

## Agenda

Notice of a public meeting of

### Strategic Planning Committee

**To:** Councillors Andy Brown, Richard Foster, Hannah Gostlow, David Hugill, Tom Jones, Andrew Lee, John Mann, Steve Mason, John McCartney, Bob Packham (Vice-Chair), Andy Paraskos (Chair), Yvonne Peacock, Neil Swannick, Roberta Swiers and Andrew Timothy.

**Date:** Tuesday, 11th June, 2024

**Time:** 10.00 am

**Venue:** The Council Chamber, County Hall, Northallerton, DL7 8AD

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 6th June 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.

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Recordings of previous live broadcast meetings are also available there

### Business

1. **Minutes of the meeting held on 14th May 2024** (Pages 3 - 10)
2. **Declaration of Interests**

Enquiries relating to this agenda please contact Stephen Loach, Democratic Services Officer Tel: 01609 532216 or e-mail: [stephen.loach@northyorks.gov.uk](mailto:stephen.loach@northyorks.gov.uk)  
Website: [www.northyorks.gov.uk](http://www.northyorks.gov.uk)

3. **ZB23/02461/FUL - Installation of a solar farm comprising ground mounted solar PV panels with a generating capacity of up to 49.99MW(AC), including mounting framework, inverters, underground cabling, stock proof fence, CCTV, internal tracks and associated infrastructure, landscaping, biodiversity net gain, permanent grid connection hub and environmental enhancements for a temporary period of 50 years - Land to the south of Pilmoor Grange, Pilmoor, York, North Yorkshire, YO61 2QF** (Pages 11 - 40)
4. **Update Report** (Pages 41 - 44)
5. **2021/1531/EIA - outline planning application for the demolition of existing colliery buildings and the construction of up to 1,460,000 sq ft of employment floor-space comprising Use Classes B2, B8 and E(g) to include access (with all other matters reserved) - Land at Gascoigne Wood Interchange, Gascoigne Wood Mine, Lennerton Lane, Sherburn-in-Elmet, North Yorkshire, LS25 6LH** (Pages 45 - 90)
6. **2022/1160/S73 - Application for removal of condition 01 (Temporary Consent) of approval 2019/0030/COU change of use of land to 12 Gypsy/ Traveller Pitches and associated works including 12 no. mobile homes, 12 no. touring caravans and 12 no. day-rooms (retrospective) granted on 12 June 2020 AT at Milford Caravan Park, Great North Road, South Milford, Leeds.** (Pages 91 - 114)
7. **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

3<sup>rd</sup> June 2024

## North Yorkshire Council

### Strategic Planning Committee

Minutes of the meeting held at County Hall, Northallerton on Tuesday 14<sup>th</sup> May 2024 at 10am.

**Present:-**

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

Apologies were received from Councillor Roberta Swiers

Other Member – Councillor Andrew Williams

Officers present: Nick Turpin, Kate Broadbank, Jasmin Gibson, Rachael Hutton, Glenn Sharpe and Steve Loach.

There were 10 members of the public – including 4 registered speakers

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

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**48. Welcome and Introductions.**

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

**49. Minutes of the meeting held on 9 April 2024**

**Resolved -**

That the Minutes of the meeting of North Yorkshire County Council's Strategic Planning Committee, held on 9 April 2024, be confirmed by Members and signed by the Chairman as a correct record.

**50. Declarations of Interest**

Councillors Andy Paraskos (Chair) and Hannah Gostlow declared that they had been Members of the Harrogate Borough Council Planning Committee that had previously considered this application, in February 2023. They stated that since their consideration of that application there had been significant developments of the proposals, not least the development of a S106 Legal Agreement, and given the new information being provided they would approach the application from a new perspective and with an open mind. Their decisions would be based on the details presented at today's meeting.

Councillors Richard Foster, Hannah Gostlow, George Jabbour, Tom Jones, Andrew Lee, Steve Mason, Bob Packham and Andy Parakos declared that they had received

correspondence from either supporters, objectors or both, to the application prior to this meeting but would form their opinion based on the evidence provided.

51. **20/02973/EIAMAJ – Outline planning application with means of access (from Clotherholme Road and Kirkby Road) for a mixed-use development comprising: up to 1300 dwellings (Use Class C3), up to 60 extra care accommodation units (Use Class C2), retail, food and drink (Use Classes E, F2 and sui generis), community facilities (Use Classes E, F1,F2 and sui generis), 2ha of employment land (Use Class E), primary school (Use Class F1), sports pitches with ancillary facilities (Use Class F2), public open space, landscaping, demolition of existing buildings and structures and associated works on land at 21 and 28 Engineers, Claro Barracks, Chatham Road, Ripon, North Yorkshire, HG4 2RD.**

Considered -

The report of the Assistant Director Planning – Community Development Services requesting Members to determine an outline planning application ref. 20/02973/EIAMAJ – Outline planning application with means of access (from Clotherholme Road and Kirkby Road) for a mixed-use development comprising: up to 1300 dwellings (Use Class C3), up to 60 extra care accommodation units (Use Class C2), retail, food and drink (Use Classes E, F2 and sui generis), community facilities (Use Classes E, F1,F2 and sui generis), 2ha of employment land (Use Class E), primary school (Use Class F1), sports pitches with ancillary facilities (Use Class F2), public open space, landscaping, demolition of existing buildings and structures and associated works on land at 21 and 28 Engineers, Claro Barracks, Chatham Road, Ripon, North Yorkshire. HG4 2RD.

The application was reported to Strategic Planning Committee as it was considered that this raised significant strategic planning issues that affected more than one area committee geography given the nature of the proposal.

Divisional Member, Councillor Barbara Brodigan, submitted a statement that was read out to the Committee by the Clerk. The statement highlighted the following:-

- She welcomed the improved planning application submitted by Homes England
- She remained sceptical about the proposed mitigation actions designed to reduce the impact of increased traffic on the road system of an ancient city. Speed reduction measures on Clotherholme Road and Kirkby Road would be welcomed, particularly considering there are 5 schools in the vicinity of these roads.
- She welcomed the engagement between Homes England and the Ripon Military Heritage Trust to recognise the significance of the military heritage on this site. However this must be preserved in its original form and not subjected to “tokenism”. This was a one-time only opportunity to save and preserve the military heritage.
- She asked that the committee considered the needs of RMHT when making their decision.

Guy Wilson, Chair of the Ripon Military Heritage Trust addressed the Committee highlighting the following:-

- He highlighted the importance of the facilities located on the site in relation to WW1 and WW2 and the significance of this heritage locally, nationally and internationally.
- He noted that the MoD had recognised the importance of the heritage site in 2018

and it was important that preservation of the site took place now.

- Approval of the application should be dependent upon an appropriate heritage preservation scheme, negotiated between the appropriate parties, being in place.
- No appropriate strategy was currently in place for the heritage site and this was required as a proviso for the application to move forward.
- He suggested that a solution could be delivered through the S106 Legal Agreement and he emphasised that without a heritage solution in place before the application was approved, this would be lost forever.

Rachel Wiggington of the Ripon Civic Society addressed the Committee highlighting the following:-

- She objected to the application before Members at today's meeting.
- She suggested that the application be deferred to allow further consideration to be given to the military heritage matters outlined by the previous speaker and a suitable solution to be delivered.
- Whilst welcoming some of the highway improvements she raised concerns regarding the proposed banning of the right turn movement for eastbound traffic (to Boroughbridge) on the B6265 Somerset Row from turning into Low Skellgate. She considered that this would have a major impact on that route resulting in more traffic in that location and substantially longer journeys for local residents. She noted that consultants acquired by Ripon City Council had considered the implications of the new arrangements for that junction and had indicated that there would be an adverse impact for local residents.
- The increased traffic along this route would also create additional pollution.

Steven Harness, representing DIO Estates, addressed the Committee, highlighting the following:-

- The military base at the site had been earmarked for closure since 2016 and had been outlined for housing development, with part of the site already acquired for this.
- Homes England aimed to provide a sustainable community incorporating new facilities and enhancing the military heritage proposals to benefit the City of Ripon.
- The aim was to carefully integrate the heritage strategy, developed alongside Ripon's interested groups, to develop a community and tourist facility that showcased the military history of that area.
- This would involve the relocation of a number of the historical buildings with the site managed and maintained by Homes England.

David Rowlinson representing Homes England addressed the Committee, highlighting the following:-

- The proposal would enable the delivery of a large amount of good quality homes for the Ripon area.
- Following the deferral of the application by Harrogate Borough Council extensive work had taken place to enhance the proposal and the recommendation for approval was welcomed.
- The S106 Legal Agreement would secure £10m of additional benefits to the Ripon area.
- The heritage strategy continued to be developed and a further £100k had been set aside to assist this.

Councillor Andrew Williams representing Ripon City Council addressed the Committee, highlighting the following:-

- He stated that initial suggestions for the military heritage protection had been inadequate as important artefacts and structures were not protected. He considered that the current proposals, whilst improved, did not adequately protect nor enhance the military heritage proposals and considered it important that a proper visitor centre, at an appropriate location, with adequate protection provided for the artefacts and structures were delivered at this stage.
- He also raised concerns regarding the proposed banning of the right turn movement for eastbound traffic (to Boroughbridge) on the B6265 Somerset Row from turning into Low Skellgate. As the elected representative on the Council for the south of Ripon he considered that the residents he represented were unduly affected by the new junction arrangements, with significantly extended journeys required to access their communities.
- He suggested that Members consider deferring the application to allow time to address the issues he had raised.

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:

- It was noted, through a query from a Member, that the framework for the heritage strategy was outlined in the conditions. Should the strategy prove to be not viable than the condition will not have been met. It was expected, therefore, that the strategy would be developed with a fair balance developed in relation to the expectations of all those involved.
- It was clarified that the application was four up to 1300 dwellings which accorded with the local Plan.
- A Member expressed doubt that some of the military heritage buildings would be able to be relocated due to their age and condition.
- It was asked how the decision to ban the right turn movement for eastbound traffic (to Boroughbridge) on the B6265 Somerset Row from turning into Low Skellgate had been arrived at. Details of the process undertaken and the experts involved were provided. It was stated that the junction referred to was compatible with a number of other proposed junction improvements and taking this in isolation would not be appropriate as the whole improvements programme was corelated. It was also noted that Ripon City Council had undertaken their own independent survey.
- It was asked whether the highways proposals could be given further consideration should the application be approved at today's meeting, given that it was for outline permission. In response it was stated that the highways improvements were subject to a S278 agreement and, until that was in place, alterations could be made. It was clarified that the developer was required to meet any reasonable costs identified through the S278 agreement.
- Reference was made to the objection raised by Sports England and it was asked

NYC Strategic Planning Committee -  
Minutes – 14 May 2024



how that could be addressed. In relation to this it was stated that the loss of the sports pitches referred to by Sports England were on the military base, were not available for public use and had not been used for a number of years. The proposals within the application would provide additional sports facilities available for all to use, despite the reduction in size of actual designated sports ground. The result was a higher offer to the public of sports and community facilities.

- A Member noted that the application highlighted the provision of 30% affordable housing and asked how that would be implemented. In response it was stated that condition 57 within the report related to the legal agreement that would determine the level of affordable housing provided. Further applications would be subject to the Committee's consideration in terms of reserved at various stages. The affordable housing targets would be considered as part of that process.
- It was asked whether there were proposals for a reduced development should the MoD eventually decide not to relinquish the rest of the site required for the overall development. In response it was stated that condition 6 of the application related to the land requirement and this had to be agreed with the MoD before the development proceeded.
- A Member asked whether there had been discussions with the Council's Economic Development services in relation to the £10m funding to be generated through the S106 agreement to determine whether further matched funding could be obtained to maximise the proposals for the area. In response it was noted that the S106 had yet to be negotiated and any consideration of the source of potential match funding would be undertaken as an entirely separate process to that of the S106.
- In terms of the heritage strategy and the related condition it was asked whether further funding would be available should it be determined that, for example, £500k was required. In response it was emphasised that any condition had to be viable and feasible, hence the level that had been set. It was also stated that the strategy would be developed through negotiations between the interested parties, and this was likely to take some time, given the possible need to take down, store and rebuild buildings.
- A Member asked whether it was possible for a condition to be provided for a re-examination of the highways changes, given the issues raised by the public speakers, particularly the local elected Members. It was re-iterated that the highways alterations could not be considered in isolation as the system had been developed to work together in terms of traffic flow through the area. Inevitably there would be some pinch-points but the evidence of the modelling exercises that had taken place indicated that this would be the most effective traffic system for that area. Should evidence be provided that this was not the case then further consideration could be given but, currently, there was no evidence to suggest that this was not the most effective traffic control system.
- It was clarified that the cost implications for the heritage strategy, including subsequent maintenance, would be determined through the S106 agreement.
- A Member suggested that the vehicle movements from the local Extra Care Facilities should not be discounted as they appeared to be in the report. In response it was noted that the details set out within the report related to the impact on the local highways at the busiest times and it was unlikely that these facilities would have an impact during those times.
- It was noted that further consideration of potentially contaminated land would be required when this was no longer under military control and conditions were in place to require that, and to determine any required restoration.
- A Member noted that the development of the heritage strategy was not a reserved matter and, therefore, would not return to the Committee for consideration. This was confirmed.

- Reference was made to the plan for biodiversity net gain (BNG) and it was asked where this was to be delivered having heard earlier how the sports sites had been untouched for a number of years and the biodiversity that would have built up as a result of that. In response it was stated that BNG would be generated both on and off site, but the majority would be delivered on site. It was acknowledged that the untouched areas would have an impact on this, however, BNG would be delivered and this would be set out in reserved matters coming back to the Committee. The member asked whether the designation of the heritage site could have an impact on BNG. It was stated that this could be the case but it was yet to be determined how this would be developed, therefore, further consideration would be undertaken when this was decided. It was emphasised, however, that any biodiversity lost would be required to be replaced, like for like, either on or off site.
- A Member emphasised the need for the heritage strategy to return to the Committee for consideration as a reserved matter. In response it was stated that legally this could not be classed as a reserved matter, however, technically the strategy could be returned to the Committee for determination at the first round matters application stage. Alterations to the existing condition 47 would enable this to take place.

Members highlighted the following issues during the debate of the report:

- The overall scheme was beneficial and was much improved from the initial proposal. It was a brown field site that would deliver affordable/social housing, community facilities, biodiversity net gain and bring major improvements to the Ripon area. The aspects of concern related to the preservation of the military heritage and the proposed no right turn at the junction highlighted above.
- Further consideration should be given to energy aspects of the proposal to ensure that these were allied to carbon neutral and climate change matters.
- It was suggested that economic development services were involved in the discussions relating to the £10m funding emerging from the S106 agreement to determine whether further “matched funding” could be obtained to benefit the City of Ripon.
- Members emphasised the need to ensure that the heritage strategy was accommodated appropriately, at this time, and requested that it brought back to the Committee as a reserved matter, if possible, to ensure that this was developed appropriately. It was also suggested that some land was set aside to accommodate the heritage proposals and that this was adjacent to the proposed development, or in a different area, rather than incorporated in the main housing area. The Committee’s Legal Advisor stated that the heritage matter could not be made a reserved matter as legislation prevented that, however, details of the strategy could be brought back to the Committee for consideration by Members at the first reserved matters stage to ensure that this accorded with what they required. Alterations to condition 47, set out in the report, would enable this.
- A Member requested that further consideration be given to maintaining the right turn on the B6265 Somerset Row into Low Skellgate, as this was clearly an issue of concern for local residents and local elected Members.
- It was asked how the provision of affordable housing and social housing would be defined in terms of the split for those within the development. In response it was stated that housing legislation would guide this and more details would be provided to Members at the reserved matters stage. Clarification was provided in relation to the discount offered by the Government in relation to a “first time buyers discount”.
- A proposal was put forward that the application be deferred until the heritage



strategy was in place. It was explained that the development of the strategy would be a lengthy process and deferral of the application for this to take place could unduly delay the development. A vote was taken on the deferral and this was defeated (2 for – 12 against).

**Resolved –**

That planning permission be **GRANTED**, subject to the conditions listed, with alterations made to Condition 47 to enable details of the heritage strategy to be brought back to the Committee for consideration by Members at the first reserved matters stage and completion of a S106 agreement with terms as detailed in the report.

Voting on this resolution was unanimous

The meeting concluded at 12 noon

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## North Yorkshire Council

### Community Development Services

#### Strategic Planning Committee

11 JUNE 2024

**ZB23/02461/FUL - Installation of a solar farm comprising ground mounted solar PV panels with a generating capacity of up to 49.99MW(AC), including mounting framework, inverters, underground cabling, stock proof fence, CCTV, internal tracks and associated infrastructure, landscaping, biodiversity net gain, permanent grid connection hub and environmental enhancements for a temporary period of 50 years**

**At: Land to the south of Pilmoor Grange, Pilmoor, York, North Yorkshire, YO61 2QF**

**On behalf of: Mr Anthony Brindle**

#### **Report of the Head of Development Management – Community Development Services**

##### **1.0 PURPOSE OF THE REPORT**

- 1.1 To determine a planning application for the installation of a solar farm comprising ground mounted solar pv panels with a generating capacity of up to 49.99mw(ac), including mounting framework, inverters, underground cabling, stock proof fence, cctv, internal tracks and associated infrastructure, landscaping, biodiversity net gain, permanent grid connection hub and environmental enhancements for a temporary period of 50 years on land at south of Pilmoor Grange, Pilmoor, York, North Yorkshire, YO61 2QF.
- 1.2 The Corporate Director of Community Development considers the application to raise significant planning issues

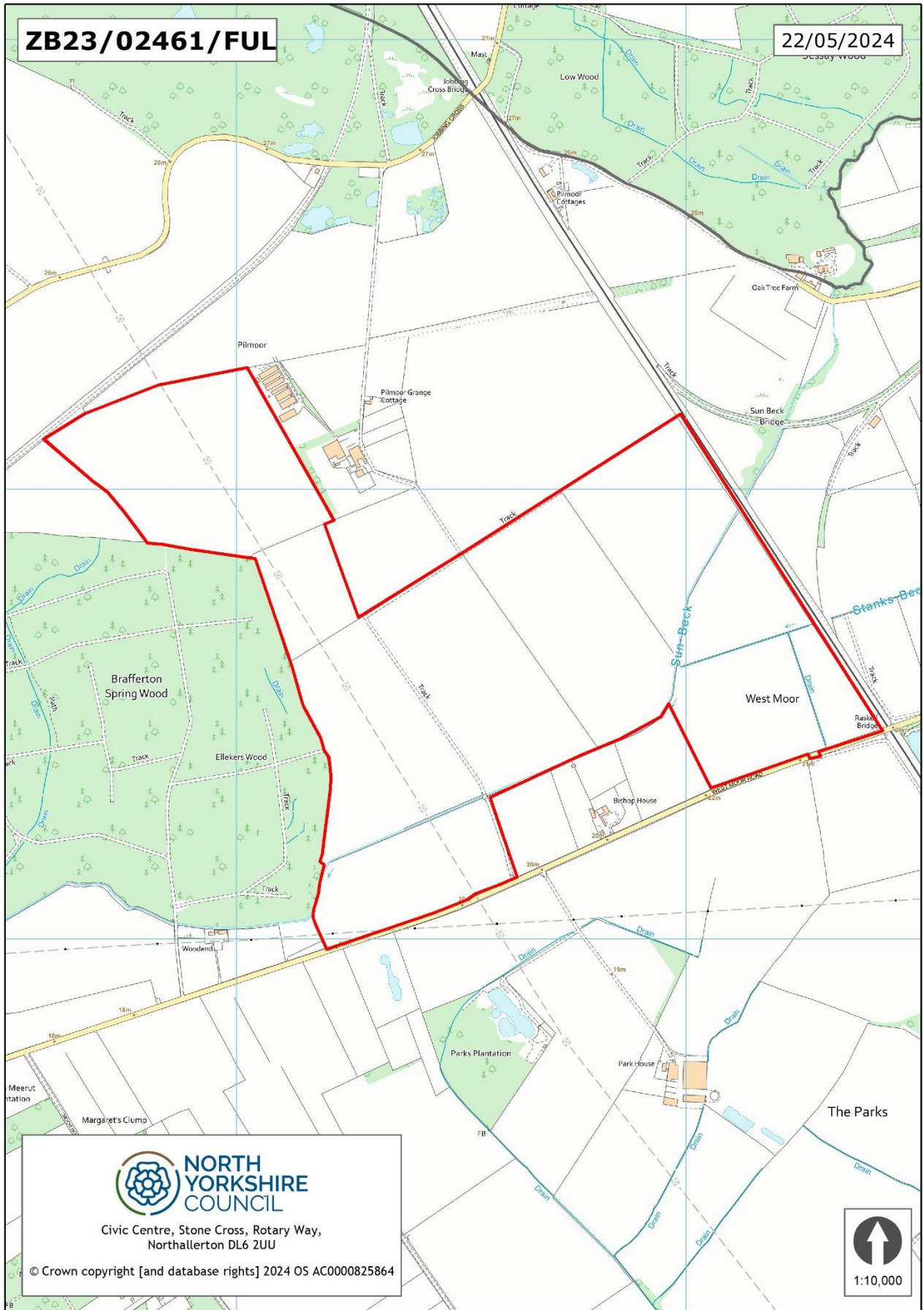
##### **2.0 EXECUTIVE SUMMARY**

**RECOMMENDATION: That planning permission be GRANTED subject to conditions listed below.**

- 2.1. Planning permission is sought for a new solar farm and ancillary development. The red line boundary covers an area totalling approximately 94.43 hectares. This includes land that would not be covered by the solar panels as the existing field boundaries would be retained and several landscape buffers are proposed.
- 2.2. The site itself is an irregular shaped area of primarily arable land immediately to the north of West Moor Road, approximately equidistant (2.3km) between Raskelf to the east and Brafferton with Helperby to the west. The majority of the site is within flood zone 1, although the southern-most portion adjacent to the highway is within flood zones 2 and 3. Brafferton Spring Wood, a designated Site of Importance for Nature Conservation (SINC) is located immediately to the west, with the East Coast Mainline (ECML) bordering the site to the east. Pilmoor Site of Special Scientific Importance (SSSI) is located approximately 0.5km north of

the northern-most part of the site, although the majority of the site sits over a kilometre away from the SSSI. Two watercourses transect the site to the southern end, Sun Beck and Stanks Beck. At the southern end of the site is an independent dwelling known as Bishop House.

- 2.3. There is strong national support for renewable energy schemes as set out in national guidance and policy documents such as the National Policy Statement (NPS) for Energy (EN-1), NPS for Renewable Energy Infrastructure (EN03) and the UK Government Solar Strategy (2014). The National Planning Policy Framework (NPPF) indicates that the planning system should support the transition to a low carbon future as well as renewable and low carbon energy and associated infrastructure. The NPPF states that applications should be approved if its impacts are (or can be made) acceptable. The Hambleton Local Plan builds on this by providing a more detailed approach including the weighing of harm against public benefits and a sequential approach to harm (avoid, mitigate, compensate). In this case it is considered that the development does not result in such significant harm that would not be out weighted by the public benefits of the scheme.
- 2.4. The main issues on this occasion are flood risk, the landscape impact of the development, the impact of the development on residential amenity, the ecological impact, and the potential health and safety impact resulting from glint and glare owing to the proximity of the railway line, highway network, and both civilian and military airfields.
- 2.5. Reason for recommendation
- 2.6. Overall, for the reasons set out in the report, it is considered the proposal is compliant with the overarching policies of the development plan and national planning policy requirements and thus, represents sustainable development.



### **3.0 PRELIMINARY MATTERS**

- 3.1. Access to the case file on Public Access can be found here:  
[Documents for reference ZB23/02461/FUL: Public Access](#)
- 3.2. During the course of the application several amended technical assessments have been submitted, namely an updated Glint and Glare Study, an Ecological Impact Assessment, an amended Flood Risk Assessment and Flood Risk Sequential Test information.
- 3.3. Changes have also made to the design of the scheme by way of the following:
- Buffer area added to the design for the badger setts identified in survey efforts.
  - Skylark compensation area and amendment to the site access location in order to avoid the track cutting across this ecology area.
  - Additional tree and hedge planting to provide screening of the railway signal, and screening of views from Bishop House occupiers.
  - Some minor changes to boundary fence lines around the perimeter so that significant areas of ecology planting is outside of the fencing.
- 3.4. There is one relevant planning application for this application which is detailed below.

ZB23/02405/SCR – An EIA Screening Opinion in accordance with Regulations 2 and 4 of the Town and Country Planning (Environmental Impact Assessment) (England) Regulations 2017 relating to a proposed solar farm – 15.12.2023 – Environmental Statement Not Required

### **4.0 SITE AND SURROUNDINGS**

- 4.1. The application site is an irregular shaped area of primarily arable land measuring approx. 943,710sqm (94.3ha). The site lies immediately to the north of West Moor Road, approximately equidistant (~2.3km) between Raskelf to the east and Brafferton with Helperby to the west. Brafferton Spring Wood, a designated Site of Importance for Nature Conservation (SINC) is located immediately to the west, with the East Coast Mainline (ECML) running past the site to the east. Pilmoor Site of Special Scientific Importance (SSSI) is located approximately 0.5km north of the northern-most part of the site, although the majority of the site sits over a kilometre away from the SSSI. Two watercourses transect the site to the southern end, Sun Beck and Stanks Beck. At the southern end of the site there is also an independent dwelling known as Bishop House. The majority of the site is within flood zone 1, although the southern-most portion adjacent to the highway is within flood zones 2 and 3. There are two existing points of access from West Moor Road which the development will utilise. No new access points from the public road are proposed.
- 4.2. The surrounding area is mostly made up of agricultural land. There is one dwelling, Bishop House, located off West Moor Road which is surrounded on three sides by the site, albeit with a buffer of two parcels of land either side of the dwelling measuring approximately 3ha each.

### **5.0 DESCRIPTION OF PROPOSAL**

- 5.1. Permission is sought for a renewable energy development consisting of solar panels across the site. The panels themselves would be arranged in rows on a east-west axis and sit at a maximum height of 3.2m above ground level. They are then mounted onto a frame which is fixed into the ground, leaving the ground beneath and around the panels accessible for livestock grazing and preventing the need for concrete bases.
- 5.2. Along with the solar panels, an array of ancillary development is required as well as other general alterations. This can be summarised as follows:



- Substation and grid connection compound - a compound measuring approximately 45m x 67m is proposed to be sited on the western edge of the site adjacent to the existing power line. This would comprise a 23m high pylon which is connected to an array of electronic infrastructure including a series of disconnectors and a transformer. Within this compound, it is also proposed to site a 15m high communications tower, four 5m high CCTV/floodlight columns, and a flat roofed control room measuring approximately 6.885m x 5.610m with a height of approximately 3.8m.
- Underground cabling from the panels to the compound.
- Access track leading off West Moor Road to the compound.
- Stone track running through the site for access.
- 32 CCTV columns measuring 5m high around the perimeter of the site.
- 2m high perimeter fencing around the site boundary (maintaining buffer around adjacent woodland and existing hedgerows).
- Wildflower planting along western and south western boundaries to create buffer between the main part of the site and the adjacent woodland.
- New native hedgerow and tree planting adjacent to Bishop House.

## **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:
- Hambleton Local Plan – February 2022
  - Minerals and Waste Joint Plan – February 2022

### Emerging Development Plan – Material Consideration

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

### Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework
  - National Planning Practice Guidance
  - Overarching National Policy Statement for Energy (EN-1)
  - National Policy Statement for renewable energy infrastructure (EN-3)
  - UK Solar PV Strategy
  - Written Ministerial Statement on Solar Energy (Protecting the Local and Global Environment -2015)
  - Written Ministerial Statement (Solar and protecting our Food Security and Best and Most Versatile (BMV) Land - 2024)

### Other Relevant Strategies and Material Considerations

- 6.5. The North Yorkshire Climate Change Strategy 2023-2030 (NYCCS) was adopted in July 2023 and identifies ways in which the county can minimise the impacts of climate change, including providing support for the renewable energy transition.

- 6.6 On 5 July 2022 the executive of North Yorkshire County Council declared a climate emergency in North Yorkshire.

## 7.0 CONSULTATION RESPONSES

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2. Brafferton and Helperby Parish Council: Following amendments to the scheme which address a number of concerns Brafferton and Helperby Parish Council maintain a neutral stance on the application for the reasons set out in their original response (summarised below):
- It is accepted there is now pressure to allow this type of development.
  - The adjacent woodland and ecological constraints of the site need to be carefully assessed.
  - A full Ecological Impact Assessment (EclA) should be undertaken and if permission is granted then monitoring should be undertaken.
  - The design of the scheme adjacent to the woodland should be changed off the back of any recommendations of an EclA.
  - The substation should be relocated to a more appropriate location near the railway line.
  - Additional screening should be considered along the southern boundary in the interests of drivers using West Moor Lane.
  - There is concern around the noise output from the substation.
  - Consideration must be given to the residents of Bishop House.
- 7.3. Raskelf Parish Council: Raskelf Parish Council consider that this proposal, due to the scale and location will have an adverse impact on the surrounding environment and landscape contrary to the Hambleton Local Plan, in particular Policies E2 (Amenity), E6 (Nationally Protected Landscapes), E7 (Hambleton's Landscapes) and RM6 (Adverse impacts of Renewable and Low Carbon Energy Installations). The Parish Council has a duty to protect the interests of the community and the parish environment and take into account all representations made at our recent meeting and on reviewing and applying the policies of the Hambleton Local Plan the Parish Council does not feel able to support this application because of its size and nature and recommends that the application be refused.
- 7.4. Civil Aviation Authority: No Comment
- 7.5. Environment Agency: No objection subject to the Flood Risk Assessment being listed as an approved document that must be implemented.
- 7.6. Environmental Health Officer: The service has considered the potential impact on amenity and likelihood of the development to cause and/or be affected by a nuisance and consider that there will be no negative impact. Therefore, the Environmental Health Service has no objections to the application.
- 7.7. Environmental Health Officer (Contaminated Land): From a contaminated land perspective, the risk of contamination affecting the development or end users is considered to be low. However, to address any unexpected visual or olfactory evidence of contamination that could be encountered during any approved site preparation works, a condition is recommended requiring work to stop in such an instance and the details to be submitted to the Council for review.
- 7.8. Kyle & Upper Ouse Internal Drainage Board: Provide standing advice relating to surface water management and discharge rate requirements if any surface water is to be discharged directly to a watercourse.

