

North Yorkshire Council

Community Development Services

STRATEGIC PLANNING COMMITTEE

ZC23/01168/DVCM AJ - VARIATION OF CONDITIONS 5, 13, 16 AND 17 OF PLANNING PERMISSION 18/00123/EIAMA J TO PERMIT AN EXTENSION IN LENGTH TO THE PROPOSED MOTORWAY SERVICE AREA JUNCTION SLIP ROADS AND TO INCREASE THE PERMISSIBLE HEIGHT OF THE EASTERN DUMBBELL ROUNDABOUT TO BETWEEN 44.95M AOD AND 46.95M AOD, PLUS MINOR AMENDMENTS TO THE INDICATIVE DESIGN OF ASSOCIATED INFRASTRUCTURE AND LANDSCAPE WORKS AT LAND ADJACENT TO THE A1(M) BETWEEN JUNCTIONS 48 AND 49 NEAR KIRBY HILL HARROGATE YO51 9DP ON BEHALF OF APPLGREEN LTD

Report of the Assistant Director – Planning

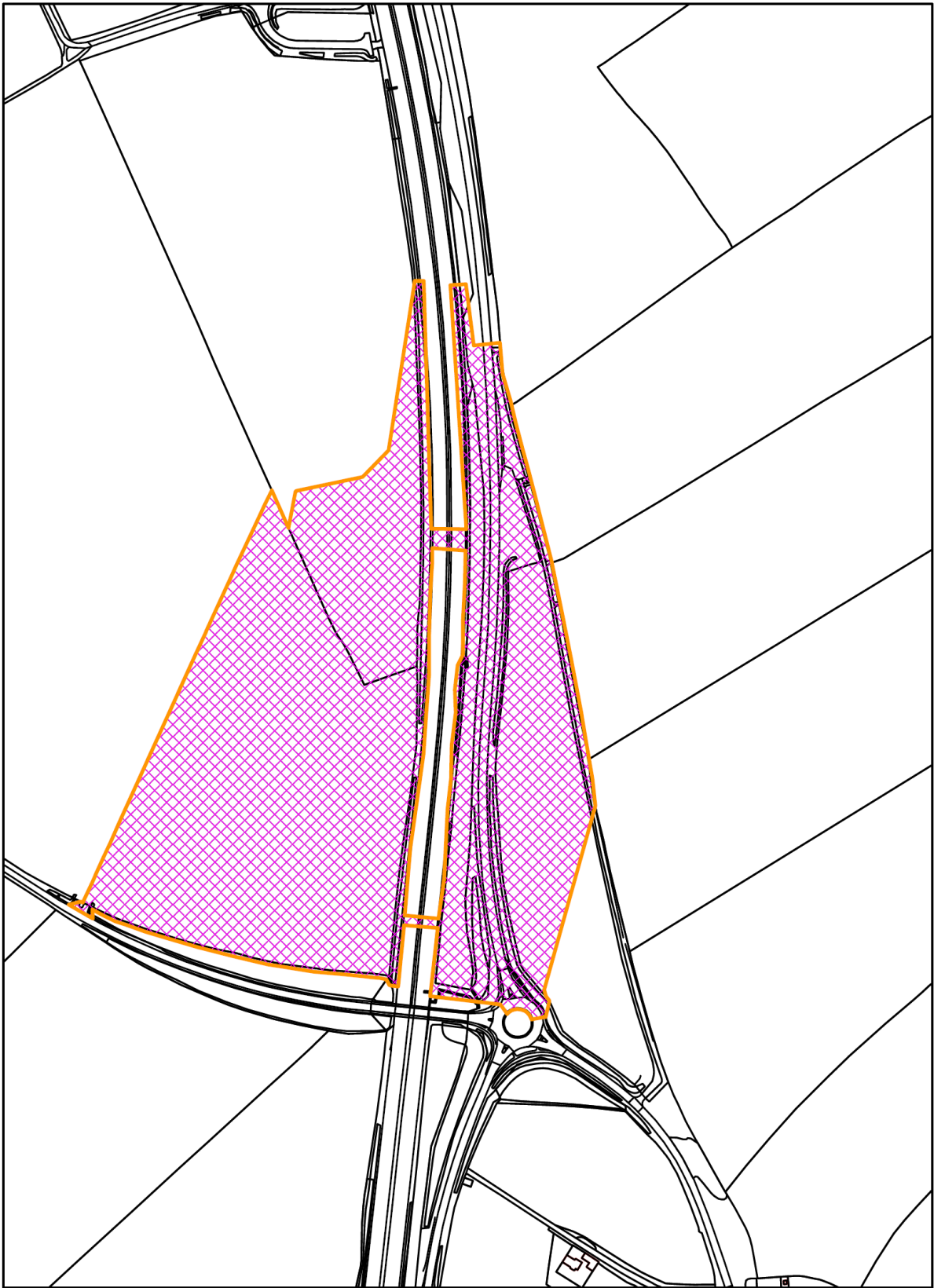
1.0. Purpose of the Report

- 1.1. To determine a planning application for Variation of conditions 5, 13, 16 and 17 of planning permission 18/00123/EIAMA J in respect of a the proposed Motorway Service Area to permit an extension in length to junction slip roads by up to 100m along with the strengthening of those slip road, and to increase the permissible height of the eastern dumbbell roundabout from, to the nearest metre, 44.7m Above Ordnance Datum (height above sea level, abbreviated as AOD) to between 44.95m AOD and 46.95m AOD, plus minor amendments to the indicative design of associated infrastructure and landscape works on land at land adjacent to the A1(M) between junctions 48 and 49 near Kirby Hill for Applegreen Ltd.
- 1.2. This application is brought to the Planning Committee as a request by the Division councillor.

2.0. EXECUTIVE SUMMARY

RECOMMENDATION: That the variation of the existing outline planning permission be GRANTED subject to conditions

- 2.1. The site benefits from a permitted outline planning permission, which was allowed at Appeal in April 2021. The changes sought in the overall context of the development are minor and suitable for consideration by way of a Section 73 application. These are to permit an extension in length to the proposed Motorway Service Area junction slip roads, the straightening out of those slip roads, an increase in the permissible height of the eastern dumbbell roundabout to between 44.95m AOD and 46.95m AOD from 44.7m AOD (to the nearest metre), vary the permissive extent of variation wording on the parameters plan, plus minor amendments to the indicative design of associated infrastructure and landscape works.
- 2.2. The heightened eastern roundabout would be an incremental change that does not change the nature of the view or the magnitude to any significant extent, over and above that of the permitted scheme. The longer slip roads are visibly part of the busy highway corridor and their impact consequently not overly material in the development as a whole.
- 2.3. The changed footnote to the parameters plan has been demonstrated to accord with the extent of judgement Inspector gave to the degree of variance permissible in the stated AOD heights.
- 2.4. A beneficial change arises in the removal of the wide load bays from the slip roads.
- 2.5. Changed wording to the conditions would not adversely affect the consideration of the requisite details.
- 2.6. Matters of detail concerning access, appearance, landscaping, layout and scale would be assessed under a separate reserved matters application to be considered at a future date.
- 2.7. The necessity for the development remains and there no substantive grounds on which to reject this Section 73 variation.



Location Plan

Scale 1:5,000



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04/09/2023

3.0. Preliminary Matters

- 3.1. Access to the case file on Public Access can be found [here](#).
- 3.2. The proposal is presented to the Strategic Planning Committee at the request of Councillor Brown because of the history of this site over 27 years and the widespread public interest.

4.0. Site and Surroundings

- 4.1 The site primarily lies on the west side of the A1(M) motorway immediately north of the B6265. The 'B' road crosses the motorway to a raised roundabout, on the east side of the motorway, with the A168. The 'A' road at this location serves as a road for non-motorway traffic parallel to the motorway. The roundabout is illuminated commencing from the west on the 'B' road halfway across the bridge over the motorway and extending an equivalent distance on the other routes to that roundabout.
- 4.2 A further overbridge exists a km to the north taking Highfields Lane, the Dishforth Airfield to Marton-le-Moor road across the motorway.
- 4.3 The northern edge of the village of Kirby Hill is 540m south-east of the 'A'/'B' road roundabout, while an isolated residence, Providence Lodge, is 210m to the south.
- 4.4 The distances taken from the southeast corner of the site to the west side of the motorway are 675m to the northern edge of Kirby Hill and 320m to Providence Lodge.
- 4.5 From the southwest corner of the site to the west side of the motorway a further dwelling, Moor Lodge, is 325m distant.
- 4.6 Properties on the B6265 towards the Grade II Listed Skelton Windmill commence 290m to the west of the proposed MSA site; the windmill itself being 620m distant at its nearest. At Dishforth Airfield and Marton Le Moor are both around 1.5km distant.
- 4.7 The site forms part of an undulating landscape characterised by large fields of arable farmland, few hedgerows and trees and scattered farmsteads. To the east of A1(M) / A168 corridor the low-lying gently rolling landscape stretches around 15km to the foot of the Hambleton Hills. The land is punctuated by occasional small hills and mounds along with ridges of higher ground such as that at Kirby Hill, adjacent Highfields Lane to the northeast and the motorway overbridge used by the road from Marton-le-Moor to Norton-le-Clay. Land rises to the west beyond Skelton Windmill and on Langthorpe Moor.
- 4.8 The western site boundary being a hedgerow with occasional mature trees along it. Both embankments of the 'B' road to the south side of the site. The

area between the motorway and the 'A' road to the east are planted with, now, semi-mature trees.

- 4.9 The permitted motorway service area scheme includes the construction of a new overbridge to facilitate access from and to the southbound carriageway. That necessitates the realignment of the 'A' road 95m to the east along. An agricultural access track is, as a consequence, to be repositioned to the east of that. A service access was allowed from the 'B' road at the location of an existing field access. A footway/cycle path is to be provided from that access to joint to an existing footway on the 'B' road c.350m north of Kirby Hill.
- 4.10 The motorway service area comprising parking for cars, HGVs, motorcycles, coaches, caravans and staff, an amenity building and adjoined filling station, drive through coffee shop and an HGV filling station.
- 4.11 Four areas of surface water attenuation were shown, and landscaping included "concealment mounds", made up level changes and supplementary planting. The landscape areas would incorporate a children's play area, dog exercise area, and a driver stretch / exercise area.

5.0. Description of Proposal

- 5.1. Variation of a number of the conditions attached to the outline permission are sought under Section 73 of the Planning Act. Primarily this is to allow for the height of the roundabout to the east side of the new bridge over the A1(M) to be increased from, to the nearest metre, 44.7m AOD to between 44.95m AOD and 46.95m AOD adjacent to the realigned A168 and the associated slip roads lengthened by up to 100m.
- 5.2. In permitting the outline permission the Planning Inspector, whose appeal decision letter is attached as Appendix A, required through the attached conditions a selected number of documents which the proposal must accord with.
- 5.3. Those documents included a number which are not affected by the variations sought by this application;
- Design and Access Statement, in so far as it required a 'green / living roof' on the main amenity building, HGV Fuel Filling Station and Drive Through Coffee Shop (condition 6) ,
 - an Arboricultural Impact Statement, in terms of protecting trees via a Construction Management Plan which is to be separately applied for as approval of detail (condition 23), and
 - ones pertaining to lighting details encompassed in the Environmental Impact Assessment that would accompany a reserved matter application (condition 24).

- 5.4. This application does seek to vary remainder of the documents the Inspector approved; the Parameters Plan, an Illustrative Masterplan and drawings relating to the points of access.
- 5.5. Condition 5 requires a reserved matters submission to accord with the Parameters Plan (AFL-00-00-DR-A-00120 rev P08 dated 28.04.20 – attached as Appendices B, D & F). Ground levels and the heights and internal floorspaces of the proposed buildings not exceeding those specified. That specified the roundabouts to either side of the overbridge to be at 44.7m AOD with the bridge centre at 45.7 AOD subject to a footnote of “to the nearest metre.”
- 5.6. The Inspector explained that condition 5 regulates the permission by reference to that parameters plan. That plan includes the red-line boundary. The condition requires the subsequent reserved matters not to exceed those specified by reference to ground levels and the heights and internal floorspaces of the proposed buildings (Appendices D & F). This is to ensure that the proposed development is generally consistent with the evidence that was presented, and on which the appeal has been considered and determined (Para 262 of his decision letter).
- 5.7. Condition 13 sets out that the details of access that are to be submitted for the reserved matters application which encompass various drawings. The illustrative masterplan (AFL-00-00-DR-A-00101 rev P10 dated 22.08.19) being specifically referenced, but only in terms of the realignment of the A168 and the agricultural access track beyond that.
- 5.8. Condition 16 looks for full highway design and construction details to be submitted as an approval of details specifically referencing the drawing of the access with the B6265 which also encompassed a footway / cycleway link (Appendix G). That drawing is also one of those covered by condition 13 above.
- 5.9. Condition 17 specified the two drawings with which the A1(M) dumbbell access roundabouts, accommodation structure, and associated slip roads were to be constructed. These two drawings again are also covered by condition 13 above.
- 5.10. The Inspector referenced the above three conditions as part of a group of conditions 13 to 22 as covering:
- “...a number of highway conditions to ensure appropriate design, construction, safety, and safety audits. It is also appropriate to preclude the use of the site for other purposes, in the event that it ceases to operate as an MSA, in order to maintain the integrity and the safe and efficient operation of the strategic road network” (Para 265 of his decision letter).
- 5.11. The current Parameters Plan (rev P13 of 11.07.23 – attached at Appendices C,E & F) that is now proposed for reference at Condition 5 varies the indicated height AOD of the eastern roundabout to 45.95m. The footnote has

been altered to “+/- 1 metre” (Appendix E). A number of additional drainage basins are indicated albeit annotated as being indicative and two are stated as being National Highways ones.

- 5.12. The higher roundabout means that the associated slip roads with the southbound carriageway are lengthened with maximum gradient of 6%. Similarly northbound slip roads have been lengthened to give a maximum gradient of 6%. The extensions take place within the extent of the highway boundary and hence comprise off-site highway works. The longest extension being 90-100m of the northbound joining slip road.
- 5.13. Abnormal load bays which originally were shown on slip road embankments to either side of the motorway, have now been deleted. The slip roads themselves have been straightened. The roadway into the site is now shown as being 6.5m wide rather than 5.3m. These changes affect a number of the drawings in terms of the wider detail shown on them, although the specific detail was only approved on a specific specified drawing.
- 5.14. It is also sought to vary wording in highway conditions 13 and 17. The words “based upon the indicative design”, rather than “as indicated” or “in strict accordance”, being proposed.

6.0. Relevant Site History

- 6.1. 18/00123/EIAMAJ – Outline application for proposed Motorway Service Area to the West side of the A1(M) with vehicular over bridge to and from southbound carriageway and partial diversion of the A168, including associated infrastructure and staff access from B6265. Appeal allowed 13.04.2021 (APP/E2734/W/20/3245778).
- 6.2. 23/00209/DISCON – Approval of details of an Archaeological Evaluation Written Scheme of Investigation under condition 25(a) of allowed planning permission 18/00123/EIAMAJ / APP/E2734/W/20/3245778. Granted 13.04.2023.
- 6.3. ZC23/01185/EIAMAJ Resubmission of permitted outline Motorway Service Area (planning permission 18/00123/EIAMAJ) varied by an extension in length to the proposed Motorway Service Area junction slip roads and an increase in the permissible height of the eastern dumbbell roundabout to between 44.95m AOD and 46.95m AOD, plus minor amendments to the indicative design of associated infrastructure and landscape works. Appeal lodged for non-determination.

7.0. Planning Policy and Guidance

- 7.1. 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

- 7.2. 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.
- 7.3. The relevant Adopted Development Plan for this proposal is the Harrogate District Local Plan 2014-2035.

Emerging Development Plan – Material Consideration

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

Guidance – Material Considerations

- 7.5. Relevant guidance for this application is:
- National Planning Policy Framework 2021
 - National Planning Practice Guidance
 - Department for Transport Circular 01/2022

8.0 Consultation Responses

- 8.1 The following consultation responses have been received and have been summarised below.

Parish Councils:

- 8.2 Kirby Hill and District Parish Council – Should be refused.
- 8.3 The applicant implies that the variations are of a minor nature whereas they would in our opinion cause significant additional harm to the local landscape. The increased height of the overbridge, potentially over two metres higher than that proposed in the outline application would create an intrusive steep sided mound that would be difficult to screen with trees.
- 8.4 We consider that the applicant is trying to dilute the conditions set by the inspector at the last public inquiry by changing the wording from “in strict accordance with the drawing” to “based on the indicative drawing”.
- 8.5 The context has changed significantly with the approval of services at Catterick. This wider picture, including improved provision of services on the A168 towards Thirsk, needs to be taken into consideration.
- 8.6 Boroughbridge Town Council – Object.
- 8.7 Site would be over developed. The height is inappropriate in the local area and is intrusive to the area. The use of additional land for the slip road impacts negatively on the local area. The proposed height of the eastern

dumbbell roundabout is inappropriate and intrusive. The development proposed makes the site overly obtrusive in the locality.

- 8.8 Langthorpe Parish Council – Object.
- 8.9 Inspector put 42 conditions on protect the environment on and around the site which were to allay the fears of the local population and to mitigate the concerns which they had raised. These conditions were considered important by residents and the Parish Council. Applicant trying to renege on these conditions by piecemeal seeking variations.
- 8.10 They are trying to remove the Inspector’s wording from ‘in strict accordance with the drawing’ to ‘based on an indicative drawing’ This is to enable them to make changes to the information which they supplied to the Inquiry.
- 8.11 They now wish to raise the height of the bridge, by over 2 metres, the embankments and to reduce the tree cover all of which have a detrimental effect on the appearance and landscaping.
- 8.12 They are proposing to leave the soil and sub soil on the site, the effect of this will be to raise the heights of the buildings, to increase the banking around the site and to reduce the burial of the site works, a feature which they relied on at the Inquiry. This will affect the appearance; landscaping; layout; and scale of the site.
- 8.13 They are also proposing a change to the drainage strategy, we specifically drew their attention to this at the Inquiry and were told that there was no problem. It now transpires that there was, and their solution is to make further changes to the landscape.
- 8.14 It is obvious that their intention, having done nothing for three years, is to dilute the Inspector’s decision letter without considering the effect on the environment, the landscape, or the appearance.
- 8.15 The removal of ‘in strict accordance with the drawing’ is a ruse to enable them to make significant changes to the scheme which they put before the Planning Inspectorate.
- 8.16 Marton Le Moor Parish Council – Object.
- 8.17 The proposed development is sufficiently different in many ways to that previously approved on appeal that in their opinion it should be regarded as a new application.
- 8.18 The new application increases the impact on the natural features of surrounding area. Light pollution from both the light sources at the site but also the strobing effect of vehicle lights at night as they drive over the bridge and in and out of the sight will radically alter the rural lightscape of the surrounding area. This will impact both wildlife and local residents in both Kirby Hill and Marton Le Moor.

- 8.19 Related to this, the new raised areas of the roundabout and motorway junction will create mounds which are wholly out of keeping with the surrounding, and raise the motorway bridge to a height which will dominate the scenery in a way which the previous design would not have done.
- 8.20 Drainage remains a problem from the previous application, with more surface water lagoons allowed for. This is not in keeping with the character of the area, and possibly a cause of environmental issues further down the line.
- 8.21 The appeal was allowed on the basis that a MSA between Wetherby and Durham was necessary. There is now full planning permission granted for a MSA at Catterick, substantial rest areas at Exelby and Leeming bar near Junction 51, and improved facilities on both sides of the A168 at Topcliffe serving A19 traffic to and from Teeside. Bearing all that in mind, another MSA at Kirby Hill seems completely unnecessary.
- 8.22 Skelton-cum-Newby Parish Council – Object.
- 8.23 Reference comments made on resubmitted outline application which are set out below.
- 8.24 The proposed development is sufficiently different in many ways to that previously approved on appeal that in their it should be regarded as a new application.
- 8.25 Current DfT statistics showing that whilst vehicle traffic has increased by 20 % since 2021, levels are still somewhere between 5-10% less than pre-Covid levels and traffic survey data supplied with the original application is no longer relevant or appropriate
- 8.26 New landscape of bridge and roundabout renders estimates of noise and lights pollution similarly void.
- 8.27 Increases the impact on the natural features of the Vale of York.
- 8.28 Supports the Environment Agency's original objection (now removed) re risks to groundwater pollution and site is located upon a principal aquifer
- 8.29 Would fuel storage tanks will be installed below the water table
- 8.30 New raised areas of the roundabout and motorway junction will create mounds which are wholly out of keeping with the surrounding, and raise the motorway bridge to a height which will dominate the scenery in a way which the previous design would not have done.
- 8.31 Drainage remains a problem with more surface water lagoons allowed for. This is not in keeping with the character of the area, and possibly environmental issues further down the line.

- 8.32 The 2019 application passed on appeal on the basis that a MSA between Wetherby and Durham was necessary. There is now full planning permission granted for a MSA at Catterick, substantial rest areas at Exelby and Leeming Bar near junction 51, and improved facilities on both sides of the A168 a Topcliffe serving A19 traffic to and from Teesside. Bearing all that in mind, another MSA at Kirby Hill seems entirely superfluous.
- 8.33 **Division Member(s):** Councillor Brown requested the application be considered by this committee because of the history of this site over 27 years and the widespread public interest.

Consultee:

- 8.34 **Landscape (NYC)** - No objection following receipt of additional information.
- 8.35 **Local Highway Authority (NYC)** – No objection
- 8.36 **National Highways** – After removing initial hold on the application, recommend conditions.

Local Representations

- 8.37 Objections: 113 authors (at the time of writing) raising the following matters:
- 8.38 Must be refused. Unlawful to application must be refused, because it would be unlawful for the LPA to approve under Section 73 changes to the operative part (description) of the existing outline planning permission. Extent of changes are substantial beyond the scope of a Section 73 variation application – not minor, as demonstrated by accompanying outline application.
- 8.39 Needs approval by the Planning Inspectorate. Description change not permissible.
- 8.40 Inspector justified compliance with the parameter plan.
- 8.41 Oppose flexibility of +/- 1 metre in contrast to measurements ‘to the nearest metre’ which have a maximum error of +/- 0.5 metres. Tweaks resulting in a completely different scheme.
- 8.42 Oppose change of wording of Conditions 13 and 17 from “as indicated on drawing” to “based upon the indicative design in drawing”.
- 8.43 Precedent for more change.
- 8.44 Unacceptable impact on local environment, landscape, character and visual harm.

- 8.45 Heightened bridge 6/7m higher than those existing adjacent, eastern roundabout 2.2/2.3.m higher with very steep sides making tree planting possible to embankment impossible.
- 8.46 Allerton Waste Disposal site shows planting of trees does not hide a structure.
- 8.47 Extended slip roads not acceptable.
- 8.48 B6265 access hazardous; requires a site inspection by elected members. Leads into a hedge, no public exclusion shown.
- 8.49 Frequent accidents / and lane closures on A1(M) will be increased by the additional entrances and exits.
- 8.50 Allows U turns permitting diverting traffic to clog up local roads around Boroughbridge and Ripon.
- 8.51 Increased noise, light and air pollution
- 8.52 More loss of vegetation. Lack of tree planting.
- 8.53 Nine rather than four attenuation basins, harmful to local landscape. Drainage issues a local concern, site on a principal aquifer.
- 8.54 Existing infrastructure will not cope
- 8.55 98,000 tonnes of soil retained on site through mounding which would be an alien feature that has had other MSA schemes dismissed.
- 8.56 Inspector said one MSA was needed between Wetherby and Durham; that has been provided at Catterick. New services also on A168. Too close to Wetherby.
- 8.57 Too close to housing; local environment damaged during construction
- 8.58 Increased local road traffic hazardous to pedestrians and cyclists.
- 8.59 Loss of high-quality agricultural land.
- 8.60 Destruction of wildlife habitat
- 8.61 Adversely affect the economy of Boroughbridge. Will attract local journeys from Boroughbridge
- 8.62 Will increase crime rates facilitated by the back entrance.
- 8.63 Harm outweighs perceived benefits; public interest v commercial interest.

