



## Agenda

Notice of a public meeting of

# Strategic Planning Committee

- To:** Councillors Andy Brown, Sam Cross, Tom Jones, Andrew Lee, John Mann, Steve Mason, John McCartney, Bob Packham (Vice-Chair), Andy Paraskos (Chair), Yvonne Peacock, Neil Swannick, Roberta Swiers, Malcolm Taylor, Richard Foster and Hannah Gostlow.
- Date:** Tuesday, 12th March, 2024
- Time:** 10.00 am
- Venue:** The Council Chamber, Civic Centre, Doncaster Road, Selby, YO8 9FT

Members of the public are entitled to attend this meeting as observers for all those items taken in open session. Please contact Stephen Loach of Democratic Services (contact details below) if you have any queries. Recording is allowed at Council, committee and sub-committee meetings which are open to the public. Please give due regard to the Council's protocol on audio/visual recording and photography at public meetings. Anyone wishing to record is asked to contact, prior to the start of the meeting, the named democratic services officer supporting this committee. We ask that any recording is clearly visible to anyone at the meeting and that it is non-disruptive.

The Council operates a scheme for public speaking at planning committee meetings. Normally the following people can speak at planning committee in relation to any specific application on the agenda: a speaker representing the applicant, a speaker representing the objectors, a parish council representative and the local Division councillor. Each speaker has a maximum of three minutes to put their case. If you wish to register to speak through this scheme, then please notify Stephen Loach of Democratic Services (contact details below) by midday on Thursday 7<sup>th</sup> March 2024. If you are exercising your right to speak at this meeting, but do not wish to be recorded, please inform the Chairman who will instruct anyone who may be taking a recording to cease while you speak.

The meeting will not be available to view live due to the broadcasting of another meeting at the same time. It is hoped that a recording of the meeting will be made and will be available through the following link - [www.northyorks.gov.uk/livemeetings](http://www.northyorks.gov.uk/livemeetings) Recordings of previous live broadcast meetings are also available there.

### Business

#### 1. Chair's welcome, introductions and apologies

Enquiries relating to this agenda please contact Stephen Loach tel 01609 532216/email [stephen.loach@northyorks.gov.uk](mailto:stephen.loach@northyorks.gov.uk) Tel:

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2. **Minutes of the meeting held on 9th January 2024** (Pages 3 - 12)
3. **Declarations of Interest**
4. **2019/0547/EIA - Planning application for the construction of a Motorway Service Area (MSA) on land at Lumby, South Milford, Leeds** (Pages 13 - 110)
5. **2020/0045/PROW - Public Bridleway 35.59/13 land at Lumby, Parish of South Milford Diversion Order 2024** (Pages 111 - 122)
6. **Such other business as, in the opinion of the Chairman should, by reason of special circumstances, be considered as a matter of urgency**

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

4<sup>th</sup> March 2024

## North Yorkshire Council

### Strategic Planning Committee

Minutes of the meeting held at County Hall, Northallerton on Tuesday 9 January 2024 at 10am.

**Present:-**

Councillors Andy Paraskos (Chair), Andy Brown, Richard Foster, Hannah Gostlow, David Hugill, George Jabbour (as substitute for John Mann), Tom Jones, Andrew Lee, John McCartney, Steve Mason, Bob Packham, Yvonne Peacock Neil Swannick and Roberta Swiers,

Apologies were received from Councillor John Mann

Other Members – Councillor Kevin Foster, Arnold Warneken and David Webster.

Officers present: Hannah Blackburn, Martin Evans, Catriona Gattrell, Steve Loach, Amy Taylor, Sam Till and Vicky Townsend

There were 16 members of the public – including 3 registered speakers

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

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**33. Welcome and Introductions.**

The Chairman welcomed everyone to the meeting of this Committee, and informed Members that the meeting was being recorded, therefore they would need to introduce themselves when speaking and would need to use the microphones.

**34. Minutes of the meeting held on 10 October 2023**

**Resolved -**

That the Minutes of the meeting of North Yorkshire County Council's Strategic Planning Committee, held on 10 October 2023, be confirmed by Members and signed by the Chairman as a correct record.

**35. Declarations of Interest**

Councillor Bob Packham declared a non-registerable interest in relation to agenda item 5, in respect of the objection raised by the RSPB, as he is a member of the RSPB.

**36. C6/22/00349/CMA - Planning application for the importation of 3.6 million tonnes of inert waste with final restoration, together with associated screening and resale of soils and soil-type materials on land at Gebdykes Quarry, Gebdykes Farm, Burton on Yore, North Yorkshire**

Considered -

The report of the Assistant Director Planning – Community Development Services requesting Members to determine a planning application ref. C6/22/00349/CMA for the importation of 3.6million tonnes of inert waste with final restoration, together with associated screening and resale of soils and soil-type materialson land at Gebdykes Quarry, Gebdykes Farm, Burton on Yore, North Yorkshire

This application was brought to the Strategic Planning Committee, in accordance with the North Yorkshire Council Constitution, because it was accompanied by an Environmental Statement and was recommended for approval.

A representative of the Assistant Director Planning – Community Development Services presented the Committee report, highlighting the proposal, the site description, the consultation that had taken place, the advertisement and representations, planning guidance and policy and planning considerations. The report also provided a conclusion and recommendations.

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

She updated Members by noting that as of 19<sup>th</sup> December 2023 the NPPF had been updated, therefore the references to paragraphs within the report had now altered, however, the wording remained the same. She also noted that Areas of Outstanding Natural Beauty (AONBs), referred to in the report, were now known as Natural Landscapes.

Members highlighted the following issues during their discussion of the report:

- A Member asked whether the conditions outlined would be enforced, as he was aware that some sites received very little monitoring or enforcement. In response it was stated that all sites that were granted planning permission by the Council were subject to monitoring on a regular basis. In terms of enforcement action, there was a reliance on complaints being made which would be investigated, and, should a breach of conditions be found, then enforcement action would be taken. It was noted that there had been no complaints in relation to the operations at this site in the previous 15 years.
- Clarification was sought in relation to the restoration plan for the island in the middle of the lake, as there were conflicting suggestions within the report. In response it was stated that the agreed restoration plan highlighted the agreed management and maintenance details for the island and compliance would be monitored.
- A Member noted that a plan for a HCV route was yet to be put in place and emphasised the need for this to be approved by highways. It was stated that the route was expected shortly and would be submitted to highways for their clearance before it was implemented.
- Members noted that should the development not go ahead there was a potential for an environmental net loss for the application site.

**Resolved –**

That the application be approved for the reasons stated within the report, subject to the conditions detailed, and the completion of a S106 agreement in line with the details contained within Table 1 in the report. due to the following material planning considerations.

The resolution received unanimous approval.

**37. C2/22/00251/CCC - Planning application for a lateral extension to allow the extraction of an additional 1 million tonnes of sand and gravel, together with the rephasing of 471,000 tonnes of permitted reserves, together with final restoration on land west of Nosterfield Quarry, Nosterfield, North Yorkshire**

**Considered –**

The report of the Assistant Director Planning – Community Development Services requesting Members to determine a planning application ref. C2/22/00251/CCC for a lateral extension to allow the extraction of an additional 1 million tonnes of sand and gravel, together with the rephasing of 471,000 tonnes of permitted reserves, together with final restoration on land west of Nosterfield Quarry, Nosterfield, North Yorkshire.

The application was subject to nine objections including Yorkshire Wildlife Trust, RSPB, Lower Ure Conservation Trust and Well Parish Council having been raised on the grounds of insufficient replacement habitat for curlew in the restoration scheme, the impact on Well in terms of views of the lakes and residential amenity and the impact on Ings Goit downstream and is therefore reported to the Committee for determination.

Simon Warwick MBE, representing the Lower Ure Conservation Trust addressed the Committee – a summary of the issues he raised is provided as follows:-

- He emphasised that he was not objecting to the extraction of the material, but sought to address an inadequate restoration plan and desired a holistic approach to the overall site.
- This was expected to be the final extraction application from the site and he considered that it was the appropriate time to identify a lasting solution for the Thornborough Henges site, with the concerns of the Conservation Trust and the local community taken account of.
- The Memorandum of Understanding in relation to the overall site was not legally binding, therefore, it was suggested that the forthcoming S106 agreement be utilised to ensure that an appropriate legal agreement was in place to protect the henges, going forward.

Tiffany Cox, representing the applicant, addressed the Committee – a summary of the issues she raised is provided as follows:-

- The extraction of the mineral was not only important to the local economy in terms of employment but as the material was in short supply at other quarries, was also important to the national economy.
- Assurance was given that the restoration plan would be of the highest quality, with examples of the quality available at a number of their other sites.
- Work on the restoration plan was ongoing and there had been close liaison with the Lower Ure Conservation Trust, although this may have led to an upturn in what could be achieved in terms of the henges, going forward.
- The applicant had listened to objections and had delayed work to meet various aspirations and was pleased to have developed an appropriate restoration plan which had been agreed by Planning officers.
- A fully assessed development plan, addressing local issues had been produced, with no objections submitted and addressed the long term future of the site.

Councillor David Webster, one of the local Divisional members – addressed the Committee – a summary of the issues he raised is provided as follows:-

- He raised concerns regarding the monitoring of water quality resulting from the quarrying process and asked whether this could be monitored by the Internal Drainage Board and whether the S106 addressed this.
- He considered that the nearby lngs were affected by the quarry and was worried that the further extraction would increase this disturbance.
- The water courses around the site abutted the land of two farmers and he asked what was being done to prevent water erosion at these locations.
- He noted that this would be the final application for mineral extraction from the site and noted the detailed restoration plan. He considered that the plan should include details of monitoring that would take place and considered that enforcement should be utilised to ensure the plan was implemented appropriately.
- He suggested that a site visit should be undertaken by the Committee to see where the restoration plan would be situated and how that would look against the surrounding area and also to consider the water plan.

Councillor Arnold Warneken addressed the Committee – a summary of the issues he raised is provided as follows:-

- He noted that there were no major objections to the report.
- His major concerns related to the impact of the extraction on the surrounding conservation areas and the aftercare of the site. In relation to that he noted an error within the report, Condition 35 should refer to an “aftercare scheme”.
- He considered the application to be an excellent opportunity to preserve one of the most important heritage and wildlife sites in the country.

- He suggested that the S106 agreement should be utilised to strengthen the restoration plan to benefit the area overall.

A representative of the Assistant Director Planning – Community Development Services presented the Committee report, highlighting the proposal, the site description, the consultation that had taken place, the advertisement and representations, planning guidance and policy and planning considerations. The report also provided a conclusion and recommendations.

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

He updated Members by noting that as of 19<sup>th</sup> December 2023 the NPPF had been updated, therefore the references to paragraphs within the report had now altered, however, the wording remained the same. The minimum levels for biodiversity net gain had been put back to the end of January 2024 and were not applicable to this application, however, it was expected that the application would see a biodiversity net gain of 11.2%.

In response to the issues raised during public questions/statements, the officer noted that the application would bring a number of improvements to the site including additional public areas and wildlife habitats. The restoration plan included 5 years of aftercare and a 25 year management plan. The S106 agreement would provide appropriate controls in relation to the issues relating to water. Conditions attached to the application provided further opportunity for the Council to monitor and control the site and ensure that the restoration plan was adhered to.

Members highlighted the following issues during their discussion of the report:

- A Member noted that an archaeological survey had indicated that there was likely to be artefacts of major significance within the extraction site, however, the intention was for the extraction to continue. In response it was noted that any such artefacts discovered during the extraction process would be recorded and the site would be monitored in respect of this, but the extraction process would continue.
- It was asked where in the conditions was reference to the 25 years management plan. In response it was noted that the existing strategic management plan would be updated through the S106 agreement and that the 25 year management plan is secured also through the S106 agreement.
- Given the proximity of the forthcoming legislation, a Member asked whether a condition could be included requiring at least the minimum level of biodiversity net gain. In response it was stated that this matter would be addressed through the development of the strategic 25 years management plan contained within the S106 agreement. Details would be required to be submitted within 24 months and would be enforceable. It was noted that the net gain levels would be implemented for all new applications, with a minimum of 10%, in line with the legislation, however this was not currently a statutory requirement. The long term management plan for the site would go beyond this minimum target. The Member considered that a condition relating to this would be more effective, however it was noted that the S106 agreement would provide an enforceable process in place for this matter. The management plan would be available online, once published, and Members would be provided with an opportunity to provide comments.
- A Member referred to the objections raised by the RSPB in relation to the application's impact on Curlews and Waders and asked whether the S106 agreement to also be utilised to lessen that impact. In response it was stated that there was a detailed landscape management plan in place which was designed to

lessen the impact on these birds. It was asked whether the details set out in the S106 would be discussed with the LUCT and the RSPB and, in response, it was stated that it was expected that they would be contacted in relation to this.

- It was noted that the report provided contradictory solutions from the Council's ecologists and the Ministry of Defence in terms of the wetland habitat for birds and it was asked which was the preferred option. In response it was stated that there was a bird hazard management plan for the site which was to the satisfaction of both parties.
- A Member asked whether a bond had been established for the 25 years management plan, should the applicant not be around in the future. In response it was stated that this would be established through the S106 agreement which would provide an enforceable charge on the land.

Members debated the report and the following issues were highlighted:

- The Member who raised the issue earlier in the meeting still considered that there should be a condition relation to meeting or bettering the 10% minimum for biodiversity net gain. It was noted that the condition could be added in if Members approved that requiring the 10% net gain to be secured through the condition
- A Member stated that the surrounding area contained one of the largest Neolithic sites in Britain, older and larger than Stonehenge. He was concerned in respect of the archaeological remains contained within the extraction site and the plan, outlined earlier, for those. Although these would be recorded and documented he considered that to be insufficient, and suggested that such a practice would probably not be allowed near to the Stonehenge site. He did acknowledge, however, the mitigation being undertaken to preserve the site, including the donation of the middle henge to English Heritage and the long term management plan to be established through the S106 agreement.
- It was asked whether the Divisional Member had been reassured by the presentation and answers to the issues raised. In response he stated that when this application for extraction was complete there would be no more quarrying and he was concerned that the applicant could disappear and leave the restoration and aftercare to others. He considered that the establishment of the aftercare and guarantees that this would be undertaken through the S106 agreement would be difficult to enforce. He also continued to raise concerns in respect of the lack of a water management plan, as, without that, a monitoring regime could not be provided to Members. In view of the local Member's response it was moved and seconded that a site visit be undertaken. It was stated that the water control plan would be controlled through the S106 agreement. In response to the motion another Member considered that there was little to gain from holding a site visit and moved that the proposal as set out in the report was put to the vote. This was seconded.

### **Resolved –**

That the application be approved for the reasons stated within the report, subject to the conditions detailed within the report and the additional wording in the condition regarding the 10% net gain and subject to the prior completion of a S106 legal agreement as outlined in the report.

Voting on this was as follows:-

12 for  
2 abstentions

**38. 2023/0128/EIA - Application for planning permission for development of a ground-mounted solar farm including associated infrastructure on land south of the A645, Wade House Lane, Drax, Selby, North Yorkshire**

Considered –

The report of the Assistant Director Planning – Community Development Services requesting Members to determine a planning application ref. 2023/0128/EIA for the development of a ground-mounted solar farm including associated infrastructure on land south of the A645, Wade House Lane, Drax, Selby, North Yorkshire.

The application was brought to this Committee as the Constitution and Scheme of Delegation require significant energy and physical infrastructure proposals, accompanied by an Environmental Impact Assessment, where there is a recommendation for approval, be determined by this Committee.

Graham Robinson Hodges – Lanpro – the agent for the applicant addressed the Committee – a summary of the issues he raised is provided as follows:-

- He thanked officers for a thorough and comprehensive report.
- He noted that the proposal would bring substantial benefits through the generation of energy and accorded with national and local policies.
- The development would provide biodiversity net gain, as identified in the application.
- The applicant worked alongside Planning officers and the Landscape Architect on the hedgerow provision and planting around the site.
- Issues relating to wildlife habitat and agriculture had been addressed.
- The application would provide additional employment and economic benefits for the area.
- Alternative sites for the solar farm in the area had been investigated but none had been identified.
- Issues around water quality had been addressed with Yorkshire Water.

Councillor Kevin Foster addressed the Committee stating the following:-

I would like to support the officer's recommendation to grant planning permission for the Wade House Lane Solar farm subject to the condition's recommendations in the Report.

The council recognises we have a Climate emergency, this will reduce emissions and the development will with doubt help address the Climate Emergency. We need these Solar farms for a multitude of reasons even though solar panels would be better on houses and Industrial sites the NPPF does not help in achieving this. The land can be restored to arable agricultural land if required, there is no heritage or archaeological harm, and it passes the flood risk sequential & exceptions test and Highways impacts are acceptable. 2.8 states that on balance it is considered the positive elements outweigh negative therefore the proposal is acceptable.

After consultation the parish council had no objection, in fact a councillor had spoken to many young people in the village in this matter and many had expressed support. 10

objections came from a population of 1700. The recommendation from the parish council there were no grounds for the council to refuse the application. The HSE raised no concerns, no objections from Conservation officer, Yorkshire wildlife trust, or any of two parish council contacted.

Of the 58 objections to NYC most from outside the parish made some were non-material and others are dealt with in the officer's report.

There are no alternative allocated sites, brown sites non-agricultural sites, or sites of lower Agricultural land quality to steer the proposal towards. The renewable energy benefits proposed attract a very significant positive weight and biodiversity net gains benefits attract positive weight in the planning balance.

I urge the planning committee to support the officer recommendations for this development it is the right development in the appropriate place for the right reason.

Councillor Arnold Warken addressed the Committee – a summary of the issues he raised is provided as follows:-

- He noted that a previous application for a solar farm had been refused by the Committee and understood the reasoning behind that but could see the benefits of solar farms if they were in the right location and could generate sufficient electricity.
- The provision of solar farms had to be weighed up against economic and food security in terms of the land used.
- The acceleration of climate change meant that as many opportunities as possible to generate green energy should be taken up and the application provided an opportunity to do that.

A representative of the Assistant Director Planning – Community Development Services presented the Committee report, highlighting the proposal, the site description, the consultation that had taken place, the advertisement and representations, planning guidance and policy and planning considerations. The report also provided a conclusion and recommendations.

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

Members highlighted the following issues during their discussion of the report:-

- A Member asked how the planting and vegetation were to be controlled around the site. Would this be undertaken through grazing animals or would spraying be involved. In response it was stated that condition no.10 provided details of landscape maintenance and management. The Member stated that the condition did not provide details of the control of the vegetation.
- A Member questioned the need for a further electricity generating station in that area, given that it would be using a large amount of agricultural land, with Drax, Ferrybridge and turbines in the North Sea all located nearby. In response it was stated that the report addressed the issue at paragraph 10.11, highlighting the contribution that would be provided to energy generation through the project, and how it accorded with national and local policies in terms of these developments. It was also noted that the location was favourable. The Member considered that the loss of agricultural land outweighed the provision of a small power station that was not required in the area. In response it was stated that the balance of the positives and negatives were detailed in the report and it was considered that, overall, the balance favoured the positives. The Member suggested the energy

generated by the scheme should be utilised locally rather than fed into the grid as 8% of energy was lost through this process.

- It was clarified that there had been no comments submitted by the Divisional Member in relation to the application.
- It was noted that there were other applications for that area and it was asked whether the cumulative landscape impact had been taken account of. In response it was stated that the EIA Regulations require consideration of cumulative impacts from the proposal combined with other existing or permitted developments. An application for planning permission is yet to be submitted for the Helios proposal to the west and the other nearby permitted solar farm is Camblesforth. These are not considered to give rise to unacceptable cumulative impacts.
- A Member highlighted the need to move away from fossil fuels to address climate change. He asked about the need to separate wildlife through fencing, from the application site, as he considered this to be unnecessary. It was noted that Condition no.21 indicated the type of fencing to be used, but this was designed to prevent deer from moving around the site and it was suggested that this was too restrictive for other wildlife. In response it was noted that condition 21 secured fencing that allows hare to pass through and that the Council Ecologist did not raise concerns about the ability of other types of animal to pass through the fencing.
- It was asked how the energy produced would be transferred to the Grid. In response it was stated that the cable route was detailed on the plan within the report, going to the existing sub-station at Camblesforth along the A645 to connect to the existing sub-station, through the 66kw station to the Grid.
- A Member asked why solar panel farms were not being created on existing buildings rather than taking away agricultural land. In response it was emphasised that the location of solar panels on buildings did not relate to the application before Members and, therefore, was not relevant for consideration.
- It was clarified that the solar panels would be lined up north-south but could be tilted east-west to maximise the impact of the location of the sun in generating the energy.

Members debated the report and the following issues were highlighted:

- A Member stated that all solar farms were different and should be judged on their individual merits. He emphasised that it would be preferential for panels to be located on existing buildings or provided on brown field sites, but could see the merits in this proposal provided a number of conditions were met. He noted that the location of this application was beneficial as it took advantage of the existing infrastructure located at Drax, which panels located on buildings would not be able to do. There were significant impacts also in terms of the industrialisation of countryside and the loss of agricultural land, leading to concerns around food security. Other concerns included the visual impact and the use of herbicides to control vegetation. He suggested that the hedgerow planting detailed in the report could be improved and that the Deer Fence was unnecessary, and could be replaced by hedges, which would further improve biodiversity. He suggested, therefore, that Condition no.21 should be altered from the provision of Deer Fencing to refer to details being provided on hedge planting and fencing to be agreed by the Local Authority. He also suggested that alterations be made to Condition no.16 in terms of development not commencing until the non-use of herbicides and pesticides on the site had been agreed to the satisfaction of North Yorkshire Council Officers. The Legal Advisor reminded Members that any requests to change conditions had to be necessary and reasonable and was concerned that the changes were beyond what was required of the applicant. The

Member acknowledged and therefore suggested that assurances should be sought that recognition should be given to the issues he had raised and taken account of. Clarification was provided on the use of pesticides and it was considered that it would not be reasonable to state that pesticides could not be used at all as these were used on many areas of land, with controls in place to ensure these were not dangerous.

- It was also suggested that the wording to Conditions no.10 and 16 be altered to address biodiversity and visual impact concerns. In response it was noted that currently the legislation in relation to biodiversity net gain had not been introduced, therefore, it was a grey area as to how this could be incorporated to improve the percentage detailed in the report. In relation to the visual impact it was considered that the proposals indicated within the report were appropriate to address this, with appropriate mitigation included within the proposed development. Whilst understanding the concerns raised by the Member other Members raised concerns regarding the redirection of conditions without providing sufficient opportunity to consider these effectively and noted the mitigation detailed in the report that had been explained by the officer. It was also suggested that as the permission was for 40 years there may be additional technological solutions available to assist with site restoration when the project was finished.
- A Member highlighted the need to ensure that the new homes currently being built were properly insulated and provided with solar panels as ways to address climate change rather than using agricultural land which was creating concerns for future food security. He reiterated that the transmission of energy lost around 8% of the energy generated and local schemes feeding into local communities was much more efficient.
- A Member noted that the recommendation was to delegate the final granting of the application to the Head of Planning Development Management and suggested that the issues raised by Committee Members could be further explored through that delegation process before the application was ultimately determined.
- A vote was undertaken in relation to the proposed changes to the conditions, as that had been seconded, but those proposals were defeated.

**Resolved:-**

That the Strategic Planning Committee delegate to the Head of Planning Development Management the granting of planning permission for the proposed Development, subject to the conditions detailed in the report, and the negotiation and completion of a section 106 agreement securing management and maintenance of the off-site landscaping and sky lark plots.

The meeting concluded at 12.50 pm

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## North Yorkshire Council

### Community Development Services

#### Strategic Planning Committee

12 MARCH 2024

#### 2019/0547/EIA – PROPOSED CONSTRUCTION OF A MOTORWAY SERVICE AREA, AT LAND AT LUMBY, SOUTH MILFORD, LEEDS, WEST YORKSHIRE, LS25 5LE

#### Report of the Assistant Director Planning – Community Development Services

##### 1.0 PURPOSE OF THE REPORT

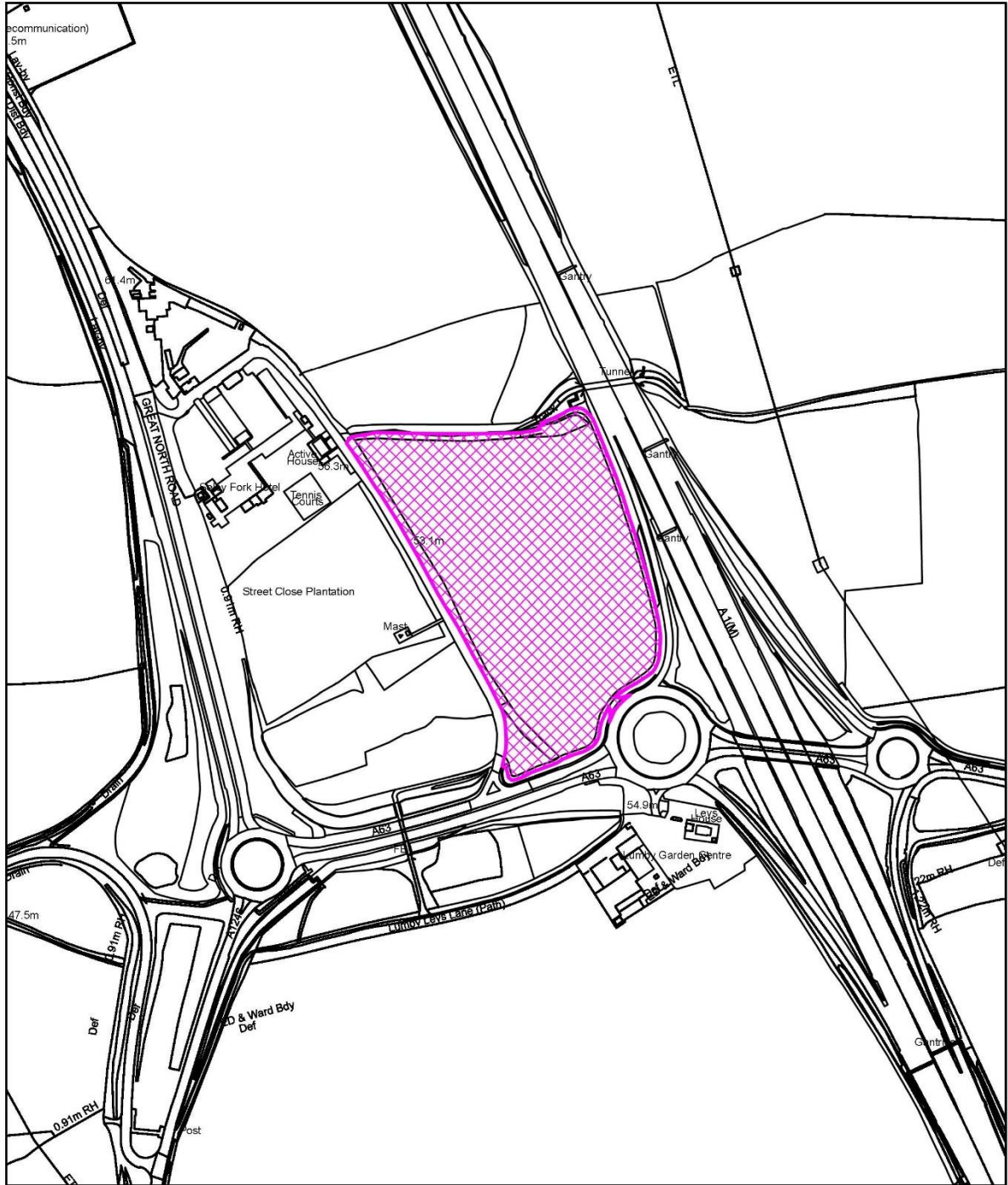
- 1.1 To determine a planning application for the construction of a Motorway Service Area (MSA) on land at Lumby, South Milford.
- 1.2 The application has been reported to Strategic Planning Committee due to it being reported to the former Selby District Council Planning Committee on 15<sup>th</sup> March 2023 and the resolution being that the Members were minded to grant subject to further consideration at the North Yorkshire Council Strategic Planning Committee of a full suite of conditions and further detail on the section 106 agreement.

##### 2.0 SUMMARY

- 2.1. The application seeks full planning permission for the proposed construction of a Motorway Service Area (MSA) on land at Lumby, South Milford.
- 2.2. The application was reported to the former Selby District Council Planning Committee on 15<sup>th</sup> March 2023 with an Officer recommendation for refusal on three grounds. A copy of the report can be found in Appendix A; and a copy of the associated Officer Update Note can be found in Appendix B.
- 2.3. However, Members of the former Selby District Council Planning Committee expressed support for the application against the Officer recommendation and were minded to grant permission subject to further consideration at the North Yorkshire Council Strategic Planning Committee of a full suite of conditions and further detail on the section 106 agreement. A copy of the minutes of the meeting can be found in Appendix C.
- 2.4. This report therefore sets out a full suite of conditions and further detail on the section 106 agreement. Furthermore, it sets out any updates since the application was last taken to Planning Committee along with an update planning balance and recommendation from Officers.
- 2.5. As detailed in Section 12, if the Committee are minded to grant approval for the application, it would require referral to the Secretary of State under the Town and

Country Planning (Consultation) (England) Direction 2009, because the proposed development is for a building over 1,000sqm floor area that is inappropriate development in the Green Belt and would have a significant impact on the openness of the Green Belt.

