

Appendix F – AMA Technical Notice



Proposed Aldi Malton

Highways Technical Note

1 August 2025

AMA Project Number: 48014

INTRODUCTION

Andrew Moseley Associates (AMA) have prepared this technical note in response to queries raised by an objection in relation to the Air Quality Assessment undertaken for planning application ZE24/00112/MFUL for erection of an Aldi retail unit on land off Commercial Street, Norton, North Yorkshire. Specifically these relate to the traffic data on which the Air Quality Assessment is based.

Traffic Data

The traffic data used in the approved Air Quality Assessment (NJD, November 2023) was based on observed and recorded traffic counts at the below junctions on both Friday 23rd and Saturday 24th of June 2023. This was a 'neutral' period of normal traffic flows outside of school holidays.

- ▶ B1248 Commercial Street / Wold Street mini-roundabout;
- ▶ B1248 Church Street / Welham Road / B1248 Castlegate priority junction; and
- ▶ B1248 Castlegate / Old Maltongate / Wheelgate / Yorkersgate signalised junction.

The surveys were undertaken between the busiest typical network hours of:

- ▶ Friday 23rd June: 07:00 to 10:00 and 16:00 to 19:00; and
- ▶ Saturday 24th June: 11:00 to 14:00.

The Air Quality Assessment itself is based on a 2019 base year as this reflects the latest available diffusion tube data. As such the 2023 traffic flows were factored down using appropriate factors to reflect 2019 traffic levels. Therefore, while it may appear the traffic data was collected in 2019 the assessment is based on recorded 2023 traffic flows which are considered sufficiently recent to be robust for their purpose.

The majority of vehicle trips to the store will comprise existing trips already on the road of customers who currently use an alternative supermarket in Malton and Norton but who will either switch to or additionally call at Aldi. It is expected the Aldi store will primarily draw trade from the local area. Given the central location of other stores it is expected any increase in vehicle distance travelled to Aldi instead would be minimal. As such these switch trips are not 'new' trips generating new emissions.

Inclusion of Committed Developments

The 2025 'Do-Minimum' traffic flows without the Aldi development include a level of committed development. The 2023 flows were factored up using the industry standard TEMPro (Trip End Model Presentation Program) and is standard practice for applying traffic growth for assessment purposes. Tempro accounts for Local Plan growth as well as background traffic growth.

As noted by NYC Highways in their response dated 14th May 2024: *'The LHA acknowledge that a hybrid planning application consisting of 672 dwellings, primary school and new link road (application reference: 21/01115/MOUTE) is yet to be determined, and the surveyed 2023 base traffic flows were growthed by applying the industry standard TEMRPO software. This programme considers local traffic growth as well as future developments agreed within the Local Plan. As the hybrid application is agreed within The Rydale Plan "SD3 – Land to the east of Beverley Road, Norton" the traffic generated by the adjacent site is considered to be included within the TEMPRO growth.'*

It is therefore evidence that a comprehensive cumulative effect of the proposed Aldi and other Local Plan developments (committed developments) has been undertaken.

**Additional 2023 Traffic Data**

Reference has been made to traffic data published by North Yorkshire in September 2023. This data has not been provided nor is publicly available. However, no comparison can be made given the data itself comprises a single traffic flow referenced without context or specific location.

The July 2023 recorded traffic data on which the Air Quality Assessment has been produced is considered fit for purpose and has been approved by the EHO at NYC

Summary

The Air Quality Assessment has been carried out based on observed July 2023 traffic data and has had growth factors applied to account for development in the local area. It should be noted the majority of vehicle trips to the new Aldi will comprise customers of existing supermarkets who will switch to Aldi, such trips are already on the road network and will not comprise a new source of emissions.

In summary no objections have been raised by NYC Highways on the 2023 traffic surveys on which the Air Quality Assessment is based and this has been approved by the EHO officer. There are no outstanding reasons why the traffic data and the assessment should be called into question.

North Yorkshire Council

Community Development Services

Thirsk and Malton Area Planning Committee

18 September 2025

22/01401/MOUT- Hybrid Planning Application comprising: 1) Outline planning application for residential planning permission for up to 110 dwellings with all matters reserved save for means of access; 2) Full planning permission for change of use to public open space of an adjoining parcel of land as shown outlined in green on Plan Ref. DJB4 on land west side of Malton Road, Pickering on behalf of Mr Derek Beal

Report of the Head of Development Management – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a hybrid planning application comprising: 1) Outline planning application for residential planning permission for up to 110 dwellings with all matters reserved save for means of access; 2) Full planning permission for change of use to public open space of an adjoining parcel of land as shown outlined in green on Plan Ref. DJB4 on land west side of Malton Road, Pickering, North Yorkshire.
- 1.2 The application is reported to the Area Planning Committee for determination because it is considered that significant planning issues have been raised.
- 1.3 The application is returned to Committee for determination following the deferral at the meeting held on 19 June 2025. Members deferred the determination of the application to allow Officers to undertake further consultation with Yorkshire Water and the Lead Local Flood Authority in relation to surface water drainage and sewerage capacity.

2.0 EXECUTIVE SUMMARY

RECOMMENDATION: That planning permission be GRANTED subject to the conditions listed in Section 12 of this report and the completion of a Section 106 legal agreement with terms as detailed in Table 1 (contained within Section 10.142) of this report.

- 2.1. This hybrid planning application comprises: 1) Outline planning application for residential planning permission for up to 110 dwellings with all matters reserved save for means of access; 2) Full planning permission for change of use to public open space of an adjoining parcel of land as shown outlined in green on Plan Ref. DJB4. The site location plan and the open space plan are appended to this report.
- 2.2. The application site amounts to approximately 4.8 hectares and is agricultural land to the west of Malton Road on the southern edge of Pickering. The majority of the site is proposed for residential use for up to 110 dwellings. The remainder of the site on the western side is proposed for public open space. Access is currently gained off Haygate Lane via a field gate near the south east corner of the site.

- 2.3. The principle of the residential development in this location is supported by the Development Plan which allocates the site for residential use (Policy SD6) with an indicative yield of 110 dwellings. The relevant policies set a number of criteria and principles for the development of the site. These are discussed in the main body of the report, but the development is considered to be broadly in-line with these criteria. In addition, the residential development would provide a policy compliant level of affordable housing and on-site public open space.
- 2.4. The application is subject to concerns and objections from the Town Council; the Council's Environmental Health Officer (pass by road traffic noise); and a number of local residents.
- 2.5. The main issues through the course of the application have been the impact of the proposals on the character and appearance of the area; the impact on local infrastructure and services; residential amenity; highway capacity and safety and drainage.
- 2.6. The maximum amount of residential development proposed is in line with the indicative yield projected at allocation stage. There would be some localised landscape and visual impact, but this can be mitigated by landscaping and building height parameters that could be secured by condition and the subsequent reserved matters. The development will result in a change to the character of this area, although it is considered that the detailed design of development proposed can be suitably controlled through the reserved matters process and conditions can be imposed to guide the scale, appearance and form of the development. The part of the site to be developed for housing is at low risk of flooding and drainage matters could be controlled by condition.
- 2.7. The development would generate economic benefits including job creation during the construction phase and increased resident spending in the area. Social and environmental benefits include increased housing supply; affordable housing provision; public open space and children's play facilities; and biodiversity net gain.
- 2.8. The development does result in some minor harmful impacts on the character of the area owing to the introduction of development onto land that is currently of an open and undeveloped character. However, the site is allocated for residential purposes and it is considered that the proposal can be reasonably and successfully integrated. Officers are satisfied that there are no unresolved issues in relation to residential amenity, highway safety or protected species/Biodiversity Net Gain which cannot be suitably controlled through the reserved matters approval process.
- 2.9. Since the item was deferred at the June Area Planning Committee meeting further information has been received in relation to surface water drainage. Following further consultation the details have been deemed acceptable by the LLFA subject to conditions to secure the final detail. In addition Yorkshire Water have confirmed that the previously recommended conditions still apply but have requested that changes are made to the drainage strategy to take account of existing YW infrastructure (discussed later in this report)
- 2.10. It is concluded that, on balance, the principle of development should be supported and the proposed access arrangements are satisfactory, and other matters can be made acceptable through the imposition of conditions and a Section 106 legal agreement.

3.0 Preliminary Matters

- 3.1. Access to the case file on Public Access can be found here:

<https://planningregister.ryedale.gov.uk/caonline-applications/>

- 3.2. The application was registered as valid on 19 December 2022 with the following description of development as taken from the application form:-

'Hybrid Planning Application comprising 1) Outline planning application for residential planning permission for some 3.70ha, with all matters reserved save for means of access; 2) Full planning permission for change of use to public open space of an adjoining parcel of land extending to some 1.09ha'.

- 3.3. Since that time the LPA has agreed a description of development with the applicant that includes an 'up to' figure for the number of dwellings to be constructed at the site (110) and also identifies the land proposed for change of use to public open space. It is considered that the description of the application as set out in the header of this report is accurate and the application is to be determined on this basis.
- 3.4. The site is allocated for residential development under Policies SD2 and SD6 within the adopted Ryedale Plan - Local Plan Sites Document. The Sites Document was formally adopted by the Council in June 2019 and it forms part of the Council's adopted statutory Development Plan.
- 3.5. The following relevant planning history has been identified for the application site which pre-dates its allocation:

3/102/486/PA- Outline application for residential development along frontage off Malton Road, in O.S Field 949 & 950, Pickering. REFUSED 05.01.81

4.0 Site and Surroundings

- 4.1. The application site amounts to approximately 4.8 hectares and is located to the west of Malton Road on the southern edge of Pickering.
- 4.2. The site is arable land enclosed by mixed native hedges, timber post and rail fences and trees on the eastern, southern and western sides with various boundary treatments abutting residential properties to the north. Access is currently gained off Haygate Lane via a field gate near the south east corner of the site. The site is relatively level.
- 4.3. The majority of the application site comprising the central and eastern thirds fall within the development limits of Pickering and is allocated for housing within the Development Plan. The Local Plan Sites Document (LPSD) indicates that the site could provide a housing yield of 110 dwellings (Policy SD6).
- 4.4. The application site also encompasses land on the western side which is outside of defined development limits and forms part of that allocated for 'Green Infrastructure' as shown on the Pickering Policies Map and therefore excluded from the developable area. The Pickering Policies Map also shows that the western part of the application site includes part of a disused railway line (Policy SP10).
- 4.5. At its closest point Pickering Beck follows a southerly course 25 metres west of the application site boundary. The majority of the application site is within Flood Zone 1 although a portion of the site on its western side falls within Flood Zones 2 and 3. A 10 inch diameter water main crosses the central part of the site north-west to south-east. A gas main pipeline line runs along the western part of the site on a north-south

alignment. Public footpath number 25.73/28/1 takes a north-south alignment parallel to the western boundary of the site.

- 4.6. The site is bounded to the north-west by residential properties on Pool Court (post war estate development) and to the north-east by the frontage properties on Malton Road. The public highway (Malton Road) is to the east, Haygate Lane to the south and grassland to the west. Ryedale Swim and Fitness Centre and the public open space to its rear are to the north and Mickle Hill Retirement Village (168 assisted living units) is beyond Malton Road to the east of the site.
- 4.7. Vivers Mill, its outbuildings, Mill House and Mill Cottages are Grade II Listed buildings and are approximately 50 metres west of the site boundary and 150 metres from the western extent of the proposed built development. At its closest point the application site is approximately 230 metres south of the town's Conservation Area boundary.

5.0 Description of Proposal

- 5.1 Hybrid Planning Application comprising: 1) Outline planning application for residential planning permission for up to 110 dwellings with all matters reserved save for means of access; 2) Full planning permission for change of use to public open space of an adjoining parcel of land as shown outlined in green on Plan Ref. DJB4.
- 5.2 The appearance, landscaping, layout and scale for the residential development are reserved for future determination.
- 5.3 The application seeks approval of the following plans: Location Plan ref. DJB2; Revised Open Space Plan ref. DJB4 and the drawings showing the principal access from Malton Road (ref. LTP/4903/P2/01/01/C, dated 21.03.2025) and emergency access connected to Haygate Lane (ref. LTP/4903/P3/01/01, dated 25.04.2025).
- 5.4 In addition, the application is accompanied by the following plans which are indicative only: site layout, dwelling types, elevations, floor plans, streetscene and landscaping.
- 5.5 The application seeks approval for access into the site but not within it. Access is proposed to be via a new T-junction to Malton Road on the eastern side of the site. The plans originally included a secondary vehicular access to the site to be provided via Haygate Lane at the southern end of the site but at the request of the Local Highway Authority this has been downgraded to an emergency access only. The principal access to the site would be to the south of the existing access serving the Mickle Hill development which is situated on the eastern (opposite) side of Malton Road. The drawings show the carriageway into the application site would be 5.5 metres in width flanked by 2 metre wide footpaths with tactile paving at the crossing point. The drawing shows that 2.4 metre x 70 metre visibility splays can be achieved.
- 5.6 The land proposed to function as public open space would extend north to south on the western side of the application site (see plan ref. DJB4 appended to this report). The majority of the application site would be for residential development in the central and eastern two thirds of the site. The application details indicate that the proposed dwellings would be a mix of single and two storey, detached and semi-detached 1 to 3 bed units.
- 5.7 The application confirms that a policy compliant level of affordable housing (35%) would be provided which if 110 dwellings are developed would equate to 38 units on site with the remainder (0.5 of a unit) to be paid as a financial contribution.
- 5.8 The indicative site layout plan shows dwellings within the central and eastern parts of the site and illustrates how the site could be developed to accommodate the water main easement, the gas pipeline approval and acoustic buffer between the

frontage plots and Malton Road. The layout also shows the public open space proposed on the western side and, indicatively, the provision of a children's play area within the housing development.

- 5.9 The application is also accompanied by a Planning Statement; Transport Assessment and Travel Plan and Supplementary Transport Assessment; Noise Impact Assessment and Acoustic fence detail; Ecological Impact Assessment; Biodiversity Net Gain Feasibility Assessment; Great Crested Newt District Level License application; Geophysical Survey; Archaeological Evaluation by Trial Trenching; Archaeological Written Scheme of Investigation; Agricultural land classification plan; Topographical Survey; Drainage Strategy; Percolation Testing Report and Flood Risk Assessment.

6.0 Planning Policy and Guidance

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each application under the Planning Acts in accordance with Development Plan so far as material to the application unless material considerations indicate otherwise.

Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:

Ryedale Plan- Local Plan Strategy (2013)

Policy SP1 General Location of Development and Settlement Hierarchy

Policy SP2 Delivery and Distribution of New Housing

Policy SP3 Affordable Housing

Policy SP4 Type and Mix of New Housing

Policy SP10 Physical Infrastructure

Policy SP11 Community Facilities and Services

Policy SP12 Heritage

Policy SP13 Landscapes

Policy SP14 Biodiversity

Policy SP15 Green Infrastructure Networks

Policy SP16 Design

Policy SP17 Managing Air Quality, Land and Water Resources

Policy SP18 Renewable and Low Carbon Energy

Policy SP19 Presumption in Favour of Sustainable Development

Policy SP20 Generic Development Management Issues

Policy SP22 Planning Obligations, Developer Contributions and the Community Infrastructure Levy

The Ryedale Plan- Local Plan Sites Document (2019)

Policy SD2 (Residential Land Allocations) states that the site (3.7ha) has an indicative yield of 110 units although the policy acknowledges "*the precise number of residential units to be provided on each site will be determined at the planning application stage*".

Policy SD6 (Housing Allocation) sets out the Development Principles applicable to the site. These principles are drawn from information provided as part of the local

plan process. It states that detailed proposals for the development of the site shall include:

- *An indicative yield of 110 dwellings*
- *integrated site and boundary landscaping to include landscape areas for play and fitness*
- *open space/Green Infrastructure to the west of the site (as shown on the Policies Map) is excluded from the developable area to ensure the developable area is outside area at risk of flooding and to protect the setting of the Listed Building. Further landscaping will be required to minimise the degree of intervisibility between the development and the Listed Building*
- *retention of the substantive boundary hedge to the Malton Road*
- *a strategic landscaping swath to the south of the site to define and reinforce the southern approach to the Town*
- *pedestrian and cycle only routes in and through the development to the site access*
- *well defined hierarchy of streets and spaces*
- *designed to enable views of the Spire of the Church of St Peter and St Paul from the Malton Road when approaching the town*
- *access from Malton Road*
- *pedestrian and cycle access to Haygate Lane, the open space to the rear of the swimming pool and the public footpath to the western boundary of the site*
- *on-site children's play space (LEAP)*
- *sustainable drainage system to be integrated into design*
- *Capability for electric vehicle charging for each property with a dedicated car parking space within its curtilage*
- *Lighting scheme to minimise glare, reduce energy usage, and protect amenity*
- *Appropriate archaeological evaluation and mitigation as detailed in Appendix 1*
- *As a Safeguarded Site, the feasibility and viability of the extraction/utilisation of the minerals resource will be demonstrated*

Minerals and Waste Joint Plan (MWJP) (2022)

The Minerals and Waste Joint Plan was adopted in February 2022 by North Yorkshire County Council (now North Yorkshire Council), the City of York Council and the North York Moors National Park Authority. Information about the proposed safeguarding policies and how it is proposed to use the safeguarding areas, including the consideration of applications in mineral consultation areas, can be found in Chapter 8 of the Minerals and Waste Joint Plan (MWJP).

The site is within a Minerals Safeguarding Area and the following policies contained within the MWJP are relevant:

Policy S01: Safeguarded Surface Mineral Resources

Policy S02: Developments proposed within Safeguarded Surface Mineral Resource areas

Emerging Development Plan – Material Consideration

- 6.3. The North Yorkshire Local Plan is the emerging development plan for this site though no weight can be applied in respect of this document at the current time as it is at an early stage of preparation.

Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework 2024
 - National Planning Practice Guidance
 - National Design Guide 2021

7.0 Consultation Responses

- 7.1. The following consultation responses have been received and have been summarised below. Please see online planning register for full comments. Consultation initially took place in early 2023 with a further consultation in Summer 2023 and mostly recently in Summer 2024.

- 7.2. **Highways North Yorkshire (LHA)** Recommend conditions and legal agreement

No response was received following the initial consultation but it was confirmed that discussions had been held between the LHA and the applicant's Highways Consultant in relation to the Transport Assessment.

In their initial response (29.08.2023) to the site layout drawing, the transport assessment and travel plan the highways officer confirmed that a single point of access would be acceptable to serve the site providing the internal estate roads are laid out in a loop.

The highway officer confirmed that capacity modelling has shown that the proposed A169 junction could accommodate all the traffic generated from the site. However, the LHA had concerns with an increase in traffic from the site using Haygate Lane. It is therefore recommended that a secondary access onto Haygate Lane is not permitted, although an emergency link and or access for pedestrians could still be provided. Subject to the provision of appropriate visibility splays a single new access onto the A169 would be acceptable to serve the site. It is recommended that the existing 30mph speed limit signs are relocated away from the proposed new junction, further to the South. The existing footway running alongside the A169 site frontage should also be widened to a minimum of 2 metres, this may require the removal or setting back of the existing hedge line. It is also noted there are no formal crossing facilities of the A169 near to the site and, therefore, it would be desirable to incorporate a pedestrian island to the north of the site access. Junction capacity checks have been undertaken and the development is not likely to lead to significantly longer queues on the junction approaches.

There are no LHA objections subject to a contribution of £6000 to implement the Traffic Regulation Order required to amend the speed limit on the A170 and a contribution of £2500 for Travel Plan monitoring to be included in a Section 106 agreement. Conditions are recommended in respect of road engineering drawings; construction of adoptable roads and footways; visibility splays; access, parking, manoeuvring and turning areas; delivery of off-site highway works (speed limit signage and widen footway); travel plan; and a construction management plan.

In a further response (09.08.2024) the LHA noted the revised access arrangements have removed the vehicular access initially proposed for Haygate Lane. In principle the LHA has no objection to this and a single point of access from the A169 could be acceptable to serve the number of dwellings indicated, providing the internal estate road is laid out in a loop arrangement and a wider section of road provided prior to the start of the loop. An emergency link could also be provided onto Haygate Lane.

On the basis that the internal site layout can be amended and a layout that satisfies NYC adoption requirements provided there are no objections to the proposal. It was confirmed that recommended conditions and financial contributions from the response from 29.08.2023 still apply.

In a further response (14.05.2025) the LHA confirmed that the drawing illustrating the Haygate Lane emergency access was acceptable and that the final design detail could be secured by condition.

In their most recent response (22.07.2025) the LHA confirmed that the revised indicative layout would require some changes at reserved matters stage but given that there would be an emergency link to Haygate Lane a loop road layout is not necessary.

7.3. **Pickering Town Council** Comments

In their initial response (31.01.2023) the Town Council raised concerns about the impact of traffic movements and that the 60mph speed limit should be moved much further out of the town for safety reasons. The Town Council welcome the public open space. The Town Council highlight possible negative impact on services in the town such as school places and the services provided by the Medical Practice. Questions asked about low carbon energy and the sustainability of the housing, and that affordable housing should include some housing managed by a housing association. Also, the buffer between the new development and existing housing should extend to the entire perimeter of the site.

In a further response (05.09.2023) the Town Council commented that the number of vehicle movements described in the application seems to be significantly smaller than what is seen on the road at the moment. The Town Council would also like to see the footpath to the north of the development leading to the swimming pool be made into a combined pedestrian and cycle path.

In their most recent response (31.07.2024) the Town Council comment that the retention of a cycle route into town is essential. The Town Council note that there appears to be no realistic method of addressing surface water runoff in the plans for the development which is a concern, and there are concerns about connecting the site to a sewer network that needs upgrading. The Town Council believes that its concerns raised previously about the accuracy of traffic data in respect of this development are still valid, although some traffic monitoring is currently being undertaken on Malton Road.

7.4. **Environmental Health** Recommend refusal

In their initial response (11.01.2023) the Council's EHO states that the site is adjacent to Malton Road and has the potential to be exposed to high levels of road traffic noise. In the absence of any noise risk assessment it is recommended that the application is refused.

In response (20.02.2023) to the further information (Noise Impact Assessment) the Council's EHO stated that *"much greater detail is required for this to demonstrate that the layout can be achieved with good design, not acoustics bolted on as an*

afterthought". The Council EHO also questioned whether a 2.5 metre high close boarded fence fronting onto Malton Road would be acceptable in terms of visual impact.

In their most recent response (08.09.2023) the Council's EHO requested modelling of the various mitigation scenarios and detailed analysis of LAmax levels and the impacts on those closest to the road, to demonstrate the levels of LAmax received at the nearest receptors, how frequently they occur at night, and the number of events exceeding 60dBLA max. This should be tied to frequency analysis to demonstrate that the proposed acoustic fence will satisfactorily mitigate for low frequency noise.

The Council's EHO confirmed that the noise analysis should include noise modelling contours in 1 dB increments, to see how noise breakout might occur above the fence and at the sides, and overall levels for outdoor amenity during the day.

The Council's EHO advised that mitigation should not rely on closed windows and mechanical ventilation to achieve satisfactory levels of ventilation, and prevention of overheating. *"If the developer is not prepared to demonstrate, that the site can be developed with these constraints designed to protect residential amenity to this level, then I recommend refusal on the grounds of insufficient information"*.

- 7.5. **Health and Safety Executive (HSE)** Do not advise against granting planning permission.

Within the automated response from 08.02.2023 the HSE note that the site lies within the consultation distance of Pipelines 1976 & 1962. HSE's Planning Advice WebApp generates a response of *'Advise against granting planning permission'* for the public open space due to the gas pipeline which runs below the land.

Following further consultation the HSE (15.08.2023) again directed the LPA to the HSE's Planning Advice WebApp for an automated response.

In a further response (26.07.2024) the HSE advised that in the case of an outline planning application where the proposed layout and the scale of the development may only be indicative - for example, the density and the number of dwelling units in a residential development - it is strongly suggested that should any changes be proposed after the outline permission has been granted, that HSE's advice is obtained again before reserved matters are determined.

In their most recent response (12.06.2025) the HSE confirm that after a further review of the application they do not advise against granting planning permission provided the public open space within the inner consultation zone (15 metres from the major accident hazard pipeline) does not contain any facilities that would encourage people to congregate, such as play areas, football pitches.

- 7.6. **Flood Risk (LLFA)** Recommend conditions

In their initial response (27.02.2023) the Lead Local Flood Authority (LLFA) commented that the submitted documents are limited and recommended the submission of detailed flood and drainage design drawings and calculations; a Site Specific FRA and a Sequential Test and Exception Test.

In a subsequent response (03.04.2023) to the further information (FRA) the LLFA recommended that the application is refused due to the lack of information.

The LLFA recommended that the following documents are submitted before any planning permission is granted:

1. Drainage strategy or statement and sketch layout plan (with discharge point)
2. Preliminary hydraulic calculations (quick estimates of green/brownfield runoff rates and attenuation)
3. Preliminary layout drawings
4. Ground investigation report (of sufficient detail to determine if infiltration is viable at the site)

In response (10.09.2024) to the further information (percolation report) the LLFA recommends the application is refused due to lack of information and requests the following:

1. Drainage strategy or statement and sketch layout plan (with discharge point)
2. Preliminary hydraulic calculations (quick estimates of green/brownfield runoff rates and attenuation)
3. Preliminary layout drawings
4. Ground investigation report and/or Infiltration testing in compliance with the NYC Supplementary Infiltration Guidance (of sufficient detail to determine if infiltration is viable at the site)

In a further response (16.04.2025) the LLFA reiterate that the minimum required documents have not been submitted at this stage, therefore we cannot comment on whether the application is acceptable in principle. The LLFA request further information before permission is granted.

In their most recent response (29.07.2025) the LLFA note that the surface water will discharge to ground via infiltration and accept the results of the tests undertaken by the applicant. Surface water would be controlled via a series of cellular storage tanks dispersed around the site. Further detail on the soakaways and the design for exceedance is required but can be secured at discharge of conditions or reserved matters stage. The LLFA accept the details provided in relation to climate change and outline maintenance plan. Overall, the LLFA state that the documents demonstrate a reasonable approach to the management of surface water on the site subject to conditions being imposed to secure the detailed drainage design, exceedance flows and maintenance arrangements.

7.7. **Yorkshire Water Land Use Planning** Recommend conditions

In their initial response (24.01.2023) Yorkshire Water raised an objection to the site layout requesting that it is amended to account for the 10 inch diameter public water main crossing the site. This was objection reiterated in their responses of 29.08.2023 and 23.08.2024.

In a further response (26.09.2024) Yorkshire Water recommend that conditions are attached to protect the local aquatic environment and Yorkshire Water infrastructure to ensure development provides a protected 10 metre wide strip for the public water main and provision for suitable foul and surface water drainage works.

In a further response (08.07.2025) following the Planning Committee's deferral of the application Yorkshire Water advised *"YWS look to support strategic housing allocations and understand that this is an allocated site in the Ryedale Local Plan. As such YWS has no further comment to make on this application, our previous comments apply"*.

In a further response (08.08.2025) Yorkshire Water advised that they have no further comments to make on the application explaining that *"this is an allocated site and our previous comments and recommended conditions outlined in our previous response dated 26th September 2024 reflect this and still apply"*.

In a further response (19.08.2025) following consultation on the further drainage information Yorkshire Water state that the indicative layout and drainage strategy are not acceptable and the following should be addressed:

- i) the submitted drawing appears to show soakaways located within the stand-off of the foul water pumping station which is not acceptable for adoption.
- ii) the submitted drawing should show foul water drainage proposals both on and off site. The off-site connection should be shown and road name clearly marked.
- iii) the foul water pump rate should be included on the plan.
- iv) The submitted drawing should show the mains location as confirmed across the field so that the set off on the design is indeed over the correct location until this information is not submitted the new layout cannot be approved.
- v) no chambers or landscape features should be within the stand-off.
- vi) the submitted drawing should clearly show the required stand-off from the water main and should be clearly labelled indicating this all along the line of the main crossing the site.

Yorkshire Water also highlight the presence of a water main along Malton Road which will need to be taken into account during construction of the new vehicular access serving the site.

In their most recent response (08.09.2025) Yorkshire Water state that they are satisfied that the previous comments and recommended conditions in our letter dated 26 September 2024, alongside the conditions recommended by the LLFA are sufficient.

7.8. **Environment Agency** No objection recommend condition

In their initial response (01.02.2023) the Environment Agency raised an objection. The site lies partially within Flood Zones 1, 2 and 3. The application is for residential development, which is considered to be a 'more vulnerable' land use, and includes an area of public open space which is considered to be a 'water compatible' land use. It is therefore necessary for the application to pass the Sequential Test and Exception Test and to be supported by a site-specific flood risk assessment (FRA). In the absence of a flood risk assessment (FRA), the EA object to this application and recommend that planning permission is refused.

In their response (22.08.2023) to the further information (FRA) the Environment Agency removed their objection subject to a condition requiring the development to be carried out in accordance with the submitted Flood Risk Assessment and the mitigation measures it details.

In a further response (13.08.2024) the Environment Agency confirmed that the previously recommended conditions from 22 August 2023 remains unchanged.

In a further response (10.04.2025) the Environment Agency confirmed no objection subject to a condition requiring the development to be carried out in accordance with the submitted Flood Risk Assessment and the mitigation measures it details.

In their most recent response (12.08.2025) the Environment Agency confirmed that the previously recommended conditions set out in their response of 10 April 2025 remains unchanged.

7.9. Housing Services Supports

Housing Officers have advised that 35% of the dwellings should be provided as affordable units as required by Policy SP3.