- 8.64 Inspector decision erroneous due to be in taken during Covid lockdown. Deceived by incorrect plans.

9.0. Environment Impact Assessment (EIA)

- 9.1. The original application was submitted with an Environmental Statement (ES) which has been updated for this Section 73. That ES has been considered under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and the EIA procedures have been followed.
- 9.2. Prior to original application formal screening and scoping opinions were not sought by the applicant.
- 9.3. Appropriate consultation has been undertaken and likely significant effects and mitigation, or monitoring considered. Further consultation has taken place where relevant in respect of the Section 73 application. The Council considers that the ES information presented is up to date for the purposes and reasoned conclusions reached on the basis of the information submitted.
- 9.4. The ES covers the following detail topics:
- Agricultural land Use
 - Air Quality
 - Alternatives
 - Archaeology and Cultural Heritage
 - Construction Methods
 - Ecology and Nature Conservation
 - Landscape and Visual Impact
 - Noise and Vibration
 - Socio Economic Effects
 - Surface water and Flood Risk
 - Traffic and Transportation

10.0 Main Issues

- 10.1 The key considerations in the assessment of this application are:
- Principle of development
 - Changes in Motorway Service Area Provision
 - The eastern dumbbell roundabout
 - Landscaping
 - Extended southbound slip roads
 - Extent of variance of parameters
 - Varied terms of highway detail compliance
 - Other matters
 - Conditions

11.0 **ASSESSMENT**

Principle of Development

- 11.1 Outline planning permission is extant for a motorways service area with a reserved matters submission required by 13 April 2024.
- 11.2 The Planning Practice Guidance in its section ‘Flexible options for planning permissions’ provides advice on options for amending proposals that have planning permission.
- 11.3 The guidance notes that where new issues arise, after planning permission has been granted, that require modification of the approved proposals that should be done by a new planning application where the modifications are fundamental, or substantial. In other cases, two options exist;
- an application under Section 96A for a non-material amendment, which in practice is those cases not requiring any further consultation or consideration of any substantive time.
 - an application under Section 73, to amend the conditions including minor amendments.
- 11.4 A Section 73 application can neither change the time in which development may commence, nor a reserved matters application be made. Also, Section 73 cannot be used to change the description of the development.
- 11.5 The extant outline permission is described as being for a proposed Motorway Service Area to the West side of the A1(M) with vehicular over bridge to and from southbound carriageway and partial diversion of the A168, including associated infrastructure and staff access from B6265.
- 11.6 The changes sought do not alter that description of the operative development.
- 11.7 An accompanying annex to the Planning Practice Guidance sets out that a Section 73 application should be considered against the development plan, material considerations – which include the National Planning Policy Framework and any relevant Circular issued by Central Government .
- 11.8 The annex continues in advising;
- “Local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.”
- 11.9 The local development plan pertaining to the proposal is unchanged, however a revised National Planning Policy Framework was issued in July 2021 following the Inspectors decision. The revisions increased the focus on design quality, not only for sites individually but for places as a whole.

Terminology was firmed up on protecting and enhancing the environment and promoting a sustainable pattern of development. Revised policies included the important contribution of trees in new developments.

- 11.10 In terms of the development plan, two policies of the Harrogate District Local Plan were considered to by the Inspector to be most relevant – NE4: Landscape Character and Policy NE8: Protection of Agricultural Land (para 13 of his decision letter) . This Section 73 application does not vary the Inspectors judgement in terms of Agricultural Land and hence Policy NE4 is the most relevant.
- 11.11 If the Section 73 application is granted, a new permission for the development will ensue, to which conditions should be attached, restating those imposed on the early permission that continue to have effect. The time period for submission of a reserved matters application however would not be extended.

Changes in Motorway Service Area Provision

- 11.12 When the original application was considered, the Inspector was considering that in association with an alternative proposal at the A61 junction of the A1(M). He consequently had to determine whether there was need for a motorway service area between those existing at that time, Wetherby and Durham which are 60.8 mile apart (Para 58 of his decision letter).
- 11.13 The current guidance on motorway service area locations is contained in Department for Transport Circular 01/2022 'Strategic Road Network and the Delivery of Sustainable Development'. That replaced Circular 02/2013, which was in force when the Inspector made his decision. Both Circulars contain the same guidance on the spacing of motorway service areas. That is the maximum distance between signed motorway service areas should be 28 miles and that the distance between services can be shorter (paragraphs 76-77 of Circular 01/2022). Guidance prior to 2013 document had specified a minimum distance, which is no longer contained.
- 11.14 The provision of motorway services areas is solely focused on the motorway network. The provision, therefore, of the petrol filling station with retail kiosk, drive-thru restaurant and drive-thru coffee shop at the A168/A19 junction, nor the Coneygarth truck stop at Leeming Bar on the A1(M) do not form any part of the facilities that may be considered when assessing a proposed motorway service area.
- 11.15 A motorway service area has now opened at Catterick. That is c.37.5 miles from Wetherby and hence the size of the gap between motorway services areas still justifies the Inspector's decision to grant the outline planning permission. In doing so he noted (para 55 of his decision letter) the extant consent for a motorway service area upgrade of the Leeming Bar rest area. That is as a result of a technical commencement having implemented the consent in perpetuity. As a result of changes made in the upgrade of the A1 to motorway that Leeming Bar site is now 28.8 miles from Wetherby (para 54 of the Inspectors decision letter), exceeding the recommended distances set out in the Circulars guidance as noted in paragraph 11.13 above.

The Eastern Dumbbell Roundabout

11.16 The Inspector considered

“The junction infrastructure would be the most notable element, again with the loss of established vegetation to accommodate the works. Although some replacement planting would be feasible, the eastern-most dumbbell roundabout would be located atop a steeply graded embankment rising from the A168.” (Para 91 of his decision letter).

11.17 The request to raise the eastern roundabout is on the basis of complying with the national design standards set out in the Design Manual for Roads and Bridges, and hence meet National Highways’ requirements. It has been established a central pier cannot be use at this location. The consequence is the need to provide a single deck supported at the sides of the motorway, and of a height, 6.475m minimum clearance, required under current standards. The bridge would be around 0.5m higher than those of the existing overbridges to either side . That is complicated by the southern carriageway of the A1(M) being at a slightly higher level. Lights to the roundabout and its associated slip roads would be equivalently higher located. Certainly, however the bridge would not be 6 or 7 metres higher than those existing to either side of the site, as illustrated by the latest indicative design of the bridge.

11.18 That raised roundabout consequently steepens an already steep embankment alongside the realigned A168 which the Inspector considered was;

“Given the fleeting image on a route with fast moving traffic, and scope for planting adjacent to the lower carriageway level, I consider that the visual impact would not be of any material consequence” (para 93 of his decision letter) . He judged the height of the roundabout to be 6.7m above the A168.

11.19 The inspector did note the proposed new embankments, the dumbbell roundabout and the new overbridge would be the most noticeable elements in views (para 98 his decision letter) from further afield, notably from Kirby Hill.

11.20 Harrogate District Local Plan Policy NE4 ‘Landscape Character’ states;

‘Proposals that will protect, enhance or restore the landscape character of Harrogate district for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the district will be supported.’

11.21 In the justification to the policy its stated;

‘Larger developments which are likely to have a significant impact may require a landscape and visual impact assessment (LVIA). This would look at the potential landscape and visual impacts of a proposed development, including the effects of change that the development would be likely to have on the existing landscape, including its features and character, and on the

existing visual amenity that people in and around the development would be likely to experience.'

- 11.22 This application accompanied by a Landscape and Visual Assessment has an addendum with some illustrations updated to compare the consented scheme with the proposed. The heightened roundabout is discernible especially at year 0 in the viewpoint 8 from All Saints Church, Kirby Hill. On the basis of the Inspectors judgement the height of the roundabout above the A168 would now be between 6.85m and 8.85m as opposed to some 6.7m (para 93 of his decision letter).
- 11.23 In comparison to the already permitted scheme the change is however incremental and does not change the nature of the view or the magnitude to any significant extent over and above that permitted scheme. The bridge and its associated roundabout would be around 1 km from nearest parts of Kirby Hill with the Church slightly further distance. The angle of inclination in the view from that distance would be in the order of just 0.5 degrees. The resultant change would be negligible at that distance. There would be no material impact in terms of residential amenity, to which Harrogate District Local Lan Policy HP4 relates, over and above that of the existing permitted development.
- 11.24 The embankment in the permitted scheme would be too steep to plant. It would have been an engineered slope seeded with grass. That resulting from the proposal now being considered would substantially be the same.

Landscaping

- 11.25 Primarily a reserved matter to be fully considered in a separate application, it is noted the intent of planting of additional woodland block within the site boundary and below the eastern embankment will help to mitigate the impact over time (15-20 years) of the roundabout and slip roads earthworks between the motorway and the 'A' road. Greening would be provided by grass establishment on the embankment within the first 1-2 years.
- 11.26 That additional woodland block would have some benefits in landscape repair helping to break down the visual dominance and linearity of planting along the motorway corridor so supporting existing landscape pattern.
- 11.27 The detail of mounds shown on the current Parameters Plan reflects those that were shown on the Parameters' Plan approved by the Inspector. There is a balance to be struck on such matters. The limited extent of mounding was not opposed by the Inspector in comparison to previous schemes which have had 450m long lengths of mounding up to 9m high. The proposed moundings are comparable in height to the land beyond and would be assessed further through any reserved matters application for landscaping.
- 11.28 In that respect the quantum of soil that is seemingly no longer being removed from the site, that is explained as being an error in the original Environmental Statement. The quantum being extracted was referenced but that failed to consider properly the quantity needed to form the earthworks including those of the slip roads.

- 11.29 One matter that has caused additional local concern arising from the current Parameters Plan is the extent of surface water attenuation basins shown, albeit now marked as indicative in their location.
- 11.30 On-site water attenuation can often be appropriate in open basins which add to the ecological quality of a site provided no undue harm is caused in landscape terms. An alternative where there is a landscape issue, as could be the case in this instance, is to provide some of the attenuation by way of underground storage tanks.
- 11.31 Conditions 33 to 36 of the extant outline permission address matters of water supply and drainage require approval of details. Such an application, or applications, would be separate to any reserved matters applications, however they would be to some extent interrelated, with the landscape reserved matters including any drainage basins.

Extended slip roads

- 11.32 In addition to the heightened eastern roundabout the slip roads are decreased in their gradient to not exceed 6% and straightened out. This necessitates the lengthening the slip roads albeit within the extant highway boundary.
- 11.33 The longest extension is to the northbound entry slip, by 90-100m. The most southerly would be southbound entry slip road slightly beyond the 'B' road overbridge as narrow diminishing tapered widening of the carriageway for a distance of c.68m.
- 11.34 Given the reasonable extent of screening to the motorway and the very nature of the active movement associated with the motorway, the altered slip roads would not be harmful to interests of acknowledged importance.
- 11.35 The illustration of those slip roads appears on a number of drawings and not just those specified in the conditions as being relevant. So for example, the drawing of the rear access usefully illustrates the extended southerly slip roads (Appendix H) when compared to the drawing of the permitted scheme (Appendix G). A comparative masterplan has been provided, an extracts of which illustrates the change north and south of the proposed overbridge (Appendices I and J).
- 11.36 The proposal before the committee does include a notable improvement over the scheme considered by the inspector as wide load bays that were to be provided on two slip roads, one in either direction, have been removed from the scheme. Wide loads will now be accommodated within the motorway service area parking areas.

Extent of variance of parameters

- 11.37 The permitted Parameters Plan referenced measurements based on AOD levels which are indicative to the nearest metre (Appendix D). AOD levels

were given for various locations around the site as well as maximum heights of the buildings with both an upper and lower parameter.

- 11.38 The former Borough Council's approach of assessing the proposal to the full extent of the parameters was however dismissed by the Inspector. This was on the basis that such an approach effectively ignored the overall design concept and footprint parameters and exaggerated the reasonably likely worst-case effects (Para 67 of his decision letter) .
- 11.39 The Inspector commented on the Parameters Plan depicting the proposed scheme at the upper end of the development parameters, albeit based on modelled design principles aimed at integrating the buildings and related facilities into the landscape (Para 66 of his decision letter).
- 11.40 Neither the illustrative masterplan or the Design and Access Statement were, however, approved by the Inspectors list of planning conditions in terms of the matters he gave weight to in para 66.
- 11.41 A planning condition has to be precise so cannot refer to the "upper level" or "in general accordance with."
- 11.42 The parameters plan provides AOD levels at 15 locations across the site. The AOD levels shown on the new parameters plan (Appendix C) only differs from that approved by the Inspector (Appendix B) in respect of the height of the eastern dumbbell roundabout that is increased from 44.7m AOD to 45.95m AOD.
- 11.43 The AOD levels on the approved parameters plan were closely paralleled within 0.5m by the marking on the illustrative masterplan that the Inspector made reference to but there are a few exceptions as shown in the table below;

Location	Appeal approved parameters plan (AOD)m (to the nearest metre) (Appendices B & D)	Illustrative Masterplan considered by the inspector (AOD) m	Proposed parameters plan (AOD)m (+/- 1m) (Appendices C & E)
HGV fuel station (centre line)	41	41.5 immediately to the south of the centre line, fuel station exit 42	41
Coffee shop (centre line)	40	Not identified	40
Coach park - inset from south	39	38	39
Caravan parking (centre line)	38	Between 38.5 and 39	38
Car park – inset from north	37	Between 37.5 and 38	37

- 11.44 Consequently, in accepting the parameters were illustrated by the then submitted illustrative masterplan, the Inspector was considering the variable extent of the parameters to be +/- 1m, as most notably evident by the parking areas listed above.
- 11.45 The illustrative masterplan now under consideration accompanying this application does not include AOD levels. The relevance of that drawing in terms of the conditions is solely in terms of the realignment of the A168 and the agricultural access track beyond that which are unaltered. The drawing is however varied to conform with the other changes that have been made for consistency.
- 11.46 The Inspector did impose a condition (no.4) on the outline permission, beyond referring to the parameters, which placed a limit on the size of the amenity building to 500 sq.m. retail floor space and 100 sq.m. amusement arcade. Through condition 6 that building along with the HGV filling station and coffee shop are to have a 'green / living roof'.
- 11.47 As such it is the case that the actual scale and appearance of the proposal along with landscaping, layout and access, remain to be considered under a future reserved matters application and are not matters to consider here.
- 11.48 In varying condition 5 as applied for the reason given, a new permission would ensue for which the Local Planning Authority has to state a reason (on the list of planning conditions) and ensuring consistency with the submitted details would be necessary.

Varied terms of highway detail compliance

- 11.49 The highway conditions the Inspector attached were requested by the Local Highway Authority and Highways England.
- 11.50 Any details submitted under those conditions would be required to confirm to the appropriate guidance. They would consequently only be agreed if the requisite highway body were satisfied with those submitted.
- 11.51 Condition 13(a) is concerned with the detail of the rear access from the 'B' road, a responsibility of the Local Highway Authority, which are to be submitted with a reserved matters application. The detail shown on the approved rear access drawing (Appendix G), which would through this Section 73 application be replaced (Appendix H), is only relevant to the actual point of access. Full further details would be forthcoming with a reserved matters application. To change the wording from 'as indicated' to 'based upon the indicative design' has no major significance in terms of its requirement concerning the details to be shown for the reserved matter of access.
- 11.52 Separately the drawing now being considered of the rear access (Appendix G) indicates a shared cycleway/footway alongside the B6265 to Kirby Hill. That was referenced by the Inspector references in Condition 16(d), however the extant approved drawing only indicates a footway.

- 11.53 Conditions 13 (b) and 17 are concerned with slip roads, accommodation structure and the roundabouts. Those aspects are a responsibility today of National Highways. Condition 13(b) related to the details to be submitted with the reserved matters and condition 17 with their actual construction.
- 11.54 The changed wording from “strict accordance” to “based upon the indicative design” is not opposed by National Highways, who reference such wording in the conditions attached within their consultation response.
- 11.55 Both of those conditions along with Condition 16 are also varied to address the drawings now provided. Condition 16, being concerned with full details being provided through an approval of details application of the various technical detailed matters concerning the accesses and alterations to the public highways. It is noted that condition 16 does already reference in its requirements ‘based upon the indicative design’.
- 11.56 In terms of Condition 17, which relates to the actual construction, the proposed wording of the condition is however unenforceable. The intention is to carry out the construction in accordance with the details approved under the reserved matters (“condition 1”). This may require slight tweaking from those shown on the current drawing (“based upon the indicative design”). As a result it has been agreed that be reflected in the condition. As such, that can be achieved requiring strict accordance with the details approved at the reserved matters stage. Those are to be based on the currently shown design;

Construction of the A1(M) dumbbell access roundabout, accommodation structure, and associated slip roads, shall be carried out strictly in accordance with details approved under condition 1 above, and which are based upon the indicative design on drawing 210290-0000-015 Rev A dated 22.06.23 ‘Proposed MSA Motorway Access Works’.

- 11.57 The Local Planning Authority has to state a reason for the conditions. Those would be primarily to ensure an appropriate scheme is both formulated and constructed in the interests of highway safety.

Other matters

- 11.58 National Highways have raised no concerns over the safety of the additional slip roads to the motorway.
- 11.59 The Inspector’s decision letter also addressed a number of matters which fall outside of the scope of the terms of the consideration for this Section 73 application. They nevertheless have been raised in the representations and comments of the parish councils.
- 11.60 In terms off any impact on Boroughbridge, the Inspector observed, at para 210 his decision letter,

“As to the potential loss of trade to the ‘Local Services’ in Boroughbridge (signed at J48), it is conjecture that the proposal would

take trade away from the town. In this regard, MSAs have a specific purpose of meeting the needs of motorists, generally engaged in long distance travel with a tendency to seek directly accessible facilities. Whilst some motorists may prefer to meander from their journey, in order to explore a more distinctive alternative, there is nothing to suggest that a nearby MSA would change that behaviour to a material degree or cause harm to the economy of the town.”

11.61 There would be no conflict with Harrogate District Local Plan Policy T11 ‘Sustainable Transport’ (para 196 of his decision letter). The service entrance off the B6265 is at the location of a field access so already will have instances of slow-moving vehicles existing onto that ‘B’ road. The Local Highway Authority have no objections to the proposal. The Inspector observed (para 187 of his decision letter);

“...from the evidence available, there is nothing to suggest any cluster of accidents in terms of either location or cause. Indeed, it is to be noted, from ‘Crashmap’, that the only recorded incident (slight), a significant distance to the east of the proposed rear access, was in the vicinity of the B6265 overbridge and roundabout. Similarly, the three documented serious incidents, to the west, were logged beyond High Moor Road.”

11.62 The matter will be governed by the full details accompanying the reserved matters application for access, and also the outcomes of the stage 2 Safety Audit as required under the terms of condition 16. The drawing of the rear entrance now submitted for consideration (210290-0000-016 rev A dated 18/08/23) has been corrected to remove the erroneous located hedgerow.

11.63 The degree of harm resulting from the proposal was set out by the Inspector in his decision letter;

- some harm would be caused to the character, appearance and visual amenity of the area (para 245 of his decision letter) .
- the loss of the loss of best and most versatile agricultural land was a negative factor which carried moderate weight (para 246 of his decision letter).
- nothing counted against the proposal in respect of highway safety or local economy, nor in respect of drainage, flood risk and climate change (para 248 of his decision letter). The proposal would not conflict with Harrogate District Local Plan Policy CC1 ‘Flood Risk and Sustainable Drainage’ and would achieve appropriate energy efficiency measures under Policy CC4 ‘Sustainable Design’ (para 205 and 275 of his decision letter).
- a very minor adverse effect on the contribution of setting to the significance of two Listed Buildings amounted to ‘less than substantial harm’, having considered Harrogate District Local Plan Policy HP2 (para’s 213-217 and 249 of his decision letter).

11.64 The Inspector found that inward investment and employment opportunities merited substantial weight. Biodiversity gain carried moderate weight (para 250 of his decision letter). In doing so he assessed the relevance of

Harrogate District Local Plan Policies EC3 'New Employment Development in the Countryside', GS3 'Development Limits' and Policy GS5 'Supporting the Districts Economy' as well as the proposals compliance with Policy NE3 'Protecting the Local Environment', which offers general support for proposals that provide net gains in biodiversity. (paras 14-20, 212 and 232-233 of his decision letter).

- 11.65 The conduct of the Public Inquiry that was undertaken in strict accordance with set procedures for online appeal considerations, and which continue in use in some cases today.

Conditions

- 11.66 A Section 73 application, if permitted, results in a fresh permission for the development, albeit still subject to same implementation dates. Aside from incorporating the changes sought by the applicant, the permission should also include those from the original permission that continue to have effect and any new conditions which may be justifiable.
- 11.67 The only matter of detail that has been approved is the Archaeological Evaluation Written Scheme of Investigation under condition 25(a). The terms of condition 25 of the extant outline permission require;
- 'No development shall take place until both: (a) a scheme of Archaeological Investigation; and (b) a Written Scheme of Investigation for archaeological mitigation have been submitted to and approved in writing by the Local Planning Authority.'
- 11.68 Condition 26, followed on by stating what was to be covered by the scheme of archaeological investigation and both conditions 25(a) and 26 were addressed in the terms of condition 27;
- 'The Written Scheme of Investigation required under condition 25(b) shall be prepared subsequent to the implementation of the approved scheme of archaeological investigation in accordance with conditions 25(a) and 26 and shall include...'
- 11.69 Consequently, given the approval of the scheme of a scheme of Archaeological Investigation under application 23/00209/DISCON, conditions 25(a) and 26 today carry no effect.
- 11.70 Instead, the document that was approved under application 23/00209/DISCON should be addressed in the wording of condition 27, in place of referring to "conditions 25(a) and 26".
- 11.71 It is noted that the accompanying outline application has a set of new conditions have been recommended by Yorkshire Water. The terms of those are encompassed by the existing conditions with the exception that Yorkshire Water now require no discharge to the foul sewer before June 2026. In order therefore to ensure the new permission is currently up to date the wording of the foul drainage condition 34 should be expanded to include that prohibition. The existing condition 36 prohibits occupation prior to foul water drainage being completed.

- 11.72 As noted above in granting a permission the Local Planning Authority are required to give reasons for the conditions, a matter that on allowed planning appeals are not included in the conditions list.
- 11.73 Additionally the Environment Agency whilst not objecting to the accompanying resubmitted outline application, provide a set of information which could be incorporated in any permission.

12.0 PLANNING BALANCE AND CONCLUSION

- 12.1 Allowed on appeal, the site benefits from a permitted outline planning permission. The changes sought in the overall context of the development are minor and suitable for consideration by way of a Section 73 application.
- 12.2 The heightened eastern roundabout would be an incremental change that does not change the nature of the view, or the magnitude to any significant extent, over and above that of the permitted scheme. The longer slip roads are visibly part of the busy highway corridor and their impact consequently not overly material in the development as a whole.
- 12.3 The changed footnote to the parameters plan has been demonstrated to accord with the extent of judgement Inspector gave to the degree of variance permissible in the stated AOD heights.
- 12.4 A beneficial change arises in the removal of the wide load bays from the slip roads.
- 12.5 Changed wording to the conditions would not adversely affect the consideration of the requisite details.
- 12.6 Matters of detail concerning access, appearance, landscaping, layout and scale would be assessed under a separate reserved matters application, to be considered at a future date.
- 12.7 The necessity for the development remains and there are no substantive grounds on which to reject this Section 73 variation of an outline permission allowed on appeal.