Land at Lumby, South Milford  
2019/0547/EIA



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### 3.0 **PRELIMINARY MATTERS**

- 3.1. Access to the case file on Public Access can be found here:- [2019/0547/EIA | Proposed construction of a motorway service area | Land At Lumby Lumby South Milford Leeds West Yorkshire LS25 5LE \(selby.gov.uk\)](#).
- 3.2. This application was reported to the former Selby District Council Planning Committee on 15<sup>th</sup> March 2023 with an Officer recommendation for refusal on three grounds as follows:
- Inappropriate development in Green Belt, which is by definition harmful to Green Belt. Substantial harm to openness of Green Belt and one of the purposes of including land within the Green Belt to safeguard the countryside from encroachment. No Very Special Circumstances to clearly outweigh the harm to the Green Belt by reason of inappropriateness and the other harms identified.
  - The proposed development would not sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the LILA; would impact on local character and setting and would not provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. The overall effectiveness of the proposed Landscape Strategy is questionable.
  - Insufficient information has been submitted to demonstrate that there is a viable means of surface water disposal.
- 3.3. However, Members of the former Selby District Council Planning Committee expressed support for the application against the Officer recommendation for the following reasons:
- The proposal would provide a superb gateway to the area.
  - Considered Ferrybridge Services did not serve the A1(M).
  - Considered the proposal would integrate into the existing landscape.
  - The proposal would provide good facilities for potential patrons including much needed parking and conveniences for Heavy Goods Vehicle (HGV) drivers who approached from the south and serviced the industrial estates at Sherburn in Elmet.
  - The proposal would provide for an increased need for electric vehicle charging points.
  - Considered there was a compelling need for an MSA to service the A1(M) near the Selby District and that no other suitable sites had been identified.
  - Considered the Very Special Circumstances submitted by the Applicant to support development in the Green Belt were legitimate.
  - Supported the economic, environmental and social benefits the development proposed.
- 3.4. For the above reasons, Members were minded to grant approval subject to further consideration at the North Yorkshire Council Strategic Planning Committee of a full suite of conditions and further detail on the section 106 agreement. The deferral also was to allow time for the surface water drainage information to be provided and this material consideration addressed.

- 3.5. A copy of the report to the former Selby District Council Planning Committee can be found in Appendix A; a copy of the associated Officer Update Note can be found in Appendix B; and a copy of the minutes of the meeting can be found in Appendix C.
- 3.6. This report therefore sets out a full suite of conditions and further detail on the section 106 agreement. Furthermore, it sets out any updates since the application was last taken to Committee along with an update planning balance and recommendation from Officers.
- 3.7. If the Committee are minded to grant approval for the application, it would require referral to the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2009, because the proposed development is inappropriate development in the Green Belt and consists of the provision of a building or buildings where the floor space to be created by the development is over 1,000sqm, and, the development would have a significant impact on the openness of the Green Belt.

#### **4.0 SITE AND SURROUNDINGS**

- 4.1. The application site is located outside the defined development limits of any settlements and is located within the West Yorkshire Green Belt. The site is also located within a Locally Important Landscape Area.
- 4.2. The application site comprises some 5.8 hectares of predominantly agricultural land to the north-west of the westernmost roundabout at junction 42 of the A1(M). The site is broadly rectangular in shape and comprises semi-improved grassland, with tree planting and hedges adjoining the boundaries of the site. The site rises from north to south, with a small pond located to the north-eastern corner of the site. Overhead cables currently cross the site from north to south. A Yorkshire Water easement runs along the northern boundary of the site.
- 4.3. A fenced bridleway (35.59/13/1) runs along the southern and eastern boundaries linking into an underpass under the A1(M) at the northeast corner of the site and a bridge over the A63 towards the southwest corner of the site. A public footpath runs adjacent to the western boundary (35.59/17/1). A non-designated footpath runs along the northern boundary in-between existing tree planting.
- 4.4. To the south of the application site is the A63, beyond which is Lumby Garden Centre and a residential property; to the north of the application site is tree planting and hedging beyond which is open agricultural land; to the east of the application site is the A1(M) beyond which are open agricultural fields; to the west of the application site is an access road leading to South Milford Hotel and other businesses, beyond which is a local hill and woodland area providing separation to the A63 (Great North Road).

#### **5.0 DESCRIPTION OF PROPOSAL**

- 5.1 The application seeks full planning permission for the proposed construction of a Motorway Service Area (MSA) on land at Lumby, South Milford.

- 5.2 It should be noted that the scheme has been amended and updated throughout the application process in response to comments from consultees and representees.
- 5.3 The MSA would provide an amenity building (GEA 3,270m<sup>2</sup>), a fuel filling station (GEA 130m<sup>2</sup>) together with a canopy over the fuel pumps, a drive through coffee unit (GEA 38m<sup>2</sup>), parking for all classes of vehicles, landscaping, amenity areas, a balancing pond and a diverted public right of way (bridleway).
- 5.4 Vehicular access to and from the MSA would be gained from a new arm on the westernmost roundabout at junction 42 of the A1(M), between the A63 to Leeds and the entry slip road to the A1(M) northbound. Within the site, signage would separate the traffic, directing it to the appropriate parking area or required facility – this would be done from a roundabout within the centre of the site.

#### Amenity building

- 5.5 The amenity building would be located in the south-west corner of the site with the main entrance facing north. The majority of the amenity building would sit within a natural mounded shape with a green sedum roof incorporating circular rooflights; however, part of the amenity building would be covered by a flat roof incorporating solar panels. The maximum height of the mounding over the amenity building would be approximately 12.5 metres, with a maximum exposed structure at approximately 9.5 metres.
- 5.6 The front elevation of the building would be constructed in full height stone and glass curtain walling. The elevational treatment to the side and rear elevations would incorporate a polished aggregate stone wall; through coloured fibre cement cladding panel system; and planar glazing system. A delivery area would be to the rear of the amenity building, accessed from the immediate west of the site entrance, enclosed by a concrete screen wall to the south.
- 5.7 The amenity building would include toilets, a seating area, a number of restaurant outlets, a retail unit, a gaming area and circulation space. An outdoor seating area and water feature would be provided to the front of the amenity building.

#### Fuel filling station

- 5.8 The fuel filling station would be located towards the north-east corner of the site. It would include a kiosk and fuel pumps, which would be sited under a canopy with a green sedum roof finish supported by gabion walls. The canopy would have a maximum height of approximately 8 metres.
- 5.9 The kiosk would be sited centrally between separate forecourts for cars and HGVs/coaches. The elevations of the kiosk would incorporate the same material palette as the amenity building. The kiosk would include a sales area, payment counters, food and drinks server, toilets, a storeroom, a cash ATM and an office. Six dual sided stands for cars would be provided within the car forecourt area (12no. pumps in total), while two dual sided stands for HGV's/coaches would be provided in the

HGV/coach forecourt area (3 no pumps in total). Air and water stations would be available for all classes of vehicles, along with a car vacuum point.

#### Drive through coffee unit

- 5.10 The drive through coffee unit would be located towards the south-east corner of the site. It would have a maximum height of approximately 4 metres, with a stone plinth rising above the eaves line to a maximum height of approximately 5.3 metres to incorporate signage. The elevations of the drive through coffee shop would incorporate the same material palette as the amenity building and kiosk.

#### Parking areas

- 5.11 A stepped terraced car park would be located to the north of the amenity building and would provide 351 car parking spaces for the amenity building, including 25 spaces with electric charging points, 18 spaces for the disabled, 10 spaces for parent and child, 20 bays for motorcycles, and 10 cycle bays.
- 5.12 Other separate parking areas would be provided to accommodate 108 HGV spaces (to the north end of the site), 1 abnormal load bay (to the north of the fuel filling station), 11 spaces for caravans and 12 spaces for coaches (to the east of the stepped car park between the fuel filling station and the drive through coffee unit).

#### Landscaping

- 5.13 The site would be landscaped throughout, as shown on the proposed landscape masterplan (drawing no. 1847.06 Rev N). A balancing pond would be created towards the eastern boundary of the site adjacent to the fuel filling station. A diverted public right of way (bridleway) would lie adjacent to the north and western boundaries of the site, the details of which are subject to agreement through a separate application (reference: 2020/0045/PROW).

#### Supporting Information

- 5.14 In addition to the form and plans, the application is supported by numerous documents including a Planning Statement outlining community involvement, Design, Landscape and Access Statement and a Socio-Economic Statement, along with technical reports and an Environmental Impact Assessment Statement. Together the Planning Statement and Socio-Economic Statement set out the Applicant's assessment of the need for and benefits arising from the proposal.

## **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:
- Selby District Core Strategy Local Plan, adopted 22 October 2013
  - Those policies in the Selby District Local Plan, adopted on 8 February 2005, which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy
  - Minerals and Waste Joint Plan, adopted 16 February 2022

Emerging Development Plan – Material Consideration

- 6.3. The Emerging Development Plan for this site is:
- Selby District Council Local Plan Publication Version 2022 (Reg 19)
- On 17 September 2019, Selby District Council agreed to prepare a new Local Plan. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan (under Regulation 19 of the Town and Country Planning (Local Development) (England) Regulations 2012, as amended), including supporting documents, associated evidence base and background papers, was subject to formal consultation that ended on 28th October 2022. The responses have been considered and this has resulted in the Council agreeing to consult on a further Revised Pre-submission Publication (Regulation 19) Consultation in Spring 2024 prior to submission of the plan to the Secretary of State for Examination.

In accordance with paragraph 48 of the NPPF, given the stage of preparation following the consultation process and depending on the extent of unresolved objections to policies and their degree of consistency with the policies in the NPPF, the policies contained within the emerging Local Plan can be given weight as a material consideration in decision making.

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.

Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework, December 2023
  - National Planning Practice Guidance
  - Department for Transport Circular 02/2013, as updated July 2022

**7.0 CONSULTATION RESPONSES**

- 7.1. The following consultation responses have been received since the application was taken to the former Selby District Council Planning Committee and have been summarised below. Previous consultation responses are set out within the report taken to the former Selby District Council Committee, which can be found in Appendices A and B.

- 7.2. **Environment Agency** – No response.

- 7.3. **Local Internal Drainage Board** – No response.

- 7.4. **Local Lead Flood Authority** – No objections subject to a condition relating to the surface water drainage strategy.
- 7.5. **Natural England** – No objections.
- 7.6. **Public Rights of Way** – No further comments.
- 7.7. **Yorkshire Water** – No objections, subject to conditions to protect the public water supply infrastructure that is laid within the suite boundary.

#### Local Representations

- 7.8. No local representations have been received since the application was taken to the former Selby District Council Planning Committee. Previous local representations are set out within the report taken to the former Selby District Council Committee, which can be found in Appendices A and B.

### **8.0 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 8.1 An application for a scoping opinion in relation to the proposed development was submitted to the former Selby District Council as the Local Planning Authority on 18 April 2019 and a decision issued on 23 May 2019.
- 8.2 The application has been accompanied by an Environmental Statement (ES). The ES has been reviewed in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and has been found to be satisfactory in terms of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011. None of the statutory or other consultees has suggested that the ES is in any way inadequate.

### **9.0 MAIN ISSUES**

- 9.1. The key considerations in the assessment of this application are:
- The Principle of the Development
  - Impact on the Openness of the Green Belt and the Purposes of Including Land Within the Green Belt
  - Agricultural Land Assessment
  - Landscape and Visual Impact
  - Impact on Heritage Assets
  - Ecological Considerations
  - Impact on Highway Safety
  - Impact on Public Rights of Way
  - Impact on Amenity of Adjoining Occupiers
  - Flood Risk and Drainage
  - Land Contamination
  - Minerals and Waste
  - Consideration of Very Special Circumstances

## **10.0 ASSESSMENT AND RECOMMENDATION**

- 10.1 The Officer assessment and recommendation of the application remain largely as set out in the report to the former Selby District Council Planning Committee on 15th March 2023, which can be found in Appendices A and B. A summary of the key points is set out below but can be reviewed in full in the Appendices.
- 10.2 In terms of the principle of the development, the proposal would comprise inappropriate development in the Green Belt. This is not disputed by the applicants.
- 10.3 In terms of impact on the openness of the Green Belt and the purposes of including land within the Green Belt, it is considered that the proposed development would result in substantial harm to the openness of the Green Belt. Furthermore, it is considered that the proposed development would conflict with purpose c) of paragraph 143 of the NPPF – to assist in safeguarding the countryside from encroachment and would result in substantial harm to this purpose of including land within the Green Belt.
- 10.4 In terms of agricultural land, the proposed development would not lead to the loss of any best most versatile agricultural land.
- 10.5 In terms of landscape and visual impact, the applicant's Landscape and Visual Impact Assessment has concluded an overall adverse impact on landscape character and visual intrusion of minor and limited; and has determined that there would be no long-term negative impacts on the landscape character or visual receptors as a result of this development, given the nature and scale of the development adjacent to a major road corridor. Officers consider the assessment of adverse effects is understated and that there is an overly optimistic view of how the scheme could be integrated into the landscape and the effects on the Locally Important Landscape Area. Officers do not consider the proximity to the A1(M) diminishes the contribution the area makes to the Locally Important Landscape Area as the A1(M) is relatively well concealed from wider parts of the Locally Important Landscape Area, while in contrast the application site is located in a prominent location on the ridge, visually and spatially connected to the wider landscape and Locally Important Landscape Area to the north-east. Views extend several kilometres towards Steeton Hall and South Milford to the north-east. There are views from a number of local roads, the A1(M), several residential properties, local bridleways and footpaths. The proposed development is not considered to sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the Locally Important Landscape Area; is considered to impact on local character and setting; is not considered to provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. Furthermore, the proposed development is considered to adversely impact on the openness and permanence of the Green Belt. The overall effectiveness of the proposed Landscape Strategy is questioned.
- 10.6 In terms of impact on heritage assets, the proposal is not considered to have any impact on the significance of any designated heritage assets or their setting; and is not considered to have any adverse impact on archaeological features.

- 10.7 In terms of ecological considerations, the proposed development would not have any adverse effects on nature conservation and protected species, subject to conditions and a section 106 agreement; and would provide for just over 11% biodiversity net gain (provided on and off site through a combination of landscaping within the proposed development site and off-site habitat creation). This would be in excess of the 10% biodiversity net gain target.
- 10.8 In terms of highway safety, National Highways and North Yorkshire Council Highways raise no objections to the proposals subject to conditions and a section 106 agreement. Vehicular access to and from the MSA would be gained from a new arm on the westernmost roundabout at junction 42 of the A1(M), between the A63 to Leeds and the entry slip road to the A1(M) northbound. A number of highway mitigation measures for the scheme are proposed to ensure junctions would operate at capacity and to encourage sustainable transport for staff. Parking provision within the site accords with that required for an MSA and there will be additional HGV parking spaces provided as part of a very special circumstances case.
- 10.9 In terms of impact on public rights of way, the fenced bridleway along the southern and eastern boundaries would be diverted as part of the proposed development. The diverted public right of way (a bridleway) would lie adjacent to the north and western boundaries of the site, as shown on the submitted plans. The details of the public right of way diversion are subject to agreement through a separate application. The Public Rights of Way team raise no objections to the principle of the proposed public right of way diversion.
- 10.10 In terms of impact on the amenity of adjoining occupiers, noise and air quality have been considered. The Council's Environmental Health Officer raises no objections subject to conditions. It has been demonstrated that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to health and the right to private and family life.
- 10.11 In terms of flood risk, the site is located within Flood Zone 1. A Flood Risk Assessment has been submitted as part of the application to which no objections have been raised. Further information has been submitted on the surface water drainage proposals since the application was taken to the former Selby District Council Planning Committee and this is considered later in this report.
- 10.12 In terms of land contamination, as the site is a greenfield, there are no objections subject to standard contaminated land conditions to ensure investigation and remediation (if required) of land contamination. It has been demonstrated that the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of the right to health.
- 10.13 In terms of the consideration of very special circumstances, it is necessary to consider whether very special circumstances exist which outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm identified. Harm to the Green Belt arises from inappropriate development, harm to openness and harm to one of the purposes of including land within the Green Belt. Other harm results from the landscape and visual impact of the proposed development.

- 10.14 The first point to consider is whether there is a compelling need for an MSA in this location. The primary function of roadside facilities is supporting the safety and welfare of the road user. Circular 02/2013, 'The Strategic Road Network and the Delivery of Sustainable Development', as updated July 2022, recommends that the maximum distance between MSAs on motorways and all-purpose trunk roads should be no greater than 28 miles, although the distance can be shorter. The distance of 28 miles is based on providing an opportunity to stop every half an hour. The proposed development would be located a distance of approximately 6 miles from Ferrybridge MSA and 15 miles from Weatherby MSA. The distance between the existing MSAs at Ferrybridge and Weatherby is approximately 21 miles. This is below the maximum distance of 28 miles set out in the Circular.
- 10.15 The applicant argues that the distance between MSAs at Blyth and Wetherby is approximately 44 miles, which far exceeds the maximum distance of 28 miles between MSAs set out in the Circular. The applicant notes the presence of Ferrybridge MSA (which is approximately 25 miles from Blyth MSA and 20 miles from Wetherby MSA), however, the applicant contends that Ferrybridge MSA principally serves the M62 rather than the A1(M) and that the access to Ferrybridge MSA from the A1(M) involves a diversion which detracts users of the A1(M) from using it. The application has been supported by an Automatic Number Plate Recognition Survey undertaken by the applicant which aims to demonstrate the role of Ferrybridge MSA. This demonstrates that the turn in rates for the Ferrybridge MSA from both the M62 but more so for the A1(M) are lower than usual for an MSA of this nature. While the ANPR survey is noted, Ferrybridge MSA is signed from both the A1(M) and the M62 and makes a meaningful contribution to the welfare and safety of the travelling public on both the A1(M) and the M62. On the basis of the information available, whilst there is no policy that would rule out more frequent facilities, Officers do not consider that there is a compelling need for a MSA in this Green Belt location.
- 10.16 The entire section of the A1(M) through Selby District, and the majority of those areas which fall outside Selby District between Weatherby MSA and Blyth MSA lie within the Green Belt (save for some settlements adjacent to the A1(M) which are outwith the Green Belt and areas of land around Wetherby and Blyth in close proximity to the existing MSAs). Therefore, notwithstanding the position regarding need for an MSA, Officers consider that there are no non-Green Belt sites which would be suitable and available for an MSA which would avoid the use of a Green Belt site.
- 10.17 The consideration of very special circumstances also related to a local need for lorry parking, along with a range of economic, social and environmental benefits. Further information has been submitted in relation to these aspects since the application was taken to the former Selby District Council Planning Committee and this is considered below.

*Section 149 of The Equality Act 2010*

- 10.18 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.

- 10.19 The proposed development would not result in a negative effect on any persons of on persons with The Equality Act 2010 protected characteristics. It could have a positive impact in terms of the provision of facilities for those with additional needs, through the design and accessibility of the development, including parking provision.

### **Updates since consideration at Selby District Council Planning Committee**

- 10.20 There are updates relating to drainage and the consideration of very special circumstances, as set out below, which have resulted from the submission of further information by the applicant. An updated planning balance and officer recommendation on the application is provided below in light of the consideration of this further information, however overall, the officer recommendation for refusal remains.
- 10.21 Members of the Strategic Planning Committee will need to take the below updates into consideration in coming to a decision on the application.

#### Drainage

- 10.22 Since the application was taken to the former Selby District Council Planning Committee, Yorkshire Water have confirmed in writing that they have no objections to the proposals subject to conditions to protect the public water supply infrastructure that is laid within the site boundary.
- 10.23 When the application was taken to the former Selby District Council Planning Committee, it was considered that insufficient information had been submitted to demonstrate a viable means of surface water drainage. The applicant had indicated that the proposed development would discharge its surface water via infiltration, however no evidence was provided to confirm that infiltration was a viable option and no other viable options for surface water drainage has been demonstrated. The proposal was therefore considered to be contrary to the overarching principles set out in the Core Strategy, national planning policy contained within Chapter 14 of the NPPF and the North Yorkshire County Council Sustainable drainage systems guidance - 2022 update.
- 10.24 Since the application was taken to the former Selby District Council Planning Committee, the applicant has undertaken testing to confirm the viability of deep bore soakaways. Three falling head tests have been undertaken at five representative locations across the site and the results submitted to support the application.
- 10.25 The Local Lead Flood Authority have been consulted on the further information. They have advised that they have no objections to the proposed means of surface water drainage, subject to a condition requiring the development to be built in accordance with the submitted surface water drainage strategy (reference 78829R5 dated

16/02/2024) but requiring the location of the proposed deep bore soakaways to be amended, if required, following ongoing monitoring and in addition testing within each of the soakaways to show no groundwater is present.

- 10.26 Subject to the aforementioned condition, it is considered that the proposed development is acceptable in respect of flood risk and drainage in accordance with the overarching principles set out in the Core Strategy, national planning policy contained within Chapter 14 of the NPPF and the North Yorkshire County Council Sustainable drainage systems guidance - 2022 update.

#### Consideration of Very Special Circumstances

- 10.27 The report taken to the former Selby District Council Planning Committee considered whether there was a compelling need for an MSA, having regard to Circular 02/2013 'The Strategic Road Network and the Delivery of Sustainable Development' (paragraph 5.139 onwards). Members are advised that an updated version of the circular was published and consulted on in July 2022, with the outcome of the consultation in December 2022 being an updated version of the guidance. For the avoidance of doubt, the application has been assessed against the updated version of the Circular. The conclusion previously drawn by Officers regarding whether there is a compelling need for an MSA remains unchanged.
- 10.28 The report to Selby District Council Planning Committee also considered whether there was a local need for lorry parking as part of the very special circumstances case (paragraph 5.150 onwards).
- 10.29 The applicant considers the identification of up to 32 HGVs being parked on the roadside each evening presents a local need for HGV lorry parking. The applicant also notes the large quantum of committed employment development at Sherburn in Elmet, and potential for future employment development. The applicant asserts this could lead to an even greater demand for HGV parking in the area, as a large proportion of the freight trips associated with new development will travel to and from the A1(M) at Junction 42.
- 10.30 As a result of the applicant identifying a local need for lorry parking to support economic development in Sherburn in Elmet, they propose to provide an additional 46 HGV parking spaces at the proposed development, over and above those required for the MSA under Schedule 1 of the DfT Circular 02/2013, 'The Strategic Road Network and the Delivery of Sustainable Development' (32 to account for existing unsatisfied demand locally and 14 to account for committed employment development at Sherburn in Elmet). These additional 46 HGV spaces are to be provided in relation to the very special circumstances case put forward by the applicant, based around a need for HGV parking in the locality.
- 10.31 Previously, the applicant advised that the additional HGV spaces provided as part of the very special circumstances case would be subject to a £10 charge, of which £9 would be redeemable within the MSA facilities. The remaining HGV spaces (required for the MSA under Schedule 1 of the DfT Circular 02/2013, 'The Strategic Road Network and the Delivery of Sustainable Development') would be free for the first two

hours after which usual charges would apply. Members previously queried how this would be secured.

- 10.32 The applicant has agreed for this to be secured through a s106 agreement. However, the applicant has advised that due to an increase in the rate of inflation and the cost of managing and maintaining Roadchef's MSAs, the parking charge for the HGV spaces linked to the very special circumstances case will need to be increased as follows:
- Option 1: £23.00 for 24hrs;
  - Option 2: £27.00 for 24hrs, including a £10.00 food voucher.

The remaining HGV spaces will be free for the first two hours after which they would be subject to a charge thereafter at £30.00 for 24hrs or £33.00 including a £10.00 food voucher.

- 10.33 The applicant advises that this pricing is lower than competitors MOTO and Welcome Break.

- 10.34 Previously, the applicant also advised that there would be a commitment to pursue Traffic Regulation Orders to prevent roadside HGV parking along the A63 (Great North Road) and the A162 between the A63 and Sherburn in Elmet (paragraph 5.159). This was to be secured by section 106 agreement.

- 10.35 Applications for TRO's are made to the local Highway Authority and to proceed with a TRO there needs to be ground to support a request, such as:
- for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising;
  - for preventing damage to the road or to any building on or near the road;
  - for facilitating the passage on the road or any other road of any class of traffic (including pedestrians);
  - for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property;
  - for preserving or improving the amenities of the area through which the road runs.

If there are grounds to support a request, applications for TRO's are subject to a formal consultation process.

- 10.36 Officers have been in contact with the local Highway Authority at North Yorkshire Council (NYC) regarding the proposed TROs on the A162 between the A63 and Sherburn in Elmet. The Highways Improvement Officer has advised they would not support a TRO to prevent roadside parking of HGVs in this location as there are no grounds to support it.

- 10.37 In terms of the proposed TROs on the A63 (Great North Road), Officers have been in contact with the local Highway Authority at NYC and Leeds City Council (LCC), as the administrative boundary intersects the A63 (Great North Road) at various points. Discussions have revealed that there is an existing TRO along the A63 (Great North Road) – a 24-hour clearway (excluding laybys) - made in 2007. However, the correct signage is not currently in situ and therefore the TRO is not currently enforceable. This appears to have been the situation for some time. Signage has been ordered and is

due to be reinstated imminently, at which point the TRO is to be actively enforced. This would prevent some of the existing HGV parking along the A63 (Great North Road).

- 10.38 On the basis of the above, the Applicant has provided an updated proposal in relation to TRO's – 'TRO Update Note – September 2023' which sets out that prior to the development being brought into use, the applicant will apply for a TRO to prevent overnight HGV parking in laybys on the A63 (Great North Road). A plan has been provided showing the locations of those laybys and the applicant proposes that this benefit is secured by section 106 agreement.
- 10.39 Following discussion with the local Highway Authority at NYC and LCC, it has been confirmed that while laybys exist at two of the locations shown on the plan provided by the applicant (those on the southbound carriageway), the area shown at the third location (on the northbound carriageway) is not considered to be a layby and is covered by the existing clearway order.
- 10.40 Having regard to this, the applicant would be applying for a TRO to prevent overnight HGV parking in the two laybys on the southbound carriageway of the A63 (Great North Road) prior to the development being brought into use and this would be secured by section 106 agreement.
- 10.41 The local highway authorities at NYC and LCC consider there to be grounds to support an application for a TRO on this basis along the A63 (Great North Road).

#### **Updated Planning Balance**

- 10.42 The proposal would comprise inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. Furthermore, the proposal would result in substantial harm to the openness of the Green Belt and one of the purposes of including land within the Green Belt to safeguard the countryside from encroachment. Paragraph 148 of the NPPF requires substantial weight should be given to any harm to the Green Belt.
- 10.43 Also to be weighed into the balance are other harms identified. With regard to landscape, the proposed development is not considered to sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the LILA; would impact on local character and setting and would not provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. The overall effectiveness of the proposed Landscape Strategy in this context is questionable. Significant weight is given to the landscape harm.
- 10.44 In terms of matters weighing in favour of the proposals, the primary consideration is whether there is a compelling need for an MSA in this Green Belt location. There are no gaps of more than 28 miles between MSAs. The proposed development would be located a distance of approximately 6 miles from Ferrybridge MSA and 15 miles from Weatherby MSA. Ferrybridge MSA is signed from both the A1(M) and the M62 and makes a meaningful contribution to the welfare and safety of the travelling public on both the A1(M) and the M62. Whilst there is no policy that would rule out more frequent

facilities, it is not considered that there is a compelling need for an MSA in this Green Belt location. This matter is afforded limited weight.

- 10.45 The applicant has identified a local need for lorry parking to support economic development in Sherburn in Elmet. While providing for that need would be a benefit of the scheme, it is not considered that, of itself, justifies the provision of a new, full scale MSA in a Green Belt location where there is no compelling need for an MSA. This matter is afforded limited weight.
- 10.46 A range of economic, social and environmental benefits are identified. While these would be benefits of the scheme, it is not considered that they would justify the provision of a new, full scale MSA in a Green Belt location where there is no compelling need for an MSA. These matters are afforded limited weight.
- 10.47 Having regard to matters weighting in favour of the proposals, it is considered that there is nothing that, either individually, or cumulatively, clearly outweighs the harm to the Green Belt by reason of inappropriateness and the other harm identified so as to amount to very special circumstances to justify inappropriate development in the Green Belt.
- 10.48 The proposed development would be contrary to saved policies ENV1, ENV3, ENV15 and T10 of the Selby District Local Plan, Policies SP1, SP2, SP3, SP12, SP18 and SP19 of the Core Strategy and national planning policy contained within the NPPF.