- 7.9. Lead Local Flood Authority: The natural drainage regime on site will be kept or mirrored, with existing site infiltration and flow paths kept. The submitted documents demonstrate a reasonable approach to the management of surface water on the site. Conditions relating to the implementation of the Flood Risk Assessment and the submission of a construction Environmental Management Plan (CEMP).
- 7.10. MOD Safeguarding: The Defence Infrastructure Organisation (DIO) Safeguarding Team represents the MOD as a consultee in UK planning and energy consenting systems to ensure that development does not compromise or degrade the operation of defence sites such as aerodromes, explosives storage sites, air weapon ranges, and technical sites or training resources such as the Military Low Flying System. Following review of the application documents, the proposed development would be considered to have no detrimental impact on the operation or capability of a defence site or asset. The MOD has no objection to the development proposed.
- 7.11. Natural England: Do not offer comments on the application specifics but direct towards Standing Advice for assessing protected landscapes, protected species, biodiversity, and designated conservation sites.
- 7.12. Network Rail - Having assessed the application, there are no objections in principle but raise the following matters:
- It is noted that the Glint and Glare study recommends the inclusion of mitigation measures along the site boundary with the railway to prevent glint and glare and we would require a suitably worded condition to ensure that prevention measures are delivered and also that Network Rail are consulted in relation to the design and implementation of such a scheme.
  - Require the inclusion of a monitoring condition to ensure that any glint and glare issues that may arise during the initial operation of the site are addressed and suitably mitigated by the developer.
  - A condition requiring a Construction Management Plan for works adjacent to the railway must be included.
  - Any boundary treatments adjacent to the railway must be trespass proof.
  - Any landscaping adjacent to the railway must be of a species that is agreed with Network Rail through condition and must be sited at a safe distance from the railway.
- 7.13. North Yorkshire Council Archaeologist: The application is accompanied by an archaeological desk-based assessment, heritage desk-based assessment and a geophysical survey, all compiled by Headland Archaeology. The desk-based assessments are supported by the results of a geophysical survey which covers the development area. The results of this are largely negative and the features revealed are agricultural or natural in nature. There is a particularly strong response from a system of herringbone drainage. The installation of this drainage will have had an impact on archaeological deposits should they have been present. The proposal is for a solar farm. Although the solar panels are mounted on piles the small amount of ground disturbance is unlikely to have a significant impact on archaeological remains. Given that the assessments suggest that the area has a low archaeological potential it is unlikely that there will be harm.
- 7.14. North Yorkshire Council Ecologist: There are opportunities to be more ambitious with regard to the enhancement and management of retained habitats which can be achieved through a detailed Landscape and Ecological Management Plan (LEMP). The Ecologist was satisfied that further survey work is not necessary but that a Precautionary Working Method Statement in relation to Great Crested Newts should be included in the Construction Environmental Management Plan. A bat activity survey should be conducted prior to

commencement of development to provide a baseline for monitoring. Although a compensation area has been provided it is fair to conclude that the development would result in partial residual displacement of skylark from the site. There may be opportunity for the landowner to enhance other land outside of the development site to increase the carrying capacity for this species. A condition or S106 will be required to secure the monitoring of the Biodiversity Net Gain. Recommends conditions relating to the provision of a Construction Environmental Management Plan (CEMP), Landscape and Ecological Management Plan and Decommissioning Environmental Management Plan.

- 7.15. North Yorkshire Council Highways Department: It is proposed to use an existing access from West Moor Road which was constructed for National Grid works and is suitable for this proposal. The applicant has submitted a "Construction Traffic Management Plan" which includes details of the proposed construction traffic route and other information which is satisfactory. Some further information for the management of the site is required and the Local Highway Authority recommends a condition requiring a Construction Management Plan be agreed prior to development commencing.
- 7.16. North Yorkshire Council Landscape Architect: At present the proposal does not demonstrate sufficient compliance with policy E4: Green Infrastructure or E7: Hambleton's landscapes as it does not protect enhance or restore the distinctive landscape character or secure improvements to green infrastructure that are integral to the existing landscape pattern or enhance recreational links. Further and altered mitigation could achieve a policy compliant proposal. Suggested mitigation includes incorporation of small blocks of native woodland, hedgerow trees along boundaries for soften views, gapping of existing hedges, reduced maintenance height for hedges to be consistent with the landscape character.
- 7.17. North York Moors National Park: No objections to the proposal.
- 7.18. North Yorkshire Police Designing Out Crime Officer: Provide the following observations:
- Consideration should be given to having a number of secure gates along the access track to prevent ease of vehicular access by potential offenders.
  - In order to improve the boundary protection consideration could be given to the use of ditches or bunds.
  - The use of CCTV systems for this type of proposal work best when they are monitored by an operator and have an integrated alarm system triggered by the motion detection that can alert them when the boundary has been breached. There needs to be a comprehensive policy in place detailing what action will be taken in the event of an intruder being detected.
- 7.19. Yorkshire Water: Our statutory mapping record shows that the site is absent of any wastewater or clean water assets. The application site is located close to a Source Protection Zone (SPZ), zone 1. However, this designation is outside of the indicative redline boundary.

#### Local Representations

- 7.20. 123 local representations have been received of which 8 are in support and 115 are objecting. It should be noted, however, that a number of objectors have provided several comments. Comments have also been received from local interest groups Yorkshire Wildlife Trust and Woodland Trust whom provide comments but neither object to nor support the application. A summary of the comments is provided below, however, please see website for full comments.

#### Consultation carried out on 17.04.2024

- 7.21. Support:
- Good site as poor unproductive agricultural land
  - Renewable energy is needed

- No landscape impact
- No wildlife impact
- Initial objections on grounds on environmental impacts have been addressed

#### 7.22. Objections:

- Impact on ecology and wildlife
- Noise from Inverters (impact on woodland users)
- Loss of agricultural land/food security
- Impact on the landscape/visual impact
- Impact on residential amenity (glint and glare, screening insufficient)
- Lack of screening around substation
- Lack of noise assessment
- Solar Panels are an inefficient use of land for energy production (as opposed to off shore wind turbines for example)
- Solar farms have reduced energy generation in winter

#### Consultation carried out on 15.02.2024

#### 7.23. Support:

- Provision of much needed clean energy
- Improvements for ecology and habitats
- Solar is cost effective
- Site has access to a transformer/national grid connection
- Land is grade 3b and therefore less productive
- Solar farms sown with permanent grassland require less intensive use of herbicides and fertilisers
- short of returning land to nature, land use change for solar parks arguably offers more potential than any other land use change to deliver much needed natural capital and ecosystem service benefits.
- Helps England to become self sufficient and not rely on foreign energy

#### 7.24. Object:

- Ecology information is insufficient
- Proximity to SSSI no recorded in EIA screening
- Brafferton Spring Wood buffer should be 30-50m
- The substation should be located next to the railway line
- Wood owners should be considered as high sensitivity receptors in the LVA
- No Acoustic report
- Fencing should allow movement of species
- Impact on moths
- The scheme was designed before Ecological surveys
- Impact of glint and glare on the woodland
- Electricity provision is overstated
- Object to current design rather than in principle
- Public consultation by the applicant was insufficient
- Inaccuracies in the application
- Flood Risk
- Conditions for decommissioning should be included
- The commercial and recreational use of Brafferton Spring Wood should have influenced the Landscape and Visual Impact Assessment
- Impact of vehicle movements
- Use of herbicides to control weeds
- No information on the location of underground cabling
- Would prevent the linking of two woodlands
- Scale of development to too large, similar size scheme had permission quashed at Judicial Review
- Further archaeological surveys should be undertaken

Consultation carried out on 07.12.2023

## 7.25. Support:

- None

## 7.26. Object:

- There is a large solar farm 2.5km from the site
- Impact on tourism
- Impact on wildlife (no Ecology report or BNG)
- Visual Impact
- Flood risk
- Siting of the substation (visual and ecological impact)
- Tree report is inaccurate
- Impact of security lighting
- Impact of fencing
- Visual and acoustic impact on Brafferton Spring Wood
- Form not filled in correctly
- Impact from glare
- Soil contamination
- No meaningful community involvement
- Concern that the land is incorrectly graded
- Solar power is inefficient
- Blight on the countryside
- Unlikely that sheep will be grazed under the panels as there is no evidence of this at other sites.
- Uneven distribution of rainfall
- No community benefit
- Ethics of solar panel production
- No acoustic report
- Cumulative impact of solar farms

**8.0 ENVIRONMENT IMPACT ASSESSMENT (EIA)**

- 8.1. The development falls within Schedule 2 Category 3(a) Industrial installations for the production of electricity, steam and hot water and the area of the development site exceeds 0.5 hectares. As such the Council as Local Planning Authority have screened the development and found that it is not EIA development and no Environmental Statement is required to be submitted with the application. The Screening Checklist which acts as the report and decision is available to view on the Council's website using application number ZB23/02405/SCR. Nothing has changed since the Screening Decision and it is still effective for the Committee Decision. No conditions are required to rule of a likely significant environmental effect.

**9.0 MAIN ISSUES**

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

- Principle of Development and Legislative/Policy Context
- The Use of Agricultural Land (including areas of BMV land), Food Security and Soil Impact
- Landscape and Visual Impacts
- Impact on Heritage Assets (including Archaeology)
- Amenity
- Flood Risk and Surface Water Drainage
- Impacts on Highways Safety



- Ecology Impacts and Biodiversity Net Gain
- Impact on Infrastructure

## 10.0 ASSESSMENT

### Principle of Development and Legislative/ Policy Context

- 10.1. 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. In this case given the nature of the development as an energy production facility it is considered that the above legislation is not relevant to the proposal.
- 10.2. The 2008 Climate Change Act introduced legally binding carbon budgets, which restrict maximum greenhouse emissions for five-year periods ahead of the 2050 Net Zero Target. The sixth carbon budget requires a 68% reduction in annual UK greenhouse gas emissions by 2030 relative to 1990 levels and a 78% reduction by 2035. In addition, the Government's Net Zero Strategy (2021) sets out a commitment for all electricity to come from low carbon sources by 2035.
- 10.3. There is strong national support for renewable energy schemes as set out in national guidance and policy documents such as the National Policy Statement (NPS) for Energy (EN-1), NPS for Renewable Energy Infrastructure (EN03), the UK Government Solar Strategy (2014) and the Written Ministerial Statement on Solar Energy (Protecting the Local and Global Environment -2015). Without exception they recognise the importance of renewable energy (including solar energy) in addressing the impacts of climate change.
- 10.4. The NPPF (December 2023) makes it clear that the wider environmental and economic benefits of renewable energy proposals of any scale should be given significant weight in determining whether planning permission should be granted. Chapter 14 (Meeting the challenge of climate change, flooding and coastal change) of the revised NPPF deals with the promotion of renewable energy projects. Paragraph 157 of the NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure. Paragraph 159 indicates that new development should be planned for in ways that:
- a. avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and
  - b. can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.
- 10.5. Paragraph 163 of the NPPF states that when determining planning applications for renewable and low carbon development, local planning authorities should:
- a. not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable.

b. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

- 10.6. The National Planning Practice Guidance (PPG) states why the provision of renewable and low carbon energy is important: "Increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable." The PPG also emphasises that such schemes will help the Government meet its legal commitments to cut greenhouse gases and meet increased energy demand from renewable sources, although it is also important to note that the PPG is clear that the need for renewable or low carbon energy does not automatically override environmental protections.
- 10.7. The "Planning for renewable and low carbon energy" section of the PPG indicates that particular factors a local planning authority will need to consider include:
- encouraging the effective use of land by focussing large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value;
  - where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.
  - that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;
  - the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;
  - the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;
  - the need for, and impact of, security measures such as lights and fencing;
  - great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;
  - the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;
  - the energy generating potential, which can vary for a number of reasons including, latitude and aspect.
- 10.8. North Yorkshire Council has committed to reducing CO2 emissions within the North Yorkshire Climate Change Strategy (2023-2030).
- 10.9. In accordance with national planning policy and guidance, and building on the general support given to development that 'supports and adapts' to climate change as stated within part (g) of 'Strategic' Policy S1, Policy RM6 (Renewable and Low Carbon Energy) of the Hambleton Local Plan (hereby referred to as the 'Local Plan') also seeks to 'encourage' renewable energy installations:

*"Renewable and low-carbon energy installations, including associated infrastructure, will be encouraged. A proposal, including community-led initiatives for renewable and low carbon energy, will be supported where it is demonstrated that all potential adverse impacts, including cumulative impacts and those on aircraft, radar and telecommunications are, or can be made, acceptable."*

- 10.10. Policy RM6 goes on to state that when identifying and considering the acceptability of potential adverse planning impacts their significance and level of harm will be weighed against the public benefits of the proposal. When identifying and considering landscape and visual impacts regard will be had to the Hambleton Landscape Character Assessment and Sensitivity Study (May 2016) or successor documents. Having identified potential adverse planning impacts the proposal must seek to address them all firstly by seeking to avoid the impact, then to minimise the impact. Enhancement and/or compensatory measures should be assessed, as appropriate, and included in order to make the impact acceptable. All reasonable efforts to avoid, minimise and, where appropriate, compensate will be essential for significant adverse impacts to be considered as being fully addressed. Sufficient evidence will need to have been provided to demonstrate that adverse impacts on designated nature conservation sites can be adequately mitigated. Where relevant this will include sufficient information to inform a Habitats Regulations Assessment. Provision will be made for the removal of apparatus and reinstatement of the site to an acceptable condition, should the scheme become redundant or at the end of the permitted period for time limited planning permissions.
- 10.11. The principle of renewable and low carbon energy development is supported nationally through the aforementioned legislation and within the planning policy/guidance, as well as locally by Policies S1 and RM6 of the Local Plan in particular, subject to compliance with other Local Plan policies. The development will generate electricity from a renewable source and thus contribute towards national and regional targets for the generation of renewable energy and the reduction of CO2 emissions.
- 10.12. Policy RM6 is clear, however, that such general support for renewable energy proposals is dependent on the applicant demonstrating that all of the 'potential adverse planning impacts' of the proposed scheme are, or can be made, acceptable when weighed against the scheme's 'public benefits'. These matters will be considered under the relevant subheadings below with an overall 'weighing up' (balancing consideration) within section 11 of this report.

The Use of Agricultural Land (including areas of BMV land), Food Security and Soil Impact

- 10.13. The NPPF states that local planning authorities should recognise the economic and other benefits of the best and most versatile (BMV) agricultural land. Footnote 63 indicates that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. This is echoed within Policy S5 of the Local Plan which also states that where significant development in the countryside is demonstrated to be necessary, the loss of the BMV agricultural land (i.e. grades 1, 2 and 3a) should be avoided wherever possible. If the benefits of the development justify the loss, areas of the lowest grade available must be used except where other sustainability considerations outweigh agricultural land quality considerations. Where agricultural land would be lost the proposal will be expected to be designed so as to retain as much soil resource as possible as well as avoiding sterilisation of other agricultural land by, for example, severing access to farmland.
- 10.14. Written Ministerial Statement "Solar and protecting our Food Security and Best and Most Versatile (BMV) Land" made on the 15.05.2024 expresses concern over the number of large solar developments are being sited on BMV agricultural land. The Statement points to the 2024 version of the Overarching National Policy Statement for Energy (EN-1) and

reiterates the point that where solar development is necessary on agricultural land it should be steered towards land with a lower value.

- 10.15. It is accepted that there are clear reasons why a development of this scale would need to be located in the open countryside as only in such locations are vast areas of land available to site the solar panels on. In addition the location of solar farms is heavily dictated by the proximity to an available grid connection. Sites which are not within 3km of a grid connection quickly become unviable due to the cost of connecting to the grid (often by underground cabling). In that respect, this development is deemed necessary in this location. Nevertheless, there is still a requirement to assess how this would impact on higher quality agricultural land.
- 10.16. To address this point, an up-to-date Agricultural Land Classification (ALC) Survey has been provided in support of this application. This includes a desktop based survey and a field survey where soil samples were collected and analysed in order to confirm textures, stone content and sand categories. This analysis concluded that there are three main limitations evident with the soil across the 94ha. There was evidence that there is a high level of soil variability over short distances within the site which creates issues long-term for crop yield. Furthermore, some soils on site were considered to be moisture deficient which would create issues for wheat and potatoes. Finally, it was also discovered that there were wetness limitations for some soils.
- 10.17. The conclusion of the analysis was that all 94ha of land within the site was classified as grade 3b. This is in line with the ALC mapping published by Natural England which shows the site to be in an area of Grade 3 land. Although this map is not sufficiently accurate for individual field assessment and does not subdivide grade 3 it is a useful indicator to add confidence to the above survey results.
- 10.18. The representations made by the Campaign For The Protection Of Rural England (CPRE) on this matter and the appeal decision relating to a similar scheme in Pembrokeshire is noted. However, the key difference is on that occasion, the site was classified solely as BMV - i.e. grades 1, 2 and 3a. This is not the case for the application in question in this instance as it is on land classified as grade 3b. Officers accept that there can be damage caused to soil but the submitted ALC Survey is clear that the soil on site is already of a lower quality, making food production difficult. Indeed much of the site is used to grow Miscanthus which is used as a biofuel in the production of energy and is not routinely used for food production. Consequently, any potential damage is given limited weight.
- 10.19. It is the position of Officers that it has been demonstrated that this development would not lead to the loss of any best and most versatile agricultural land and it therefore meets the requirements of policy S5. It is also important to note at this juncture that, whilst taken out of arable production, the solar panels are designed such that the land remains open to the grazing of some livestock and thus the land can still be used for the purposes of agriculture and food production.

#### Landscape and Visual Impacts

- 10.20. Policy E7 of the Local Plan seeks to protect the landscape character of the district and sets out the following requirements for development:
- a. takes into consideration the degree of openness and special characteristics of Hambleton's landscapes;
  - b. conserves and, where possible, enhances any natural or historic landscape features that are identified as contributing to the character of the local area;
  - c. conserves and, where possible, enhances rural areas which are notable for their remoteness, tranquillity or dark skies;
  - d. takes account of areas that have been identified as being particularly sensitive to/or suitable for certain forms of development;

- e. protects the landscape setting of individual settlements and helps to maintain their distinct character and separate identity by preventing coalescence with other settlements; and
- f. is supported by an independent landscape assessment where the proposal is likely to have a detrimental impact on the landscape.

- 10.21. Policy E4: Green Infrastructure states that the Council will seek to protect existing green infrastructure, secure improvements to its safety and accessibility, and secure net gains to green infrastructure provision by requiring development proposals to:
- a. incorporate and where possible enhance existing green infrastructure features as an integral part of the design, and provision of a landscaping scheme which deals positively with the transition between development and adjoining land;
  - b. capitalise on opportunities to enhance and/or create links between green infrastructure features within the site and, where possible, with nearby features beyond the site, for example with multi-user paths, including linking green spaces, and/or address fragmentation of green infrastructure through inclusion of street trees, green roofs and other features as appropriate;
  - c. where the site is located within, or in close proximity to a green infrastructure corridor, or a component of green infrastructure, enhance or create links within, to and between the site and the corridor and to enhance the functionality of the corridor;
  - d. increase woodland cover with appropriate tree species;
  - e. where possible, increase access to woodland in the district; and f. take opportunities to protect and enhance the public right of way network, avoiding unnecessary diversions and through the addition of new links. The Council will work with other parties to develop and improve cross-boundary green infrastructure links, particularly with the North York Moors National Park Authority.
- 10.22. The site lies within Local Landscape Character Area 25: Tholthorpe Moors which forms the northerly part of the Vale of York forming the north eastern corner of the county scale Vale Farmland with Plantation , Woodland and Heathland Landscape Character type which extends south to York. *It is flat to gently undulating and rising to the north to wooded hills of LCA 18 and 24. It is primarily under intensive arable cultivation with medium to large fields enclosed by gappy hedgerows – which are associated with this site although the landscape pattern is variable with smaller narrower strip fields for pasture associated with settlements such as Easingwold. The landscape is relatively open and rural in character away from settlements and infrastructure which includes the A19, main east coast rial line and overhead power lines in the centre of the character area which has a localised effect on character and are associated with this site. There are occasional blocks of woodland cover and although a flat skyline is typical there are occasional long views to the North York Moors and White Horse of Kilburn from slightly elevated vantage points. Cycle route 657 and Route 65 which run through the LCA (and close to the site) are mentioned as strategic routes which link Easingwold with the Swale/ Ure/ Ouse corridor. Opportunities include the potential for landscape enhancements which include restocking gappy hedgerows and diversification of coniferous woodland.*
- 10.23. The site is approximately 5.5km away from the Howardian Hills Area Of Outstanding Natural Beauty and 8km away from the North York Moors National Park. This level of separation means that the site does not play a role in the setting of these nationally protected landscapes and therefore this matter is not assessed any further and policy E6: Nationally Protected Landscapes is not considered relevant.
- 10.24. A Landscape and Visual Appraisal (LVA) by Crestwood Environmental Ltd has been submitted as part of the application. This assesses the impact of the development from 9 viewpoints within 2km of the site. It concludes that the greatest impact would be from West Moor Lane which is directly to the south of the site and Jobbing Cross Lane which is the

road approximately 280m to the north of the northern-most part of the site. The impact from these vantage points is assessed as being moderate at worst. From other surrounding public vantage points it is shown that the relatively flat land levels and surrounding tree lines and woodland would ultimately mean the development would only ever be partially visible and not to a degree that creates harm. Whilst there is no private right to a view, the LVA also assesses the impact on views from several dwellings/agricultural units in the locality, including Pilmoor Grange immediately to the north, Bishop House immediately to the south, and Oak Tree Farm to the north east. Again, it is acknowledged that there would be views from these vantage points but owing to existing vegetation, the impact of these are assessed as being moderate at worst. Ultimately, the LVA concludes that the development would be acceptable in landscape and visual terms and no significant harm would arise.

- 10.25. North Yorkshire Council Principal Landscape Architect has reviewed the LVA. As part of this the following local sensitive features have been identified; Ancient Woodland 0.4km to the north east which forms the southern section of the conjoined woodlands of Low Wood, High Wood and Sessay Wood, a SSSI to the north at 0.45km from site within the vicinity of East Moor Wood and Brafferton Spring Wood and Ellerkers Wood immediately adjacent to the western boundary which are both classified as Ancient Replanted Woodland. Both West Moor Road which forms the southern boundary of the site and Jobbing Cross 300m to the north are defined as Sustrans National Cycle Routes and National Cycle Route 657 follows the route of West Moor lane.
- 10.26. The Principal Landscape Architect found that there are a number inconsistencies in the way methodology was applied, some deviations from best practice and a number of omissions. The Officer expressed that a viewpoint from Raskelf Bridge at the southern corner of the site would have been recommended had they been consulted prior to the LVA being conducted. In this case due to the merging of Councils this internal consultation service only recently became available to Planning Officers in the Hambleton Area. The LVA viewpoints had previously been accepted by Planning Officers. The Landscape Architect points out, however, that had this viewpoint been considered the resulting impact of the development would likely have been found to be greater than reported.
- 10.27. A number of receptors have not been included in the LVA. namely recreational users along the National Cycle Network on West Moor Road which adjoins the site for some 1 km and along Jobbing Cross c300m to the north of the site. It is also anticipated, that as these lanes are suitable for cyclists, they are also relatively quiet with low volumes of traffic making them suitable for walkers. There is also some disagreement on the level of impact recorded from viewpoints 1 and 2 (from West Moor Road boundary) when compared to viewpoints 7-9. These have been recorded as the same level of impact (medium magnitude) although viewpoints 1 and 2 look directly over the site and viewpoints 7-9 (Public Right of Way (PROW) and Jobbing Cross) are separated from the development by 300m and partially hidden by topography.
- 10.28. One of the points raised by public comments was the omission of type 3 photomontages from the LVA. The Councils Landscape Officer, however, indicates that it would not be proportionate or worthwhile to expect these for all viewpoints but that it would be reasonable to expect ones from viewpoint 1 (or ideally the bridge) and viewpoint 7 from the PROW). The Landscape Officer has indicated that not including these is "not in the spirit of current guidance from the Landscape Institute TGN 6/19 on visualisations".
- 10.29. The Officer concludes that the effects of the development are likely to be greater than stated from West Moor Road and from the PROW at viewpoint 7. The Officer goes on to state, however, that despite the above, further mitigation would result in an acceptable development in landscape and visual terms.



- 10.30. In summary the response indicates that at present the proposal does not demonstrate sufficient compliance with policy E4: Green Infrastructure or E7: Hambleton's landscapes as it does not protect enhance or restore the distinctive landscape character or secure improvements to green infrastructure that are integral to the existing landscape pattern or enhance recreational links. Further and altered mitigation, however, could achieve a policy compliant proposal. Suggested mitigation includes incorporation of small blocks of native woodland, hedgerow trees along boundaries to soften views, gapping of existing hedges, reduced maintenance height for hedges to be consistent with the landscape character.
- 10.31. At the time of writing, it was agreed with the applicant that further mitigation as requested will be provided. The applicant has agreed to include the additional mitigation as part of the Landscape and Ecological Management Plan (LEMP), however, as minor alterations to the layout may be required it has not yet been agreed whether this can solely be secured through the LEMP which is subject of a recommended condition. A solution is anticipated prior to the Committee meeting and will be provided via the pre meeting updates/late papers.
- 10.32. Officers agree with the assessments set out above. It is considered that generally the sites context and the high degree of containment and screening provided by surrounding landscaping, not least Brafferton Spring Wood immediately to the west and the trainline to the east, means the site lends itself to the proposed development without having a high level of wider landscape impact. There would be an inescapable impact from the immediate vicinity of the site, especially when travelling along West Moor Lane over the East Coast Mainline and views would be possible of the solar arrays and the substation from this road. These are restricted to a relatively limited stretch of road.
- 10.33. It is noted that there would also be a degree of impact on the outlook from Bishop House, which is located off West Moor Road and will be located adjacent to the southern portion of the site, with the site wrapping around the wider grounds associated with the dwelling. Generally the test in terms of impact on outlook from the individual dwellings in the locality is undertaken in the context of residential amenity and one's enjoyment of their private dwelling and is not a matter pertaining to general landscape impact. Consequently, this will be assessed in detail in a subsequent section.
- 10.34. Several of the objections that have been received are from owners of Brafferton Spring Wood, abutting the site to the west. This is an area of woodland, ownership of which is split between a number of private individuals/families/groups, that it is understood utilise the woodland for a range of reasons but mainly manage it for recreational purposes. The objections received raise concerns that the owners of this woodland have not been considered in the LVA as visual receptors. It is accepted that the panels and substation would be visible from the eastern edge of the woodland. However, this would have a negligible impact overall in terms of the wider landscape impact owing to the fact visibility would be restricted to the edge of the woodland and the development would be inconsequential for the vast majority of users of this woodland. Consequently, Officers consider the impact on the owners and users of the woodland has been proportionately assessed and ultimately there would be a negligible impact for a small number of said users and therefore this is given very limited weight in the planning balance.
- 10.35. Given that the applicant has agreed to provide further mitigation as part of the LEMP and the Councils Landscape Architect has identified that the scheme would, as a consequence, be acceptable it is considered that the landscape impact of the proposal is acceptable.

Impact on Heritage

- 10.36. Section 16 of the Planning (Listed Building and Conservation Areas) Act 1990 places a duty on the Local Planning Authority to have special regard to the desirability of preserving the listed building or its setting or any features or special
- 10.37. Architectural or historic interest which it possesses. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
- 10.38. Policy S7 (Historic Environment) states that Heritage Assets will be conserved in a manner appropriate to their significance. Development which will help in the management, conservation, understanding and enjoyment of the historic environment, especially for those assets which are at risk, will be encouraged. Particular attention will be paid to the conservation of those elements which contribute most to Hambleton's distinctive character and sense of place.
- 10.39. Policy E5 (Development Affecting Heritage Assets) states (inter alia) a proposal will only be supported where it ensures that: (i.) those features that contribute to the special architectural or historic interest of a listed building or its setting are preserved; (j.) those elements that have been identified as making a positive contribution to the special architectural or historic interest of a conservation area and its setting are preserved and, where appropriate, enhanced, having regard to settlement character assessments and conservation area appraisals; (n.) those elements which contribute to the significance of a non-designated archaeological sites will be conserved, in line with the importance of the remains. In those cases where development affecting such sites is acceptable in principle, mitigation will be ensured through preservation of the remains in situ as a preferred solution. When 'in situ' preservation is not justified, the developer will be required to make adequate provision for excavation and recording before or during development. Subsequent analysis, publication and dissemination of the findings will be required to be submitted to the Council and deposited with the Historic Environment Record.
- 10.40. Policy E5 also states that any harm to, or loss of, the significance of a designated Heritage Asset will require clear and convincing justification. Less than substantial harm to the significance of a designated heritage asset will only be supported where the harm is outweighed by the public benefits of the proposal including, where appropriate, securing its optimum viable use. Substantial harm to, or total loss of, the significance of a designated heritage asset will only be supported where it is necessary to achieve substantial public benefits that outweigh the harm caused, or in the exceptional circumstances set out in the NPPF.
- 10.41. There is one designated heritage asset within 1km of the site; the grade II listed Pilmoor Cottages which are approximately 300m from the north eastern edge of the site. Given the degree of separation between the site and these listed buildings, plus intervening physical features such as the East Coast Mainline, the site does not play a role in the setting of this heritage asset and therefore the development would be inconsequential in this respect.
- 10.42. In addition to designated heritage assets, there is also a requirement to consider the archaeological potential of the site and the subsequent impact of the development on this. It is understood there have been archaeological finds in the surrounding area but the exact location of these are not known other than it being recorded as "Pilmoor". A geophysical survey of the site has been provided and reviewed by the Councils Principal Archaeologist. The archaeologist has confirmed the results of the survey are generally negative and the features that have been revealed are agricultural or natural in nature and thus are of no archaeological value. Furthermore, as the installation of the solar panels results in only a small amount of ground disturbance, it is considered unlikely there would be any impact on

archaeological remains in any case. Based on this, it is considered no harm would arise to the archaeological value of the area.