13.0 RECOMMENDATION

- 13.1 That this section 73 application be granted,

Recommended conditions:**Reserved matters**

1. No development shall take place without the prior written approval of the Local Planning Authority of all details of the following reserved matters:

- (a) access;
- (b) appearance;
- (c) landscaping;
- (d) layout; and
- (e) scale.

Thereafter the development shall not be carried out otherwise than in strict accordance with the approved details.

Reason : This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority, and as required by Section 92 of the Town and Country Planning Act 1990.

2. Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than 13.04.2024. The development hereby permitted shall be begun on or before the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To ensure compliance with section 92 of the Town and Country Planning Act 1990.

Use and floor space

3. No more than one room within the MSA shall be made available for the purposes of holding conferences or undertaking training, including use by the public. The room set aside for such purposes shall have a capacity to seat no more than 15 persons at any one time.

Reason: To provide certainty over scale and content of the development.

4. The amenity building shall contain no more than 500m² of retail floor space as defined by Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and not more than 100m² of adult amusement arcade floor space shall be made available to the public.

Reason: To provide certainty over scale and content of the development.

Parameters

5. The details to be submitted under condition 1 above shall accord within the parameters identified on the Parameters Plan AFL-00-00-DR-A-00120 rev P13 dated 11.07.23 and the ground levels and the heights and internal floorspaces of the proposed buildings shall not exceed those specified.

Reason: To ensure consistence with the submitted details.

Appearance

6. The details of appearance to be submitted under condition 1 above shall provide for a 'green / living roof' on the main amenity building, HGV Fuel Filling Station and Drive Through Coffee Shop consistent with the principles illustrated within Section 4.0 of the submitted Design and Access Statement (dated July 2017).

Reason: To ensure overall site cohesiveness.

7. Before the first use of any materials in the external construction of the roof and walls of the development hereby approved, samples of those materials shall have been made available for inspection by, and the written approval of, the Local Planning Authority and the development shall be carried out in strict accordance with the approved details.

Reason: In order to ensure that the materials used conform to the amenity requirements of the locality.

Landscaping

8. The details of landscaping to be submitted under condition 1 above shall include full details of:

(a) excavations;

(b) ground modelling (including existing and proposed contours);

(c) any retaining walls and structures;

(d) means of enclosure;

(e) all hard landscaping;

(f) minor artefacts and structures;

(g) the extent of the existing trees and hedgerows on the land and details of those to be retained; and

(h) soft landscaping, including the types and species, a programme of planting, and cultivation proposals.

Thereafter the development shall be carried out in accordance with the approved details.

Reason: To ensure the provision of a comprehensive landscaping scheme in the interests of amenity.

9. No operations shall commence on site in relation to the landscaping plan approved in accordance with condition 1 until a detailed scheme for sustainable tree planting has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate underground systems and provide a sufficient area of growth medium for long term tree growth where tree development is compromised by hard landscaping such as footways, highways, car park areas

and structures (if there is hardstanding on more than one side of proposed tree planting then underground systems are to be implemented).

Reason: To ensure an appropriate environment for tree growth.

10. All planting, seeding or turfing comprised in the approved details of landscaping under condition 1 shall be carried out not later than the first planting and seeding seasons following occupation of the buildings or completion of the development whichever is the sooner and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the provision of the landscaping scheme and measures to mitigate any deceased planting.

11. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use until a secure boundary fence has been erected in accordance with a scheme submitted to, and approved in writing by, the Local Planning Authority. The approved fencing scheme shall be retained for the duration of the use of the site.

Reason: To ensure a secure environment and to maintain the integrity and the safe and efficient operation of the strategic road network

Ecology

12. Prior to the first occupation of any building of the Motorway Service Area hereby approved an Ecological Mitigation and Enhancement Scheme including details of native tree, shrub and wildflower planting, and provision of bat bricks and bird boxes/bricks shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include arrangements for the provision for long term management and maintenance of biodiversity on the site. The Ecological Mitigation and Enhancement Scheme shall be implemented in strict accordance with the approved timescales and thereafter retained.

Reason: To provide ecological mitigation and improvements

Highways

13. The details of access required by condition 1 above shall provide for:

- (a) the 'rear access' from the B6265 based upon the indicative design on drawing 210290-0000-016 rev A dated 18.08.23;
- (b) the accesses from and to the A1(M) comprising the dumbbell access roundabout, accommodation structure, and associated slip roads based upon the indicative design on drawing 210290-0000-015 Rev A dated 22.06.23 'Proposed MSA Motorway Access Works';
- (c) the realignment of the A168 including works to the A168 / B6265 roundabout and the agricultural access track to the east of that realigned highway as indicated on drawing AFL-00-00-DR-A-00101 rev P12 dated 22.06.23);

- (d) the field access shown on drawings 210290-0000-015 Rev A dated 22.06.23 and AFL-00-00-DR-A-00101 rev P12 dated 22.06.23;
- (e) internal access roads;
- (f) parking areas for 364 cars (of which 17 shall be disabled spaces), 90 HGVs, 20 motorcycles, 18 coaches, 10 staff cars (of which 3 shall be disabled spaces), 12 caravans (of which 2 shall be disabled spaces) and a staff drop off area;
- (g) servicing, turning and manoeuvring areas; and
- (h) footways, pedestrian areas and cycling provision, including the extension of the existing footway in Kirby Hill from its northernmost point to connect to the 'rear access', and including any modifications arising from the further conditions of this permission.

All shall be retained for the lifetime of the development.

Reason: To ensure the development is appropriate in terms of highway safety and makes adequate accommodation and servicing for the facilities provided.

14. No part of the development shall be open for public use until the related areas of access to be used in connection with that part are available for use. Once constructed, these areas of access shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason: In the interests of amenity and public safety.

15. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site, until the construction of the 'rear access' to a standard appropriate for all uses including construction traffic has been constructed in accordance with the details approved in writing by the Local Planning Authority under condition 1.

Reason: In the interests of the safety and convenience of highway users.

16. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until the following have been submitted to and approved in writing by the Local Planning Authority and the reserved matters application for access has been approved in respect of the details:

(a) the design and construction details of the method by which the proposed development interfaces with the existing A1(M) highway alignment, carriageway markings and lane destinations; the carriageway widening, together with any modifications to existing or proposed structures, with supporting analysis; traffic signing, highway lighting and alterations and modifications to motorway communications and traffic data collection equipment, and the provision of written confirmation of full compliance with current Departmental standards (DMRB) and policies;

(b) the full design and construction details for the realignment of the A168 north of the B6265 roundabout including the realignment of the roundabout entry and exit;

(c) the full design and construction details of the 'rear access' to a standard appropriate for all uses including construction traffic based upon indicative design on drawing 210290-0000-016 rev A dated 18.08.23;

(d) the full design and construction details of the extension of the existing footway in Kirby Hill from its northernmost point to connect to the rear access including all necessary crossings works to provide a continuous footway cycleway link at the roundabout based upon the indicative design on drawing 210290-0000-016 dated 14.03.23;

(e) a programme for the completion of all of the above proposed works including proposals for maintaining the flow of traffic on the A168; and

(f) an independent Stage 2 Safety Audit has been carried out in accordance with GG119 – Road Safety Audit or any superseding regulations and the design amended in accordance with the findings of the Audit, have been submitted to and approved in writing by the Local Planning Authority and the reserved matters application for access has been approved in respect of those details.

The works shall be constructed in accordance with the approved details and programme and shall be fully opened to traffic prior to the opening of the site.

Reason: To ensure the development is designed and constructed appropriately in terms of highway safety.

17. Construction of the A1(M) dumbbell access roundabout, accommodation structure, and associated slip roads solely (and no other development indicated therein) shall be carried out strictly in accordance with details approved under condition 1 above and which are based upon the indicative design on drawing 210290-0000-015 Rev A dated 22.06.23 'Proposed MSA Motorway Access Works' . Reason: To protect and maintain the functionality, operation and safety of the A1(M) once the development is operational.

18. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use prior to the completion and opening for public use of all the highway works referenced in conditions 16 and 17 above together with the provision of the agricultural access from the A168 / B6265 roundabout and the agricultural track parallel to the realigned A168.

Reason: In the interests of the safety and convenience of highway users.

19. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use until measures to restrict the 'rear access' to the site from the B6265 to use only by staff, prearranged deliveries and the emergency services has been submitted to and approved in writing by the Local Planning Authority and implemented. The measures shall be retained operational and in full working order for the duration of the use of the site.

Reason: In the interests of the safety and convenience of highway users.

20. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use until:

(a) a signing agreement with Highways England for the A1(M) motorway is in place and direction signing for the Motorway Service Area from and to the A1(M) has been

provided in accordance with that agreement. At any time a signing agreement is not in place no part of the development shall be open for use by users of the A1(M) motorway; and

(b) a Stage 3 (completion of construction) Road Safety Audit has been carried out in accordance with DMRB HD19/15, and submitted to and approved in writing by the Local Planning Authority and any amendments to the works on site have been implemented.

Reason: To ensure the facility is adequately sign posted.

21. A Stage 4 monitoring Road Safety Audit shall be carried out using 12 months and 36 months of accident data from the time the relevant schemes of works set out in Conditions 13, 16 and 17 become operational. The Audits shall be carried out in accordance with DMRB HD19/15 and shall be submitted to and approved in writing by the Local Planning Authority. Where necessary the amendments to the highway networks shall be implemented in accordance with a programme submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

22. In the event that the implemented Motorway Service Area development hereby approved ceases to operate, the site shall not be used for any other purpose. All accesses to the A1(M) shall be removed and the former A1(M) features and highway boundaries restored in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the rights of control by the Local Planning Authority and to maintain the integrity and the safe and efficient operation of the strategic road network

Construction Management Plan

23. No construction of the development hereby approved nor any site preparation or access works shall commence until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. Development shall be undertaken in strict accordance with the approved Construction Management Plan and a copy or copies shall be retained on site for access by site operatives at all times. The Plan shall:

(i) include a Construction Traffic Management Plan based upon the submitted Draft Construction Management Plan;

(ii) highlight environmental impacts resulting from the development and identify sensitive receptors to the construction team;

(iii) reduce and manage environmental impacts through appropriate construction methods and by implementing environmental best practice during the construction period, for example with regard to dust mitigation;

(iv) undertake on-going monitoring and assessment during construction to ensure environmental objectives are achieved;

(v) provide emergency procedures to protect against environmental damage;

- (vi) provide an environmental management structure for the construction stage;
- (vii) recommend mechanisms to reduce risks of environmental damage occurring;
and
- (viii) provide for consultation and liaison with relevant bodies throughout the works as required including, as appropriate, the Environment Agency, Natural England, North Yorkshire County Council, Harrogate Borough Council and other stakeholders including the public.

It shall also include arrangements for the following:

- (a) details of any temporary construction access to the site including measures for removal following completion of construction works;
- (b) any temporary or permanent restrictions on the use of accesses 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 visitors' vehicles;
- (e) areas for storage of plant and materials used in constructing the development clear of the highway;
- (f) the management of deliveries of materials and plant to the site; the management of removal of materials and plant from the site; and the related unloading and loading areas;
- (g) details of proposals for routing by HGV construction traffic away from unsuitable highways within a 16 Km radius of the site and highway condition surveys on the B6265 between the 'rear access' and the A168 roundabout;
- (h) protection of carriageway and footway users at all times during construction;
- (i) protection of contractors working adjacent to the highway;
- (j) details of site working hours;
- (k) erection and maintenance of hoardings, security fencing and scaffolding on/over the footway and carriageway;
- (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) there shall 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 construction works;

(p) details of the precautions that are to be taken to avoid harm to nesting birds, terrestrial mammals and amphibians;

(q) details of the measures to be taken for the protection of trees in accordance with the recommendations of the JCA Tree Report ref 13543a/SR including a protective barrier in accordance with BS5387:2012 to Root Protection Areas;

(r) a Soil Resource and Management Plan produced in accordance with the Department for Environment, Food and Rural Affairs Construction code of practice for the sustainable use of soils on construction sites (2009);

(s) the implementation of the protective barrier around all trees and shrubs that are to be retained and for the entire area as specified in accordance with BS 5837:2012 together with ground protection detail (no dig) before any development, site preparations or access works commence on site;

(t) the level of land within the areas contained by the protective barriers not being altered;

(u) details of all construction-related external lighting equipment;

(v) details of ditches to be piped during the construction phases;

(w) detailed drawings showing how surface water will be managed during the construction phases;

(x) a detailed method statement and programme for the building works; and

(y) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: To protect and maintain the functionality, operation, and safety of the A1(M) during the construction of the development, in the interest of public safety, amenity and flood prevention and to ensure that harm to protected species and to retained vegetation and habitats is avoided during site preparation and construction.

Lighting

24 . The details of layout to be submitted under condition 1 above shall include an external lighting scheme. The lighting scheme shall:

(a) provide detailed specification of the luminaires to be used including location of the luminaires;

(b) detail the levels of average maintained illuminance that will be provided to different areas of the site, which should be generally in accordance with table 4.1 Indicative Lighting Criteria detailed in Appendix 4.1 of the submitted Environmental Statement dated July 2017;

(c) detail the environmental impact of the proposed lighting (i.e. light trespass and source intensity at residential receptors) which shall not exceed the criteria for ILP

Environmental Zone E2 (post curfew) as detailed in part 2.3 of Appendix 4 of the submitted Environmental Statement dated July 2017

(d) take into account up to date advice from Natural England (and/or equivalent bodies) on the siting and illuminance of lights. The lighting shall be installed in accordance with the approved scheme and retained thereafter.

Reason: To minimise impacts on the night sky and wildlife.

Archaeology

25. No development shall take place until a Written Scheme of Investigation for archaeological mitigation have been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is of archaeological interest.

26. Omitted

27. The Written Scheme of Investigation required under condition 25 shall be prepared subsequent to the implementation of the AOC Archaeology Group Archaeological Evaluation (AOC Project No. 53063) dated 3 March 2023 and shall include:

(a) an assessment of significance and research questions;

(b) the programme and methodology of site investigation and recording;

(c) the programme for post-investigation assessment;

(d) provision to be made for analysis of the site investigation and recording;

(e) provision to be made for publication and dissemination of the analysis and records of the site investigation;

(f) provision to be made for archive deposition of the analysis and records of the site investigation; and

(g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation. Development shall take place in strict accordance with the approved Written Scheme of Investigation.

Reason: The site is of archaeological interest.

Ground Investigations

28. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use prior to the completion of the site investigation and post-investigation assessment in accordance with the programme set out in the Written Scheme of Investigation approved under condition 25 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: The site is of archaeological interest.

Contamination

29. In the event that contamination is found at any time when carrying out the approved development that was not previously identified:

(a) a report in writing shall be made immediately to the Local Planning Authority; and

(b) an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority.

Reason (also for 30-32 below): 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.

30. Where remediation is necessary, a remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority.

31. Any such approved remediation scheme shall be carried out in strict accordance with its terms prior to the re-commencement of development, unless otherwise approved in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

32. Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Water Supplies

33. Development shall not commence until a scheme of water supply for the development has been submitted to and approved in writing by the Local Planning Authority. No buildings shall be occupied or brought into use prior to completion of the approved water supply works, which shall thereafter be retained.

Reason: In the interest of public health and to protect the strategic water supply .

Drainage

34. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The foul water pumped rate shall not exceed 6 litres a second and no piped discharge of foul water shall take place prior to June 2026.

Reason: In the interest of satisfactory and sustainable drainage.

35. Prior to the commencement of any soil stripping or foundation works to any of the buildings, except for investigative works, drawings showing details of the proposed surface water drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the

development, shall not discharge to the existing local public sewerage system and will include:

(a) a drainage system designed with sufficient on site attenuation so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, nor any flooding for a 1 in 100 year rainfall event in any part of a building (including a basement) or in any utility plant susceptible to water (e.g. pumping station or electricity substation) within the development, except within an area that is designed to hold and/or convey water. The design shall also ensure that storm water resulting from a 1 in 100 year rainfall event, plus an allowance of 40% to account for climate change, can be stored on the site without risk to people or property and without increasing flood risk off site. Due to the relatively low percolation figures a further factor of safety should be incorporated into the on-site attenuation requirements;

(b) full hydraulic calculations for the proposed surface water drainage design;

(c) proposed control measures to manage pollution from all areas of vehicle parking and hard standing areas, including from the forecourt of filling stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergents are likely to be used;

(d) an exceedance flood routing plan which shall demonstrate where flooding could potentially occur if the designed drainage systems were to be exceeded or fail for any reason including rainfall in excess of the 1 in 100 year event. The routing map should indicate direction of flood flows, highlighting areas that could flood and to what depth. The plan shall demonstrate that exceedance flows will not cause risk or flooding to property/people on or off site; and

(e) 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. No piped discharge of surface water from the application site shall take place until the approved works to provide a satisfactory outfall has been completed.

Reason: To ensure that the site is properly drained for the lifetime of the development and in order to prevent overloading.

36. Prior to the commencement of the development hereby approved details of a scheme for foul water drainage shall be submitted to and approved by the Local Planning Authority in writing. No buildings shall be occupied or brought into use prior to completion of the approved scheme for foul water drainage, which shall thereafter be retained.

Reason: : In the interest of satisfactory and sustainable drainage.

Storage

37. The details to be submitted under condition 1 above shall provide for full details of waste storage facilities and undercover secure cycle parking. The facilities shall be provided in strict accordance with the approved details prior to the first occupation

of any of the buildings of the Motorway Service Area hereby approved and thereafter retained as such.

Reason: In the interests of amenity and security.

Travel Plan

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

Reason: To encourage alternative means of transport.

Local Liaison Group

39. Prior to the commencement of the development hereby approved details of a Local Liaison Group to be established, including proposed membership and ongoing facilitating arrangements, shall be submitted to and approved by the Local Planning Authority in writing. The first meeting shall be arranged prior to the date of commencement of construction of the development. Subsequent meetings shall be arranged at three-monthly intervals during the construction phase and thereafter six-monthly intervals, or such other time period as agreed by the Local Planning Authority.

Reason: To ensure the local community has the opportunity to be heard and represented.

Sustainability

40. No development of buildings shall take place until a Design Stage Certificate issued by BRE has been submitted to and approved in writing by the Local Planning Authority. The development shall meet BREEAM 'very good' or higher. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To safeguard the environment and mitigate climate change

41. A Post Construction Stage Certificate issued by BRE for the development shall be submitted for the approval in writing of the Local Planning Authority within 3 months of the first occupation of the development.

Reason: To safeguard the environment and mitigate climate change.

42. Prior to the first occupation of any building of the development hereby approved, an electric vehicle (EV) charging scheme shall be installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, 10 rapid EV charging points. The EV

charging apparatus shall thereafter be retained in an operative state until superseded by any advanced technology.

Reason: To ensure provision is made for alternative means of transport.

INFORMATIVES

1. The Environment Agency refer the applicant to their groundwater position statements contained in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Drainage

2. The Environment Agency advise good practice should be followed in the location, design, construction and maintenance of petrol stations and other fuel dispensing facilities. Due regard should be given to 'The Environment Agency's approach to groundwater protection' document, in particular the position statements and guidance in the section on the storage of pollutants (chapter D). Reference should be made to the following pollution prevention and mitigation guidance

- Guidance on Environmental Management at Petrol Filling Stations – Energy Institute
- Design, construction, maintenance and decommissioning of filling stations (also known as the Blue Book (APEA/EI) – Energy Institute – 2011
- Groundwater Protection Code – Petrol stations and other fuel dispensing facilities involving underground storage tanks – Defra Code of Practice
- CIRIA C736: Design of Containment Systems for the Prevention of Water Pollution

The Blue Book provides detailed information on the decommissioning (and investigation) of redundant tanks, risk assessment, the design and construction criteria and maintenance procedures which the Environment Agency expect to be implemented.

Target Determination Date: 12 September 2023

Case Officer: Mike Parkes
Mike.parkes@northyorks.gov.uk

APPENDICES

Appendix A	Inspector appeal decision letter. 'Appeal A' relates to this Section 73 application. 'Appeal B' concerns a, dismissed, proposal for a Motorway Service Area at the A1(M)/A61 junction, to which paragraphs 2, 30-41, 114-145, 147-177, 220, 229 and 277 specifically relate.	39
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Appeal Decisions

Inquiry Opened on 16 February

2021 Site visits made on 22

March 2021 by **David M H**

Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th April 2021

APPEAL A: (The proposed Vale of York Motorway Service Area (MSA)) Appeal Ref: APP/E2734/W/20/3245778 Land Comprising OS Field 3300 Marton Le Moor YO51 9DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Applegreen Plc against the decision of Harrogate Borough Council.
- The application reference 18/00123/EIAMAJ, dated 10 January 2018, was refused by notice dated 22 November 2019.
- The development proposed is: 'Outline application for proposed Motorway Service Area to the West side of the A1(M) with vehicular over bridge to and from southbound carriageway and partial diversion of the A168, including associated infrastructure and staff access from B6265'.

APPEAL B: (The proposed Ripon Motorway Service Area (MSA)) Appeal Ref: APP/E2734/W/20/3261729 Land Comprising Field At 435074 475842 Hutton Conyers North Yorkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission (access and layout not reserved).
- The appeal is made by Moto Hospitality Limited against the decision of Harrogate Borough Council.
- The application reference 18/02713/EIAMAJ, dated 5 July 2018, was refused by notice dated 9 October 2020.
- The development proposed is: 'Construction of new Motorway Service Area ("MSA") to comprise: Amenity Building, Lodge, Drive Thru Coffee Unit, associated car, coach, motorcycle, caravan, HGV and abnormal load parking and a Fuel Filling Station with retail shop, together with alterations to the adjacent roundabout at Junction 50 of the A1(M) to form an access point and works to the local highway network. Provision of landscaping, signage, infrastructure and ancillary works'.

Decision (Appeal A)

1. The appeal is allowed and planning permission is granted for an 'Outline application for proposed Motorway Service Area to the West side of the A1(M) with vehicular over bridge to and from southbound carriageway and partial diversion of the A168, including associated infrastructure and staff access from B6265' at Land Comprising OS Field 3300 Marton Le Moor YO51 9DP in accordance with the terms of the application, reference 18/00123/EIAMAJ, dated 10 January 2018 subject to the conditions (1 – 42) set out in Annex A to this decision.
-

Decision (Appeal B)

2. The appeal is dismissed.

Preliminary matters (General)**The Inquiry**

3. The Inquiry sat for 14 days on 16 – 19 February; 22 - 26 February; 2 - 5 March; and 11 March 2021. A number of local residents spoke during the Inquiry, mainly during an evening session on the first day of the Inquiry.
4. I carried out unaccompanied site visits, following agreed itineraries to specific and representative viewpoints, including night-time views, on 22 March 2021.
5. Formal evidence was presented on landscape and visual impacts; agricultural land quality; and planning policy and the planning balance. A 'round-table' discussion was held on the need or otherwise for an additional Motorway Service Area (MSA); and on draft planning conditions and obligations. All other matters took the form of written statements.

Context

6. In 2012 the Secretary of State issued decisions (the 2012 appeal decisions) on proposals for four competing MSAs, and a Truck Stop Service Area (referred to as Coneygarth Truck Stop, Leeming Bar), which took a wide range of factors into account in determining the most suitable site for an additional MSA along the A1/A1(M).
7. Three of the decisions are of particular relevance to the current appeals.

First, the Secretary of State found that the twin-sided on-line MSA at Kirby Hill¹ (corresponding generally with the location of the current Applegreen Vale of York MSA proposal) had the following disadvantages:

'..... the fact that it is only just above 12 miles north of the fully operational Wetherby MSA weighs against it, as do the material considerations that it would have the greatest visual, environmental and heritage impacts as well as the greatest take of BMV² land. Furthermore, the need to resolve the drainage issue means the likelihood of some delay in commencing work'.