#### **Updated Recommendation**

- 10.49 Having regard to the above updates, the officer recommendation is that the application be REFUSED for the following reasons:
1. The proposal would comprise inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. Furthermore, the proposal would result in substantial harm to the openness of the Green Belt and one of the purposes of including land within the Green Belt to safeguard the countryside from encroachment. Paragraph 148 of the NPPF requires substantial weight should be given to any harm to the Green Belt. There is nothing that, either individually, or cumulatively, clearly outweighs the harm to the Green Belt by reason of inappropriateness and the other harms identified so as to amount to very special circumstances to justify inappropriate development in the Green Belt. The proposal is therefore contrary to Policies SP2, SP3 of the Core Strategy, saved Policy T10 of the Selby District Local Plan and national planning policy contained within the NPPF.
  2. The proposed development would not sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the LILA; would impact on local character and setting and would not provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. The overall effectiveness of the proposed Landscape Strategy in this context is questionable. The proposal is therefore contrary to Policies SP12, SP18 and SP19 of the Core Strategy, saved Policies ENV1, ENV3, ENV15 and T10 of the Selby District Local Plan and national policy contained within the NPPF.

## **11.0 CONDITIONS AND SECTION 106 AGREEMENT**

- 11.1 Members of the former Selby District Council Planning Committee expressed support for the application against the Officer recommendation and were minded to grant planning permission subject to further consideration at the North Yorkshire Council Strategic Planning Committee of a full suite of conditions and further detail on the section 106 agreement. These are set out below.

### Conditions

- 11.2 At the request of the former Selby District Council Planning Committee, Officers have drafted a full suite of conditions as follows:

#### **General**

01. 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.

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

- RC610-1000 Rev P4 – Site Location Plan
- RC610-1001 Rev P17 – Proposed Site Plan
- RC610-0100 Rev P6 - Proposed Ground Plan Service Building
- RC610-0101 Rev P6 – Proposed Roof Plan Service Building
- RC610-0300 Rev P6 – Proposed Elevations Service Building
- RC610-0301 Rev P1 – Enlarged Detail Elevations Service Building
- RC610-0200 Rev P4 – Fuel Filling Station Proposed Plans and Elevations
- RC610-0201 Rev P2 – Costa Drive Thru Proposed Plans and Elevations
- 1847.06 Rev Q – Landscape Masterplan
- D35163/RD/I – Lighting Design
- VD18808-D100 Rev P06 – Viewport 1 and Viewport 2: Selby Motorway Services Area General Arrangement
- VD18808-D102 Rev P03 – Proposed Footway/Cycleway Link A63/A1246 Roundabout to Development

Reason: For the avoidance of doubt.

#### **Design**

03. Details (including samples panels as appropriate) of any materials to be used for the external finish of any buildings and/or structures within the site shall be first submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

04. Prior to commencement of development, detailed design and construction details of the following elements of the amenity building shall be submitted to and approved in writing by the Local Planning Authority.

- Sedum roof
- Expansion joints and ground termination detailing of the entrance arch.
- Water feature

The development shall thereafter be carried out in strict accordance with the approved details.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

05. Notwithstanding the provisions of The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (or any Regulations revoking or re-enacting those Regulations), all external signage within the scheme (both at the outset and subsequently) shall be in accordance with a design framework scheme for signage (establishing the positions, sizes, materials, colours and lighting for all external signage across the site) that shall be first submitted to and approved in writing by the Local Planning Authority before any part of the development opens for trading.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), no new fences, gates, walls or other means of enclosure shall be erected at the site without the prior written approval of the Local Planning Authority.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

07. Prior to installation (both at the outset and subsequently) details of all plant, machinery, chimneys, ducting, filters or extraction vents to be used in connection with the use of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter all plant, machinery, chimneys, ducting, filters or extraction vents shall be installed in accordance with the approved details and retained as such unless removed. Details shall include siting, appearance and means of enclosure.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

08. Prior to installation (both at the outset and subsequently) details of the provisions for the storage and recycling of refuse shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, such provisions shall be installed in accordance with the approved details and retained as such unless removed. Details shall include siting, appearance and means of enclosure.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

### **Landscape**

09. Prior to commencement of development, a Soil Resource Management Plan for all site soils to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

10. Prior to the commencement of development, an Arboricultural Method Statement, Tree Survey and Tree Protection Plan, to BS5837:2012, shall be submitted to and approved in writing by the Local Planning Authority. This should demonstrate how all existing trees and hedgerows to be retained will be protected during the construction period. The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure protection during construction works of trees and hedgerows which are to be retained on or near the site in order to ensure that the character and amenity of the area are not impaired, having had regard Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

11. Prior to commencement of development, a detailed hard and soft landscaping scheme for the site (including details of site levels, grading and earthworks) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in its entirety within the first available planting season following the construction of the development hereby permitted. All trees, shrubs and bushes shall be adequately maintained for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary. The scheme shall include a detailed long-term landscape maintenance and management plan. The scheme shall be retained and managed in accordance with the approved long-term landscape maintenance and management plan for the lifetime of the development.

Reason: In the interests of visual amenity and in order to comply with Policies SP18 and SP19 of the Core Strategy and Policies ENV1 and T10 of the Selby District Local Plan.

### **Ecology**

12. Prior to commencement of development (including ground works and vegetation clearance) a Biodiversity Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in strict accordance with the approved Biodiversity Construction Environmental Management Plan.

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

- a walkover survey by a suitably qualified ecologist to determine whether there have been any changes in the baseline; and if any changes are identified that would result in ecological impacts not previously addresses in the approved scheme, how these would be addressed and a timetable for implementation;
- risk assessment of potentially damaging construction activities;
- identification of “biodiversity protection zones”;
- practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- the location and timing of sensitive works to avoid harm to biodiversity features;
- the times during construction when specialist ecologists need to be present on site to oversee works;
- responsible persons and lines of communication;
- the role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person;
- use of protective fences, exclusion barriers and warning signs.

Reason: In the interests of ecology and in order to comply with Policies ENV1 (5) and T10(4) of the Selby District Local Plan, Policy SP18 of the Selby District Core Strategy Local Plan and national planning policy contained within the NPPF.

13. Prior to commencement of development, an Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the Ecological Management Plan shall be implemented in accordance with the approved details for the lifetime of the development.

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

- description and evaluation of features to be managed;
- ecological trends and constraints on site that might influence management;
- aims and objectives of management;
- appropriate management options for achieving aims and objectives;
- prescriptions for management actions;
- preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
- details of the body or organization responsible for implementation of the plan;

- ongoing monitoring and remedial measures;
- details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body responsible for its delivery;
- how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the approved scheme (where the results from monitoring show that conservation aims and objectives of the Plan are not being met).

Reason: In the interests of ecology and in order to comply with Policies ENV1 (5) and T10(4) of the Selby District Local Plan, Policy SP18 of the Selby District Core Strategy Local Plan and national planning policy contained within the NPPF.

14. Subject to condition 23, external lighting at the site shall be installed in strict accordance with the details shown on drawing no. D35163/RD/I and shall be maintained thereafter as such. No additional external lighting shall be installed at the site at any time within the prior written consent of the Local Planning Authority.

Reason: In the interests of ecology and in order to comply with Policies ENV1 (5) and T10 (4) of the Selby District Local Plan, Policy SP18 of the Selby District Core Strategy and Local Plan and national planning policy contained within the NPPF.

### **Highways**

15. Except for investigative works, or preparatory works, no works requiring vehicle access to the site shall take place until the site access to the western dumbbell roundabout shown in principle on drawing VD18808-D100 Rev P06 (Viewport 1) has been completed and is open to traffic.

Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of the access or any structure or apparatus which will lie beneath that access must take place, until full detailed engineering drawings which include the agreed actions of the Stage 1 Road Safety Audit have been approved in writing by the Local Planning Authority in consultation with the Local Highway 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 in consultation with the Local Highway Authority prior to construction works commencing on site. The scheme shall be constructed in accordance with the approved details and programme.

An independent Stage 3 Road Safety Audit carried out in accordance with GG119 -Road Safety Audits or any superseding regulations must be carried out on all highway works described in this condition following their construction and any works required as a result of the Stage 3 Road Safety Audit shall have been completed prior to first use of the site access to the western dumbbell roundabout.

Reason: To ensure the design is appropriate and the works are delivered in a timely manner in the interest of the safety and convenience of highway users and in order to comply with Policies T1, T2 and T10 of the Selby District Local Plan.

16. No part of the development hereby approved shall be brought into use until the mitigation schemes shown in principle on drawings VD18808-D100 Rev P06 (Viewport 2) and VD18808-D102 Rev P03 have been completed and are open to traffic.

Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of the mitigation schemes or any structure or apparatus which will lie beneath those schemes must take place, until full detailed engineering drawings which include the agreed actions of the Stage 1 Road Safety Audit have been approved in writing by the Local Planning Authority in consultation with the Local Highway 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 the schemes and their interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority prior to construction works commencing on site. The schemes shall be constructed in strict accordance with the approved details and programme.

An independent Stage 3 Road Safety Audit carried out in accordance with GG119 -Road Safety Audits or any superseding regulations must be carried out on all highway works described in this condition following their construction and any works required as a result of the Stage 3 Road Safety Audit shall have been completed prior to first use of the mitigation schemes referred to in this condition.

Reason: To ensure the continued safe operation of the strategic road network and in order to comply with Policies T1, T2 and T10 of the Selby District Local Plan.

17. No part of the development hereby approved shall be brought into use until the related areas for access, parking and manoeuvring in connection with that part of the development as shown on the proposed site layout drawing RC610 1001 Rev P17 are available for use. Once constructed, these areas of access, parking and manoeuvring shall be maintained clear of any obstruction and retained for their intended purpose at all times.

An independent Stage 3 Road Safety Audit carried out in accordance with GG119 -Road Safety Audits or any superseding regulations must be carried out on the access, parking and manoeuvring areas described in this condition following their construction and any works required as a result of the Stage 3 Road Safety Audit shall have been completed prior to first use of the access, parking and manoeuvring areas.

Reason: To ensure the design is appropriate and the works are delivered in a timely manner in the interest of the safety and convenience of MSA users and in order to comply with Policies T1, T2 and T10 of the Selby District Local Plan.

18. No part of the development hereby approved shall be brought into use until details of appropriate signing on the A63 have been submitted to and agreed in writing by the Local Planning Authority in consultation with the Local Highway Authority. The signing shall be implemented in strict accordance with the approved details prior to the development being brought into use and shall thereafter be retained as such for the lifetime of the development.

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. The scheme shall be constructed in accordance with the approved details and programme.

Reason: To ensure the design is appropriate and the signs are delivered in a timely manner in the interest of the safety and convenience of highway users and in order to comply with Policies T1, T2 and T10 of the Selby District Local Plan.

19. Prior to commencement of development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority. Construction of the development shall be undertaken in strict accordance with the approved Plan.

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

- protection of carriageway and footway users at all times during demolition
- and construction;
- details of site working hours;
- erection and maintenance of hoardings including decorative displays,
- security fencing and scaffolding on/over the footway and carriageway and
- facilities for public viewing where appropriate;
- protection of contractors working adjacent to the highway;
- measures to manage the delivery of materials and plant to the site including
- routing and timing of deliveries and loading and unloading areas;

- storage of plant and materials used in constructing the development clear of the highway;
- details of wheel washing facilities to ensure that mud and debris is not spread onto the adjacent public highway;
- 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;
- an undertaking that there shall be no burning of materials on site at any time during construction;
- removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
- Traffic Management Plans;
- details of the routes to be used by HCV construction traffic and highway condition surveys on these routes;
- details of external lighting equipment;
- the parking of contractors' site operatives and visitor's vehicles;
- a detailed method statement and programme for the building works;
- details of the responsible person (site manager/office) who can be contacted in the event of a complaint, and;
- a communications plan.

Reason: In the interest of highway safety and in order to comply with Policies T1, T2 and T10 of the Selby District Local Plan.

20. Other than for purposes of constructing the permanent access to the western dumbbell roundabout, access to and from the site shall only be by way of the permanent access to the western dumbbell roundabout.

Reason: In the interest of the safety and convenience of highway users and in order to comply with Policies T1, T2 and T10 of the Selby District Local Plan.

21. Prior to the development hereby approved being brought into use, a Travel Plan in general accordance with details set out in the submitted Staff Travel Plan dated July 2022 shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

The Travel Plan shall be managed by a pre-appointed Travel Plan Co-Ordinator and provide specific, measurable, achievable, relevant, and time-bound targets against which its effectiveness can be monitored and will include the provision of a staff shuttle bus, which shall commence operation no later than the opening day of the development, and other measures to discourage the unnecessary use of the private car. Should monitoring show that targets have not been met, an action plan for additional travel plan measures is to be agreed in writing by the Local Planning Authority in consultation with the Local Highway Authority within six months of the date of the monitoring report and implemented in accordance with any timescale(s) prescribed in the action plan.

The Travel Plan shall be implemented and the development shall be carried out and operated in accordance with the approved Travel Plan. Those parts of the

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 in use.

Reason: To establish measures to encourage more sustainable non-car modes of travel and in order to comply with Policies T1, T2 and T10 of the Selby District Local Plan.

22. Prior to development hereby approved shall be brought into use, the existing Public Bridleway crossing site access to the western dumbbell roundabout shall have been diverted and an alternative route have been provided by permanent diversion Order.

Reason: In the interest of the safety of highway users and in order to comply with Policy T8 of the Selby District Local Plan.

23. Notwithstanding the submitted details, prior to the external lighting being installed on site further details shall first be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highways Authority. The information shall include a layout plan with beam orientation and a schedule of equipment in the design (luminaire type, mounting height, aiming angles, and luminaire profiles) and shall detail any measures to be taken for the control of any glare or stray light arising from the operation of artificial lighting. Thereafter the artificial lighting shall be installed, operated and maintained in accordance with the approved scheme. Any proposed changes to any element of the lighting scheme shall thereafter first be submitted and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

Reason: In the interest of the safety of highway users and in order to comply with Policies T1 and T2 of the Selby District Local Plan.

24. Notwithstanding the submitted details, no part of the development hereby approved shall be brought into use until details showing that any landscaping within the site is to be positioned so that it does not encroach on or over any adjacent highway, manoeuvring area or visibility splay and a scheme of maintenance have been submitted to and agreed in writing by the Local Planning Authority in consultation with the Local Highway Authority. Thereafter the landscaping shall be installed and maintained in accordance with the approved details and scheme for the duration of the use of the site.

Reason: In the interest of the safety of highway users and in order to comply with Policies T1 and T2 of the Selby District Local Plan.

25. Details of the electric vehicle charging points to be installed within the site shall be first submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.

Reason: To encourage the use of low emission vehicles, in turn reducing CO2 emissions and energy consumption levels in accordance with Policy SP15 of the Selby District Core Strategy Local Plan.

### **Noise/Air Quality**

26. No work relating to the development hereby approved, including works of demolition or preparation prior to building operations, shall take place other than between the hours of 08:00 hours and 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays and at no time on Sundays or Bank or National Holidays.

Reason: To protect the residential amenity of the locality during construction and to comply with Policy ENV2 of the Selby District Local Plan and Policy SP19 of the Selby District Core Strategy Local Plan.

27. Prior to commencement of development, a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Construction of the development shall be undertaken in strict accordance with the approved Plan. The Plan shall include details of how noise, dust and other airborne pollutants, vibration, smoke, and odour from construction work will be controlled and mitigated. The plan shall also include monitoring, recording and reporting requirements.

Reason: To protect the residential amenity of the locality during construction and to comply with Policy ENV2 of the Selby District Local Plan and Policy SP19 of the Selby District Core Strategy Local Plan.

28. The cumulative level of sound from all plant and equipment associated with the development hereby approved, when determined externally under free-field conditions, shall not exceed the representative background sound level at nearby sensitive receptors. All noise measurement/predictions and assessments made to determine compliance shall be made in accordance with British Standard 4142: 2014: Methods for rating and assessing industrial and commercial sound, and/or its subsequent amendments.

Reason: To protect the residential amenity of the locality and to comply with Policy ENV2 of the Selby District Local Plan and Policy SP19 of the Selby District Core Strategy Local Plan.

29. The development hereby approved shall be carried out in strict accordance with details contained within the submitted Noise Impact Assessment, reference 297346-RSK-RP-004-(00) dated 27 July 2022

Reason: To protect the residential amenity of the locality and to comply with Policy ENV2 of the Selby District Local Plan and Policy SP19 of the Selby District Core Strategy Local Plan.

### **Drainage**

30. No new tree planting shall be permitted over or within 6.0 (six) metres either side of the centre line of the water main which cross the site.

Reason: In order to protect the structural integrity of the pipe from tree root infestation.

31. No construction works in the relevant area(s) of the site shall commence until measures to protect the public water supply infrastructure that is laid within the site boundary have been implemented in full accordance with details that have been submitted to and approved by the Local Planning Authority in consultation with Yorkshire Water. The details shall include but not be exclusive to the means of ensuring that access to the pipe for the purposes of repair and maintenance by the statutory undertaker shall be retained at all times.

Reason: In the interest of public health and maintaining the public water supply.

32. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The peak pumped foul water discharge shall not exceed 6 (six) litres a second.

Reason: In the interest of satisfactory and sustainable drainage and to prevent overloading of the foul sewerage.

33. No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.

Reason: To ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network.

34. Surface water run-off from forecourt of petrol stations, areas used for the delivery of fuel, hardstanding (equal to or greater than 800 square metres), communal car parking area(s) of more than 50 spaces must pass through an oil, petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, prior to any discharge to an existing or prospectively adoptable sewer.

Reason: To prevent pollution of the aquatic environment and protect the public sewer network.

35. Prior to first occupation or use, the development hereby granted shall be built in accordance with the following submitted Surface Water Drainage Strategy:

- Sustainable Drainage Assessment, GeoSmart, reference 78829R5, dated 16/02/2024

Should the location of the deep bore soakaways need to be amended following ongoing monitoring and additional testing within each of the soakaways to show no groundwater is present, this shall be submitted to and approved in writing by the

Local Planning Authority prior to commencement of development. The lowest infiltration rate should be used across all soakaways. A 40% allowance shall be included for climate change. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change. The Strategy shall include a detailed maintenance and management regime for the storage facility and an exceedance flow plan to be submitted to and approved in writing prior to commencement of development. Principles of sustainable urban drainage shall be employed wherever possible.

Reason: To ensure that the development is built to the submitted drainage design to prevent the increased risk of flooding and to ensure the provision of adequate and sustainable means of drainage in the interests of amenity.

### **Land Contamination**

36. Prior to commencement of development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
  - (ii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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 offsite receptors.

37. Prior to commencement of development, where required following the investigation and risk assessment undertaken as part of condition 36, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural environment) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site

management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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 offsite receptors.

38. Prior to first occupation or use, where required following the submission of a remediation scheme as part of condition 37, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of 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.

39. In the event that unexpected 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 where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of 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 offsite receptors.

#### **Other**

40. Prior to commencement of development, a Training and Employment Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall aim to promote training and employment opportunities for all stages of the development for local people and include, but not be limited to, arrangements for the following:
- Measures to ensure the owner and contractors work directly with local employment and training agencies;
  - Targets for employing local labour;
  - Targets for apprenticeship opportunities;
  - Measures to provide training opportunities in respect of any new jobs created;
  - Requirements to submit monitoring information on the plan at regular intervals to the Local Planning Authority.

The development shall be carried out in strict accordance with the approved Plan.

Reason: In the interests of promoting economic and training opportunities in association with proposed development, which form part of the very special circumstances case to justify the proposed development having regard to Policy SP3 of the Selby District Core Strategy Local Plan and the National Planning Policy Framework.

41. Prior to commencement of development, a scheme to demonstrate that a minimum of 10% of the total predicted energy requirements of the development have been secured from renewable, low carbon or decentralised energy sources; or an alternative to reduce energy consumption; has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details and a timetable of how this is to be achieved, including physical works on site. The development shall be carried out in accordance with the approved scheme and retained and maintained as such thereafter for the lifetime of the development.

Reason: In the interests of sustainability to minimise the development's impact in accordance with Policy SP16 of the Selby District Core Strategy Local Plan.

42. The proposed retail unit within the main amenity building, as shown on drawing no RC610-0100 Rev P6 (proposed ground plan service building) shall only be used as a farm shop and for no other purpose including any other use within Class E(a). At least 80% of products sold for retail (E(a)) at the farm shop shall be produced or reared from within the Council area of North Yorkshire. No more than 20% of products sold for retail (E(a)) at the farm shop shall be produced or reared from outside the Council area of North Yorkshire.

Reason: The provision of a farm shop selling local produce forms part of the very special circumstances case to justify the proposed development having regard to Policy SP3 of the Selby District Core Strategy Local Plan and the National Planning Policy Framework.

#### S106 Legal Agreement

- 11.3 At the request of the former Selby District Council Planning Committee, the following Heads of Terms have been agreed with the applicant for this application.

<b>Category/Type</b>	<b>Contribution</b>	<b>Amount &amp; Trigger</b>
Very Special Circumstances Case	HGV Parking Proposal	46 spaces provided as part of VCS case to be subject to the following charges: Option 1: £23.00 for 24hrs; Option 2: £27.00 for 24hrs, including a £10.00 food voucher; prior to the development being brought into use

Very Special Circumstances Case	Traffic Regulation Order	To apply for a TRO to restrict overnight HGV parking in two laybys on the A63 (Great North Road); prior to the development being brought into use
Monitoring Fee	Travel Plan Monitoring Fee	£5,000; prior to commencement of development
Biodiversity Net Gain	Biodiversity Net Gain	i) To submit a Biodiversity Net Gain Scheme; prior to commencement of development. ii) To implement the Biodiversity Net Gain Scheme; prior to the development being brought into use. iii) To manage and monitor the progress of the Biodiversity Net Gain Scheme in accordance with the agreed Biodiversity Monitoring and Management Plan for a period of 30 years.

11.4 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.

## **12.0 REFERRAL TO SECRETARY OF STATE**

12.1 If Members are minded to grant planning permission, it would require referral to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009, as per paragraph 4 (a) and (b), because the proposed development is inappropriate development in the Green Belt and consists of the provision of a building or buildings where the floor space to be created by the development is over 1,000sqm, and, the development would have a significant impact on the openness of the Green Belt.

12.2 As per paragraph 11 of the Direction, where a Local Planning Authority is required to consult the Secretary of State, they shall not grant planning permission on the application until the expiry of a period of 21 days beginning with the date which the Secretary of State tells the Authority in writing that they have received the referral. If, before the expiry of the 21-day period referred to in paragraph 11, the Secretary of State has notified the Authority that he does not intend to issue a direction under section 77 of the Town and Country Planning Act 1990 in respect of that application, the Authority may proceed to determine the application.

12.3 Note: the 2009 Direction is applicable rather than the more recent 2021 Direction as application was submitted prior to 21 April 2021.

**Target Determination Date:** 29.03.2024

**Case Officer:** Jenny Tyreman, [jenny.tyreman@northyorks.gov.uk](mailto:jenny.tyreman@northyorks.gov.uk)

**Appendix A** – Officer Report to the former Selby District Council Committee on 15th March 2023

**Appendix B** – Officer Update Note to the former Selby District Council Committee on 15th March 2023

**Appendix C** – Minutes of the former Selby District Council Committee on 15th March 2023

**Appendix D** – Proposed site plan

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Report Reference Number 2019/0547/EIA

**To: Planning Committee**  
**Date: 15<sup>th</sup> March 2023**  
**Author: Jenny Tyreman (Assistant Principal Planning Officer)**  
**Lead Officer: Hannah Blackburn (Planning Development Manager)**

APPLICATION NUMBER:	2019/0547/EIA	PARISH:	South Milford Parish Council
APPLICANT:	Roadchef	VALID DATE:	14th June 2019
		EXPIRY DATE:	13th September 2019
		EOT:	17 March 2023
PROPOSAL:	Proposed construction of a motorway service area		
LOCATION:	Land At Lumby Lumby South Milford Leeds West Yorkshire LS25 5LE		
RECOMMENDATION:	<b>REFUSE</b>		

This application has been brought before Planning Committee as the application has been accompanied by an Environmental Impact Statement. Furthermore, the application is a major application where 10 or more letters of representation have been received which raise material planning considerations and where officers would otherwise determine the application contrary to these representations.

## 1. INTRODUCTION AND BACKGROUND

### Site and Context

- 1.1 The application site is located outside the defined development limits of any settlements and is located within the West Yorkshire Green Belt. The site is also located within a Locally Important Landscape Area.
- 1.2 The application site comprises some 5.8 hectares of predominantly agricultural land to the north-west of the westernmost roundabout at junction 42 of the A1(M). The site is broadly rectangular in shape and comprises semi-improved grassland, with tree planting and hedges adjoining the boundaries of the site. The site rises from

north to south, with a small pond located to the north-eastern corner of the site. Overhead cables currently cross the site from north to south. A Yorkshire Water easement runs along the northern boundary of the site.

- 1.3 A fenced bridleway (35.59/13/1) runs along the southern and eastern boundaries linking into an underpass under the A1(M) at the northeast corner of the site and a bridge over the A63 towards the southwest corner of the site. A public footpath runs adjacent to the western boundary (35.59/17/1). A non-designated footpath runs along the northern boundary in-between existing tree planting.
- 1.4 To the south of the application site is the A63, beyond which is Lumby Garden Centre and a residential property; to the north of the application site is tree planting and hedging beyond which is open agricultural land; to the east of the application site is the A1(M) beyond which are open agricultural fields; to the west of the application site is an access road leading to South Milford Hotel and other businesses, beyond which is a local hill and woodland area providing separation to the A63 (Great North Road).

### **The Proposal**

- 1.5 The application seeks full planning permission for the proposed construction of a Motorway Service Area (MSA) on land at Lumby, South Milford.
- 1.6 It should be noted that the scheme has been amended and updated throughout the application process in response to comments from consultees and representees.
- 1.7 The MSA would provide an amenity building (GEA 3,270m<sup>2</sup>), a fuel filling station (GEA 130m<sup>2</sup>) together with a canopy over the fuel pumps, a drive through coffee unit (GEA 38m<sup>2</sup>), parking for all classes of vehicles, landscaping, amenity areas, a balancing pond and a diverted public right of way (bridleway).
- 1.8 Vehicular access to and from the MSA would be gained from a new arm on the westernmost roundabout at junction 42 of the A1(M), between the A63 to Leeds and the entry slip road to the A1(M) northbound. Within the site, signage would separate the traffic, directing it to the appropriate parking area or required facility – this would be done from a roundabout within the centre of the site.

### Amenity building

- 1.9 The amenity building would be located in the south-west corner of the site with the main entrance facing north. The majority of the amenity building would sit within a natural mounded shape with a green sedum roof incorporating circular rooflights; however, part of the amenity building would be covered by a flat roof incorporating solar panels. The maximum height of the mounding over the amenity building would be approximately 12.5 metres, with a maximum exposed structure at approximately 9.5 metres.
- 1.10 The front elevation of the building would be constructed in full height stone and glass curtain walling. The elevational treatment to the side and rear elevations would incorporate a polished aggregate stone wall; through coloured fibre cement cladding panel system; and planar glazing system. A delivery area would be to the rear of the amenity building, accessed from the immediate west of the site entrance, enclosed by a concrete screen wall to the south.

- 1.11 The amenity building would include toilets, a seating area, a number of restaurant outlets, a retail unit, a gaming area and circulation space. An outdoor seating area and water feature would be provided to the front of the amenity building.

#### Fuel filling station

- 1.12 The fuel filling station would be located towards the north east corner of the site. It would include a kiosk and fuel pumps, which would be sited under a canopy with a green sedum roof finish supported by gabion walls. The canopy would have a maximum height of approximately 8 metres.
- 1.13 The kiosk would be sited centrally between separate forecourts for cars and HGVs/coaches. The elevations of the kiosk would incorporate the same material palette as the amenity building. The kiosk would include a sales area, payment counters, food and drinks servery, toilets, a storeroom, a cash ATM and an office. Six dual sided stands for cars would be provided within the car forecourt area (12no. pumps in total), while two dual sided stands for HGV's/coaches would be provided in the HGV/coach forecourt area (3 no pumps in total). Air and water stations would be available for all classes of vehicles, along with a car vacuum point.

#### Drive through coffee unit

- 1.14 The drive through coffee unit would be located towards the south east corner of the site. It would have a maximum height of approximately 4 metres, with a stone plinth rising above the eaves line to a maximum height of approximately 5.3 metres to incorporate signage. The elevations of the drive through coffee shop would incorporate the same material palette as the amenity building and kiosk.