- 10.43. It is considered that there would be no implications from a heritage point of view as a result of the proposed development.

Amenity

- 10.44. Policy E2 of the Local Plan requires all proposals to provide and maintain a high standard of amenity for all users and occupiers, including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings, in particular those in residential use. It goes on to set out more in depth requirements which are as follows (as material):
- 10.45. a. the development would not result in significant effects of overshadowing and the need for artificial light;
- b. the physical relationships arising from the design and separation of buildings/structures are not oppressive or overbearing;
- c. there are no significant adverse impacts in terms of noise;
- d. that adverse impacts from obtrusive light will be made acceptable;
- 10.46. The most onerous issue from an amenity point of view is the impact on the living conditions of the occupants of Bishop House, which is immediately adjacent to the development site. In order to mitigate the impact in this respect, the development maintains a separation distance around this dwelling and its amenity space. The solar panels would therefore be approximately 110m away from the boundary of Bishop House at the nearest point, i.e. to the north, with an area of grassland/paddock and Sun Beck situated between the two. There is already a degree of intervening landscaping by way of a hedgerow and tree planting. The proposal includes additional landscaping to reinforce this to further screen views from Bishop House.
- 10.47. It is accepted that there would be an inescapable impact on the outlook from Bishop House and views of the solar panels and associated infrastructure would be inevitable. However, the matter at hand is whether the change in outlook would be at the level where it would appear overbearing and have a detrimental impact on the occupant's enjoyment of their dwelling and their overall living conditions. Notwithstanding the fact an individual's right to a view is not a material planning consideration, it is noted that a sudden and considerable change in outlook can have a detrimental impact on amenity in this respect.
- 10.48. The occupants of this dwelling have provided photographs from various vantage points within their property as part of their objection. These images are useful and actually illustrate that from ground level, the outlook will largely be unaffected. Whilst some of the solar panels would be glimpsed in the medium-range, this would be very much mitigated by the existing planting in the short term. This impact would be lessened even further in the medium to long term as the proposed landscaping begins to mature. This fact, coupled with the separation distance, is considered to adequately mitigate against the impact of the development and ensure no harm will arise to the amenity of the occupants of Bishop House in terms of an overbearing impact of the physical relationship between the site and this dwelling.
- 10.49. There is a second dwelling adjacent to the site to the north, Pilmoor Grange. Similar to the above, this is bound by a fair amount of landscaping to the west which will screen the views of the solar panels from this dwelling. The main outlook from this dwelling is southwards, which is where there will be a much greater degree of separation to the solar panels themselves of circa 250m. This is considered adequate to ensure there will be no oppressive impact from the panels.

- 10.50. The second issue at hand is the potential for obtrusive light reflecting off the panels and impacting the amenity of nearby residents. In order to assist in the assessment of this issue, a Glint and Glare Study has been submitted in support of this application. This identifies potential receptors by way of dwellings in the locality and considers the visibility of panels from these locations. When panels are visible, geometric calculations are used to determine whether a reflection can occur, and if so, the time and duration of the reflections. The level of obtrusive light can then be quantified. Where it is predicted that reflections would be visible for less than 3 months of the year and less than 60 minutes on any given day, the impact is deemed to be low and no mitigation is required. Where effects are predicted for more than 3 months and/or more than 60 minutes, factors such as whether reflections would be visible from all storeys, the separation distance to the panel area, the position of the sun, and whether there are any windows facing the reflecting area are all used to determine the impact of significance.
- 10.51. The study submitted does this for the eleven dwellings within 1km of the site. It concludes that reflections from the panels are geometrically possible from eight of the eleven dwellings within 1km. However, owing to separation distance and intervening landscaping, all but one, Bishop House, would not be impacted. Owing to the closer proximity, partial views of the reflections are considered possible from the upper floor of Bishop House and therefore the impact is classified as greater but still within the 'low impact' category.
- 10.52. Officers acknowledge that there would be a level of reflection visible from Bishop House, however, this would be for a matter of minutes, within a very limited window in the year. It is also worth noting that this impact would be further mitigated by the additional landscaping that is proposed surrounding Bishop House. Consequently, the impact of these reflections would be negligible and not at a level where it would become intrusive or harm the amenity of the occupants of this dwelling.
- 10.53. A point of concern that has been raised by several of the objectors is the potential for noise to arise from the development as a result of the transformer and substation. Whilst these concerns are noted, the substation would be located over 300m away from the nearest dwelling, i.e. Woodend to the west. The level of noise output would not be such that it would be noticeable against the general background noise levels of the surrounding area, particularly with the close proximity of West Moor Road and the East Coast Mainline. A very low level of noise may be possible on particularly quiet days or if one was outside during the night, but this would not be at the level where it would harm the amenity of nearby residents.
- 10.54. Concerns have also been raised about the proximity of the woodland and it has been argued by owners of this woodland that they should be considered recreational receptors to noise from the substation. Discussions have been had with the Council's Environmental Health Team regarding this issue and they have clarified that the level of noise output from the substation would not be such that would equate to harm to the amenity of the users of this woodland. Even if it were to be considered that a minimal level of harm to the users of this woodland would occur, it must be noted that there are no residential properties within this area and the woodland is used by private individuals for recreational purposes. Consequently, the general impact of this harm would still be minimal and thus this would be given limited weight in the planning balance.
- 10.55. The above assessment is based solely on the operational phase of the development. It is accepted that the impact during construction and decommissioning may be greater, including from construction vehicle movements. However, this would be for a short period of time and can be controlled through a Construction Management Plan which would ensure any potential impact is mitigated and managed to maintain amenity.
- 10.56. It is considered that the development will have an acceptable impact on amenity and complies with policy E2 in this regard.

Flood Risk and Surface Water Drainage

- 10.57. Policy RM2 of the Local Plan relates to flood risk and outlines that the Council will manage and mitigate flood risk by:
- a. Avoiding development in flood risk areas, where possible, by applying the sequential test and where necessary applying the exception test in accordance with national policy.
  - b. Protecting areas of functional floodplain as shown on the Strategic Flood Risk Assessment, from development, except for water compatible uses and essential infrastructure.
  - c. Requiring flood risk to be considered for all development commensurate with the scale and impact of the proposed development and mitigated where appropriate.
  - d. Reducing the speed and volume of surface water run off as part of new build developments.
  - e. Making space for flood water in high risk areas.
  - f. Reducing the residual risks within areas of rapid inundation.
  - g. Encouraging the removal of existing culverting where practicable and appropriate.
  - h. Supporting development and management of flood alleviation schemes.
- 10.58. This will be achieved by supporting a development proposal only where it is demonstrated that:
- i. the sequential test has been applied and passed;
  - j. if, following application of the sequential test, it is not possible, consistent with wider sustainability objectives and the vulnerability to flooding of the proposed use for development to be located in zones with a lower probability of flooding, taking account the impacts of climate change, the exception test has been applied and passed, such that:
    - i. the development will provide wider sustainability benefits to the community that outweigh flood risk, informed by the Hambleton Strategic Flood Risk Assessment (March 2017) or successor documents; and
    - ii. the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
  - k. development has been sequentially located within the site to avoid flood risk;
  - l. all reasonable opportunities to reduce overall flood risk have been considered and where possible taken; and
  - m. the integrity of existing flood defences is not adversely affected and any necessary flood mitigation and compensation measures have been agreed with relevant bodies and the Council.
- 10.59. There is a portion of the southern-most part of the site which lies within flood zones 2 and 3. There is also a very small area around Sun Beck on the north eastern part of the site that is within flood zones 2 and 3. The Environment Agency records provided by the applicant show that there is no record of flooding within the site. Nevertheless, a site specific Flood Risk Assessment (FRA) has been submitted with the application as required by national and local policy. This assesses the likelihood of flooding from various sources; fluvial flooding from the watercourse that runs through the site, surface water flooding from natural and engineered drainage systems, ground water flooding due to a high water table, and finally infrastructure failure flooding from failure of manmade waterbodies such as sewers.
- 10.60. In addition to the above sequential test information has also been submitted in support of the selection of this site for development. The NPPF states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

- 10.61. The submitted sequential test outlines the general difficulties in identifying suitable sites for solar development as follows: *“For solar farms connected to the grid, the proximity of the Point of Connection (POC) to the array itself is critical to the viability of the scheme. For example, it is proposed that Pilmoor Solar Farm would have a generating capacity of 49.9MW and the power would be conveyed through the local electricity network. That can only be achieved with a ‘connection offer’ from the Distribution Network Operator (DNO). However, not all parts of the country have grid capacity available - where there is capacity, it is significantly oversubscribed, and connection dates being offered are commonly for 2036 and beyond. When this scarcity of opportunity to connect to the grid is considered alongside the urgent need to transition to renewable energy and bring projects online, it is clear why site availability and confirmed grid offers are deciding factors in site selection and suitability. At Pilmoor, we have confirmation of grid capacity and an offer to connect onto the grid within the site itself”.*
- 10.62. The sequential test goes on to explain that the further the development is located from the point of connection the more technical difficulties and costs are encountered such as increased length of underground cabling (including trenching) which results in thermal losses, materials costs, increased difficulties in coordinating the project over larger areas with potentially more landowners, longer construction periods and increased land requirements and costs. It is generally considered that sites more than 3km from the point of connection are not viable for development. In the addition to the above there is a lengthy list of site constraints that developers must also attempt to avoid in the site selection process including, amongst many others National Parks, AONBs, Green Belt, Best and Most Versatile agricultural land and Sites of Specific Scientific Interest (SSSIs). The applicant outlines the scarcity of sites that do not feature these constraints.
- 10.63. The site has relatively small areas in Flood Zones 2 and 3. In addition within the site the substation has been located on land within Flood Zone 1. As will be outlined below the proposal also passes the exception test and has not attracted any objections from the Environment Agency or the Lead Local Flood Authority. It is for the Local Planning Authority, however, to determine if the sequential test is first passed. In this case given the reduced number of potential development sites and the preference to avoid other more sensitive constraints such as scheduled monuments or AONBs Officers consider that the development of this site is sequentially acceptable.
- 10.64. In terms of fluvial flooding, the FRA uses cross-sections of the beck and LiDAR data to assess the likely flood levels. This includes an allowance to accommodate climate change. Ultimately, the outcome of this was that the highest flood level would be 22.44mAOD. The likelihood of fluvial flooding impacting the site is categorised as "medium" in the FRA. To mitigate the impact in the event of this occurring, the solar panels that are sited in flood zones 2 and 3 will be set at 600mm above the flood levels at their lowest point to ensure flood resilience. Furthermore, the site layout has purposely located any more vulnerable infrastructure, i.e. the substation and transformers, within flood zone 1. The risk of flooding from other sources is categorised as being 'low' for this site. The Environment Agency have reviewed the FRA and confirmed they have no objections to the proposed development. On this basis, it is considered that the development would remain flood resilient for its lifetime and would not increase the likelihood of flooding elsewhere.
- 10.65. Along with ensuring development is safe from flooding, i.e. the exception test, there is also a requirement in national and local planning policy for a sequential approach to development in areas of increased flood risk. This requires new development to be steered to areas with the lowest risk of flooding. Whilst a sequential test has not been submitted as part of the application Officers recognise that this type of development is subject to locational criteria which limits the availability of sites. For example, in order for solar projects to be viable they often need to be sited within 3km of an available grid connection. It is also important to avoid Best and Most Versatile agricultural land as well as historical and ecologically

important sites. In this case it is considered that given the difficulties in identifying suitable sites for solar development, that there are no objections from the LLFA and the EA and that the layout has been designed so that the substation is on Flood Zone 1 the development can be justified sequentially.

#### Impacts on Highways Safety

- 10.66. Policy IC2 of the Local Plan relates to transport and accessibility. Owing to the nature of this development, aside from construction and decommissioning, vehicular movements to and from the site are minimal. Consequently, the majority of the requirements set out in policy IC2 are not relevant on this occasion. However, there is still a requirement to ensure no aspect of the development will compromise highway safety.
- 10.67. The main access to the site for general purposes will be directly off West Moor Road at an existing access point that was constructed by National Grid. The Local Highway Authority have assessed this aspect and deem this access is suitable to serve the development. A Construction Traffic Management Plan (CTMP) has been submitted with the application which outlines that this access would also be used for the construction phase. There would be a HGV holding area adjacent to this access in the event there are several vehicles entering and leaving the site at one time. Construction traffic would make use of the accessibility of the site and be directed off the A19 and along the most direct route to the site which is through Raskelf and along West Moor Road. This would undoubtedly lead to an uplift in vehicle movements on the local highway network and it is set out that there would be a maximum of 245 separate deliveries over the course of a 6 week period at an average of 8 deliveries per day. This uplift would be incorporated at off-peak times and thus avoids conflict with school traffic and the like.
- 10.68. The Local Highway Authority have reviewed the CTMP and are content the details and measures provided are acceptable to ensure that highway safety would not be compromised during construction. They have requested a condition requiring a general Construction Management Plan relating to site management be included.
- 10.69. On the basis of the above, it is considered that the development will not compromise highway safety and complies with policy IC2.

#### Ecology Impacts and Biodiversity Net Gain

- 10.70. Policy E3 (The Natural Environment) states that direct or indirect adverse/negative impacts on SINCs, European sites (SACs and SPAs), and SSSIs should be avoided and will only be acceptable in specific circumstances detailed in Policy E3. Policy E3 also states that a proposal that may harm a non-designated site or feature(s) of biodiversity interest will only be supported where (inter alia) 'significant harm' has been avoided (i.e. an alternative site), adequately mitigated or compensated for as a 'last resort' (criterion a.)
- 10.71. As set out in the introductory section of this report, there are a number of designated sites within close proximity of the site. Brafferton Spring Wood, a replanted ancient woodland and Site of Importance for Nature Conservation (SINC), is located immediately to the west of the site. Pilmoor Site of Special Scientific Interest (SSSI) is located approximately 0.5km north of the northern-most part of the site. Finally, Sessay Wood, another area of woodland classified as a SINC, is located approximately 0.5km north east of the eastern-most part of the site. Furthermore, there are also habitats within the site boundary that are assessed as being of importance including a number of hedgerows, Sun Beck which runs through the site, and the field boundaries which have been managed by the land owner for wildlife under a Countryside Stewardship scheme.
- 10.72. An Ecological Impact Assessment (EclA) has been submitted in support of this application. This assesses the potential impact on the designated sites, as well as protected species

both within the site and the surrounding area - termed the Zone Of Influence. The report and conclusions are based on desk studies and a range of field surveys including a habitat survey, breeding bird survey, wintering bird survey, water vole survey, badger survey and barn owl survey. Data sets relating to other species that have been spotted in the locality by local residents and owners of the adjacent woodland have also been reviewed by the applicant's ecologist.

- 10.73. In terms of the statutory designated site, namely Pilmoor SSSI, it is considered that the level of separation from the site and the fact there is no hydrological connectivity or other impact pathways, there will be no detrimental impact on this SSSI as a result of this development and no further assessment of this is required.
- 10.74. In terms of the adjacent Brafferton Spring Wood, paragraph 186(c) of the NPPF is relevant as it requires planning applications to be refused where the development would result in the deterioration of irreplaceable habitats (such as ancient woodland), unless there are wholly exceptional reasons. The Planning Practice Guidance (PPG) offers further information on how LPAs should ensure the protection of ancient woodland, with the use of buffer zones encouraged to mitigate any impact of development. The PPG goes on to recommend that such proposals should have a buffer zone of at least 15m from the ancient woodland to prevent root damage. Furthermore, where possible the buffer zone should contribute to wider ecological networks by consisting of woodland or a mix of scrub, grassland, heathland and wetland. The site layout on this occasion has been specifically designed to leave a buffer of a minimum of 20m between the fence line along the western boundary and the adjacent SINC. This is to be sown with special general purpose meadow mixture. Consequently, the proposed buffer zone goes beyond the recommendations of the PPG and would be used to enhance the wider biodiversity through suitable planting. It is considered this is a proportionate approach to the potential impact in the adjacent woodland and would ensure no harm arises to this Site of Importance for Nature Conservation.
- 10.75. It has to be noted that the above assessment relates only to the operational phase of the development. The EclA concedes that there is potential to negatively impact the adjacent SINC during construction as a result of use of heavy machinery on site and potentially close to the SINC. Whilst the buffer zone detailed above will in theory mitigate this impact, it is important to ensure that the working practices during construction are precautionary to ensure no harm occurs. Consequently, it is recommended that a Construction Environmental Management Plan (CEMP) be conditioned if permission is granted which will outline how works will be undertaken and the protective measures that will be put in place during the construction and decommissioning phases of the development. On this basis, it is considered this potential harm will be mitigated.
- 10.76. Finally, in terms of the identified habitats within the site boundary, it is important to note that all hedgerows and existing planting within the field boundaries would be retained and protected by a minimum 8m buffer, in particular around Sun Beck. Consequently, this would ensure protection of these existing habitats within the site. Similar to the above, it is considered a CEMP would ensure that this protection is provided throughout all phases of the development.
- 10.77. Moving on to the direct impacts on protected species specifically, as set out above, a number of field surveys have been undertaken to ascertain the presence of any species on site and therefore the potential impact this development could have - during construction, operation, and decommissioning of the scheme. Ultimately, the main impact would be on birds. The landowner has created 'Skylark plots' within the arable fields and a field survey confirmed signs of skylarks being present in the vicinity of the site. Furthermore, breeding bird surveys have identified that the site is used by 24 different species for breeding, including 7 which are priority species in terms of their conservation status. Lastly, a wintering bird survey identified 19 notable species on the site, several of which were listed



as priority species in terms of their conservation status and two of these are listed on Schedule 1 of the Wildlife and Countryside Act 1981 (Redwing and Fieldfare). Consequently, the site has been classified as being of local importance in terms of value to breeding birds and wintering birds.

- 10.78. The main impact on birds would be the loss of breeding habitat for ground nesting birds - most notably Skylark. This cannot be mitigated as by its nature, the site will require clearance of the arable fields. Consequently, to compensate for this, 2ha of the site has been taken out of use for solar panels and set aside to allow for ground nesting bird compensation. It is likely, however, that the development will result in partial residual displacement of this species from the site. There is potential for further mitigation through the LEMP. There will also be general mitigation through the creation of species rich grassland, mixed scrub, native-species rich hedgerow and tree planting. Through these measures, it is considered that, on balance, the impact on protected birds would be acceptable.
- 10.79. Other signs of protected species on site have been identified, including badger setts, and Sun Beck has been identified as potentially supporting commuting otters, although no specific signs of holts or resting places were identified. Furthermore, the site has features that may support foraging and commuting bats. In terms of badgers, a 30m buffer zone has been maintained around the setts which will not be developed. Furthermore, access holes would be maintained in any fencing to ensure badgers can still move through the site. Any detrimental impact on commuting otters and bats would be during construction and decommissioning due to artificial lighting. To avoid this, all Construction lighting would be designed to follow the protocol outlined in the Institute for Lighting Professionals Guidance note 08/23 "Bats and Artificial Lighting in the UK" (2023). In addition, a dark corridor would be retained along the boundary features (hedgerows and watercourse) and woodland edge to ensure commuting/foraging bats are not impacted by the works. This would be controlled through the CEMP.
- 10.80. The other potential issues outlined are mainly resulting from accidental harm to habitat during construction. This can be mitigated through the timing of construction/decommissioning works and/or precautionary measures that would be outlined in the conditioned Construction Environmental Management Plan in the event that planning permission is granted.
- 10.81. Based on the above, it is considered that there has been a proportionate assessment of the potential impacts on habitats and protected species both within and around the site. This impact would be mitigated through simple measures such as maintaining adequate buffer zones around valuable habitats, off-setting the loss of other valuable habitats and generally providing newly planted species-rich grassland, mixed scrub creation, species-rich hedgerow and tree planting that would help to generally compensate for any loss of habitat. This would lead to a development that has an acceptable ecological impact.
- 10.82. Planning Permissions in England are deemed to be granted subject to the general Biodiversity Gain Condition as set out by Schedule 7A, paragraph 13 of the Town and County Planning Act 1990 (TCPA) as amended by Schedule 14, Part 2, paragraphs 13, 14 and 15 of the Environment Act 2021. This is a pre-commencement condition. In this case, however, the application was submitted before Biodiversity Net Gain became a legislative requirement. Policy E3 of the Hambleton Local Plan does, however, require that all development demonstrate a net gain for biodiversity. The supporting text indicates that the latest DEFRA guidance and tool be used.
- 10.83. In this case the applicant has provided a Metric and supporting report which indicates a 188.95% increase for habitats and 20.08% increase for hedgerows. The watercourse has not been included in the submitted metric. NYC Ecologists have indicated that due to the

layout of the development the watercourse would not be impacted and therefore the metric does not need to be completed at this stage. It is recommended, however, that a condition requiring an updated metric and watercourse management plan be included if permission were to be granted.

- 10.84. The submitted Metric also does not satisfy the Trading Rules for area habitats due to the loss of arable field margins on site. The BNG report indicates that to satisfy trading rules, additional areas of winter bird foraging resource (arable field margins game bird mix) would be required which would reduce the areas available for species-rich grassland creation (other neutral grassland), a medium distinctiveness habitat and considered of greater value to biodiversity in general. NYC Ecologists have reviewed this argument and agreed that as the application was submitted before the mandatory requirement for BNG this justification is acceptable.
- 10.85. NYC Ecologists have confirmed that subject to conditions the application is considered to comply with current national and local policy in relation to Ecology.

#### Impact on Infrastructure

- 10.86. The application site is located in close proximity to the East Coast Mainline. Network Rail were consulted and a number of conditions were requested. The response refers to the Glint and Glare study submitted with the application which included as assessment of the impact on the operational railway. Whilst it is noted that further work could be carried out on the impact on two signals, Y386 and Y388, the report instead recommends mitigation which would prevent glint and glare. Network Rail have accepted that in the absence of further additional work a condition requiring the mitigation and monitoring would suffice.

### **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1. There is strong national support for renewable energy schemes as set out in national guidance and policy documents. Similarly at a local level the Hambleton Local Plan also encourages renewable and low carbon energy installations. Policy indicates that any harm must be avoided and minimised where possible before being weighed against the public benefits.
- 11.2. The proposal does not meet some minor technical requirements i.e. full compliance with BNG and some omissions/discrepancies in the LVA. With regard to BNG it is considered that compliance with the trading rules would result in a reduction in overall biodiversity value which would be counterproductive. The absence of watercourse information can be resolved by condition. With regard to the LVA the Councils Principal Landscape Architect has agreed that further mitigation can reduce the impact of the development to acceptable levels in compliance with local policy.
- 11.3. On balance It is considered that the development would not result in significant harm that would outweigh the substantial public benefits of a renewable energy scheme.

### **12.0 RECOMMENDATION**

- 12.1 That planning permission be GRANTED subject to conditions listed below

#### **Recommended conditions:**

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: To ensure compliance with Sections 91 and 92 of the Town and Country Planning Act 1990 and where appropriate as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings: Site Block Plan - Proposed Figure 2 Revision A (received 16.04.2024), Landscape & Ecology Management Plan - Figure L7 (received 22.04.2024), Proposed Substation Layout and Details - Figure 3 Revision A (received 29.04.2024), General Details - Communications Tower – Figure 3 (received 29.04.2024), General Details - Figure 4 Revision A (received 06.12.2023)

Reason: In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan Policies S1 and E1.

3. The permission hereby granted shall be limited to a period of 50 years from the date when electricity is first exported from the solar panels to the electricity network (the First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority within 14 days of the event occurring.

Reason: To safeguard the character of the landscape, in accordance with policies S1, S5 and E7 of the Local Plan.

4. Within 6 months of the cessation of the export of electrical power from the site, or within a period of 49 years and 6 months following the First Export Date (whichever is sooner), a scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to the local planning authority for its written approval. The report shall include ecological surveys and assessments undertaken prior to decommissioning and taking account of the ecological policy and legislative framework at the time of submission. The solar farm and its ancillary equipment shall be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales.

Reason: To safeguard the character of the landscape and Biodiversity gains, in accordance with policies S1, S5, E3 and E7 of the Local Plan.

5. If the solar farm hereby permitted ceases to operate for a continuous period of 12 months, then a scheme for the decommissioning and removal of the solar farm and ancillary equipment, shall be submitted within 6 months of the end of the cessation period to the local planning authority for its written approval. The scheme shall make provision for the removal of the solar panels and associated above ground works approved under this permission. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and details of site restoration measures.

Reason: To ensure in the event of the panels becoming obsolete, they are removed in a timely manner, in the interests of the character and appearance of the surrounding area.

6. Prior to their erection on site details of the proposed materials and finish including colour of all solar panels, frames, ancillary buildings, equipment, and enclosures shall be submitted to, and approved in writing by, the local planning authority. This must take into account the requirement from Network Rail to provide a suitable

trespass proof fence adjacent to Network Rail's boundary (approx. 1.8m high) and make provision for its future renewal and maintenance. Development shall be carried out in accordance with the approved details and be maintained as such for the lifetime of the development hereby permitted.

Reason: To mitigate the visual impact of the development within the landscape, in accordance with policies E1 and E7 of the Local Plan.

7. Prior to the commencement of development hereby approved, a Construction Environmental Management Plan (CEMP): Biodiversity shall be submitted to the Local Planning Authority for approval in writing. The Management Plan must include but not be limited to:
- Habitat protection measures as set out within the EcIA and indicative LEMP
  - Pre commencement surveys for mobile protected species to inform any changes to avoidance/mitigation measures.
  - Species protection measures, including where necessary individual species precautionary working method statements, where protected species are involved, measures should ensure compliance with legislation and/or licence regime (updated as needed following pre commencement surveys).
  - ECoW roles and responsibilities
  - Clear plans showing location of sensitive features, temporary exclusion zones etc.
  - Clear, concise method of communicating requirements to all contractors working on site
  - Sensitive lighting strategy for wildlife

The development shall thereafter be carried out in accordance with this Management Plan for the lifetime of the development.

Reason: To ensure the protection of the adjacent SINC and other protected species and habitats within and directly adjacent to the site.

8. Prior to the commencement of development hereby approved, an updated BNG metric and report shall be submitted for the approval in writing of the Local Planning Authority. The metric and report shall include watercourse habitats, maintenance plan and be based on the finalised habitat creation, retention and management plans as set out within the detailed LEMP. The development shall thereafter be carried out in accordance with the approved details

Reason: In the interest of Biodiversity in accordance with Local Plan Policy E3.

9. Prior to the commencement of development hereby approved, a Landscape and Ecological Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Management Plan must include but not be limited to:
- A detailed plan showing the areas of habitat creation, retention and management.
  - Detailed methods for habitat creation, including ground preparation, species mix, planting specification and initial aftercare.
  - A timetable for the implementation of each habitat/species intervention
  - Detailed management prescriptions for each habitat type – it is recommended that these are set out by habitat type, using UKHab to conform to BNG requirements and with the target distinctiveness and condition in mind.
  - Hedgerow Management Plan – to take opportunity to maximise the benefit of this resource on site for habitat and species connectivity.

- Watercourse Management Plan - to take opportunity to maximise the benefit of this resource on site for habitat and species connectivity.
- Contingency measures/risk register to take account of the results of monitoring and implement changes to management in order to stay on track.
- Operational requirements in relation to maintenance of fencing and features for species – e.g. bat and bird boxes
- Monitoring methodology and schedule for habitats and species
- Reporting format and schedule to local authority

Reason: To mitigate the visual impact of the development within the landscape, in accordance with policies E1 and E7 of the Local Plan.

10. The development shall be carried out in accordance with the submitted flood risk assessment (ref 27695-HYD-XX-XX-RP-WENV-0001, dated 15 March 2024) and the following mitigation measures it details: - The proposal is to be carried out in accordance with section 4.2.2 Flood Resistance section. - Section 4.2.1 Site Layout, all proposed more 'flood risk vulnerable' infrastructure to be located in flood zone 1. These mitigation measures shall be fully implemented prior to operation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development.

11. 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.

12. Construction of the permitted development, including construction traffic routing, must be undertaken in accordance with the approved "Construction Traffic Management Plan" document reference 27640-HYD-XX-XX-RP-TP- 7001-P03 received on 06.12.2023.

Reason: In the interest of highway safety and amenity.

13. No development for any phase of the development must commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan. The Plan must include, but not be limited to, arrangements for the following in respect of each phase of the works:
- i. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
  - ii. areas for storage of plant and materials used in constructing the development clear of the highway;

- iii. highway condition survey on the roads (C86 West Moor Road and Raskelf Village Street) between the A19 junction and the site access ;
- iv. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity.

14. Within 24 months of the completion of the development hereby approved, in the event of any complaint to the Council from Network Rail relating to signal sighting safety or driver distraction, upon notification to the LPA, the applicant or operator of the solar farm shall as soon as possible and not later than 28 days, submit for the written approval of the LPA:
- i. a scheme of remedial measures to address the concerns raised within the complaint and
  - ii. a timescale for implementation of the remedial measures. The approved remedial measures shall thereafter be implemented in accordance within the approved timescale and thereafter be retained for the lifetime of the development unless otherwise agreed in writing by the LPA.

Reason: To ensure safety of the users of the railway.

15. Development shall not commence until a construction methodology has been submitted to and approved in writing by the Local Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure safety of the users of the railway.