8. Second, a site at Baldersby Gate³ (corresponding generally with the location of the current Moto Ripon MSA proposal), located on the western quadrant of the A1(M) and A61 near the midpoint between, what were, existing services at Wetherby to the south and Barton to the north. The Secretary of State attached significant weight to this central location but noted that the proposal would be constructed in open country on a green field site, taking best and most versatile agricultural land and causing some visual impact, and it would not be in accordance with the development plan. He disagreed with the principal Inspector's⁴ recommendation to allow this proposal in light of a preference for a third site which is summarised below.
9. Third, the principal Inspector's report identified the proposal at the then existing Motel Leeming Services to be disadvantaged by its off-centre, and relatively remote location from the motorway (having been by-passed by the upgrade of the A1 to motorway standard), and that it would fall short of meeting the identified need for an additional MSA. However, the Secretary of State found advantage in the lack of encroachment into the countryside, no loss of agricultural land and deliverability which, overall, amounted to sustainable development and compliance with the development plan.
10. The Secretary of State therefore granted outline planning permission for a MSA at Motel Leeming Services and refused the other three MSA proposals.
11. The Leeming Bar permission, following the approval of reserved matters, has been implemented by nominal works. However, Leeming Bar remains as a signed Motorway Rest Area (MRA) with limited, poor quality, facilities.
12. For the avoidance of doubt, both the current Vale of York MSA proposal, in particular, and the Ripon MSA project are materially

¹ Submitted in December 2008 ('the 2008 application')

² Best and Most Versatile

³ Submitted in June 2010 ('the 2010 application')

⁴ The original Inquiry was re-opened by a second Inspector and two reports were submitted to the Secretary of State (the principal Inspector and the second Inspector)

different to those that preceded them, notably in terms of illustrative layout and design. Also, the decisions of the Secretary of State, having regard to the Inspectors' reports, have to be read as a whole.

The Development Plan: The Harrogate District Local Plan (Adopted 2020)

13. The All Party Statement of Common Ground identifies some 20 policies that are relevant to the consideration of the proposals. The policies most relevant to the main issues are Policy NE4: Landscape Character and Policy NE8: Protection of Agricultural Land.
14. Reference was also made to Policy EC3: New Employment Development in the Countryside and Policy GS3: Development Limits. Other policies applicable to the main issues considered by written representations are noted subsequently where they are germane to those issues.
15. The applicability or otherwise of Policies EC3 and GS3 to MSA proposals was in dispute.
16. Policy EC3 indicates that new employment development will be permitted in the open countryside where a number of criteria are met including, in short, the re-use or adaptation of an existing building or small-scale new building which is well related to a rural settlement.
17. Although the interpretation of this policy was somewhat wide-ranging, in my view, on its face, the policy is aimed at modest projects for rural diversification. Although both of the appeal proposals would provide considerable new employment in the countryside, the primary function of a MSA is to support the welfare and safety of motorists and employment generation is an incidental consequence. In my view, EC3 is not a relevant policy.
18. Policy GS3, in general, identifies where new development will be accepted and indicates that '*Outside development limits proposals for new development will only be supported where expressly permitted by other policies of this plan or a neighbourhood plan or national planning policy*'.
19. In my view, Policy GS3 is very much aligned to the provision of new homes and jobs whilst protecting the character and appearance of the countryside. It would be difficult to conceive of a situation where a MSA could be accommodated within the limits of any settlement in the district given that the A1(M) cuts through open countryside.
20. To the extent that the phrase '*Outside development limits*' might be engaged, it is evident that neither the development plan, a neighbourhood plan (where there is none), or national planning policy expressly permit either of the proposed MSAs. In these

circumstances, absent specific endorsement, the proposals are to be considered on merit having regard to all material considerations and the fundamental objective, for example, of safeguarding the character and appearance of the countryside.

Preliminary matters (Appeal A)

Reasons for refusal and the Council's Statement of Case

21. The Council refused planning permission citing 6 reasons:-
- 1) *'The site is not allocated for a Motorway Service Area in either the 2001 Harrogate District Local Plan or the emerging Harrogate District Local Plan.*
 - 2) *The proposal would result in a second Motorway Service Area in the District contrary to Saved Local Plan Policy T7.*
 - 3) *The proposal represents an unsustainable development that would result in a significant encroachment into open countryside resulting in harm to the landscape and irreversible damage to agricultural land of the best and most versatile in conflict with Saved Policies C2 and T7 of the 2001 Harrogate District Local Plan, Policy SG4 of the Harrogate District Core Strategy Development Plan Document and Policies NE4 and NE8 of the emerging Harrogate District Local Plan.*
 - 4) *The proposed Motorway Service Area would cause economic harm to the town of Boroughbridge through the resultant loss of trade in conflict with Policy JB1 of the Harrogate District Core Strategy Development Plan Document and Policy GS5 of the emerging Harrogate District Local Plan.*
 - 5) *The development has a potential risk of environmental damage arising due to drainage and surface water issues contrary to Policy EQ1 of the Harrogate District Core Strategy Development Plan Document and Policy CC1 of the emerging Harrogate District Local Plan.*
 - 6) *The harm resulting from the proposed development would outweigh the benefits of the proposed Motorway Service Area contrary to paragraph 11 of the National Planning Policy Framework.'*
22. The Council, in its Statement of Case, confirmed that reasons 1, 2, 4 and 5 would not form part of its case as the 2001 Local Plan had been replaced; there was no evidence of adverse effects on the town of Boroughbridge; and statutory authorities had not raised objections in relation to drainage or surface water issues. In addition, references to Saved Policies in reason for refusal 3 were similarly superseded.
23. In short, the Council approached the appeal on the principal basis that the harm to the landscape, and the loss of best and most versatile agricultural land, would *'significantly and demonstrably outweigh the benefits particularly so when taking into account the existing service area at Wetherby at only 12 miles away from the site'*.
24. Nonetheless, Kirby Hill Residents Against Motorway Services (RAMS), a Rule 6(6) Party, representing the views of the local community and those of seven local councils, aligned itself with all of the reasons for refusal and presented evidence and written statements as applicable.

The appeal proposal

25. The Vale of York MSA, between Junctions 48 and 49 (J48 and J49) of the A1(M) is a proposed on-line service area with facilities and vehicle parking located on the western side of the A1(M). It is intended to serve both directions of travel on the motorway by means of a new junction with slip roads and an overbridge. The slip roads and junction arrangement serving traffic would necessitate a realignment of the existing A168 in an easterly direction.
26. The application was made in outline with approval sought for means of access. However, this matter was reinstated during the consideration of the application and the appeal is to be considered with all matters reserved for later approval. The area of the site was also reduced from 19.84 hectares (ha) to 19.1ha prior to determination of the application.
27. The application was supported by an illustrative masterplan and parameters plan, with the latter being consistent with the masterplan and defining the scope of the development for which planning permission was sought. The illustrative masterplan depicts the proposed development at the upper end of the range based on an illustrative design, with the proposed buildings and parking areas set below existing ground levels and new mounds planted with hedgerows. The use of 'green roofs' is also proposed for the new buildings.
28. The application was accompanied by an Environmental Statement⁵. I have had regard to the environmental information in considering the appeal.

Planning Obligation

29. A Unilateral Undertaking, under section 106 of the Town and Country Planning Act 1990, confirms payment of a Travel Plan monitoring fee in the sum of £2,500. The Undertaking is supported by a statement of compliance. I am satisfied that the deed meets the relevant statutory and policy tests.

Preliminary matters (Appeal B)

Reason for refusal and the Council's Statement of Case

30. Planning permission was refused for the following reason: '*The proposal is outside development limits and represents an unsustainable development that would result in a significant encroachment into open countryside causing harm to the landscape in conflict with Policies EC3 (A & C), GS3 and NE4 of the Harrogate District Local Plan.*'
31. The Council approached the appeal on the principal basis that the proposal would have a significant adverse effect on the character

⁵ Including Addendum and 2nd Addendum

and appearance of the area and on views from the A61. As such, the resultant harm would outweigh any benefits from the proposed MSA, having particular regard to the distance between facilities serving the motorway at Wetherby and Leeming Bar.

The appeal proposal

32. The proposed Ripon MSA lies on a site immediately to the west of J50 of the A1(M). It would be served from the existing roundabout junction of the northbound motorway slip roads with the A61 and the A6055.
33. The application was made in outline with access and layout to be determined as part of the application. However, at a late stage in the Inquiry, Moto requested that layout should be reinstated as a reserved matter, albeit by reference to the same drawings and supporting information presented with the application and which formed the basis of the Environmental Impact Assessment.
34. Neither the Council, nor any other party, opposed the amendment sought. I am satisfied that the development would not be so changed that it would deprive those who should have been consulted of the opportunity of such consultation and no third party would be prejudiced. Moreover, I conclude that there would be no impact on the environmental information underpinning the proposed development.
35. The Design and Access Statement explains that the larger amenity and lodge buildings are purposefully located close to the eastern boundary of the site where ground levels are generally below the adjacent highways and roundabout junction infrastructure. The related linear tree belt would be strengthened and other screening would be achieved by low mounds and tree and shrub planting.
36. The application was supported by an illustrative masterplan and parameter plans collated on a parameter site plan. It is said that the parameter plans, and particularly the heights noted, encompass the widest and the highest parts of each of the buildings with a small additional tolerance to account for some degree of flexibility.
37. The application was accompanied by an Environmental Statement and I have had regard to the environmental information in my consideration of the appeal.

Planning Obligations

38. Although Moto sought to enter into a Planning Obligation with Harrogate Borough Council and North Yorkshire County Council, with regard to a Travel Plan and its related monitoring fee, this was precluded by a potential legal impediment. However, the

provision of a Travel Plan is provided for in one of the draft planning conditions and payment of the monitoring fee has been made. The County Council has confirmed that the funds would only be used for the purpose sought; and would be refundable should the appeal be dismissed.

39. Planning obligations, in the form of a Unilateral Undertaking, are made in favour of Harrogate Borough Council (in which the appeal site is located) and Hambleton District Council (in which the Leeming Bar MRA lies). The respective obligations seek to ensure that if the Ripon MSA appeal is allowed, the permission would not be implemented in the event that the approved scheme at Leeming Bar is continued to be constructed; and, if permission is granted and implemented, no reliance would be placed on the Leeming Bar permission.
40. However, Hambleton District Council has stated: '*..... Hambleton do not propose to be party to this agreement on the basis that we have concerns about its enforceability in the future. We also opine that supporting this agreement might prejudice development in Hambleton and therefore cannot agree to it.*'
41. In view of this position, whilst it is acknowledged that the Undertaking is necessary and otherwise lawful, and Harrogate Borough Council would be able to enforce the obligation made in its favour, the prospect of two MSAs within such a short distance, although highly unlikely, could not be discounted. The Unilateral Undertaking is therefore of limited materiality.

Main Issues

42. The main issues are:

- a) whether or not there is a need for an additional MSA between Wetherby MSA and Durham MSA, having particular regard to other facilities along this stretch of the A1(M);
- b) the effect of each of the proposals on the character and appearance of the area including landscape and visual effects;
- c) the nature and acceptability of the loss of agricultural land at both sites;
- d) the effects of the Vale of York proposal on highway safety; drainage, flood risk and climate change; the local economy; and designated heritage assets;
- e) the relative merits of each of the proposals; and
- f) the overall planning balance.

43. By way of explanation, it was common ground that there are only two possible outcomes of the Inquiry in that either both appeals are dismissed or one of them is allowed.
44. In this regard, if it is concluded that there is no need for an additional MSA, both appeals should be dismissed. Alternatively, if a need is shown to exist, and having decided the better of the two proposals, whether that need outweighs any conflict with the development plan and any other harm arising from the consideration of the other main issues.

Reasons

The First Main Issue: Need (Appeals A and B)

45. The National Planning Policy Framework (the Framework) states at paragraph 104 e) that planning policies should *'provide for any large scale transport facilities that need to be located in the area, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy'*.
46. A related footnote (fn42) indicates that *'policies for large scale facilities should, where necessary, be developed through collaboration between strategic policymaking authorities and other relevant bodies. Examples of such facilities include roadside services'*.
47. The recently adopted Harrogate District Local Plan does not contain any policies or references specific to MSA provision, notwithstanding representations made by Applegreen during the evolution of the plan.
48. The Council, in responding to Applegreen's representations stated:
'Detailed guidance on roadside facilities for road users on motorways is set out in DfT⁶ Circular 02/2013. This includes matters relating to spacing and impact of roadside facilities on the strategic road network. This also sets out that new and existing roadside facilities are subject to the provisions of relevant planning legislation and regulation. Proposals for new MSAs will therefore need to take account of national guidance and policies in the relevant development plan.
Taking account of the existing policies in the Local Plan and national guidance, it is not considered necessary to include a policy in the Local Plan as any proposal received will be considered on its merits and subject to other provisions of the Plan such as impact on landscape character and the natural environment, designated and non-designated heritage assets and amenity'.
49. In short, any 'speculative' MSA proposal is to be considered on merit, having regard to other policies in the plan; the Framework; and Circular 02/2013 (the Circular), each read as a whole and in combination; and other material considerations. As Kirby Hill RAMS pointed out, both the Framework and the Circular have the objective of achieving sustainable development.

⁶ Department for Transport
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50. Turning to the Circular, this sets out policy on, amongst other things, the provision of roadside facilities on the strategic road network. It is recognised that MSAs and other roadside facilities perform an important road safety function by providing opportunities for drivers to stop and take a break in the course of their journey. Government advice is that motorists, not subject to a regime of statutory breaks, should stop for at least 15 minutes every two hours.
51. Based on the premise that opportunities to stop are provided at intervals of approximately half an hour, paragraph B6 of the Circular indicates that the recommended maximum distance between MSAs should therefore be no more than 28 miles, but it can be shorter. It is clear to me that the approximate 'time-based' criterion influences the maximum 'distance' criterion. However, neither is prescriptive or precise other than in the terms set out and the most definitive statement is '*no more than 28 miles*'.
52. In this regard, even though it is said that the A1(M) in the vicinity of the appeal sites is not susceptible to congestion and delays, the potential for unimpeded journeys does not undermine the maximum distance criterion which has particular applicability to vehicles governed by a statutory speed limit of 56mph (28 miles per half an hour).
53. All parties agreed that the measurement of the gap in MSA provision should commence from Wetherby MSA, to the south, at J46. The first operational MSA, to the north, is at Durham (J61), a distance of 60.8 miles.
54. Leeming Bar MRA at J51, and off the A6055, lies 28.8 miles to the north of Wetherby MSA as measured centre of car park to centre of car park following the methodology employed in the 2012 appeal decisions. Whilst Kirby Hill RAMS disputed this approach and hence the distance, nothing turns on the matter given that the Circular regards 28 miles to be a maximum distance between MSAs.
55. Moreover, Leeming Bar is not at present a MSA. The full implementation of its extant planning permission, irrespective of Hambleton District Council's ambivalence about enforcing the Unilateral Undertaking, seems a most unlikely prospect given its detachment and distance from the motorway; the obvious need for very substantial investment; and the unchallenged submission that it is not a viable location for a MSA.
56. In terms of other facilities, Coneygarth Truckstop, off J51 and served by the A684, is 28.6 miles from Wetherby MSA; and Scotch Corner MRA (J53) is at a distance of 38.8 miles. There is also a Truckstop at Barton Park (J56)⁷, served from the A6055, some 40

⁷ J56 is the next junction beyond J53 – there is no J54 or J55

miles north of Wetherby MSA. It has a historic permission for a MSA which has been lawfully implemented but not built out. Kirby Hill RAMS also pointed to the presence of Morrisons, for example, on the approach to Boroughbridge. There is also an undetermined planning proposal for a MSA at Catterick (J52) some 37.5 miles from Wetherby MSA.

57. In my opinion, none of the legacy facilities, relied on by the Council and Kirby Hill RAMS, which once served the needs of the A1 before it was upgraded to motorway standard, nor services of a local nature, can be considered to provide a MSA function within the terms of the Circular.
58. Overall, I consider that there is a need for a MSA to support the safety and welfare of road users to serve the A1(M) between Wetherby MSA and Durham MSA, and that either proposal would fulfil that need. It is common ground that only one of the two candidate sites could succeed whilst acknowledging that both could fail. If permission is to be granted, case law⁸ establishes that the decision maker must consider which of the alternatives would cause the least planning harm.
59. In summary, the very recently adopted development plan concedes the consideration of any proposal for a MSA in the district to other policies in the plan and to national guidance. Policies EC3 and GS3 are not directly aligned at such proposals; the Framework is supportive of the provision of roadside facilities; and Circular 02/2013 regards 28 miles to be a maximum distance between MSAs. In my opinion need is firmly demonstrated.

The Second Main Issue: Landscape and Visual Effects

Appeal A: The Vale of York MSA proposal (Applegreen Plc)

The 2012 Decision and the current scheme

60. With regard to the proposal for a twin-sided on-line MSA, the subject of the 2012 decision, the principal Inspector's summary conclusions were⁹:

'The site is not covered by any formal landscape quality designation, but it has been assessed in the district's landscape character appraisal. It is a uniform large-scale agricultural landscape that would not easily mitigate the harmful effects of the large scale MSA. The development would be seen from closer viewpoints, mostly in the context of introduced large scale woodland planting and a 450m long mound up to 9m high that would mostly surround the development. Both would be alien features in the countryside here that would significantly harm the character of the surrounding open landscape

The views of the MSA from the A1(M) would be of lesser importance, but there would be clear views from the LRN [local road network] and Ripon Road roundabout which lie on a tourist route. I consider that the visual effect of the

⁸ *Secretary of State for the Environment v Edwards (P.G.) (1995) 69 P. & C.R.*

607 ⁹ IR 14.3.79 – 14.3.81

MSA on the tourist route would be moderate to slight adverse. The MSA and mound would cause slight visual harm to views from a number of residential properties in Church Lane and moderate to slight visual harm to residents near Skelton Windmill particularly in the early years and in winter. There would also be a slight detrimental visual effect from nightglow.

I conclude that the proposal would have a significant detrimental effect on the character and appearance of the surrounding landscape.'

61. In terms of the current scheme, there is little or nothing of direct comparison in that it consists of a single-sided facility on the western side of the northbound carriageway. Access for southbound vehicles would be achieved by new slip roads to and from an elevated 'dumbbell' roundabout junction and bridge crossing the motorway. The A168 would be realigned further east to accommodate the new junction. The scheme relies on substantial ground excavation and remodelling to integrate the service area into its new landform aided by green roof construction and landscaping to maintain open views across the site.

Valued Landscape

62. Local Plan Policy NE4 identifies nine 'Special Landscape Areas' that are valued locally for their high quality landscape and their importance to the settings of Harrogate, Knaresborough and Ripon. Neither the appeal site, nor its surroundings, fall within the terms of the policy. In addition, Applegreen and the Council agree that the area of the appeal site is not to be regarded as a 'valued landscape' within the meaning of paragraph 170 a) of the Framework.
63. However, Kirby Hill RAMS contended that the local landscape is a valued landscape using the methodology and criteria set out in the Guidelines for Landscape and Visual Impact Assessment (Third Edition) (GLVIA3). The document points out that '*landscapes or their component parts may be valued at the community, local, national or international levels the fact that an area of landscape is not designated does not mean that it does not have value*'.
64. Box 5.1 of GLVIA3 identifies a number of factors which are generally agreed to influence value. Kirby Hill RAMS highlighted the presence of Skelton Windmill; a historic coach road; expansive views of the Vale of York, Hambleton Hills and the White Horse of Sutton Bank; the Grade I Listed All Saints' Church in Kirby Hill; historic associations by the presence of the Roman Road known as Dere Street which borders the east of the site; and at least one of the two sacred Neolithic 'pathways

to purity' linking the Devil's Arrows with the Thornborough Henge complex running close to, or through, the site itself⁹.

65. All of the above are capable of influencing value. However, the windmill has lost some integrity with the removal of its cap and sails; the historic coach road is of narrow interest; and the expansive views are not restricted to the immediate locality. The village Church is of importance in its own right, but its overall influence in the landscape is limited. The historical significance is by association rather than through physical manifestation. Taken together, in the context of a typical lowland farming landscape, and the visual and audible presence of the A1(M) motorway in particular, I consider that these locally cherished attributes do not take the landscape out of the ordinary and elevate it to a valued landscape for the purposes of the Framework.

Parameters and Visualisations

66. Although the Vale of York proposal was submitted in outline, the principles of its design, as illustrated in the Parameters Plan and the Design and Access Statement, could be secured by planning conditions. The illustrative masterplan depicts the proposed scheme at the upper end of the development parameters, albeit based on modelled design principles aimed at integrating the buildings and related facilities into the landscape.
67. The Council's approach of assessing the proposal to the full extent of the parameters effectively ignores the overall design concept and footprint parameters and exaggerates the reasonably likely worst case effects. Moreover, the Council's wireframe overlays were superimposed on an amalgam of photographic images with resultant distortion and inaccuracy. Overall, I find Applegreen's visual material to be the preferred basis to assist my assessment.

Landscape character

68. Policy NE4 contains five guiding criteria to protect, enhance, or restore the landscape character of the district. In particular, criterion B requires, in short, development proposals to be informed by, and to be sympathetic to, the distinctive landscape character areas as identified in the Harrogate District Landscape Character Assessment.
69. The appeal site is located in Landscape Character Area 81 (LCA81) 'Dishforth and surrounding farmland'. The Guidelines for the area aim to maintain the extensive views across and beyond the area; to integrate existing development; and to reinforce the diverse landscape pattern of the field systems.

⁹ With particular reference to KH1.1 and the Statements by Dr Rose Ferraby, Archaeologist and Chris Thirkell
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70. The principles within the Guidelines recognise the difficulty of accommodating large scale development without further detriment to landscape character; confirm the inappropriateness of extensive large scale tree planting required to screen any new development; and seek to avoid highlighting the A1(M) and A168 corridors as linear planting does not respect the pattern of the landscape.
71. An adjacent Landscape Character Area (LCA74) 'Skelton on Ure rolling farmland' lies generally to the west of, and some 220m at its closest point from, the Applegreen appeal site. The character area is noted as being attractive and pleasant, with particular reference to Newby Hall and Skelton Windmill. The character area is extremely important to the setting of Newby Hall and its associated Registered Historic Park and Garden and tourism is stated to be a major source of income for the Hall.

My appraisal

72. There are two distinct, yet inextricably linked, elements to the Applegreen proposal, namely the MSA facilities to the west of the A1(M) and the new highway infrastructure to the east of the motorway.
73. Taking each in turn, the site to the west of the motorway falls, in very general terms, from a north-westerly to south-eastly direction. The southern boundary, forming part of the rising embankment to the existing B6265 overbridge, is a well vegetated and strong delineating feature.
74. The western boundary is marked by an almost continuous substantial hedgerow with two mature oak trees. The hedgerow more-or-less coincides with the horizon when viewed from the motorway, other than at its southern end where there is a limited rise in landform to the crest on which the windmill sits.
75. The eastern boundary coincides with the margins of the motorway and its limited screening of the appeal site. The tapering northern edge is the most exposed, albeit an intermediate hedge within the site and the nature of the landform contain views to some degree.
76. It is common ground that the proposal would be large scale development and that it would cause some landscape harm and some visual harm arising from effects on openness and on views. That said, the crux of the issue is to what extent and degree would that manifest itself.
77. The illustrative plans demonstrate that lowering ground levels, as shown generally, would ensure that the proposed buildings and ancillary areas would be capable of assimilation into the resultant landform.