#### Parking areas

- 1.15 A stepped terraced car park would be located to the north of the amenity building and would provide 351 car parking spaces for the amenity building, including 25 spaces with electric charging points, 18 spaces for the disabled, 10 spaces for parent and child, 20 bays for motorcycles, and 10 cycle bays.
- 1.16 Other separate parking areas would be provided to accommodate 108 HGV spaces (to the north end of the site), 1 abnormal load bay (to the north of the fuel filling station), 11 spaces for caravans and 12 spaces for coaches (to the east of the stepped car park between the fuel filling station and the drive through coffee unit).

#### Landscaping

- 1.17 The site would be landscaped throughout, as shown on the proposed landscape masterplan (drawing no. 1847.06 Rev N). A balancing pond would be created towards the eastern boundary of the site adjacent to the fuel filling station. A diverted public right of way (bridleway) would lie adjacent to the north and western boundaries of the site, the details of which are subject to agreement through a separate application (reference: 2020/0045/PROW).

#### Supporting information

- 1.18 In addition to the forms and plans, the application is supported by numerous documents including a Planning Statement outlining community involvement,

Design, Landscape and Access Statement and a Socio-Economics Statement, along with technical reports and an Environmental Impact Assessment Statement. Together the Planning Statement and Socio-Economic Statement by Bowcliffe set out the applicant's assessment of the need for and benefits arising from the proposal.

### **Relevant Planning History**

1.19 The following historical application is considered to be relevant to the determination of this application.

- 2019/0410/SCP - EIA scoping report for the development of a motorway service area. Scoping response issued: 23-MAY-19.
- 2020/0045/PROW - Public Footpath No. 35.19/13/1 at land at Lumby Diversion Order 2020 – Pending consideration.

## **2. CONSULTATION AND PUBLICITY**

### **Consultation**

#### **2.1 South Milford Parish Council**

No objections subject to conditions being in place that a percentage of employees shall live within a set distance of the development and that the applicant engages with the local community to agree and deliver appropriate social value benefits.

#### **2.2 Burton Salmon Parish Council**

Raise a number of concerns regarding the proposed development:

- The need for a motorway service area in this location due to the proximity of other services, notably the services at Ferrybridge;
- The Planning Statement (para 3.15) notes the presence of Ferrybridge, however Ferrybridge Services are a significant material consideration and should be considered as such;
- The Planning Statement states that most users of the Ferrybridge Services are from the M62, but this has not been evidenced;
- Request that the Sequential Test be adequately evaluated by the District Council to ascertain if there are better locations outside of the Green Belt.

#### **2.3 Fairburn Parish Council**

Raise a number of observations regarding the proposed development:

- The drainage arrangement - drainage from the existing hotel ends up in Fairburn's current inadequate drainage system;
- The application site has no mains water or gas;
- The application site lies within the designated Green Belt; and
- The proposed access/egress onto an already very busy road system.

2.4 **Hambleton Parish Council** – No response.

2.5 **Hillam Parish Council**

Have a number of comments regarding the proposed development:

- The proposal is inappropriate for Green Belt land and would devastate wildlife habitat and open space;
- Given that Ferrybridge Services are only 5 miles South and Wetherby Services are only 15 miles North on the same stretch of road, the development is considered to be unnecessary;
- This location does not have a need for such development;
- The motorway traffic from the A1(M) visiting the proposed services will cause delays and congestion to traffic en route to Leeds via the A634;
- Concerns regarding light pollution in a rural area;
- Concerns regarding additional noise pollution on top of the general motorway hum in an otherwise rural, quiet area.

## 2.6 **Monk Fryston Parish Council**

Raise a number of concerns regarding the proposed development:

- The proposal represents inappropriate development within the Green Belt;
- Concern about a precedent being set by such a development in that it could help to justify the development of additional commercial enterprises around this junction;
- Whilst sympathetic to the proposal to construct a lorry park with associated facilities to accommodate vehicles currently parking overnight in lay-by's, the Parish Council is not sympathetic to it being developed as a full motorway service area for which there is no local need; and
- There are sufficient service areas within reasonable distance to meet demand.

Should the Local Planning Authority be minded to approve the development the following comments and observations were agreed:

- There are safety concerns about the introduction of an additional highly utilised access/egress onto what is a very busy small radius roundabout already comprising 8 entry/exits points;
- The Traffic Assessment does not go further East than the A63/A162 junction. The A63 through Monk Fryston village should be included in the Traffic Assessment for further consideration and consultation;
- A Construction Management Plan should be put in place to prevent heavy goods construction vehicles going through Monk Fryston village during the construction phase;
- There is ambiguity about the intention and timing for the construction of the intended number of lorry parking spaces for which permission is being sought and this should be cleared up. 74 spaces are shown on the plan for initial construction with 27 additional ones described as 'in Phase 2' but only at the loss of the dog walking facility and an extensive area of landscaping. If the intention is to initially construct (only) 74 lorry parking spaces it should be a requirement that all the landscaping on the landscaping plan in both the Phase 1 and Phase 2 areas is completed before the facility is brought into use.

## 2.7 **Sherburn in Elmet Town Council**

Raise a number of concerns regarding the proposed development:

- The application site is on Green Belt land and is contrary to Selby District Council 'green belt land' policy, permitting its construction could set a precedence and encourage further developments on Green Belt land in the area;

- Building on this Green Belt land would severely and adversely affect ecological habitats and open space;
- The proposed development is unnecessary as there are other motorway services in close proximity, namely Ferrybridge Services 5.5 miles (south), Barnsdale Bar Services 7.5 miles (south), Wetherby Moto services 15.5 miles (north), new motorway services almost completed Junction 45 of M1;
- Motorway Service Association Policy 01/2008 indicates there should be an "absolute minimum distance of 12 miles" between services;
- There would be an significant increase in light and noise pollution from both the site and by vehicles using the facility;
- The proposed provision of parking for HGVs will not alleviate the current problems of HGVs parking in local lay-bys and roads; and
- Access and egress from the proposed services from the busy roundabout will increase the potential risks to road users.

## 2.8 Brotherton Parish Council

The drainage system, especially the sewerage, has not been updated to accommodate increases in throughput. Whilst the sewer from the proposed development is of a nine-inch (9") diameter when it falls to Fairburn. After leaving Fairburn it reduces to a five-inch (5") diameter pipe which then continues to the sewerage treatment farm on Sutton lane near Byram-cum- Sutton. The result is that surrounding villages suffer from sewerage egress during high water events.

## 2.9 Ledsham Parish Council

No objections subject to conditions being in place for the applicant to block up the layby on the west side of Great North Road and the introduction of new signage and speed limits through the village of Ledsham to mitigate any increased traffic through it arising from the development of the MSA.

## 2.10 Huddleston and Newthorpe Parish Council

Raise a number of concerns regarding the proposed development:

- The precedent of building on Green Belt land and the impact on openness.
- The benefits to the surrounding community would not stack up taking into account the harms relating to precedent, traffic volumes, pollution and noise.
- It doesn't make sense to create a new truck stop when there are four already and one in the making within a reasonable distance.

## 2.11 Byram-cum-Sutton Parish Council

Raise a number of concerns regarding the proposed development:

- The sewerage system is already totally overloaded. The system from Ledsham runs through a 9" pipe which when it gets to Fairburn goes down to a 5" pipe. This will cause problems through Fairburn, Brotherton, Byram until it gets to the sewage works in Sutton village.
- The idea of a lorry park is excellent, but there is already one at Ferrybridge. Drivers will park in laybys rather than pay fees.
- New jobs to the area are welcomed, but there needs to be infrastructure to get people to work. The increase in workers, lorries and visitors would add to air pollution.

2.12 **Leeds City Council** – No response.

2.13 **North Yorkshire County Council (CPO)** – No response.

2.14 **Highways England** – No objections, subject to conditions.

2.15 **NYCC Highways** – No objections, subject to conditions and a section 106 agreement.

2.16 **Landscape Architect**

Object to the proposed development. The proposals do not sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the LILA (contrary to Selby DC policy ENV15), will impact on local character and setting (contrary to Selby DC policy ENV1, ENV3, SP18, SP19), nor do they provide sufficient new opportunities to better join up existing Green Infrastructure as well as creating new GI (contrary to Selby DC policy SP12).

The proposed development is likely to adversely impact on the openness and permanence of the Green Belt (contrary to the NPPF).

The overall effectiveness of the Landscape Strategy in this context is questionable. The revised scheme maintains a number insufficiently resolved landscape issues and the relating to:

- Siting of main built structures in the landscape
- Site material and ground modelling
- Existing Trees, Shrubs and Hedgerows to be protected and retained
- Proposed Green Infrastructure Planting
- Proposed Green Infrastructure for Parking Areas
- Visualizations and Photomontages and Cross Sections
- Proposed Off-site Green Infrastructure
- Proposed Lighting
- Long-term Maintenance and Management

The applicant has not provided a sufficiently robust landscape strategy or green infrastructure to demonstrate that adverse effects could be mitigated, offset or compensated, secured through long-term landscape maintenance and management and which take account of the landscape's sensitivity.

Given the sensitive context of the site and stated landscape and environmental aspirations of the proposed development it seems reasonable and possible that more could be done to reduce and offset the likely adverse landscape and visual effects of the scheme.

2.17 **Urban Designer** – No objections, subject to conditions.

2.18 **Campaign for the Protection of Rural England (CPRE)**

Biodiversity Net Gain (BNG) – CPRE are wary of sites offering off-site habitat compensation rather than onsite enhancement which often do not yield the most favourable or successful environments and do not offer adequate replacement habitats. As such, it is such considered that any proposed section 106 agreement

should explicitly set out both areas indicated within the proposed planning documents and BNG report in order to ensure compliance and delivery of BNG.

Object to the proposed development. The proposal for the MSA in the Green Belt location appears to be predicated on 'need' for the HGV parking area. CPRE note the applicant's comments regarding very special circumstances as prescribed in the NPPF at paragraph 147. However, CPRE still consider that the proposal should be justified in this way, As such, the justification for very special circumstances by way of HGV parking requirements do not meet this test as set out in the Secretary of State's decision confirming the Appeal Inspector's recommendation at APP/F4410/W/18/3197290 (the Brodsworth appeal). The Inspector and Secretary of State both found that 'need' did not outweigh 'harm' to the Green Belt despite being above the recommended distance of 28miles between MSA as set out in Circular 2/2013. The proposed site, in this instance, is a mere 6 miles from the nearest MSA, therefore, the purported 'need' must be challenged. It is acknowledged that this subjective opinion will be determined by the Council.

2.19 **Yorkshire Water Services Ltd** – No objections, subject to conditions.

2.20 **Selby Area Internal Drainage Board** – No objection in principle:

The applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area. If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water Authority are satisfied that the existing system will accept this additional flow. If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.

2.21 **Local Lead Flood Authority** - Further information required prior to the determination of the application.

2.22 **The Environment Agency (Liaison Officer)** - No objections to the proposal as submitted subject to the inclusion of a condition regarding the discovery of any unexpected contamination; and an informative regarding petrol filling stations.

2.23 **Environmental Health** – No objections, subject to conditions.

2.24 **Conservation Officer** – No response.

2.25 **HER Officer** – No objections.

2.26 **Natural England** – No objections.

2.27 **County Ecologist** – No objections, subject to conditions and a section 106 agreement.

## 2.28 **Yorkshire Wildlife Trust**

Raise a number of queries over the deliverability and maintenance of the off-site biodiversity net gain.

[Officer Note: Further information has been provided by the applicant to address the above comments and while the Yorkshire Wildlife Trust have not provided a further response, NYCC Ecology have confirmed that the further information addressed the above comments and therefore they have no objections to the proposals].

## 2.29 **Designing Out Crime Officer**

The overall design and layout of the proposed scheme is considered acceptable. However, there are some minor issues which should be considered prior to planning permission being granted. This would improve the safety and security of the scheme and are summarised as follows:

- Gating access to the delivery area is recommended to prevent unauthorised access and theft;
- Landscape planting should not impede natural surveillance and the lighting for the vehicle parking areas;
- The lighting scheme for the site must be compatible with the CCTV system to ensure there is no loss of picture quality or colour rendition;
- Anti-ram bollards are recommended to protect the glazed façade of the service building and petrol filling kiosk from vehicle born attack.

2.30 **North Yorkshire Fire and Rescue Service** - No objection/observation.

## 2.31 **Public Rights of Way Officer**

No objections to the principle of the proposed public right of way diversion. Ongoing discussions between the applicant, the District Council and the Public Rights of Way Officer regarding the detail of the proposed public right of way diversion to enable a draft Order to be produced as part of application reference 2020/0045/PROW.

2.32 **Waste and Recycling Officer** - No response.

## 2.33 **Economic Development Team**

Support the proposed development. The application will support the ambitions of the Selby District Economic Development Framework 2017-2022 (EDF) through job creation and diversification, and through supportive infrastructure for the strategic priority site at Sherburn. The proposal represents a significant investment in the district. The development will result in additional jobs created during the construction and operation of the site, with most jobs benefiting local residents. The proposal also includes a provision of 108 HGV parking spaces which will support the haulage industry – one of the key sectors of Selby's economy.

2.34 **Local Enterprise Partnership** - No response.

2.35 **Planning Casework Unit** - No comments.

2.36 **Automotive Consultant (Knight Frank/Alexander James Ltd)**

A 54-space truck stop with small café and amenity building is not a financially viable development on previously undeveloped land. Following a review of the sites in the alternative site assessment, none of the sites put forward present a potentially viable truck stop opportunity. Our experience in the market suggests strongly that in order to present a viable solus development opportunity a truck parking facility needs to be of a minimum scale of least 100 spaces, in order to support the cost of building and running an adequately sized and provisioned amenity building. If it cannot offer the capacity then it needs to offer other income opportunities and/or other draws to bring truckers into site to use the café and shop.

2.37 **Contaminated Land Consultant** – No objections, subject to conditions.

### 2.38 **NYCC Minerals and Waste**

The proposed development is within a Minerals Safeguarding Area for limestone. It is considered that the location in proximity to the hotel to the north and residential properties to the south would not be compatible with large scale minerals working. Consideration of the application in regard to the Minerals and Waste Local Plan Policy S02 is required in this instance and part iii) of Part 1 of Policy S02 may be applicable, which states that permission for development other than minerals extraction can be considered acceptable where *“The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral”*.

In addition to this please be aware that the County Council currently has an outstanding planning application for a new minerals site within 500m of the site. This application reference number is C8/2022/0616/CPO. Consideration of the cumulative impacts of multiple new developments in the locality is required in the determination of this planning application.

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.

### **Publicity**

2.39 The application as originally submitted was publicised by neighbour notification letter, site notices and press notices.

2.40 Further information received during the course of the application has been publicised, where necessary, in accordance with Regulation 25 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

2.41 A total of two hundred and forty representations have been received as a result of the advertisement of the application as follows:

- Two letters of comment/query.
- Eleven letters of objection (two of which were on standardised template)
- Forty-two letters of support (eleven of which were on a standardised template)
- One hundred and eighty-five survey forms where the answer to the question “Do you support these proposals” is ‘Yes’. [Officer Note: these were all submitted together.]

2.42 The letters of comment/query make the following points:

- The 3D visualisations do not show a full 360-degree impression of the outlay. The view from Lumby Garden Centre and the adjacent dwelling is not represented.
- The gable end windows of the dwelling adjacent to Lumby Garden Centre would look directly at the site entrance and amenity building. The 3D visualisation with the rolling tree line in the distance is not an accurate representation of the actual tree line.
- The proposed site access seems exceptionally tight off the roundabout and would have been more suited directly off the A1(M) past junction 42 (the north side of the proposed development).
- The proposals for off-site biodiversity net gain are located on land that forms part of the Order limits for the Yorkshire Green Development Consent Order application, which was accepted for examination by the Planning Inspectorate on 15 November 2022.
- Construction activities would take place on the area of land proposed for off-site biodiversity net gain; therefore, the delivery of the off-site biodiversity net gain would need to take place after the construction works associated with the Yorkshire Green project, which is expected to be by the end of 2027. This approach has been discussed and agreed with the applicant for the motorway service area.

2.43 The letters of objection raise concerns in respect of:

- The impact of the proposed development on the Green Belt.
- The need for an MSA in this location given the presence of existing facilities along the A1(M).
- Whether brownfield sites in closer proximity to Sherburn Industrial Estate have been considered.
- Whether the site should be developed as a HGV/lorry park, rather than an MSA.
- Whether the site boundary is correctly shown on the proposed plans.
- Highway safety.
- Foul and surface water drainage.
- The potential for pollution.
- The impact of the proposals on the residential amenity of neighbouring residential properties in terms of noise and light.
- The potential for litter and crime.
- The validity of the proposed farm shop and proposed job creation.
- Limited/no water supply and no gas supply to the site.
- There are existing truck stops which could be used. Drivers use local roads and laybys to avoid chargers for staying at existing facilities.
- the fact that the submission does not refer to a site at Brodsworth which has a pending appeal for the construction of a MSA, which is considered to be a material consideration.
- The fact that the proposed MSA is predicated on the need to support Sherburn Industrial Estate, while MSAs should be justified on the safety and welfare needs of motorways and no case has been made on these grounds.
- HGV parking at Sherburn Industrial Estate is a material consideration at best, the Sherburn Industrial Estate is outwith the Green Belt and is the proper location for HGV parking.
- The applicant does not apply the correct statutory approach of considering the Development Plan followed by material considerations.

- The only very special circumstances offered by the applicant is HGV parking for Sherburn Industrial Estate, no very special circumstances are offered on the basis of motorway users needs.
- Ferrybridge MSA has been dismissed by the applicant without any evidence - Moto has undertaken user surveys at Ferrybridge MSA which demonstrate it is used by mostly A1(M) road users (these have been included in an Appendix). Ferrybridge MSA lies just 6 miles from the application site.
- In respect of safety, no accident analysis is provided in relation to the A1(M).
- No assessment has been undertaken of the capacity of existing MSAs to accommodate any increased need for roadside facilities to avoid the need for a new MSA in the Green Belt.
- The applicant recognises that locating MSAs too close to one another would not assist the safety and welfare case for motorway users, therefore, by the applicant's own case locating a new MSA at Lumby just 6 miles from Ferrybridge MSA fails Road chef's own case.
- The approach to the Alternative Site Assessment is incorrect – the process is to identify if there are other sites and check them against the application site;
- there are other suitable sites outwith the Green Belt to meet the needs of HGV parking or be suitable for an MSA.
- The parking provision at the MSA is unclear and inconsistent referenced in the application documents.
- The level of parking required for an MSA to be signed has not been calculated in accordance with DfT Circular 02/2013.
- Traffic forecasts rely upon applying a turn in rate derived from eight existing Roadchef MSAs but the identity of these sites are not revealed making it difficult to judge if they are representative of the situation at junction 42 of the A1(M).
- The number of car parking spaces and HGV spaces proposed are significantly in excess of the minimum requirement providing an opportunity to reconsider the layout.
- The application is deficient in the number of coach parking spaces and disabled parking spaces.
- Design of the fuel filling station which does not separate HGVs from cars and other light vehicles.
- Swept path analysis is required of the layout of junction 42 and the on-site road layout to ensure an abnormal load carrying vehicle can adequately manoeuvre.
- In the Brodsworth appeal decision, the Inspector and the SoS decided that although the maximum distance between MSAs was greater than the recommended maximum in Circular 02/2013 this did not amount to a need case which overcame the harm to the Green Belt. The need for additional HGV parking was given little weight in the overall balance. This is of relevance to the consideration of the proposed development.
- Further information submitted during the course of the application has failed to justify the proposed MSA. The site is being promoted on the basis of the need for HGV parking. This is not the correct approach to justifying an MSA in the Green Belt. Such parking should be promoted at Sherburn Industrial Estate and not the A1(M).

2.44 The letters of support set out the following points in support of the proposals:

- There is a need for the proposed facilities.
- There is a need for HGV/lorry parking and overnight facilities.
- The site is next to other businesses and is well screened.

- The economic benefit to Selby District.
- Nationally, there is an urgent need for secure HGV facilities; especially as many vehicles are targeted by criminals, due to parking in unsecure areas, every night, without basic amenities, because there is nowhere else for them to go. This issue is prevalent in Selby.
- Paragraph 107 of the NPPF should be given serious consideration in the determination of the application.
- The site represents the most logical and practical location to deal with this local issue.
- parking of HGVs in unsecure areas, takes place along the Great North Road, connecting to Sherburn Industrial Estate which is identified as one of the key economic hubs for Selby
- Sherburn Industrial Estate has been the main location for employment development since 2004 and is subject to further industrial growth at present. However, during the past 15 years, there has been no provision of dedicated HGV parking and it is highly unlikely to happen without investment from the private sector
- Creation of jobs for local people
- The proposed farm shop would help sustain local farmers.
- The proposal would ease traffic to the BP fuel station in South Milford increasing highway safety in that area.

### **3. SITE CONSTRAINTS**

#### **Constraints**

- 3.1 The application site is located outside the defined development limits of any settlements and is located within the West Yorkshire Green Belt.
- 3.2 The application site is located within a Locally Important Landscape Area.
- 3.3 Overhead cables currently cross the site from north to south. A Yorkshire Water easement runs along the northern boundary of the site.
- 3.4 A fenced bridleway (35.59/13/1) runs along the southern and eastern boundaries linking into an underpass under the A1(M) at the northeast corner of the site and a bridge over the A63 towards the southwest corner of the site. A public footpath runs adjacent to the western boundary (35.59/17/1). A non-designated footpath runs along the northern boundary in-between existing tree planting.
- 3.5 The application site is located within Flood Zone 1, which has a low probability of flooding.
- 3.6 The land within the application site is classified as being Grade 2 (Very Good) in accordance with the Natural England Agricultural Land Classification. However, an Agricultural Land Classification Survey has been undertaken, which sets out that the land is actually Subgrade Grade 3b (Moderate).

### **4. POLICY CONSIDERATIONS**

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states *"if regard is to be had to the development plan for the purpose of any determination to be*

*made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".*

- 4.2 This is recognised in the National Planning Policy, at paragraph 11 of the NPPF, with paragraph 12 stating that the presumption in favour of sustainable development contained in paragraph 11 does not change the statutory status of the development plan as the starting point for decision making. It goes to state at paragraph 12 that where a planning application conflicts with such a plan, permission should not usually be granted unless material considerations in a particular case indicate otherwise. This application has been considered against the 2021 NPPF and, in particular, the sections listed below.
- 4.3 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework -
- "219. ....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*
- 4.4 The development plan for the Selby District comprises various documents including the Selby District Core Strategy Local Plan (adopted 22nd October 2013), those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy, the Minerals and Waste Joint Plan (adopted 16 February 2022), and the adopted neighbourhood plans (none of which are relevant to this site).
- 4.5 On 17 September 2019 the Council agreed to prepare a new Local Plan. The timetable set out in the updated Local Development Scheme envisages adoption of a new Local Plan in 2024. Consultation on issues and options took place early in 2020 and further consultation took place on preferred options and additional sites in 2021. The Pre-submission Publication Local Plan was subject to formal consultation that ended on 28th October 2022. The responses are currently being considered. Providing no modifications are proposed, the next stage involves the submission to the Secretary of State for Examination.
- 4.6 Paragraph 48 of the NPPF states that weight may be given to relevant policies in emerging plans according to: a) the stage of preparation; b) the extent to which there are unresolved objections to the policies; and c) the degree of consistency of the policies to the Framework. Given the stage of the emerging Local Plan, the policies contained within it are attributed limited weight and as such are not listed in this report.

### **Selby District Core Strategy Local Plan (2013)**

- 4.7 The relevant Core Strategy Policies are:
- SP1 – Presumption in Favour of Sustainable Development
  - SP2 – Spatial Development Strategy
  - SP3 – Green Belt
  - SP12 – Access to Services, Community Facilities and Infrastructure
  - SP13 – Scale and Distribution of Economic Growth

- SP15 – Sustainable Development and Climate Change
- SP16 – Improving Resource Efficiency
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

### **Selby District Local Plan (2005)**

4.8 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- ENV3 – Light Pollution
- ENV13 – Development Affecting Ponds
- ENV15 – Conservation and Enhancement of Locally Important Landscape Areas
- ENV28 – Other Archaeological Remains
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads
- T8 – Public Rights of Way
- T10 – Motorway Service Areas
- VP1 – Vehicle Parking Standards
- VP4 – Parking for People with Disabilities

### **Minerals and Waste Joint Plan (2022)**

4.9 The relevant Minerals and Waste Joint Plan Policies are:

- S01 – Safeguarding minerals resources
- S02 – Developments proposed within Minerals Safeguarding Areas
- S07 – Consideration of applications in Consultation Areas
- D13 – Consideration of applications in Development High Risk Areas

### **National Policy and Guidance**

4.10 The relevant sections of the National Planning Policy Framework (2021) are:

- 2 – Achieving sustainable development
- 4 – Decision making
- 6 – Building a strong, competitive economy
- 9 – Promoting sustainable transport
- 11 – Making effective use of land
- 12 – Achieving well-designed places
- 13 – Protecting Green Belt land
- 14 – Meeting the challenge of climate change, flooding and coastal change
- 15- Conserving and enhancing the natural environment
- 16 – Conserving and enhancing the historic environment

4.11 The National Planning Policy Framework (NPPF) contains up to date Green Belt policy to which Core Strategy Local Plan Policy SP3 refers. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved other than in very special circumstances which will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Substantial weight is to be given to any harm to the Green Belt (paragraphs 147 and 148). The construction of new buildings is inappropriate other than for specified exceptions, none of which embrace buildings at an MSA (paragraph 149). Certain other forms of development, which include local transport infrastructure which can demonstrate a requirement for a Green Belt location, are not inappropriate provided they preserve openness and do not conflict with the purposes of including land in the Green Belt (paragraph 150).

- 4.12 Department for Transport Circular 02/2013 “The Strategic Road Network and the Delivery of Sustainable Development (C2/2013)” sets out Government policy relating to motorways and trunk roads. Annex B addresses roadside facilities for road users on motorways and all-purpose trunk roads (APTR). The Circular is consistent with the NPPF in identifying the primary function of roadside facilities as supporting the safety and welfare of the road user. Government advice is that motorists should stop and take a break of at least 15 minutes every two hours. The network of service areas on the SRN has been developed on the premise that opportunities to stop are provided at intervals of about half an hour. However, timing is not prescriptive as travel may take longer on congested parts of the network. Thus, the recommendation is that the maximum distance between motorway service areas should be no more than 28 miles. Further, given that speed limits vary on the SRN, the recommended maximum distance between signed services on trunk roads should be the equivalent of 30 minutes driving time. The distances are considered appropriate regardless of traffic flows or route choice (paragraphs B4-B8).

## **5. APPRAISAL**

- 5.1 An application for a scoping opinion in relation to the proposed development was submitted to the Local Planning Authority on 18 April 2019 and a decision issued on 23 May 2019.
- 5.2 The application has been accompanied by an Environmental Statement (ES). The ES has been reviewed in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and has been found to be satisfactory in terms of Schedule 4. None of the statutory or other consultees has suggested that the ES is in any way inadequate.
- 5.3 The main issues to be taken into account when assessing this application are:
- The Principle of the Development
  - Impact on the Openness of the Green Belt and the Purposes of Including Land Within the Green Belt
  - Agricultural Land Assessment
  - Landscape and Visual Impact
  - Impact on Heritage Assets
  - Ecological Considerations
  - Impact on Highway Safety
  - Impact on Public Rights of Way
  - Impact on Amenity of Adjoining Occupiers
  - Flood Risk and Drainage
  - Land Contamination
  - Minerals and Waste
  - Socio-Economic Considerations

- Consideration of Very Special Circumstances

### **The Principle of the Development**

- 5.4 Policy SP1 of the Core Strategy outlines that “*when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*” and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF.
- 5.5 The application site is located outside the defined development limits of any settlements and is located within the West Yorkshire Green Belt.
- 5.6 Policy SP2A (d) of the Core Strategy states:
- “In Green Belt, including villages washed over by the Green Belt, development must conform with Policy SP3 and national Green Belt policies”.*
- 5.7 Policy SP3B of the Core Strategy states:
- “In accordance with the NPPF, within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted”.*
- 5.8 The decision-making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.
  - b) If the development is appropriate, the application should be determined on its own merits.
  - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless there are very special circumstances which clearly outweigh the harm to the Green Belt by reason of its inappropriateness, and any other harm identified.
- 5.9 Paragraph 149 of the NPPF states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than for specified exceptions. The application proposes the construction of new buildings, none of which would fall within any of the exceptions listed in paragraph 149 of the NPPF; therefore, assessed against that paragraph the proposal comprises inappropriate development.
- 5.10 Paragraph 150 of the NPPF states that certain other forms of development are also not inappropriate, meaning forms other than the construction of new buildings. Since the application proposes the construction of new buildings, paragraph 150 of the NPPF would not apply.
- 5.11 Policy T10 of the Selby District Local Plan specifically relates to proposals for Motorway Service Areas and states:

*“The Council will consider proposals for the establishment of facilities to meet the needs of motorway travellers on their merits and subject to other provisions of the plan. A motorway service area is inappropriate development in the Green Belt and would not be permitted under Policy GB2. Such a facility would only be considered in very special circumstances”.*

- 5.12 Whilst Policy GB2 of the Local Plan is not a saved policy, it was replaced by SP3 of the Core Strategy. Having regard to the above, the proposal would therefore comprise inappropriate development within the Green Belt. This is not disputed by the applicants.
- 5.13 Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 5.14 Paragraph 148 of the NPPF states that substantial weight should be given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.15 This report will go on to identify if there is any other harm resulting from the proposals before considering the very special circumstances and weighing these in the planning balance.