Housing Officers highlight that this is an opportunity to deliver much needed affordable housing in a popular community. Housing supports these proposals for affordable housing in this location.

The affordable units should be broken down as 68% rent and 32% intermediate/affordable home ownership (AHO) and built to meet or exceed Nationally Described Space Standards.

Housing Officers request that at reserved matters stage the affordable dwellings are not grouped or clustered and should be of a similar quality to the open market housing and should be visually indistinguishable.

Housing Officers also request the developer makes early contact with a partner RP for the affordable homes in order to confirm that the number, size and type of units are acceptable to them.

Housing Officers advise that it is crucial that a Section 106 Agreement is entered into to allow the affordable housing to be secured and the legal agreement should contain clauses on how the properties will be allocated to households in need.

7.10. Building Conservation Officer No objection

In the initial response (02.05.2023) the Council's Building Conservation Officer (BCO) highlighted that Vivers Mill and attached cottages, a Grade II listed building is located to the north-west of the proposed development site and as such, North Yorkshire Council has a statutory duty to have special regard for the preservation of the setting of listed buildings. The Council's BCO acknowledged that the public open space is an important part of the proposal as this will mitigate those impacts of the proposed housing development in the most sensitive area. The proposed development will have a very minor harmful impact to the setting of the listed building by virtue of the development of open agricultural land. The Council's BCO advises that the level of harm identified would be on the negligible/very low end of less than substantial harm to the special significance of the listed building and there is no objection to the proposal. The Council's BCO welcomes the retention of the boundary hedgerows to both roads as this is an important aspect of the entrance into the Pickering Conservation Area. The Council's BCO recommends that any traffic calming measures to Haygate Lane should maintain the rural character of the lane as should all lighting, signage and highway infrastructure.

Further responses (29.08.2023 & 07.08.2024) confirmed no further comments to add to those made initially.

7.11. NYC Economic Development Comments

In their response (26.01.2023) the Sustainable Transport Officer from the Economic Development Team suggests that a new designated or shared cycle route is created in a grassed area to the north west of the site creating a new entry and exit point to and from the estate for active travel.

7.12. NYC Minerals & Waste Planning Comments

In their initial response (24.04.2023) it was confirmed that there are no active quarry sites or waste facilities within 500 metres of the application site and no sites have been proposed for allocation for minerals or waste activities in the Minerals or Waste Joint Plan within that 500m zone. The site is within a Minerals Safeguarding Area but falls under the exemption criteria (allocated for development in Local Plan).

Further responses (16.08.2023 & 24.07.2024) confirmed the earlier comments are unchanged.

7.13. Police Designing Out Crime Officer (DOCO) Comments

In the initial response (17.04.2023) the Police DOCO provided advice on creating a safe and secure environment- layout, boundary treatments, access control, lighting and natural surveillance of public open space and parking areas.

Further responses (16.08.2023 & 05.08.2024) confirmed the earlier recommendations still apply.

7.14. Archaeology Section: Recommend condition

In the initial response (27.01.2023) the Council's Archaeologist requested that the application includes an archaeological desk based assessment (DBA) followed by field evaluation in the form of a geophysical survey and trial trenching to fully assess the significance of any deposits (prior to the determination of the planning application).

In response (12.05.2023) to the further information provided by the applicant (results of a geophysical survey and archaeological trial trenching) the Council's Archaeologist advised that a scheme of archaeological mitigation recording should be undertaken in response to the ground disturbing works associated with this development proposal.

The applicant subsequently submitted an Archaeological Written Scheme of Investigation which the Council's Archaeologist confirmed (27.11.2023) as being acceptable subject to a condition requiring development to progress in accordance with the WSI and provision being made for analysis, publication and dissemination of results and archive deposition.

In a further response (05.08.2025) the Council's Archaeologist confirmed previous advice set out in a letter dated 12 May 2023 and later email dated 17 November 2023 remains valid and there are no additional observations to make.

7.15. NYC Natural Services Recommend conditions

In the initial response (18.01.2023) the Council's Ecologist highlighted that further ecological information was required in the form of a Preliminary Ecological Appraisal (PEA) to check for protected/important species such as Badger and farmland birds. In addition, the applicant was asked to demonstrate how they would deliver net gains for biodiversity (provisional plan at outline stage).

In response (24.04.2023) to the further information provided by the applicant (ecological impact assessment & protected species) the Council's Ecologist acknowledged that the site is of low ecological value and no further ecological surveys are required.

The Council's Ecologist requested that the recommended ecological mitigation and enhancement measures set out in the submitted assessment are secured by conditions requiring a Construction Environmental Management Plan (CEMP) and a Biodiversity Management Plan. The Council's Ecologist also requested a provisional BNG plan.

The Council's Ecologist underlined that at reserved matters stage the applicant's ecologists would need to review the lighting scheme and confirm that it meets their recommendations and retains dark corridors forming bat foraging habits. In addition, the BNG plan would need to consider additional measures to reduce disturbance to or improve habitats of Otters on Pickering Beck.

In a further response (16.08.2023) the Council's Ecologist accepted that the BNG feasibility identifies that a net gain can be achieved relying on the public open space and a detailed BNG plan will be required at Reserved Matters stage. Great Crested Newt mitigation is being dealt with via Natural England's District Level Licensing Scheme therefore no further action by the LPA is required with regards to GCN mitigation.

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|-------|--|----------------------|
| 7.16. | Public Rights Of Way | No response received |
| 7.17. | National Grid Plant Protection | No response received |
| 7.18. | Northern Gas Networks | No response received |
| 7.19. | Vale of Pickering Internal Drainage Board | No response received |
| 7.20. | Tree & Landscape Officer | No response received |

Local Representations

- 7.21. A total of 45 representations have been received from local residents/members of the public of which 37 are objecting and 8 are neutral. Comments have also been received from Mickle Hill Residents Committee who raise objections to the application. A summary of the comments and concerns raised is provided below, however, please see website for full comments.

Need and alternatives

- The northern housing development (development completed off Whitby Road) is more than enough for the requirement of the housing needs of Pickering
- Lack of need given recent development in Pickering and no shortage of housing stock
- The town is becoming overdeveloped with housing
- Young people finding it hard to achieve home ownership no need for any more unaffordable housing
- The housing should be subject to restrictions to prevent the majority of these homes being bought as second homes or holiday homes.
- There is no industrial or other service jobs available in Pickering meaning any further housing is only for persons who will commute out of the area
- There should be consideration of alternative approaches to creating affordable housing such as placing restrictions on property coming on to the market for local residents, promoting and supporting current private landlords and exploring compulsory purchase of unused properties in the town.

Residential amenity

- Overlooking/loss of privacy for occupants of bungalows in Pool Court
- Loss of natural light for occupants of bungalows in Pool Court
- Noise and disruption from new housing
- Noise disturbance during construction
- Loss of outlook for existing residents on Pool Court
- The development contributes to road traffic noise levels on Malton Road and will increase noise levels at the rear of the properties in Malton Road and also for Pool Court

Infrastructure

- Lack of infrastructure and services to cope with additional housing. Additional schools, dentists and doctors are already needed.
- It is necessary for the town's sewerage infrastructure to be upgraded to serve the new dwellings.
- The development should bring Section 106 contributions that consider affordable housing; green space and also Biodiversity Net Gain

Traffic and travel

- The new housing will increase traffic congestion in the town and impact traffic flow on main road through to Whitby.
- Haygate Lane inadequate width with no speed restriction and not suitable for high levels of traffic.
- Haygate lane is in a poor state and will need significant care to accommodate the extra traffic.
- Footpath on Malton Road is inadequate as is the junction with Haygate Lane
- Any new entrance on Malton Road will create a serious hazard for residents of Mickle Hill particularly during construction
- Increased traffic on Malton Road towards the roundabout which is already congested
- Traffic calming measures near Mickle Hill entrance should be introduced and a roundabout and traffic lights
- The town lacks alternative means of sustainable travel
- Need for safe, segregated active travel routes for pedestrians and cyclists with linkages to the existing Pickering-Malton cycle route
- Opportunity to connect the town centre with the south of Pickering via the swimming pool site encouraging active and green travel is imperative and the proposed track would be of huge benefit not only to residents but also to visitors of this town
- A public pedestrian and cycle path should be constructed up to the northern boundary of the site linked to the secondary access road to the site from Haygate Lane. Such a link would allow quick, safe and car - free access between three large holiday parks providing static and touring caravan and motorhome and holiday lodge accommodation, and two public houses, whatever is eventually built on the former Showfield, and the centre of Pickering.

Environment

- Without upgrades to the town's sewerage system there will be an increase in sewage pollution and deterioration of the aquatic environment of the Upper Costa Beck

- Detrimental to wildlife and habitats and lack of consideration of protected species
- Impact on trees
- Increased air pollution from traffic
- Loss of agricultural land
- Green spaces are just as important to a town's health and welfare

Drainage and flood risk

- No provision for retention, separation/ screening of storm water and no onsite soakaway provision.
- New dwellings will put pressure on sewerage capacity
- Increased potential for flooding to the Beck and properties on Pool Court- where would surface water flow to?

Crime and anti-social behaviour

- Proposed public footpath to the rear of properties on Malton Road will create a thorough fair through the back of the swimming pool grounds and concerns this will cause issues with anti-social behaviour.
- Access and dwellings to the rear of existing dwellings on Pool Court is a security concern.

Other comments

The favourable comments contained within these representations acknowledge a potential economic uplift to the local construction sector in the short term and the town as a whole in the long term and there is also general support for an opportunity to provide a cycle route as part of the development.

The following are matters that have been raised in the public representations which are not material considerations that could lawfully be taken into account in the exercise of the Authority's development management function:

- Private rights of access for property/boundary maintenance easements, rights of way or any other property rights
- Loss of view
- Loss of value of property
- Vehicles breaking speed limit
- Alternatives
- Immigration and right for housing based on country of birth

8.0 Environment Impact Assessment (EIA)

- 8.1. The development proposed does not fall within Schedule 1 or 2 of the Environmental Impact Assessment Regulations 2017 (as amended). No Environment Statement is therefore required.

9.0 Main Issues

- 9.1. The key considerations in the assessment of this application are:

- Principle of the development;
- Amount of development;
- Affordable housing;
- Impact on character and appearance of area;

- Open Space provision;
- Gas pipeline and public safety;
- Residential amenity;
- Highway safety;
- Flood risk and drainage;
- Yorkshire Water assets;
- Impact on setting of nearby heritage assets;
- Archaeological impact;
- Biodiversity and ecological impact;
- Loss of agricultural land;
- Minerals Safeguarding;
- Community Infrastructure Levy;
- Section 106 legal agreement; and
- Housing Land Supply and the 'tilted' balance.

10.0 **ASSESSMENT**

Principle of the development

- 10.1. The site for the residential development is within the development limits for Pickering. Policy SP1 ('General Location of Development and Settlement Hierarchy') of the Local Plan Strategy sets out a hierarchy of settlements and seeks to focus new development within the Principal Towns, Market Towns and Service Villages. Pickering is a Market Town identified as a 'Local Service Centre' in the Settlement Hierarchy, a secondary focus for growth. Policy SP1 confirms that the settlement is expected to be subject to *"Growth to accommodate new homes and local employment opportunities. Centre for tourism and gateway to tourism and recreation opportunities further afield"*.
- 10.2. Policy SP2 ('Delivery and Distribution of new housing') of the Local Plan Strategy provides guidance on the distribution of new homes within the former Ryedale area with Pickering being allocated approximately 25% which equates to circa 750 new homes within the town. In particular, this policy states that site spatial identification will be focused on extension sites around the town of varying sizes whilst avoiding coalescence with Middleton. The site is the last of the two housing allocations within Pickering to be brought forward to a planning application the other being the Heathercroft development (David Wilson Homes) of 239 dwellings on land to the east of Whitby Road, Pickering (permission ref. 17/01220/MFULE).
- 10.3. Policy SP2 sets out the former district's aim in terms of housing delivery and importantly, the areas where they wish to see housing schemes come forward. In areas defined as 'Local Service Centres' such as Pickering, sites to be considered sources of housing include 'Housing Land Allocations in and adjacent to the built-up area'.
- 10.4. The site is allocated for housing within the adopted Ryedale Plan Local Plan Sites Document (Policy SD6) and, as such, forms part of the adopted statutory Development Plan. Therefore, the principle of residential development has been established by the allocation of the land. Since that allocation there have been no

significant changes at the site, or in policy, that would justify the Council taking a different view with regard to the acceptability of the development in principle.

- 10.5. The spatial planning principles established within the Ryedale Plan- Local Plan Strategy (2013) were taken into account when the application site was identified as a housing allocation within the Ryedale Local Plan sites document. As such, the principle of proposed residential development on the application site is fully in accordance with local planning policy objectives.
- 10.6. In addition to the outline residential development the application incorporates land proposed for public open space. The land on the western side of the application site is excluded from the developable area and is set aside to form 'Green Infrastructure' in line with the site allocation (Policy SD6). Public open space being provided to complement the associated housing development is considered acceptable in principle.

Amount of development

- 10.7. Policy SD2 (Residential Land Allocations) states that the site has an indicative yield of 110 units and the policy acknowledges *"the precise number of residential units to be provided on each site will be determined at the planning application stage"*.
- 10.8. The application confirms the proposed uses of the site and the spatial extent of the respective land use areas (public open space and residential development). The plans that have been provided also show that access would be taken from Malton Road. However, the application as originally submitted, did not specify an amount of housing.
- 10.9. Planning practice guidance sets out that it is necessary for outline applications to specify the amount of development proposed for each use (*'What details need to be submitted with an outline planning application?'* Paragraph: 034 Reference ID: 14-034-20140306). Therefore, it is not a 'reserved matter'.
- 10.10. Latterly, the applicant has agreed to confirm the number of dwellings the subject of the outline application as an 'up to' figure of 110 units in line with the indicative yield referred to in the allocation. The inclusion of this upper limit, which is confirmed within the application description of development is acceptable to Officers.

Affordable Housing

- 10.11. Policy SP3 (Affordable Housing) of the Ryedale Plan- Local Plan Strategy (2013) requires 35% on site affordable housing provision.
- 10.12. Based on the proposed upper limit of 110 dwellings being developed at the site a policy compliant level of affordable housing would be 38 units on site and 0.5 of a unit provided as a commuted sum.
- 10.13. Policy SP3 makes it clear that *"Affordable housing contributions will be secured through the use of legal agreements"*. This is re-iterated by Policy SP22 which sets

out how infrastructure will be secured by planning obligations, developer contributions and CIL.