**Target Determination Date:** 18.04.2024

**Case Officer:** Aisling O'Driscoll, [aisling.odriscoll@northyorks.gov.uk](mailto:aisling.odriscoll@northyorks.gov.uk)

**Officer Update Note**  
**Strategic Planning Committee – 11 June 2024**

**Item 4**

<b>PROPOSAL:</b>	ZB23/02461/FUL - Installation of a solar farm comprising ground mounted solar PV panels with a generating capacity of up to 49.99MW(AC), including mounting framework, inverters, underground cabling, stock proof fence, CCTV, internal tracks and associated infrastructure, landscaping, biodiversity net gain, permanent grid connection hub and environmental enhancements for a temporary period of 50 years
<b>LOCATION:</b>	Land To The South Of Pilmoor Grange, Pilmoor, York, YO61 2QF
<b>RECOMMENDATION:</b>	That Planning Permission be GRANTED subject to conditions

**Amendments to conditions**

Condition 2 is amended to reflect updated plan references as amended plans have been received:

The permission hereby granted shall not be undertaken other than in complete accordance with the following drawings:

- Site Block Plan - Proposed Figure 2 Revision B (received 07.06.2024)
- Landscape & Ecology Management Plan - Figure L7 Revision A (received 07.06.2024)
- Proposed Substation Layout and Details - Figure 3 Revision A (received 06.12.2023)
- General Details - Figure 4 Revision A (received 06.12.2023)

Conditions 4 and 5 are amended to align the requirements for decommissioning in different circumstances:

- 4. Within 6 months prior to of the cessation of the export of electrical power from the site, or within a period of 49 years and 6 months following the First Export Date (whichever is sooner), a scheme for the decommissioning of the solar farm and its ancillary equipment, and how the land is to be restored, to include a programme for the completion of the decommissioning and restoration works, shall be submitted to the local planning authority for its written approval. The scheme shall be informed by and include ecological surveys and assessments undertaken prior to decommissioning and taking account of the ecological policy and legislative framework at the time of submission. The scheme shall make provision for the removal of the solar panels, ancillary equipment and associated above ground works approved under this permission. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and details of site restoration measures. The solar farm and its ancillary equipment shall thereafter be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales.
- 5. If the solar farm hereby permitted ceases to operate for a continuous period of 12 months, then a scheme for the decommissioning and removal of the solar farm and ancillary equipment, , and how the land is to be restored,

to include a programme for the completion of the decommissioning and restoration works, shall be submitted within 6 months of the end of the cessation period to the local planning authority for its written approval. The scheme shall be informed by and include ecological surveys and assessments undertaken prior to decommissioning and taking account of the ecological policy and legislative framework at the time of submission. The scheme shall make provision for the removal of the solar panels, ancillary equipment and associated above ground works approved under this permission. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats, and details of site restoration measures. The solar farm and its ancillary equipment shall thereafter be dismantled and removed from the site and the land restored in accordance with the approved scheme and timescales.

### **Additional Consultation Responses**

Defence Infrastructure Organisation (MOD) - Following review of the application documents, the proposed development would be considered to have no detrimental impact on the operation or capability of a defence site or asset. The MOD has no objection to the development proposed.

### **Additional Public Comments**

Representations submitted post publication of the Strategic Planning Committee agenda raising the following points are set out below (summarised) with Officers response to these set out underneath each point raised:

The proposal is not needed.

- Information is given around a statement from national grid which indicates that connections in the pipeline would exceed the capacity needed to enable the 2035 decarbonisation target. This may be the case, however current policy and guidance provided support for renewable energy schemes without the requirement to demonstrate need. The NPPF states that when making decisions Local Planning Authorities should: not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions.

In the wrong place and wrong time.

- The objector mentions suitable sites that have been identified in North Yorkshire's Local Area Energy Plan. As with housing development, the Council can identify suitable or preferred sites for particular development, however, cannot prevent applications coming forward on other land. These then must be considered against national and local policy.

Queries a statement from the applicant that the development "*would connect into the local distribution network providing renewable energy to local people*".

- It appears that this may have been taken from the solar farm external website and not the submitted planning application documents.



Cumulative effect of solar development in the area referencing Boscar Grange ( ref. no.:15/01268/FUL) Woolpots (ref. no.: ZB23/02015/FUL) and Peter Hill (ref. no.:15/00318/FUL).

- The three solar developments mentioned are located to the east of the A19 and north of North Moor Road. The Woolpots application is currently pending consideration and does not yet have permission. The cumulative impact of the addition of the Woolpots application will be considered as part of that application consideration/assessment. This site is visually sperate from the other solar developments raised by the objector being located more than 2.5km to the west. There are also visual barriers such as the A19 and the East Coast Main Line between the sites. The cumulative impact is therefore not considered to be harmful in this case.

Uneven distribution/concentration of sites.

- Cumulative landscape impact is addressed above and this is similar to uneven distribution of sites. Officers understanding is that site selection is a complex process with a large number of variables. There are many constraints (ecology, heritage etc) which must be considered as well as securing a viable grid connection. This does sometimes result in clusters of development in areas where grid connections are made available. As above it is considered that the cumulative impact of the development is acceptable.

Recycling of panels.

- The question of the overall sustainability of solar panels is not a consideration at this stage. National and Local Policy does not discriminate against solar development nor does it require recycling of equipment and therefore the ability to later recycle the panels is not a matter for Planning.

Concern over the accuracy of the application for 49.99MW and whether the council has validated the size of the scheme.

- This concern stems from a recent Judicial Review case at Durham County Council which is currently under review by Officers.

Skylark compensations site is not appropriately located.

- The comments indicate that the skylarks were observed in different locations to the proposed compensation site. This is true, as the proposal includes land set aside to compensate for the loss of breeding sites rather than conserving the existing site. The Ecologist has considered this and concluded that it is acceptable.

Agricultural Land Classification.

- A desk based review of the Agricultural Land Classification report was commissioned by local residents and submitted as a representation on the application. The report indicates that the consultant engaged by residents broadly agrees with the methodology of the submitted application report. However, background data relating to the soil samples that was used in the classification of the land value has not been included. The review indicates that the interpretation of this data could impact the conclusion of the land value as 3b and that the land could therefore be classed as 3a. The objectors report indicates this is a desk based review of a report written by a reputable consultant. There is agreement in all other aspects that the report has been conducted satisfactorily and there is no reason therefore to doubt the veracity of the conclusions.

Request to delay application.

- The Council cannot delay determination of an application in anticipation of potential policy changes.

Inconsistencies/issues with the LVA.

- These have been addressed in the main report and further mitigation has now been agreed with the applicant.

Updated LEMP and landscaping mitigation insufficient.

- Consultation response from the Councils Landscape Architect is awaited.

Protected Species surveys missing.

- The Councils Ecologist has indicated that some of these are not considered necessary and some can be secured by condition.

Impact on tourism and local business.

- The main bulk of the impact would be during construction/decommissioning phases which is temporary.

Insufficient time to comment on updated plans.

- It is considered that updated plans address previous objections.

### **Queries arising from the Strategic Planning Committee Site Visit**

Confirmation of planting maintenance at Bishop House

- Updated Landscape plan indicates that the hedgerow (native hedge mix) proposed immediately to the north of Bishop House boundary would be maintained at a height of 2.5m. A number of Alder trees are also proposed along the wider boundary with Bishop House. The residents of Bishop House are concerned that the proposals might not be sufficient to mitigate the impact on their property.

Confirmation of other land ownership in the vicinity

- The application form details a number of different types of landowners. It is likely therefore that a visual representation of other land in their ownership would be complicated to produce.

How will the hedgerows be protected from livestock

- Awaiting confirmation. Update to be provided to members at the Strategic Planning Committee.

Confirmation of type of lighting on the substation

- Awaiting confirmation. Update to be provided to members at the Strategic Planning Committee.

## North Yorkshire Council

### Community Development Services

#### Strategic Planning Committee

11 JUNE 2024

**2021/1531/EIA - OUTLINE APPLICATION FOR THE DEMOLITION OF EXISTING COLLIERY BUILDINGS AND THE CONSTRUCTION OF UP TO 1,460,000 SQ FT OF EMPLOYMENT FLOORSPACE COMPRISING USE CLASSES B2, B8 AND E(G) TO INCLUDE ACCESS (WITH ALL OTHER MATTERS RESERVED) AT GASCOIGNE WOOD INTERCHANGE, GASCOIGNE WOOD MINE, LENNERTON LANE, SHERBURN IN ELMET, NORTH YORKSHIRE, LS25 6LH**

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

##### 1.0 Purpose of the Report

- 1.1 To determine an outline planning application for the demolition of existing colliery buildings and the construction of up to 1,460,000 sq ft of employment floorspace comprising Use Classes B2, B8 and E(g) to include access (with all other matters reserved).
- 1.2 This application has been reported to Committee due to the application being a significant planning application relating to energy or physical infrastructure accompanied by an Environmental Impact Statement and where it is intended to recommend approval.

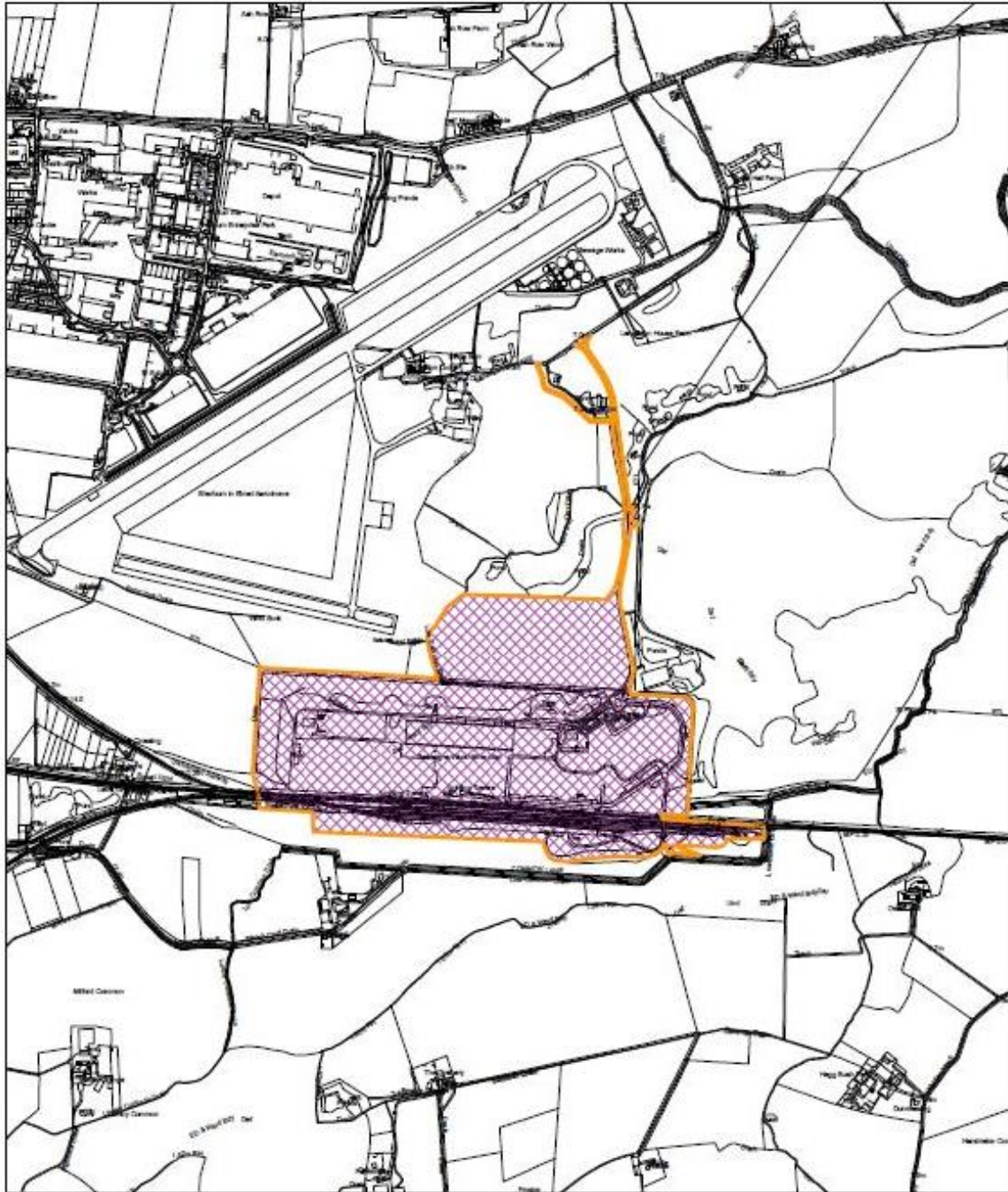
##### 2.0 SUMMARY

**RECOMMENDATION:** It is recommended that Planning Committee delegate to the Head of Development Management to **GRANT** planning permission for the proposed development subject to the conditions recommended in this report; and completion of a Section 106 Agreement securing Travel Plan monitoring, contribution towards A63/A162 junction improvements, sustainable travel enhancements and provision of a shuttle bus.

- 2.1. This is an outline planning application for construction of up to 1,460,000sq ft (135,638sq m) of B2, B8 and E(g) employment floorspace at the former colliery of Gascoigne Wood following demolition of the existing buildings. Approval is sought for access, which is proposed via the existing mine access road from New Lennerton Lane. All other matters are reserved.
- 2.2. The 75-hectare site comprises the former colliery and a field lying to the north. Within the colliery site there are areas of hardstanding, an existing building and rail tracks retained following the colliery closure, some newer buildings linked to more recent employment uses of the site, and landscaped bunds to the site perimeter. The Selby-Leeds railway line transects the southern section of the site. The site is located within open countryside to the south-east of Sherburn-in-Elmet with Sherburn Aeroclub and the Sherburn Enterprise Park to the north/north-east.

- 2.3. The development plan is considered to weigh in favour of the redevelopment of this brownfield site providing there are economic benefits to the area. There would be no loss of agricultural land as the proposed drainage basin to serve the development would remain in agricultural use. There would be no mineral impact.
- 2.4. No harm has been identified to designated heritage assets or archaeology. There would be a net gain for biodiversity and landscaping is proposed. The flood risk assessment and site-specific drainage scheme are acceptable.
- 2.5. The proposal is not considered to result in unacceptable impacts on the adjacent airfield subject to condition.
- 2.6. Subject to conditions and a Section 106 legal agreement to seek contributions to off-site highway works and travel improvements there is no highways objection to the proposal.
- 2.7. In conclusion, it is recommended that planning permission be granted for the outline planning application subject to the completion of a Section 106 Agreement and conditions as set out in this report.

Gascoigne Wood Interchange, Gascoigne Wood Mine, Lennerton Lane, Sherburn in Elmet  
2021/1531/EIA



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### **3.0 Preliminary Matters**

- 3.1. Access to the case file on Public Access can be found here:- [2021/1531/EIA | Outline application for the demolition of existing colliery buildings and the construction of up to 1,460,000 sq ft of employment floorspace comprising Use Classes B2, B8 and E\(g\) to include access \(with all other matters reserved\) | Gascoigne Wood Interchange Gascoigne Wood Mine Lennerton Lane Sherburn In Elmet North Yorkshire LS25 6LH \(selby.gov.uk\)](#)
- 3.2. Access to the previous planning application and appeal decision for 2018/0818/EIA can be found here: [Documents for reference 2018/0818/EIA: Public Access \(selby.gov.uk\)](#)
- 3.3. The following relevant planning history has been identified for the application site:
- 3.4. 2005/0673/FUL - Proposed retention and re-use of buildings, landscaping and infrastructure and continued use of the Rail Sidings. PERMITTED 13.08.2007.
- 3.5. 2018/0818/EIA - Outline planning application with all matters (scale, appearance and layout) except access and landscaping reserved for the demolition of existing colliery buildings and construction of up to 186,000 sq m (approx. 2,000,000sq ft) of Class B2/B8 and associated Class B1 floor space with supporting container storage area and associated buildings, trackside facilities, access and landscaping. REFUSED 27.3.2019. APPEAL DISMISSED 15.05.2020.
- 3.6. 2021/0372/FULM - Temporary change of use of part of former colliery to fall within use classes E(g)(i), B2 and B8, the erection of modular office, welfare and storage buildings for a temporary period of 5 years and associated operations to provide car parking facilities. PERMITTED 01.09.2024.

### **4.0 Site and Surroundings**

- 4.1 The application site comprises the former Gascoigne Wood colliery site and a parcel of agricultural land to the north, which lies outside of the former colliery. The site is accessed via a private road from its junction with New Lennerton Lane 0.8km to the north of the existing site entrance. The adopted New Lennerton Lane then forms a T-junction with the B1222 Bishopdyke Road a further 0.6km to the north.
- 4.2 The site lies to the south-east of Sherburn-in-Elmet. To the north/north-west of the site lies Sherburn Aeroclub with Sherburn Enterprise Park beyond. The enterprise park extension, Sherburn 2 (S2) is under construction on its eastern side. To the north and south of the site lies agricultural land. To the north-east and east lies the mounded mine spoil disposal area, which is now grassed and restored to semi-woodland, and rises above the existing flat landscape.
- 4.3 The Selby to Leeds double tracked railway line, which connects to the East Coast Main Line at Hambleton Junction, passes through the southern part of the site, beyond which to the south of the main line are rail sidings within the application site, some open land and the southern mine complex bunds up to 15m high that were created at the time that Gascoigne Wood mine was developed. A bridge over the rail tracks, owned by the

applicant, connects the southern sidings (up to 1.3km in length) with the main body of the site.

- 4.4 The main part of the former mine is also surrounded by planted bunds to the north and west, between 12m and 20m in height. This area contains some former mine buildings, the main retained building being the large, covered stockyard and numerous smaller former workshop and stores buildings. The enclosed banded area extends to some 69 ha, of which 27 ha comprises the landscape bunds.
- 4.5 There is a public right of way (PROW) that follows the line of the site access road from New Lennerton Lane to the site entrance, turning then to the east to skirt the mine spoil heap. Further public footpaths extend to the south, crossing the railway line, and to the north across the airfield to Sherburn Enterprise Park.
- 4.6 There are no statutory national or local landscape or wildlife designations on the application site. The site does not contain any protected trees and there is no conservation area or nearby listed buildings that are affected. In landscape character terms the site is surrounded by modified landscapes (the bunds and former mine spoil area). The former colliery lies within Flood Zone 1 with the land to the north within Flood Zone 1 or 2 and parts of the site access within Flood Zones 2 and 3a.

## **5.0 Description of Proposal**

- 5.1. The current planning application focuses on redevelopment of the former colliery site for employment uses.
- 5.2. The historic use of the site as a colliery was granted planning permission by the Secretary of State as part of the Selby Coalfield in 1976. Following closure of the site in 2004 there have been numerous planning applications for re-use and redevelopment of the site, including employment re-use of the existing buildings and infrastructure in 2005 which was allowed on appeal in 2007 (2005/0673/FUL), the short term operating electricity generation plant in 2014 (2014/0017/FUL) and the temporary use of for uses falling within E(g)(i), B1 and B8 in 2021 (2021/0372/FULM).

### Planning Application 2018/0818/EIA

- 5.3. A previous planning application for redevelopment of the colliery was submitted in 2018 and is described here to see the order of amendments that have been made to the proposed development since that date.
- 5.4 Planning application 2018/0818/EIA was for Outline planning permission with all matters (except access and landscaping) reserved for up to 186,000 sqm (approx. 2,000,000sqft) of Class B2/B8 and B1 floorspace. The application site extended to 101.16 ha in area and included the colliery and greenfield land to the north extending from the colliery to Lennerton Lane. The application was refused for the following reason:

*The proposed development is unrelated to any existing settlement, poorly served by public transport and involves the development of approximately 43ha of unallocated*

*agricultural land including best and most versatile land and would constitute inappropriate development in the open countryside. The development would not be sustainable and be of a form, location, scale and extent that is contrary to the Council's Spatial Strategy and specifically Policies SP1, SP2 and SP13 of the Selby District Core Strategy Local Plan and saved Policies EMP2 and EMP9 of the Selby District Local Plan. In addition the three overarching objectives of achieving sustainable development set out in the National Planning Policy Framework would not be satisfied by this development. For the above reasons the application is contrary to the Development Plan and the National Planning Policy Framework and in the opinion of the local planning authority there are no material considerations of sufficient weight to justify overriding these objections.*

- 5.5 The applicants appealed this decision. The appeal was dismissed and the Inspector made the following conclusions:

*Para 95. The proposed development is not appropriate in principle in this location. There would not be unacceptable impacts on highway safety or capacity and the residual cumulative impacts on the road network would not be severe. However, the appeal site is currently poorly served by public transport and there is insufficient evidence to demonstrate that this situation would change substantially.*

*Para 96. There would be some harm to the character and appearance of the area and a loss of some best and most versatile agricultural land.*

*Para 97. The proposed development conflicts with Policies SP1, SP2 and SP13 of the Core Strategy and Policies EMP2 and EMP9 of the Selby District Local Plan. It conflicts with the development plan as a whole. It conflicts with the NPPF in relation to promoting sustainable transport and achieving sustainable development.*

2021/1531/EIA - Application as Submitted

- 5.6 The proposal as submitted was for a smaller site area than application 2018/0818/EIA which includes the former colliery and the field immediately to the north. The proposal as first submitted was for up to 2,000,000sq ft (185806.08 sqm) of employment floorspace comprising a mix of Class B2 (general industrial), Class B8 (storage and distribution) and Class E(g) (offices/research and development/any industrial process (which can be carried out in any residential area without causing detriment to the amenity of the area). All the proposed development would be within the former colliery site. This contrasts with the 2018 application which proposed the same quantum of development however extending across a larger area to the north. As submitted, the proposed development required a significant reduction in the height and width of the existing landscaping bunds to the north and west of the site. A proposed parameters masterplan was submitted showing indicative heights across the site between 6m and 19m Above Ordnance Datum (AOD), rising to 44m AOD within the centre of the site.
- 5.7 A dry drainage basin was shown to the field immediately to the north of the colliery. As submitted the basin was sited to the western end of the field, at the end of runway 10/28 at the airfield.



- 5.8 Footpath/cycle links are shown along the access road extending to the north-west onto New Lennerton Lane. The links also extend to the existing PROW to the east, crossing the south-eastern corner of the site and over the railway to Common Lane to the south.
- 5.9 It is intended to retain the existing rail infrastructure and the parameters plan shows two main reception/handling sidings to the north, each providing length of up to 540m, together with two shorter sidings to the east, each providing length of up to 135m. This totals 1,350m. The application is not proposed to be a Strategic Rail Freight Interchange however the applicant states that it will provide rail access which is commensurate with that required by a single occupier of the main building on the site. No further details are provided with this application to demonstrate how the rail infrastructure will be used and connected to the development.

#### 22<sup>nd</sup> September 2022 Amendment

- 5.10 Following assessment of the submitted application and receipt of representations, that include an objection from Sherburn Aeroclub, the applicant commissioned a wind turbulence assessment of the impact of the proposal on the operations of the airfield. Following that assessment an amended scheme was submitted in September 2022. No change was made to the quantum of development nor reduction in the proposed bund height and width. The amendment reduced the maximum overall height of any building on site to 33m AOD and the dry drainage basin to the north was moved further to the east, away from the airfield.
- 5.11 An area of landscape enhancements, referred to as “country park”, was proposed encompassing the former spoil heap to the north/north-east of the site.
- 5.12 Notwithstanding the proposed changes, following further consideration of the application the proposed quantum of development was considered an over-development of the site and the loss of the landscaped bunds unacceptable. The applicant therefore further revised the application in October 2022.

#### 17<sup>th</sup> October 2022 Amendment and the Scheme to be determined

- 5.13 The amended scheme received in October 2022 is that before Strategic Planning Committee today. The existing landscape bunds are now retained with no change to their height or depth. The quantum of development has been reduced and is now up to 1,460,000 sq.ft (135,638.43 sq.m). A revised parameters plan shows a height range of 30.1m AOD for the bulk of the site, reducing to 22m and 19m AOD towards the west and to the north. The area of landscape enhancement (referred to as the country park) to the north/north-east of the site has been removed 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.

- 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. A further round of consultation on a revised Regulation 19 Publication Local Plan was undertaken in March 2024 and the responses are now being considered. Following any necessary minor modifications being made it is intended that the plan will be submitted 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
  - National Design Guide 2021

## **7.0 Consultation Responses**

- 7.1. Consultation responses have been summarised below. Full details can be viewed on Public Access.

- 7.2. **South Milford Parish Council** – Following comments made:

- Disappointed that no pre-application consultation with the parish council or local residents;
  - As submitted the buildings appear tall and above the line of the nearest hill, development may be too large and imposing;
  - If granted suggest conditions to ensure that there is upgrade of surrounding roads and infrastructure, improvements to the B1222/New Lennerton Lane junction, improvements to New Lennerton Lane and B122 including footpath and cycle path, footpath to the east of the site should be upgraded to a bridleway and surface improved;
  - Require significant proportion of jobs given to local residents.
- 7.3. **NYC Highways** – Advise that the existing highway network will continue to operate within accepted capacity parameters and there are no highway safety or capacity issues, and the cumulative residual impact of the applicants’ proposals is not ‘severe’. There are no highway objections to the proposal subject to a s106 agreement to secure contributions for Travel Plan monitoring, A63/A162 Roundabout Improvements and sustainable travel enhancements. Conditions are also recommended.
- 7.4. **NYC Lead Local Flood Authority** – No objection subject to conditions relating to drainage design, maintenance, and exceedance flow rates.
- 7.5. **Yorkshire Water** – Recommend conditions for site to be developed with separated surface/foul water drainage.
- 7.6. **Selby Area Internal Drainage Board** – Recommend condition relating to provision of SuDS.
- 7.7. **Environment Agency** – Agree that flood risk has been scoped out of the Environmental Statement (ES). ES has also scoped out Air Quality, however there is potential for emissions from the existing combustion plans to impact on air quality around the development. No conditions requested.
- 7.8. **NYC Ecologist** – Following review of ecological survey reports and the Framework Landscape and Biodiversity Management Strategy and Defra Biodiversity Metric, satisfied with the survey work carried out, supportive of the assessment of impact and recommendations for protection during construction works. Conditions recommended relating to a sensitive lighting strategy, production of Construction Environment Management Plan and Landscape Ecological Management Plan.
- 7.9. **Natural England** – No comments to make on the application.
- 7.10. **Landscape Consultant** – Original consultation response received 28.3.22 to the scheme as submitted which included loss of the existing landscape bunds around the site – not supportive of the loss of the landscape bunds and woodland atop them, especially as the proposed main building is even taller than existing, so it is illogical and harmful to the landscape resource and to views/visual amenity to remove it and replace it with a much lesser thing, that will do very little to screen or even mask the massive scale, the visual impact of the development within those views would be

significant, the development would also result in the loss of an established piece of landscape that is integrated into its context, to which it makes a valuable contribution.

Revised scheme consultation response - further assessment and advice on the amended proposals that came forward in September 2022 and in October 2022 which retained the bunds and landscaping. The current proposal is considered acceptable subject to conditions.

- 7.11. **NYC Tree Consultant** – The submitted tree report is fair and balanced. There is ash die back and a failing Alder avenue, an assessment of tree numbers, proposed loss and replacement planting should be provided in a 10 year plan. Replacements for the Alder avenue should be large upper canopy mixed species more appropriate to the landscape and for long term impact. Conditions recommended.
- 7.12. **Sherburn Aeroclub** – Response dated 8.2.22 (to the scheme as submitted). Object to the proposal on the following grounds:
- No pre-application agreement on aviation safety issues;
  - CAP 738 Safeguarding of Aerodromes is to ensure the proper, informed assessment of the implications of any development being proposed within their vicinity to guarantee, as far as practicable, that the aerodrome and its surrounding airspace is not adversely impacted by the proposal, thus ensuring the continued safety of aircraft operating at the location and identifies key considerations to be addressed. Application not compliant as has not satisfactorily addressed aviation safety matters;
  - No consideration given to windshear/turbulence effects of proposed new buildings on aircraft using east/west and north/south runways;
  - No consideration given to aviation implications of SuDs basin – bird attraction/bird strike and possible glint and glare;
  - Proposed landscaping will be attractive to wildlife/birds;
  - Noise assessment has not considered impact of aerodrome noise on proposed building occupiers.

The Aeroclub was reconsulted on the October 2022 amendments however no further response has been received.

- 7.13. **Civil Aviation Authority (Airfields Advisory Team)** – Response received 28.10.22 following assessment of amended plans, as follows:-

Note that the Aeroclub previously objected to application 2018/0818/EIA, the priority concern is that development has the potential to halt part of the aero club's operation. Secondary issues are touched on but do not dilute their primary objective to ensure that their licence requirements are fulfilled. To satisfy their primary objective, a flight path area was defined that ensured no development would fall within the area [at the south-eastern end of the airfield] or sufficient mitigation proposed that would enable the aero club's operation to continue.

The Aeroclub objected in February 2022 to the application stating that the application lacked proper assessment of the proposed new building envelope on wind-shear/turbulence; not considered aviation implications of proposed creation of SuDS water basin and wildlife habitat area under the flightpath; not considered possible glare

of water in SuDS pond below the flightpath on pilots in terms of distraction/confusion; little detail has been given too about proposed lighting such that comfort can be taken that there will be no adverse impacts.

Conclude that “The proposed scheme does not appear to be compatible with the aerodromes’ established operation, primarily as a result of the scheme’s location. As set out above, there is the potential for the aerodrome to be adversely impacted by the scheme as a result of a variety of factors. Such factors could result in the aerodrome being unable to meet the requirements for a licenced aerodrome as well as a reduction in movement numbers and capability resulting in reduced commercial viability.”

Recommendations made:

- Developed modelling of proposed buildings and structures against aerodrome’s OLS taking in to account terrain elevations;
- Developed modelling to consider wider criteria to assess the potential for building induced turbulence;
- Review the proposed development’s potential to increase wildlife strike;
- Consider the removal or relocation of the SUDS basin from the scheme;
- Glint and glare assessment.

Response received dated 14.12.2023 – following consideration of further modelling work submitted.

Acknowledge that work has been undertaken to attempt to model the impacts on the airfield. The CFD [Computational fluid dynamics] modelling appears encouraging but are unsure of the validity of the factors [data set] used as it models larger aircraft and the environment at Heathrow. The methodology of the modelling appears sound but there is still uncertainty regarding the indicated, expected output.

- 7.14. **NYC Minerals and Waste** – No comments in this particular instance as the proposed development at Gascoigne Wood Interchange, Gascoigne Wood Mine, Lennerton Lane is within a Minerals Safeguarding Area and falls under the following exemption criteria stated in paragraph 8.55 of the MWJP (2022): Applications for development on land which is already allocated in an adopted local plan where the plan took account of minerals, waste and minerals and waste transport infrastructure safeguarding requirements, or, in the case of emerging local plan allocations, where the Minerals and Waste Planning Authority has raised no safeguarding concerns during consultation on the emerging plan allocation.
- 7.15. **The Coal Authority** - Confirm that part of the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. Submitted Coal Mining Risk Assessment concurs with the Coal Authority’s records and applicant is aware of two mine adits on site. Recommend conditions for further intrusive on-site investigations to establish risks posed to development by past mining activity, identification of mine adits location and “no build exclusion zones”, remediation and/or mitigation measures to address land instability arising from coal mining legacy.
- 7.16. **NYC Environmental Health** – Recommend conditions relating to operational and construction noise including a Noise Impact Assessment for each phase of the reserved

matters, and a Framework Noise Management Plan (FNMP) prior to any rail freight usage. Condition also recommended on Operational Air Quality each phase of reserved matters to include emission mitigation statement.