#### **Impact on the Openness of the Green Belt and the Purposes of Including Land Within the Green Belt**

- 5.16 Paragraph 137 of the NPPF states that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- 5.17 The application site currently comprises an agricultural field. The proposal would result in a substantial part of the site being covered by built development in the form of buildings and hard surfaces for parking and vehicular and pedestrian circulation. This would have a significant impact on the spatial aspect of the Green Belt. The site can be viewed from public vantage points to all sides and there would be significant impact on the visual aspect of the Green Belt from the scale of the built development. The proposed development is of long-term duration and would have permanence. Furthermore, given the nature of the proposed development, being an MSA that would be open 24 hours a day, 365 days a year, there is unlikely to be any time when there would be no activity at the site from vehicles or pedestrians, or any time when the extensive areas of parking would be empty, albeit that it would be likely to be quieter late at night and in the early hours of the morning.
- 5.18 Having regard to the above, it is considered that the proposed development would result in substantial harm to the openness of the Green Belt.
- 5.19 The applicant agrees that the proposed development would result in substantial harm to the openness of the Green Belt but considers that this harm would be ‘localised’ - in extent that they consider it is directed to a parcel of land which performs weakly against the five purposes of Green Belt, having regard to the contents of ‘The Draft Stage 1: Selby District Green Belt Study’ published as part of the focused engagement consultation (29 June 2015 - 10 August 2015). It should

be noted that Green Belt boundaries have not been amended since the aforementioned study.

- 5.20 Paragraph 138 of the NPPF states that the Green Belt serves five purposes, those being: a) to check the unrestricted sprawl of large built-up areas; b) to prevent neighbouring towns from merging into one another; c) to assist in safeguarding the countryside from encroachment; d) to preserve the setting and special character of historic towns; and e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 5.21 It is considered that the proposed development would conflict with purpose c) of paragraph 138 of the NPPF – to assist in safeguarding the countryside from encroachment. The presence of the motorway on the eastern boundary of the site is noted, along with commercial and residential development along the A63 (Great North Road); however, the proposed development would result in substantial built development in an area which is currently void of development and is considered to result in a significant encroachment in the countryside in conflict with purpose c) of paragraph 138 of the NPPF. It is considered that the proposed development would result in substantial harm to this purpose of including land within the Green Belt.
- 5.22 The applicant agrees that there would be some harm to purpose c) of paragraph 138 of the NPPF but contends that the level of harm would be limited, in extent that they consider it is directed to a parcel of land which performs weakly against the five purposes of Green Belt, having regard to the contents of 'The Draft Stage 1: Selby District Green Belt Study' published as part of the focused engagement consultation (29 June 2015 - 10 August 2015). Again, it should be noted that Green Belt boundaries have not been amended since the aforementioned study.

### **Agricultural Land Assessment**

- 5.23 Policy SP18 of the Core Strategy relates to 'Protecting and Enhancing the Environment' and states:

*"The high quality and local distinctiveness of the natural and man-made environment will be sustained by... [amongst other things] ...steering development to areas of least environmental land agricultural quality".*

This accords with paragraph 174 of the NPPF which requires planning policies and decisions to contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystems services, including the economic and other benefits of the best most versatile agricultural land.

- 5.24 The application site comprises approximately 5.2 hectares of undeveloped agricultural land.
- 5.25 The land within the application site is classified as being Grade 2 (Very Good) in accordance with the Natural England Agricultural Land Classification. However, this mapping is intended for strategic and regional purposes only and is not suited for interpretation at the field scale. As such, the application has been supported by an Agricultural Land Classification Report, dated January 2019, prepared by ADAS. The submitted Report concludes that the agricultural land across the whole

application site is actually Subgrade Grade 3b (Moderate). This is not Best Most Versatile (BMV) agricultural land.

- 5.26 Having regard to the above, the proposal would not result in the loss of any BMV agricultural land.
- 5.27 It should be noted that Natural England have been consulted on the application but have not provided any specific comments with regards to the agricultural land assessment. Generic advice on BMV agricultural land and soils is provided, which essentially directs the decision maker (the Local Planning Authority in this instance) to national planning policy contained within the NPPF.
- 5.28 The application has also been supported by a Farming Circumstances Report, dated May 2022, prepared by ADAS. This sets out that the land within the application site and the land to the east of the A1(M) to be utilised for off-site biodiversity net gain is owned by a local landowner and is not part of a farm business. It was purchased as an investment opportunity in 2008 and the landowner does not derive a sustainable income from agricultural activities on the land. The land is currently managed as low input grassland and grazed with sheep by an acquaintance. The land is not drained and due to intermittent waterlogging is considered to be of poor quality and only suitable for grazing.
- 5.29 The Report sets out that the proposed development would result in loss of all of the agricultural grazing land within the application site to the west of the A1(M). The land to the east of the A1(M) could remain available for grazing, albeit some available land would be lost to provide for off-site biodiversity net gain. The Report sets out that for the landowner this is not significant as he does not operate an agricultural business reliant on the land and does not derive an income from the land other than a small amount of rent. Should the proposed development be granted and implemented, the existing grazer would have to find alternative land for grazing in lieu of that which currently takes place at the application site. As the existing grazer currently uses land from a number of sources, it is not considered that this would present an issue.

### **Landscape and Visual Impact**

- 5.30 Saved Policy ENV1 of the Selby District Local Plan requires development proposals to take account of (1) the effect upon the character of the area and (4) the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping. Saved Policy ENV3 of the Selby District Local Plan requires development proposals involving outdoor lighting to (4) not detract significantly from the character of a rural area. Saved Policy ENV15 of the Selby District Local Plan requires proposals within Locally Important Landscape Areas to conserve and enhance the character and quality of the landscape. It requires particular attention to be paid to the design, layout and landscaping of development and the use of materials in order to minimise its impact and to enhance the traditional character of buildings and landscape in the area. Policy SP18 of the Core Strategy seeks to protect and enhance landscape character and setting of areas of acknowledged importance. Policy SP19 of the Core Strategy requires proposals for new development to contribute to enhancing community cohesion by achieving high quality design and having regard to local character, identity, and context of its surroundings. Specifically, Policy SP19 (e) of the Core Strategy requires new and existing landscaping to be incorporated as an integral part of the design of the schemes. Policy SP12 of the Core Strategy encourages opportunities to protect,

enhance and better join up existing Green Infrastructure, as well as creating new Green Infrastructure, in addition to the incorporation of other measures to mitigate or minimise the consequences of development.

- 5.31 These local policies accord with paragraph 130 of the NPPF which seeks to ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not discouraging appropriate innovation or change; and paragraph 174 of the NPPF indicates that the intrinsic character and beauty of the countryside should be recognised.
- 5.32 The proposed development is as described from paragraph 1.5 of this report - 'The Proposal' - and as shown on the submitted drawings. It should be noted that the application has been amended and updated throughout the application process in response to comments from the Council's Landscape Architect.
- 5.33 The application has been supported by a number of documents including an Environmental Impact Statement and subsequent Addendums; a Landscape and Visual Impact Assessment (reference 1847 Rev V3), dated April 2022, prepared by Leeming Associated Ltd; a Landscape Strategy (reference 1847 A) dated May 2022, prepared by Leeming Associated Ltd; a Landscape Masterplan (drawing no. 1847.06N); an Arboricultural Survey Report (reference SF2665 Selby Fork Revision D – May 2022) and Arboricultural Impact Assessment (drawing no. AIA02) prepared by Smeeden Foreman; and a Tree Survey Plan (drawing no. TS02).
- 5.34 The Council's Landscape Architect reviewed the most up-to-date version of the scheme alongside its accompanying documents and raises a landscape objection.
- 5.35 The proposed development is not considered to sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the Locally Important Landscape Area (LILA); would impact on local character and setting and would not provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. Furthermore, the proposed development would adversely impact on the openness and permanence of the Green Belt. The overall effectiveness of the proposed Landscape Strategy in this context is questionable. The scheme is considered to have a number of insufficiently resolved landscape issues relating to the siting of main built structures in the landscape; site material and ground modelling; existing trees, shrubs and hedgerows to be protected and retained; proposed green infrastructure planting, proposed public right of way diversion; proposed green infrastructure for parking areas; proposed lighting; and long-term maintenance and management. These will be discussed further below.
- 5.36 It is not considered that the applicant has provided a sufficiently robust landscape strategy or green infrastructure to demonstrate that adverse effects could be mitigated, offset or compensated, secured through long-term landscape maintenance and management and which take account of the landscape's sensitivity.
- 5.37 Given the sensitive context of the site and stated landscape and environmental aspirations of the proposed development it seems reasonable and possible that more could be done to reduce and offset the likely adverse landscape and visual effects of the scheme.

- 5.38 While the scope and methodology of the submitted Landscape and Visual Impact Assessment (LIVA) is generally agreed, the overall summary of adverse effects is not agreed as it is considered that these are understated (the applicant considers the overall adverse impact on landscape character and visual intrusion is minor and limited). It is also considered that there is an overly optimistic view of how the scheme could be integrated into the landscape and of the effects of the proposed development on the LILA. The Council's Landscape Architect does not agree that the potential impact of the proposed development on the LILA is neutral or that the proximity to the A1(M) diminishes the contribution that this area makes to the LILA. The proposed development would not reduce the adverse landscape and visual effects to within acceptable limits due to the Green Belt, scale and prominent location of the proposed development, and sensitivity of the LILA.

#### Landscape and Visual Effects

- 5.39 The site is a northeast facing slope and views extend several kilometres towards Steeton Hall and South Milford to the north-east. The proposed amenity building would be located on the most elevated part of the site. As set out earlier in this report, the majority of the amenity building would sit within a natural mounded shape with a green sedum roof. The maximum height of the mounding over the amenity building would be approximately 12.5 metres, with a maximum exposed structure at approximately 9.5 metres. The fuel filling station would be located towards the northeast corner of the site. It would include a kiosk and fuel pumps, which would be sited under a canopy with a green sedum roof finish supported by gabion walls. The canopy would have a maximum height of approximately 8 metres. A smaller drive-through coffee unit would be located towards the southeast corner of the site. The buildings would be constructed in stone incorporating glass curtain walling. Vehicular parking to the north of the amenity building would be terraced with raised planter walls forming a hard built feature running in horizontal bands stepping up the hillside when seen from lower levels. It is considered that the curved green roofs of the amenity building and fuel filling station would have a limited benefit in helping to integrate the scheme into the landscape, with vertical walls, windows and other build structures being clearly visible from a number of locations around the site, particularly from the main site entrance, wider and lower levels from the north and east side of the site and from within the A1(M) corridor.
- 5.40 The LVIA describes a highly negative change in the character of the site which extends to the wider landscape in the vicinity of the site as a moderate negative effect. Proposed lighting and signage will contribute to this impact (LVIA paragraphs 21.3 and 21.6). It is likely that these adverse visual effects would extend more widely to the area set out on the LVIA Visual Envelope Map which is significant in context of the sensitivity of the LILA and incorporates potential views from a number of local roads, the A1(M), several residential properties, public rights of way, and Steeton Hall.
- 5.41 The application site is located within the Limestone Ridge LILA, designated for its special landscape character and qualities. The LILA was reviewed in 2019 (Selby District Local Landscape Designation Review, LUC, 2019) with recommendations to '*resist encroachment of urban areas, and/or large-scale commercial development, on to higher, more visible ground*', while maintaining the LILA designation across the area of the site. The LILA is an area landscape designation which reflects the special qualities of the Magnesian Limestone Ridge (including the scenic quality and visual diversity created by the more undulating topography and variety of

woodland, pastoral and arable land). In this location the A1(M) is in cutting and relatively well concealed from wider parts of the LILA. In contrast and more significantly, the application site is located in a prominent location on the limestone ridge, visually and spatially connected to the wider landscape and LILA to the north-east. This part of the LILA is viewed by thousands of road drivers and passengers every day travelling along the motorway corridor and nearby junction who experience the special qualities of this landscape. The design and layout of the proposed development is intended to be a modern motorway service station development with large buildings, extensive hard surfacing, car parking and high-level lighting. It is not considered that this would protect local character and setting or enhance the traditional character of buildings and landscape within the LILA.

### Landscape Strategy

- 5.42 The proposed Landscape Strategy and green infrastructure proposals are not considered to be sufficiently robust to mitigate the likely significant adverse landscape and visual effects of the proposed development. The Landscape Strategy document outlines that the overall aim of the proposed scheme is to *'create a high-quality landscape setting for the facility with minimum impact on the landscape character and visual intrusion in the countryside'*. It then goes on to discuss the landscape design principles and aspirations more fully.
- 5.43 The overall effectiveness of the Landscape Strategy in this context is questionable. The revised scheme maintains a number of insufficiently resolved landscape issues as follows.

### Considered siting of main built structures in the landscape

- 5.44 The proposed amenity building would be located on the most elevated part of the site and is likely to adversely affect local landscape character and setting and the openness of the Green Belt. The Council's Landscape Architect considers that contrary to statements made in the Landscape Strategy (paragraph 5.2), the proposed buildings are likely to be visible with height and massing which interrupts the natural ridgeline, visibly extends to the wider landscape in the vicinity of the site to the area set out on the LVIA Visual Envelope Map. The proposed amenity building and fuel filling station located within close proximity to site boundaries which limits space for boundary screen planting and necessary stand-off needed for maintenance and tree planting establishment. Proposed planting at the main site entrance has been removed throughout the application process to allow vehicle visibility splays. This would cause open and unrestricted views into the main access onto vertical built walls of the amenity building, the delivery area and across the caravan and coach parking areas.
- 5.45 It is considered that the curved green roofs of the amenity building and fuel filling station would have a limited benefit in helping to integrate the scheme into the landscape, with vertical walls, windows and other built structures being clearly visible from a number of locations around the site, particularly from the main site entrance, wider and lower levels from the north and east side of the site and from within the A1(M) corridor.

### Site material and ground modelling

- 5.46 The application does not provide sufficiently clear proposals for proposed site levels, grading and soil resource management (only building finished floor levels

and existing site contours are shown on the plans). Significant excavation and regrading is likely to be needed around the proposed amenity building with the levels indicated.

- 5.47 The existing site is sloping and extensive areas of soil are likely to be excavated for construction of buildings, roads, parking and hard surfacing. Some boundary earthworks are indicated on the landscape proposals drawings but the overall cut and fill volume is not clear particularly when considering the area of the proposed amenity building, cut needed for the lower delivery area, terracing of the car parking area and proportion of hard surfacing across the site.
- 5.48 Site soils will need to be retained to support the proposed landscape scheme. It is unclear if a volume of material would need to be transported and removed from site, which is not explained or assessed in the application documents, LVIA or Landscape Strategy. The Landscape Strategy (paragraph 6.1) states “*all material arising from the excavation on site will be re-used within the site boundaries avoiding the need to move material off site*”. However, without further detailed information it is unclear if this is possible. The applicant considers this matter could be dealt with via condition should planning permission be granted.

#### Existing trees, shrubs and hedgerows

- 5.49 It is not clear from the application how existing trees and hedgerows around the site would be retained. Existing boundary trees and vegetation should be protected and retained where possible. This is particularly important on this site because of the dependence on existing established planting needed to screen the proposed development in this location. An updated Arboricultural Survey Report sets out that a proportion of the existing boundary Ash trees are affected by Ash dieback and there are recommendations for removal and replacement. Removal of boundary trees would inevitably reduce screening of the site and increase visibility of the scheme.

#### Proposed green infrastructure planting

- 5.50 The proposed boundary tree and woodland screen planting, as shown on the Landscape Masterplan is not considered to be sufficient to mitigate adverse landscape and visual effects of the scheme. Landscape proposals and planting at the main site entrance and to the rear of the amenity building would not be considered to sufficiently screen or filter local views of the buildings, particularly in winter months when trees are not in leaf. Furthermore, it is considered that there is insufficient space between the entrance road and the amenity building to allow for any meaningful planting to develop as a screen and to buffer views of building walls and into the wider site. The proximity and lack of standoff between proposed planting and buildings further restricts the potential for trees and planting to develop due to foundation constraints and ongoing maintenance pressures. Although not as elevated as the proposed amenity building, there are similar boundary and screening issues with the proposed fuel filling station and drive through coffee unit buildings. In several locations at key pinch points adjacent to the proposed buildings, proposed screen planting is approximately 7m depth with less than 3m standoff between trees and buildings for maintenance access, which is not considered sufficient. At least 10 metres depth is needed for woodland screen planting to ensure that a woodland can develop sufficient height and structure needed for all-year round screening of the site. This planting depth should be increased when adjacent to buildings and roads to allow more structure, height and

natural variation to the scheme. Additional standoff would also be needed for maintenance access and to allow space for trees to develop without maintenance and clearance problems (typically at least 5-10m standoff depending on species and ground conditions).

#### Proposed public right of way diversion

- 5.51 The proposed bridleway diversion would result in significant hedgerow and tree loss and put pressure on existing and proposed boundary screening through ongoing maintenance to ensure clearance.

#### Proposed green infrastructure for parking areas

- 5.52 Proposals for specimen tree planting within the site are not considered to be sufficiently robust to ensure successful establishment and as a long-term tree planting proposal. Proposed specimen tree planting across the site is a key element of the proposed Landscape Strategy and green infrastructure proposal.
- 5.53 The proposed car park area trees are to be planted within 1.5m wide raised built planters together with a wire fence and hedgerow planting. The poor growing conditions are likely to result from the restricted soil rooting area, dry ground conditions caused by raised retaining walls and foundations needed. There are similar concerns about proposed specimen trees set within hard paved areas where trees typically struggle to thrive.
- 5.54 Graded and planted slopes would be softer in appearance and allow better growing conditions (as shown in the Landscape Strategy document paragraph 8.10). Specimen trees need good ground conditions and sufficient soil volume and space to grow. The size of proposed specimen trees should be defined in the scheme proposals and be at a sufficiently mature size to have an immediate impact. Depending on species and growing conditions, larger trees may be slow to establish and take many years to develop and grow, needing extended establishment maintenance.

#### Proposed Lighting

- 5.55 Proposed night-time lighting is likely to be locally visible, adversely affecting the night-time rural landscape character and setting of the LILA. Low levels of night-time lighting are typical within the LILA and local landscape character area. While there are currently some elevated lighting columns immediately around the A63/A1(M) junction, the A1(M) corridor is unlit locally. The strong rural character throughout this landscape character area increases its sensitivity to build development. High scenic value and dark night skies also add to the sensitivity of the landscape character area and the LILA.
- 5.56 The proposed development will extend outdoor lighting northwards from the A63 junction across elevated parts of the site and eastwards down to the A1(M). Proposed lighting includes 6m high and 10m high lighting columns, with 10m high lighting columns located around the main vehicle access, coach/caravan parking areas and HGV parking areas.
- 5.57 Proposed outdoor lighting is described within the submitted Kingfisher Lighting Design Report. However, there is no explanation of how proposed outdoor lighting

has been designed to reduce wider visual effects including views of reflected light from hard surfaces and views of the lighting source when viewed from lower levels.

- 5.58 The LVIA considers the effects of lighting in context of saved Policy ENV3 of the Selby District Local Plan, describing a moderately significant increase in illumination on the site which would not significantly detract from the character of the area. However, the Council's Landscape Architect does not agree with this. The LVIA describes a highly negative change in the character of the site which extends to the wider landscape in the vicinity of the site as a moderate negative effect – the proposed outdoor lighting contributes to this impact. It is likely that adverse night-time lighting effects are likely to extend more widely to the area set out on the LVIA Visual Envelope Map, which is significant in context of the sensitivity of the LILA and incorporates potential views from a number of local roads, the A1(M), several residential properties, public rights of way, and Steeton Hall.

#### Long-term Maintenance and Management

- 5.59 Long-term landscape maintenance and management is needed for the life of the proposed development (beyond the initial establishment period) to ensure that proposed landscape mitigation is sufficiently retained and maintained.

#### Summary

- 5.60 Having regard to the above, the proposed development is not considered to sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the LILA; would impact on local character and setting and would not provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. Furthermore, the proposed development would adversely impact on the openness and permanence of the Green Belt. The overall effectiveness of the proposed Landscape Strategy in this context is questionable. It is therefore considered that the proposal would be contrary to saved policies ENV1, ENV3 and ENV15 of the Selby District Local Plan, Policies SP12, SP18, SP19 of the Core Strategy and national planning policy contained within the NPPF.

### **Impact on Heritage Assets**

#### Designated Heritage Assets

- 5.61 Policy SP18 of the Core Strategy requires, amongst other things, the high quality and local distinctiveness of the natural and man-made environment be sustained by: safeguarding and, where possible, enhancing the historic and natural environment including the landscape character and setting of areas of acknowledge importance; and conserving those historic assets which contribute most to the distinct character of the District. Policy SP19 of the Core Strategy requires, amongst other things, that proposals positively contribute to an area's identity and heritage in terms of scale, density and layout.
- 5.62 Relevant policies within the NPPF which relate to the effect of development the setting of heritage assets include paragraphs 194 to 204.
- 5.63 The application site itself does not contain any designated heritage assets. Furthermore, there are no designated heritage assets located within a 1km search area of the application site.

- 5.64 It is considered that the proposal would have any impact on the significance of any designated heritage assets or their setting. The proposal would therefore be in accordance with Policies SP18 and SP19 of the Core Strategy and national policy contained within the NPPF.

*Non-designated heritage assets (archaeology)*

- 5.65 Saved Policy ENV28 of the Selby District Local Plan requires proposals which affect sites of known or possible archaeological interest to be subject to archaeological assessment/evaluation. This accords with the requirements of paragraph 194 of the NPPF.
- 5.66 The application has been supported by an Archaeological Geophysical Survey, dated July 2020, prepared by RSK ADAS Limited and an Archaeology and Cultural Heritage Impact Assessment: 1<sup>st</sup> Addendum, dated May 2022, prepared by RSK ADAS Limited.
- 5.67 The County Archaeologist has reviewed the application and notes that the Archaeological Geophysical Survey has identified a number of modern anomalies including drains and former field boundaries. The types of archaeological feature anticipated on this site would have been rock cut ditches and pits and these would be expected to be visible had they been present. The County Archaeologist advises that this suggests that the development area has a low archaeological potential and therefore they raise no objections to the proposed development.
- 5.68 Having regard to the above, it is considered that the proposed development would not have any adverse impact on archaeological features in accordance with saved Policy ENV28 of the Selby District Local Plan and national planning policy contained within the NPPF.

**Ecological Considerations**

- 5.69 Saved Policy ENV1(5) of the Selby District Local Plan requires proposals to take account of the potential loss or adverse effect upon, inter alia, trees and wildlife habitats. Policy SP18 of the Core Strategy seeks to safeguard the natural environment and promote effective stewardship of the District's wildlife by, amongst other things, ensuring developments retain protect and enhance features of biological interest and provide appropriate management of those features and that unavoidable impacts are appropriately mitigated and compensated for on and off-site; and ensuring development seeks to produce a net gain in biodiversity by designing-in wildlife and retaining the natural interest of a site where appropriate.
- 5.70 This is reflected in the national policy at paragraph 174 of the NPPF, which requires planning decisions to contribute to and enhance the natural and local environment by amongst other things, protecting and enhancing valued landscapes, recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, and minimising impacts on and providing for net gains for biodiversity.
- 5.71 The application has been supported by an Environmental Impact Statement with subsequent Addendums; an Ecological Assessment (reference SF 2665), dated January 2019, prepared by Smeeden and Foreman; Ecology Species Specific and Botanical Surveys (reference SF 2665), dated November 2017, prepared by

Smeeden and Foreman; Ecology Updates (reference SF 2665 Revision B) dated July 2022, prepared by Smeeden and Foreman; and a Biodiversity Net Gain Assessment (which has been updated to reflect the current proposed development).

- 5.72 The County Ecologist has reviewed the application and has advised that they have no objections to the proposed development subject to a section 106 agreement and conditions relating to: pre commencement surveys to capture any changes to the baseline; a construction environmental management plan to include protection measures set out in the Environmental Impact Statement and its Addendum's for habitats and species; the submission of detailed habitat creation and establishment measures for the development site; the submission of a long-term monitoring and management plan for the life of the development with clear indicators of success and contingency plans should monitoring demonstrate that objectives for biodiversity have not been met; sufficient funding to ensure monitoring and management in the long term; lighting requirements; and details of offsite habitat creation, establishment, monitoring and management.
- 5.73 The proposed development would provide for 15% biodiversity net gain (provided on and off site through a combination of landscaping within the proposed development site and off-site habitat creation). This would be in excess of the 10% biodiversity net gain target.
- 5.74 It is noted that in their latest response, dated May 2021, Yorkshire Wildlife Trust raised a number of queries over the deliverability and maintenance of the off-site biodiversity net gain. Further information has been provided by the applicant to address these queries and while the Yorkshire Wildlife Trust have not provided a further response, the County Ecologist has considered the further information and is content that it satisfactorily addresses the queries raised.
- 5.75 Natural England has been consulted on the application and raises no objections. Natural England considers that the proposed development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. Generic advice on other natural environmental issues is provided, which essentially directs the decision maker (the Local Planning Authority in this instance) to national planning policy contained within the NPPF.
- 5.76 Subject to the aforementioned section 106 agreement and conditions, it is considered that the proposed development would not have any adverse impact on ecological considerations and would provide significant net gains for biodiversity in accordance with saved Policy ENV1 of the Selby District Local Plan, Policy SP18 of the Core Strategy, national policy contained within the NPPF, the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2017.

### **Impact on Highway Safety**

- 5.77 Saved Policies ENV1(2), T1 and T2 of the Selby District Local Plan require development proposals to have a suitable access and no detrimental impact on the existing highway network. This accords with the NPPF, which requires development proposals to have a safe and suitable access and only supports refusal of development proposals on highway grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe (paragraph 111).

- 5.78 The application has been supported by an Environmental Impact Statement with subsequent Addendums; a Transport Assessment with a subsequent Addendum; and a Staff Travel Plan.
- 5.79 Vehicular access to and from the MSA would be gained from a new arm on the westernmost roundabout at junction 42 of the A1(M), between the A63 to Leeds and the entry slip road to the A1(M) northbound.
- 5.80 The proposed MSA would change the level of demand on the slip roads at Junction 42 of the A1(M) and the roundabouts of the junction. The trip generation of the proposed development has been based upon a mainline turn in rate of 5.5% from the A1(M) and 2% from the A63. Following the addition of development traffic at the eastern roundabout, it has been concluded that this junction would operate over capacity. However, a mitigation scheme has been modelled which demonstrates how it could be made to work within capacity as a result of the proposed development. The western roundabout would operate within capacity following alterations to accommodate the vehicular access from a new arm on the roundabout.
- 5.81 Whilst it is expected that the majority of visitor trips to the development will be by car, due to its nature as an MSA, there is potential for staff trips to be made sustainably, as staff are likely to derive from local areas. Mitigation measures are proposed to encourage sustainable travel for staff.
- 5.82 Having regard to the above, the proposed highway mitigation measures for the scheme include:
- Improvements to the operation of the eastern roundabout to increase capacity at the roundabout. The entry width would be increased on the western arm of the roundabout from 7.6 metres to 8.4 metres.
  - A staff travel plan to encourage sustainable travel to and from the site by future employees.
  - A pedestrian footway/cycleway improvement would be provided adjacent to the A63 to the west of the proposed development to facilitate the sustainable movement of staff. It is proposed that the existing footway would be improved and widened between the site and the A63 footbridge which is located approximately 230m west from the site access point. Furthermore, a new footway/cycleway would be provided to the west of the footbridge, connecting with Selby Fork Roundabout.
- 5.83 The proposed highway mitigation measures would all be located either on land within the applicant's ownership or highway land and are thus considered to be deliverable.
- 5.83 Within the site, signage would separate the traffic, directing it to the appropriate parking area or required facility – this would be done from a roundabout within the centre of the site.
- 5.84 A stepped terraced car park would be located to the north of the amenity building and would provide 351 car parking spaces for the amenity building, including 25 spaces with electric charging points, 18 spaces for the disabled, 10 spaces for parent and child. There would be 20 bays for motorcycles and 10 cycle bays.
- 5.85 Other separate parking areas would be provided to accommodate 108 HGV spaces (to the north end of the site), 1 abnormal load bay (to the north of the fuel filling

station), 11 spaces for caravans and 12 spaces for coaches (to the east of the stepped car park between the fuel filling station and the drive through coffee unit).