- 10.14. In the response to consultation the Council's Housing Officer has set out the amount of affordable housing required, the tenure split and that the size of the units should meet or exceed Nationally Described Space Standards. The Council's Housing Officer advises that the developer should make early contact with a partner RP for the affordable homes in order to confirm that the number, size and type of units are acceptable to them.
- 10.15. Officers accept that in terms of both market and affordable housing the precise house types, layout, plot locations and sizes will be confirmed at Reserved Matters stage. However, a Section 106 agreement attached to an outline permission is the necessary mechanism that will confirm the delivery of an identified percentage of affordable units along with the tenure and minimum sizes (NDSS) amongst other matters. This will provide certainty to a developer as the site is moved forward to Reserved Matters.
- 10.16. The applicant is agreeable to securing the policy compliant level of affordable provision via Section 106 and a draft legal agreement is being prepared. In light of this the proposed development aligns with the requirements of Policy SP3.

Impact on character and appearance of the area

- 10.17. Policy SP16 of the RPLPS (2013) states that; development proposals will be expected to create high quality durable places that are accessible, well integrated with their surroundings and which:
- Reinforce local distinctiveness
 - Provide a well-connected public realm which is accessible and usable by all, safe and easily navigated
 - Protect amenity and promote well-being
 - The design of new development will also be expected to:
 - Incorporate appropriate hard and soft landscaping features to enhance the setting of the development and/or space
 - Contribute to a safe and well connected public realm by respecting and incorporating routes, buildings and views which create local identity and assist orientation and wayfinding; creating public spaces which are safe and easy to use and move through by all members of the community; facilitating access by sustainable modes of travel including public transport, cycling and walking
 - Reduce crime and the fear of crime through the careful design of buildings and spaces
 - Provide, where appropriate, active and interesting public frontages, clearly defined public spaces and secure private spaces
 - Make efficient use of land and to be built at a density which is appropriate to its surrounding context. In general, new housing development should not be built below an indicative density of 30 dwellings to the hectare unless this can be justified in terms of the surrounding context

- Proposals for major development will be expected to include a statement identifying the waste implications of the development and measures taken to minimise and manage waste generated

- 10.18. The illustrative layout shows the road that leads west into the site splitting in north-west and south-east directions along the line of the underground water main. A series of secondary roads are shown leading north, south and west off the principal road forming a loose grid-like pattern of housing development. This is not dissimilar to the layout of the Mickle Hill development on the opposite side of the road to the east but departs from the arrangement of dwellings on Pool Court/Millfield Close to the north which form a loop connecting to Mill Lane.
- 10.19. However, the site layout is purely an indication of how the site *could* be developed taking into account the site allocations for residential and public open space uses. The highways officer initially requested that the site layout should be based around a loop road but has since confirmed that provided there is an emergency access to Haygate Lane a layout without a loop road can be made acceptable at reserved matters stage. Therefore, the reserved matters application is expected to entail different details but clearly there is scope for a residential development with a layout that would be suitable.
- 10.20. The Local Plan Strategy does not prescribe density standards but notes as an indicative guide, low density housing development would generally be up to 30 dwellings to the hectare.
- 10.21. The planning application process has allowed for more detailed consideration of the constraints affecting the site. In this case the developable area is constrained by flood zones 2 and 3 to the west; the underground gas pipeline; Yorkshire Water infrastructure in the form of an underground water main and foul water pumping station and also the requirement for a landscape (visual and acoustic buffer) on the eastern side of the site. In light of this a low density housing development is expected but at Reserved Matters stage the LPA can guide the pattern of development so that it represents efficient use of land and suitably responds to the context and character of the existing residential development to the north.
- 10.22. In terms of both market and affordable housing the precise house types, locations and sizes will be confirmed at Reserved Matters stage. Policy SP4 of the Local Plan Strategy requires *'At least 5% of all new homes built on schemes of 50 dwellings or more shall be built as bungalows'* which will be secured by condition. Likewise, appearance is a reserved matter although it is anticipated that the dwellings would be constructed from materials that reflect local vernacular with the use of brick, stone, slate and red pantiles.
- 10.23. The proposal relates to a gateway site at the southern entrance to the town. The site is visually contained with well-defined boundary features and residential development on three sides. It is considered that at reserved matters stage a scheme can be designed that provides suitable stand-offs to all sides and includes a landscaped boundary on the site frontage (east) to preserve the visual amenity of Malton Road. Control over layout, scale and appearance can ensure that the development will respect key views towards the town's Conservation Area on approach from the south.

The development would sit well in townscape terms and would not appear as urban creep into the open countryside nor a site that has been 'bolted on' to the existing settlement.

- 10.24. The occupants of the dwellings to the north (Pool Court & Millfield Close) along with users of the adjacent public right of way to the west would experience a visual impact but subject to suitable controls through the reserved matters the impacts would not be unexpected and would not depart from that envisaged through the site allocation.
- 10.25. With regard to the landscape effects the new dwellings would back onto the existing dwellings to the north and north-east and subject to suitable landscaping and controls on heights of buildings it is reasonable to expect the reserved matters process would produce a mixed residential development of single and two storey detached and semi-detached units that would not depart from the form, scale and patterns of neighbouring development.
- 10.26. Whilst there are no TPO trees on site the adopted development principles require the retention of mature boundary planting and a landscaping scheme to enhance the approach along Malton Road into the town. It is anticipated that the highways requirement for a 2 metre wide footpath to the north of the proposed Malton Road access (discussed later in this report) would result in the loss of the existing landscaping along that stretch. There is scope for the re-establishment of substantive boundary hedge to the Malton Road frontage. It is important that the site layout takes account of existing trees and any necessary landscape buffers. A condition shall be imposed to require an Arboricultural Survey to assess the impact on trees and hedgerows and ensure suitable protection and compensatory planting where necessary.
- 10.27. Whilst the development will result in the transformation of the open agricultural setting of the site though the extension of the settlement this is unlikely to result in significant changes to the character and appearance of the area in the long-term. As a result of the development of this allocated site Haygate Lane would be the point where there is a transition from the built-up area of the town to more sporadic and looser frontage residential development to the south.
- 10.28. The approval of layout and landscaping provides the opportunity to secure landscaped edges of the development to soften views towards the site from the public right of way and provide a suitable transition to the countryside and more sporadic development to the south and west.
- 10.29. At this stage as this application is to secure the principle of development the LPA will use the reserved matters process to ensure the detailed scheme is well designed. This can be addressed through the future reserved matters submission which will take account of the form, scale, density, layout and materials. Similarly, future consideration of detailed hard and soft landscape proposals can be through the reserved matters applications.
- 10.30. It is considered that a development can be progressed that would not cause unacceptable harm to the character, quality or distinctiveness of the townscape or to important features or views on the southern edge of town. The impact upon the

character and appearance of the area is considered acceptable in this context in accordance with the requirements of Policies SP12, SP13, SP16 and SP20 of the RPLPS (2013).

Open Space provision

- 10.31. The NPPF at paragraphs 96 and 98 advises that decisions should aim to achieve healthy places which enable and support healthy lifestyles, especially where this would address identified local health and well-being needs for example through the provision of safe and accessible green infrastructure and the provision and use of shared spaces such as open spaces. Paragraph 103 reinforces the importance of access to open space, sport and physical activity for health and wellbeing.
- 10.32. The RPLPS (2013) seeks contributions for all new residential development for the provision of open space under Policy SP11. Residential schemes of 50 dwellings or more are required to provide on-site formal children's playspace (Local Equipped Area for Play or Neighbourhood Equipped Area for Play as appropriate).
- 10.33. The description of proposed development makes explicit reference to open space associated with the residential development and seeks a change of use for of the western part of the application site as shown on the plan appended to this report.
- 10.34. The indicative layout plans show the provision of green space through the site and a dedicated Area for Play which will be secured as part of a Section 106 agreement. The plans also show that there would be cycling and walking routes linking to the north, west and south of the site including access to the public footpath to the west which runs adjacent to Pickering Beck and the former railway line. This connectivity aligns with the aims of Policy SP10 and shall be secured by condition.
- 10.35. The public open space would provide health and recreational benefits to people living and working nearby. It is considered that a scheme can be developed that complies with open space requirements set by local policy and the NPPF.

Gas pipeline and public safety

- 10.36. A gas main pipeline line runs under the western part of the site on a north-south alignment. The pipeline is partly beneath the land that is proposed for public open space.
- 10.37. The NPPF (2024), at paragraph 46, advises that *"Local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them"*.
- 10.38. The HSE is a statutory consultee for developments in the vicinity of major hazard sites and major accident hazard pipelines. The site is within the HSE consultation distance of a major hazard pipeline.
- 10.39. Officers initially consulted the HSE via the Planning Advice Web App. The Web App is an online system which allows local planning authorities to obtain the Health and

Safety Executive's land use planning advice directly. The automated consultation response generated by the WebApp is based on the details input by the LPA. The response advises that based on the information inputted there are sufficient reasons on safety grounds for advising against the granting of planning permission for the public open space (HSE development type 'outdoor use by the public'). The HSE response refers to the part of the site proposed for public open space having the potential for 'up to 100 people' (lowest threshold) to be present at any one time. It does not advise against the granting of permission for housing in the remainder of the site which is outside of the consultation distance.

10.40. It is relevant to note that the pipeline was in situ at the point of the site allocation and is not identified in the site development principles as a constraint. The pipeline also runs below gardens and roadways on Millfield Close and Pool Court to the north. Nevertheless, Officers consider that the proposed use of the land for public open space would result in an increase in the number of people frequenting the site in comparison to the existing land use (arable farmland).

10.41. The NPPF (2024), at paragraph 102, advises that '*Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:*

a) anticipating and addressing possible malicious threats and other hazards (whether natural or man-made), especially in locations where large numbers of people are expected to congregate⁴⁴. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security. The safety of children and other vulnerable users in proximity to open water, railways and other potential hazards should be considered in planning and assessing proposals for development'.

10.42. Footnote 44 of the NPPF lists locations where large numbers of people congregate as including: '*transport hubs, night-time economy venues, cinemas and theatres, sports stadia and arenas, shopping centres, health and education establishments, places of worship, hotels and restaurants, visitor attractions and commercial centres'.*

10.43. The western part of the application site where the gas pipeline runs has been purposefully excluded from the developable area. It is anticipated that the area is likely to be used for dog walking and similar low level public use with only a handful of people on the land at the "busiest times". It is expected that members of the public would be transiting the open space as opposed to 'congregating' in the area. Following further discussion the HSE revised their position to one of 'do not advise against' granting planning permission. A condition can be imposed to ensure that any facilities that would encourage people to congregate, such as play areas, football pitches are located outside of the inner consultation zone (15 metres from the major accident hazard pipeline).

- 10.44. To ensure that the consequences to public safety remain part of the planning considerations the HSE and pipeline operates will be consulted on the proposed layout of the housing development at Reserved Matters stage and an informative to this effect can be included on any grant of outline permission.
- 10.45. It is considered that the transient use of the land is not incompatible with the residual risks posed by the pipeline. In light of the above the view of the Officers is that, subject to the aforementioned conditions, the proposals do not present an unacceptable increase in danger or risk relative to the gas network infrastructure and the public.

Residential amenity

- 10.46. Policy SP20 (Generic Development Management Issues) of the Local Plan Strategy states:

'New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by virtue of its design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence.

Developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise.

New development proposals which will result in an unacceptable risk to human life, health and safety or unacceptable risk to property will be resisted'.

- 10.47. The NPPF (2024) seeks to ensure that development promotes health and well-being, with a high standard of amenity for existing and future users (paragraph 135(f)) and that decisions should prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of, inter alia, noise pollution (paragraph 187(e)).
- 10.48. Paragraph 198 of the NPPF (2024) states that decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. Sub section (a) of the policy aims to avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 10.49. Policy SP20 makes it clear that developers will be expected to apply the highest standards outlined in the WHO, British standards and wider internal and national standards relating to noise. The Ryedale Plan- Local Plan Strategy was adopted in 2013 and Policy SP20 forms part of the Development Plan policies and the requirement to meet the highest standards of noise guidance is considered to be consistent with the aims of the NPPF.

- 10.50. The principal concern of the Council's EHO is the impact of road traffic noise from the adjacent Malton Road on future occupants of the frontage properties.
- 10.51. Road traffic noise was not identified as a constraint in the development principles for the allocation. Nevertheless, the LPA and the Council's Environmental Health Officer (EHO) are seeking to ensure that the appropriate noise standards applied to all residential development are met, in line with current Development Plan policy.
- 10.52. The requirements reflect the highest standards of the WHO Guidance and require outdoor private amenity areas to not have noise levels above 50dB; habitable rooms to not exceed 35dB during the day and bedrooms between 11pm-7am to be able to not exceed 30dB with windows partially opened.
- 10.53. The reserved matters should demonstrate good acoustic design to comply with these day and night time noise limits for residential properties.
- 10.54. The application is accompanied by a Noise Impact Assessment (NIA). The NIA details the noise monitoring which was undertaken in early 2023 to determine the level of external noise affecting the proposed development. This included a monitoring position in the eastern part of the site 10 metres from Malton Road (referred to as MP1). The NIA confirms that the ambient noise climate at the site is characterised by road traffic noise on Malton Road. Ambient noise levels decreased with increasing distance from Malton Road.
- 10.55. The NIA sets out that the day time and night time ambient noise levels at MP1 are measured/ calculated at 62 dB LAeq (0700–2300) and 54 dB LAeq (2300–0700) respectively. Maximum noise levels were typically 73 dB LAMax during the night-time at MP1.
- 10.56. The NIA considers possible options to reduce noise impact upon the proposed residents. The recommendations include a 2.5 metre high acoustic barrier behind the Malton Road hedgerow; setting back dwellings on the Malton Road frontage at least 15 metres from the centre of Malton Road; single storey dwellings on the road frontage; orientating the frontage dwellings to have gardens to the rear (west) and sound insulation through construction design (glazing/trickle vents).
- 10.57. It is anticipated that once the landscape buffer is provided the eastern most dwellings would be set back a similar distance from the Malton Road frontage to the existing detached properties to the north. With layout, scale and landscaping reserved there is clearly scope for the reserved matters to be progressed in line with the good acoustic design process set out in ProPG.
- 10.58. The concerns of the Council's Environmental Health Officer are noted but the reserved matters process shall ensure that the site is designed and developed to protect the proposed dwellings from the ambient noise climate. There is no substantive evidence which would indicate that the noise limits referred to by the Council EHO could not be achieved. It is not necessary or appropriate to approve any specific scheme of sound attenuation such as an acoustic fence at this stage. It is anticipated that noise mitigation (taking account of site circumstances) could be a combination of the aforementioned options.