- 7.17. **Network Rail** – No objection in principle to the proposal subject to conditions to ensure that the construction work does not impact on railway safety and that drainage, boundary treatments, lighting and landscaping are suitable.
- 7.18. **British Transport Police** – Support the scheme in principle subject to the following:
- Applicant to consult with Network Rail to assess potential impact of proposal on railway;
  - Landscaping planted against or close to the lineside boundary should not impact on the operation of the railway;
  - Avoid use of loose topdressings which can be used as missiles to throw at trains
  - Lighting should not impede train drivers sightline;
  - During construction developer needs to demonstrate railway safety standards have been considered.
- 7.19. **Police Designing Out Crime Officer** – Advice provided on site layout, lighting, overlooking of pedestrian routes, planting, fencing, cycle and motorcycle/moped parking.
- 7.20. **NYC Public Rights of Way Team** – Advice given on protection of existing public right(s) of way, diversion, or temporary closure.
- 7.21. **NYC Archaeologist** – No objection.
- 7.22. **NYC Economic Development** – Support the proposal as it will create a range of opportunities for businesses across manufacturing and rail related logistics, with a clear benefit for local employment opportunities.
- 7.23. **Contamination Consultant** - Response awaited.
- 7.24. **North Yorkshire Fire and Rescue Service** – No objection/observation.
- 7.25. **Doncaster Sheffield Airport** – No comments to make.
- 7.26. **Vale of York CCG** - No response within consultation timescale.
- 7.27. **Leeds East Airport** – No response within consultation timescale.
- 7.28. **Planning Casework Unit** – No response within consultation timescale.

#### Local Representations

- 7.29. The application was advertised in the Pontefract and Castleford Express and by the display of site notices at various points in the local area. Representations are summarised below and can be read in full on public access.

- 7.30. One letter has been received **objecting** to the proposal on the following grounds:
- Access to the site by foot and cycle is unsafe via B1222, if to be used then safety measures (footways, traffic calming) need to be included in the plans;
  - Increased use of New Lennerton Lane also going to be dangerous to vulnerable road users;
  - Not adverse to providing new job opportunities;
  - No community involvement undertaken by the applicant.
- 7.31. One letter has been received **commenting on (but not supporting or objecting)** the scheme as follows:
- Pedestrian access to the site from the south is positive, expect will make level crossing redundant; Level crossing is a public right of way, new access path should have the same;
  - Increased traffic on Common Lane, parking restrictions will be needed to discourage parking;
  - Increase rail use encouraged but locomotives shouldn't idle for long near to Milford junction;
  - Potential congestion from construction traffic using A63;
  - Overall impact on traffic from proposal in addition to new Lumby quarry development and new A1 services.
- 7.32. One letter has been received from Samuel Smith Old Brewery (Tadcaster) (in relation to the scheme as first submitted), making a case why the application should be refused by the Council. The representation also included landscape and transport appraisals commissioned by Samuel Smith Old Brewery (Tadcaster):
- Site is unsustainable;
  - Seek clarity on amount of floorspace applied for (sq.m or sq.ft);
  - No information provided on proportion of each use class across the site, could result in a single use class;
  - Site not specifically allocated within the local plan;
  - Local plan supports redevelopment of mine site only, not bunds or surrounding land;
  - Proposal being justified by its relationship to railway infrastructure, rather than appropriateness to deliver employment land;
  - Proposed buildings inappropriate in terms of location and scale;
  - Conflicts with CS policies SP2 and SP13;
  - Detrimental to the character of the area;
  - Question how likely an occupier is to use rail infrastructure, no information / assessment provided by applicant, indicative plan shows no direct railway sidings;
  - Transport proposals are identical to those dismissed on appeal in 2019;
  - Failure to secure cycle/pedestrian route across adjacent runway;
  - Scale of development inappropriate in this location;
  - Contrary to Council's employment strategy;
  - Loss of bunds will have profound visual impact on surrounding area and landscape.

## **8.0 Environment Impact Assessment (EIA)**

- 8.1. 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.

## **9.0 Main Issues**

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

- Principle of the Development
- Highway Safety and Accessibility
- Transport infrastructure safeguarding
- Public Rights of Way
- Aviation considerations
- Noise and amenity
- Design
- Ecology and biodiversity
- Landscape
- Rail Safety and operation
- Flood risk and drainage
- Minerals and waste
- Other matters
- Section 106 Legal Agreement

## **10.0 ASSESSMENT**

### Principle of Development

- 10.1 Policy SP1 of the Core Strategy (CS) outlines the positive approach that the Council will take when considering development proposals, reflecting the presumption in favour of sustainable development contained in the NPPF at paragraph 11. For decision-making, this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
- i the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>;
  - or
  - ii any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 10.2. CS Policy SP2 sets out the spatial development strategy for the former District and states that the majority of new development will be directed towards the District's towns and larger villages. SP2(c) states that proposals beyond the Development Limits, in the countryside, will be limited to the replacement of existing buildings and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy in accordance with policy SP13 or any other special circumstances.
- 10.3. Policy SP2 refers to compliance with Policy SP13 which gives support to developing and revitalising the local economy. The policy provides for an additional 37 to 52 ha of employment land in the period to 2027, however this is not described as a maximum.



Part C of Policy SP13 refers specifically to economic development in rural areas and gives support to the redevelopment of existing and former employment sites. Part D requires that in all cases development should be *sustainable, appropriate in scale and type to its location, not harm character and seek a good standard of amenity*.

- 10.4. The commentary to Policy SP13 states that (para 6.34) “The Council also supports the reuse of the former Gascoigne Wood mine, provided this is directly linked to the *use of the existing rail infrastructure that exists at the site*”. However, as commentary, this is not the wording in the adopted policy.
- 10.5. CS Policy SP15 states that sustainable development will be promoted through directing development to sustainable locations, in accordance with Policy SP2 and giving preference to the re-use of existing buildings and previously developed land where this is sustainably located.
- 10.6. CS Policy SP16 requires non-residential scheme of 1000m<sup>2</sup> gross floor space or more to provide a minimum of 10% of total predicted energy requirements from renewable, low carbon or decentralised energy sources, subject to feasibility and viability.
- 10.7. Saved Selby District Local Plan (SDLP) Policy EMP2 states that new economic development is to be concentrated in and around Eggborough, Selby, Sherburn-in-Elmet and Tadcaster and allocates employment land in and around these and other settlements (albeit not the application site in question). The policy also identifies that rural economic development is normally small in scale.
- 10.8. Saved SDLP Policy EMP9 provides additional guidance with regards to the expansion of existing employment uses in the countryside. Support will be given provided that:
- The proposal would not create conditions prejudicial to highway safety or have a significant adverse effect on local amenity;
  - The nature and scale of the proposal would not have a significant adverse impact on the character / appearance of the area or harm acknowledged nature conservation interests;
  - The proposal would achieve a high standard of design, materials and landscaping;
  - Proposals should not result in the loss of best and most versatile agricultural land and would be well-screened.
- 10.9. The application site largely comprises a brownfield site outside any defined development limit and therefore by definition is located in open countryside. It lies in a location which will result in reliance on the private car to access the site. Nonetheless, the Core Strategy does give support to the redevelopment of previously developed land and specific reference is given to the redevelopment of Gascoigne Wood in the supporting text to Policy SP13. It is important to note that the Core Strategy states that the redevelopment of this site should be directly linked to the re-use of the existing rail infrastructure on site. No details of how the rail infrastructure will be utilised has been provided in support of the application. It is noted that as the application is for outline consent, with no end-users identified, it is difficult to assess the likelihood of the existing rail infrastructure being utilised by the proposal.

- 10.10. Given the size of the previously developed site, consideration should also be given to whether the scale and type of proposal is appropriate to its rural location, as per policy SP13D. The application has been amended since submission and now proposes a reduced floorspace of up to 1,460,000 sq.ft. The reduction in employment floorspace, along with the retention of the landscape bunds and the reduction in maximum heights of buildings is welcomed and it is considered that some of the previous concerns regarding scale of development have been mitigated.
- 10.11. The Council are currently progressing a new local plan for the Selby legacy area which will cover the period to 2040. Consultation on the Pre-Submission Publication Draft Local Plan (Regulation 19) was undertaken between August and October 2022 and consideration of responses has been carried out. The Council held a further six-week consultation on a revised Regulation 19 version between 8<sup>th</sup> March – 19<sup>th</sup> April 2024 and is currently working through the responses prior to submission to the Secretary of State for independent examination.
- 10.12. The emerging Local Plan is supported by a Housing and Economic Development Needs Assessment (HEDNA) (2020) and an Addendum (2022) which have informed the Selby district's employment land requirement during the period to 2040. The HEDNA finds that the following level of employment land should be delivered, as a minimum, during the period to 2040:

Use Class	Recommended floorspace (sq m)	Recommended land (ha)
Office (previously B1, now E(g))	10,880	3.6
Industrial & storage (B2, B8)	306,660	87.6
Total	317,540	91.2

- 10.13. The evidence from the HEDNA suggests that there is a sufficient supply of employment land in the District for the Local Plan period. However, the Council recognises that there are key remaining opportunities for the redevelopment of Eggborough Power Station, Olympia Park and Gascoigne Wood Interchange which represent strategic brownfield sites with unique rail infrastructure.
- 10.14. Gascoigne Wood is identified as a proposed employment allocation in the emerging Local Plan (policy SHER-AA). The allocation includes the colliery and greenfield land to the north, in essence the submitted application red edge, and excludes the greenfield land from development (drainage only). The emerging policy set out the following site requirements for future development:
1. *Utilise the existing rail infrastructure on the brownfield part of the site. This former colliery site has rail infrastructure relating to its role as a hub for the local coal mine network. This is recognised as being a unique asset to the former Selby district area. Any redevelopment of the site must utilise this existing infrastructure which provides the opportunity to access local and national markets via the rail network.*
  2. *Ensure that the greenfield, northern part of the site is to be used only for the drainage attenuation basin/pond.*
  3. *Ensure that air safety and aviation impacts are satisfactorily considered. This is to protect the amenity of Sherburn Aeroclub located to the north west of site.*
  4. *Utilise and upgrade the existing vehicular access from New Lennerton Lane.*

5. *Ensure safe, attractive and convenient pedestrian and cycle routes are provided within the site which link to existing routes to Sherburn in Elmet town centre and the train stations at Sherburn in Elmet and South Milford.*
6. *Prepare an appropriate contamination remediation strategy in accordance with a phasing strategy and be supported by a Coal Mining Risk Assessment. This site was used as a coal mine (with associated railway connection, sidings and electrical grid connection) between 1983 and 2004, and has more recently been used for the storage of gypsum. These activities may have given rise to land contamination and/or ground gas issues. The ground conditions must be investigated and any necessary remediation work must be undertaken to ensure that the land is safe and suitable for its proposed use prior to development. An appropriate contamination assessment must be submitted with any planning application.*
7. *Create a landscaped buffer with tree/hedgerow planting of native species to provide screening of views from the northern, eastern and western edges of the site.*

10.15. In terms of the level of weight that can be currently given to the emerging Plan in decision making, paragraph 48 of the NPPF provides guidance and states that weight can be given according to:

- a) The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and,
- c) The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

10.16. Whilst the Plan still needs to undergo Examination by an independent Examiner, no objections have been received at Publication stage to the principle of development of Gascoigne Wood for employment uses. It is not yet known if there are objections to the draft allocation in the Revised Publication plan. However, whilst the plan overall has limited weight, it is considered that emerging Policy SHER-AA and the evidence base behind it can weigh in the tilted balance of decision making.

10.17. In taking a judgement on whether the proposal complies with Core Strategy Policy SP13D and specifically whether it can be demonstrated to be a sustainable location for such a scale of proposal, it is concluded that the proposal does not represent small scale rural development as envisaged by Policy SP13. The proposal cannot therefore be considered to be in strict accordance with Policy SP13.

10.18. However, Policy SP13 is supportive of the redevelopment of existing and former employment sites and commercial premises and the supporting text refers specifically to the redevelopment of Gascoigne Wood. As the proposed scheme is a redevelopment of a former major employment site and will generate jobs for the local economy, although strictly a departure from the Core Strategy, the proposals are considered to be within the spirit of Policy SP13. The grant of planning permission in 2008 under application 2005/0673/FUL established the principle of employment use in this location and on this site. The proposed floorspace has been reduced by ¼

compared to that proposed in 2018/0818/EIA. Although still significant, it is considered that some of the previous concerns regarding scale of development have been mitigated.

- 10.19. The redevelopment of Gascoigne Wood forms part of the emerging Local Plan proposals. Whilst still in an early phase, no objections have been received at Publication stage to the principle of development of Gascoigne Wood for employment uses. Therefore, it is considered that emerging Policy SHER-AA and the evidence base behind it can weigh in the tilted balance of decision making.
- 10.20. Therefore, subject to the proposal satisfying other local plan policies, the proposal is considered to be acceptable in principle.

*Section 149 of The Equality Act 2010*

- 10.21 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.
- 10.22 The proposed development would not result in a negative effect on any persons of or persons with The Equality Act 2010 protected characteristics. It is considered to have a positive impact in terms of the provision of facilities for those with additional needs, through the specific nature of the development in terms of future employment opportunities and through the potential arising from its design and sustainable and accessible transport measures, including parking provision.

**Highway Safety and Accessibility**

*Highway safety*

- 10.23. SDLP Policies T1 and T2 set out local planning policies regarding Development in Relation to the Highway Network and Access to Roads.
- 10.24. SDLP Policy ENV1 states proposals for development will be permitted provided a good quality of development is achieved. In considering proposals the Council will take account of various matters including the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site and the arrangements to be made for car parking. SDLP VP1, VP2 and VP3 seek to ensure sufficient off-street parking is available.
- 10.25. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 10.26. It is no longer proposed to operate the site as a predominantly rail related facility, although the potential to utilise the rail link is shown to be maintained, and rail use will ultimately be determined by future occupiers. The Transport Assessment section of the ES considers the worst-case scenario for transport on the highway network and identifies what measures will be taken to deal with anticipated impacts on the highway network from the proposal and identifies improvements and initiatives to improve site accessibility from all modes of transport.
- 10.27. The proposal is supported by a Design and Access Statement, Transport Assessment and Travel Plan. In addition to these documents the Highway Authority has received clarification on several highway matters with further information submitted including details relating to the impact of the proposal on the A63/A163 roundabout.
- 10.28. The Local Highway Authority does not object to the proposal subject to the provision of contributions, secured via a Section 106 agreement for the following:

<b>Contribution</b>	<b>Obligation</b>	<b>Need</b>
£5,000	Contribution towards monitoring of Travel Plan.	For the purpose of reviewing annual monitoring reports.
£86,719.25	Contribution towards the A63/A162 Junction Improvements	Required to address highway impacts arising from the development.
£200,000	Contribution towards sustainable travel enhancements in the area from variety of transport modes including bus, rail, and cycle.	To deliver sustainable travel enhancements in the Sherburn area, to address impacts arising from the development.
£0	Provision of responsive to demand Shuttle Bus Service between the site, South Milford railway station, Sherburn-in-Elmet village centre and Sherburn-in-Elmet railway station in the peak hours, or other key times identified by the Travel Plan Steering Group.  The bus will be funded by the applicant though secured through the S106.	To deliver sustainable transport options to the site.

These contributions are considered appropriate to size and impacts arising from the development.

#### *Accessibility*

- 10.29. Sustainable travel enhancements in the area are proposed. A new connection will be provided from Common Lane to the south of the site to connect to the existing haul road bridge over the railway. This will allow access from the south, avoiding use of the

level crossing, for both pedestrians and cyclists. A cycle connection to the north is also proposed to link up with the existing connection from Hurricane Way. The site is more than 2km from residential areas and it is unlikely that many employees would walk to the site. The nearest rail station is at Sherburn-in Elmet.

- 10.30. A Travel Plan has been prepared and agreed, which will promote car sharing, cycling and public transport and a 10% modal shift for multi-occupancy car journeys to the site over a 5 year period. There is also an agreement with the applicant to fund a free to use shuttle bus service that runs between the Site, South Milford Rail Station, Sherburn in Elmet Village Centre and Sherburn in Elmet Rail Station in the peak hours, or other key times identified. The provision of the shuttle bus enhances the accessibility of the proposed site by public transport.
- 10.31. Conditions are also recommended including requiring the detailed plans for the roads and footways, construction, provision of visibility splays.
- 10.32. It is considered that the proposal would satisfy draft site requirements (4) and (5) set out in the emerging Selby Local Plan for SHER-AA.
- 10.33. Subject to the completion of a Section 106 agreement for the terms as set and subject to the proposed conditions, there would be no unacceptable impacts on highway safety and thus there are no highways reasons to resist this application.

#### **Transport infrastructure safeguarding**

- 10.34. The railway sidings at Gascoigne Wood have been safeguarded as transport infrastructure in the North Yorkshire Minerals & Waste Joint Plan (2022). Policy S05 requires that this facility such be safeguarded against development which would prevent or unduly restrict the use of the infrastructure for minerals or waste transport purposes. The utilisation of the rail infrastructure is required under Emerging Local Plan Policy SHER-AA and the applicant has shown that the rail infrastructure will be retained.
- 10.35. Unlike application 2018/0818/EIA, there is no proposal to develop the site as a Strategic Rail Freight Interchange. It is noted that with two main reception/handing sidings to the north identified in the illustrative masterplan, there is potential for a future occupier, through reserved matters, to access the rail infrastructure, notwithstanding that there is no end user currently identified.
- 10.36. The benefits of enabling and supporting increased rail use is recognised. Whilst desirable for the proposal to use the available infrastructure, it is noted that the proposed development would not sterilise the rail infrastructure and does allow for its use by a future occupier. It is considered that the proposal would meet requirement (1) of the draft requirements for SHER-AA.

#### **Public Rights of Way**

- 10.37. SDLP Policy T8 seeks to protect the public rights of way network. There is a Public Right of Way running along the eastern side of the site, then north on the access road connecting to New Lennerton Lane. There are also PROWs running through the

Sherburn 2 site to the north. Connectivity would allow pedestrian access between the 2 sites.

- 10.38. The defined route of the PROW is to be diverted to the edge of the access road to allow for separation from traffic, and it will be extended to the red edge boundary although connection with Sherburn 2 to the north relies on third party agreement. It is intended that the connection will also be for cyclists.
- 10.39. The retention, extension and improvement of the public rights of way network for amenity as well as highway (active travel) reasons is supported. A condition is proposed to secure these links.

### **Aviation considerations**

- 10.40. Sherburn AeroClub (SAC) operate out of Sherburn airfield to the north and west of the application site. There are three runways, the most used being runway 10/28 which runs in an approximately east/west orientation at the southern extent of the airfield. Light aircraft fly from the airfield, it is a flight training school and is a popular facility in the local area. The buildings on Sherburn Enterprise Park to the north and west and the landscaped bunds surrounding Gascoigne Wood already create specific flying conditions, although these are known by SAC and pilots using the airfield.
- 10.41. In terms of national policy on aviation, the NPPF briefly refers to General Aviation (GA) and on plan making says that policies should recognise the importance of maintaining a national network of GA airfields, taking account of their value in serving business, leisure, training and emergency service needs and the Government's GA Strategy (Department for Transport 2015).
- 10.42. The GA Strategy does not make specific reference to protecting GA airfields from neighbouring development however recognises that 'technology changes very quickly and to survive [aviation] businesses must adapt to reflect this progress - such as by improving hangar facilities or creating all-weather runways and that improvements to infrastructure at airfields are increasingly vital to their ability to survive', and therefore implies that the operational integrity and attractiveness of GA airfields should be taken into account.
- 10.43. Sherburn airfield is not a 'safeguarded aerodrome' under Department for Transport/ODPM Circular 01/2003 Safeguarding aerodromes, technical sites and military explosives storage areas. As a result, there are no statutory requirements to consult the Civil Aviation Authority (CAA) since the Direction in Circular 01/03 does not apply. There is therefore only a voluntary consultation procedure with local authorities.
- 10.44. The CAA have a series of guidance publications. The most relevant to this application are CAP168 which relates to Obstacle Limitation Surfaces (OLS) which are 3-dimensional surfaces which extend upwards and outwards from, and are more restrictive, at the ends of runways, infringement into an OLS by buildings or structures could endanger aircraft; and CAP772 which relates to bird strike and wildlife hazards.
- 10.45. In response to the objections raised by SAC on the application proposal, although not a statutory consultee, the Civil Aviation Authority's Airfields Advisory Team (AAT) have

been consulted on the application, in particular with regards to the impact of the proposed development on wind turbulence, which would impact on aviation safety. Lengthy discussions have been held between the applicant, the AAT and the Council in order to address these matters. Whilst SAC have been re-consulted, no response has been received.

*Obstacle Limitation Surfaces (OLS)*

- 10.46. The parameters plan indicated that the highest buildings proposed would have a maximum height of 30.1m AOD. Any infringement of the OLS would potentially occur at the end of runways 10/28 (east/west) and 01/19 (which runs north/south). As the application has been submitted in outline with layout and design reserved matters, it is not possible as part of this application to specifically assess whether any structures will penetrate the OLS. A condition is proposed requiring future reserved matters to demonstrate that there is no infringement of the OLS.

*Glint and Glare*

- 10.47. In terms of glint and glare from proposed buildings, this can be controlled via a condition to ensure that building materials are chosen to minimise glare, including the provision of any solar panels to building rooftops.

*Dry Drainage Basin*

- 10.48. SAC raised concern over glint and glare from water in the dry drainage basin and its attraction to wildlife and bird strike potential. The basin comprises a large, shallow depression (1:10) slope which will not hold water for most of the time and has been engineered to design out nature and not lead to an increase in invertebrate numbers. The land will continue to be managed in arable production, there will be no ecological enhancement and the ecological survey states that it is not anticipated that there will be any change to the types or number of birds that currently use the arable field therefore not creating any further risk of bird strike than there is currently. The basin has also been moved further east away from the runways.

- 10.49. It is considered that the impact on aviation from glint and glare from the drainage basin would be minimal. Birds are always a concern around airfields, however as no ecological enhancement of the basin is proposed and therefore the increased attraction to birds is not anticipated to be any greater than from other flooded fields in the vicinity.

*Wind Turbulence*

- 10.50. Wind turbulence affecting the airfield results from the wind crossing existing landform and structures then affecting the airmass on the airfield. New buildings will also affect wind turbulence at a micro-scale due to wind flow over and around the structures, albeit their scale and mass are currently unknown.

- 10.51. The wind crossing the application site to the south and east of the airfield already results in wind turbulence for aircraft on the take-off/landing on runways 28 (landing from the east) and 01 (landing from the south), where planes are most vulnerable, particularly on the descent to landing. The existing turbulence is known and accounted for by pilots, however SAC is concerned about the extent of any change to the wind turbulence which would affect the main runway. As this application is for outline planning permission, the scale and design of proposed buildings are currently unknown.



- 10.52. To identify how the proposed development would impact on the wind conditions on the airfield, the applicant carried out wind tunnel modelling based on the application as submitted, which included taller buildings and the removal of the landscaped bunds. Following the revision of the application (which reduced building heights and retained the bunds) this was supplemented by Computational Fluid Dynamics (CFD) modelling (i.e computer simulations) and a Runway Wind Impact Study (RWIS). Where physical modelling within a wind tunnel is well-established, the level of accuracy can vary depending on the technique used for CFD. The CFD has used data that has been derived from studies at Heathrow Airport and concern was raised by the AAT on the use of this data given the disparity between Heathrow and SAC in terms of scale and aircraft size. The AAT however accepted that that the methodology used was sound.
- 10.53. The RWIS concludes that development on the application site would result in minimal impact to the flying conditions at the airfield, resulting in a loss of 105 cumulative flying hours (4.3 days) or 2.4% of total operational flying time over a year. The difficulty is that as an outline application the exact level of impact is unknown as details of the proposed buildings (location, height, roof form etc) will follow as reserved matters.
- 10.54. As there are weaknesses in the data and due to the continual concern of the AAT, the Council commissioned an independent peer review of the RWIS and CFD to take into account the responses from the AAT, in order to establish the appropriateness of the wind speed/turbulence level thresholds used by the applicant's consultant in the RWIS. Following analysis, the peer review confirms that the thresholds used in the RWIS are appropriate to this site. This proves, at a conceptual level, that development can be safely undertaken in this location and establishes a baseline for safe development. It will be important that reserved matters applications prove they are at or below this established level.
- 10.55. It is evident that the applicant has sought to reduce the impacts on the airfield as much as possible as part of this outline application. The work carried out to understand the impact of the proposed development on runway safety has shown that development is possible with minimal impact on both the airfield as a business and on the safety of aircraft. This has now established a baseline for development. The Council is satisfied, following the peer review, that the data used is sound and that a robust approach has been undertaken.
- 10.56. However, details of the proposed buildings, their number, location and design are at present unknown, and therefore it is also unknown whether they would increase or reduce wind turbulence experienced at the airfield. Further evidence at reserved matters is essential to demonstrate that the proposed buildings will not make the situation worse and may even improve the situation. It is considered a reasonable approach to impose a condition on any grant of permission requiring evidence where any reserved matters application deviates significantly from the illustrative masterplan to allow the impacts of this on the Aeroclub to be fully assessed. The condition would ensure that the thresholds already established in the RWIS are not exceeded.
- 10.57. In terms of the operation of the Aeroclub, until any buildings are erected the flying conditions remain unchanged and there is no impact on its operation.

10.58. Subject to a condition, it is considered that (3) of the draft allocation site requirements for SHER-AA would be complied with.

### **Noise and amenity**

10.59. SDLP Policy ENV1, CS Policy SP19 and the NPPF considers the impact of development on residential and local amenity.

10.60. A Noise Assessment was submitted with the application and considered by Environmental Health, who have recommended conditions for operational and construction noise.

10.61. Significant air quality impacts from the site are unlikely and a condition is recommended for an emission mitigation statement to be submitted for each reserved matters phase.

10.62. There are three farms on Lennerton Lane and New Lennerton Lane, the nearest being Lennerton Farm 1.7km north of the site. The farm dwellings are all set back from the road. No overlooking or loss of privacy is likely to result from the proposal and it is noted that there will be increased vehicular activity from construction and operation which will result in an element of noise and disturbance. Overall, however it is not considered that there would be any harm on residential amenity resulting from the proposed development.

10.63. As the site is next to the airfield there may be potential for noise from the aircraft, however the proposal is for general industry, storage and distribution and offices. These are not sensitive uses, and it is considered that future occupiers would be aware of the airfield prior to moving onto the site. It is not considered that this would result in harm to occupiers of the proposed buildings. It is considered that the proposal would comply with SDLP Policy ENV1 and CS Policy SP19.

10.64. In light of the above, as the impacts on residential amenity are considered to be minimal and can be mitigated through condition, the proposal would not contravene Convention rights contained in the Human Rights Act 1998 in terms of right to private and family life.

### **Design and Visual Amenity**

10.65. SDLP Policy ENV1 and CS Policy SP19 seeks high quality design for new buildings. NPPF paragraph 135 states "Planning policies and decisions should ensure that developments:...(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)".

10.66. The parameters plan shows that the site can accommodate the proposed quantum of development, car parking and strategic landscaping.

- 10.67. Individual building design is unknown as only access is applied for under the outline planning application. Any reserved matters application will need to provide details of scale and appearance. The maximum height of any building is limited to 30.1m AOD and building design, in particular roof form and roof structures, will be informed by wind turbulence assessment to reduce impact on the adjacent airfield. Design will need to ensure that glint and glare from reflective surfaces is minimised.
- 10.68. Proposed buildings will need to incorporate sustainable design and construction techniques to meet the requirements of CS Policy SP15 and improve resource efficiency as required under CS Policy SP16. Condition 32 is recommended to ensure that details are provided with each reserved matters application.
- 10.69. It is considered that the design of the proposed buildings can be controlled through the submission of reserved matters and will not result in harm to the surrounding area or landscape setting. There is therefore no identified harm to relevant policies.

### **Ecology and Biodiversity**

- 10.70. Relevant policies in respect of nature conservation include Policy ENV1 (5) of the Selby District Local Plan and Policy SP18 of the Core Strategy which accord with paragraph 180 of the NPPF. Point d) of Paragraph 180 (NPPF) recognises the need for the planning system to contribute to and enhance the natural and local environment by recognising the wider benefits of ecosystems and minimising impacts on and providing net gains in relation to biodiversity.
- 10.71. The application is supported by Preliminary Ecological Appraisal, Great Crested Newt survey, Bat survey, Breeding bird survey and Reptile survey as well as the Framework Landscape and Biodiversity Management Strategy. The Council's Ecologist is satisfied with the level of survey work undertaken for biodiversity.
- 10.72. The application was submitted prior to the introduction of mandatory Biodiversity Net Gain (BNG) for Major sites on 12<sup>th</sup> February 2024. The application therefore is not required to show the mandatory BNG. The application however does demonstrate that BNG of 10.82% (habitat units) and 584.63% (Hedgerow units) will be achieved as part of the development. Long term monitoring and management of the BNG will be secured through condition.
- 10.73. The proposal is considered to comply with SDLP Policy ENV(5) and CS Policy SP18 and conditions are requested covering lighting, site clearance and construction, production of method statements for protected species, production of a Construction Environmental Management Plan (CEMP) and Landscape Ecological Management Plan (LEMP).

### **Landscape**

- 10.74. Policy ENV1 requires that account is taken of the effect of a proposal upon the character of the area and the potential loss, or adverse effect upon, features important to the character of the area. CS Policy SP18 requires the high quality and local distinctiveness of the natural and man-made environment to be sustained by safeguarding and, where possible, enhancing the historic and natural environment

including landscape character. Policy SP19 requires development to incorporate new and existing landscaping as an integral part of the design of schemes, including off-site landscaping for large sites and sites on the edge of settlements where appropriate.