- 5.86 The parking provisions for the proposed development have been informed by Schedule 1 of the DfT Circular 02/2013, 'The Strategic Road Network and the Delivery of Sustainable Development'. Current traffic flows dictate a demand for 318 car parking spaces, and 56 HGV parking spaces, in addition to a small number of spaces for other vehicle types. The expected traffic flows for 2032 would require an additional 33 car spaces, and 6 HGV spaces. This equates to a total requirement for 351 car parking spaces and 62 HGV spaces, in addition to a small number of spaces for other vehicle types.
- 5.87 However, the application proposes 108 HGV parking spaces in total – 46 of which are additional spaces provided in relation to the very special circumstances case put forward by the applicant, based around a need for HGV parking in the locality.
- 5.88 The table below shows the breakdown of the proposed parking provision. Those listed in the final column would be those provided as part of the proposed development:

	2022	2025	2032
Cars	318	329	351
HGV (Required for MSA)	56	58	62
HGV (Additional provided in relation to very special circumstances case)	46	46	46
Caravans	10	10	11
Coaches	11	12	12
Motorcycles	10	10	11
Abnormal Load	1	1	1

- 5.89 National Highways and NYCC Highways have been consulted on the proposals and have raised no objections subject to a section 106 agreement and conditions relating to: the construction of the site access to the westernmost roundabout at junction 42 of the A1(M); the provision of access, parking and maneuvering areas; local road network signing; provision of off-site highway mitigation measures; a construction management plan; access to and from the site; provision of a staff travel plan and contribution towards monitoring; diversion of the public right of way which intersects the proposed site access; use of the site; glare from lighting; landscaping; and a stage 3 road safety audit.
- 5.90 Subject to the aforementioned section 106 agreement and conditions, it is considered that the proposed development would not have an adverse impact on highway safety in accordance with saved Policies ENV1, T1 and T2 of the Selby District Local Plan and national policy contained within the NPPF.

### **Impact on Public Rights of Way**

- 5.91 Policy T8 of the Selby District Local Plan resists development which would have a significant adverse effect on any route in the district's public rights of way network unless alternative suitable provision can be provided.
- 5.92 A fenced bridleway (35.59/13/1) runs along the southern and eastern boundaries linking into an underpass under the A1(M) at the northeast corner of the site and a bridge over the A63 towards the southwest corner of the site. A public footpath runs

adjacent to the western boundary (35.59/17/1). A non-designated footpath runs along the northern boundary in-between existing tree planting.

- 5.93 The public footpath adjacent to the western boundary (35.59/17/1) lies predominantly outside the application site and would remain. The part that lies within the application site (to the south-west corner) is currently obstructed and would be opened up on the current alignment.
- 5.94 The non-designated footpath which runs along the northern boundary in-between existing tree planting lies outside the application site and would remain.
- 5.95 The fenced bridleway (35.59/13/1) along the southern and eastern boundaries would be diverted as part of the proposed development, given the proposed vehicular access to and from the MSA would be gained from a new arm on the westernmost roundabout at junction 42 of the A1(M) which would intersect it. The diverted public right of way (bridleway) would lie adjacent to the north and western boundaries of the site, as shown on the submitted plans. The details of the public right of way (bridleway) diversion are subject to agreement through a separate application (reference: 2020/0045/PROW).
- 5.96 The Public Rights of Way Officer has been consulted on the application and raises no objections to the principle of the proposed public right of way diversion. There are ongoing discussions between the applicant, the District Council and the Public Rights of Way Officer regarding the detail of the proposed public right of way diversion to enable a draft Order to be produced as part of application reference 2020/0045/PROW. Once made, the Order would be subject to the required consultation. If no objections are received the Order would be confirmed, allowing the diversion works to be carried out on site, after which they would be inspected by the Public Rights of Way Officer to determine whether they have been satisfactorily completed before the Order is certified.
- 5.97 Having regard to the above, it is considered that the proposed development would not have an adverse impact on existing public rights of way in accordance with saved Policy T8 of the Selby District Local Plan.

### **Impact on Amenity of Adjoining Occupiers**

- 5.98 Saved Policy ENV1(1) of the Selby District Local Plan requires development proposals to take account of the amenity of adjoining occupiers. Saved Policy ENV2 resists development which would give rise to unacceptable levels of noise or nuisance unless satisfactory remedial or preventative measures are incorporated as an integral element of the scheme. Policy ENV3(3) requires any proposals for outdoor lighting to not have a significant adverse effect on local amenity.
- 5.99 The nearest sensitive receptors to the application site are:
- occupants of residential properties near the application site boundary (the closest is approximately 130m to south-east of application site boundary adjacent to Lumby Garden Centre);
  - commercial premises near to the application site boundary (the closest are Active House approximately 20m to north-west of application site boundary; South Milford Hotel approximately 40m to north west of application site boundary; Atkinsons approximately 200m to the north west of the application site boundary; and Lumby Garden Centre approx. 140m to the south east of the application site boundary).

## Noise

- 5.100 The application has been supported by a Noise Impact Assessment (NIA) (reference 297346-RSK-RP-004-(00)), dated July 2022, prepared by RSK Acoustics. A baseline noise survey was undertaken at site and within the wider study area to establish the pre-development noise climate. This was used to inform the NIA. In terms of construction noise, an assessment of construction induced noise levels was undertaken based on the anticipated activities that would take place during the primary phases of work. The assessment identified that the unmitigated construction activities have the potential to give rise to temporary significant adverse effects and therefore a number of mitigation measures are proposed. In terms of operational noise, an assessment of operational phase road traffic noise levels was undertaken for the road links in the vicinity of the application site. The change in vehicle movements attributable to the introduction of the development would be most pronounced on the slip roads of Junction 42 of the A1(M), although the increases are not predicted to give rise to significant adverse effects. The NIA notes that the operation of the MSA is not predicted to result in significant noise increases on the mainline carriageways of the A1(M). During the operation of the MSA there would be a number of new noise sources which could potentially influence the acoustic environment at surrounding noise sensitive receptors. However, following the introduction of mitigation measures in the form of a noise barrier along the western boundary of the HGV parking area, the residual noise levels are not predicted to give rise to significant adverse effects.
- 5.101 The Council's Environmental Health Officer has been consulted on the application and has advised that they have no objections to the proposed development in respect of noise impact, subject to four conditions relating to: (1) working hours; (2) a Construction Environmental Management Plan; (3) cumulative level of sound from all plant and equipment associated with the proposed development; and (4) the development being carried out in accordance with the submitted Noise Impact Assessment.

## Air Quality

- 5.102 The application has been supported by an Air Quality Assessment (AQA) (reference 444813-02 (00)), dated July 2022, prepared by RSK. This includes a qualitative assessment of construction phase impacts and of operational phase impacts (air quality impacts attributable to changes in vehicular traffic and building emissions associated with the operation of the proposed development). During the construction phase, the potential risk of dust impacts was predicted to be a maximum of 'low risk' as per the IAQM guidance. With mitigation measures, the significance of the residual impacts associated with the construction phase of the development is considered to be 'not significant'. During the operational phase, the key issue identified was the impact of the increase in emissions from road traffic on the nearby sensitive receptors. Based on the findings of this comparison and the existing background air quality, it was concluded that the proposed development is likely to have an insignificant impact on air quality at existing and proposed sensitive receptors once it is operational.
- 5.103 The Council's Environmental Health Officer has been consulted on the application and has advised that they have no objections to the proposed development in respect of air quality impact, subject to a condition requiring a Construction Environmental Management Plan.

### Outdoor Lighting

- 5.104 The proposed development would incorporate outdoor lighting. There are no objections to the impact of the outdoor lighting on the amenity of adjoining occupiers.
- 5.105 Subject to the aforementioned conditions, it is considered that the proposed development would not have an adverse impact on the amenity of adjoining occupiers in accordance with saved Policies ENV1(1), ENV2 and ENV3(3) of the Selby District Local Plan and national planning policy contained within the NPPF.

### **Flood Risk and Drainage**

- 5.106 The most up-to-date policy in relation to flooding matters is the overarching principles set out in the Core Strategy and national planning policy contained within Chapter 14 of the NPPF.
- 5.107 From a search of the Environment Agency Flood Maps, it is confirmed that the application site is located within Flood Zone 1, which has a low probability of flooding.
- 5.108 Paragraph 167 of the NPPF requires local planning authorities to ensure flood risk is not increased elsewhere when determining planning applications and therefore requires certain applications to be supported by site specific flood risk assessments. This includes all proposals in Flood Zone 1 where the site exceeds 1 hectare.
- 5.109 The application has therefore been supported by a Flood Risk Assessment (reference 881673-R1(02)-FRA), dated May 2022, prepared by RSK. This has been reviewed by the Environment Agency, who raise no objections to the proposed development subject to a condition regarding the discovery of any unexpected contamination, and an informative regarding petrol filling stations.
- 5.110 The application has also been supported by a Drainage Strategy Report (reference 218255 Rev H), dated May 2022, prepared by Baxter Glaysher Consulting and a Layout Drainage and Services Strategy (reference 218255 DO2 Rev K), prepared by Baxter Glaysher Consulting.
- 5.111 In terms of foul drainage, a sewage pumping station is proposed to facilitate a connection to the public sewer network. Most of the discharge connections across the site would be from the toilets and trading units located within the amenity building. These would be gravity drained to a central collection point within the delivery/service yard area. From here the discharge would flow to a below ground storage tank, linked to the sewage pumping station. The discharge would then be pumped with a controlled peak flow volume of 6lt/sec from the pump chamber to the main Yorkshire Water Sewer connection, the closest of which is expected to be located to the west of the site in Great North Road, the A63. Due to the location and level of the Drive Thru unit, gravity drainage direct to the below ground storage tank is expected to be possible. Due to the location and level of the fuel filling station, a pumped rising main would need to be used for the foul discharge from the sales building, which will be collected locally using gravity drainage to the pump chamber then pumped to a collection manhole prior to the main below ground storage unit in the delivery/service yard area of the amenity building. With a peak flow discharge of 6lt/sec the final design volume of the on-site storage requirements for the foul

drainage would need to be agreed with Yorkshire Water. The sewage pumping station and rising main would be designed in accordance with Yorkshire Water Adoptable Standards.

- 5.112 In terms of surface water drainage, sustainable drainage systems are proposed to be utilised, including on-site attenuation within the water feature close to the amenity building and the balancing pond to the northern end of the site. The main sustainable drainage system technique to be used across the site is infiltration, utilising the hard surfaces of the various areas by using permeable block paving or porous asphalt surfacing. Both surfaces being constructed on areas of graded stone sub-base with geotextile layers. Using this type of system to drain the hard surface areas provides additional on-site attenuation, assisting in ensuring the final volume of water discharging into the receiving water course does not exceed that of the green field run-off, generally taken as 1.4lt/sec/hectare.
- 5.123 Yorkshire Water, the Internal Drainage Board and the Local Lead Flood Authority have been consulted on the application.
- 5.114 Yorkshire Water raise no objections to the proposals, subject to conditions to relating to measures to protect the public water supply infrastructure laid within the site boundary; separate systems for drainage of foul and surface water on and off site; pumped foul water discharge not exceeding 6lt/sec; no piped discharge of surface water from the application site until works to provide a satisfactory outfall have been completed; and surface water runoff from hard standing not discharging into a public surface water sewer network and passing through an oil , petrol and grit interceptor/separator of adequate design.
- 5.115 The Internal Drainage Board note that the applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area. General advice on the surface water drainage proposals is then provided. If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year. If the surface water is to be discharged to any watercourse within the Drainage District, consent from the IDB would be required in addition to planning permission and would be restricted to 1.4 litres per second per hectare or greenfield runoff. No obstructions within 7 metres of the edge of a watercourse are permitted without consent from the IDB.
- 5.116 The Local Lead Flood Authority have advised that further information is required prior to the determination of the application. Based on the submitted information, the Local Lead Flood Authority advise that they are not clear on whether there is a viable means of surface water disposal. Infiltration (to the ground) is not viable and permeable and porous hard surfaces are to be used alongside an attenuation basin to discharge at a controlled rate into a watercourse. However, the Local Lead Flood Authority it is not clear if there is a wider drainage network to discharge the sites surface water into. Therefore, the Local Lead Flood Authority request further information to confirm that the site can be connected to a watercourse and that there is a watercourse as part of a wider network. Furthermore, the LLFA request a detailed drainage design alongside drainage calculations showing all locations, dimensions and freeboard of every element of the proposed mitigation and drainage system (e.g. storage areas) including details of a proposed pipe network (pipe

numbers, gradients, sizes, locations, manhole details etc.); an exceedance plan; and a maintenance plan.

- 5.117 The applicant is in the process of putting together the further information requested by the Local Lead Flood Authority and Members will be updated on this matter at Planning Committee.

### **Land Contamination**

- 5.118 Saved Policy ENV2 of the Selby District Local Plan requires proposals for development which would give rise to, or be affected by, unacceptable contamination or other environmental pollution, to not be granted unless satisfactory remedial or preventative measures are incorporated as an integral element in the scheme. Where there is a suspicion that the site might be contaminated, planning permission may be granted subject to conditions to prevent the commencement of development until a site investigation and assessment has been carried out and development has incorporated all measures shown in the assessment to be necessary.
- 5.119 The application has been supported by a Phase 1 Desk Study (reference 322537-01 (01)), dated January 2019, prepared by RSK.
- 5.120 The Phase 1 Desk Study (and Chapter 17 of the Environmental Statement) shows that the site has previously been used for agricultural and pastoral activities. No potential contaminating activities have been identified onsite. However, historically open drains crossed the site and are no longer visible and appear to have been infilled. The surrounding land use has also been largely agricultural, together with a nursery located to the south and Selby Fork Services (fuel station) 95 metres to the northwest of the site. The unknown material within backfilled historical drains and the nearby Selby Fork Services (fuel station) have been identified as potential sources of contamination. The report recommends that an exploratory investigation in accordance with BS10175 is carried out, to provide a more detailed assessment of both the geotechnical characteristics and the actual environmental risks prior to the development of the site. The investigation would include an intrusive investigation of shallow soils and subsequent monitoring, to provide information for the future commercial development and to determine whether more detailed phases of investigation may be required. The investigation would also clarify the features and uses of the four manhole covers and chambers that were observed at the site and the potential presence of a water main running across the northern area of the site.
- 5.121 The Council's Contaminated Land Consultant has been consulted on the application and has advised that with regard to land contamination, the proposed motorway services are unlikely to give rise to significant environmental effects. However, they agree with the recommendations contained within the Phase 1 Desk Report that further investigation is required. Therefore, the Council's Contaminated Land Consultant has advised that there would be no objections to the proposed development subject to a pre-commencement condition being attached to any planning permission granted requiring investigation of land contamination. Further conditions relating to the submission of a remediation strategy, where necessary; verification of remedial works, where necessary; and reporting of unexpected contamination would also need to be attached to any planning permission granted.

5.122 Subject to the aforementioned conditions, it is considered that the proposed development would be acceptable in terms of land contaminated in accordance with saved Policy ENV2 of the Selby District Local Plan and national planning policy contained within the NPPF.

### **Minerals and Waste**

5.123 The application site is located within a Surface Minerals Safeguarding Area for limestone. It is also indicated in the Minerals and Waste Joint Plan as lying within a High Risk Development Area, though the Coal Authority interactive map shows the site within a Low Risk Area. The Coal Authority map takes precedence.

5.124 Part 1 of Policy S02 of the Minerals and Waste Joint Plan relates to surface mineral resources and states:

*“Within Surface Minerals Safeguarding Areas shown on the Policies Map, permission for development other than minerals extraction will be granted where:*

- i) It would not sterilise the mineral or prejudice future extraction; or*
- ii) The mineral will be extracted prior to the development (where this can be achieved without unacceptable impact on the environment or local communities), or*
- iii) The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral; or*
- iv) It can be demonstrated that the mineral in the location concerned is no longer of any potential value as it does not represent an economically viable and therefore exploitable resource; or*
- v) The non-mineral development is of a temporary nature that does not inhibit extraction within the timescale that the mineral is likely to be needed; or*
- vi) It constitutes ‘exempt’ development (as defined in the Safeguarding Exemption Criteria list).”*

5.125 In accordance with Policy S07 of the Minerals and Waste Joint Plan, given the development is located in such a Surface Minerals Safeguarding Area, North Yorkshire County Council have been consulted on the application. North Yorkshire County Council have advised that given the proximity of the site to the South Milford Hotel to the north-west of the site and residential property to the south of the site, it would not be a compatible site for large scale minerals working. As such, North Yorkshire County Council advise that part iii) of Part 1 of Policy S02 may be applicable, which states that permission for development other than minerals extraction can be considered acceptable where *“The need for the non-mineral development can be demonstrated to outweigh the need to safeguard the mineral”*.

5.126 In this instance, the Local Planning Authority consider the need for the proposed development has not been demonstrated (see discussion below in ‘Consideration of Very Special Circumstances’). However, taking account of the response from North Yorkshire County Council, if the need for the proposed development were to be demonstrated, the location of the site within a Surface Minerals Safeguarding Area for limestone would not preclude the development from being considered acceptable. If approved an informative would need to be added to bring the applicant’s attention to the location of the site in a Low Risk Coal Authority area.

### **Socio-Economic Considerations**

- 5.127 The NPPF sets out the Government's vision to build a strong, competitive economy that encourages innovation and productivity. It states at paragraph 81 that 'significant weight should be placed on the need to support economic growth and productivity, taking into account both the local business needs and wider opportunities for development'. With particular reference to large scale transport facilities, paragraph 106 of the Framework states that planning policies should provide for such facilities that need to be located in the area, taking account of national policy statements. This is subject to a footnote – footnote 44 - that identifies the primary function of roadside services as supporting the safety and welfare of the road user.
- 5.128 As set out above, Government policy, contained in the Department for Transport Circular 02/2013 "The Strategic Road Network and the Delivery of Sustainable Development (C2/2013)", provides guidance on roadside facilities for road users on motorways and all-purpose trunk roads (APTR) as is consistent with the NPPF in identifying the primary function of roadside facilities as supporting the safety and welfare of the road user.
- 5.129 The Core Strategy seeks to guide the majority of employment and retail development to the main urban areas or existing employment areas. It does not identify a need for further motorway service facilities with Policy SP13 relating specifically to sustainable development that brings sustainable economic growth through local employment opportunities. However, saved Policy T10 of the Local Plan does relate to Motorway Service Areas, with no weight being given in the assessment of their acceptability to economic benefits arising from the facility.
- 5.130 Nevertheless, the application is supported by a Socio-Economic Statement and the Environmental Impact Assessment contains a chapter on Socio-economic considerations. These outline the potential benefits that could be generated by the proposed development, including direct and indirect employment supported and generated through the construction phase, the permanent jobs arising from the operational phase of the proposed development along with enhanced skill levels for workers and a potential uplift in tourism. In terms of likely direct operational employment generation, a total of 200 full time equivalent is estimated across the proposed service provision based on a similar site elsewhere in the country, with the potential for this to be increased when combined with part time roles. Further, there is anticipated to be indirect employment that together with the multiplier effect from increased expenditure in the area would result in a likely boost to the local economy.
- 5.131 The statements indicate a contribution to the Selby economy over the operational life of the MSA (assumed as 50 years) expressed as Gross Value Added to be £25,803 per head, with the potential to generate between £207,714,150 to £273,511,800. It is anticipated that there would be secondary benefits from increased business rates estimated at £1million per annum.
- 5.132 The statements also confirm a commitment by Roadchef to new training and employment opportunities including a range of skill level jobs and apprenticeship schemes.
- 5.133 Finally, the applicant considers that the proposal would support the continued economic success of Sherburn Industrial Estate by providing HGV infrastructure.

5.134 Whilst the economic benefits are noted, these need to be weighed in the planning balance against identified harms arising from the proposals.

### **Consideration of Very Special Circumstances**

5.135 It has been determined earlier in this report that the proposal is inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. Other harm resulting from the proposal has been identified, namely: harm to the openness of the Green Belt and one of the purposes of including land within the Green Belt; and landscape harm. Therefore, it is necessary to consider whether very special circumstances exist which outweigh the harm to the Green Belt by reason of its inappropriateness and any other harm identified.

5.136 The applicant acknowledges the harm to the Green Belt by reason of its inappropriateness. The applicant also acknowledges the harm to the openness of the Green Belt and one of the purposes of including land within the Green Belt, albeit they consider the harm to be localised - in extent that they consider it is directed to a parcel of land which performs weakly against the five purposes of Green Belt, having regard to the contents of 'The Draft Stage 1: Selby District Green Belt Study' published as part of the focused engagement consultation (29 June 2015 - 10 August 2015). The applicant does not agree with the nature and extent of the landscape harm identified.

5.137 The applicant has put forward a case for very special circumstances having regard to saved Policy T10 of the Selby District Local Plan, amongst other matters, which focuses on the need for a MSA in this location.

5.138 Part A of saved Policy T10 of the Selby District Local Plan states that in assessing whether very special circumstances apply at the time that a proposal is made, following should be taken into consideration:

*"a) Whether there is a compelling need for such a facility in terms of:*

- i. The distance between the proposal and existing and planned MSAs on the A1(M) and related motorway routes, bearing in mind government policy with regard to the spacing of services;*
- ii. Road safety;*
- iii. The capacity of existing MSAs to cope with the needs of motorists*

*b) Whether there are non-Green Belt sites on the A1(M) and related motorway routes which are suitable and available for an MSA and would avoid the use of a green belt site."*

#### *Whether there is a compelling need for an MSA*

5.139 Circular 02/2013, 'The Strategic Road Network and the Delivery of Sustainable Development', recommends that the maximum distance between MSAs on motorways and all-purpose trunk roads should be no greater than 28 miles, although the distance can be shorter. The distance of 28 miles is based on providing an opportunity to stop every half an hour.

5.140 The proposed development would be located on the A1(M) between MSAs at Ferrybridge to the south and Weatherby to the north. The proposed development would be located a distance of approximately 6 miles from Ferrybridge MSA and 15 miles from Weatherby MSA. The distance between the existing MSAs at

Ferrybridge and Weatherby is approximately 21 miles. This is below the maximum distance of 28 miles set out in in Circular 02/2013.

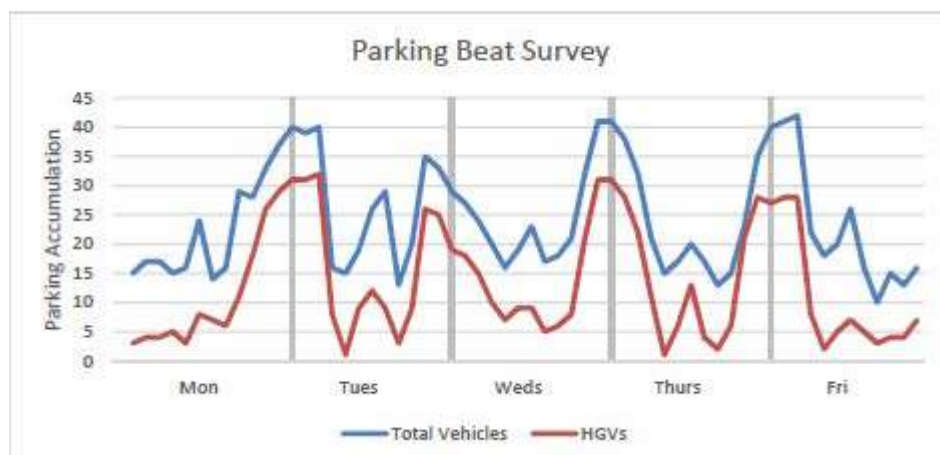
- 5.141 The applicant argues that the distance between MSAs at Blyth and Wetherby is approximately 44 miles, which far exceeds the maximum distance of 28 miles between MSAs set out in Circular 02/2013. The applicant notes the presence of Ferrybridge MSA (which is approximately 25 miles from Blyth MSA and 20 miles from Wetherby MSA), however, the applicant contends that Ferrybridge MSA principally serves the M62 rather than the A1(M) and that the access to Ferrybridge MSA from the A1(M) involves a diversion which detracts users of the A1(M) from using it.
- 5.142 The recent Brodsworth appeal decision (reference APP/F4410/W/18/3197290) dated July 2019 for a proposed MSA further south on the A1(M) near Doncaster included commentary on Ferrybridge MSA. Based on the available evidence, the Inspector concluded it would not be appropriate to discount the Ferrybridge MSA, as although situated on a junction of the M62, it is well signed from the A1(M) with direct access to it and the detour would not add significantly to journey time whether travelling north or south along the A1(M). Furthermore, the Inspector concluded that there was nothing to suggest that the facilities at Ferrybridge MSA are not used by travellers on the A1(M).
- 5.143 The application has been supported by an ANPR Survey (reference 184260), dated February 2020, prepared by Vectos. The purpose of the ANPR Survey is to demonstrate the role of Ferrybridge MSA. The ANPR Survey was undertaken over a 7-day period in November 2019, operating a 17-hour period per day between 05.00 to 22.00 (which accounts for 94-97% of all traffic on the network). The overall capture rate was 90%.
- 5.144 The Survey sets out that the turn in rate for an MSA of this nature is usually 5.5%. The Survey demonstrated that the turn in rate for Ferrybridge MSA from A1(M) is 1.5%; while the turn in rate to Ferrybridge MSA from the M62 is 3.6%. Both of these figures are below the average turn in rate for an MSA of this nature and this could be due to a variety of reasons. In terms of HGVs specifically, the turn in rate for Ferrybridge MSA from the A1(M) is 2.8%; while the turn in rate to Ferrybridge MSA from the M62 is 6.6%. Again, these variations could be due to a variety of reasons.
- 5.145 The ANPR survey is noted, however, this demonstrates that while turn in rates to Ferrybridge MSA may be lower than average from both the A1(M) and the M62, it does serve users of both the A1(M) and the M62 and as such contributes to road safety for users of both the A1(M) and the M62. Ferrybridge MSA is signed from both the A1(M) and the M62 and makes a meaningful contribution to the welfare and safety of the travelling public on both the A1(M) and the M62.
- 5.146 There is no firm evidence to suggest that the existing MSAs are unable to cope with the needs of motorists.
- 5.147 Having regard to the above, there are no gaps of more than 28 miles between MSAs. The proposed development would be located a distance of approximately 6 miles from Ferrybridge MSA and 15 miles from Weatherby MSA. Whilst there is no policy that would rule out more frequent facilities, it is not considered that there is a compelling need for a MSA in this Green Belt location.

Whether there are non-Green Belt sites on the A1(M) and related motorway routes which are suitable and available for an MSA and would avoid the use of a green belt site

- 5.148 The entire section of the A1(M) through Selby District, and the majority of those areas which fall outside Selby District between Weatherby MSA and Blyth MSA lie within the Green Belt (save for some settlements adjacent to the A1(M) which are outwith the Green Belt and areas of land around Wetherby and Blyth in close proximity to the existing MSAs). Therefore, notwithstanding the position regarding need for an MSA, it is considered that there are no non-Green Belt sites which would be suitable and available for an MSA which would avoid the use of a Green Belt site.
- 5.149 An Alternative Site Assessment has been submitted in support of the application which has considered on-line and off-line options for the provision of an MSA along this stretch of the A1(M) and determines that the proposed site is the most suitable, especially when considering providing for a local need for lorry parking (which will be discussed in more detail later this report). Consideration has been given to upgrading existing services, such as Ferrybridge and those along the trunk road, however, these have been discounted as they would not be positioned to provide for the local need for lorry parking, amongst other things. However, the principal basis for an alternative site assessment for the provision of an MSA should not be based on local need for lorry parking. Furthermore, an MSA would not be able to be provided on a trunk road, only a motorway.

Local need for lorry parking

- 5.150 The applicant has identified a local need for lorry parking to support economic development in Sherburn in Elmet.
- 5.151 The applicant undertook a parking beat survey over a five-day period in March 2019 to understand roadside parking in the area. This covered three zones:
- The A63, of which a principal part is Great North Road, which runs north to south to the west of the application site;
  - The A162 between the A63 and Sherburn in Elmet; and
  - The B1222 between Sherburn in Elmet and Great North Road.
- 5.152 Over the five-day period, the number of vehicles parked alongside the road in each zone was recorded every two hours. The result of the survey are shown graphically below.