- 10.59. Conditions shall be imposed to ensure the reserved matters are informed by suitable noise modelling which appropriately assess and mitigate impacts from the identified noise sources in line with policies that promote health and well-being and prevent the new development from being put at risk from unacceptable levels of noise pollution.
- 10.60. Other considerations in respect of residential amenity include the potential of the proposal to result in overlooking or overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed. In addition to the control afforded at reserved matters stage it is reasonable to impose a condition setting maximum building heights for the dwellings.
- 10.61. The proposal would result in a change to the outlook for occupants of properties which back onto the site. However, there is no right to a view from a property. The plans show an indicative layout only but there is scope for suitable rear-to-rear and rear-to-side separation distances between the new dwellings and those to the north/north-east. It will be possible at reserved matters stage to secure appropriate separation distances to prevent any harmful mutual overlooking, overshadowing, overbearing impact or loss of light.
- 10.62. With regard to noise the proposed conditions referred to earlier in this section would ensure acceptable internal and external noise levels for future residents. Conditions that require a construction management plan and restrict the hours of construction would ensure construction phase impacts such as noise, air and vibration pollution upon existing local residents are minimised.
- 10.63. The NPPF, at paragraph 96, states that planning decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas. At reserved matters stage a condition shall require that the layout and detailed design takes account of the recommendations of the Police Designing Out Crime Officer (DOCO) in relation to boundary treatments, access control, lighting and natural surveillance of public open space and parking areas. This would support the creation of a safe and secure environment for future residents and users of the public open space.
- 10.64. It is considered that, at outline stage, there is no evidence to indicate that the proposed development once progressed to reserved matters stage is not capable of complying with the requirements of Policy SP20 in respect of applying the highest standards relating to noise and align with the relevant aims of the NPPF in respect of noise pollution and quality of life, health and well-being.

Highway safety

- 10.65. Policy SP20 of the RPLPS advises that *“Access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required*

in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads”.

- 10.66. Paragraph 115 of the NPPF (2024) states that in assessing sites for development, it should be ensured that: (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; (c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code ; and (d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.
- 10.67. Paragraph 116 of the NPPF (2024) advises that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.*
- 10.68. Paragraph 117 of the NPPF (2024) states that within this context, applications for development should: (a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use; (b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport; (c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards; (d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and (e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 10.69. Paragraph 118 of the NPPF (2024) states that all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed and monitored.
- 10.70. The outline application seeks approval of the means of access to the site but not within the site. The proposed site access is in the form of a new priority junction onto the A169 Malton Road. Vehicular traffic between the site and Haygate Lane would be restricted to emergency access only.
- 10.71. The acceptability of internal roadways and circulation routes for vehicles, cycles and pedestrians will be considered as part of the reserved matters once the detailed design of the site layout has been progressed.
- 10.72. The highways officer initially requested that the site layout should be based around a loop road but has since confirmed that provided there is an emergency access to

Haygate Lane a layout without a loop road can be made acceptable at reserved matters stage.

- 10.73. The application is accompanied by a Transport Assessment, Travel Plan and Supplementary Transport Assessment. The applicant's transport assessments and travel plan are based on trips generated by 114 dwellings. The residential development is expected to generate a maximum of 51 two-way vehicle trip movements during the AM peak and 54 two-way vehicle trip movements during the PM peak. There have been objections from local residents raising concerns in relation to highway safety, capacity and congestion in the town.
- 10.74. With regard to impact on the local highway network the LHA note that the transport assessment has modelled the impact of the new traffic expected to be generated by the site on the wider road network, with capacity checks carried out at the A169 site access and A169/A170 roundabout. The highways officer has stated that *"Allowing for other committed development in the locality and future traffic growth, it has been shown the site access would operate well within capacity. At the A169/A170 roundabout an increase in the region of 35 trips is expected in the peak hours. Whilst congestion can already occur at peak times at this roundabout, and the development traffic will add to this problem, overall these new trips would be a small percentage increase in total movements at the roundabout. It is not likely to lead to significantly longer queues on the junction approaches"*.
- 10.75. As part of the site access arrangements the LHA recommend that the existing 30mph speed limit signs are relocated away from the proposed new junction, further to the south. There is national guidance that the LHA follow on the positioning of speed signage and for 30mph it would typically be the start of the built up area and therefore it is envisaged the limit would only move a short distance further out, just to the south of Haygate Lane. The existing footway running alongside the A169/Malton Road site frontage should also be widened to a minimum of 2 metres, this is expected to require the removal or setting back of the existing hedge line. Latterly, the highways officer has confirmed that the footpath widening would only be along the site frontage north of the new access and not the entire length of the Malton Road frontage.
- 10.76. There is no formal facilities for pedestrians crossing the A169 near to the site. With regards to predicting pedestrian flows many of the services/ amenities are on the west of the A169 and it is anticipated that there would be limited movements across the main road. With this in mind the highways officer has confirmed that a pedestrian island is not required by condition as it is a more desirable addition rather than mitigation essential to make the development acceptable. The highways officer also notes that there is a signalised crossing point further along the A169 nearer the Town Centre. The site itself will not generate enough demand to justify another signalised crossing point nearer the site.
- 10.77. The LHA initially raised concerns in relation to the internal road layout as shown on the indicative site layout as it would not be in accordance with the current NYC design guide or meet adoption standards. However, the LHA acknowledge that a layout that satisfies NYC adoption requirements can be provided (at reserved matter stage) and as a result there are no objections to the outline application.

- 10.78. At reserved matters stage it will also be necessary to ensure that the layout provides for each dwelling to be served by off street parking within its curtilage in line with NYC guidance on minimum parking standards for new residential developments. It will also be necessary to provide secure cycle parking across the site and the installation of EV charging points to all dwellings.
- 10.79. The site is considered to be a sustainable location close to local services, facilities and transport links and provides for a choice of mode of transport. The travel plan indicates that the footpaths within the western part of the application site are expected to connect to the public right of way that runs north-south parallel to the western boundary and footpaths can be created to link to Haygate Lane and the land to the rear of the swimming pool. The travel plan seeks to encourage the use of sustainable modes of transport and overall, it is considered that the pedestrian and cycles links can be provided within the final site layout (reserved matter) in accordance with the site allocation development principles.
- 10.80. The LHA recommend conditions in respect of engineering drawings for roads and sewers and programme for delivery; construction of adoptable roads and footways; visibility splays; delivery of off-site highway works (relocation of the 30mph speed limit on 169 Malton Road and provision of a gateway feature south of the proposed site access and a 2 metre wide footway along the A169 site frontage north of the newly formed access); Stage 2 Road Safety Audit; details of access, parking and turning; parking for dwellings; Travel Plan Delivery; and a Construction Management Plan.
- 10.81. The highways officer has explained that the 'gateway feature' would be tied into the relocation of the 30mph signs and could include some 'Welcome to Pickering' town signage and coloured surfacing at the speed limit change just to help highlight the entrance into Pickering and the change from 60 to 30mph.
- 10.82. In addition, in the event that permission is granted, the LPA consider it prudent to impose a condition that vehicular access is solely from a priority junction formed in the A169 Malton Road site frontage.
- 10.83. The LHA recommended that a contribution of £6000 to implement the Traffic regulation order required to amend the speed limit on the A170 and a contribution of £2500 for travel plan monitoring be included in a Section 106 Agreement.
- 10.84. The NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Based on the evidence provided by the applicant, whilst the proposed development would result in an increase in vehicle movements on the highway network in the vicinity of the site, there is nothing that would indicate that the proposal would result in an unacceptable impact on highway safety. The LHA note that the capacity modelling has shown that the proposed A169 junction could accommodate all the traffic generated from the site and LHA raise no objections to the proposal.
- 10.85. Therefore, it is considered that the site can be developed for housing without resulting in an adverse impact on highway safety or capacity and residual impacts can be made acceptable through the imposition of conditions to secure highway

improvements at detailed design stage which complies with the requirements of the NPPF and Policy SP20.

Flood risk and drainage

- 10.86. The NPPF and Policy SP17 requires development to incorporate sustainable drainage systems and techniques in line with the drainage hierarchy unless there is clear evidence that this would be inappropriate.
- 10.87. Paragraph 170 of the NPPF (2024) states that; inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
- 10.88. Paragraph 181 of the NPPF states that; when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) 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 such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; 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.
- 10.89. Paragraph 182 of the NPPF states that; Applications which could affect drainage on or around the site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, and which are proportionate to the nature and scale of the proposal. These should provide multifunctional benefits wherever possible, through facilitating improvements in water quality and biodiversity, as well as benefits for amenity. Sustainable drainage systems provided as part of proposals for major development should:
- a) take account of advice from the Lead Local Flood Authority;
 - b) have appropriate proposed minimum operational standards; and
 - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development.
- 10.90. The site is bounded by Pickering Beck to the west. The western part of the application site is 'Green Infrastructure' as shown on the Pickering Policies Map and excluded from the developable area to ensure the developable area is outside area at risk of flooding (Flood Zones 2 and 3).
- 10.91. The application is accompanied by a Flood Risk Assessment which confirms that Environment Agency modelled data shows that the 1in100 year storm event + 50% Climate change reaches a level of 29.754AOD when undefended. The lowest point of

the site is 28.88 AOD and therefore does encroach the site, however there is only a minority of the site which has the potential to be flooded and this is the area to be undeveloped and used for open public space.

- 10.92. The change of use of the agricultural land to public open space represents 'amenity open space' which is defined in the flood risk vulnerability classification as being 'water compatible' and acceptable within Flood Zones 2 and 3. The proposed residential development is within Flood Zone 1 and, therefore, complies with the sequential approach to locating development within areas of lowest risk in line with national and local policy.
- 10.93. In compliance with the requirements of the NPPF the assessment shows that the development could proceed without being subject to significant flood risk. The development will not increase flood risk to the wider catchment area as a result of suitable management of surface water runoff discharging from the site.
- 10.94. It is proposed that foul sewage would connect to the mains sewer. Yorkshire Water have recommended standard conditions to require separate systems for foul and surface water drainage and prior approval of full details of the proposed drainage works. There have been objections raised by members of the public in relation to the capacity of the town's existing sewerage system and that without upgrades additional housing will increase sewage spillage events in the Pickering area and Costa Beck. Yorkshire Water have been consulted several times throughout the course of the application and have not raised any concerns in relation to capacity or requested any conditions requiring sewerage system upgrades in advance of the occupation of the dwellings.
- 10.95. Furthermore, given that the site has been allocated in the Development Plan since 2019 (publication of the Site Document took place in 2017) for the use which is now proposed, there has been adequate time for the sewerage undertaker to make provisions to improve the necessary infrastructure outside of the planning regime. To penalise the applicant for this not taking place and for any inadequacies in the public sewerage system would, in this instance, be unreasonable and would serve to stifle the plan led system which provides advanced warning of public infrastructure requirements in forthcoming years.
- 10.96. With regard to surface water the drainage hierarchy requires that discharge of surface water to the public sewer will only be considered once other means of surface water drainage (via infiltration or watercourse) have been considered and evidence shows that they can be discounted.
- 10.97. The application is accompanied by a Percolation Testing Report which sets out the results of two test pits formed on site with three percolation tests undertaken for each pit. The report results demonstrate that the ground conditions are suitable for soak away drainage and infiltration methods are a suitable solution for draining the site. The percolation test demonstrates that ground conditions and infiltration rates are fairly consistent giving reasonable rates for the use of soakaways and porous paving as being viable options for the site.

- 10.98. The Lead Local Flood Authority (LLFA) wish to establish whether a reasonable approach to the management of surface water can be achieved on the site and require the proposed drainage scheme to include sufficient detail at outline stage.
- 10.99. Therefore, further investigations have been completed to establish if discharge via soakaways/infiltration or local watercourse are achievable. In response to the further information the LLFA note that the surface water will discharge to ground via infiltration and accept the results of the tests. Surface water would be controlled via a series of cellular storage tanks dispersed around the site. Further detail on the soakaways and the design for exceedance is required but can be secured at discharge of conditions or reserved matters stage. The LLFA accept the details provided in relation to climate change and outline maintenance plan. Overall, the LLFA state that the documents demonstrate a reasonable approach to the management of surface water on the site subject to conditions being imposed to secure the detailed drainage design, exceedance flows and maintenance arrangements.
- 10.100. In light of the above it is considered that the development would not be at risk from flooding or increase flood risk elsewhere and subject to final details being approved in relation to the design of the foul and surface water drainage schemes the development complies with the NPPF and Policy SP17.

Yorkshire Water assets

- 10.101. Yorkshire Water have highlighted that a 10 inch diameter water main crosses the developable part of the application site north-west to south-east between the rear of properties on Pool Court to Haygate Lane. The indicative layout seeks to arrange built development to ensure a buffer strip along the water main.
- 10.102. Yorkshire Water have made a number of comments in relation to existing infrastructure within or adjacent to the site. The final layout will need to suitably accommodate those features before it can be approved. However, given layout is a reserved matter this can be addressed as part of a future application should outline permission be granted.
- 10.103. Yorkshire Water also highlight the presence of a water main along Malton Road which will need to be taken into account during construction of the new vehicular access serving the site. An informative shall be included on any grant of permission to ensure this is taken into account
- 10.104. Yorkshire Water request that conditions are attached to protect the local aquatic environment and Yorkshire Water infrastructure to ensure development provides a protected 10 metre wide strip for the public water main and provision for suitable foul and surface water drainage works. It is considered the *“scale, type, location and phasing of [the proposal] can be accommodated without an unacceptable impact on water supply”* in accordance with Policy SP17.

Impact on setting of nearby heritage assets

- 10.105. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving the Listed Building(s) or its setting or any features of special architectural or historic interest which it possesses. At its closest point the site is approximately 230 metres south of the town's Conservation Area boundary.
- 10.106. Vivers Mill, its outbuildings, Mill House and Mill Cottages are Grade II Listed buildings and are approximately 50 metres west of the application site boundary and 150 metres from the western extent of the proposed built development. The western part of the application site is 'Green Infrastructure' as shown on the Pickering Policies Map and excluded from the developable area in order to, amongst other things, protect the setting of the Listed Building.
- 10.107. North Yorkshire Council has a statutory duty to have special regard for the preservation of the setting of listed buildings.
- 10.108. Policy SP12 of the RPLPS (2013) states that designated historic assets will be conserved and where appropriate, enhanced. Local Policy and the NPPF (2024) sets out that proposals which would result in less substantial harm will only be agreed where the public benefit of the proposal is considered to outweigh the harm and the extent of harm to the asset.
- 10.109. The Council's Building Conservation Officer acknowledges that the public open space is an important part of the proposal as this will mitigate those impacts of the proposed housing development in the most sensitive area.
- 10.110. The Council's Building Conservation Officer identifies that the proposed development will have a very minor harmful impact to the setting of the listed building by virtue of the development of open agricultural land. The level of harm identified would be on the negligible/very low end of less than substantial harm to the special significance of the listed building.
- 10.111. The Council's Building Conservation Officer has confirmed no objections but would welcome the retention of the boundary hedgerows to both roads as this is an important aspect of the entrance into the Pickering Conservation Area. If permission is granted conditions are recommended to control traffic calming measures (design); lighting, signage and highway infrastructure.
- 10.112. It is considered that the proposed dwellings, which would be limited to a maximum of two storey in height and set back from the Malton Road frontage, would not impinge on views towards the spire of the Church of St Peter and St Paul on approach to the town from the south. This is in line with the development principles set out in the site allocation. The site allocation (Policy SD6) acknowledges that further landscaping will be required to minimise the degree of inter-visibility between the development and the Listed Building and this can be detailed as part of a future reserved matters application should outline permission be granted.