78. In particular, the combined amenity building and fuel filling station would be sited close to and parallel with the southern boundary with the highest part of the building illustrated as coinciding more-or-less with the carriageway level of the B6265. Established roadside planting would provide further screening, and the curvilinear green living roof would reinforce integration. The smaller and lower HGV re-fuelling facility and the drive-through coffee shop, also illustrated with curved green roofs, would be sited more centrally within the site but, again, generally contained by the existing and proposed engineered and natural landscape framework.
79. In terms of the representative viewpoints, and the additional locations to which I was directed, the aspect from the existing B6265 overbridge towards the site is heavily influenced by the presence of the motorway. Although the proposal would undoubtedly extend the impact of the motorway at this point, the development itself would not have any broader effect on the character and appearance of the landscape, having particular regard to the intended landform, internal landscaping, building composition and the backcloth of the reinforced western boundary.
80. The B6265 is an important tourist route and a proportion of motorists may, as a result, have an enhanced sensitivity. However, in my opinion, the proposed MSA, to the limited extent that it would be apparent, would be perceived as a related and complementary adjunct to the motorway in both form and function. Whilst the rear staff access would provide a fleeting, oblique and downward view into the site, I am satisfied that appropriately designed internal landscaping would be capable of minimising any adverse effects and shielding views into the HGV parking area.
81. Further to the west, the aspect from the direction of the junction with High Moor Road is influenced by the overbridge, with its lighting columns and signs, and traffic on the motorway comes increasingly, and fully, into view on the approach to the site.
82. The illustrative details demonstrate the feasibility and effect of recontouring of the western boundary, to form a rising berm topped by a new hedgerow, and the manner in which it would substantially curtail views into and across the site. The green-roofed buildings, particularly the means by which that of the amenity building would sweep up from ground level, would also be a significant factor in rendering the development to be relatively unobtrusive.
83. Although it was conceded that the upper parts of some high-sided vehicles would not be fully obscured from view (Year 1 and 5), and the fascia supporting the green roof of the HGV refuelling

facility would also be visible (Year 1), these elements would, in my opinion, appear less intrusive than current views of the traffic along the motorway. I also believe that the lighting columns, atop the new junction to serve the proposed MSA, would not be unduly striking, having regard to those that already exist at the B6265 roundabout.

84. Moving to Moor Lane (south), and the public footpath at Cottage Farm, the view northwards towards the appeal site, where it exists, is curtailed by the boundary screening of the B6265. In the presence of the existing overbridge and related traffic, and the influence of the motorway, I am satisfied that the proposal would have no perceptible additional adverse effect.
85. Turning to the 'Coach Path' and Moor Lane, to the north of the B6265 and linking with Cocklakes Lane/Chapel Lane, neither was assessed in Applegreen's Landscape and Visual Impact Assessment as they were not identified as Public Rights of Way. However, both are the subject of a recent Application for a Definitive Map Modification Order. Kirby Hill RAMS held that the omission overlooks 'receptors' with a high degree of sensitivity.
86. Having that in mind, the Coach Path affords extensive sideways views over and beyond the appeal site to the North York Moors. The middle ground contains the motorway corridor. Walking northwards, the B6265 overbridge is visible as is the motorway carriageway and attendant vehicles. Whilst landform offers some subsequent screening, the gantry signs and overbridge linking Highfields Lane and Moor Lane come into view, and vehicles reappear, thus accentuating and extending the influence of the motorway.
87. From Moor Lane there are direct views towards the motorway and the Marton-le-Moor overbridge and, from the bridge itself, there are long views over and along the motorway. From Cocklakes Lane/Chapel Lane, Moor Lane, and the bridge, and also from Highfields Lane to the east, the most visible elements of the project would be the proposed southbound slip roads, the new dumbbell roundabout, and the bridge over the motorway. Lighting columns and traffic movements would be an added factor.
88. However, notwithstanding the claim that the scheme would result in the highest concentration of road bridges in LCA81, I consider that the addition of what would be an 'infill' bridge, between two existing closely-spaced bridges¹⁰, could not be said to be uncharacteristic or visually incongruous in this setting. The associated earthworks to the west of the motorway, subject to gentle gradient and rounded profile, would reflect the characteristic undulating topography, and appropriate new tree

¹⁰ The proposed overbridge is shown to have a deck level some 0.5m higher than that of the B6265 bridge
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planting would assist assimilation. Importantly, where views would remain across the site, the backdrop of the western and southern boundaries would ensure that the development was visually contained within a robust landscaped setting.

89. Finally, on the western side of the site, the nearby seven-storey landmark Skelton Windmill has an extensive panoramic outlook. The illustrative scheme takes account of the view-lines from the windmill and, in my opinion, demonstrates through a combination of topography, landscaping, building locations and built form that the overall effects on visual amenity could be substantially mitigated.
90. Turning now to the proposed new highways infrastructure, the proposal would involve the repositioning of the A168 further east of its current route¹¹. The existing alignment benefits, in substantial part, from linear tree belts and hedgerows although the lead up to the B6265 roundabout is relatively open to view. The construction of the proposed southbound off slip road would include the removal of established vegetation and replacement planting on its outer edge which would take some years to screen the slip road as it rises to the new junction.
91. The junction infrastructure would be the most notable element, again with the loss of established vegetation to accommodate the works. Although some replacement planting would be feasible, the eastern-most dumbbell roundabout would be located atop a steeply graded embankment rising from the A168.
92. Looking first at impacts on road users, the A168 is already strongly influenced by its proximity to, and intermittent views of, the adjacent motorway. It passes under the Marton-le-Moor overbridge and rises up to the B6265 junction, albeit engineered topography is generally subtle in form.
93. Although the proposed eastern elevated roundabout, and circulating traffic, would stand some 6.7 metres above the A168, more measured grading would be possible, particularly to the north. Given the fleeting image on a route with fast moving traffic, and scope for planting adjacent to the lower carriageway level, I consider that the visual impact would not be of any material consequence. As to the abnormal load bays, these would have less elevation and greater separation and the effects arising from parked vehicles would be negligible.

¹¹ The realigned A168 at its most easterly point would extend 129m from the edge of the motorway compared to its current position of 75m (the eastern most point of the proposed bund associated with the 2012 decision was shown to be 253m east of the motorway)

94. Moving on to the wider locality, from the vicinity of Dishforth Airfield there are limited views of the motorway corridor; Marton-le-Moor overbridge is partially visible; and the lighting columns on the B6265 roundabout are also apparent. The introduction of the proposed new highways infrastructure and related traffic, although initially pronounced, would be capable of some amelioration over time and, in any event, the outcome would not be unduly uncharacteristic or intrusive in an already notable highways corridor.
95. Further to the south, rising topography removes the influence of the motorway. Views of the proposal would largely be limited to the lighting columns around the new dumbbell roundabout and its approaches. The existing lighting columns around the B6265 roundabout would also be visible a short distance to the south. The overall impact would be very minor.
96. From the direction of Kirby Hill, including the public footpaths to the north of the village¹², Millings Lane, the Churchyard, the public footpath from Church View and residential properties, the principal effects would be associated with the new roads infrastructure. In this regard, the existing view is across open fields, dividing hedgerows and the well-vegetated motorway/A168 corridor. The lighting columns in the vicinity of the B6265 roundabout can also be seen as elements breaking the skyline.
97. The realigned A168 would have a more open easterly aspect than the existing route and vehicles would be visible over a longer stretch than at present. However, vegetation in the foreground of both the motorway and the new slip roads would provide a dense backdrop to the repositioned road. In addition, new hedgerow planting, in the narrow strip on the eastern edge of the relocated A168, would offer some further mitigation in due course.
98. The proposed new embankments, the dumbbell roundabout and the new overbridge would be the most noticeable elements. There would also be the added effects of the lighting columns and the movement of vehicles. In combination with the realigned A168, the road corridors, and in particular that of the motorway, would become significantly wider and more apparent.
99. However, the new embankments could be, for the most-part, planted to assist assimilation. It was also said that the steepest gradient below the eastern roundabout could be grassed to maintain visual continuity. Nonetheless, even with the indicative landscaping, the lighting columns would remain as conspicuous vertical elements as would high-sided vehicles.

¹² Representative viewpoints 6 and 7 in particular

100. Taking account of the totality of the view, with the built-up area of the village visible in combination with other built elements within the wider landscape, I consider that the resultant adverse effects of the new highway works would not amount to a compelling degree of harm.
101. In addition, the associated new tree planting to the east of the motorway, acknowledged to be '*large scale tree planting*', whilst predominantly linear in form, would imitate that which already exists. Moreover, the extent to which it might accentuate the motorway and the A168 corridors would be very limited as the routes are already an established influence on landscape character. In my opinion, the replacement and reinforcement planting would not result in a notable change to landscape character.
102. Considering next, in general terms, the likely night-time effects, there would inevitably be some surrounding locations from where the lighting of the main MSA would be evident. From the immediate west, along the B6265, individual light sources would be apparent, with some columns visible above screening features, resulting in a new source of artificial lighting and change to the night sky.
103. However, this would be in the context of the lighting columns in the vicinity of the B6265 roundabout and those of moving vehicles. At a greater distance from the site, for example from the north-west along Chapel Lane and to the south along Moor Lane, individual light sources would be less apparent but, in combination, would emphasise the already locally lit corridor.
104. Inevitably, the most likely effects would arise from the lighting columns in the vicinity of the new dumbbell roundabout and from taller columns within the site. Downward illumination would highlight circulating vehicles on the elevated junction and add to lights from traffic entering and leaving the proposed MSA. The effects would be most evident from an easterly direction, notably from Kirby Hill, appearing as a second cluster of lighting along the skyline.
105. From my site visit I was able to observe that the night sky is not inherently dark, in that there are sporadic light sources in the wider area with those at the B6265/A168 junction the most apparent. Whilst the proposed development would locally intensify the effects of artificial lighting, the generally dark landscape would remain as the predominant characteristic.
106. Moreover, the outline scheme of lighting shows that it would be possible to limit the level of sky-glow in accordance with the Institute of Lighting Professionals (ILP) (2011) Guidance Notes

for the Reduction of Obtrusive Light. Precise details could be secured by a suitably worded planning condition.

107. Drawing together my findings, by returning to the Guidelines for LCA81, I consider that the illustrative details indicate that the proposed development would generally maintain the extensive views which characterise the area and that an appropriate scheme of landscaping would help to integrate the MSA with the landscape.
108. It cannot be denied that the proposal would change the character of the local landscape by the extent and nature of the development as agricultural land would give way to engineered land-form, buildings, related infrastructure, vehicles, intense activity, new planting and lighting. However, as demonstrated by the illustrative details, these effects would be relatively confined and very much related to the existing A1(M) and A168 corridors. Although the proposals would result in a localised widening, the parallel roads are already a notable element as they dissect the character area.
109. The Guidelines indicate that large scale development cannot be easily accommodated without further detriment to landscape character. It was agreed that this imposed a 'high bar'. However, I believe that, based on Applegreen's clear understanding of the landscape, it has been demonstrated beyond doubt that a MSA could be developed in a sensitive manner.
110. With reference to the aim to avoid highlighting the A1(M) and A168 corridors, the proposed works on each side of the motorway would demonstrably widen the presence of roads related infrastructure. However, given the established characteristics of this part of the highway network, and the manner in which the proposed development could be contained within the landscape through ground modelling and planting consistent with that which exists, the added effects would not be unduly significant.
111. Moreover, with reference to the aim in the Guidelines '*to reinforce the diverse pattern of field systems*' the overall balance of the scheme would provide an opportunity to improve hedgerow quality and extent. In addition, the underlying principle of the landscape proposals to the west of the motorway is to soften rather than screen adverse effects.
112. In terms of LCA74, it was agreed that there was a strong relationship between this character area and the appeal site due to rising landform. Although elements of the proposal would be visible, generally in combination with, or in the context of, the motorway, I am content that the development would not have

any adverse effect on the approach to Newby Hall or on its character and setting. As such there would be no conflict with the published Guidelines for this character area.

113. Returning to the Local Plan, the proposed development would, in my opinion, protect the landscape character of the district in that the illustrative details demonstrate that the proposal has been informed by, and is sympathetic to, the distinctive relevant landscape character area. As such, it would accord with Local Plan Policy NE4, with particular reference to criteria B, C and E.

Appeal B: The Ripon MSA proposal (Moto Hospitality Ltd)

The 2012 Decision and the current scheme

114. The principal Inspector's summary conclusions included¹³:

'..... The landscape mitigation would retain and enhance planting around the site and introduce some native species woodland, avoiding large scale woodland blocks that would be inappropriate to the area's characteristics and would impact upon views. However, the site would appear as a landscaped box that contained development From most long views only the tops of the buildings may be visible. I conclude that the proposal would cause moderate harm to the landscape character, which would soften over the years to moderate to slight

..... there would be clear views of the MSA from the A61, which is a tourist route. The visual impact would be no more than slight because of the context of a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well as large volumes of motorway traffic'.

115. Unlike the previous proposal, with its buildings in the central and western parts of the site and extensive perimeter landscaping, the current scheme shows the main amenity building and lodge to be sited close to the eastern boundary of the site, below the adjacent roadside embankment, and with more modest screening in light of the Inspector's criticism of the 'landscaped box'.

Parameters and Visualisations

116. In common with the Vale of York proposal, the Council assessed the proposed Ripon scheme on the basis of the maximum parameters without reference to other controlling factors. Similarly, Moto's illustrative scheme is well-developed in the sense that the indicative design of the proposed buildings is based on the company's latest (under construction) MSA at Rugby.
117. I therefore consider that the Council's approach ignores the overall design concept and footprint parameters and exaggerates the reasonably likely worst case effects. Overall, I find Moto's visual material to be the preferred basis to assist my assessment.

¹³ IR 14.5.58 – 14.5.59

Landscape character

118. In my consideration of the Applegreen proposal I have made reference to Local Plan Policy NE4 and, in particular, criterion B and the applicable Landscape Character Area. The proposed Ripon MSA site is also located in LCA81 and the aims and principles of the Guidelines apply in the same way. There are no other relevant Landscape Character Areas.

My appraisal

119. The Moto site comprises part of a large block of arable land on the western side of the A61 and its dumbbell roundabout junction with the motorway and the A6055. The entire eastern boundary is defined by roads infrastructure with the site laying, to varying degrees, below a roadside embankment.
120. The southern and western boundaries are physically indeterminate whilst the northern boundary is delineated by a poorly maintained drystone wall containing a single mature tree. Arable farmland extends beyond the site in gently undulating form, interrupted by the Melmerby Industrial Estate in the middle ground, with the long ridge of the Nidderdale Area of Outstanding Natural Beauty and Yorkshire Dales National Park, generally, forming a more distant backdrop to the west.
121. From the evidence presented, and as a result of my site visit to agreed viewpoints and defined routes, the principal difference between Moto and the Council, in tandem with Applegreen, is the effect of the proposal on the character of the landscape and its visual impact from the immediate locality of the site itself.
122. My analysis from the wider locality confirmed that the area consists of a predominantly open, gently undulating landscape with extensive views to the east and west; complementary hedgerows with both intermittent and linear tree cover providing successive 'layers' to the landscape; and some blocks of woodland.
123. As a consequence, I am satisfied that occasional long views towards elements of the proposed development, from the north, south and west, with the principal buildings set against the boundary embankment, and supplementary foreground terrain modelling and landscaping, would not be of any real materiality. From the east, beyond the motorway, the highway corridor and topography would effectively conceal the proposed MSA.
124. Again, it was not disputed that the proposal would be '*large scale development*' and that, in particular, regard has to be had to openness and views; and to avoid large scale tree planting or large blocks of woodland screening. It was also accepted there

would be some perception of impact on openness from some directions and that it would impact on some views by "closing off parts of the view".

125. The Moto site already benefits from a degree of planting arising from the landscaping works associated with the up-grading of the A1 to motorway, albeit the nature of the planting scheme and the developing effect on curtailing views to the west came under criticism. The vegetation is at its deepest, tallest, and densest in the vicinity of the roundabout and it progressively ebbs in effect as it runs alongside the A61.
126. Starting from the overbridge, irrespective of the immediate highway paraphernalia and mid-foreground planting, the landscape to the west of the motorway is perceived as a sweeping arc of open countryside, seemingly with little built-development, with rising distant hills and an elongated horizon under a large sky. The undeveloped nature of the appeal site is a foreground component of that vista.
127. From the western-most roundabout, the vegetation on the embankment rising up to the roundabout, is well-established and, even in early spring, provides heavy filtering of forward views to the north-west. The limiting effect would be the more apparent in summer months and with further growth over time. However, the openness of the site and the attributes of the wider landscape are more apparent immediately to the south of the roundabout where the planting is less intensive and significantly lower.
128. Progressing along the A61, although the landscaping buffer gains some greater presence over a short distance, it subsequently subsides to around one metre in height above road level before it disappears altogether. At the same time, the embankment that supports the roundabout runs out more-or-less to road and site level where roadside planting is least prevalent or of no real effect.
129. In my view, the overall extent, intensity and significance of the existing roadside planting, as the foundation for the proposed scheme, has been overstated by Moto. In this regard, even with increased height and some diminution of gaps with its anticipated growth over time, the relative openness of the appeal site would endure as an inherent component of the expansive landscape, and long views, albeit more restricted, would remain.
130. Moving on to look at the impact of the proposed development, it was claimed that the formation of the access from the roundabout into the MSA, and the removal of vegetation, would re-establish the once open vista. However, the true essence of the view would not be restored in a meaningful manner as the foreground

characteristic landscape would give way to the proposed road infrastructure and the fuel filling station within the proposed MSA.

131. In terms of the amenity building and the lodge, the illustrative visualisation (Year 1), from the immediate south of the site, indicates that, even with new foreground modelling and planting, a significant part of the proposed amenity building would be visible. The upper part of the building, and its varying roof profiles, followed by the higher elevation of the lodge, would also be apparent from the road to and from the roundabout.
132. In my opinion, as the motorway is relatively well-shielded from the site, aided by its contemporary landscaping, the proposed MSA would lack any natural physical or perceptual affinity with it. To my mind, it would represent a very sizeable incursion into the rural landscape and seriously undermine its inherent characteristics.
133. In terms of longer term mitigation, the illustrative scheme relies on perimeter raised mounding, other than where the existing embankment contains the site; new hedgerow planting to the southern and western boundaries; loose-knit tree planting; dense tree planting in the southeastern corner of the site; and reinforcement of the existing planting along the eastern boundary. With regard to the latter, the Design and Access Statement affirms:

'The eastern boundary development strategy is therefore a key factor in controlling visual impact in the site's wider visual setting The visual screening effect of the eastern boundary is further enhanced by the inclusion of a strengthened linear tree belt, some 10m - 15m wide, between the eastern boundary line and the rear of the amenity building, service yard and lodge. This is extended at the southeastern corner of the site for approximately 70m along the southern boundary to assist in screening the service yard when approaching junction 50 along the A61 from the southwest'.

134. Although Moto has sought to resolve the previous Inspector's criticism of the 'landscaped box', by more subtle boundary treatment, the eastern and southeastern boundaries would nonetheless take the form of a substantial band of planting with the sole purpose of screening the proposed development.
135. I recognise that the landscape in the vicinity of the site is enriched by the presence of hedgerow trees, avenues and woodland blocks. However, in the main, these appear to owe more to the evolution of the countryside landscape rather than being a necessary consequence of seeking to hide new built development.
136. The LCA81 Guidelines indicate that '*small woodland blocks associated with appropriately scaled development may help to integrate development with the landscape*'. However, I consider that the proposed MSA, in terms of the combined building footprints and the areas to be devoted to

circulation and parking, within such a predominantly open rural setting, and its disconnection from the motorway, would be at odds with the overall context and setting of the site and the wider landscape.

137. In my view, it could not be said that the form and nature of the proposed landscaping to shield the development from the A61 would amount to a small woodland block. Rather, its overall configuration, with the proposed mounding, would fail to integrate the development with the landscape. Moreover, the intended continuous band of planting would, in itself, fail to take account of the aim within the Guidelines of maintaining the extensive views across and beyond the area.
138. I acknowledge that outlook across the site, effectively restricted to southbound motorists¹⁴, is of short duration and in a sideways (westerly) rather than forward direction. Nonetheless, even on a glimpsed basis, and whilst such views are not unique to this length of the A61, the openness and qualities of the landscape are inescapable. Although elements of the motorway, and traffic on it, can be seen to the east beyond the gated 'layby' and adjoining field, it is the open views, rather than the motorway or the junction accoutrements, that are the dominant characteristic.
139. Moto's Landscape and Visual Impact Assessment confirms:
'The construction of an MSA on an open arable field will have a Major-Moderate Negative impact on the character of the field but the effect on the character of the wider landscape will be Minor Negative and this correlates with the Secretary of States [sic] conclusions¹⁵ when considering the previous application.
Once the external mounding has been constructed there will be no significant negative effects on the visual amenity of residents, walkers or travellers'.
140. It will be apparent from my assessment, based on the evidence that I heard and from my site inspection, that the proposed development would impact on identified valued characteristics of openness, and it would not reflect the aim within the LCA81 Guidelines of maintaining the extensive views across and beyond the area.
141. Similarly, the proposed extensive tree planting to enlarge and reinforce earlier landscaping (which was generally agreed to be atypical), in order to screen the proposed MSA, would be a further contradiction of the Guidelines.

¹⁴ Noted as a tourist route where a proportion of motorists may have an enhanced sensitivity

¹⁵ *'the proposal would cause moderate harm to the landscape character, which would soften over the years to moderate to slight The visual impact would be no more than slight because of the context of a considerable area of highway infrastructure and paraphernalia in the immediate vicinity as well as large volumes of motorway traffic*

142. Moreover, it is evident that a development of the scale proposed, that would protrude uncharacteristically into an agricultural landscape that continues almost uninterrupted by development to a distant horizon, would have a very damaging effect on the character and appearance of the local landscape, the wider landscape and the Landscape Character Area as a whole.
143. Finally, whilst the proximity of the motorway corridor and the works associated with J50 are relevant factors, I consider that the Moto appeal site has very little direct affinity with those, in that it is truly embedded within the wider countryside landscape. The proposed development would, in my opinion, not only highlight the motorway corridor but also widen it in a disparate and illogical manner.
144. In terms of operational lighting effects, the existing motorway junction, and the roundabouts to the east of the site, are lit by lighting columns. The lighting of the proposed MSA would appear as a new source of artificial lighting within an otherwise dark location beyond these lights. However, the indicative lighting scheme shows that it would be possible to meet the standards set out in the Institute of Lighting Professionals (ILP) (2011) Guidance Notes for the Reduction of Obtrusive Light. In particular, light spill over the site boundaries and upward sky-glow could be minimised by careful design. Precise details could be secured by a planning condition.
145. However, this does not change my overall analysis and my firm conclusion that the proposal would neither protect nor enhance the landscape character of the district, and it would be in conflict with Local Plan Policy NE4 with particular reference to criteria B, C and E.

The Third Main Issue: Loss of Agricultural Land (Appeals A and B)

146. The Statement of Common Ground between Applegreen and Moto, on Agricultural Land Matters, confirms that the proposed Vale of York MSA site, contains some 14.35ha of best and most versatile agricultural land with a mix of Grades 2 and 3a.
147. The principal dispute on the classification of the Ripon site rests between Applegreen and Moto. In this regard, Applegreen claims that the Ripon site, some 13.34ha, is also best and most versatile agricultural land, in a mix of Grades 2 and 3a, whereas survey work to inform the Moto proposal (the 2020 Savills' Report) states that it is Grade 3b and therefore not of such quality.
148. There are four elements to Applegreen's challenge namely: survey work undertaken by, or on behalf of, the Ministry of Agriculture Fisheries and Food (MAFF) in the mid-1990s in connection with up-grades to the A1; a survey (the 2010 RPS Report)

underpinning the previous planning application the subject of the 2012 decision; the quality of the 2020 Savills' Report; and a survey, carried out on behalf of Applegreen, on nearby land.