- 5.153 The results demonstrate that over the survey period, roadside vehicle parking predominantly comprised HGVs and was most prevalent overnight. The results demonstrate that over the survey period, there are between 26-32 HGVs parked on the roadside each evening in the study area. The applicant asserts that the majority of HGV parking occurs in laybys along the A63 (Great North Road) and the A162. These roadside locations offer no facilities for HGV drivers. Furthermore, the applicant asserts that parking in these roadside locations typically results in anti-social behaviour and an opportunity for crime.
- 5.154 The applicant considers the identification of up to 32 HGVs being parked on the roadside each evening presents a local need for HGV lorry parking.
- 5.155 The applicant contends that the employment development at Sherburn in Elmet contributes to the prevalence of HGV parking in the area. A turning count survey undertaken at all site access junctions for the existing Sherburn in Elmet employment development in March 2019 (over a 24 hour period) demonstrated that there were 2,367 HGV trips (including in and out) associated with the Sherburn in Elmet employment development.
- 5.156 The applicant notes the large quantum of committed employment development at Sherburn in Elmet, and potential for future employment development. The applicant asserts this could lead to an even greater demand for HGV parking in the area, as a large proportion of the freight trips associated with new development will travel to and from the A1(M) at Junction 42.
- 5.157 As a result of the applicant identifying a local need for lorry parking to support economic development in Sherburn in Elmet, they propose to provide an additional 46 HGV parking spaces at the proposed development, over and above those required for the MSA under Schedule 1 of the DfT Circular 02/2013, 'The Strategic Road Network and the Delivery of Sustainable Development' (32 to account for existing unsatisfied demand locally and 14 to account for committed employment development at Sherburn in Elmet). These additional 46 HGV spaces are to be provided in relation to the very special circumstances case put forward by the applicant, based around a need for HGV parking in the locality.
- 5.158 The applicant has confirmed that the additional HGV spaces provided as part of the very special circumstances case would be subject to a £10 charge, of which £9 would be redeemable within the MSA facilities. The remaining HGV spaces (required for the MSA under Schedule 1 of the DfT Circular 02/2013, 'The Strategic Road Network and the Delivery of Sustainable Development') would be free for the first two hours after which usual charges would apply.
- 5.159 The applicant has also confirmed that there would be a commitment to pursue Traffic Regulation Orders to prevent roadside HGV parking along the A63 (Great North Road) and the A162 between the A63 and Sherburn in Elmet. This would need to be secured by S106 agreement.
- 5.160 Whilst a local need for lorry parking may have been identified and providing for that need would be a benefit of the scheme, it is not considered that, of itself, justifies the provision of a new, full scale MSA in a Green Belt location where there is no compelling need for an MSA.

5.161 The applicant contends that it would not be viable to provide a stand-alone lorry park and that there are no suitable sites to provide one within the vicinity of Sherburn in Elmet. A viability assessment for the provision of a standalone lorry park and an Alternative Site Assessment for the provision of a standalone lorry park have been submitted in support of the application. This has been reviewed by an independent Automotive Consultant, Alastair Coates of Alexander James Ltd (formerly of Knight Frank). The viability appraisal and alternative site assessment have been undertaken on the basis of a standalone lorry park comprising approximately 50 spaces and amenities on a site of circa 3 acres. The Automotive Consultant advises that the provision of a facility of such size would not be financially viable. Furthermore, having reviewed the alternative site assessment, the Automotive Consultant considers there are no suitable sites on which to provide a standalone lorry park of this size within the locality. Of those identified sites which offer the size of site considered necessary to present a potentially viable truck stop opportunity, there are challenges identified in respect of ownership, greenfield status and the need for considerable highways improvement works that will add a potentially critical burden to a development appraisal. The Automotive Consultant concludes that in their experience of the market, in order to present a viable solus development opportunity a truck parking facility needs to be of a minimum scale of least 100 spaces, in order to support the cost of building and running an adequately sized and provisioned amenity building. If it cannot offer the capacity, then it needs to offer other income opportunities and/or other draws to bring truckers into site to use the café and shop.

#### *Economic and Social Benefits*

5.162 The proposed development would have a number of economic and social benefits including:

- £45million pound investment
- £1million pounds generated per annum in business rates
- 228 new construction jobs (equating to 12.5 FTE within Selby)
- 200 FTE new operational jobs (164 within Selby)
- A Local Labour Agreement
- Apprenticeship scheme across a range of sectors
- No zero hours contracts and a range of employee benefits
- A Shuttle bus to connect employees to the site
- Inclusion of a farm shop, which would have linkages to local suppliers
- 46 HGV parking spaces to address an identified local need for lorry parking (these spaces would be subject to a £10 charge, of which £9 would be redeemable within the MSA facilities)
- A commitment to pursue Traffic Regulation Orders to prevent roadside HGV parking along the A63 (Great North Road) and the A162 between the A63 and Sherburn in Elmet

#### *Environmental Benefits*

5.163 The proposed development would have a number of environmental benefits including:

- Provision of biodiversity net gain in excess of the 10% target
- Provision of off-site highway improvement works to encourage sustainable transport

- Provision of electric vehicle charging points
- Provision of some energy requirements from renewable, low carbon or decentralised energy sources

## **6. PLANNING BALANCE AND CONCLUSION**

- 6.1 The proposal would comprise inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. Furthermore, the proposal would result in substantial harm to the openness of the Green Belt and one of the purposes of including land within the Green Belt to safeguard the countryside from encroachment. Paragraph 148 of the NPPF requires substantial weight should be given to any harm to the Green Belt.
- 6.2 Also to be weighed into the balance are other harms identified. With regard to landscape, the proposed development is not considered to sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the LILA; would impact on local character and setting and would not provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. The overall effectiveness of the proposed Landscape Strategy in this context is questionable. Significant weight is given to the landscape harm.
- 6.3 In terms of matters weighing in favour of the proposals, the primary consideration is whether there is a compelling need for an MSA in this Green Belt location. There are no gaps of more than 28 miles between MSAs. The proposed development would be located a distance of approximately 6 miles from Ferrybridge MSA and 15 miles from Weatherby MSA. Ferrybridge MSA is signed from both the A1(M) and the M62 and makes a meaningful contribution to the welfare and safety of the travelling public on both the A1(M) and the M62. Whilst there is no policy that would rule out more frequent facilities, it is not considered that there is a compelling need for an MSA in this Green Belt location. This matter is afforded limited weight.
- 6.4 The applicant has identified a local need for lorry parking to support economic development in Sherburn in Elmet. While providing for that need would be a benefit of the scheme, it is not considered that, of itself, justifies the provision of a new, full scale MSA in a Green Belt location where there is no compelling need for an MSA. This matter is afforded limited weight.
- 6.5 A range of economic, social and environmental benefits are identified. While these would be benefits of the scheme, it is not considered that they would justify the provision of a new, full scale MSA in a Green Belt location where there is no compelling need for an MSA. These matters are afforded limited weight.
- 6.6 Having regard to matters weighting in favour of the proposals, it is considered that there is nothing that, either individually, or cumulatively, clearly outweighs the harm to the Green Belt by reason of inappropriateness and the other harm identified so as to amount to very special circumstances to justify inappropriate development in the Green Belt.
- 6.7 The proposed development would be contrary to saved policies ENV1, ENV3, ENV15 and T10 of the Selby District Local Plan, Policies SP1, SP2, SP3, SP12, SP18 and SP19 of the Core Strategy and national planning policy contained within the NPPF.

## **7. RECOMMENDATION**

This application is recommended to be REFUSED for the following reasons:

1. The proposal would comprise inappropriate development within the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. Furthermore, the proposal would result in substantial harm to the openness of the Green Belt and one of the purposes of including land within the Green Belt to safeguard the countryside from encroachment. Paragraph 148 of the NPPF requires substantial weight should be given to any harm to the Green Belt. There is nothing that, either individually, or cumulatively, clearly outweighs the harm to the Green Belt by reason of inappropriateness and the other harms identified so as to amount to very special circumstances to justify inappropriate development in the Green Belt. The proposal is therefore contrary to Policies SP2, SP3 of the Core Strategy, saved Policy T10 of the Selby District Local Plan and national planning policy contained within the NPPF.
2. The proposed development would not sufficiently minimise impacts and enhance the traditional character of buildings and landscape within the LILA; would impact on local character and setting and would not provide sufficient new opportunities to better join up existing green infrastructure as well as creating new green infrastructure. The overall effectiveness of the proposed Landscape Strategy in this context is questionable. The proposal is therefore contrary to Policies SP12, SP18 and SP19 of the Core Strategy, saved Policies ENV1, ENV3, ENV15 and T10 of the Selby District Local Plan and national policy contained within the NPPF.

## **8. Legal Issues**

### **8.1 Planning Acts**

This application has been determined in accordance with the relevant planning acts.

### **8.2 Human Rights Act 1998**

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

### **8.3 Equality Act 2010**

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However, it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

## **9. Financial Issues**

Financial issues are not material to the determination of this application.

## **10. Background Documents**

Planning Application file reference 2019/0547/EIA and associated documents.

**Contact Officer:** Jenny Tyreman (Assistant Principal Planning Officer)

**Appendices:** None

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Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY, 15 MARCH 2023**  
Time: **2.00 PM**  
Venue: **COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**  
To: **Councillor M Topping (Chairman), Councillor C Richardson (Vice-Chair), Councillor I Chilvers, Councillor K Ellis, Councillor G Ashton, Councillor R Packham, Councillor P Welch, Councillor J Duggan and Councillor D Mackay**

## Supplementary Agenda

### 5. Planning Applications Received (Pages 1 - 6)

*Janet Waggott*

**Janet Waggott, Chief Executive**

Enquiries relating to this agenda, please contact Democratic Services on [democraticservices@selby.gov.uk](mailto:democraticservices@selby.gov.uk).

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# Agenda Item 5

## Officer Update Note Planning Committee – 15th March 2023

### Item 5.1

APPLICATION NUMBER:	2019/0547/EIA	PARISH:	South Milford Parish Council
APPLICANT:	Roadchef	VALID DATE: EXPIRY DATE: EOT:	14th June 2019 13th September 2019 17th March 2023
PROPOSAL:	Proposed construction of a motorway service area		
LOCATION:	Land At Lumby Lumby South Milford Leeds West Yorkshire LS25 5LE		
RECOMMENDATION:	<b>REFUSE</b>		

### Amended Plans – 1

Since the agenda was published, discussions between the Applicant, the District Council and the Public Rights of Way Officer have resulted in the route of the public right of way to the north east corner of the site being amended. This has resulted in some amended plans and updated information being submitted as follows:

- Proposed Site Layout Plan – RC610-1001 Rev P17
- Landscape Masterplan – 1847.06 Rev P
- PROW Diversion Plan - VD18808-D101.0 Rev P09
- Revised Biodiversity Net Gain Calculation – SF2665 Rev A

The Public Rights of Way Officer raises no objections to the proposed alterations.

NYCC Ecology raise no objections to the proposed alterations – the proposal would still provide for over 10% biodiversity net gain (just over 11% biodiversity net gain provided on and off site through a combination of landscaping within the proposed development site and off-site habitat creation). This would be in excess of the 10% biodiversity net gain target.

Yorkshire Water have confirmed verbally that they would have no objections to the proposed alteration to the routing of the public right of way in principle, but we are still awaiting a formal written consultation response regarding this and whether the inclusion of the post and rail fence to the south side of the route within the easement area of the water main would be acceptable.

### Amended Plans – 2

Since the agenda was published, an amended plan showing some of the off-site highway mitigation works has been submitted - VD18808-D102.0 Rev P03 – following discussions between the Applicant, the District Council, the Public Rights of Way Officer and the Highways Officer. The amended plan shows the existing gravel track to be either re-surfaced with bound rubber crumb or improved with additional stone to NYCC's specification to ensure it is suitable for all users, rather than remaining as existing. The Public Rights of Way Officer and Highways Officer raise no objections to the proposed alteration.

### Surface Water Drainage

Paragraph 5.117 of the report states *“The applicant is in the process of putting together the further information requested by the Local Lead Flood Authority and Members will be updated on this matter at Planning Committee.”*

The Local Lead Flood Authority has advised that further information is required on the surface water drainage proposals prior to the determination of the application. Based on the submitted information, the Local Lead Flood Authority advise that they are not clear on whether there is a viable means of surface water disposal and so cannot be certain that the proposal would not lead to increased flood risk on site or elsewhere.

The Applicant has been asked to undertake soakaway testing to BRE365 to demonstrate that soakaways are a viable means of surface water drainage, or, to provide further information to confirmation that the site can connect to a watercourse and that there is a watercourse as part of a wider network.

The Applicant is in the process of collating the further information requested by the Local Lead Flood Authority but has not been able to collate and submit this for consideration prior to the Planning Committee meeting. In the absence of this information, Officers, having consulted with the Local Lead Flood Authority, would recommend that a further reason for refusal is added to the recommendation in Section 7 of this report as follows:

*Insufficient information has been submitted to demonstrate that there is a viable means of surface water disposal. The applicant has indicated that the proposed development will discharge its surface water via infiltration, however no evidence has been provided to confirm that this is a viable option. If the site is not able to infiltrate, a Plan B would be expected as per the SuDS drainage hierarchy. The applicant has indicated that their Plan B would be to discharge surface water via watercourse, however, no evidence has been provided to confirm that the site can connect to a watercourse and that there is a watercourse as part of a wider network. The proposal is therefore contrary to the overarching principles set out in the Core Strategy, national planning policy contained within Chapter 14 of the NPPF and the North Yorkshire County Council Sustainable drainage systems guidance - 2022 update.*

### Representations

Since the agenda was published, two further letters of representation in support of the proposals have been received. The first sets out the proposal would provide safe parking and facilities for drivers; would boost the local economy; would reduce the need for HGVs to access fuel by travelling through local settlements, reducing traffic through those settlements; and would reduce HGV layby parking in the area where there are no facilities

or security. The second sets out that there is a need for such a facility in the area to support the growth in both employment and residential development in the area.

Since the agenda was published, twelve people who submitted representations in support of the proposals have contacted the Council to query their representations (in response to the letter sent to them to notify them that the application was going to be heard at planning committee). The Council has responded to each of these twelve representees providing them with a copy of their original representation and asking them whether they are aware of it and whether they are happy for it to remain on the file or whether they would like it removing.

As a result, two letters of representation have been removed, three letters of representation have confirmed to be correct and remain, and the Council are awaiting responses from seven of the representees who raised queries.

In addition, the Council received eleven bounce-back 'failed delivery' emails from people who submitted representations in support of the proposals (in response to the letter sent to them to notify them that the application was going to be heard at planning committee).

**Item 5.2**

APPLICATION NUMBER:	2022/1445/HPA	PARISH:	Hemingbrough Parish Council
APPLICANT:	Mr & Mrs David Hedderwick	VALID DATE: EXPIRY DATE:	12th December 2022 6th February 2023
PROPOSAL:	Demolition of attached rear single storey porch and workshop to be replaced with new single storey extension to form new kitchen and garden room		
LOCATION:	Garth House Landing Lane Hemingbrough Selby North Yorkshire YO8 6RA		
RECOMMENDATION:	<b>REFUSE</b>		

The agent circulated a statement with photos to be read out at planning committee.

**Item 5.3**

No update.

**Item 5.4**

APPLICATION NUMBER:	TPO 27/2022	PARISH:	Escrick Parish Council
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TPO SERVED:	22nd December 2022	DEADLINE FOR CONFIRMATION:	22nd June 2023
LOCATION:	Oak Lodge Skipwith Road Escrick York YO19 6JU		
RECOMMENDATION:	<b>TPO be confirmed with no modification</b>		

There was a neighbour objection post comments deadline for the TPO. A summary of the objection is set out below:

- Shocked when the previous application to undertake much needed tree works was recommended for refusal by your colleague after inspecting the tree from a distance of circa 50 m away, not entering the property or any neighbouring properties, and making a conclusion based on generic assumptions about Oak trees generally, and not specifically the location of and appropriateness of very large specimens within a residential neighbourhood, and not within a rural environment surrounded by trees or woodland.
- The canopy of the oak tree overhangs a large section of our rear garden and significantly deprives that area of light for much of the year, adversely affecting the health and growth of trees and shrubs in our garden.
- The excessive prolonged shadow the tree extends and overcasts a large proportion of our garden. Thus, severely restricting our right to reasonable use and amenity of our garden.
- The branches that overhang our garden are significant in size and present a real and present danger when parts blow off into our garden.
- We have lived here for circa 25 years and, as discussed, the only work that has been undertaken on the tree in all of that period was in 2019 when your colleague recommended that further work was needed at that time but, due to cost, our previous neighbour only agreed to undertake works adjoining their side of the tree, thereby leaving outstanding much needed works even at that date. We were therefore extremely surprised and disappointed to read the previous report not even acknowledging that previous inspection and report and its recommendations.
- Also it stating that any works had not been justified, when no proper site visit had been undertaken and no discussion had been undertaken with the applicant / his tree consultant to agree an appropriate level of works, and dismissing of the application with a recommendation to place a TPO on the tree, that has never been in any danger and is already protected by its size and mass within the Conservation Area. This tree has never been at risk from deliberate damage or destruction and is already protected by its location within the Escrick Conservation Area.

- Therefore, the protection is already there and any future application for work will be considered in exactly the same way, and there is nothing to gain by the TPO. See [Tree Preservation Orders - Woodland Trust](#)

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## Planning Committee

Venue: Council Chamber - Civic Centre, Doncaster Road, Selby,  
YO8 9FT

Date: Wednesday, 15 March 2023

Time: 2.00 pm

Present: Councillor M Topping in the Chair

Councillors C Richardson (Vice-Chair), I Chilvers, K Ellis,  
G Ashton, R Packham, P Welch and D Mackay

Officers Present: Martin Grainger, Head of Planning; Hannah Blackburn,  
Planning Development Manager; Glenn Sharpe, Solicitor to  
the Council; Jenny Tyreman, Assistant Principal Planning  
Officer; Gareth Stent, Principal Planning Officer; Jordan  
Fairclough, Planning Officer and Gina Mulderrig,  
Democratic Services Officer

Public: 6

### **80 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Duggan.

Councillor Duckett was in attendance as a substitute for Councillor Duggan.

### **81 DISCLOSURES OF INTEREST**

Councillors Packham, Ashton, Richardson, Topping and Ellis declared they had all received direct representations from the Planning Agents for items 5.1 and 5.2 and confirmed they retained an open mind and would not leave the meeting during consideration of these items.

### **82 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE**

The Chair announced that an Officer Update Note had been circulated and was available to view alongside the agenda on the Council's website.

The Committee noted that any late representations on the applications would

be summarised by the Officer in their presentation.

### **83 MINUTES**

The Committee considered the minutes of the Planning Committee meeting held on 8 March 2023.

#### **RESOLVED:**

**To approve the minutes of the Planning Committee meeting held on 8 March 2023 for signing by the Chairman.**

### **84 PLANNING APPLICATIONS RECEIVED**

The Planning Committee considered the following planning applications.

### **85 2019/0547/EIA LAND AT LUMBY, SOUTH MILFORD**

**Application:** 2019/0547/EIA

**Location:** Land Off Lumby Lane, South Milford

**Proposal:** Proposed construction of a motorway service area (MSA).

The Assistant Principal Planning Officer presented the application which was accompanied by an Environmental Impact Statement and, in addition, had been brought before Planning Committee as the application was a major application where 10 or more letters of representation had been received which raised material planning considerations and where Officers would otherwise have determined the application contrary to these representations.

Members noted that the application was for the proposed construction of a Motorway Service Area (MSA).

Members noted the Officer Update Note which detailed amended plans to the route of the public right of way to the north east corner of the site following discussions between the Applicant, the District Council and the Public Rights of Way Officer and an amended plan which showed some of the offsite mitigation works following discussions between the Applicant, the District Council, the Public Rights of Way Officer and the Highways Officer. The Officer Update Note relayed that NYCC Ecology the Public Rights of Way Officer and the Highways Officer had not raised any objections to the proposed alterations. Yorkshire Water had confirmed verbally that i had no objections in principle, but a formal written consultation response was awaited to confirm this position, along with the acceptability of the post and rail fence within the easement area of the water main. The Officer Update Note also set out that further information on surface water drainage that was required by the Local Lead Flood Authority and had not yet been received. It set out a further reason for refusal of the application on the basis of insufficient information being received to demonstrate a viable means of surface water drainage. The Officer explained that two further letters of representation in support of the proposal had been received and summarised the details therein. Furthermore, the Officer advised that two letters of representation objecting to the

application had been requested to be removed; that seven representees had queried their response with the Council, after which the Council had not received confirmation whether their representation was valid; and the validity of eleven further representees was questioned as their email addresses no longer existed.

Members asked if the presented plan was finalised and asked for clarity on whether issues raised by Yorkshire Water could be resolved. The Committee also asked for details of the extent of the Green Belt surrounding the application site.

The Assistant Principal Planning Officer confirmed that the plan displayed in the presentation was the finalised design but that amended plans to the public right of way were detailed in the Officer Update Note and that Yorkshire Water had confirmed verbally that it had no objections to this amendment but that a formal written response had not yet been submitted. The Officer confirmed that the site lay fully in the South and West Yorkshire Green Belt as the boundary crossed in North Yorkshire and the Selby District and encompassed various established business and developments.

The Committee asked if the parking charge of £10, of which £9 would be redeemable within the MSA facilities could be subject of a legal agreement or condition, and also asked for details on how well used Ferrybridge and Wetherby motorway services were and details of proposed potential benefits to local communities.

The Planning Development Manager stated it would be difficult to control through a planning condition, though potentially could be covered by a legal agreement subject to meeting the relevant tests and is something that would usually be managed by the site operator. The Assistant Principal Planning Officer stated that the Applicant had carried out an Automatic Number Plate Recognition survey at the Ferrybridge MSA and determined the usage was lower than expected compared to other MSAs, however, no details were available for the motorway services at Wetherby. The Assistant Principal Planning Officer listed the proposed economic and social commitments submitted by the applicant detailed in section 5.162 of the report relating to job opportunities and investment in the area which have been set out in the draft section 106 agreement which would ensure enforcement of these commitments.

Members asked for more details on how the surface water drainage issues identified could be resolved and were told by the Assistant Principal Planning Officer that the Local Lead Flood Authority had advised that further information was required on any surface water drainage proposals before the determination of the application including testing and evidence of success and their statement, detailed in the Officer Update Note, added this lack of evidence as a further reason for refusal of the application.

The Committee referred to the Circular 02/2013 - Department for Transport's Strategic Road Network and the Delivery of Sustainable Development, which

recommended that the maximum distance between MSAs on motorways and all-purpose trunk roads should be no greater than 28 miles and in relation to the spacing of freight facilities, that in areas where there is an identified need, the maximum distances between motorway facilities providing HGV parking should be no more than 14 miles, and asked how this policy impacted this application.

The Assistant Principal Planning Officer advised that the application before Members was for the construction of a motorway service area, for which it was considered that there was not a compelling need for in this Green Belt location. There is no policy that rules out more frequent services, however, given distances between existing services at Ferrybridge and Wetherby, Officers did not agree that there was a compelling need for the proposed development in this Green Belt location

The Lead Executive Member for Communities and Economic Development, Councillor David Buckle was in attendance and spoke in favour of the application.

The Ward Councillor, Councillor Tim Grogan, was in attendance and spoke in favour of the application.

The Applicant, Dr Ian Mackay, was in attendance and spoke in favour of the application.

Members expressed support for the application against the Officer's recommendation. It was stated that the proposal would provide a superb gateway to the area. The Committee did not agree that Ferrybridge served the A1(M). It was stated that the proposal would integrate into the existing landscape. It would provide good facilities for potential patrons including much needed parking and conveniences for Heavy Goods Vehicle drivers who approached from the south and serviced the industrial estates at Sherburn in Elmet as well as an increased need for electric vehicle charging points. The Committee agreed there was a compelling need for an MSA to service the A1(M) near the Selby District and that no other suitable sites had been identified. Members stated that the Very Special Circumstances submitted by the Applicant to support development in the Green Belt were legitimate but that there was a need to ensure the proposed benefits of the site outweighed any negative effect.

Members raised the issues with surface water drainage and stated this issue needed to be resolved, along with a complete set of conditions and a section 106 agreement detailed the benefits to the community but overall support was shown for the economic, environmental and social benefits the development proposed.

Questions were asked by the Committee about the process for making a decision contrary to the Officer's recommendation.

The Head of Planning and the Planning Solicitor stated that, whilst it would be

possible if Members were minded to approve to delegate the grant of permission to the Head of Planning in conjunction with the Chair of the Committee, this was advised against. The Planning Solicitor explained that this was large development with an EIA that would require an extensive suite of conditions and more detail to a Section 106 Agreement, which Members, and the public, should have sight of in making their decision to ensure robust decision-making in the public interest. Members were strongly advised against delegating a grant of permission to the Head of Planning and the Chair., Further, given the upcoming Local Government Reorganisation on 1<sup>st</sup> April 2023, there would be insufficient time to complete the work required to allow for delegation to the Head of Planning and the Chair of Committee. The recommendation from Officers if Members were minded to approve was that the application be brought back to Committee with a full set of conditions and Heads of Terms for legal agreement.

The Head of Planning and the Planning Solicitor explained that the Committee could vote on whether they were minded to approve the application and, if this were the case, an updated version of the application would go to the Strategic Planning Committee in the new authority following Local Government Reorganisation, North Yorkshire Council, where detailed planning agreements and conditions and any plans to resolve the surface water drainage issues could be scrutinised publicly and by the Committee prior to a decision. Officers would clearly set out what the Selby Planning Committee was trying to achieve.

It was proposed and seconded that the application be minded to approve and would be brought back to the Strategic Planning Committee of North Yorkshire Council with a full suite of conditions and further detail on Section 106 agreement obligations in the public interest. A vote was taken on the Proposal and was carried.

**RESOLVED:**

**That the application be MINDED TO APPROVE subject to further consideration at Planning Committee of a full suite of conditions and further detail on the Section 106 obligations.**

**86 2022/1445/HPA GARTH HOUSE, HEMINGBROUGH**

**Application:** 2022/1445/HPA

**Location:** Garth House, Landing Lane, Hemingbrough

**Proposal:** Demolition of the attached rear single storey porch and workshop to be replaced with new single storey extension to form new kitchen and garden room.

The Principal Planning Officer presented the application which had been brought before Planning Committee at the request of the Ward Councillor Karl Arthur, should Officers be minded to refuse the application. The reasons provided for the application being called to committee were detailed in the report.

Members noted that the application was for the demolition of the attached rear single storey porch and workshop to be replaced with new single storey extension to form new kitchen and garden room.

Members noted that they had all received additional drawings from the Planning Agent further explaining the application in the week prior to Committee.

The Committee asked the Planning Officer for confirmation that the assertion by the architect in the submitted drawings that a detached outbuilding similar to the application would be granted under permitted development rights was correct.

The Principal Planning Officer confirmed that an application for such an outbuilding would likely be granted under permitted development rights but that this application differed as the ridge height of this proposed extension was higher than the hypothetical outbuilding and the building was to be attached to the main house.

Democratic Services read a statement on behalf of the Agent in favour of the application.

Members debated the application further and showed support for it stating that this proposal was preferable to the previous, approved proposal. Members posited that the completed extension would be congruous with the existing built form and street scene on Landing Lane and would complement the main building.

It was proposed and seconded that the application be GRANTED against the Officer's recommendation. A vote was taken on the Proposal and was carried.

**RESOLVED:**

**That the application be GRANTED subject to conditions agreed in application 2022/0564/HPA and that the decision be delegated to the Head of Planning Services in consultation with the Chair of Planning Committee.**

**87 TPO/24/2022 - KENILWORTH HOUSE, STILLINGFLEET**

**Application:** TPO/24/2022

**Location:** Kenilworth House, Stillingfleet

**Proposal:** Confirmation of the proposed Tree Preservation Order with no modifications.

The Principal Planning Officer presented the application which had been brought before the Planning Committee in accordance with the scheme of delegation 3.8.9(b)(viii), the confirmation of the Tree Preservation Order cannot be issued under delegated powers due to an objection to make the

order. In exercise of the powers conferred by section 198 of the Town and Country Planning Act 1990 this report sought the permission of the Planning Committee to “Confirm with no Modification”, Tree Preservation Order No. 24/2022. A copy of the Order is at Appendix A.

Members noted that the application was for Confirmation of the proposed Tree Preservation Order with no modifications.

The Committee asked the Principal Planning Officer whether the conditions of the Tree Preservation Order would extend to the relevant utility company given the proximity of the tree to the power lines.

The Principal Planning Officer explained that the utility company was a statutory undertaker and as such would have the right to prune the tree irrespective of any Tree Preservation Order but only if it crossed into operational land; this tree is currently on domestic land. The Principal Planning Officer suggested that the need to prune the tree to avoid the power lines supported this application as the Order would ensure the tree was maintained in a controlled and approved way.

Members questioned the individual value of the tree and it’s contribution to the Stillingfleet Conservation Area.

The Principal Planning Officer confirmed that the tree was juvenile but that it was of value to the Stillingfleet Conservation Area and that controls on its maintenance under a Tree Preservation Order would protect its future and its contribution to the Conservation Area.