- 10.113. The harm to the setting of the listed building has been identified as being on the negligible/very low end of 'less than substantial harm'. The proposal would not interrupt any key views and would preserve the setting of the listed building and the character and appearance of the Conservation Area. This would satisfy the requirements of Section 66(1) and Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 10.114. In the view of Officers, the public benefits of providing market and affordable housing alongside areas of public open space outweigh the very minor harm caused to the setting of the listed building in compliance with the requirements of Policy SP12 of the RPLPS (2013) and the NPPF (2024).

Archaeological impact

- 10.115. Policy SP12 states that distinctive elements of North Yorkshires historic environment should be conserved and, where appropriate, enhanced. The NPPF (2024) requires applications to be accompanied by an appropriate level of assessment.
- 10.116. The Council's Archaeologist initially highlighted that the application as submitted did not contain any assessment of the impact of the proposal on heritage assets of archaeological interest.
- 10.117. The Council's Archaeologist sought an archaeological desk based assessment (DBA) followed by field evaluation in the form of a geophysical survey and trial trenching to fully assess the significance of any deposits.
- 10.118. The archaeological assessments were subsequently completed and reviewed by the Council's Archaeologist.
- 10.119. It was noted that the assessment work had demonstrated that archaeological deposits identified to the east of Malton Road continue into the application site. The deposits consist of linear trackways flanked by enclosures which appear to be agricultural in nature. Dating evidence from the site in the form of pottery sherds and environmental material suggests that the site dates from the Iron Age to Romano-British periods.
- 10.120. The evaluation did not identify any features of such significance to warrant physical preservation and, in light of this, the Council's Archaeologist confirmed that it would be appropriate to impose a condition to secure a scheme of archaeological mitigation recording in response to the ground disturbing works.
- 10.121. In response the applicant opted to provide an Archaeological Written Scheme of Investigation prior to the determination of the application.
- 10.122. The Council's Archaeologist subsequently approved the submitted Written Scheme of Investigation and should permission be granted a condition will be imposed to require compliance with the scheme. A condition will also require that the development is not brought into use until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the

approved Written Scheme of Investigation and in compliance with Policy SP12 of the RPLPS (2013) and the NPPF (2024).

Biodiversity and ecological impact

- 10.123. Policy SP14 of the RPLPS aims to conserve and enhance biodiversity through the prevention of loss of habitat or species and the incorporation of beneficial biodiversity features.
- 10.124. The Council's Ecologist initially highlighted that the application as submitted did not contain any environmental information such as a Preliminary Ecological Appraisal (PEA) to check for protected/important species such as Badger and farmland birds.
- 10.125. During the course of processing the application the applicant submitted an Ecological Impact Assessment (EclA).
- 10.126. The Council's Ecologist has accepted the findings of the EclA that the site is of low ecological value, being predominantly arable land and confirmed that no further ecological surveys are required. There are no national or local designated nature conservation sites on or adjoining the site.
- 10.127. The Council's Ecologist has advised that at reserved matters stage the ecological mitigation and enhancement measures contained within the EclA would need to be incorporated into: (a) a Construction Environmental Management Plan (CEMP) (ecological mitigation measures to be implemented during the construction phase); and (b) a Biodiversity Management Plan (covering creation and maintenance of new and existing habitats). In addition the lighting scheme for the development would need to be compatible with the recommendations of the EclA in respect of dark corridors for local bat populations.
- 10.128. With regard to protected species and specifically risks to Great Crested Newts it is noted that the risk is low but cannot be ruled out entirely. This is due to the predominantly arable character of the site, the distance from known population centres and intervening barriers to dispersal. It would be appropriate to deal with the low residual risk to this protected species via Natural England's District Level Licensing (DLL) scheme.
- 10.129. The Council's Ecologist has advised that at reserved matters stage, the applicant would need to provide a copy of the Impact Assessment and Conservation Payment Certificate (IACPC) countersigned by Natural England as evidence of enrolment. The site is in a Green risk zone for the DLL scheme, so should be acceptable.
- 10.130. The applicant subsequently submitted a Great Crested Newt District Level License application and an Impact Assessment & Conservation Payment Certificate countersigned by Natural England confirming that GCN mitigation is being dealt with via Natural England's District Level Licensing Scheme. Therefore, no further action by the LPA is required with regards to GCN mitigation.

- 10.131. Policy SP14 of the RPLPS (2013) and the NPPF require a net gain in biodiversity to be provided as part of new development schemes. This is not a scheme which is subject to the mandatory requirement for Biodiversity Net Gain by virtue of Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) due to it being made prior to the regulations being enacted.
- 10.132. Nevertheless, the application is accompanied by a Biodiversity Net Gain (BNG) feasibility study which projects that a very small (+3.4%) gain in habitat units could be delivered, along with a +16% gain in hedgerow units. This relies on 0.29 ha of the public open space being managed as wildlife-rich grassland.
- 10.133. The Council's Ecologist has advised that a detailed BNG plan will be required at Reserved Matters stage. It has been requested that as part of the BMP the applicant should consider additional measures to reduce disturbance to or improve habitats of Otters on Pickering Beck and this will be included as informative advice. If the finalised BNG scheme differs from that on which the feasibility study is based, a new Biodiversity Metric calculation will be needed. At present the measures set out in the feasibility study would meet the NPPF and Policy SP14 requirements to deliver net gains for biodiversity.

Loss of agricultural land

- 10.134. Policy SP17 states *'Land resources will be protected and improved by...Prioritising the use of previously developed land and protecting the best and most versatile agricultural land from irreversible loss. New land allocations will be planned to avoid and minimise the loss of the Best and Most Versatile Agricultural Land. Proposals for major development coming forward on sites that are not allocated for development which would result in the loss of the Best and Most Versatile Agricultural Land will be resisted unless it can be demonstrated that the use proposed cannot be located elsewhere and that the need for the development outweighs the loss of the resource'*.
- 10.135. Best and most versatile agricultural land is graded 1 to 3a in the Agricultural Land Classification.
- 10.136. The proposed development would result in the loss of some 4.8 hectares of agricultural land which is currently in arable use. The site is moderate-quality agricultural land classified as Grade 3b and therefore does not comprise BMV agricultural land. Furthermore, the site allocation takes account of the loss of agricultural land to facilitate the residential development and it can be concluded that the proposed development does not conflict with the aims of Policy SP17 in respect of agricultural land resources.

Minerals Safeguarding

- 10.137. The site development principles set out in the site allocation (Policy SD6) requires feasibility and viability of the extraction/utilisation of the minerals resource to be demonstrated.

10.138. The site is on the southern edge of the town in an area dominated by residential land use. It is considered that any mineral extraction at the site would be economically unviable, undesirable and unlikely to be environmentally acceptable and should not prevent the proposed residential development coming forward.

10.139. LPA Officers have confirmed that there are no active quarry sites or waste facilities within 500 metres of site and no sites have been proposed for allocation for minerals or waste activities in the Minerals or Waste Joint Plan within that 500 metre zone. The site is within a Minerals Safeguarding Area but falls under the exemption criteria on the basis that it has been allocated for development in the Local Plan. Therefore it is considered that the proposal does not give rise to conflict with Policy SD6 of the Local Plan Sites Document (2019) or the policies contained within the MWJP (2022).

Community Infrastructure Levy (CIL)

10.140. The former Ryedale area of North Yorkshire Council operates a CIL charging policy and Policy SP22 of the RPLPS (2013) contains a list of infrastructure which can benefit from CIL funding.

10.141. The proposed development is CIL liable at £85 per square metre. This charge would be applicable at the Reserved Matters stage when the total number and floor area of the dwellings is known. The use of CIL payments from this site is a separate matter beyond the scope of the decision making on this outline planning application.

Section 106 legal agreement

10.142. A Section 106 legal agreement will be required in line with Policies SP3, SP11 and SP22 of the Ryedale Plan Local Plan Strategy. A Section 106 is required to secure the on-site open space provision and maintenance and secure the delivery of the on-site provision of affordable dwellings (mix, tenure, minimum floor area, method of delivery, management of the units, timing of construction, transfer, acquisition prices and occupancy) and any commuted sum if the number of affordable units does not equal a whole number. In addition there are highways contributions towards a TRO and travel plan monitoring.

Category/Type	Contribution	Amount & Trigger
Affordable Housing	On-site units	35% of which 68% rent and 32% intermediate tenure
Affordable Housing commuted sum	Financial	If number of AH units to achieve 35% does not equal a whole number of units the short fall is covered by an equivalent financial contribution
POS Delivery, Management and Maintenance	On-site open space	Delivery to be agreed in Open Space Scheme. To include formal children's playspace (Local Equipped Area for Play

		or Neighbourhood Equipped Area for Play)
Implementation of Traffic Regulation Order	Financial	£6,000
Travel Plan monitoring	Financial	£2,500

Housing land supply and the 'tilted' balance

- 10.143. 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.
- 10.144. This means that the decision taker must take as a starting point the Development Plan and balance it and all other material considerations to arrive at a decision on whether or not to grant planning permission. If the harms outweigh the benefits, planning permission will usually be refused. In this case Officers are satisfied that the proposed development aligns with the requirements of the Development Plan.
- 10.145. The revised NPPF (2024), which is a material consideration, reflects the Government's stated aim that it wants the economy to build, and building more homes is a key part of that. Paragraph 61 of the NPPF (2024) sets out the Government's objective of significantly boosting the supply of homes.
- 10.146. The recent updates to the NPPF (December 2024) introduced a new standard method for assessing housing need. This has resulted in an increase in housing need for many Councils across the country. The extant Ryedale Local Plan Strategy is now more than 5 years old. In accordance with the NPPF, the annual housing requirement for this area is 377 homes, as derived from the Standard Method. Including the relevant 5% buffer, the 5-year supply requirement for this area is 1,977 (up from 1,959). Based on the most recent data (from the 2023/24 monitoring period), there is a demonstrable deliverable supply of 332 homes over a five year period. This translates to 0.8 years of housing supply when measured against the five year supply requirement. Therefore, paragraph 11(d) of the NPPF (i.e. the "presumption in favour of sustainable development") is engaged for applications involving the provision of housing.
- 10.147. Paragraph 11 of the NPPF, under the 'presumption in favour of sustainable development', sets out circumstances where this balancing exercise should be weighted towards granting permission. This is the case where there are no relevant policies in the Development Plan or the relevant policies are 'out of date'. These circumstances become a material consideration, which 'tilts' the balancing exercise from a neutral balance to one where there must be compelling reasons for permission to be withheld.
- 10.148. The full wording of the relevant part of paragraph 11 of the NPPF is set out below:

'11. Plans and decisions should apply a presumption in favour of sustainable development.'

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance⁷ provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination⁹.

10.149. Footnote 8 of the NPPF clarifies that 'out of date' includes situations where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites.

10.150. The current land supply position for the former Ryedale area is summarised in paragraph 10.146 of this report. Housing restraint policies that apportion specific numbers of houses across the settlement hierarchy are 'out of date' in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Therefore, the 'presumption in favour of sustainable development' policy is engaged.

10.151. Under d(i) taking account of the footnote contained within the NPPF in this case the relevant policies of the NPPF being referred to are those relating to designated heritage assets (and other heritage assets of archaeological interest; and areas at risk of flooding or coastal change.

10.152. Under d(ii) the adverse impacts of approval would have to *significantly and demonstrably* outweigh the benefits.

11.0 PLANNING BALANCE AND CONCLUSION

11.1 The application seeks outline permission for up to 110 dwellings with all matters reserved save for means of access along with full permission for a change of use to public open space.

11.2 The site is within the development limits of a Local Service Centre and is allocated for housing within the adopted Development Plan. It is important that the Council is proactive in bringing forward existing Local Plan allocations in sustainable locations and the site remains one that the LPA would wish to see progressed for residential development in accordance with the settlement hierarchy set by the Development Plan. The principal of residential development is acceptable as confirmed by the allocation and there are no objections to the proposed means of access.

- 11.3 The site is in a location with appropriate access to services and facilities by means other than car (i.e. by walking, cycling or use of public transport). Therefore, it remains the case that, in terms of locational sustainability, this site is in conformity with Policy SP1. The development of this site would contribute towards the supply of housing within the former District. The principle of the development is considered to align with national and local planning policy and represents development that accords with the adopted Development Plan.
- 11.4 As Members are aware the most significant recent change has been that the Council cannot currently demonstrate a five year supply of housing. Housing restraint policies that apportion specific numbers of houses across the settlement hierarchy are 'out of date' in situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites. Therefore, the 'presumption in favour of sustainable development' policy is engaged and a 'tilted' balancing exercise applies.
- 11.5 The proposal generates economic benefits including job creation during construction. In addition there would be a CIL charge towards infrastructure improvements, new homes bonus, increased council tax revenue and increased resident spending in the area. Social benefits include increased housing supply, including policy compliant levels of affordable housing which are given significant weight. There are further social, health and well-being benefits arising from the provision of public open space with play facilities and environmental enhancement in the form of biodiversity net gain. With the 'tilted' balance applied it adds further weight to the position that permission should be granted.
- 11.6 There are a number of objections raised in third party representations which cite concerns in relation to the change in the character of the area, road safety and capacity, along with the impact on local infrastructure. These matters have been considered in the Officer assessment earlier in this report.
- 11.7 The site is on the edge of town but is well contained and would not give rise to encroachment into the open countryside or unacceptable harm to the setting of the nearby heritage assets. The landscape and visual impacts are localised and the reserved matters process provides scope for a scheme that reflects good design without giving rise to any landscape or visual sensitivities.
- 11.8 No objections have been raised by the Local Highway Authority and the development would not create adverse highway safety conditions and associated traffic can be accommodated by the local highway network.
- 11.9 A sequential approach to flood risk has been adopted with the part of the application site at highest risk being undeveloped and made available as public open space while the housing has been directed to the part of the site at low risk of flooding. The LLFA have confirmed that the detail provided at outline stage demonstrates a reasonable approach to the management of surface water on the site subject to conditions to secure the detailed design at reserved matters stage.
- 11.10 As highlighted by the HSE response there is an underground gas pipeline which bisects the proposed public open space. The risk is a material consideration to be weighed in the balance. The land is allocated as green infrastructure and there are significant health, social and recreational benefits arising from the provision public open space. The space also provides the opportunity to improve connectivity to the town centre and existing foot and cycle path networks. The HSE have confirmed that they do not advise against granting permission provided that the public open space within the inner consultation zone (15 metres from the major accident hazard pipeline) does not contain any facilities that would encourage people to congregate, such as play areas, football pitches. In light of this it is considered that the proposed use of the land is not incompatible and can be supported.