149. On the first, it is known that the entire length of the A1 through Harrogate Borough was surveyed and classified by MAFF prior to the route being upgraded to motorway status. The published A1(M) Agricultural Land Classification Map, for the sections from Wetherby to a point between J50 and Leeming Bar, covered a linear band of land with some 86% classified as best and most versatile agricultural land, predominantly Grade 2. That part of the appeal site within the mapped area was shown as Grade 2.
150. Notwithstanding the dispute on the provenance of the mapping, and whether or not parts were derived from desk-based assessment, the Environmental Statement for the A1 Dishforth to Barton Improvement confirms that '*detailed land classification surveys were undertaken by Defra (formerly MAFF) in 1993/94*'. Whilst this shows the eastern and south-eastern parts of the appeal site as Grade 2, consistent with other best and most versatile agricultural land in the locality, it is inconclusive in the categorisation of the appeal site as a whole.
151. Turning to the 2010 RPS Report, it was stated that a detailed site survey had been undertaken comprising 20 auger borings (1.0m auger) complemented by the digging of three soil pits. The site was found to consist of a mixture of Grade 2 and 3a quality land with the former (6.3ha) running north-west to south-east, through the central lower lying part of the site, with the latter (7.0ha) on the west and north-eastern areas.
152. It was recorded that '*the Grade 2 land is characterised by medium sandy loam topsoils overlying similar subsoils to depths of 45 - 60cm overlying sandier loamy medium sand lower subsoils to depth. The profiles contain limited amounts of total stone (<5%). These profiles are limited to Grade 2 by a slight susceptibility to droughtiness*'.
153. The Grade 3a land was found to comprise three different soil profile types. First, in short, medium sandy loam topsoils with 2 - 5% total stone located on the higher parts of the site, particularly to the north-east, and susceptibility to droughtiness. Second, similar sandy profiles on the western part of the site with notably higher percentages of stone, including large stones (>6cm diameter), and a main limitation due to susceptibility to drought and a similar stoniness limitation. Third, medium sandy clay loam soils overlying heavy clay loam upper subsoil and mottled and slowly permeable clay subsoil.
154. With one exception, the texture of the topsoil derived from the auger samples was described as medium sandy loam. Stone presence was generally low with only 3 points recording in excess

of 5% (5 - 10%) stone content in the topsoil. The majority of the sample points were able to record profiles at or approaching the full depth of the auger with only two recording impenetrability beyond 60cm.

155. The three soil pits also revealed a top layer of medium sandy loam with two of the points recording less than 5% stone and the third recording 10% stone. This was broadly consistent with the nearest auger profiles. The results were further verified by two Particle Size Distribution samples which were taken for laboratory analysis.
156. The Savills' 2020 survey to inform the current proposal, the third of Applegreen's points of contention, was undertaken without knowledge or reference to the 2010 RPS Report. Moto's expert witness conceded that this was a robust piece of work, albeit he disagreed with the conclusions, and that the quality of agricultural land will generally prevail for decades.
157. Nonetheless, the survey carried out on behalf of Moto produced very different results. Although only 16 sample auger locations were chosen, the sample density was consistent with Natural England's Technical Information Note (TIN49) with one boring per hectare to a depth of 1.2m.
158. The summary outcome graded the entire site as Grade 3b land with a limitation of soil droughtiness. The sample point data identified five locations as '*Grade 3b on Drought*'; two locations of '*Grade 3b on Drought, close to 3a*'; four points of '*3a on Drought*'; and five assessments of '*Grade 4 on Drought*'.
159. Stone was found to be considerably more prevalent, varying between 8% and 20% in the top layer. In addition, at 9 locations penetration of the auger to its full depth was precluded by stone with two locations showing constraint at a depth of 35cm. The report made passing mention that the survey included trial pits but without corresponding record. Moto's witness at the Inquiry reported that the survey included a single inspection pit, close to an auger boring recording Grade 3a, albeit without reporting on the outcome.
160. Looking further at these findings, Moto's position was that the dominant limitation on agricultural land quality and versatility is soil droughtiness and that the presence of large stones was sufficient to impose a parallel limitation to Grade 3b. The two have different effects, in that the former is likely to inhibit yield and the latter restricts how the land is managed. Variability of soils and site conditions across a field can become a significant 'pattern' limitation resulting in classification to the lower or lowest of two or more grades.

161. In terms of droughtiness, the 2010 RPS Report found the site to consist of a predominance of medium sandy loam topsoils with inclination to droughtiness limiting classification to Grade 2 or Grade 3a at worst. By contrast, the 2020 Savills' Report described the predominant topsoil characteristic as loamy medium sand and the inability of the soil profile to hold water.
162. The difference in the recording of soil types is significant in that loamy sands contain a higher proportion of sand particles than sandy loams, and are thus unable to retain as much water in the soil profile to support crop growth.
163. Whilst Savills' 2020 assessment has to be taken at face value, the 2010 classification was supported by laboratory analysis whereas the more recent field survey was not validated in this way. Moreover, the assessment made in 2010 was consistent with the predominant soil type, in very general terms across the region, namely the Escrick 2 association.
164. By comparison, the finding of a concentration of loamy sand topsoils, whilst made by a competent soil consultancy, sits uneasily in my opinion with the earlier classification. Although I recognise that local disparity could influence site specific classification, Moto's evidence and assessment of droughtiness, whilst robustly defended, does nonetheless cast serious doubt on its primary conclusion that droughtiness imposes a restriction to Grade 3b.
165. It was said in evidence, that where the auger encountered resistance before reaching a depth of 0.5m, further attempts were made in the immediate locality to obtain a deeper core. Where this failed, an additional allowance of soil material was given for the drought calculation as crop roots were likely to penetrate to a greater depth than the auger. Without the allowance, a Grade 5 drought limitation would have been recorded at some of the sample locations.
166. However, it was not clear to me how, and to what extent, any adjustment had been derived or made. In particular, there was nothing to suggest that an allowance had been applied, in a transparent manner, consistent with the MAFF Agricultural Land Classification guidelines on crop-adjusted available water capacity to take into account the presence of stones, rock or a very poorly structured horizon.
167. In terms of stoniness, the guidelines indicate that: *'The degree of limitation imposed by stones depends on their quantity, size, shape and hardness. Stoniness can vary markedly over short distances and is time-consuming to measure'*. In this regard, the task is not one of simply recording total percentage stone content, as is reported in the

majority of the 2020 sample points, as it is stones which are retained on a 6cm sieve that are likely to have a more negative effect than smaller stones.

168. For example, a 25% presence of stones in the topsoil, (15% between 2cm and 6cm and 10% larger than 6cm) would qualify as Grade 3a land on stone content. Similarly, a total of 15% stone (10% and 5% respectively) would be classed as Grade 2.
169. However, only three of the sixteen sample points record stone content in excess of 15%; and a lone auger point shows a total stone content of 30% (20% and 10% rendering that point Grade 3b). Whilst the two supplementary photographs¹⁶ '*Prominent and common areas with significant large stone content found on the site*' seek to illustrate stoniness, these appear inconsistent, in my view, with the majority of the sixteen sample points. In addition, having walked around the periphery of the site, and along several tracks between bands of immature crops, I saw nothing of equivalence to support the proposition of prominent surface stoniness across the site.
170. Moreover, most of the results make no distinction on the relative percentages in the overall total (e.g. '*10% hard stone*' and '*15% hard stone and gravel*'). Put simply, the tabulated data is superficial, inconsistent in presentation and it does not follow the MAFF guidelines. In my opinion, despite one isolated record of above average stone, the survey provides no confident basis to conclude that the stone content of the topsoil limits the land to Grade 3b.
171. Reflecting on the 2020 Savills' Report in the round, I consider the two factors leading to its overall conclusion cannot be treated with any degree of confidence. Moreover, whilst it was said that the occurrences of Grade 3a land within the site did not form contiguous areas of a single quality to be mapped as such, this appears to be a consequence of the reservations that I have described leading to a singular perfunctory Grade 3b presumption.
172. I acknowledge that some differences are to be expected between field surveyors in applying professional judgement to survey points each with unique characteristics. Whilst Applegreen made much of Moto's approach, which I have discussed above, Moto's expert witness had little in the way of disagreement with the methodology of the 2010 RPS Survey.
173. However, in highlighting issues of fine judgement over subtle distinctions in soil texture, the 2010 RPS field work has the advantage of laboratory endorsement. Moreover, the allegation that the 2010 survey failed to adequately recognise the alleged

¹⁶ Savills' letter dated 28 May 2020 to HBC Appendix 4

'significant presence of large topsoil stones' appears to be highly improbable.

174. Turning briefly, to Applegreen's fourth strand, relating to its own recent survey of adjacent land to the east of the A61. The summary findings endorse the presence of sandy loams, supported by laboratory determination, rather than the droughtier loamy sands; consistency with the mapped soil type and earlier surveys; and reach an overall conclusion of Grade 2 in the northern part of the land and Grade 3a to the south. Whilst supportive of the wider characteristics of the locality, it does not have any real bearing on the evaluation of the appeal site.
175. In the final analysis, although the 2010 RPS Report was not 'tested' at the Inquiry, in the sense of having a witness available for cross-examination, its conclusions were not seriously challenged. Further, its provenance was in the nature of an assessment in connection with the promotion of the 2010 application for a proposed MSA on the site. Both the principal Inspector and the Secretary of State found the loss of best and most versatile agricultural land to be a consideration to be weighed in the balance. In my opinion, the conclusions of the 2010 Agricultural Land Classification are a significant factor.
176. On the other hand, the Savills' 2020 Report has a number of shortcomings. None of these, or its variance from the 2010 RPS Report, were resolved persuasively in the evidence presented to the Inquiry by Moto. As such, I find Moto's case to be largely unconvincing.
177. Accordingly, on a compelling balance of probability, the evidence points to the proposed Ripon MSA site being best and most versatile agricultural land.
178. Turning now to the Harrogate District Local Plan, Policy NE8 confirms, in short, that the best and most versatile agricultural land will be protected from development unless there is an overriding need; and if best and most versatile land needs to be developed, and there is a choice between sites in different grades, land of the lowest grade available must be used except where other sustainability considerations outweigh land quality issues.
179. It follows that the agricultural land resource of both the Applegreen and Moto sites is to be protected unless there is an overriding need for either proposal. The former, consists of some 14.35ha of best and most versatile agricultural land which, in the mix of Grade 2 and 3a, is predominantly Grade 2. The latter has an area of approximately 13.34 ha of which approximately half should be considered to be Grade 2 and the remainder Grade 3a.

The Fourth Main Issue: Highway Safety; Drainage, Flood Risk and Climate Change; the Local Economy; and Designated Heritage Assets (Appeal A)

Highway safety

180. Kirby Hill RAMS had two principal concerns. The first related to the use of the 'rear access' on to the B6265 which would be used during the construction phase and thereafter by staff and some service vehicles. The B6265 is a main tourist route from the A1(M) to Newby Hall, Ripon and its Racecourse and Fountains Abbey. The second concerned the realignment of the A168.
181. As the proposed MSA has been designed to be an on-line facility, with principal access from the A1(M), the proposed rear access on to the B6265 would allow local employees to access the site by car, cycle or on foot and for local deliveries to avoid a lengthy journey on the motorway.
182. Although Kirby Hill RAMS claimed that vehicles passing the proposed rear access are able to travel at 60mph, a speed survey conducted on behalf of Applegreen, at a location agreed with the Highway Authority, shows an 85th percentile speed of 42mph in a westbound direction and 47.6mph eastbound.
183. Whilst criticism was made of the positioning of the data point, the desirable minimum stopping sight distance of 215 metres, for a design speed of 60mph, can be achieved to the west in the direction of nearside on-coming traffic. The splay of 160 metres to the east would be consistent with the speed survey based on a design speed of 50mph.
184. Even if reliance were to be placed on the later survey by the County Council, to the west of the proposed access where vehicles are in free flow, and the 85th percentile speed of up to 58.9mph eastbound, the Highway Authority continues to endorse the proposed access and visibility splay arrangements.
185. This leads me to consider whether there are factors which would undermine this judgement and have an unacceptable impact on highway safety.
186. Kirby Hill RAMS pointed to published accident data in the vicinity of the proposed rear access, and more recent local knowledge, and claimed that this stretch of road is an 'accident blackspot'. Yorkshire Police has also confirmed that the B6265 is a 'Killed or Seriously Injured' (KSI) Route.
187. Nonetheless, from the evidence available, there is nothing to suggest any cluster of accidents in terms of either location or cause. Indeed, it is to be noted, from 'Crashmap', that the only recorded incident (slight), a significant distance to the east of the proposed rear access, was in the vicinity of the B6265 overbridge

and roundabout. Similarly, the three documented serious incidents, to the west, were logged beyond High Moor Road.

188. Kirby Hill RAMS also expressed concern about how Applegreen would address three recommendations of the Stage One Road Safety Audit which I note was undertaken by, amongst others, representatives of the Highway Authority and North Yorkshire Police.
189. Firstly, the hidden dip in the road to the west of the proposed rear access has clear safety implications for vehicles leaving the site. Given that the details of the proposed access is a reserved matter, there is nothing to suggest that the recommendation of amending levels within the access and/or on the B6265 to achieve adequate visibility in the vertical plane could not be fulfilled. This would be subject to detailed design, a Stage 2 Safety Audit, and the approval of the local planning authority.
190. Secondly, the impeding effect of vegetation to the east of the proposed rear access would be readily resolvable by limited cutting back (without any material effect on its screening qualities) and subsequent maintenance free from obstruction secured by condition. This would be in addition to the repositioning of the highway advance direction signs to the east.
191. It was further suggested that pedestrians and cyclists using the proposed new shared facility running from the edge of Kirby Hill, and the relocation of the crash barrier, would obstruct visibility in the same direction. However, it has been confirmed that scope exists within land controlled by the Highway Authority to ensure that this matter would be resolved at reserved matters stage.
192. Thirdly, it is intended that the use of the proposed rear access would be on a restricted basis and controlled by security measures. This could be made clear by the provision of signs to inform passing motorists, in accordance with an overall scheme, to be agreed, to control the operation of the access.
193. Although Kirby Hill RAMS highlighted the regular incidence of fog across the Vale of York, thereby affecting motorists' visibility, one would expect drivers to adapt to the prevailing conditions and adjust their manner of driving accordingly. In my opinion, localised fog as described would not provide a good reason to preclude the provision of the proposed rear access, having particular regard to the advantage in local connectivity.
194. The B6265 inevitably experiences high traffic flows associated with local attractions and events. Whilst this is likely to be more relevant to the construction stage of the proposed development, the use of the proposed rear access by heavy goods vehicles could

be managed through the approval of a Construction Management Plan, secured by condition.

195. It is acknowledged that employees walking or cycling from the direction of Kirby Hill would have to negotiate a busy roundabout junction, compounded from time to time by traffic diverted from the motorway. Whilst such a journey would have to be made with caution and awareness, the southerly limb of the A168 has a central refuge and, with reasonable care, there is nothing to suggest that the route would be inherently unsafe. Moreover, the design of the crossing points would be subject to approval at which stage additional measures to highlight pedestrian and cycle activity, if deemed to be necessary, could be secured.
196. It is also suggested that the location of the proposed rear access, at the furthest point from Kirby Hill, and the nature of the route, would make journeys on foot unlikely, contrary to the aims of sustainable development. However, given the type of development and its location, and the measures proposed in combination with a Travel Plan, I consider that appropriate opportunities to promote sustainable transport modes have been demonstrated. As such, there would be no conflict with Local Plan Policy TI1: Sustainable Transport.
197. Moving on to the concerns relating to the realignment of the A168, Applegreen's Highways and Highway Safety Supplementary Written Statement demonstrates that right turn protection to the area of the attenuation pond could be provided in accordance with the relevant standard¹⁷, should it be so required, at detailed design stage.
198. In terms of the elevation of the proposed eastern dumbbell roundabout, relative to the A168 carriageway below, I note that the respective highway authorities raise no objections. It is apparent that safety could be secured by appropriately designed measures which would be subject to future approval and a Stage 2 Road Safety Audit. Similarly, relative to the roundabouts, arrangements for overrun areas to accommodate abnormal load movements have been endorsed by Highways England and I see no reason to disagree.
199. Overall, I am content that the highway matters raised by Kirby Hill RAMS are capable of mitigation. On that basis, I conclude that there would be no unacceptable impacts on highway safety.

¹⁷ Design Manual for Roads and Bridges Standards for Highways CD 123 – Geometric design of at-grade priority and signal controlled junctions

Drainage and flood risk

200. In terms of drainage and flood risk, Kirby Hill RAMS raised three principal points. These were: local drainage infrastructure; the risk of flooding; and effects on groundwater.
201. In terms of foul drainage, a number of local issues, including infrastructure capacity and related pollution, have been documented. However, the drainage authority has confirmed, despite reservations in 2017, that the sewerage network and treatment works can, or will be able to, accommodate the proposed foul discharge from the site. Specifically, the on-site drainage is to consist of separate foul and surface water systems; and the foul drainage to be pumped from the site would be subject to a maximum flow rate. These elements could be secured by planning conditions.
202. Kirby Hill RAMS also pointed to a foul drainage issue at a MSA site operated by Applegreen. However, it has no direct bearing on the considerations before me and, in any event, documentary evidence shows it to have been resolved.
203. Turning to potential flood risk, the overall strategy is to drain surface water to the ground based on a Sustainable Drainage System (SuDS). Site investigation shows that the proposed SuDS could be designed to accord with the Council's 'Supporting Drainage Chart' and the relevant guidance in CIRIA¹⁸ SuDS Manual C753. Where the site currently experiences periodic standing water, surface water would be collected and pumped up through the site to discharge to one of the proposed higher infiltration basins.
204. Looking next at groundwater, the disposal of surface water would be managed using a series of water treatment processes including fuel interceptors, bypass separators and permeable paving. In addition, drainage during the construction phase would be managed and monitored through a Construction Management Plan.
205. Local Plan Policy CC1: Flood Risk and Sustainable Drainage explains, amongst other things, that development proposals will not be permitted where they would have an adverse effect on watercourses or increase the risk of flooding elsewhere. It indicates that priority should be given to incorporating SuDS to manage surface water drainage. The proposal would not be in conflict with this policy.

Climate Change

206. The principal point raised by Kirby Hill RAMS relates to greenhouse gas emissions caused by road transport. In this regard, it is noted

¹⁸ Construction Industry Research and Information Association

that vehicles, slowing, idling, and accelerating discharge higher emissions than a vehicle travelling at speed. In addition, extra mileage is incurred by leaving and reentering the motorway. Consequently, it is claimed that MSAs work directly against the Government's net zero emissions target; and its legally binding commitments under the Paris Agreement and the Climate Change Act 2008. Further, national policy in Circular 02/2013 takes no account of this material consideration or the more recent policy reductions in the UK's annual carbon emissions by 2030.

207. The matter of relative emissions is generally common ground. However, I consider the comparison to be somewhat artificial insofar as a break in journey would have been likely to occur, in any event, at an alternative facility. The approval of an additional MSA along a route would therefore have the tendency to redistribute emissions between locations rather than to result in a material increase and resultant harm. Overall, I find nothing inconsistent with commitments to reduce greenhouse gas emissions.

The Local Economy of Boroughbridge

208. Boroughbridge is said to be an attractive and vibrant place to live, work, visit and shop. There is no doubt that it is an appealing and popular tourist destination. Kirby Hill RAMS maintained that Applegreen has seriously underestimated the effects of displacement on existing local businesses and the resultant economic harm.
209. However, the travel to work area for the site is more extensive than Boroughbridge itself; and Applegreen's Travel Plan provides for an employee bus service, including potential pick-ups and drop-offs in Ripon and Harrogate. Moreover, Applegreen's economic assessment demonstrates potential available sources of labour. Part-time opportunities and shift patterns are also likely to be attractive to those seeking top-up jobs and/or flexible working.
210. As to the potential loss of trade to the 'Local Services' in Boroughbridge (signed at J48), it is conjecture that the proposal would take trade away from the town. In this regard, MSAs have a specific purpose of meeting the needs of motorists, generally engaged in long distance travel with a tendency to seek directly accessible facilities. Whilst some motorists may prefer to meander from their journey, in order to explore a more distinctive alternative, there is nothing to suggest that a nearby MSA would change that behaviour to a material degree or cause harm to the economy of the town.
211. I recognise that the type of jobs associated with a MSA would not reflect the Council's focus for economic growth, and the key sectors identified in Local Plan Policy GS5: Supporting the

District's Economy. In addition, the Framework encourages planning policies to set a clear economic vision and strategy to positively encourage sustainable economic growth.

212. However, in my opinion, neither local nor national policy, in setting priorities, intends an exclusive economic focus at the expense of other employment opportunities. On the basis that MSAs are a consequence of need, related to the safety and welfare of motorists, it follows that the type and nature of the resultant employment is a corollary of that need. Whilst the jobs generated by the proposed development would not be in accordance with the local employment strategy expressed through Policy GS5, the 'one-off' inward investment is a factor to be considered in the overall planning balance.

Designated Heritage Assets

213. It is common ground between the Council and Applegreen that 'Heritage' is not at issue. Local Plan Policy HP2: Heritage Assets indicates that proposals for development that would affect heritage assets will be determined in accordance with national planning policy; and applicants should ensure that proposals affecting a heritage asset, or its setting, protect or enhance those features which contribute to its special architectural or historic interest.
214. The Framework indicates that in determining applications, an assessment should be made of the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset).
215. The Church of All Saints', Kirby Hill is Listed Grade 1. Its significance and the contribution of setting to significance is set out in the Environmental Statement. Principal facets include its location on the eastern edge of the village within an enclosed and partially screened churchyard. The appeal site lies to the north-west in the middle distance beyond undulating agricultural fields. The most notable element to be added to this setting would be the new highways infrastructure and moving traffic. However, having regard to the existing A1(M)/A168 corridors, I concur with Applegreen's assessment that the project would not materially affect the ability to understand, appreciate and experience the church and its value.
216. Skelton Windmill, to the west of the site, is Listed Grade II. Its significance and the contribution of setting to significance are also set out in the Environmental Statement. The windmill is situated on the summit of a low rise that provides commanding rural views. The main area of the proposed MSA would lie below eye-line from the upper parts of the building, although lighting

columns and some elements of the green roofs are predicted to be visible. The new junction would be a further obvious element. Nonetheless, I agree that the immediate agricultural setting would remain legible, as would the building's commanding position, distinctive character, and wideranging views.

217. In both cases, I consider that the respective changes to the landscape would have a very minor adverse effect on the contribution of setting to the significance of these designated heritage assets. This would amount to less than substantial harm to be weighed against the public benefits of the scheme.

Other Considerations (Appeal A and Appeal B)

218. Both applications, and related appeals, generated a number of representations from people living in nearby local communities which raised a range of themes. I have considered many of those in connection with the main issues above. Some others relate to technical matters that I have assessed in light of responses from specialist consultees. There are also points which would be the subject of further assessment when reserved matters are submitted and/or subject to detailed planning conditions. A few concerns, although understandable, are not strictly material to the determination of these appeals.

The Fifth Main Issue: Relative Merits of the Appeal Sites

Landscape

219. I have found that the Applegreen proposal would, when considered against the relevant Landscape Character Area Guidelines, cause limited harm to the area's defining characteristics both in terms of landscape character and visual amenity. In my opinion, it has been demonstrated that the proposed illustrative scheme has been informed by, and would be sympathetic to, the Landscape Character Area in which it lies, and also to the adjacent Landscape Character Area, so far as material. It can therefore be said that the proposed development, in the manner as generally indicated, would protect the landscape character of the district. It would therefore accord with Local Plan Policy NE4.
220. By contrast, I consider that the Moto proposal, in its illustrative scheme, does not reflect the Landscape Character Guidelines, with particular reference to maintaining extensive views across and beyond the area, as a result of the proposed built form and associated screen landscaping. It follows that the proposal would not protect the landscape character of the district and the project would be in conflict with Local Plan Policy NE4.