Members debated the application noting that the tree was non-native and juvenile but that this application was primarily to control any proposed maintenance to the tree to preserve the value of the Conservation Area.

It was proposed and seconded that the Tree Preservation Order be refused but the Proposal fell.

It was proposed and seconded that the Tree Preservation Order be Confirmed with no modifications. A vote was taken on the Proposal and was carried.

**RESOLVED:**

**That the Tree Preservation Order be CONFIRMED with no modifications.**

**88 TPO/27/2022 - OAK LODGE, ESCRICK**

**Application:** TPO/27/2022

**Location:** Oak Lodge, Skipwith Road, Escrick

**Proposal:** Confirmation of the proposed Tree Preservation Order with no modifications.

The Planning Officer presented the application which had been brought before

the Planning Committee in accordance with the scheme of delegation 3.8.9(b)(viii), the confirmation of the Tree Preservation Order cannot be issued under delegated powers due to an objection to make the order. In exercise of the powers conferred by section 198 of the Town and Country Planning Act 1990 this report sought the permission of the Planning Committee to “Confirm with no Modification”, Tree Preservation Order No. 27/2022.

Members noted that the application was for Confirmation of the proposed Tree Preservation Order with no modifications.

Members noted the Officer Update Note which detailed an objection to the confirmation of the Tree Preservation Order from a neighbour of the site which had been received after the deadline for comments.

The Committee asked the Planning Officer to confirm that a Tree Preservation Order did not preclude maintenance of the tree, just that any works needed approval.

The Planning Officer confirmed that was correct.

Members debated the application emphasising the intrinsic value of native trees such as T1 and agreeing that correct and proactive maintenance of trees, including regular pruning, was necessary and not precluded by a Tree Preservation Order.

It was proposed and seconded that the Tree Preservation Order be Confirmed with no modifications. A vote was taken on the Proposal and was carried.

**RESOLVED:**

**That the Tree Preservation Order be CONFIRMED with no modifications subject to the conditions set out in paragraph 7 of the report and the details set out in the Officer Update Note.**

The meeting closed at 16:33

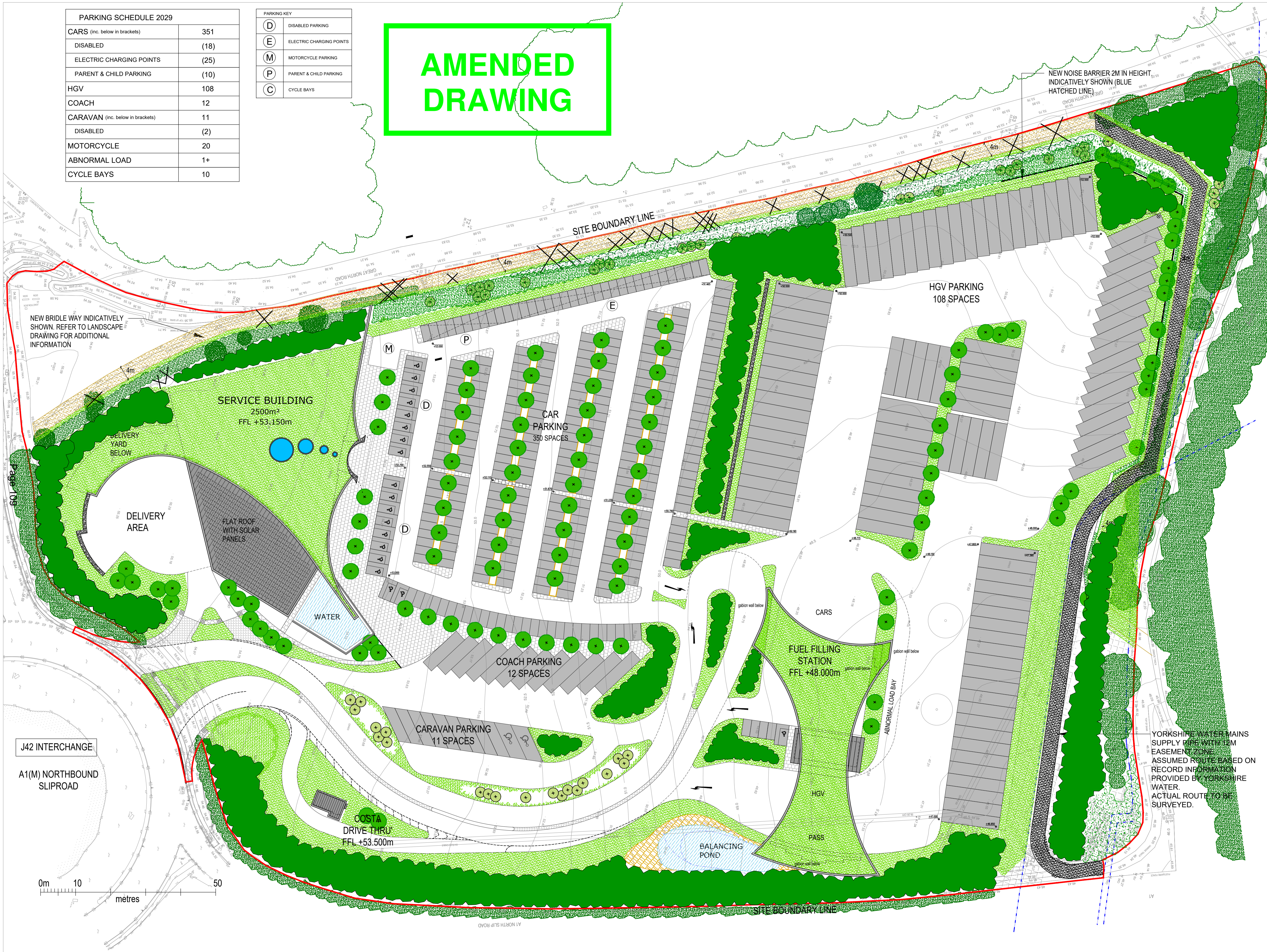
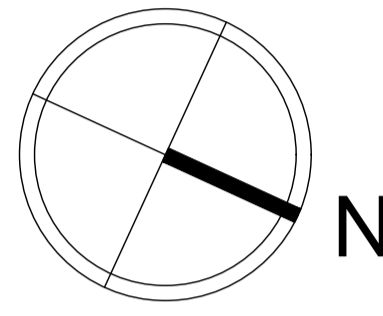
PARKING SCHEDULE 2029	
CARS (inc. below in brackets)	351
DISABLED	(18)
ELECTRIC CHARGING POINTS	(25)
PARENT & CHILD PARKING	(10)
HGV	108
COACH	12
CARAVAN (inc. below in brackets)	11
DISABLED	(2)
MOTORCYCLE	20
ABNORMAL LOAD	1+
CYCLE BAYS	10

PARKING KEY	
(D)	DISABLED PARKING
(E)	ELECTRIC CHARGING POINTS
(M)	MOTORCYCLE PARKING
(P)	PARENT & CHILD PARKING
(C)	CYCLE BAYS

AMENDED  
DRAWING



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LANDSCAPING SCHEME SHOWN INDICATIVELY ONLY. REFER TO LANDSCAPE DRAWING FOR FURTHER DETAIL

PLANNING APPLICATION REVISION 04 MARCH 2023

DRAWING STATUS	
P17	04.03.23 BRIDLEWAY AMENDED
P16	18.01.23 BRIDLEWAY AMENDED
P15	16.12.22 MSA AMENDED
P14	08.11.22 LANDSCAPE AMENDED
P13	06.05.22 PARKING SPACE ADDED
P12	29.09.21 LANDSCAPE AMENDED
P11	10.09.21 SITE ROAD LAYOUT AMENDED
P10	04.02.21 ENTRANCE AMENDED, ROAD LAYOUT AMENDED, PARKING AMENDED, MSA AMENDED, FFS AMENDED ETC.
P9	01.02.21 ENTRANCE AMENDED, FOOTPATH ADDED ROAD LAYOUT AMENDED ETC.
P8	14.02.20 BARRIER REMOVED, FOOTPATH ADDED, ACOUSTIC BARRIER AMENDED
P7	14.02.20 BRIDLE WAY AMENDED, HGV PARKING AMENDED, CYCLE BAY ADDED, COACH PARKING AMENDED, FOOTPATH ADDED, ACOUSTIC BARRIER ADDED
P6	05.02.20 BRIDLE WAY AMENDED
P5	29.01.20 BRIDLE WAY AMENDED
P4	16.01.20 HGV PARKING AMENDED
P3	03.12.19 RED LINE AMENDED
P2	20.11.19 SIGNATURE ARCH REMOVED
P1	15.11.19 GENERAL LAYOUT AMENDED

YORKSHIRE WATER MAINS SUPPLY PIPE WITH 12M EASEMENT ZONE ASSUMED ROUTE BASED ON RECORDED INFORMATION PROVIDED BY YORKSHIRE WATER. ACTUAL ROUTE TO BE SURVEYED.

J42 INTERCHANGE  
A1(M) NORTHBOUND SLIPROAD



PROPOSED SITE PLAN FOR SELBY MSA

SCALE 1:500 @ A1  
SCALE 1:2000 @ A3

ARCHITECTURE DESIGN DEVELOPMENT

1-3 Spencer Street  
Ringstead \* Kettering  
NN14 4BX  
T: 01536 430499

Scale: 1:500 Date: 28.05.19 Drawn by: JCA  
Job No: 601 Rev No: 1

PPL RC 610 | 1001 | P17

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## North Yorkshire Council

### Community Development Services

#### Strategic Planning Committee

12 MARCH 2024

#### 2020/0045/PROW – PUBLIC BRIDLEWAY 35.59/13 LAND AT LUMBY, PARISH OF SOUTH MILFORD DIVERSION ORDER 2024

#### Report of the Assistant Director Planning – Community Development Services

##### **1.0 Purpose of the Report**

- 1.1 To determine the making of a Public Path Diversion Order, which would then be subject to the required consultation.
- 1.2 To give delegation to Officers to confirm the Public Path Diversion Order following the expiry of a 28-day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.
- 1.3 To give delegation to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance with the Order (where the Public Path Diversion Order has been confirmed in 1.2 above).
- 1.4 This application is reported to Committee due to it being a proposal to divert a public highway affected by development. The proposal directly relates to planning application 2019/0547/EIA which is also being reported to Committee.

##### **2.0 SUMMARY**

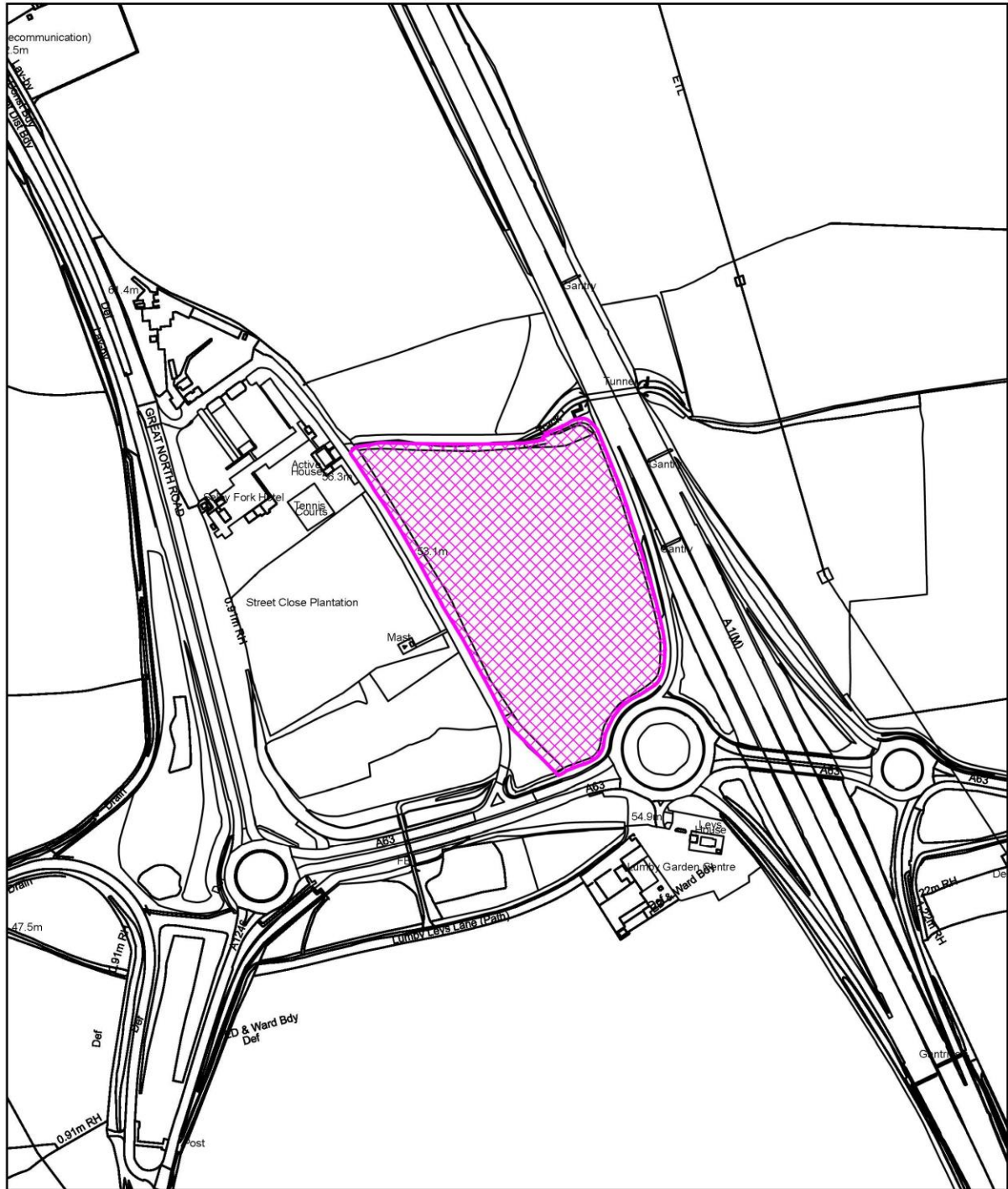
###### **RECOMMENDATION:**

- i) That approval is granted for the making of the Public Path Diversion Order, which will then be subject to the required consultation.
- ii) That delegation is given to Officers to confirm the Public Path Diversion Order following the expiry of a 28 day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.
- iii) That delegation is given to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance

**with the Order (where the Public Path Diversion Order has been confirmed in ii. above).**

- 2.1. Planning permission has been sought under Part 3 of the Town and Country Planning Act 1990 (as amended) for the proposed construction of a motorway service area on land at Lumby (Local Planning Authority reference 2019/0547/EIA). In order for this development to be fully implemented, it is necessary to divert public bridleway reference 35.59/13.
- 2.2. The Local Planning Authority have discretionary powers under Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways or restricted byways. This type of application can only be made where the Local Planning Authority are satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission. The Growth and Infrastructure Act 2013 also amended section 257 of the Act to allow a diversion/stopping-up Order to be made before planning permission has been granted, provided a planning application has been submitted, as is the case here. However, an Order cannot be confirmed until such time as planning permission has been granted.

Land at Lumby, South Milford  
2020/0045/PROW



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Do not measure from plan

### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found here:- [2020/0045/PROW | Public Bridleway No. 35.59/13 Land at Lumby, Parish of South Milford Diversion Order 2023 | Land At Lumby Lumby South Milford Leeds West Yorkshire LS25 5LE \(selby.gov.uk\)](https://www.selby.gov.uk/2020/0045/PROW_Public_Bridleway_No._35.59/13_Land_at_Lumby,_Parish_of_South_Milford_Diversion_Order_2023_Land_At_Lumby_Lumby_South_Milford_Leeds_West_Yorkshire_LS25_5LE_selby.gov.uk).
- 3.2. There is one relevant planning application for this application which is detailed below:
- 2019/0547/EIA – Proposed construction of a motorway service area – Decision pending consideration.

### **4.0 Main Issues**

- 4.1 Planning permission has been sought under Part 3 of the Town and Country Planning Act 1990 (as amended) for the proposed construction of a motorway service area on land at Lumby (Local Planning Authority reference 2019/0547/EIA). In order for this development to be fully implemented, it is necessary to divert public bridleway reference 35.59/13.
- 4.2 The Local Planning Authority have discretionary powers under Section 257 of the Town and Country Planning Act 1990 to make Public Path Orders for the diversion or stopping-up of footpaths, bridleways or restricted byways. This type of application can only be made where the Local Planning Authority are satisfied that the diversion/stopping-up is necessary to enable development to be carried out in accordance with a planning permission. The Growth and Infrastructure Act 2013 also amended section 257 of the Act to allow a diversion/stopping-up Order to be made before planning permission has been granted, provided a planning application has been submitted, as is the case here. However, an Order cannot be confirmed until such time as planning permission has been granted.
- 4.3 The Applicant, Roadchef Motorways Limited, have requested that the Local Planning Authority exercises its powers to make a Public Path Order to divert public right of way reference 35.59/13. The request has been accompanied by a good quality large scale plan showing the existing right of way and the proposed right of way; details of the proposed public right of way width; the location and width of any gates and/or fences proposed along the proposed route; and the surfacing of the proposed route. The plan shows the existing bridleway, which runs alongside the eastern site boundary with the A1(M) Northbound On-slip and then along the southern site boundary, diverted within the parcel of land for the majority from its northern most point to run along the northern site boundary and then along the western site boundary to rejoin with the existing bridleway. This would avoid the Public Right of Way having to cross the main access to the proposed motorway service area.
- 4.4 The Local Planning Authority have undertaken a site visit with the NYC Public Rights of Way Officers and are content with the details of the proposed diversion. Accordingly, a Public Path Diversion Order has been drafted (see Appendix A).
- 4.5 This report seeks approval for the making of the Public Path Diversion Order, which will then be subject to the required consultation - notice of sealing is to be advertised

for 28 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYC Highways; NYC Public Rights of Way Officer; Parish Council, and all immediate neighbours.

- 4.6 If any objections are received within 28 days, the Applicant will have the opportunity to address these in order to determine if they can be withdrawn. If no objections are received within 28 days, or objections that are received through the consultation period are subsequently withdrawn, the Local Planning Authority can then confirm the (unopposed) Public Path Diversion Order. Notice of confirmation of the Order is to be advertised for 42 days via site notice, press notice, and letter to Auto-Cycle Union; British Horse Society; Byways and Bridleways Trust; Open Spaces Society; Ramblers Association; Cyclists Touring Club; NYC Highways; NYC Public Rights of Way Officer; Parish Council, and all immediate neighbours.
- 4.7 If objections are received to the Public Path Diversion Order within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, the Local Planning Authority must refer the Public Path Diversion Order to the Secretary of State. The Secretary of State will then decide the matter either by holding a Public Inquiry or by appointing a person to hear the representations of the objectors. The Secretary of State then decides on the basis of the reports submitted at the Inquiry, or by hearing representations, whether to confirm the Public Path Diversion Order with or without modification.
- 4.8 Once the diversion works have been carried out on site, the Local Planning Authority and the NYC Public Rights of Way Officers will inspect the works to ensure they comply with the Public Path Diversion Order. If the works have been completed satisfactorily the Public Path Diversion Order can be certified.
- 4.9 In making this recommendation, due consideration has been given to the impacts under Section 149 of the Equalities Act 2010 and the Human Rights Act 1998.
- 4.10 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.
- 4.11 The proposal to divert the Public Right of Way would not result in a negative effect on any persons of on persons with The Equality Act 2010 protected characteristics. Further, the diversion is proposed as a result of the development of the motorway service area, which could have a positive impact in terms of the provision of facilities for those with additional needs, through the design and accessibility of the development, including parking provision.

- 4.12 The proposal to divert the Public Right of Way would not contravene Convention rights contained in the Human Rights Act 1998, with particular reference to right to health or right to private and family life.

## **5.0 RECOMMENDATION**

- i) That approval is granted for the making of the Public Path Diversion Order, which will then be subject to the required consultation.
- ii) That delegation is given to Officers to confirm the Public Path Diversion Order following the expiry of a 28 day consultation period, subject to no objections being received or objections that are received through the consultation period being subsequently withdrawn within two months after the expiration of the objection period. Where objections are received within the specified time limit and are not subsequently withdrawn within two months after the expiration of the objection period, that delegation is given to Officers to refer the Public Path Diversion Order to the Secretary of State.
- iii) That delegation is given to Officers to certify the Public Path Diversion Order following the completion of the diversion works in accordance with the Order (where the Public Path Diversion Order has been confirmed in ii. above).

**Case Officer:** Jenny Tyreman, [jenny.tyreman@northyorks.gov.uk](mailto:jenny.tyreman@northyorks.gov.uk)

**Appendix A – Public Path Diversion Order**

**THE NORTH YORKSHIRE COUNCIL**

**PUBLIC PATH DIVERSION ORDER**

**TOWN AND COUNTRY PLANNING ACT 1990 SECTION 257**

**BRIDLEWAY No. 35.59/13 LAND AT LUMBY, PARISH OF SOUTH MILFORD, DIVERSION  
ORDER 2024**

This order is made by The North Yorkshire Council under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the bridleway to which this order relates in order to enable development to be carried out in accordance with planning permission sought under Part 3 of the Town and Country Planning Act 1990 (as amended) namely: the proposed construction of a motorway service area on land at Lumby, in the parish of South Milford, pursuant to a planning application under Local Planning Authority reference 2019/0547/EIA.

**BY THIS ORDER:**

1. The bridleway over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this Order (“the Schedule”) shall be diverted as provided below.
2. There shall be created to the reasonable satisfaction of The North Yorkshire Council an alternative highway for use as a replacement for the said bridleway as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the bridleway shall have effect on the date on which The North Yorkshire Council certify that the terms of Article 2 above have been complied with.
4. The following works shall be carried out in relation to the highway described in Part 2 of the Schedule: a crushed stone surface of 4 (four) metres in width to be applied along the entire length of the diverted route. A 4-metre-high noise barrier shall be provided from 30 metres south of point D to 50 metres east of point E. A 1.5-metre-high timber post and rail fence shall be provided to the east or south side of the remainder of the bridleway. Gaps to BS 5709:2018 shall be provided at Points C and G.
5. The rights conferred on the public under this Order shall be subject to the limitations and conditions set out in Part 3 of the Schedule.
5. Roadchef Motorways Limited is hereby required to pay for the cost of carrying out the said works.
6. Where immediately before the date on which the bridleway is diverted there is apparatus under, in, on, over along or across it belonging to statutory undertakers for the purpose

of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

THE COMMON SEAL of )  
 THE NORTH YORKSHIRE COUNCIL )  
 was hereunto affixed this )  
 INSERT DATE )  
 in the presence of:- )

## SCHEDULE

### PART 1

#### Description of site of existing path or way to be stopped up

Bridleway No. 35.59/13	Length (metres)	Width (metres)	Position & description of Bridleway
Shown on the map by a bold black line as A-B	371	3.5	The existing section of bridleway commences at Point A (Grid Reference 44717, 42988) and proceeds in a generally north easterly direction for approximately 371 metres to Point B (Grid Reference 44721 43019).

### PART 2

#### Description of site of alternative highway to be created

Bridleway No. 35.59/13	Length (metres)	Width (metres)	Position & description of Bridleway
Shown on the map by bold black dashes as A-C-D-E-F-G-B	563	4	The bridleway will commence at Point A (Grid Reference 44717 42988), progressing in an easterly direction for approximately 2 metres to a gap at Point C (Grid Reference 44717 42988), and then continuing in a generally northerly direction for approximately 313 metres to Point D (Grid Reference 44700 43014), and then continuing in a generally north easterly direction for approximately 34 metres to Point E (Grid Reference 44701 43017), and then continuing in a generally easterly direction for approximately 84 metres to Point F (Grid Reference 44709 43018), and then continuing in a generally south easterly

			<p>direction for approximately 125 metres to a gap at Point G (Grid Reference 44721 43018), and continuing in a generally easterly direction for approximately 5 metres to Point B (Grid Reference 44721 43019).</p> <p>The full extent of the bridleway will have a crushed stone surface.</p>
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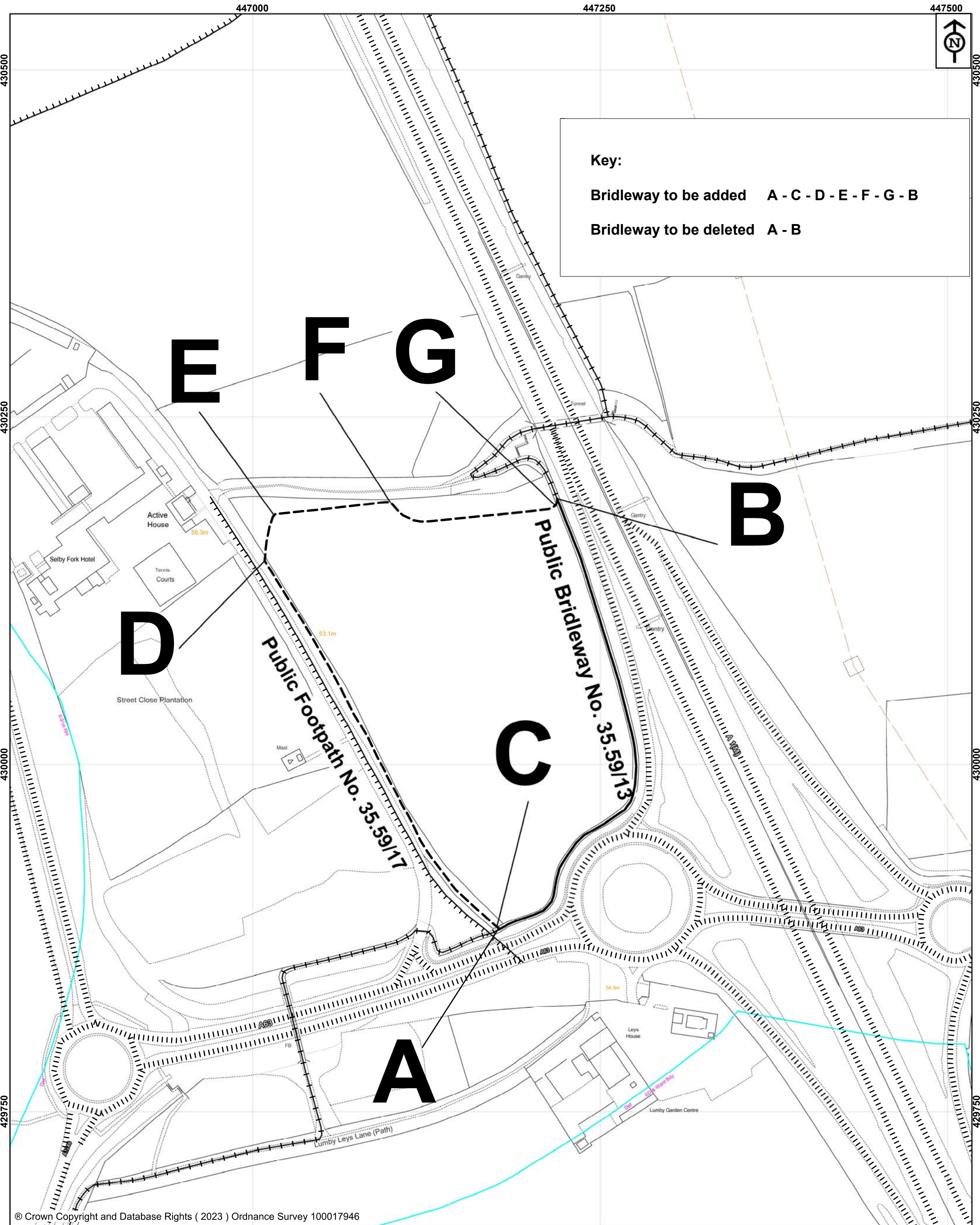
**PART 3**

**Limitations and Conditions**


<b>Position on the Bridleway to which limitations and conditions apply</b>	<b>Limitations and Conditions</b>
Grid Reference 44717 42988 - Point C	Gap to BS5709:2018
Grid Reference 44721 43018 - Point G	Gap to BS5709:2018

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 <p><b>NORTH YORKSHIRE COUNCIL</b></p> <p>Public Rights of Way          Countryside Access Service          County Hall          Northallerton          DL7 8AH</p>	<p>Key:</p> <p>Bridleway to be added    - - - - -</p> <p>Bridleway to be deleted    = = = = =</p> <p>Other footpaths    + + + + +</p> <p>Other bridleways    - + - + - + - + - + -</p> <p>Maintainable Highways               </p> <p>Map drawn on 11 May 2023          Drawn by CP/JT    Scale 1:2500</p>	<p><b>The North Yorkshire Council</b></p> <p>Town and Country Planning Act 1990</p> <p>Public Bridleway No. 35.59/13          Land at Lumby, Parish of South Milford          Diversion Order 2023</p> <p>File Ref No. HAM/2022/DO</p>
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