- 11.11 The Council's EHO has raised concerns in relation to the impact of road traffic noise on future residents and is not satisfied with the level of detail provided in the noise assessments. Given the outline nature of the scheme there is scope for good acoustic design to be followed as further detail is progressed through reserved matters. The position of the EHO is noted but in these circumstances it is considered that noise conditions would ensure future residents would be afforded acceptable internal and external noise levels. The future reserved matters submissions would follow the maximum building height conditions and the approval of layout and landscaping would allow for suitable separation distances and acoustic and visual buffers to ensure no harm would arise to residential amenity. The construction management plan required by condition would ensure construction phase impacts such as noise, air and vibration pollution upon local residents are minimised.
- 11.12 Ultimately, with the 'tilted balance' in mind it is not considered that the matters and concerns raised in the EHO response amounts to significant and demonstrable harm that would outweigh the benefits and acceptable noise levels can be controlled by condition.
- 11.13 The outline nature of the proposed housing means that there is significant detail that remains to be assessed and agreed at reserved matters stage and as a result any grant of permission would need to be accompanied by a robust list of conditions.
- 11.14 The site has been allocated for some time for both housing and green infrastructure uses. The principle of the residential uses is already established through the Development Plan. The outline proposals are considered to be in accordance with the principles of the allocation. Officers are of the view that reserved matters applications, conditions and the legal agreement can ensure that the development proceeds in line with the site-specific criteria set by the allocation and the wider policies of the RPLPS (2013). The concerns raised in relation to residential amenity and public safety are noted but the application of the 'tilted balance' shifts the weighting in favour of a grant of planning permission and in this case it is not considered that the harms identified would significantly and demonstrably outweigh the scheme's substantial benefits and can be satisfactorily controlled by conditions.
- 11.15 In light of the above assessment, it is considered that the proposal is acceptable and complies with Policies SP1, SP2, SP3, SP4, SP10, SP11, SP12, SP13, SP14, SP15, SP16, SP17, SP18, SP19, SP20 and SP22 of the Ryedale Plan - Local Plan Strategy and the National Planning Policy Framework. The recommendation to Members is one of conditional approval subject to a Section 106 agreement to secure the matters set out in Table 1 contained in paragraph 10.142 of this report.

12.0 RECOMMENDATION

- 12.1 That Members resolve to **GRANT** outline planning permission for the development of up to 110 dwellings and full permission for the change of use of land to public open space subject to the following:-
- The prior completion of a Section 106 legal agreement with terms as detailed in Table 1 contained in paragraph 10.142 of this report; and
 - The schedule of conditions listed below

Recommended conditions:

PART 1: Outline planning application for residential planning permission for up to 110 dwellings with all matters reserved save for means of access

PART 2: Full planning permission for change of use to public open space of an adjoining parcel of land as shown outlined in green on Plan Ref. DJB4

CONDITIONS AND ASSOCIATED REASONS THAT APPLY TO PART 1 ONLY

PART 1: Outline planning application for residential planning permission for up to 110 dwellings with all matters reserved save for means of access

Commencement of Development- Statutory time limit

- 1 Application for the approval of all of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision and the development hereby approved shall be begun on or before whichever is the later of the following dates: i) Five years from the date of this permission ii) The expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

Prior implementation of change of use to Public Open Space (PART 2)

- 2 The change of use of adjacent land (shown on plan ref. DJB4) to form public open space (PART 2) shall be implemented and the landscaping scheme completed prior to the first occupation of any dwellings hereby approved.

Reason: To ensure orderly progression of the development and provide public open space to serve the new housing.

Reserved Matter approval

- 3 No development shall commence without the prior written approval of the Local Planning Authority of all details of the following reserved matters:-

- (i) Appearance including a schedule of external materials to be used;
- (ii) Landscaping including boundary treatments;
- (iii) Layout including the way in which buildings, access routes, parking areas and open spaces within the development are provided, situated and orientated in relation to each other and to buildings and spaces outside the development; and
- (iv) Scale of each building proposed.

Development shall be carried out in accordance with the approved details.

Reason: To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters.

Approved plans

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan, ref. DJB2 (Comino Doc Date 11.01.2023)
 Revised Open Space Plan ref. DJB4 (Comino Doc Date 01.09.2025)
 Proposed Malton Road Access Preliminary Design ref. LTP/4903/P2/01/01/C, dated 21.03.2025
 Proposed Haygate Lane Emergency Access ref. LTP/4903/P3/01/01, dated 25.04.2025

Reason: For the avoidance of doubt and in the interests of proper planning.

Construction Plan

- 5 No development shall commence until a detailed construction plan setting out the order of the building works has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory progression of construction works in compliance with Policy SP20.

Principal Access

- 6 Vehicular access to the residential development hereby approved shall be limited to the single point of access from the A169/Malton in the eastern boundary of the site. Unless otherwise approved in writing by the Local Planning Authority following consultation with the Local Highway Authority the access shall be formed in accordance with the detail shown on approved drawing ref. LTP/4903/P2/01/01/C, dated 21.03.2025.

Reason: To ensure safe and appropriate access and egress to the site in the interests of highway safety in compliance with Policy SP20.

Emergency Access

- 7 Vehicular access between the site and Haygate Lane shall be restricted to emergency access only. Unless otherwise approved in writing by the Local Planning Authority following consultation with the Local Highway Authority the emergency access shall be formed in accordance with the detail shown on approved drawing ref. LTP/4903/P3/01/01, dated 25.04.2025.

Reason: To ensure safe and appropriate access and egress to the site in the interests of highway safety in compliance with Policy SP20.

Location and layout of housing development

- 8 The housing development shall take place on the part of the application site outwith the public open space outlined in green on plan ref. DJB4. Unless otherwise agreed in writing by the Local Planning Authority the layout of the site shall provide for the following:

- no residential development in Flood Zones 2 and 3
- an emergency link onto Haygate Lane
- a formal children's play space
- paths through the site and public open space for pedestrians and cyclists linking to Haygate Lane, the open space to the rear of the swimming pool and the public footpath to the western boundary of the site
- an easement for the public water main crossing the site

- the siting of any facilities that would encourage people to congregate, such as play areas, football pitches are located outside of the inner consultation zone (15 metres from the major accident hazard pipeline)
- landscaped frontage/buffer to Malton Road
- retention of the substantive boundary hedge to Malton Road to the south of the new access and landscaping swath to the south corner of the site

Reason: To safeguard the rights of control by the Local Planning Authority in respect of the reserved matters and in compliance with the development principles set by Policy SD6 of the Ryedale Plan- Local Plan Sites Document (2019).

Scale

- 9 The height of the dwellings hereby approved shall be limited to a maximum of two storeys. At least 5% of the dwellings shall be built as bungalows.

Reason: In order to ensure a satisfactory external appearance and mix of housing to satisfy Policies SP4 and SP20.

Material samples

- 10 Prior to the commencement of any aboveground construction work for the dwellings hereby approved details and samples of the materials to be used on the exterior of the buildings the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance and to achieve a high standard of design to satisfy the requirements of Policies SP16 and SP20.

Material sample panel(s)

- 11 Prior to the commencement of any aboveground construction work for the dwellings hereby approved the developer shall construct on site for the written approval of the Local Planning Authority, a one metre square free standing panel(s) of the external walling to be used in the construction of buildings. The panel so constructed shall be retained only until the development has been completed.

Reason: To ensure a satisfactory appearance and to achieve a high standard of design to satisfy the requirements of Policies SP16 and SP20.

Windows and doors

- 12 Prior to the commencement of any aboveground construction work for the dwellings hereby approved details of all windows, doors and garage doors, including means of opening and external finish shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance and to achieve a high standard of design to satisfy the requirements of Policies SP16 and SP20.

Materials (surfaces)

- 13 Prior to installation details of the ground surfacing materials shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory appearance and to achieve a high standard of design to satisfy the requirements of Policies SP16 and SP20.

Site levels

- 14 Prior to the commencement of any aboveground construction work for the dwellings hereby approved precise details of existing spot ground levels and the finished floor levels of each dwelling measured in relation to a fixed datum point shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure a satisfactory external appearance and to satisfy Policy SP20 of the Local Plan Strategy.

Boundary treatments

- 15 Prior to the commencement of any aboveground construction work details of the proposed means of enclosure and boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development is first brought into use, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure that the development does not prejudice the enjoyment by the neighbouring occupiers of their properties or the appearance of the locality to satisfy the requirements of Policies SP16 and SP20.

Public Open Space

- 16 Prior to the approval of the layout (reserved matter) for the residential development hereby approved a detailed scheme for the provision of public open space including informal amenity space and the provision of an Equipped Area for Play shall be submitted to the Local Planning Authority for approval in writing. The public open space scheme and play space shall be completed prior to the first occupation of the residential development and thereafter maintained throughout the lifetime of the development.

Reason: In order to improve public recreation and provide for on-site formal children's play space to satisfy Policy SP11 of the Local Plan Strategy.

Residential noise levels

- 17 Prior to the approval of the layout (reserved matter) for the residential development hereby approved details shall be provided to the Local Planning Authority for written approval to demonstrate by means of acoustic modelling that indoor ambient noise levels from continuous anonymous noise and from pass by traffic noise in all proposed dwellings will be commensurate with Table 1 below and in accordance with the highest standards outlined by the World Health Organisation, as follows:

Table 1 - Indoor ambient noise levels for dwellings

Activity	Location	07:00 to 23:00
Resting	Living room	35 db LAeq,16hour
Dining	Dining room/area	40 db LAeq,16hour
Sleeping(daytime resting)	Bedroom	35 db LAeq,16hour
		23:00 to 07:00 30 db LAeq,16hour

		45 db LAmax should not be exceeded more than 15 times during the night time
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The acoustic study shall provide details of noise levels that are to be achieved in all habitable rooms for all dwellings in the approved residential development.

Unless otherwise agreed in writing with the Local Planning Authority, the acoustic study shall also demonstrate that outdoor ambient noise levels, e.g. in private gardens and amenity spaces shall not exceed (for continuous anonymous noise) 50 dB LAeq(16 hours) when assessed at the head height of a seated person of 1.2 metres.

Unless otherwise agreed in writing with the Local Planning Authority, the acoustic study shall demonstrate that indoor levels in Table 1 can be achieved with windows to habitable rooms partially open.

Thereafter the development shall be undertaken in accordance with the approved scheme and thereafter maintained for the lifetime of the development.

Reason: In the interest of amenity and in order to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

Noise Mitigation Scheme

- 18 Prior to the commencement of development a noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority. It shall include measures to protect residents from traffic noise and shall consist of means of protecting outdoor amenity areas, to achieve a level of steady continuous noise of 50 dBA leq, 8 hrs daytime. Mitigation may consist of orientation, design, and barrier methods and shall be modelled to show how this can be achieved.

In order to protect from sleep disturbance and annoyance, the scheme shall demonstrate that levels of 30dBA can be achieved at night-time(23:00 to 07:00) with partially open windows, without need for mechanical ventilation. Levels of 45dBA Lmax shall be not be exceeded more than 15 times per night. Daytime levels of 35dBA shall be achieved with partially open windows.

The development shall be undertaken in accordance with the approved scheme and thereafter maintained for the lifetime of the development.

Reason: In the interest of amenity and in order to satisfy the requirements of Policies SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

Hours of construction

- 19 Any excavation, construction work or ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the hours of:
0800 -1800 hours Mondays to Fridays
0800 -1300 hours Saturdays
and at no time on Sundays and Bank (or Public) Holidays.

Reason: To protect local amenity during construction in accordance with Policy SP20

Lighting

- 20 Prior to installation a detailed scheme of public lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the position, height, angle of lighting, illuminance level and hours of operation. All lighting shall be installed and maintained in accordance with the approved details.

Reason: In the interest of amenity, protected species and to ensure safe access to the public open space and in order to satisfy the requirements of Policies SP14, SP16 and SP20 of the Ryedale Plan - Local Plan Strategy.

Yorkshire Water infrastructure

- 21 No building or other obstruction including landscape features shall be located over or within 5 (five) metres either side of the centre line of the public water main i.e. a protected strip width of 10 (ten) metres, that crosses the site. If the required stand-off distance is to be achieved via diversion or closure of the water main, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

Reason: In order to allow sufficient access for maintenance and repair work at all times and in accordance with Policy SP17 of the Ryedale Plan - Local Plan Strategy.

Flood Risk

- 22 The development shall be carried out in accordance with the submitted Flood Risk Assessment ref 23061-FRA-001 Revision A, dated May 2023 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 30.054 metres above Ordnance Datum (AOD)
- There will be no development or ground raising in the area highlighted in blue in Figure 3.0 – Extent of 1 in 100-year 50% climate change flood level.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and prevent any flood loss storage as a result from the development in accordance with Policy SP17 of the Ryedale Plan - Local Plan Strategy.

Drainage

- 23 The site shall be developed with separate systems of drainage for foul and surface water on and off site. The separate systems should extend to the points of discharge to be agreed.

Reason: In the interests of satisfactory and sustainable drainage in accordance with Policy SP17 of the Ryedale Plan - Local Plan Strategy.

- 24 There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:

- i) evidence that other means of surface water drainage have been properly considered and why they have been discounted; and
- ii) the means of discharging to the public sewer network at a rate to be agreed by the Local Planning Authority in consultation with the statutory sewerage undertaker.

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal in accordance with Policy SP17 of the Ryedale Plan - Local Plan Strategy.

Detailed Drainage Design

- 25 Development shall not commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire Council SuDS Design Guidance (or any subsequent update or replacement for that document). The application should address all of the following: Flood Risk, Runoff Destinations, Volume Control, Designing for exceedance, Climate Change & Urban Creep and Maintenance Plan. Guidance on the requirements for each of the above can be found on the North Yorkshire Council SuDS Guidance. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable urban drainage shall be employed wherever possible. The works shall be implemented in accordance with the approved phasing. No part of the development shall be brought into use until the drainage works approved for that part has been completed. Note that further restrictions on surface water management may be imposed by Yorkshire Water, Internal Drainage Board and the Local Planning Authority.

Reason: To ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk in accordance with Policy SP17 of the Ryedale Plan - Local Plan Strategy.

Exceedance Flow Routes

- 26 No development shall take place until an appropriate Exceedance Flow Plan for the site has been submitted to and approved in writing by the Local Planning Authority. Site design must be such that when SuDS features fail or are exceeded, exceedance flows do not cause flooding of properties on or off site. This is achieved by designing suitable ground exceedance or flood pathways demonstrated on a topographical map using a series of arrows. Runoff must be completely contained within the drainage system (including areas designed to hold or convey water) for all events up to a 1 in 30 year event. The design of the site must ensure that flows resulting from rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.

Reason: To prevent flooding to properties during extreme flood events and to mitigate against the risk of flooding on and off the site in accordance with Policy SP17 of the Ryedale Plan - Local Plan Strategy.