- 10.75 Landscape has not been applied for as part of the outline application and is a reserved matter. Nevertheless, the proposal has the capability to result in landscape impact and landscape parameters are required to be established as part of the outline consent in order to inform reserved matters when submitted.
- 10.76. As submitted the proposal included the significant reduction in height and width of the existing landscape bunds around the former colliery, and corresponding loss of existing landscape features and tree loss. The proposed loss of existing landscape features and the scale of the proposed buildings on the site were unacceptable in terms of landscape impact and visual harm. The latest proposal retains these bunds and addresses that concern, however large buildings of 31 AOD maximum height are still proposed within the bunding, which has potential for landscape impact. A Landscape Design Guidance document has been submitted in support of the proposal setting out landscape parameters.
- 10.77. In taking account of the Council's Landscape Consultants comments the Design Guidance and accompanying plans have undergone revision and amendment and re-consultation.
- 10.78. The Council's Landscape Consultant no longer objects to the proposal subject to conditions ensuring that the following matters are included in any subsequent reserved matters application:
- general conformity with the Design Guidance
  - general conformity with landscape masterplan
  - condition relating to lighting
  - condition relating to roof structures (including solar panels)
  - Long term maintenance and management of landscaping
- 10.79. It is considered that the proposed development would meet the aims of SDLP Policy ENV1 and CS Policies SP18 and SP19 through landscaping at reserved matters and through meeting the requirements of the conditions.

#### **Loss of agricultural land**

- 10.80. CS Policy SP18 seeks that the high quality and local distinctiveness of natural and manmade environments will be sustained by, amongst other things, steering development to areas of least environmental and agricultural quality. The NPPF advises that decisions should contribute to and enhance the natural environment by recognising the economic and other benefits of the Best and Most Versatile land (BMV) (land in Grades 1, 2 and 3a).
- 10.81. The proposal includes 17.36ha of agricultural land to the north (Grade 3) within which the proposed dry drainage basin will be located. It is stated that the land will remain in agricultural use, including the drainage basin itself. As a result, this land will remain in agricultural usage with no loss. The balance of the site is brownfield land.

10.82. Natural England was consulted and have raised no objection to the proposal.

10.83. Therefore, the proposal is in accordance with Policy SP18 of the CS.

### **Rail safety and operation**

10.84. The Selby to Leeds rail line runs through the site. No objections to the proposal have been received from Network Rail, who note that the applicant has been in contact with them regarding the proposal and who expect the dialogue to continue. It is not considered that there is any detriment to rail safety or operation from the proposal.

### **Flood Risk and Drainage**

10.85. Core Strategy Policy SP15 and Chapter 14 of the NPPF set out the key considerations in terms of flooding and drainage. A Flood Risk and Drainage Strategy was submitted in support of the application.

#### *Flood Risk*

10.86. The former colliery, bunds and railway sidings lie within Flood Zone 1 (low probability of flooding) and is therefore appropriate for redevelopment. The majority of the field to the north is also within Flood Zone 1, however the field edges to the west and north lie within Flood Zones 2 and 3. Flood Zones 2 and 3 extend further north, away from the site. This field will contain the dry drainage basin and will not be developed. The Environmental Statement (ES) has identified this area of Flood Zones 2/3 close to the site and has scoped Flood Risk out. The Environment Agency have been consulted and agree with this conclusion. The proposal will be outside Flood Zones 2 and 3 and there it is not considered that there is any flood risk issue from the proposal.

#### *Drainage*

10.87. Foul water is proposed to be discharged to the main drains with surface water drainage to the proposed dry drainage basin and then to field drains.

10.88. The Internal Drainage Board (IDB) and Lead Local Flood Authority (LLFA) have been consulted on the application. The IDB have recommended conditions relating to consent from the IDB and that restricted flow measures/attenuation are put into place prior to occupancy and within 3 months of development progressing on site.

10.89. The LLFA have no objection to the proposal subject to conditions relating to foul and surface water drainage, detailed drainage design, maintenance of the SuDS drainage scheme and exceedance flow rates.

### **Minerals and Waste**

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

- 10.91. NYC Minerals and Waste team have been consulted on the proposal and have no comments to make. It is not considered that the proposal would impact on mineral and waste in North Yorkshire.
- 10.92. A Coal Mining Risk Assessment was submitted in support of the application and assessed by the Coal Authority. The report identifies that the proposed layout should take into consideration of existing mining features, in particular the mine entries, in line with Coal Authority advice. Conditions are recommended to ensure that the layout is informed by these features at reserved matters.

### **Contamination**

- 10.93. Local Plan Policy ENV2 and criterion k) of Core Strategy Policy SP19 require development which would give rise to or would be affected by unacceptable levels of (amongst other things) contamination or other environmental pollution will not be permitted unless satisfactory remedial or preventative measures are incorporated within new development. Paragraph 189 (a) of the NPPF states that development sites should be suitable for the proposed use taking account of ground conditions and risks arising from unstable land and contamination.
- 10.94. The application is supported by a ground investigation report which has identified areas of high contamination associated with the former mine adits, along with areas of made ground and buried structures. It recommends that once a final development layout and building proposals are known that additional site investigations and assessment work will be required.
- 10.95. The Council's Contamination Consultant is reviewing the report and any consultee response will be reported as an update to Planning Committee and any conditions recommended.

### **Other Matters**

- 10.96. The Environment Agency note that the Environment Statement has scoped out Air Quality and point out that the development area includes the site of an existing combustion plant that is subject to an Environmental Permit issued by the Environment Agency. The Environment Agency have raised concerns that the emissions from that combustion activity has potential to impact on the air quality around this proposed development. The combustion plant will be removed as part of the development and therefore it is not considered that there would be any impact on air quality as a result.

### **Section 106 Legal Agreement**

- 10.97. The following Head of Terms have been agreed with the applicant for this application:

<b>Category/Type</b>	<b>Contribution</b>	<b>Amount &amp; Trigger</b>
A63/A162 Junction Improvements	Required to address highway impacts arising from the development.	£86,719.25 - prior to the first occupation of the first commercial unit to be occupied.

Sustainable Travel Enhancements	To procure the delivery of sustainable travel in the Sherburn area to include enhancements bus, rail, walking and cycling transport modes the need for which is to address impacts arising from the Development.	£200,000. - £100,000 to be paid prior to the first occupation of the first commercial unit to be occupied - balance of £100,000 to be paid prior to the for occupation of 500,000 sqft of employment floorspace
Travel Plan Monitoring Contribution	For the purpose of reviewing annual monitoring reports to be submitted to the Council by the Travel Plan Co-ordinator in accordance with paragraphs 7.1.3 and 7.1.4 of the Travel Plan	£5000 - to be paid prior to the first occupation of the first commercial unit to be occupied.
Sustainable Travel Enhancement	Provision of responsive to demand Shuttle Bus Service between the site, South Milford railway station, Sherburn-in-Elmet village centre and Sherburn-in-Elmet railway station in the peak hours, or other key times identified by the Travel Plan Steering Group.	£0 To be funded by the applicant.

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

## **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1. Outline planning permission is sought for the redevelopment of the former colliery at Gascoigne Wood to employment use within Use Classes B2, B8 and E(g). The proposal would be on brownfield land within the countryside. Redevelopment of brownfield land is supported by CS Policy SP13, although the scale of the proposal exceeds that envisaged in Policy SP13(C). The supporting text to that policy also supports the reuse of Gascoigne Wood, provided it is directly related to the use of the existing rail infrastructure.
- 11.2. The site is also a draft allocation (SHER-AA) within the emerging Selby Local Plan.
- 11.3. The principle of employment use in this location has already been established through previous planning permissions.
- 11.4. The previous application was dismissed on appeal, and the proposed site area and proposed floorspace has been significantly reduced as a result. The current proposal represents a more appropriate scale of development to that considered at the appeal which is compatible with the countryside location.

- 11.5. The site is locationally distant from Sherburn in Elmet, however a package of network improvements and sustainable transport improvements are proposed. There are no highway objections to the proposal.
- 11.6. The rail infrastructure is shown to be safeguarded in accordance with North Yorkshire Minerals & Waste Joint Plan (2022) Policy S05 and would be available for use by a future occupier.
- 11.7. Technical assessments have been carried out which robustly assess potential wind turbulence impacts on Sherburn airfield. The assessments show that on the information provided at outline stage, that these impacts would not be excessive. Conditions are appropriate for assessment of individual buildings at reserved matters.
- 11.8. The proposal is considered acceptable, subject to conditions, in terms of drainage, noise and amenity and Biodiversity Net Gain. Landscape and design are reserved matters.
- 11.9. There are clear economic benefits to the local area, and beyond from the proposal.
- 11.10. It is recommended that the application be approved, subject to the conditions as set out and completion of a Section 106 agreement for highway improvements and sustainable transport measures.

## **12.0 RECOMMENDATION**

- 12.1 That planning permission be GRANTED subject to conditions listed below and the completion of a S106 legal agreement:

### **TIME LIMIT**

1. No development shall commence until details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") have been submitted to and approved in writing by the local planning authority.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

2. Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than ten years from the date of this decision.

Reason: To ensure compliance with Sections 91-94 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun before the expiration of one year from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In the interests of amenity having regard to Plan Policy ENV1.

### **PLANS**



4. The development hereby permitted shall be carried out in accordance with the plans and documents listed below:

11921-1-DGD01Z - Design Guidance (received 12.10.2022)  
 11921-1-130 - Proposed Parameters plan (dated 10/2022 and received 17.10.2022)  
 LN-LP-111 Rev B - Landscape Strategy Plan  
 LN-LP-114 Rev B - Framework Landscape & Biodiversity Management Zones Plan  
 11921-1-135 - Existing/Proposed Section A (dated 10/2022)  
 11921-1-136 - Existing/Proposed Section B (dated 10/2022)  
 11921-1-137 - Existing/Proposed Section C (dated 10/2022)  
 11921-1-138 - Existing/Proposed Section D (dated 10/2022)

Reason: For the avoidance of doubt.

### **AVIATION**

5. All reserved matters applications shall be in general conformity with the illustrative masterplan and where there is a significant deviation shall evidence that the impact of the proposed buildings and/or structures on Sherburn Aeroclub is in line with the Runway Wind Impact Study report by Nova Fluid Mechanics dated 21<sup>st</sup> November 2023.

The evidence shall assess the impact of the building/structure design on the wind conditions along the flight paths of runway 10/28 (macadam) and 01/19 (grass) (where they are closest to the development) and is based on the critical wind directions only, as demonstrated by the Nova Fluid Mechanics report dated 21<sup>st</sup> November 2023.

Reason: In the interests of aviation safety.

### **DRAINAGE**

6. No development shall take place until a suitable maintenance of the proposed SuDS drainage scheme arrangement has been demonstrated to the local planning authority. Details with regard to the maintenance and management of the approved scheme to include: drawings showing any surface water assets to be vested with the statutory undertaker/highway authority and subsequently maintained at their expense, and/or any other arrangements to secure the operation of the approved drainage scheme/sustainable urban drainage systems throughout the lifetime of the development.

Reason: To prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system in accordance with Core Strategy Policy SP15.

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

rainfall in excess of a 1 in 100 year rainfall event are managed in exceedance routes that avoid risk to people and property both on and off site.

Reason: to prevent flooding to properties during extreme flood events and to mitigate against the risk of flooding on and off the site system in accordance with Core Strategy Policy SP15.

8. 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: In the interest of sustainable drainage and to ensure that the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network system in accordance with Core Strategy Policy SP15.

9. Surface water run-off from hardstanding (equal to or greater than 800 square metres) and/or communal car parking area(s) of more than 49 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 in consultation with Yorkshire Water, prior to any discharge to an existing or prospectively adoptable sewer.

Reason: To prevent pollution of the aquatic environment system in accordance with Core Strategy Policy SP15.

10. Any liquid storage tanks should be located within a bund with a capacity of not less than 110% of the largest tank or largest combined volume of connected tanks.

Reason: To ensure that there are no discharges to the public sewerage system which may injure the sewer, interfere with free flow or prejudicially affect the treatment and disposal of its contents system in accordance with Core Strategy Policy SP15.

11. No development shall take place until details of the proposed means of disposal of foul water drainage for the whole site, including details of any balancing works, off-site works and phasing of the necessary infrastructure, have been submitted to and approved by the Local Planning Authority in consultation with the statutory sewerage undertaker. Furthermore, unless otherwise approved in writing by the Local Planning Authority, no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: To ensure that no foul water discharges take place until proper provision has been made for their disposal system in accordance with Core Strategy Policy SP15.

12. Development shall not commence on any phase of the development until a scheme to ensure that on-site and off-site works to ensure an adequate water supply for the development, that will not cause detriment to existing properties within the area, has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented in accordance with the timing and phasing arrangements embodied within the scheme and the number of properties to be

protected within that phase, or within any other period or number of properties as may subsequently be agreed in writing, by the Local Planning Authority.

Reason: In the interest of public health and to protect the strategic water supply system in accordance with Core Strategy Policy SP15.

### **NOISE**

13. Noise emitted from proposed site (excluding noise generating activities controlled by condition 15) shall:

- a) not exceed the existing background level by more than +5dB(A) at any premises used for residential purposes when assessed and / or measured in accordance with BS 4142:2014+A1:2019.
- b) Not exceed 60dB LAFmax at any premises used for residential purposes between 23:00 and 07:00.

Reason: In order to protect residential receptors adjacent to the site in the interests of the residential amenities of the area and the local environment in order to accord with Plan Policy ENV1.

14. The Reserved Matters to be submitted for each phase of the site pursuant to Conditions 1 shall include a Noise Impact Assessment in line with relevant guidance in force at the time and noise monitoring methodology and criteria that have previously been submitted to and agreed in advance by the local planning authority. The designed mitigation shall ensure that the cumulative impact of the site shall not exceed the operating noise criteria stated in Condition 13. All works which forms part of the approved scheme for each phase shall be completed before any part of that phase is first occupied and shall thereafter be retained and maintained as such.

Reason: In order to protect residential receptors adjacent to the site such that the need for mitigation can be designed for each building/phase as the site develops taking account of the previously approved phase and mitigation in the interests of the residential amenities of the area and the local environment in order to accord with local plan Policy ENV1.

15. Freight or container handling within the site and sidings will be undertaken in accordance with a Framework Noise Management Plan (FNMP) that has been submitted to and approved by the local planning authority prior to the first operation of rail freight usage associated with this development. The FNMP is expected to contain details of:

- The identity of the sources of particularly impulsive noise (the types of machines / mobile plant proposed to be used)
- Proposals for the management of activities related to freight or container handling and the times of operation
- Procedures for management of container movement within the site including the minimisation of noise from container loading and unloading, plant and equipment, operational procedures and controls on the number and type of noise sources
- Provision of training linked to minimising noise from freight handling activities
- Complaints handling process
- Active noise management

- Measures for a methodology to update the FNMP with changes in circumstances on site or triggered by the complaints procedure

Reason: In accordance with the Draft FNMP submitted with the application and to protect residential receptors adjacent to the site from freight handling noise in the interests of the residential amenities of the area and the local environment in order to accord with local plan Policy ENV1.

16. The cumulative noise rating level of noise emitted from the fixed buildings services plant associated with proposed units within the site shall be equal to or below existing background noise level at any premises used for residential purposes when assessed and / or measured in accordance with BS 4142:2014+A1:2019.

Reason: In order to protect residential receptors adjacent to the site in the interests of the residential amenities of the area and the local environment in order to accord with local plan Policy ENV1.

### **CONSTRUCTION PHASE**

17. Prior to the site preparation and construction work commencing for each phase of development, a scheme to minimise the impact of noise, vibration, dust and dirt on residential property in close proximity to the site, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason: To protect the residential amenity of the locality during construction and to comply with the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

18. No construction 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 the National Planning Policy Framework (NPPF), the Noise Policy Statement for England (NPSE) and Selby District Council's Policy's SP19 and ENV2.

19. The Reserved Matters to be submitted for each phase of the site pursuant to Condition 1 shall include an emission mitigation statement. The statement shall include damage cost calculation undertaken in relation to the operation of the site and detail emission mitigation measures proposed for the site. An estimate shall be made of the impact that any proposed mitigation measures will have on emissions (i.e. mitigated mass of pollutant) and the financial costs of the mitigation measure to the developer. The statement shall confirm the timeframe and any phasing of the proposed mitigation, and detail of any 'residual' emissions and damage costs likely to remain after all proposed mitigation measures have been applied. The development shall be carried out in accordance with the approved details.

Reason: In order to protect residential receptors adjacent to the site in the interests of the residential amenities of the area and the local environment in order to accord with local plan Policy ENV1.

## **HIGHWAYS**

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

The agreed drawings shall include:

1. Detailed engineering drawings to a scale of not less than 1:500 and based upon an accurate survey showing:
  - (a) the proposed highway layout including the highway boundary
  - (b) dimensions of any carriageway, cycleway, footway, and verges
  - (c) visibility splays
  - (d) the proposed buildings and site layout, including levels
  - (e) accesses
  - (f) drainage and sewerage system (with 100mm level contours shown)
  - (g) Road Marking and Signage Layout together with Sign Schedules (including Totem size details)
  - (h) traffic calming measures
  - (i) all types of surfacing (including tactiles), kerbing and edging. Consideration must also be given to disabled users and how they will safely access the full range of facilities on site.
2. Full highway construction details including:
  - (a) typical highway cross-sections to scale of not less than 1:50 showing a specification for all the types of construction proposed for carriageways, cycleways and footways/footpaths
  - (b) when requested cross sections at regular intervals along the proposed roads showing the existing and proposed ground levels
  - (c) kerb and edging construction details
  - (d) typical drainage construction details.
3. Details of the method and means of surface water disposal.
4. Details of all proposed street lighting. (This plan is also to show New Trees (green); Existing Trees (Greyscale) and Removed Trees (red))
5. Full working drawings for any structures which may affect or form part of the highway network.

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

Reason: To secure an appropriate highway constructed to an adoptable standard in the interests of highway safety and the amenity and convenience of all highway users in accordance with Selby District Local Plan Policies ENV, T1 and T2.

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

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

Reason: To ensure safe and appropriate access and egress to the premises, in the interests of highway safety and the convenience of all prospective highway users Selby District Local Plan Policies ENV, T1 and T2.

22. The development must not be brought into use until the access to the site off New Lennerton Lane (X: 452589/Y: 433018) has been set out and constructed in accordance with the Specification for Housing and Industrial Estate Roads and Private Street Works" published by the Local Highway Authority and the following requirements:

- The access of the highway extent must be constructed in accordance with the approved details and the following requirements.
- Any gates or barriers must be erected a minimum distance of 50 metres back from the carriageway of the existing highway and must not be able to swing over the existing or proposed highway.
- That part of the access extending 50 metres into the site from the carriageway of the existing highway must be at a gradient not exceeding 3.3% (1 in 30).
- Provision to prevent surface water from the site discharging onto the existing or proposed highway must be constructed and maintained thereafter to prevent such discharges.
- The final surfacing of any private access within 20m metres of the public highway must not contain any loose material that is capable of being drawn on to the existing or proposed public highway.
- Measures to enable vehicles to enter and leave the site in a forward gear.

All works must accord with the approved details.

Reason: To ensure a satisfactory means of access to the site from the public highway in the interests of highway safety and the convenience of all highway users Selby District Local Plan Policies ENV, T1 and T2.

23. Prior to the development being brought into use, visibility splays at New Lennerton Lane (X: 452589Y: 433018) will be provided giving clear visibility of 45 metres measured along both channel lines of the major road from a point measured 4.5 metres down the centre line of the access road. In measuring the splays, the eye height must

be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety Selby District Local Plan Policies ENV, T1 and T2.

24. Prior to the development being brought into use, visibility splays between the highway and the application site at Gascoigne Wood will provide clear visibility of 2.0 metres x 2.0 metres measured down each side of the access and the back edge of the footway of the major road have been provided. In measuring the splays the eye height must be 1.05 metres and the object height must be 0.6 metres. Once created, these visibility splays must be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of highway safety Selby District Local Plan Policies ENV, T1 and T2.

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

- B1222/New Lennerton Lane Junction: Prior to the first occupation of any floorspace the B1222/New Lennerton Lane junction shall be improved in accordance with DMRB standards, CD123; with all surrounding ancillary highway's infrastructure fully integrated and made compliant to National and NYCC standard design requirements, with a new, east bound right turn ghost lane and visibility improvements generally in accordance with:
- New Lennerton Lane / B1222 Proposed Highway Improvements, Dwg ref 18032.GA.04 Rev E
- B1222/A162 Roundabout Junction: Prior to the first occupation of any floorspace the B1222/A162 roundabout junction shall be improved on the eastern approach in accordance with DMRB standards, CD116; with all surrounding ancillary highway's infrastructure fully integrated and made compliant to National and NYCC standard design requirements. The design shall be generally in line with the proposed improvement works design drawing identified below:
- Proposed Improvement Works at B1222/ A162 Roundabout, Dwg ref 18032.GA.05 Rev G

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

An independent Stage 2 Road Safety Audit carried out in accordance with GG119 - Road Safety Audits or any superseding regulations must be included in the submission

and the design proposals must be amended in accordance with the recommendations of the submitted Safety Audit prior to the commencement of works on site.

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

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

Reason: To ensure that the impacts of the development are mitigated in accordance with the Transport Assessment, that genuine alternatives to the private car are provided and that design is appropriate in the interests of the safety and convenience of highway users Selby District Local Plan Policies ENV, T1 and T2.

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

Reason: To establish measures to encourage more sustainable non-car modes of transport in accordance with Core Strategy Policy SP15.

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

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

- a. details of any temporary construction access to the site including measures for removal following completion of construction works;
- b. The LHA and Area office must be consulted on restriction on the use of access for construction purposes;
- c. wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
- d. the parking of contractors' site operatives and visitor's vehicles;
- e. areas for storage of plant and materials used in constructing the development clear of the highway;
- f. measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
- g. details of the routes to be used by HGV construction traffic and highway condition surveys on these routes;
- h. protection of carriageway and footway users at all times during demolition and construction;
- i. protection of contractors working adjacent to the highway;
- j. details of site working hours;



- k. erection and maintenance of hoardings including decorative displays, security fencing and scaffolding on/over the footway & carriageway and facilities for public viewing where appropriate;
- l. 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;
- m. measures to control and monitor construction noise;
- n. an undertaking that there must be no burning of materials on site at any time during construction;
- o. removal of materials from site including a scheme for recycling/disposing of waste resulting from demolition and construction works;
- p. details of the measures to be taken for the protection of trees;
- q. details of external lighting equipment;
- r. details of ditches to be piped during the construction phases;
- s. a detailed method statement and programme for the building works; and
- t. contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity Selby District Local Plan Policies ENV, T1 and T2.

#### **MINING**

28. Prior to the submission of reserved matters application for each phase of the development a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity (2no. recorded mine adits).

Reason: In the interests of protecting the public and environment as the site is a former colliery.

29. As part of reserved matters application for each phase of the development, a report shall be submitted of the findings arising from the intrusive site investigations. This should include the submission of the proposed site layout plan that identifies the location / alignment of the on-site mine adits together with the calculated zones of influence (no build exclusion zones) to illustrate how these relate to the layout being considered.

Reason: In the interests of protecting the public and environment as the site is a former colliery.

30. No development (within the part of site affected by the recorded mine entries) shall commence until any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: In the interests of protecting the public and environment as the site is a former colliery.

31. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: In the interests of protecting the public and environment as the site is a former colliery

### **RAILWAY**

32. The existing rail facilities shall be retained and maintained in order that they can be reused by potential users of the permitted development. They shall not be taken up and disposed of without the written consent of the Local Planning Authority.

To ensure that this viable asset is not lost to potential users, in the interests of the environment.

33. Development of each phase shall not commence until a construction methodology has been submitted to and approved in writing by the Local Authority. The construction methodology shall include the following and shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority in consultation with Network Rail.

The construction methodology shall include the following:

- (a) Details of a surface water drainage strategy
- (b) Provision of a suitable trespass proof fence adjacent to Network Rail's boundary (approx. 1.8m high) and make provision for its future renewal and maintenance. Network Rail's existing fencing/wall must not be removed or damaged.
- (c) the design of suitable vehicle incursion measures (to be installed in accordance with the permitted details)
- (d) Details of landscaping
- (e) Details of proposed external lighting

Reason: To ensure the protection of the safety, operational needs and integrity of the railway.

### **ECOLOGY**

34. Prior to commencement of development a Construction Environmental Management Plan (CEMP) shall be provided for the written approval of the Local Planning Authority. The CEMP shall include details of:

- a. Site clearance and construction works, which should be undertaken outside of the bird breeding season
- b. Site clearance should avoid damage to hedgerows and trees in line with BS 5837:2012 Trees in relation to design, demolition and construction.
- c. Production of method statements for protected species including for bats, birds and reptiles.

Reason: To ensure compliance with the Wildlife & Countryside Act 1981 and policies ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy.

35. Prior to commencement of development a Landscape Ecological Management Plan (LEMP) shall be provided for the written approval of the Local Planning Authority. The LEMP shall include details of long-term monitoring and management of the proposed ecological mitigation and enhancement works.

Reason: To ensure the scheme is developed and managed for future years in accordance with the approved detail and therefore maintained. This will ensure the development accords with Policies SP18, SP19 of the Core Strategy and Local Plan Policy ENV1.

36. Prior to occupation of each phase of development details of design and the implementation of a sensitive lighting strategy (ground and building mounted) for that phase shall be submitted for the written approval of the Local Planning Authority. The lighting scheme shall:
- avoid illumination of retained hedgerows, trees and drains within or adjacent to the site
  - avoid illumination of the airfield
  - avoid excessive illumination of buildings and service areas

The approved scheme shall be implemented in accordance with the approved plans.

Reason: To ensure compliance with the Wildlife & Countryside Act 1981 and policies ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy and to reduce the visual impact of the development.

#### **LANDSCAPE**

37. Details of roof structures and on-roof photovoltaic panels to each building (if proposed) shall be submitted as part of any reserved matters.

Reason: In the interests of visual amenity and in order to comply with Plan Policy ENV1.

#### **OTHER**

38. Prior to commencement of each phase 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.

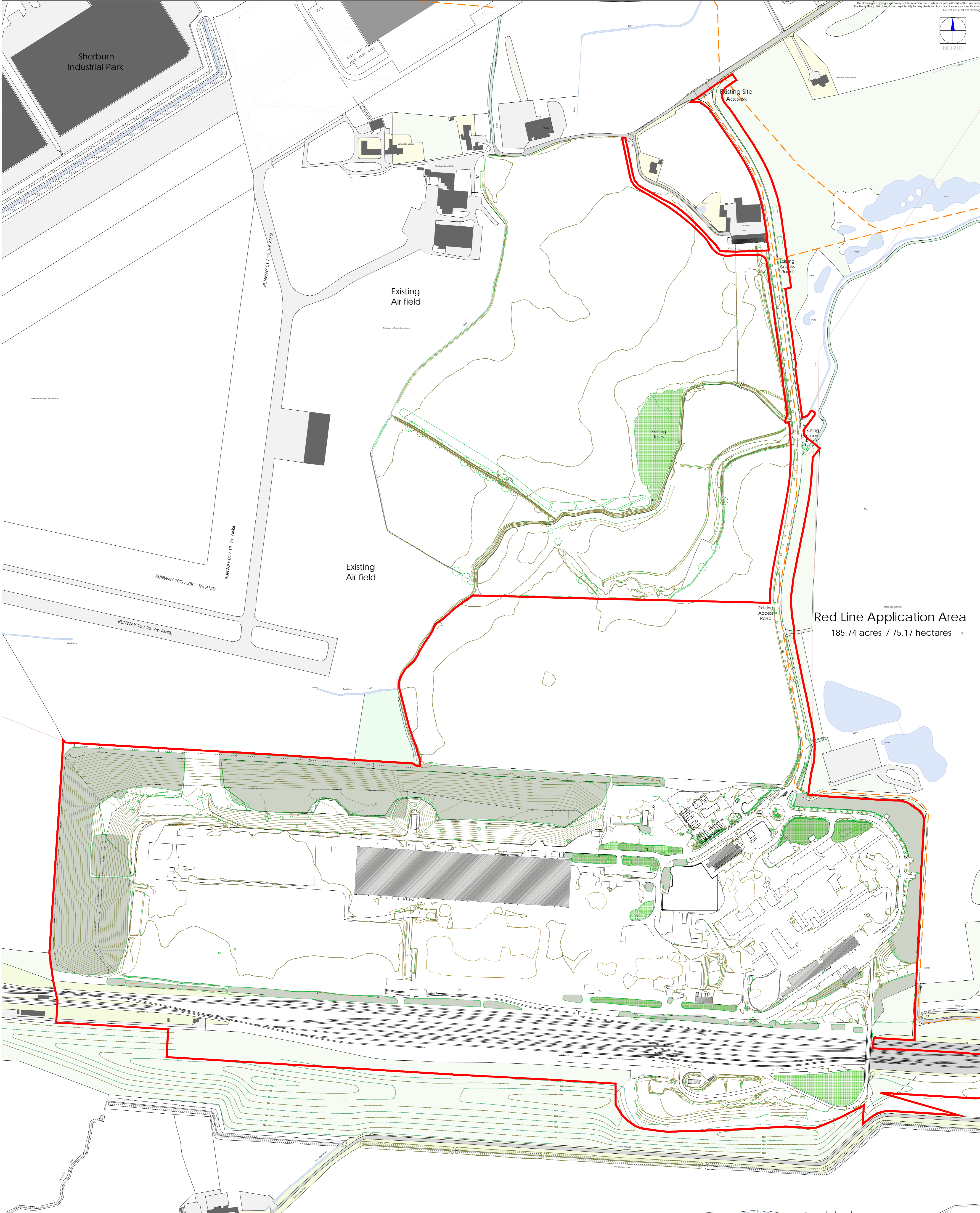
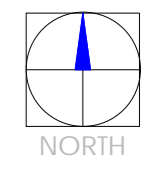
**Target Determination Date:** 19.06.2024

**Case Officer:** Linda Drake, [linda.drake@northyorks.gov.uk](mailto:linda.drake@northyorks.gov.uk)

Appendix 1 - Overall Site Plan

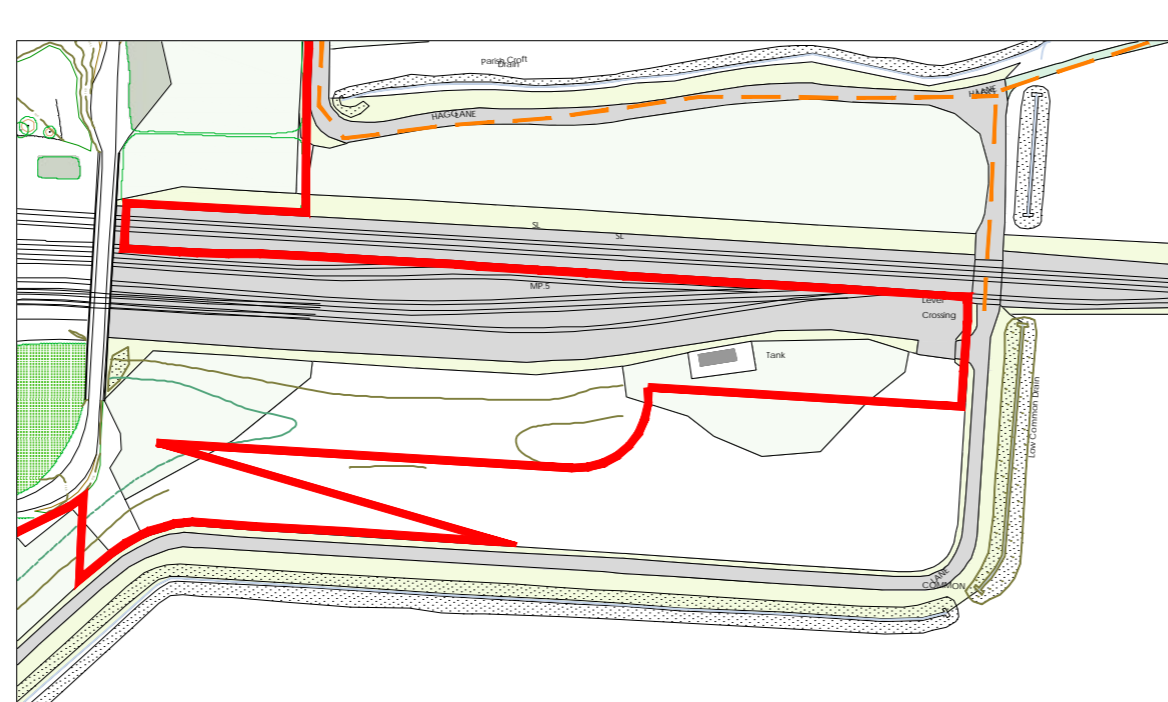
Appendix 2 Parameters Plan





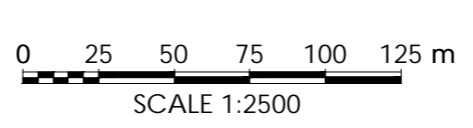
**Red Line Application Area**  
185.74 acres / 75.17 hectares

**AMENDED  
DRAWING**



Additional Plan Area

**Note:**  
Information is based on OS map and received information and is subject to full topographical and building survey.  
Assumed site boundary and site constraints subject to confirmation.  
All legal easements and extent of existing underground services locations are subject to confirmation.