Agricultural land

221. Both proposals would result in the loss of best and most versatile agricultural land. Local Plan Policy NE8 seeks to protect such land

from development except where it can be demonstrated to be necessary. If there is a choice between sites in different grades, land of the lowest grade available must be used except where other sustainability considerations outweigh land quality issues.

222. The proposed Moto site would use marginally less best and most versatile agricultural land than its counterpart which would give it borderline advantage. If the policy is to be read as drawing a distinction between grades, rather than differentiating between best and most versatile agricultural land and land that is not best and most versatile, the proposed Ripon site could also have a marginal preference. That said, given that both sites are a combination of Grade 2 and 3a, it would be difficult to logically draw distinction.

On-line or at junction

223. Annex B of Circular 02/2013 indicates:

'On-line (between junctions) service areas are considered to be more accessible to road users and as a result are more attractive and conducive to encouraging drivers to stop and take a break. They also avoid the creation of any increase in traffic demand at existing junctions.

Therefore, in circumstances where competing sites are under consideration, on the assumption that all other factors are equal, the Highways Agency has a preference for new facilities at on-line locations'.

224. The Applegreen proposal would be an on-line site in the sense that it would be located between existing junctions and it would have its own access from the motorway. The Moto proposal would be a junction MSA.
225. However, the approach/exit distances into and out of each of the facilities would be much the same. The Applegreen scheme, as a single-sided facility, would also require southbound vehicles to enter and leave the site indirectly by means of a grade-separated junction. In addition, in the case of Moto, J50 of the motorway with the A61/B6055 is not an unduly busy one and the increased traffic demand would not be significant. Junction MSAs have also become increasingly common.
226. On the face of it, there would be little material difference between the two projects. However, with exclusive access from the motorway, irrespective of the subsequent configuration and incidence of circulating roundabouts, the Vale of York MSA is likely to have a very slight advantage, particularly for northbound traffic, in encouraging motorists to take a break.

Where better to meet need

227. The Circular does not prescribe any minimum spacing between MSAs. However, logic would point to spacing at, or close to, the

maximum of 28 miles in that most proposed MSAs are likely to encounter a range of planning constraints.

228. The proximity of the Applegreen proposal to the Wetherby MSA, at little more than 13 miles, places it at a minor disadvantage to the Moto proposal, which would be some 4.5 miles further to the north. However, the former would be capable of serving a greater volume of traffic, due to its position south of the A19 (J49), albeit the latter route has a combination of existing and proposed facilities within 28 miles of Wetherby MSA. Overall, the balance of advantage falling to either proposal would be inconsequential.

The Ripon MSA lodge

229. Whilst the offer of overnight accommodation at a MSA is not an essential requirement, the Moto scheme includes a 100-bedroomed lodge. This would provide an additional amenity capable of supporting the safety and welfare of motorway users. In that context, the proposed lodge would provide a modest benefit over the Applegreen scheme.

Comparative economic benefits

230. Applegreen and Moto predicted seemingly disparate employment opportunities at their respective sites, with some 300 full-time equivalent (FTE) posts at the proposed Vale of York MSA (disputed by Moto) and around 200 FTE posts at the proposed Ripon MSA. However, Applegreen's witness accepted that the two schemes would be very similar in scale and content. As such, it would be too complex a calculation to seek to draw any real comparison, and that any differences would not be significant.

Comparative biodiversity gains

231. Applegreen and Moto were each critical of the other's assumptions underlying their respective Biodiversity Metric Calculations. However, it is sufficient to note that, subject to detailed design, the Applegreen proposal could achieve in the order of a 20% increase in ecological value; and the Moto scheme would be capable of reaching a minimum 10% gain in value.
232. Local Plan Policy NE3: Protecting the Natural Environment offers general support for proposals that provide net gains in biodiversity. Criterion E requires proposals for major developments to avoid any net loss of biodiversity. The Environment Bill 2020 is also a material consideration in its quest for development to deliver at least 10% improvement in biodiversity value.
233. It was agreed that both proposals would be 'policy compliant'. On this basis, despite the difference in potential gains, I consider there to be no significant point of distinction.

Designated Heritage Assets

234. The relationship of the Applegreen proposal to two designated heritage assets, in terms of a very minor adverse effect on the contribution of setting to their significance, places it at a moderate comparative disadvantage.

Overall comparison

235. Determining the better of the two proposals to be carried forward into the overall planning balance is not a linear numerical exercise. In my opinion, there is one fundamental and determinative matter, namely landscape impact and related policy conflict. This clearly favours the Vale of York scheme and outweighs any cumulative advantage that the Moto proposal might garner from other considerations.

Consistency in decision making

236. At this point it is helpful to reflect on two extracts from the 2012 principal Inspector's report. First, in respect of what was known as the Kirby Hill proposal:

'The Kirby Hill proposal would conflict with its development plan in terms of encroachment into the countryside, not minimising the loss of BMV land, causing visual harm and adversely affecting the character of the landscape. It would also cause limited harm to the setting of two listed buildings. With regard to the character of the landscape, significant harm would be caused by the inclusion of a large mound and substantial woodland planting. There would be visual harm to receptors at more residential properties than at the other sites. The scheme also attracted more local opposition than the other sites Of particular importance is that the site is considerably off-centre and close to the absolute minimum acceptable spacing of 12 miles advocated by C01/08'.

237. Second, in terms of what is now known to be the proposed Ripon MSA site:

'The Baldersby Gate proposal would conflict with its development plan in terms of encroachment into the countryside, not minimising the loss of BMV land, causing visual harm and adversely affecting the character of the landscape. With regard to the landscape character, there would be moderate harm'.

238. It is evident that the Inspector identified harm in common to both proposals in terms of conflict with the development plan, countryside encroachment, loss of best and most versatile agricultural land, visual harm and an adverse effect on landscape character. These broadly coincide with two of the main issues before me. The relevance of the Listed Buildings to the Applegreen proposal remains and, like the earlier scheme, the locality of the proposed Vale of York site has a significantly greater number of nearby residential properties and it has attracted considerably more opposition. The importance of the '*absolute minimum acceptable spacing of 12 miles*' was not carried forward into the successor Circular 02/2013 and is no longer of relevance.

239. Moreover, it must be remembered that the Baldersby Gate proposal was considered alongside three other MSA candidates. In light of the demonstrable need for a new MSA, it was recommended for approval, despite its shortcomings, as the best performing scheme.
240. The current Vale of York proposal is a fundamentally different proposition to its predecessor whereas the Moto scheme has undergone comparatively minor modification. Both have drawbacks which reflect the generality of those issues considered in 2012. However, it is the Applegreen illustrative scheme and its successful response to the landscape considerations, in particular, that decisively carry it into the overall planning balance.

The Sixth Main Issue: The Planning Balance

My appraisal

241. It was a conscious decision of the Council not to include any specific policy relating to MSAs in the recently adopted Harrogate District Local Plan as any application would be considered on merit, having regard to other policies in the plan and national guidance.
242. It is evident that the local community, at Kirby Hill in particular, has drawn considerable assurance from the Local Plan as a document that it supports, and one which shows the appeal site to be open countryside and outside defined limits where development is unlikely to be sanctioned. However, where such applications arise, they are to be determined in accordance with the development plan, unless material considerations indicate otherwise.
243. One such material consideration is Circular 02/2013 which recognises the important road safety function that MSAs, and other roadside facilities, perform by providing opportunities for the travelling public to stop and take a break in the course of their journey. The recommended maximum distance between MSAs should be no more than 28 miles; but it can be shorter.
244. From my consideration of the first main issue, relating to need or otherwise, I came to the firm conclusion that a need for an additional MSA between Wetherby and Durham MSAs had been established. Despite the proximity of the site to Wetherby MSA, such a need attracts significant weight.
245. As to the second main issue relating to landscape, I have acknowledged that the proposed development would cause some harm to the character, appearance, and visual amenity of the area. However, I have reached the conclusion that the illustrative scheme had been informed by, and would be sympathetic to, the relevant Landscape Character Areas. As such, the proposals would protect the landscape character of the district in accordance with

- Local Plan Policy NE4. Despite some harm as described, consistency with a recently adopted policy weighs substantially in favour of the project.
246. On the third main issue, the loss of best and most versatile agricultural land is itself a negative factor to which I attach moderate weight, having regard to the area so affected and that such land is a diminishing, non-replaceable, resource. Indeed, the Framework confirms that planning decisions should contribute to and enhance the natural environment by, amongst other things, recognising the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land.
247. However, Policy NE8 accedes that planning permission for development affecting best and most versatile agricultural land may be granted, exceptionally, if there is an overriding need for the development and, where there is no alternative lower grade land, the benefits of the development justify the loss.
248. Turning to the fourth main issue, I have found nothing to count against the proposal, or conflict with related relevant development plan policies, in respect of highway safety; drainage, flood risk and climate change; and the local economy.
249. In terms of designated heritage assets, the proposal would have a very minor adverse effect on the contribution of setting to the significance of two Listed Buildings amounting to *'less than substantial harm'*. However, any harm to, or loss of, the significance of a designated asset, including development within its setting, should require clear and convincing justification and this harm should be weighed against the public benefits of the proposal. Case law¹⁹ has established that *'considerable importance and weight'* should be given to the desirability of preserving the setting of Listed Buildings. In this instance, I have identified a significant and overriding public benefit in my consideration of the first main issue.
250. Moving on to a range of benefits claimed by Applegreen, I consider that the most significant would be the likely inward investment and employment opportunities which merit substantial weight. The extent of the biodiversity gain attracts moderate weight.
251. Kirby Hill RAMS also pointed to social harm set against the social objective of sustainable development in supporting strong, vibrant, and healthy communities. In this regard, the local community has endured some

¹⁹ *Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG* [2014] EWCA Civ 137

25 years of collective trauma arising from repeated MSA applications at Kirby Hill, and concerns about the loss of community identity in an open rural landscape.

252. Kirby Hill RAMS drew on the empowerment afforded by the Localism Act 2011 in shaping and influencing development in their local area. Although the opportunity to produce a neighbourhood plan has not been fulfilled, the local community has spoken 'as one' in opposing the proposed development.
253. Nevertheless, opposition by itself, however strong, does not determine the outcome of an application unless it is based on sound planning grounds. My analysis of the main issues, and other matters raised, demonstrates that a number of the concerns raised locally are not borne out following consideration of all of the evidence before me.
254. Finally, Kirby Hill RAMS maintained that the Framework exists to deliver sustainable development and that Circular 02/2013 does not promote the safety and welfare of motorists above the requirement to deliver sustainable development.
255. However, the Circular sets out as follows:

'Operating an effective and efficient strategic road network makes a significant contribution to the delivery of sustainable economic growth

..... the Highways Agency supports the economy through the provision of a safe and reliable strategic road network, which allows for the efficient movement of people and goods. Such a network can play a key part in enabling and sustaining economic prosperity and productivity, while also helping support environmental and social aims by contributing to wider sustainability objectives and improved accessibility to key economic and social services.

A well-functioning strategic road network enables growth by providing for safe and reliable journeys. This can help reduce business costs by providing certainty, improving access to markets, enabling competition, improving labour mobility, enabling economies of scale, and helping attract inward investment'.

256. Two of those paragraphs include the word 'safe'. Further, Annex B goes on to explain that the primary function of roadside facilities is to support the safety and welfare of the road user. Thus, read as a whole, it can be inferred that roadside facilities are a component of the sustainability objectives described in the Circular.

The Overall Planning Balance

257. In summary, considerable weight attaches to the less than substantial harm relative to the identified designated heritage assets. Loss of best and most versatile agricultural land is also a further negative factor of moderate weight. However, individually, and cumulatively, the wider public benefit in meeting the demonstrable need for a MSA, for the safety and welfare of motorists, would outweigh that harm. In addition, the proposal

would accord with Local Plan Policy NE4, in its recognition of landscape character, and economic and biodiversity benefits would also accrue.

258. In conclusion, I consider that the Applegreen proposal, as described and illustrated, would be in accordance with the development plan when read as a whole.

Planning conditions

259. The initial list of draft planning conditions underwent a succession of amendments during consideration of the appeal and in discussion during the Inquiry. The final version represents a generally agreed schedule, save for some unresolved matters for my further consideration and correction of minor omissions and/or typographical errors. I am satisfied that all of the conditions referred to below meet the relevant tests.
260. Conditions 1 and 2 identify the matters reserved for subsequent approval; and the time periods for the submission of related details and the commencement of development.
261. Conditions 3 and 4 define the content and scale of the facilities within the main amenity building for certainty.
262. Condition 5 regulates the permission by reference to the parameters plan, which includes the red-line boundary, and requires the subsequent reserved matters not to exceed those specified by reference to ground levels and the heights and internal floorspaces of the proposed buildings. This is to ensure that the proposed development is generally consistent with the evidence that was presented, and on which the appeal has been considered and determined.
263. Although draft condition 6 requires a green/living roof for the main amenity building only, I consider it necessary to extend this to the HGV fuel filling facility and the drive-through coffee shop, again to reflect the way in which the development was portrayed²⁰, and to ensure overall site cohesiveness. Condition 7 will ensure the use of appropriate external materials for the walls and roofs.
264. A comprehensive landscaping scheme is an important prerequisite with enhancements to biodiversity secured through an Ecological Mitigation and Enhancement Scheme. These are set out in conditions 8 – 12.
265. There are a number of highway conditions to ensure appropriate design, construction, safety, and safety audits. It is also appropriate to preclude the use of the site for other purposes, in

²⁰ Design and Access Statement Section 4: *'The roof will appear to be a floating plane of landscape covering the main parts of the Amenity Building with similar smaller discs covering the smaller elements of the HGV Fuel Filling Station and Drive through Coffee Shop'*

the event that it ceases to operate as a MSA, in order to maintain the integrity and the safe and efficient operation of the strategic road network. Conditions 13 – 22 apply in this regard.

266. A comprehensive construction management plan, set out in condition 23, is required to protect and maintain the functionality, operation and safety of the motorway during the construction of the development; and to ensure that harm to protected species and retained vegetation and habitats is avoided.
267. I have extended sub-clause (f) by amending '*details of loading and unloading areas*' to read '*the management of deliveries of materials and plant to the site; the management of removal of materials and plant from the site; and the related unloading and loading areas*'. I have not included '*the routing and timing of deliveries*' in light of sub-clause (g) which requires details of proposals for routing by HGV construction traffic away from unsuitable highways, that is local roads, within a 16km radius of the site.
268. I also consider that restricting the timing of deliveries would be unduly onerous. In addition, it could lead to the unforeseen consequences of vehicles arriving outside designated times (within the overall permitted hours of working) and parking locally. However, the condition as reworded provides the means through '*the management of deliveries*' to influence movements when traffic flows on the B6265 are anticipated to be inflated by local events.
269. In view of the location of the site, it is essential that an external lighting scheme is designed and implemented to minimise impacts on the night sky and on wildlife. This is required by condition 24.
270. It is recognised that the site is of potential archaeological interest, as set out in Chapter 10 of the Environmental Statement. Further investigation, identification, evaluation, recording, assessment and any mitigation will be secured through conditions 25 – 28.
271. Conditions 29 – 32 are imposed to ensure that, in the event that any contamination is found during the course of development, agreed remediation measures are implemented without unacceptable risk to either individuals or the environment.
272. Water supplies, drainage and waste storage facilities are important public health, environmental and amenity considerations as reflected in conditions 33 – 37.
273. The preparation of a Travel Plan, and subsequent management and monitoring of its effectiveness in influencing employees' travel arrangements, is a requirement of condition 38.
274. Having regard to the scale of the project, and the proximity of the site to Kirby Hill in particular, it is essential that the local community has the opportunity to be heard and represented by means of a Local Liaison Group, especially during the construction

phase and thereafter when the proposed facility is in operation. This is provided for in condition 39.

275. Local Plan Policy CC4 requires new development to incorporate energy efficient measures. The Council has indicated that the development should meet BREEAM²¹ 'very good' or higher. Conditions 40 and 41 refer.
276. Finally, paragraph 110 e) of the Framework signifies that new developments should be designed to enable charging of plug-in and other ultra-low emission vehicles. Condition 42 is imposed to secure the implementation of an agreed scheme.

Overall Conclusion: Appeal A

277. From my consideration of the main issues, and all other matters raised at the Inquiry and in writing, I conclude that the appeal by Applegreen Plc should be allowed subject to the schedule of planning conditions set out in Annex A to this decision.

Overall Conclusion: Appeal B

278. From my consideration of the main issues, and all other matters raised at the Inquiry and in writing, I conclude that the appeal by Moto Hospitality Ltd should be dismissed.

David MH Rose

Inspector

ANNEX A: SCHEDULE OF PLANNING CONDITIONS

Reserved matters

1. No development shall take place without the prior written approval of the Local Planning Authority of all details of the following reserved matters:
 - (a) access;
 - (b) appearance;
 - (c) landscaping;
 - (d) layout; and (e) scale.

Thereafter the development shall not be carried out otherwise than in strict accordance with the approved details.

2. Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this decision. The development hereby permitted shall be begun on or before the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

Use and floor space

3. No more than one room within the MSA shall be made available for the purposes of holding conferences or undertaking training, including use by the public. The room set aside for such purposes shall have a capacity to seat no more than 15 persons at any one time.
4. The amenity building shall contain no more than 500m² of retail floor space as defined by Class E(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and not more than 100m² of adult amusement arcade floor space shall be made available to the public.

Parameters

5. The details to be submitted under condition 1 above shall accord within the parameters identified on the Parameters Plan (AFL-00-00-DR-A-00120 rev P08 dated 28.04.20) and the ground levels and the heights and internal floorspaces of the proposed buildings shall not exceed those specified.

Appearance

6. The details of appearance to be submitted under condition 1 above shall provide for a 'green / living roof' on the main amenity building, HGV Fuel Filling Station and Drive Through Coffee Shop

consistent with the principles illustrated within Section 4.0 of the submitted Design and Access Statement (dated July 2017).

7. Before the first use of any materials in the external construction of the roof and walls of the development hereby approved, samples of those materials shall have been made available for inspection by, and the written approval of, the Local Planning Authority and the development shall be carried out in strict accordance with the approved details.

Landscaping

8. The details of landscaping to be submitted under condition 1 above shall include full details of:
 - (a) excavations;
 - (b) ground modelling (including existing and proposed contours);
 - (c) any retaining walls and structures;
 - (d) means of enclosure;
 - (e) all hard landscaping;
 - (f) minor artefacts and structures;
 - (g) the extent of the existing trees and hedgerows on the land and details of those to be retained; and
 - (h) soft landscaping, including the types and species, a programme of planting, and cultivation proposals.

Thereafter the development shall be carried out in accordance with the approved details.

9. No operations shall commence on site in relation to the landscaping plan approved in accordance with condition 1 until a detailed scheme for sustainable tree planting has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate underground systems and provide a sufficient area of growth medium for long term tree growth where tree development is compromised by hard landscaping such as footways, highways, car park areas and structures (if there is hardstanding on more than one side of proposed tree planting then underground systems are to be implemented).
10. All planting, seeding or turfing comprised in the approved details of landscaping under condition 1 shall be carried out not later than the first planting and seeding seasons following occupation of the buildings or completion of the development whichever is the sooner and any trees or plants which within a period of 5 years from the completion of the development die, are removed

or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

11. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use until a secure boundary fence has been erected in accordance with a scheme submitted to, and approved in writing by, the Local Planning Authority. The approved fencing scheme shall be retained for the duration of the use of the site.
12. Prior to the first occupation of any building of the Motorway Service Area hereby approved an Ecological Mitigation and Enhancement Scheme including details of native tree, shrub and wildflower planting, and provision of bat bricks and bird boxes/bricks shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include arrangements for the provision for long term management and maintenance of biodiversity on the site. The Ecological Mitigation and Enhancement Scheme shall be implemented in strict accordance with the approved timescales and thereafter retained.

Highways

13. The details of access required by condition 1 above shall provide for:
 - (a) the 'rear access' from the B6265 as indicated on drawing 60534927SKE-C-0300 rev H dated 30-07-2019;
 - (b) the accesses from and to the A1(M) comprising the dumbbell access roundabout, accommodation structure, and associated slip roads in strict accordance with drawings 60534927-SKE-C-3000 rev G dated 19-8-2019 'Proposed MSA Motorway Access Works (720/720m) 3D model' and 60534927-SKE-C-0202 dated 28-07-2017 'Dumbbell Arrangement with DMRB Roundabout Minimum Radius Bypass - With AIL Tracks';
 - (c) the realignment of the A168 including works to the A168 / B6265 roundabout and the agricultural access track to the east of that realigned highway as indicated on drawing AFL-00-00-DR-A-00101 rev P10 dated 22.08.19;
 - (d) the field access shown on drawings 60534927-SKE-C-3000 rev G dated 19-08-2019 and AFL-00-00-DR-A-00101 rev P10 dated 22.08.19;
 - (e) internal access roads;

- (f) parking areas for 364 cars (of which 17 shall be disabled spaces), 90 HGVs, 20 motorcycles, 18 coaches, 10 staff cars (of which 3 shall be disabled spaces), 13 caravans (of which 2 shall be disabled spaces) and a staff drop off area;
- (g) servicing, turning and manoeuvring areas; and
- (h) footways, pedestrian areas and cycling provision, including the extension of the existing footway in Kirby Hill from its northernmost point to connect to the 'rear access', and including any modifications arising from the further conditions of this permission.

All shall be retained for the lifetime of the development.

14. No part of the development shall be open for public use until the related areas of access to be used in connection with that part are available for use. Once constructed, these areas of access shall be maintained clear of any obstruction and retained for their intended purpose at all times.
15. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site, until the construction of the 'rear access' to a standard appropriate for all uses including construction traffic has been constructed in accordance with the details approved in writing by the Local Planning Authority under condition 1.
16. There shall be no excavation or other groundworks, except for investigative works, or the depositing of material on the site in connection with the construction of the access road or building(s) or other works until the following have been submitted to and approved in writing by the Local Planning Authority and the reserved matters application for access has been approved in respect of the details:
 - (a) the design and construction details of the method by which the proposed development interfaces with the existing A1(M) highway alignment, carriageway markings and lane destinations; the carriageway widening, together with any modifications to existing or proposed structures, with supporting analysis; traffic signing, highway lighting and alterations and modifications to motorway communications and traffic data collection equipment, and the provision of written confirmation of full compliance with current Departmental standards (DMRB) and policies;
 - (b) the full design and construction details for the realignment of the A168 north of the B6265 roundabout including the realignment of the roundabout entry and exit;

- (c) the full design and construction details of the 'rear access' to a standard appropriate for all uses including construction traffic based upon indicative design on drawing 60534927-SKE-C-0300 rev H dated 30-07-2019;
- (d) the full design and construction details of the extension of the existing footway in Kirby Hill from its northernmost point to connect to the rear access including all necessary crossings works to provide a continuous footway cycleway link at the roundabout based upon the indicative design on drawing 60534927-SKE-C0300 rev H dated 30-07-2019;
- (e) a programme for the completion of all of the above proposed works including proposals for maintaining the flow of traffic on the A168; and
- (f) an independent Stage 2 Safety Audit has been carried out in accordance with GG119 – Road Safety Audit or any superseding regulations and the design amended in accordance with the findings of the Audit, have been submitted to and approved in writing by the Local Planning Authority and the reserved matters application for access has been approved in respect of those details.