Maintenance

- 27 No development shall take place until a suitable maintenance of the proposed SuDS drainage scheme arrangement has been demonstrated to the Local Planning Authority. Details with regard to the maintenance and management of the approved scheme to include; drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved

drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.

Reason: To prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system in accordance with Policy SP17 of the Ryedale Plan - Local Plan Strategy.

Detailed Plans of Road and Footway Layout

- 28 Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any road or any structure or apparatus which will lie beneath the road must take place on any phase of the road construction works, until full detailed engineering drawings of all aspects of roads and sewers for that phase, including any structures which affect or form part of the highway network, and a programme for delivery of such works have been submitted to and approved in writing by the Local Planning Authority.

The development must only be carried out in compliance with the approved engineering drawings.

Reason: To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in compliance with Policy SP20.

Construction of Adoptable Roads and Footways

- 29 No part of the development to which this permission relates must be brought into use until the carriageway and any footway or footpath from which it gains access is constructed to binder course macadam level or block paved (as approved) and kerbed and connected to the existing highway network with any street lighting installed and in operation.

The completion of all road works, including any phasing, must be in accordance with a programme submitted to and approved in writing with the Local Planning Authority before any part of the development is brought into use.

Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users in compliance with Policy SP20.

Visibility Splays

- 30 There must be no access or egress by any vehicles between the highway and the application site at Land At West Side Of Malton Road Pickering until splays are provided giving clear visibility of 120 metres South and 90 metres North measured along channel line of the major road A169 at a point measured 2.4 metres down the centre line of the site access road. In measuring the splays, the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety users in compliance with Policy SP20.

Delivery of off-site highway Works

- 31 The following schemes of off-site highway mitigation measures must be completed as indicated below:

- Relocation of the 30mph speed limit on A169 Malton Road and provision of a gateway feature South of the proposed site access. To be provided prior to first occupation.
- Provision of a 2 metre wide footway along the A169 site frontage. To be provided prior to first occupation.

For each scheme of off-site highway mitigation, except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of any scheme of off-site highway mitigation or any structure or apparatus which will lie beneath that scheme must take place, until full detailed engineering drawings of all aspects of that scheme including any structures which affect or form part of the scheme have been submitted to and approved in writing by the Local Planning Authority.

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

A programme for the delivery of that scheme and its interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority prior to construction works commencing on site.

Each item of the off-site highway works must be completed in accordance with the approved engineering details and programme.

Reason: To ensure that the design is appropriate and in the interests of the safety and convenience of highway users in compliance with Policy SP20.

Provision of Approved Access, Turning and Parking Areas at Land At West Side Of Malton Road Pickering

- 32 No part of the development must be brought into use until the access, parking, manoeuvring and turning areas for all users at Land At West Side Of Malton Road Pickering have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the development in compliance with Policy SP20.

Parking for Dwellings

- 33 No dwelling must be occupied until the related parking facilities have been constructed in accordance with the details approved in writing by the Local Planning Authority. Once created these areas must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: To provide for adequate and satisfactory provision of off-street accommodation for vehicles in the interest of safety and the general amenity of the development in compliance with Policy SP20.

Travel Plan Delivery

- 34 The development must be carried out and operated in accordance with the approved Travel Plan. Those parts of the Approved Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is occupied.

Reason: To establish measures to encourage more sustainable non-car modes of transport in compliance with Policy SP20.

Construction Management Plan

- 35 No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan.

The Plan must include, but not be limited, to arrangements for the following:

1. details of any temporary construction access to the site including measures for removal following completion of construction works;
2. access for HGV construction traffic;
3. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
4. the parking of contractors' site operatives and visitor's vehicles;
5. areas for storage of plant and materials used in constructing the development clear of the highway;
6. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
7. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
8. protection of carriageway and footway users at all times during demolition and construction;
9. means of minimising dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
10. measures to control and monitor construction noise;
11. a detailed method statement and programme for the building works; and
12. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity in compliance with Policy SP20.

Archaeology

- 36 No development shall take place other than in accordance with the 'Written Scheme of Investigation Archaeological Strip, Map and Record' ref. maparcha1- 518827, dated 05.06.2023. 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 approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: The site is of archaeological significance and in order to satisfy the NPPF and Policy SP12.

Crime prevention measures

- 37 The reserved matters application(s) for layout shall include a scheme of crime prevention measures, for the approval of the Local Planning Authority. The scheme shall provide rationale and mitigation that takes account of the observations, advice and recommendations contained within the Designing out Crime Report ref: 182-1-2023, prepared by Mr. Richard Ball (Designing Out Crime Officer) dated, 17.04.2023. The development shall be implemented in accordance with the approved details.

Reason: To provide a safe and secure environment by reducing the opportunities for crime and anti-social behaviour and to comply with paragraphs 96 and 135 of the NPPF (2024) and Policy SP16.

Contaminated Land

- 38 In the event that contamination is found at any time when carrying out the approved development it must be reported immediately to the Local Planning Authority, and work must cease until an appropriate investigation and risk assessment must be undertaken. Where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the Local Planning Authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors and to satisfy Policy SP17 and the NPPF (2024).

Biodiversity Net Gain

- 39 Prior to the approval of any reserved matters for the development hereby approved a report detailing the baseline biodiversity value of the site and its value following the development shall be submitted to the Local Planning Authority for approval in writing. The delivery of BNG shall be quantified using the government's Biodiversity Metric tool or any successor to show the balance of losses and gains. The report should demonstrate how the site will achieve a net biodiversity gain (non-mandatory) and incorporate relevant recommendations contained within the Ecological Impact Assessment produced by MAB Environment & Ecology Ltd, dated March 2023. The proposed enhancement measures shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To comply with Policy SP14 which requires a net gain in biodiversity as part of new development schemes.

Biodiversity Management Plan

- 40 The proposed biodiversity enhancement measures approved under Condition 39 (above) shall be managed and maintained in accordance with a Biodiversity Management Plan which shall be submitted to the Local Planning Authority for approval in writing prior to the commencement of development.

Reason: To comply with Policy SP14 which requires a net gain in biodiversity as part of new development schemes.

Construction Environmental Management Plan (CEMP)

- 41 Prior to commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall incorporate the recommended ecological mitigation measures to be implemented during the construction phase as set out within the Ecological Impact Assessment produced by MAB Environment & Ecology Ltd, dated March 2023. All works on site shall be undertaken in accordance with the approved CEMP, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To provide the necessary ecological protections to comply with Policy SP14.

Arboricultural Method Statement

- 42 No development shall take place until a full Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority which shall include numbering and detailing trees, confirming root protection areas, routing of service trenches, overhead services and carriageway positions and any details of no dig techniques along with associated use of geotextiles and an indication of the methodology for necessary ground treatments to deal with compacted areas of soil. The works shall implemented in accordance with the approved details.

Reason: To preserve trees and hedges on the site in the interests of visual amenity and the character of the area in accordance with Policies SP16 and SP20.

Commencement of planting

- 43 All planting, seeding or turfing set out in the details approved at reserved matters stage shall be carried out in accordance with the approved phasing plan and the scheme shall be completed prior to the first occupation of the development or such longer period as may be agreed in writing with the Local Planning Authority. Any trees, plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives its written consent to any variation.

Reason: In the interests of visual amenity and to achieve a high standard of landscaping to satisfy the requirements of Policies SP16 and SP20.

EV charging

- 44 Prior to the occupation of any dwelling, a scheme for the provision of facilities to enable the charging of electric vehicles to serve the approved dwellings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and the charging points shall thereafter be permanently retained in good working condition.

Reason: To promote sustainable transport and in accordance with the development principles for the site.

CONDITIONS AND ASSOCIATED REASONS THAT APPLY TO PART 2 ONLY

PART 2: Full planning permission for change of use to public open space of an adjoining parcel of land as shown outlined in green on Plan Ref. DJB4

Commencement of Development- Statutory time limit

- 45 The development hereby permitted shall be begun on or before three years from the date of this permission.

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved plans

- 46 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan, ref. DJB2 (Comino Doc Date 11.01.2023)
Revised Open Space Plan ref. DJB4 (Comino Doc Date 01.09.2025)

Reason: For the avoidance of doubt and in the interests of proper planning.

Landscaping of public open space

- 47 Notwithstanding the submitted details, and before the development hereby permitted is commenced, a detailed scheme for the landscaping of the public open space shall be submitted to the Local Planning Authority for approval in writing. The scheme shall include any proposed means of enclosure and boundary treatments, hard surfaced areas and materials, planting plans, specifications and schedules, existing plants to be retained and showing how new landscaping relates to any underground services and existing landscape features. The scheme shall be completed prior to the first occupation of the associated residential development (PART 1). Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In interests of securing appropriate hard and soft landscaping within the area of public open space to satisfy Policy SP11 of the Local Plan Strategy.

INFORMATIVES

Acoustic design (Condition 18)

It is acknowledged that good acoustic design and suitable noise mitigation (taking account of site circumstances) could take the form of bunds, barriers and fences, buffers including open space and landscaping, internal layout within dwellings and orientation of dwellings and the use of acoustic glazing and alternative means of ventilation.

Public Open Space (Condition 16)

The consideration of details submitted under Condition 10 (Public Open Space) shall include consultation with the Health and Safety Executive to ensure that any facilities that would encourage people to congregate, such as play areas, football pitches are located outside of the inner consultation zone (15 metres from the major accident hazard pipeline).

Lighting (Condition 20)

As requested by the Council's Ecologist (24.04.2023), at reserved matters stage, the applicant's ecologist should review the proposed lighting arrangements to ensure that they are compatible with the recommendations set out in section 7.5.2 of the EclA. Written confirmation that the lighting scheme meets these recommendations should be provided. This will ensure no detriment to the conservation status of local bat populations, as required under the Conservation of Habitats & Species Regulations 2017.

Biodiversity Management Plan (Condition 40)

As requested by the Council's Ecologist (24.04.2023) as part of the BMP the applicant should consider additional measures to reduce disturbance to or improve habitats of Otters on Pickering Beck.

Layout and the major accident pipeline

When a detailed reserved matters application is submitted, the HSE Planning Advice Web App must be used again to obtain HSE's advice on the development.

Water main along Malton Road

Yorkshire Water records indicate that a 110mm diameter water main along Malton Road may be affected by the proposed highway alterations to form a new vehicular access. The position of apparatus shown on our plans is indicative only. The exact position and depth of the apparatus can only be determined by excavation. Any conflict between the road construction and the water main can be resolved in accordance with the New Roads and Street Works Act and the HAUC Code of Practice "Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works). Under Section 84 of the New Roads and Street Works Act Yorkshire Water as a statutory undertaker is entitled to take such steps as deemed necessary to protect its interests in its apparatus. It is the developer's responsibility to ensure that highway alterations do not affect the water main.

In the event of a conflict between the water main and highway construction the developer should apply for a mains diversion via the Developer Services section of the YW website: <https://www.yorkshirewater.com/developers/water/water-main-diversion/>

Vegetation removal checks

Any tree or hedgerow removal is required to be undertaken without harming nesting birds or destroying their nests. The main nesting and breeding season runs from 1 March to 31 August. If this is unavoidably checks should be undertaken by a suitably qualified ecologist prior to any felling or cutting of trees or shrubs. Reason: In order to prevent disturbance to breeding birds which are protected by the Wildlife and Countryside Act 1981 (as amended).

Other Permissions required from the Local Highway Authority

Applicants are reminded that in addition to securing planning permission other permissions may be required from North Yorkshire Council as Local Highway Authority. These additional permissions can include, but are not limited to: Agreements under Sections 278, 38, and 184 of the Highways Act 1980; Section 38 of the Commons Act 2006, permissions through New Roads and Streetworks Act 1991 and Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (as amended and including all instruments, orders, plans, regulations and directions).

Further information on these matters can be obtained from the Local Highway Authority. Other permissions may also be required from third parties. It is the applicant's responsibility to ensure all necessary permissions are in place.

Detailed Plans of Road and Footway Layouts

It is recommended that in order to avoid abortive work, discussions are held between the applicant, the Local Planning Authority and the Local Highway Authority before a draft layout is produced and any detailed planning submission is made.

To assist, the Local Highway Authority can provide a full list of information required to discharge this condition. It should be noted that approval to discharge the condition does not automatically confer approval for the purposes of entering any Agreement with the Local Highway Authority.

The agreed drawings must be approved in writing by the Local Planning Authority for the purpose of discharging this condition

Delivery of off-site highway works

Notwithstanding any valid planning permission for works to amend the existing highway, there must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and North Yorkshire Council as the Local Highway Authority. To carry out works within the highway without a formal Agreement in place is an offence.

Details of Access, Turning and Parking

The proposals should cater for all types of vehicles that will use the site. The parking standards are set out in North Yorkshire County Council's 'Interim guidance on transport issues, including parking standards' and subsequent amendments available at https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%20C%20highways%20and%20pavements/Interim_guidance_on_transport_issues__including_parking_standards.pdf

Travel Plans

Details of issues to be covered in a Travel Plan can be found in Interim Guidance on Transport Issues, including Parking Standards at:

https://www.northyorks.gov.uk/sites/default/files/fileroot/Transport%20and%20streets/Roads%20C%20highways%20and%20pavements/Interim_guidance_on_transport_issues__including_parking_standards.pdf

Public Rights of Way

- i) There is a Public Right of Way or a 'claimed' Public Right of Way within or adjoining the application site boundary.
- ii) If the proposed development will physically affect the Public Right of Way permanently in any way an application to the Local Planning Authority for a Public Path Order/Diversion Order will need to be made under S.257 of the Town and Country Planning Act 1990 as soon as possible. Please contact the Local Planning Authority for a Public Path Order application form.
- iii) If the proposed development will physically affect a Public Right of Way temporarily during the period of development works only, an application to the Highway Authority (North Yorkshire Council) for a Temporary Closure Order is required. Please contact the Council or visit their website for an application form.

- iv) The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as an alternative route has been provided by either a temporary or permanent Order.
- v) It is an offence to obstruct a Public Right of Way and enforcement action can be taken by the Highway Authority to remove any obstruction.
- vi) If there is a “claimed” Public Right of Way within or adjoining the application site boundary, the route is the subject of a formal application and should be regarded in the same way as a Public Right of Way until such time as the application is resolved.
- vii) Where public access is to be retained during the development period, it shall be kept free from obstruction and all persons working on the development site must be made aware that a Public Right of Way exists and must have regard for the safety of Public Rights of Way users at all times.

Applicants should contact the Council's Countryside Access Service at County Hall, Northallerton via CATO@northyorks.gov.uk to obtain up-to-date information regarding the exact route of the way and to discuss any initial proposals for altering the route.

Target Determination Date: 20.03.2023 (Extension of time agreement expired on 30 April 2023)

Case Officer: Alan Goforth, alan.goforth@northyorks.gov.uk

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