Project Title	PROPOSED COLLIERY RE-DEVELOPMENT		Drawing Title	EXISTING SITE PLAN	
Client	HARWORTH GROUP		Job-Dwg No	11291-1-101	
Status	PLANNING		Rev	D	
Scale	1:2500	Drawing Size	A1		
Date	11/2021	Drawn By	NBB	Checked	JMR

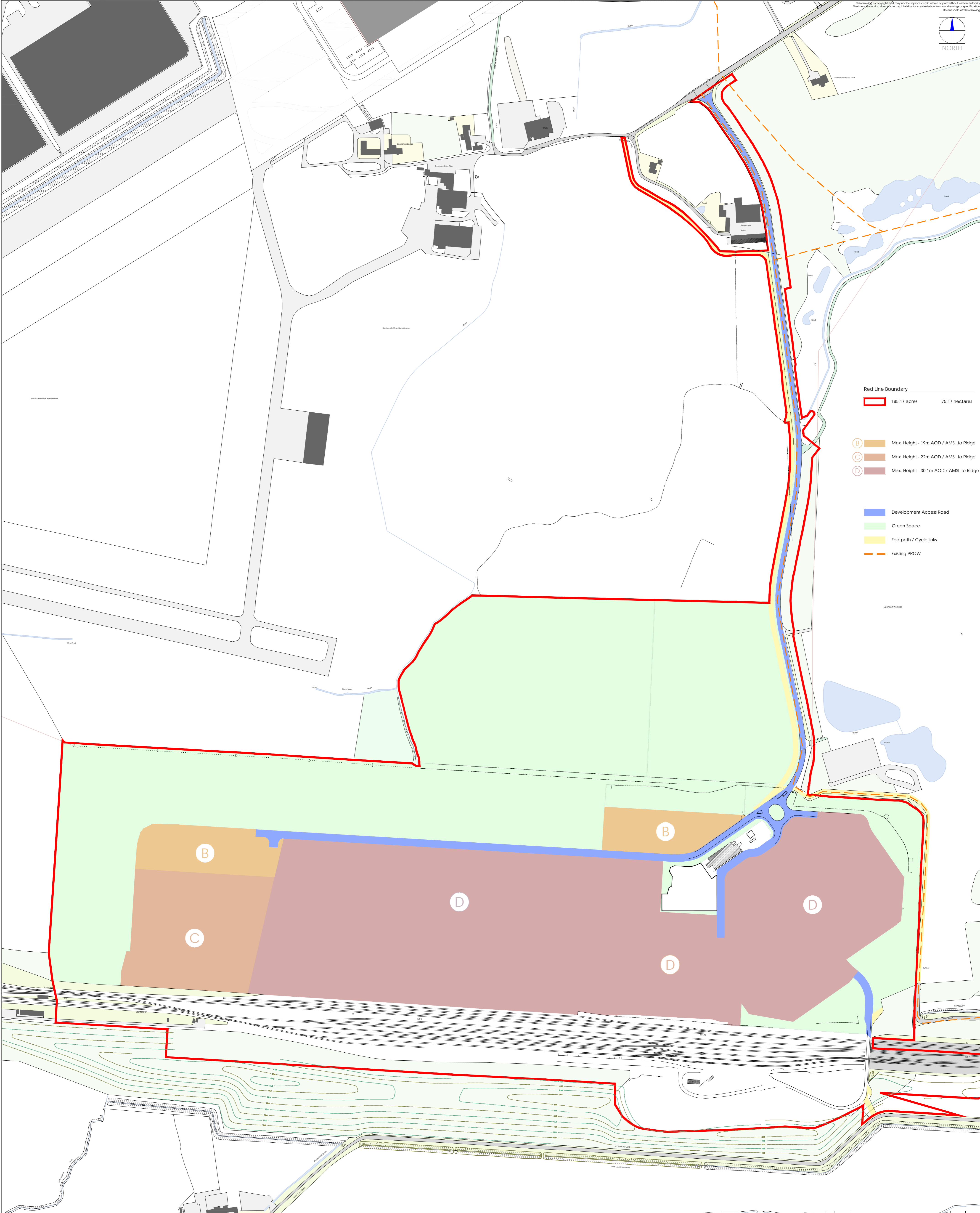
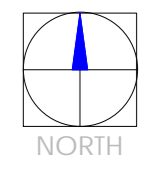
  

2 St. Johns North, Wakefield, WF1 3QA T: 01924 291800 Carvers Warehouse, 77 Dale Street, Manchester, M1 2HG T: 0161 2388555 The Old Rectory, 79 High Street, Newport Pagnell, MK16 9AB T: 01908 211577 101 London Road, Reading, RG1 5BY T: 0118 950700 10 Gales Court, St Christophers Place, London, W1U 1JJ T: 0207 4091215	NBB JMR NBB JMR NBB JMR Updated
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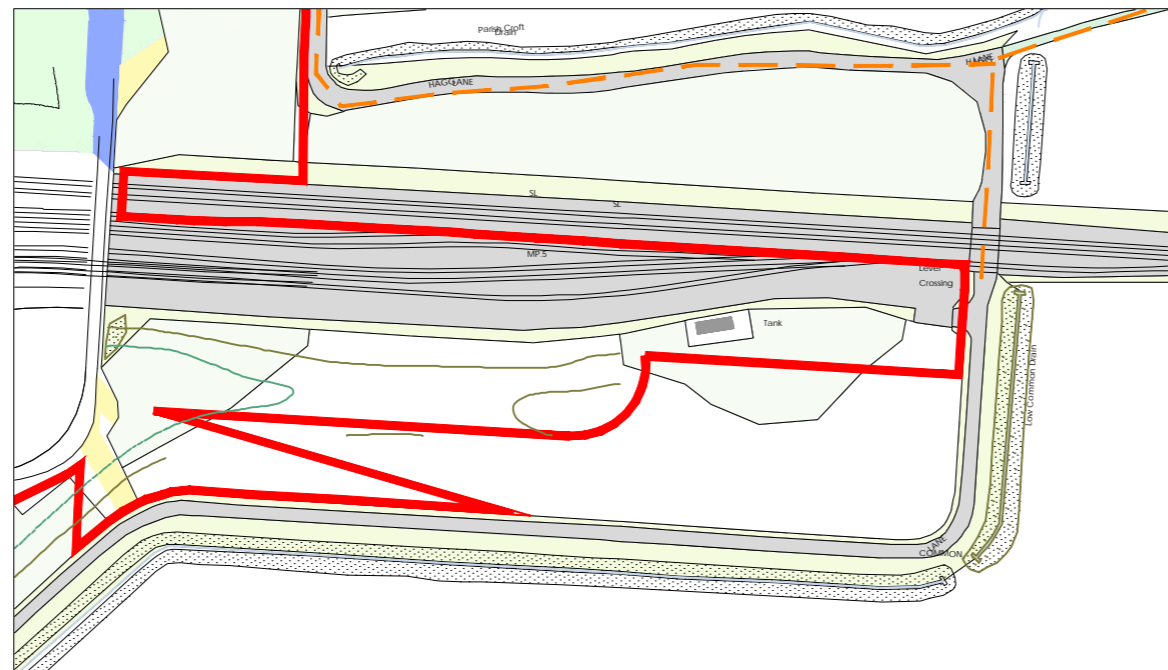


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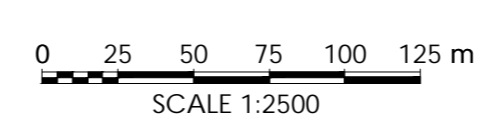
- Red Line Boundary**  
 185.17 acres      75.17 hectares
- B Max. Height - 19m AOD / AMSL to Ridge
  - C Max. Height - 22m AOD / AMSL to Ridge
  - D Max. Height - 30.1m AOD / AMSL to Ridge
- Development Access Road
  - Green Space
  - Footpath / Cycle links
  - Existing PROW

AMENDED  
DRAWING



Additional Plan Area

**Note:**  
 Information is based on OS map and received information and is subject to full topographical and building survey.  
 Assumed site boundary and site constraints subject to confirmation.  
 All legal easements and extent of existing underground services locations are subject to confirmation.



Project Title	PROPOSED COLLIERY RE-DEVELOPMENT		Drawing Title	PROPOSED PARAMETERS MASTERPLAN	
	Gascoigne Wood New Lennerton Lane Sherburn in Elmet			Job-Dwg No 11291-1-130	
Client	HARWORTH GROUP			2 St Johns North, Wakfield, WF1 3QA t. 01924 291800	
Status	PLANNING			<input type="checkbox"/> Carvers Warehouse, 77 Dale Street, Manchester, M1 2HG t. 0161 2388555	
Scale	1:2500	Drawing Size	A1	<input type="checkbox"/> The Old Rectory, 79 High Street, Newport Pagnall, MK16 8AB t. 01908 21577	
Date	10.2022	Drawn By	NBB	Checked	JMR
				<input type="checkbox"/> 101 London Road, Reading, RG1 5BY t. 0118 9507700	
				<input type="checkbox"/> 10 Gees Court, St Christophes Place, London, W1U 1UJ t. 0207 4091215	



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## North Yorkshire Council

### Community Development Services

#### Strategic Planning Committee

11 JUNE 2024

**2022/1160/S73 –SECTION 73 APPLICATION FOR REMOVAL OF CONDITION 01 (TEMPORARY CONSENT) OF APPROVAL 2019/0030/COU CHANGE OF USE OF LAND TO 12 GYPSY / TRAVELLER PITCHES AND ASSOCIATED WORKS INCLUDING 12 NO MOBILE HOMES, 12 NO TOURING CARAVANS AND 12 NO DAYROOMS (RETROSPECTIVE) GRANTED ON 12 JUNE 2020 AT MILFORD CARAVAN PARK, GREAT NORTH ROAD, SOUTH MILFORD, LEEDS.**

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

##### 1.0 Purpose of the Report

- 1.1 To determine an application for removal of condition to make a temporary planning permission permanent for a Gypsy/Traveller site at Milford Caravan Park, Great North Road, South Milford, Leeds.
- 1.2 This application is brought before Members because the constitution requires planning applications to be reported to Strategic Planning Committee which are defined as a departure from the adopted Development Plan for which the Secretary of State must be consulted and where it is intended to recommend approval.

##### 2.0 SUMMARY

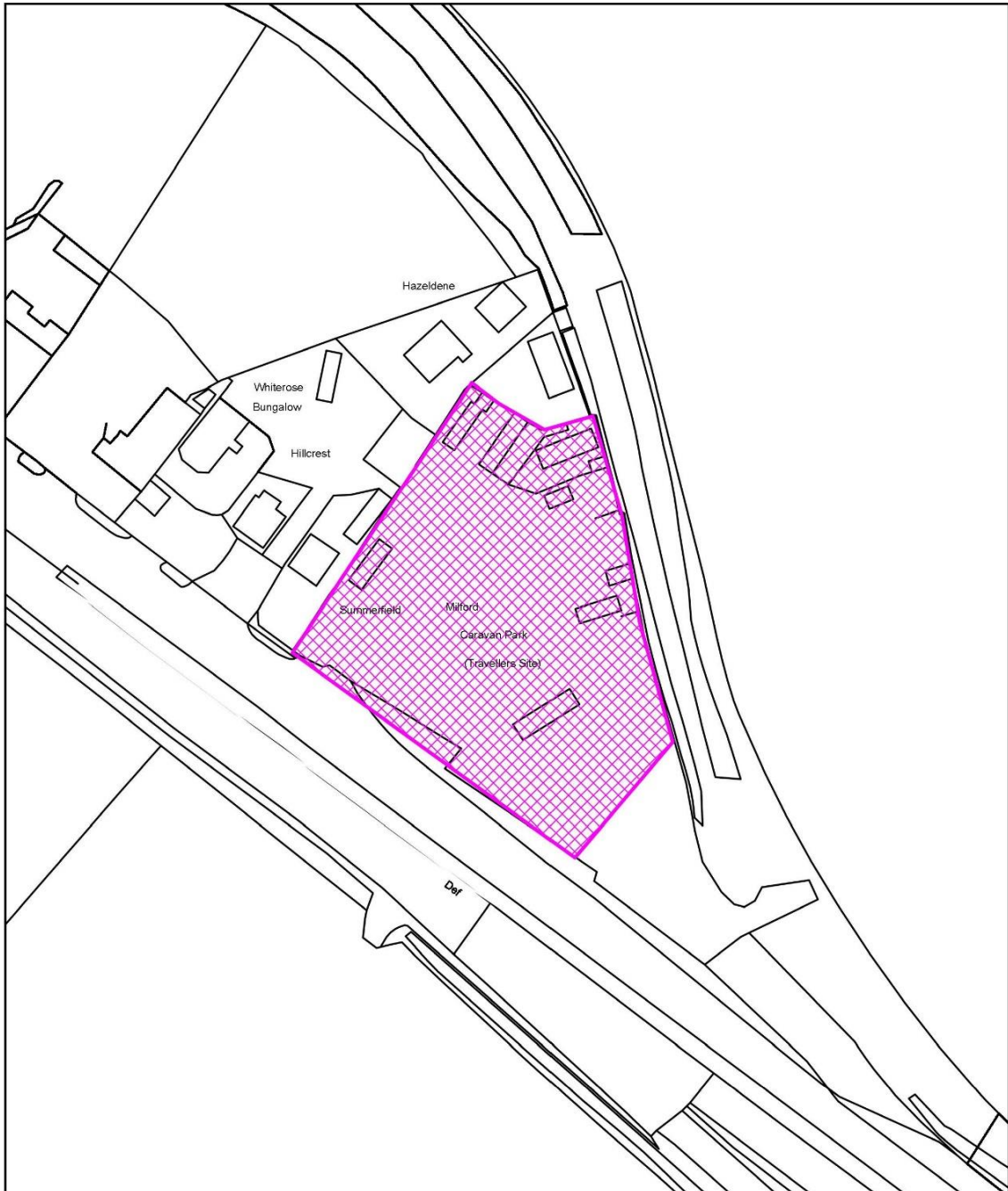
**RECOMMENDATION:** That planning permission be **GRANTED** subject to conditions listed below and subject to referral to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2021, as per paragraph 4.

- 2.1. This Section 73 application relates to planning permission 2019/0030/COU, which was for the change of use of land to 12 gypsy and traveller pitches with associated works (comprising utility buildings) and was approved subject to conditions in June 2020. Condition 01 of the permission granted the use for a temporary period only of 5 years until June 2025. This application proposes the removal of condition 01 of planning permission 2019/0030/COU to make the temporary planning permission permanent.
- 2.2. Based on recent Inspector's decisions, limited weight has given to the development plan policies relevant to Gypsies and Travellers as they are inconsistent with national policy. The presumption in favour of sustainable development applies. The proposal is considered to be inappropriate development that causes substantial harm to the openness of the Green Belt and should not be approved except in very special circumstances which will not exist unless these harms are clearly outweighed by other considerations. The identified harm to Green Belt carries substantial weight. The existence or otherwise of a 5 year supply of sites is not determinative to this proposal. The proposal would not result in any significant harm to the character and appearance of the area. No harm to residential amenity or highway safety would arise. The

applicant has confirmed the pitches are provided to Gypsies and Travellers on a private rental basis. As such, the applicant has not advanced any specific personal circumstances.

- 2.3. The acknowledged failure of planning policy through appeal and Council decisions to address need through the plan led system contributes towards very special circumstances and is given significant weight. The lack of alternative sites for the occupants and importantly the implications of the Emerging Local Plan (ELP) contribute towards very special circumstances and is given significant weight. The Council has taken some steps to provide supply meet the needs by making progress with the ELP but the timescales have likely slipped beyond the current temporary planning permission and limited weight is presently given to relevant ELP policies. The proposed allocation of the site and removal from the Green Belt in the emerging Local Plan does not amount to very special circumstances.
- 2.4. Meeting the sustainability considerations set out in Planning Policy for Traveller Sites (PPTS) and use of previously developed land do not amount to very special circumstances on an individual basis but cumulatively are factors in favour to which moderate weight should be given.
- 2.5. These considerations, taken together with the equality and human rights benefits which flow from granting a permanent permission, are sufficient on a cumulative basis to constitute very special circumstances. These conclusions have taken into account that this application does not provide information regarding personal circumstances or the best interests of children.
- 2.6. In light of the above and the demonstration of very special circumstances, it is considered that the policies of the Framework relating to Green Belt, or any other matter, do not provide a clear reason for refusing the proposal. The application is therefore recommended for approval.
- 2.7. In the event Planning Committee resolves to grant planning permission subject to the conditions listed in this report, prior to doing so the Local Planning Authority must consult the Secretary of State for Housing, Communities and Local Government (the Secretary of State) as set out in The Town and Country Planning (Consultation) (England) Direction 2021 (the Direction) confirming the Planning Committee resolution. The Local Planning Authority 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 Local Planning Authority in writing is the date he received the material specified in paragraph 11 of the Direction. If, before the expiry of the 21 day period referred to in paragraph 12 of the Direction, the Secretary of State has notified the Local Planning 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 Local Planning Authority will proceed to determine the application in accordance with the resolution of Planning Committee.

Milford Caravan Park, Great North Road, South Milford  
2022/1160/S73



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### 3.0 **Preliminary Matters**

3.1. Access to the case file on Public Access can be found here:- [2022/1160/S73 | Section 73 application for removal of condition 01 \(temporary consent\) of approval 2019/0030/COU Change of use of land to 12 gypsy / traveller pitches and associated works including 12 No mobile homes, 12 No touring caravans and 12 No dayrooms \(Retrospective\) granted on 12 June 2020 | Milford Caravan Park Great North Road South Milford Leeds \(selby.gov.uk\)](#)

3.2. The following relevant planning history has been identified for the application site:

- 8/59/15 Construction of a vehicle parking area on land to the south-east of Hillcrest Café. Approved on 8 March 1982.
- CO/1995/0475 Outline residential development on 0.5 ha of land. Refused 13/7/1995.
- CO/1995/1201 (Resubmission) Outline application for the erection of residential development. Refused 17/1/1996.
- 2010/0324/COU Retrospective application for change of use of land to gypsy caravan site. Refused 8/7/2011.
- 2011/0876/EAP Enforcement notice issued by Selby District Council on 8 August 2011 alleging that without planning permission the use of the land has been changed to a gypsy caravan site without planning permission.

Enforcement notice 2011/0876/EAP was subject to appeal reference APP/N2739/C/11/2158784 (appeal A)

Planning application 2010/0324/COU was subject to appeal reference APP/N2739/A/11/2158757 (appeal B)

On 1 September 2011 the appeals were recovered for the Secretary of State's Determination. The Inspector recommended that Appeal A (enforcement appeal) be dismissed and the enforcement notice upheld with corrections, and that Appeal B (against the refusal of planning permission) be allowed and planning permission granted, subject to conditions, and for a temporary period until 31 December 2014. The Secretary of State agreed with the Inspector's conclusions and the decisions issued.

- 2019/0030/COU Change of use of land to 12 gypsy / traveller pitches and associated works including 12 No mobile homes, 12 No touring caravans and 12 No dayrooms (Retrospective). The application was referred to the Secretary of State who decided not to call in the application for consideration. It was granted 12.06.2020 subject to conditions.
- 2020/1149/DOC Discharge of condition 08 (landscaping) of approval 2019/0030/COU Change of use of land to 12 gypsy / traveller pitches and

associated works including 12 No mobile homes, 12 No touring caravans and 12 No dayrooms (Retrospective). Approved 29.03.2021.

#### **4.0 Site and Surroundings**

- 4.1. The site is close to the administrative boundary with Leeds City Council and is about 1.5km from the villages of Micklefield and Ledsham (both in the Leeds City Council administrative area) and approximately 3km from both South Milford and Sherburn-in-Elmet to the east. The land comprises an area of hard standing previously associated with Hillcrest Café, a former transport café. The hard standing was used for the parking and circulation of vehicles many of which were heavy goods vehicles. The site amounts to 0.5 hectares and is bounded by mature hedgerows to three sides inside which for the majority of their length is 1.8 metre high concrete post and timber panel fencing. The remaining boundary to the north-west is formed by a stone wall beyond which are 4 bungalows owned by the applicant and occupied by family members.
- 4.2. The site lies immediately north of, and is accessed from, a dual-carriageway section of the A63 and further to the north beyond an embankment lies the A1(M).
- 4.3. The site lies within the Green Belt, a Locally Important Landscape Area (LILA) and is classified as being within Flood Zone 1.

#### **5.0 Description of Proposal**

- 5.1 Planning permission reference 2019/0030/COU for “Change of use of land to 12 gypsy / traveller pitches and associated works including 12 No mobile homes, 12 No touring caravans and 12 No dayrooms (Retrospective)” was granted on 12th June 2020 subject to conditions. Condition 01 states:

*01. The use hereby permitted is granted for a temporary period only and, at the end of 5 years beginning with the date of this permission, the use shall cease and all caravans, buildings, structures, materials or equipment brought onto the site or erected on the land in connection with the use shall be removed. Thereafter the land shall be restored to its former condition within two months of the expiration of this permission in accordance with a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.*

*Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.*

- 5.2 The temporary permission expires on 13th June 2025.
- 5.3 As an application made under Section 73 of the Town and Country Planning Act 1990 (as amended), it seeks to continue the use of the land without complying with condition 01 that was subject to a previous grant of planning permission. The Act directs local planning authorities to consider only the question of the conditions subject to which planning permission should be granted. Therefore, consideration needs to be given to the acceptability granting planning permission without condition 01, thereby making the use of the land for 12 gypsy / traveller pitches permanent.

## **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 the 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 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
  - 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. A further round of consultation on a revised Regulation 19 Publication Local Plan was undertaken in March 2024 and the responses are now being considered. Following any necessary minor modifications being made it is intended that the plan will be submitted 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.

### Guidance - Material Considerations

- 6.4. Relevant guidance for this application is:
- National Planning Policy Framework, December 2023
  - National Planning Practice Guidance
  - National Design Guide 2021
  - Planning policy for traveller sites (DCLG, August 2015) (Last updated 19 December 2023) (PPTS)

## **7.0 Consultation Responses**

- 7.1. The following consultation responses have been received and have been summarised below.
- 7.2 **NYC Highways-** The highway in the location plan belongs to Leeds City Council, therefore Leeds City Council should be consulted regarding highway matters.
- 7.3 **NYC Environmental Health –** No objection.
- 7.4 **Selby Area Internal Drainage Board –** No comment.
- 7.5 **Leeds City Council –** No response received.
- 7.6 **Parish Council –** No response received.

### Local Representations

- 7.7 The application was advertised by way of a notice in a newspaper circulating in the area and a site notice. No responses have been received.

## **8.0 Environment Impact Assessment (EIA)**

- 8.1. The development does not fall within Schedule 1 or 2 Category of The Environmental Impact Assessment Regulations 2017 (as amended) and does not exceed the thresholds for screening. The proposal is not EIA development. As such, an Environmental Statement is not required.

## **9.0 Main Issues**

- 9.1. The key considerations in the assessment of this application are:
- Principle of development
  - 5-year supply of Gypsy and Traveller Pitches
  - Impact on the openness of the Green Belt
  - Impact on the character and appearance of the surrounding area
  - Impact on residential amenity
  - Impact on highway safety
  - Other personal circumstances of the applicant
  - Determining whether very special circumstances exist
  - Equality Act 2010
  - Human Rights

## **10.0 ASSESSMENT**

### Principle of Development

- 10.1. Policy SP1 of the Core Strategy (CS) outlines the positive approach that the Council will take when considering development proposals, reflecting the presumption in favour of sustainable development contained in the NPPF at paragraph 11. For decision-making, this means: approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development policies,

or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or
- ii any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 10.2. Footnote 7 outlines those areas or assets that the Framework seeks to protect, which includes land designated as Green Belt.
- 10.3. CS Policy SP2 sets out the Council’s spatial strategy to deliver sustainable development within the Selby district and states that the majority of new development will be directed to the towns and more sustainable villages. The application site lies within the open countryside. CS Policy SP2 A(c) states that development in the countryside will be limited to the replacement or extension of existing buildings; the re-use of buildings preferably for employment purposes; and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of rural communities in accordance with Policy SP13 or meet rural affordable housing needs in line with Policy SP10, or other special circumstances.
- 10.4. The application site lies within the Green Belt. Policy SP2 A(d) states that development in the Green Belt must conform to CS Policy SP3 and national Green Belt policies. Policy SP3 B 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.”
- 10.5. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 goes on to state that 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.
- 10.6. CS Policy SP11 provides guidance with regards to traveller sites and states the following:
- “A. In order to provide a lawful settled base to negate unauthorised encampments elsewhere, the Council will establish at least a 5-year supply of deliverable sites and broad locations for growth to accommodate additional Traveller sites/pitches/plots required through a Site Allocations Local Plan, in line with the findings of up-to-date assessment of other robust evidence.
- B. Rural Exception Sites that provide Traveller accommodation in perpetuity will be considered in accordance with Policy SP10. Such sites will be for residential use only.
- C. Other applications for Traveller development will be determined in accordance with national policy.”



- 10.7. Policy SP11 refers to Policy SP10 which permits small scale 'rural affordable housing' schemes as an exception to normal planning policy provided all of the following criteria are met:
- i) The site is adjoining Development Limits in the case of Designated Service Villages;
  - ii) A local need has been identified by a local housing needs survey, the nature of which is met by the proposed development; and
  - iii) The development is sympathetic to the form and character and landscape setting of the village in accordance with normal development management criteria.
- 10.8. Policy SP11 anticipated at the publication of the Core Strategy in 2013 that the Council would establish a 5-year supply of deliverable traveller sites in accordance with a Site Allocations Local Plan. Such a plan was not progressed following adoption of the Core Strategy and the ELP is considering the allocation of sites as part of its preparation. Policy SP10 requires sites to be within or adjoining settlement limits where a local need has been identified, which is not the case for this site. As such, the application would fall to be determined in accordance with national policy.
- 10.9. The Government's Planning policy for traveller sites (PPTS) was updated in December 2023, so is a change that has taken place since determination of the original planning permission 2019/0030/COU.
- 10.10. Following the judgment in the Court of Appeal in the case of *Smith v SSLUHC & Ors*, the government is reverting the definition of Gypsies and Travellers used in the PPTS to that adopted in 2012, with this change applying from 19<sup>th</sup> December 2023 for plan and decision making. The PPTS definition of gypsy and traveller is now as follows:
- "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."
- 10.11. The document sets out the Government's overarching aim to ensure fair and equal treatment for travellers and to achieve this it requires that, inter alia, local planning authorities make their own assessment of need and plan for sites over a reasonable timescale, and have regard to the protection of local amenity and the local environment. In addition, it seeks to ensure plan-making and decision-taking protect Green Belt from inappropriate development, reduces the number of unauthorised developments and increases the number of traveller sites in appropriate locations.
- 10.12. With specific regard to protecting Green Belt, Policy E paragraph 16 of the PPTS states:
- "Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."

- 10.13. Policy H of PPTS sets out how planning applications for gypsy and traveller sites should be determined. The policy reflects the NPPF in that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and that planning law requires that applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.14. Paragraph 24 of Policy H states that local planning authorities should consider the following amongst other relevant matters when considering applications:
- a) The existing level of local provision and need for sites;
  - b) The availability (or lack) of alternative accommodation for the applicants;
  - c) Other personal circumstances of the applicant;
  - d) That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
  - e) That they should determine applications for sites from any travellers and not just those with local connections.
- 10.15. Paragraph 25 states that local planning authorities should very strictly limit new gypsy and traveller site development in the open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community and avoid placing an undue pressure on local infrastructure.
- 10.16. Whilst paragraph 27 confirms that if a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the temporary grant of planning permission, the exception is where the proposal is on land designated as Green Belt. It also notes that there is no presumption that a temporary grant of permission should be granted permanently, reiterated in the national Planning Practice Guidance.
- 10.17. In light of the above, the proposal needs to be considered against national policies contained in the NPPF and PPTS. The proposal is to remove condition 01 thereby making the site a permanent site for the gypsy and traveller community. Given the location of the site in the Green Belt, the proposal would constitute inappropriate development in the Green Belt which is, by definition, harmful and this and any other harm carries substantial weight and which should not be approved except in very special circumstances. Other material considerations are as discussed below.

#### 5-year supply of Gypsy and Traveller Pitches

- 10.18. The NPPF and PPTS require local planning authorities to identify a supply of sites in the Local Plan to accommodate pitches for those meeting the above definition and it is their needs that require consideration when setting out the 5-year supply of pitches. However, it should be noted that those that do not meet the definition are still likely to culturally identify as gypsies/travellers and will still have accommodation needs.

- 10.19. The Selby Gypsy and Traveller Accommodation Assessment of May 2018 (GTAA), produced to inform the emerging Selby District Council Local Plan, identified a need for 8 additional pitches for gypsies and travellers who met the planning definition in PPTS, up to 2033, with 5 of those pitches to be provided by 2028; up to 10 additional pitches for those who may meet the definition (the 'unknowns'); and 26 additional pitches for those that do not meet the planning definition. The GTAA recommended that the need for those that met the definition together with 10% of the 'unknowns' (8 + 1) should be met by new pitch allocations, and the need for the remaining 'unknowns', should they prove to have traveller status, be met by a criteria-based policy. The GTAA also found that those that did not meet the definition would be addressed by overall housing market assessments and through other development plan policies.
- 10.20. The appeal decision reference APP/N2739/W/21/3280032 dated 11<sup>th</sup> May 2022 regarding a gypsy site on land north of Hillam Lane, Burton Salmon, Selby is a recent authority for such applications and provides clarity as to the current policy position within the former District. The Inspectors findings are largely reiterated in the appeal decisions for land at A63 – A1 junction, Selby Road, Monk Fryston reference APP/N2739/C/21/3280507 amongst others dated 15<sup>th</sup> December 2022.
- 10.21. The Burton Salmon appeal confirms things have moved on since the GTAA was produced in May 2018. The Council has acknowledged, through its decision making on other applications at The Smallholdings, Kellington and this site, that the need for the former District should be 21 pitches up to 2033. This reflects the finding that the 10% need generated from unknowns was too low and should be increased to 25%. This higher figure also reflects reasoning from appeal decisions and local plan examinations elsewhere.
- 10.22. The Burton Salmon Inspector considered it may also be the case that the updated figures, including the 25% applied to unknowns, do not fully reflect the current need. The following were among the factors referred to at the Inquiry for the Burton Salmon appeal. Firstly, the GTAA was produced on the basis that only known travellers were interviewed, so, for example, all those living in 'bricks and mortar' would not have been captured. Secondly, 25% of unknowns may still be too conservative a figure, taking into account the type of evidence that has come out of specific appeals and applications both in the former Selby District and further afield. Thirdly, the interviewers involved in the GTAA were the sole arbiters of who or who did not meet the definition. Fourth, the loss of the 6 pitches at the Greenacres site to a residential mobile home site did not appear to have been taken into account in the GTAA. Finally, some households were discounted because they stated that they would prefer 'bricks and mortar or to move to another pitch, within or beyond the District'. Stating a preference to move into housing or a different site does not mean that they will be able to do so.
- 10.23. The Burton Salmon Inspector stated:
- “38. Taking all of the above into account the need for the District is likely to be in excess of the 21 pitches referred to in paragraph 34 above. A planning appeal is not the place to come up with a specific figure. That will be for the ELP. But the uplift is likely to be not insignificant.

39. In terms of provision since the base date of the GTAA, permission has been granted for 8 pitches at The Smallholdings. A temporary permission has also been granted for 10 pitches at South Milford Caravan Park. Discussions about creating additional pitches at the County Council owned sites at Burn and Carlton cannot count towards meeting the need as there are no firm proposals.

40. The South Milford permission is due to expire in June 2025 but the Council proposes to allocate the site in the ELP. The ELP is at an early stage and there is no certainty that the site will become a commitment. However, if South Milford is counted towards provision, the unmet need, using the Council's latest figure, would be a minimum of 3 pitches. But, taking into account the factors outlined in paragraph 35, the needs generated by those wishing to occupy the appeal site, the households on the unauthorised sites, together with household growth, the unmet need is likely to be considerably more. On the basis that the appellant's extended family and those on unauthorised pitches reflect a current need within Selby District, there would not be a 5-year supply of sites."

10.24. As noted above, since the appeal decision was issued, the Court of Appeal has handed down judgment in *Smith v Secretary of State for Levelling Up, Housing & Communities & Anor* [2022] EWCA Civ 1391 of 31st October 2022. It concerned the exclusion of Gypsies and Travellers who are no longer nomadic from the PPTS definition of gypsies and travellers. The Court of Appeal allowed the appeal having concluded that the planning policy definition of 'Gypsies and Travellers' adopted by the government in 2015 discriminated against elderly and disabled members of the Gypsy and Traveller communities, by requiring them to demonstrate that they are able to continue to travel to look for work. The discriminatory definition was in breach of the Equality Act 2010 and the rights protected by the European Convention on Human Rights. The impact is that the government has reconsidered its definition in PPTS and this may increase the number of pitches that need to be allocated.

10.25. The former Selby District Council has previously considered there is a need figure of 21 pitches for the District and that the supply of pitches is currently as follows:

- South Milford Caravan Park (this application site) – 12 pitches consented until June 2025 (ref. 2019/0030/COU).
- The Small Holdings, Kellington – permanent consent granted for 8 pitches (ref. 2018/1299/FUL).

10.26. The former Selby District Council considered the above permitted schemes provide a supply of 20 pitches and that in addition to these, there was the potential to create additional pitches on the NYC owned sites at Burn and Carlton. The former District believed that within the existing sites areas of 0.05ha and 0.04ha had the potential based on an initial assessment to provide between 2-4 pitches in total.

10.27. On the basis of the above, the former District had previously considered it could demonstrate a 5-year supply of pitches. Whether or not the LPA can demonstrate a 5-year supply is of diminished importance because PPTS paragraph 27 confirms that, "If a local planning authority cannot demonstrate an up to date 5-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning

decision when considering applications for the temporary grant of planning permission”. The exception to this is where the proposal is on land designated as Green Belt. The proposal is for a permanent site in the Green Belt. Further, there is no presumption that a temporary grant of planning permission should be granted permanently.

Impact on openness and purposes of the Green Belt

- 10.28. The site’s status as previously developed land (PDL) was established as part of the earlier appeal decision (appeal ref. APP/N2739/A/11/2158757, application no. 2010/0324/COU) which granted temporary consent for the change of use of the site from a truck stop to a residential caravan site for gypsies and travellers. As part of this appeal the lawful use of the site for vehicle parking independent of Hillcrest Café was confirmed as the lawful fall-back, though it was noted that the parking of vehicles would be unlikely to generate significant numbers of vehicles.
- 10.29. Paragraph 26 of the PPTS Policy H directs local planning authorities to give weight to, inter alia, the effective use of previously developed land when considering applications. However, as set out at 10.11, Policy E paragraph 16 states that traveller sites (temporary or permanent) in the Green Belt are inappropriate development for which very special circumstances must be demonstrated.
- 10.30. National Green Belt policy at paragraph 155 confirms that material changes of use of land are not inappropriate in the Green Belt where they preserve its openness and do not conflict with the purposes of including land within it. Whilst ‘openness’ is not defined in planning legislation or guidance, the courts have identified a number of matters that could be taking into consideration in assessing openness, including spatial and visual aspects, duration of development and remediability, and the degree of activity. One of the purposes of including land in the Green Belt is to safeguard the countryside from encroachment.
- 10.31. The area to which the application relates is no greater than the area which could accommodate vehicle parking and so the proposal could not be said to encroach further into the countryside than the fall-back position established by the aforementioned appeal upon expiry of the current temporary planning permission. All parties at the appeal were also in agreement that the proposal for gypsy and traveller pitches would not affect any one of the remaining four purposes of including land in the Green Belt, a view with which the Inspector concurred. Given that the application site is the same as the appeal site and further temporary permission, and there have been no physical changes to the site that would take it out of the definition of PDL in the NPPF, there is no basis for coming to a different view on this issue. In addition, the use of the application site for vehicle parking is the lawful fall-back position against which the actual harm to openness arising from the proposal should be assessed.
- 10.32. The Inspector concluded that the 10 caravans under consideration at the appeal would have “an urbanising impact and cause a reduction in openness” resulting in a modest level of harm and that 21 caravans (also the subject of the appeal) would result in a significant level of harm. The removal of condition 01 would result in the 12 permanent pitches comprising 12 mobile caravans and 12 touring caravans, together with 12 day rooms and utility buildings. It is reasonable to assume that this would have a similarly significant level of harm to openness.

- 10.33. The proposal would result in a greater impact on openness than the fall-back position and on this basis remains to be considered as inappropriate development in the Green Belt with an additional element of significant harm due to the impact on openness.

Impact on the character and appearance of the surrounding area

- 10.34. The site is located within a defined Locally Important Landscape Area (LILA). SDLP Policy ENV15 states that, within LILAs, particular attention should be paid to the design, layout and landscaping of development in order to minimise its impact on the traditional character of buildings and landscape in the area. SDLP Policy ENV1 and CS policies SP18 and SP19 similarly require the impact on local character to be taken into account. PPTS, at paragraph 25, provides that local planning authorities should strictly limit new gypsy and traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. It does however go on to say that, when considering applications, weight should be given to the effective use of previously developed land.
- 10.35. The site lies within the West Selby Limestone Ridge Character Area as defined in the 2019 Selby Landscape Character Assessment. The area is characterised as an undulating and rolling landscape with large areas of woodland which, together, has the effect of limiting visibility and providing a greater sense of enclosure than elsewhere in the District. This also results in the area having a lower sensitivity to change as new features may be screened by intervening topography.
- 10.36. As recognised by the previous appeal Inspector, although located in the LILA, the site and the area in the immediate vicinity is not reflective of and does not contribute positively to the landscape quality of the wider area as it remains relatively commercial in appearance with a number of buildings and considerable areas of hardstanding. It is important to note that whilst the existing development within and near the site has already changed the character of the countryside in this vicinity, the quality of the landscape is not relevant to the continued protection of Green Belt land.
- 10.37. The existing hedges forming the site boundaries offer some screening of the caravans present on the site, the utility buildings, walls and existing hardstanding. The site is not visible over any great distance along the Great North Road. Notwithstanding this, given that caravans can appear relatively stark in appearance and that there is a limited opportunity to provide for additional landscaping within the layout, the development would have a longer-term urbanising impact that would be difficult to satisfactorily assimilate to a point where a positive impact on the immediate area could be said to result. However, the proposal would not result in any significant harm to the immediate area by reason of the neighbouring commercial uses and the limited views of the site which are primarily gained from passing vehicles on the adjacent A63 dual carriageway. As such, it is considered that there is no conflict with those relevant Development Plan policies listed above.

Impact on Residential Amenity

- 10.38. Policy concerned with impacts on residential amenity and securing a good standard of residential amenity are provided by SDLP policies ENV1 (1) and ENV2 and Paragraph 135 of the NPPF. There are 4 bungalows on the adjacent site which are owned and occupied by the applicant and other members of his family. Even if they were not in the ownership and control of the applicant, the relationship between caravans on the application site and the bungalows is such that the residential amenity of the occupiers of the dwellings would not be harmed for the following reasons.
- 10.39. A 1.6m high stone wall separates the site from the land associated with the bungalows and the orientation and design of both the proposed mobile homes and the existing bungalows protects amenity of both sets of occupiers.
- 10.40. Separate accesses serve the application site and the neighbouring bungalows although there is a gated route between the two which is not considered to result in any detrimental impact on residential amenity.
- 10.41. In the event the proposal is acceptable it would be appropriate to retain the conditions that control the number of pitches and caravans along with the size of commercial vehicles associated with the site. A condition should also be retained preventing commercial uses within the site.
- 10.42. Having taken the matters discussed above into account, it is considered that the proposal would not result in any significant harm to the residential amenities of either existing or future occupants in accordance with relevant Local Plan policies.
- 10.43. In light of the above, 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 private and family life or the right to life.

#### Impact on Highway Safety

- 10.44. SDLP Policy T1 requires new development to be well related to the existing highway network and Policy T2 states that development resulting in the intensification of the use of an existing access will be supported provided there would be no detriment to highway safety.
- 10.45. The site access/egress is formed by a slipway from/to the Great North Road (A63) which despite being a dual carriageway now carries considerably reduced levels of traffic as a result of the re-alignment of the A1. Visibility when moving between the site and the adjacent highway is good. No response has been received from Leeds City Council as local highway authority for the A63, though the Council's previous lack of objection to the site as part of the 2019 planning application is noted. It is considered that the proposal would be acceptable in this regard and in accordance with SDLP policies T1 and T2.

#### Other personal circumstances of the applicant

- 10.46. In general terms, the benefits of a permanent settled base are well-documented in terms of education and access to health care. There would also be advantages for the

general well-being of the site occupants in being settled and having continual access to basic amenities and a secure living environment. In particular, a settled base would be in the best interests of any resident children and their education, health, safety, and welfare. This is a primary consideration.

- 10.47. No personal circumstances or case based on the best interests of resident children has been put forward in this application, but the officers report for the original permission 2019/0030/COU refers to a number of children occupying the site.
- 10.48. In the absence of up-to-date information regarding whether there are resident children and their needs, it is not possible for this material consideration to be given significant weight.

Determining whether very special circumstances exist

- 10.49. It is clear that the proposal is harmful by reason of it constituting inappropriate development in the Green Belt added to which is the harm to openness. Paragraph 153 of the NPPF requires substantial weight to be given to any identified harm to the Green Belt. It is necessary therefore to consider whether the identified harm to the Green Belt is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
- 10.50. The LPA did not consider the previous application 2019/0030/COU demonstrated very special circumstances to justify a permanent permission by virtue of the sustainability of the site; the site's status as previously developed land; the unmet need for gypsy and traveller sites; the Council's lack of a 5-year supply of gypsy and traveller sites; the failure of planning policy and difficulties in providing sites; and the lack of alternative sites and the likelihood of sites being provided for in the Green Belt. However, the LPA did consider very special circumstances existed to justify a temporary permission with paragraphs 6.4 and 6.6 stating:

"6.4 The advice contained in National Planning Practice Guidance (NPPG) sets out when a temporary permission might be appropriate including where it is expected that the planning circumstances will change in a particular way at the end of a certain period of time. As outlined above at 5.30, the Council anticipates progress being made on the new Local Plan such that appropriate sites for gypsies and travellers will be identified and allocated within a realistic timescale. Whilst NPPG does suggest that granting a second temporary permission will be rare, the circumstances in this particular case (and especially the relative lack of progress in identifying sites through the Local Plan process) are such that it is considered reasonable to consider granting another temporary permission."

"6.6 Notwithstanding that the continuing harm to Green Belt is substantial, it is considered that such harm can be outweighed by other material considerations in the context of a temporary period of 5 years. As such, very special circumstances are established and a temporary planning permission is recommended."

- 10.51. The current application includes a planning statement that seeks to justify removal of the condition on the following basis:



- The proposed allocation of the site in the local plan;
- The sustainability of the site in the context of Planning Policy for Traveller sites;
- Previously developed land;
- The historic difficulties of providing sites through the plan led process;
- The lack of alternative sites & likelihood of alternative sites in the GB.

*The proposed allocation of the site in the local plan*

- 10.52. The latest publication version of the emerging Local Plan proposes to allocate the site for a maximum of 12 gypsy and traveller pitches via Policy HG14, allocation reference NTHP-A. The ELP intends removal of the site from the Green Belt. The applicant concurs with the site assessment summary for the preferred options local plan and notes there were no objections and 11 supportive responses at that stage. The level of objection to the potential allocation of the site and removal from the Green Belt is unknown at this stage because the further consultation is underway, though it is unlikely that the position will have changed, especially in light of the lack of objection to this planning application since its submission is 2022.
- 10.53. The applicant quotes NPPF paragraph 48 regarding weight to emerging policies, and 49 and 50 regarding prematurity. The former states:
- “48. Local planning authorities may give weight to relevant policies in emerging plans according to:
- (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - (c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)<sup>22</sup>.”
- 10.54. The applicant considers the plan is at an advanced stage (48. (a)), that no objections have been received to the policy (48. (b)) but does not comment on test 48. (c). They also quote the site assessment summary for the preferred options version of the ELP which gives exceptional circumstances for Green Belt removal.
- 10.55. It is considered that the ELP is at a moderately advanced stage of preparation which attracts limited weight. The level of unresolved objection is unknown because the outcome of the recent consultation is not available. Regarding test (c) the following considerations apply.
- 10.56. NPPF paragraph 145 states, “Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process.”
- 10.57. Policy E; Traveller sites in Green Belt states:

“16. Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.

17.Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional, limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application. If land is removed from the Green Belt in this way, it should be specifically allocated in the development plan as a traveller site only.”

10.58. The ELP supporting document entitled Stage One Green Belt Review: Exceptional Circumstances (September 2021) states:

“5.25 Notwithstanding the above, it is intended that South Milford Caravan Park (proposed allocation ref. NTHP-A) is removed from the Green Belt through the Local Plan process and allocated for Gypsy and Traveller pitches, in order to regularise this site beyond its temporary planning consent. Further details will be provided in a Gypsy and Traveller Background Paper, which will be prepared in support of the Publication Draft Local Plan.

5.26 Whilst Planning Policy for Traveller Sites (PPTS) states that traveller sites in the Green Belt are inappropriate development and Green Belt boundaries should only be altered in exceptional circumstances, paragraph 17 of PPTS states that a: “Local planning authority can make an exceptional limited alteration to the defined Green Belt boundary, which might be to accommodate a site within the Green Belt, to meet a specific identified need for a traveller site”.

5.27 Whilst it is inevitable that the removal of the site from the Green Belt for its permanent use as a gypsy and traveller site will cause some harm to the openness of the Green Belt, the site has been a traveller site for over 10 years and is under 0.5ha in size. It is proposed that the allocation boundary is tightly drawn around the existing site to prevent any further expansion into the Green Belt.”

10.59. While there is an intention to allocate the site and remove it from the Green Belt, this has not yet occurred nor is it certain these matters will be found acceptable at the ELP examination or following further consultation. The site is unallocated and within the Green Belt at the point of determination of this application. ELP Policy HG14 is inconsistent with the NPPF and PPTS Green Belt policy until the site is no longer Green Belt. Therefore, it is given limited weight.

10.60. This does not amount to very special circumstances.

*The sustainability of the site in the context of Planning policy for traveller sites*

- 10.61. The applicant quotes PPTS, plan-making, Policy B: Planning for traveller sites, paragraph 13 which sets out that LPAs should ensure their policies achieve a number of requirements. They consider the proposal satisfies these requirements.
- 10.62. The LPA previously, under 2019/0030/COU, considered, “Given the location and nature of the site and its reasonable proximity to nearby villages, the site is considered to meet the identified criteria. Other sites not in the Green Belt would, however, be equally capable of meeting the same criteria and it is not considered that this factor amounts to very special circumstances such as to justify support for the site.”
- 10.63. Therefore, this does not amount to very special circumstances.

*Previously developed land*

- 10.64. The applicant quotes PPTS paragraph 26 which requires the LPA should attach weight to the effective use of previously developed (brownfield), untidy or derelict land. The applicant considers the site to be previously developed land.
- 10.65. The LPA previously, under 2019/0030/COU, considered “It is acknowledged that the site represents previously developed land, given that the previous appeal established that the lawful use of the site was for vehicle parking, and that PPTS encourages the effective use of brownfield or untidy land. Again, however, such land is available outside of the Green Belt and this factor is not considered to amount to very special circumstances.”
- 10.66. This does not amount to very special circumstances.

*The historic difficulties of providing sites through the plan led process*

- 10.67. The applicant considers it positive that the site has been proposed for allocation; that since the site was granted temporary permission in 2012 only 2 pitches have been granted permanent planning permission in Selby’s former District area. They quote the Inspectors report for the recovered appeal in which they express concern the level of provision proposed may result in the Council still failing to address the actual shortfall of pitches. They also quote similar concerns raised by the Inspector for The Gallops (APP/N2739/C/14/2222861 and APP/N2739/A/14/2218640). The applicant notes a longstanding difficulty in providing gypsy sites in the former Selby District and that this allocation represents a golden opportunity to meet the requirements of national policy to identify land for use by gypsies and travellers.
- 10.68. These appeal decisions are a number of years old, and it is considered more relevant to consider the findings of the Inspector for the Burton Salmon appeal which are noted above and found a similar failure of policy to provide sites. The LPA previously, under 2019/0030/COU, considered it “reasonable that significant weight can be attached to these failures of policy to address need, again in terms of a temporary permission.” As noted above, the site is not yet allocated or removed from the Green Belt, nor is there certainty it will be.

10.69. It is possible for this failure of policy to contribute towards very special circumstances.

*The lack of alternative sites & likelihood of alternative sites in the GB*

10.70. The applicant considers no alternative sites have been identified by the LPA, Council sites are full with waiting lists, no sites have been successfully identified through the call for sites in over a decade other than the proposed allocation and only 3 pitches have been granted permanent permission in the same period. Based on existing site provision, they consider that there is likely to be a need for gypsy and traveller sites in the Green Belt.

10.71. The LPA previously, under 2019/0030/COU, considered, "There are two publicly owned sites in Selby District (at Burn and Carlton), both of which are at capacity and subject to waiting lists for pitches. The applicant has argued that there is a lack of alternative sites across the District and has highlighted the refusal of permission in 2013 for an extension to the public site at Burn and the subsequent approvals granted by appeal Inspectors which in some cases have been on Green Belt land. It is consequently suggested that it is reasonable to assume that there is a significant likelihood that some future provision for gypsy and traveller sites will be in the Green Belt. The current occupiers of the site, are in need of a settled base which would provide them with access to healthcare, education, welfare and employment infrastructure. Whilst these are benefits that any settled base would provide, in the absence of suitable alternative sites, the personal accommodation needs of the site occupiers for a settled base is a consideration that can amount to very special circumstances and be afforded significant weight particularly when considering the best interests of the children."

10.72. The Burton Salmon appeal examined alternative site provision as discussed above. There do not appear to be any alternative sites within the former District which would meet the site occupants needs, particularly because the applicant confirms the pitches are rented out on a private basis. The availability of alternative sites is normally considered in the context that refusal of planning permission would result in site occupants being made homeless. When this application was first received in October 2022 there was a substantial period of time until the temporary permission expired in June 2025 and the Selby District Council Local Development Scheme 2022 – 2024 (brought into effect from 27 September 2022) anticipated ELP adoption in March 2024. Refusal at that time would have left the occupants with a place to live for a considerable period of time and the intention to adopt an emerging local plan at a point in time that would allow potentially unproblematic progression (subject to application) from temporary to permanent permission with the support of the development plan that allocates the site for the proposed use and removes it from the Green Belt.

10.73. However, the ELP has been significantly delayed and has recently been subject to consultation on a further publication version. The Local Development Scheme 2022 – 2024 anticipated a 20-month period for consultation on the publication version of the local plan through to adoption in March 2024. Applying the same period to the latest publication local plan would mean adoption in approximately December 2025, 6 months after the temporary permission expires. The applicant has refused to change this application to a variation of condition application seeking a further temporary planning

permission to go beyond the anticipated adoption of the ELP. The LPA is not able to impose a further temporary permission on the applicant because of the nature of the application and inability to change the description of development without the applicants' agreement. Refusing this application would, based on current predicted timescales, lead to the enforcement team having to consider whether it is in the public interest to pursue enforcement action when the temporary permission expires. Any consideration would need to take account of the position with regards the ELP and its progress, which would likely be far more advanced than at present with allocation of the site and removal from the green belt retained based on the exceptional circumstances set out in the aforementioned Stage 1 Green Belt review (2021). This would likely lead to a period of unlawful occupation of the site by the residents or, if the occupants decided to vacate the site of their own volition, and in the absence of any alternative accommodation, a roadside existence which is contrary to the thrust of the PPTS and would have serious implications for the wellbeing of site occupants. The site would then be removed from and would not contribute towards the supply of sites within the Council. This situation arises from the aforementioned failure of policy.

- 10.74. The lack of alternative sites and the implications of the ELP are capable of contributing towards very special circumstances.

#### Equality Act 2010

- 10.75. Due regard must be had to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Equality Act 2010 legally protects people from discrimination in wider society. The occupants of Milford Caravan Park are gypsies and they have a protected characteristic for the purpose of the PSED. The shortage of pitches in the former District may indicate inequality of housing opportunities of gypsies.
- 10.76. It is considered that a decision made in accordance with this recommendation would not result in any breach of Rights under the Equality Act and fulfils the Council's duties and obligations accordingly.

#### Human Rights

- 10.77. Approving the application would provide a settled base that would meet the Article 8 Human Rights Act requirements of the occupants right to a home and a private and family life and allow the group to live together as part of their traditional way of life.

### **11.0 PLANNING BALANCE AND CONCLUSION**

- 11.1. The application seeks to remove Condition 01 of planning permission 2019/0030/COU, which would allow the temporary use of the land for 12 traveller pitches until June 2025 to be permanent.
- 11.2. The proposal is inappropriate development by definition that causes further harm to the openness of the Green Belt and should not be approved except in very special circumstances. Such circumstances will not exist unless these harms, which are attributed substantial weight in national policy, are clearly outweighed by other considerations. The existence or otherwise of a 5-year supply of sites is not

determinative to this proposal. The proposal would not result in any significant harm to the character and appearance of the area. No harm to residential amenity or highway safety would arise. No personal circumstances are detailed within the application.

- 11.3. The failure of planning policy through appeal and previous authority decisions to address need through the plan led system contributes towards very special circumstances and is given significant weight. The lack of alternative sites for the occupants and importantly the implications of the ELP contributes towards very special circumstances and is given significant weight.
- 11.4. Meeting the sustainability considerations set out in PPTS and use of previously developed land do not amount to very special circumstances on an individual basis but cumulatively are factors in favour to which moderate weight should be given. The Council has taken some steps to meet the needs by making progress with the ELP but the timescales have likely slipped beyond the current temporary planning permission and limited weight is presently given to relevant ELP policies. The proposed allocation of the site and removal from the Green Belt in the ELP, whilst providing an intention by the Council and an indication of the direction of travel, does not amount to very special circumstances.
- 11.5. These considerations, taken together with the equality and human rights benefits which flow from granting a permanent permission, are sufficient on a cumulative basis to constitute very special circumstances.
- 11.6. These conclusions have taken into account that this application does not provide information regarding personal circumstances or the best interests of children.
- 11.7. In light of the above and the demonstration of very special circumstances, it is considered that the policies of the Framework relating to Green Belt, or any other matter, do not provide a clear reason for refusing the proposal. The application is therefore recommended for approval.

## **12.0. RECOMMENDATION**

- 12.1 It is recommended that planning permission be granted subject to the following conditions. Condition 01 of the original permission is deleted. Condition 03 is varied to include reference to the Planning Policy for Traveller Sites 2015 last updated 19<sup>th</sup> December 2023. Condition 08 is deleted because it was discharged by 2020/1149/DOC.
- 12.2 In the event Planning Committee resolves to grant planning permission subject to the conditions listed in this report, prior to doing so the Local Planning Authority must consult the Secretary of State for Housing, Communities and Local Government (the Secretary of State) as set out in The Town and Country Planning (Consultation) (England) Direction 2021 (the Direction) confirming the Planning Committee resolution. The Local Planning Authority 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 Local Planning Authority in writing is the date the material is received as specified in paragraph 11 of the Direction. If, before the expiry of the 21 day period

referred to in paragraph 12 of the Direction, the Secretary of State has notified the Local Planning Authority that the intention is not to issue a direction under section 77 of the Town and Country Planning Act 1990 in respect of that application, the Local Planning Authority will proceed to determine the application in accordance with the resolution of Planning Committee.

01. Deleted.

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

- Site Location Plan - JTaylor 19-SLP
- Proposed Site Layout - 18203/02
- Proposed Utility Building - 18203/03

Reason: For the avoidance of doubt.

03. The site shall not be occupied by any persons other than gypsies and travellers, as defined in Annex 1: Glossary of Planning Policy for Traveller Sites 2015 (Last updated 19 December 2023) (or its equivalent in replacement national policy).

Reason: This condition is necessary in order to ensure that the site meet the needs of the travelling community.

04. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site.

Reason: In the interests of the residential amenity of the site occupiers and those of neighbouring properties.

05. No commercial activities shall take place on the land, including the storage of materials.

Reason: In the interests of the residential amenity of the site occupiers and those of neighbouring properties.

06. There shall be no more than 12 pitches on the site and on each of the 12 pitches hereby approved no more than 2 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended, shall be stationed on the site at any time of which only 1 shall be a static caravan.

Reason: In the interests of the character and appearance of the area and the visual amenities of the Green Belt.

07. No generators shall be permitted to be operated on the land.

Reason: In the interests of the residential amenity of the site occupiers and those of neighbouring properties.

08. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other order revoking and

re-enacting that order with or without modifications), no sheds, or other buildings or structures, walls, fences or other means of enclosure other than those shown on the approved plans shall be erected on the site unless details of their size, materials and location have previously been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area and the visual amenities of the Green Belt.

**Target Determination Date:** 12/7/2024

**Case Officer:** Martin Evans, [martin.evans@northyorks.gov.uk](mailto:martin.evans@northyorks.gov.uk)