The works shall be constructed in accordance with the approved details and programme and shall be fully opened to traffic prior to the opening of the site.

17. Construction of the A1(M) dumbbell access roundabout, accommodation structure, and associated slip roads solely (and no other development indicated therein) shall be carried out in strict accordance with drawings 60534927-SKE-C-3000 rev G dated 19-8-2019 'Proposed MSA Motorway Access Works (720/720m) 3D model' and 60534927-SKE-C-0202 dated 28-07-2017 'Dumbbell Arrangement with DMRB Roundabout Minimum Radius Bypass - With AIL Tracks' as replicated in the details of access required by condition 1.
18. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use prior to the completion and opening for public use of all the highway works referenced in conditions 16 and 17 above together with the provision of the agricultural access from the A168 / B6265 roundabout and the agricultural track parallel to the realigned A168.
19. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved

shall not be brought into use until measures to restrict the 'rear access' to the site from the B6265 to use only by staff, prearranged deliveries and the emergency services has been submitted to and approved in writing by the Local Planning Authority and implemented. The measures shall be retained operational and in full working order for the duration of the use of the site.

20. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use until:
 - (a) a signing agreement with Highways England for the A1(M) motorway is in place and direction signing for the Motorway Service Area from and to the A1(M) has been provided in accordance with that agreement. At any time a signing agreement is not in place no part of the development shall be open for use by users of the A1(M) motorway; and
 - (b) a Stage 3 (completion of construction) Road Safety Audit has been carried out in accordance with DMRB HD19/15, and submitted to and approved in writing by the Local Planning Authority and any amendments to the works on site have been implemented.
 21. A Stage 4 monitoring Road Safety Audit shall be carried out using 12 months and 36 months of accident data from the time the relevant schemes of works set out in Conditions 13, 16 and 17 become operational. The Audits shall be carried out in accordance with DMRB HD19/15 and shall be submitted to and approved in writing by the Local Planning Authority. Where necessary the amendments to the highway networks shall be implemented in accordance with a programme submitted to and approved in writing by the Local Planning Authority.
 22. In the event that the implemented Motorway Service Area development hereby approved ceases to operate, the site shall not be used for any other purpose. All accesses to the A1(M) shall be removed and the former A1(M) features and highway boundaries restored in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- Construction Management Plan**
23. No construction of the development hereby approved nor any site preparation or access works shall commence until a Construction Management Plan has been submitted to, and approved in writing by the Local Planning Authority. Development shall be undertaken in strict accordance with the approved Construction Management Plan and a copy or copies shall be retained on site for access by site operatives at all times.

The Plan shall:

- (i) include a Construction Traffic Management Plan based upon the submitted Draft Construction Management Plan;
- (ii) highlight environmental impacts resulting from the development and identify sensitive receptors to the construction team;
- (iii) reduce and manage environmental impacts through appropriate construction methods and by implementing environmental best practice during the construction period, for example with regard to dust mitigation;
- (iv) undertake on-going monitoring and assessment during construction to ensure environmental objectives are achieved;
- (v) provide emergency procedures to protect against environmental damage;
- (vi) provide an environmental management structure for the construction stage;
- (vii) recommend mechanisms to reduce risks of environmental damage occurring; and
- (viii) provide for consultation and liaison with relevant bodies throughout the works as required including, as appropriate, the Environment Agency, Natural England, North Yorkshire County Council, Harrogate Borough Council and other stakeholders including the public.

It shall also include arrangements for the following:

- (a) details of any temporary construction access to the site including measures for removal following completion of construction works;
- (b) any temporary or permanent restrictions on the use of accesses 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 visitors' vehicles;
- (e) areas for storage of plant and materials used in constructing the development clear of the highway;
- (f) the management of deliveries of materials and plant to the site; the management of removal of materials and plant from the site; and the related unloading and loading areas;

- (g) details of proposals for routing by HGV construction traffic away from unsuitable highways within a 16 Km radius of the site and highway condition surveys on the B6265 between the 'rear access' and the A168 roundabout;
- (h) protection of carriageway and footway users at all times during construction;
- (i) protection of contractors working adjacent to the highway;
- (j) details of site working hours;
- (k) erection and maintenance of hoardings, security fencing and scaffolding on/over the footway and carriageway;
- (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) there shall 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 construction works;
- (p) details of the precautions that are to be taken to avoid harm to nesting birds, terrestrial mammals and amphibians;
- (q) details of the measures to be taken for the protection of trees in accordance with the recommendations of the JCA Tree Report ref 13543a/SR including a protective barrier in accordance with BS5387:2012 to Root Protection Areas;
- (r) a Soil Resource and Management Plan produced in accordance with the Department for Environment, Food and Rural Affairs *Construction code of practice for the sustainable use of soils on construction sites* (2009);
- (s) the implementation of the protective barrier around all trees and shrubs that are to be retained and for the entire area as specified in accordance with BS 5837:2012 together with ground protection detail (no dig) before any development, site preparations or access works commence on site;
- (t) the level of land within the areas contained by the protective barriers not being altered;
- (u) details of all construction-related external lighting equipment;

- (v) details of ditches to be piped during the construction phases;
- (w) detailed drawings showing how surface water will be managed during the construction phases;
- (x) a detailed method statement and programme for the building works; and
- (y) contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Lighting

24. The details of layout to be submitted under condition 1 above shall include an external lighting scheme. The lighting scheme shall:
- (a) provide detailed specification of the luminaires to be used including location of the luminaires;
 - (b) detail the levels of average maintained illuminance that will be provided to different areas of the site, which should be generally in accordance with table 4.1 Indicative Lighting Criteria detailed in Appendix 4.1 of the submitted Environmental Statement dated July 2017;
 - (c) detail the environmental impact of the proposed lighting (i.e. light trespass and source intensity at residential receptors) which shall not exceed the criteria for ILP Environmental Zone E2 (post curfew) as detailed in part 2.3 of Appendix 4 of the submitted Environmental Statement dated July 2017; and
 - (d) take into account up to date advice from Natural England (and/or equivalent bodies) on the siting and illuminance of lights.

The lighting shall be installed in accordance with the approved scheme and retained thereafter.

Archaeology

25. No development shall take place until both:
- (a) a scheme of Archaeological Investigation; and
 - (b) a Written Scheme of Investigation for archaeological mitigation have been submitted to and approved in writing by the Local Planning Authority.
26. The scheme of archaeological investigation required by condition 25(a) shall provide for:

- (a) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area; and
 - (b) an assessment of the impact of the proposed development on the archaeological significance of the remains.
27. The Written Scheme of Investigation required under condition 25(b) shall be prepared subsequent to the implementation of the approved scheme of archaeological investigation in accordance with conditions 25(a) and 26 and shall include:
- (a) an assessment of significance and research questions;
 - (b) the programme and methodology of site investigation and recording;
 - (c) the programme for post-investigation assessment;
 - (d) provision to be made for analysis of the site investigation and recording;
 - (e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - (f) provision to be made for archive deposition of the analysis and records of the site investigation; and
 - (g) nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Development shall take place in strict accordance with the approved Written Scheme of Investigation.

Ground Investigations

28. The development comprising of the Motorway Service Area accessed from the slip roads from the A1(M) hereby approved shall not be brought into use prior to the completion of the site investigation and post-investigation assessment in accordance with the programme set out in the Written Scheme of Investigation approved under condition 25(b) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Contamination

29. In the event that contamination is found at any time when carrying out the approved development that was not previously identified:
- (a) a report in writing shall be made immediately to the Local Planning Authority; and

- (b) an investigation and risk assessment shall be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority.
30. Where remediation is necessary, a remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority.
31. Any such approved remediation scheme shall be carried out in strict accordance with its terms prior to the re-commencement of development, unless otherwise approved in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.
32. Following completion of the measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Water Supplies

33. Development shall not commence until a scheme of water supply for the development has been submitted to and approved in writing by the Local Planning Authority. No buildings shall be occupied or brought into use prior to completion of the approved water supply works, which shall thereafter be retained.

Drainage

34. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The foul water pumped rate shall not exceed 6 litres a second.
35. Prior to the commencement of any soil stripping or foundation works to any of the buildings, except for investigative works, drawings showing details of the proposed surface water drainage strategy shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall not discharge to the existing local public sewerage system and will include:

- (a) a drainage system designed with sufficient on site attenuation so that flooding does not occur on any part of the site for a 1 in 30 year rainfall event, nor any flooding for a 1 in 100 year rainfall event in any part of a building

(including a basement) or in any utility plant susceptible to water (e.g. pumping station or electricity substation)

within the development, except within an area that is designed to hold and/or convey water. The design shall also ensure that storm water resulting from a 1 in 100 year rainfall event, plus an allowance of 40% to account for climate change, can be stored on the site without risk to people or property and without increasing flood risk off site. Due to the relatively low percolation figures a further factor of safety should be incorporated into the on-site attenuation requirements;

- (b) full hydraulic calculations for the proposed surface water drainage design;
- (c) proposed control measures to manage pollution from all areas of vehicle parking and hard standing areas, including from the forecourt of filling stations, areas used for the delivery of fuel, areas used for and immediately adjacent to vehicle washing facilities and/or other similar areas where detergents are likely to be used;
- (d) an exceedance flood routing plan which shall demonstrate where flooding could potentially occur if the designed drainage systems were to be exceeded or fail for any reason including rainfall in excess of the 1 in 100 year event. The routing map should indicate direction of flood flows, highlighting areas that could flood and to what depth. The plan shall demonstrate that exceedance flows will not cause risk or flooding to property/people on or off site; and
- (e) 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.

No piped discharge of surface water from the application site shall take place until the approved works to provide a satisfactory outfall has been completed.

36. Prior to the commencement of the development hereby approved details of a scheme for foul water drainage shall be submitted to and approved by the Local Planning Authority in writing. No buildings shall be occupied or brought into use prior to completion of the approved scheme for foul water drainage, which shall thereafter be retained.

Waste Storage

37. The details to be submitted under condition 1 above shall provide for full details of waste storage facilities and undercover secure cycle parking. The facilities shall be provided in strict accordance with the approved details prior to the first occupation of any of the buildings of the Motorway Service Area hereby approved and thereafter retained as such.

Travel Plan

38. Six months prior to the first occupation of any building of the Motorway Service Area hereby approved, a Travel Plan in general accordance with details set out in the submitted Framework Travel Plan shall have been submitted to, and approved in writing by, the Local Planning Authority. The

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

Local Liaison Group

39. Prior to the commencement of the development hereby approved details of a Local Liaison Group to be established, including proposed membership and ongoing facilitating arrangements, shall be submitted to and approved by the Local Planning Authority in writing. The first meeting shall be arranged prior to the date of commencement of construction of the development. Subsequent meetings shall be arranged at three-monthly intervals during the construction phase and thereafter six-monthly intervals, or such other time period as agreed by the Local Planning Authority.

Sustainability

40. No development of buildings shall take place until a Design Stage Certificate issued by BRE has been submitted to and approved in writing by the Local Planning Authority. The development shall meet BREEAM 'very good' or higher. Thereafter the development shall be carried out in accordance with the approved details.

41. A Post Construction Stage Certificate issued by BRE for the development shall be submitted for the approval in writing of the Local Planning Authority within 3 months of the first occupation of the development.
42. Prior to the first occupation of any building of the development hereby approved, an electric vehicle (EV) charging scheme shall be installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include, as a minimum, 10 rapid EV charging points. The EV charging apparatus shall thereafter be retained in an operative state until superseded by any advanced technology.

End of Schedule

ANNEX B: APPEARANCES

FOR HARROGATE BOROUGH

Stephen Whale of Counsel

Instructed by Peter Atkinson
Principal Planning Lawyer
Harrogate Borough Council

He called

Nigel Rockliff BA Dip. LA, CMLI

Director DRaW (UK)

Mark Simmonds BA(Hons), Dip.TP, MRTPI

Planning Consultant

Mike Parkes*

Senior Development Management
Officer Harrogate Borough Council

FOR NORTH YORKSHIRE COUNTY COUNCIL (LOCAL HIGHWAY AUTHORITY)

Pam Johnson*
BSc, Ceng, MICE

Technical Specialist
Development Management
North Yorkshire County Council

FOR APPLGREEN PLC

Rhodri Price Lewis QC
Leading and assisted by Gwion Lewis of
Counsel

Instructed by Nick Roberts
AXIS

He called

Alastair Field
BA(Hons), MSc, PIEMA, FBIAC, MI Soil Sci

Director and Company Secretary
Reading Agricultural Consultants Ltd

Jon Mason
BSc(Hons), Dip. LA, CMLI

Technical Director
AXIS

Nick Roberts
BA(Hons), Dip LA, CMLI

Director
AXIS

*Mr Parkes and Mrs Johnson were introduced to take part in the discussion on draft planning conditions

FOR MOTO HOSPITALITY LTD

Peter Dixon of Counsel

Instructed by Tony Collins
Collins and Coward Ltd

He called

Daniel Baird
M.I. Soil Sci

Daniel Baird Soil Consultancy Ltd

Sue Illman
PPLI, HonFSE, HonFellow(UoG)

Managing Director
Illman Young Landscape Design Ltd

Tony Collins
MRICS, MRTPI, MCIT, MILT, MEWI

Managing Director
Collins and Coward Ltd

FOR KIRBY HILL RESIDENTS AGAINST MOTORWAY SERVICES (KIRBY HILL RAMS) (RULE 6)

Gareth Owens
MSc(Oxon), MBCS, CITP

Local Resident and Chair Kirby Hill
RAMS

He called

Dr Andrew Ramsden

Local Resident

Geoff Harris

Local Resident

Lt.Col. (Retd) Ken Lawson, OBE

Local Resident and Chair Kirby Hill
and District Parish Council

Councillor Robert Windass

Harrogate Borough Councillor for
Boroughbridge Ward and Member of
the Planning Committee

INTERESTED PERSONS

Colin Reid

Local Resident

Councillor Nicholas Brown

Harrogate Borough Council
Ward Councillor for Bishop Monkton
and Newby Ward

Reverend Canon Wendy Wilby

College of Canons at Ripon
Cathedral and Local Resident

Richard Compton	HM Deputy Lieutenant for Yorkshire and Local Estate Owner
Dr Rose Ferraby	Affiliated researcher in Archaeology University of Cambridge; Co-Director of the Aldborough Roman Town Project; and Local Resident
Jayne Cove	Local Resident
Councillor Pat Taylor	Mayor of Boroughbridge
Councillor Mike Collins, MBE	Chairman of Langthorpe Parish Council
Joan Whittle	Local Resident
Chris Thirkell	Local Resident
Councillor Patrick Sanderson	Chairman of Maron-le-Moor Parish Council
Judith Owens	Local Resident
Craig Helliwell	Local Resident
Linda Dooks	Secretary, Boroughbridge Historical Society & Secretary, Boroughbridge Walkers are Welcome and Local Resident
Rt Reverend Clive Handford, CMG	Local Resident and former Anglican Bishop of Cyprus and the Gulf
Dr Clare Eisner	Retired GP and Local Resident
Geoff Harris	Obo John Watson, OBE Former MP for Kirby Hill and former NYCC Councillor for the Boroughbridge Area
Sandra Shackleton	Local Resident
Councillor John Foster	Chairman Melmerby Parish Council

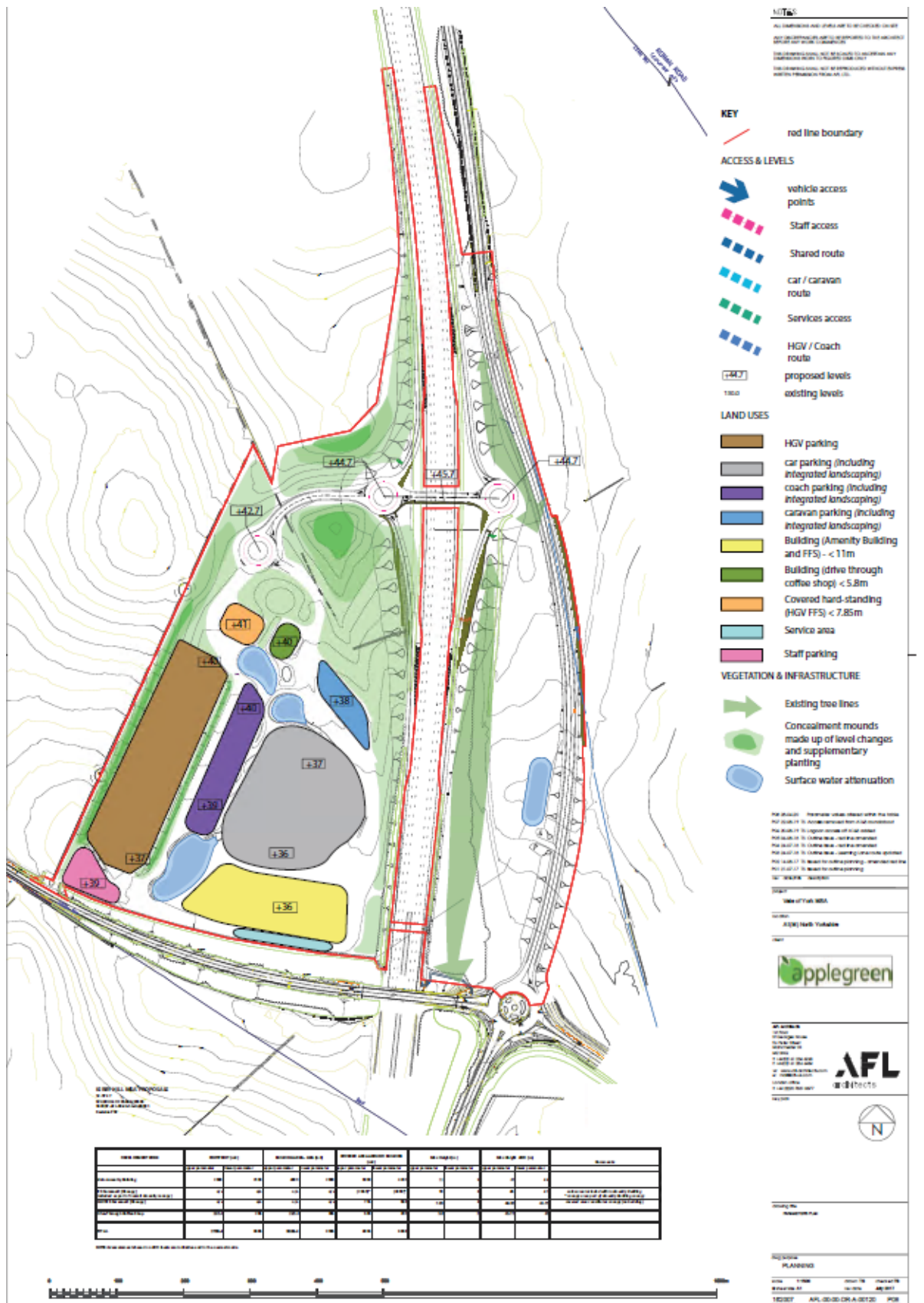
ANNEX C: ADDITIONAL INQUIRY DOCUMENTS

- ID01 Opening Statement: Harrogate Borough Council
- ID02 Opening Statement: Kirby Hill RAMS (KH06)
- ID03 Opening Statement: Applegreen Plc
- ID04 Opening Statement: Moto Hospitality Ltd
- ID05 Email from AXIS and attachment regarding drawing error of Parameters Plan (dwg. No. 162007-AFL-00-00-DR-A-00120 P08) (28th April 2020) (CD1.31)
- ID06 Extracts from Harrogate District Local Plan – Policy EC3 and GS3 (CD4.1)

- ID07 GLVIA Chapter 4 (CD7.1)
- ID08 Email from Mr Colin Reid correcting timings of journey in vicinity of J50 proposal
- ID09 Email from Mrs Linda Dooks enclosing correspondence from the Ramblers re Proposed Map Modification Order at Moor Lane and Coach Road, Kirby Hill, Boroughbridge
- ID10 Letter from Richard Compton enclosing letters from the Police Designing out Crime Officer
- ID11 Statement read by Mrs Sandra Shackleton
- ID12 Statements of individual objectors to the Applegreen Kirby Hill scheme (KH07)
- ID13 Email from Mr Colin Reid referring to MSA proposal at J52 of the A1(M)
- ID14 A1(M) Junction 50 – Google Earth Image from October 2009 (CD7.19)
- ID15 A1(M) Junction 50 – Google Earth Image from March 2012 (CD7.20)
- ID16 Guide to the signing of roadside facilities for motorists (September 2013) (CD9.104)
- ID17 Amended Visualisation NR7.3 and statement of clarification
- ID18 Kirby Hill and District Parish Council: Comments on the Harrogate District Draft Local Plan (KH7.2)
- ID19 Extract of ES chapter 8 for A1 Dishforth to Barton improvements (CD8.57)
- ID20 Letter from Transport Infrastructure Ireland dated 1 March 2021 (Lusk MSA) (CD8.58)
- ID21 Letter from Applegreen Plc dated 2 March 2021 (proposed transaction between Applegreen Plc and Causeway Consortium Limited) (CD8.59)
- ID22 Vale of York MSA – East side of A1(M) measurements (CD8.60)
- ID23 Note on behalf of Applegreen re Leeming Bar Unilateral Undertaking (CD8.61)
- ID24 Email trail between Moto and Harrogate Borough Council re Leeming Bar Unilateral Undertaking (CD8.62)
- ID25 Certified Copy of Unilateral Undertaking (Moto)
- ID26 Statement of CIL Compliance (Moto)
- ID27 Ripon MSA Travel Plan (Moto)
- ID28 Agreed Travel Plan Condition (Moto)
- ID29 Travel Plan Monitoring Fee (Moto)
 - a) Email confirming payment made
 - b) Email confirming receipt
 - c) Email confirming refund on request
- ID30 Consultation reply from the Economic Development Team, Harrogate Borough Council (Moto) (CD9.105)
- ID31 Email confirming layout to be a reserved matter (Moto)
- ID32 Coneygarth Services:
 - a) Block Plan
 - b) Design and Access Statement
 - c) Sections
 - d) Officer Report
 - e) Decision Notice
- ID33 Thirsk Services: (KH08 – KH10)
 - a) Committee Report
 - b) Master Plan
 - c) Decision Notice

- ID34 Final Version of Draft Planning Conditions (Applegreen)
- ID35 Final Version of Draft Planning Conditions (Moto)
- ID36 Closing Submissions: Harrogate Borough Council
- ID37 Closing Submissions: Kirby Hill RAMS (KH11)
- ID38 Closing Submissions: Applegreen Plc (+ Forest of Dean v SSCLG)
- ID39 Closing Submissions: Moto Hospitality Ltd (+ SoS v Edwards)

APPENDIX B – Parameters plan referenced by condition 5 of allowed outline permission



APPENDIX C – Proposed Parameters Plan
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DEVELOPMENT ZONE	FOOTPRINT (m2)		BUILDING AREA - GEA (m2)		COVERED AREA AROUND BUILDING (m2)	
	upper parameter	lower parameter	upper parameter	lower parameter	upper parameter	lower parameter
Main Amenity Building	2500	2100	4800	2500	5000	3200
FFS Forecourt (Canopy) (included as part of overall Amenity canopy)	n/a	n/a	n/a	n/a	(2950)*	(2350)*
HGV FFS Forecourt (Canopy)	n/a	n/a	n/a	n/a	715	565
Drive-Through Coffee Shop	295.4	285	295.4	285	500	200
TOTAL	2795.4	2385	5095.4	2785	6215	3965

NOTE: Measurements based on AOD levels are indicative and to the nearest metre

APPENDIX E Enlargement of table to proposed parameters plan (part of)
(Footnote differs from Appendix D)

DEVELOPMENT ZONE	FOOTPRINT (m2)		BUILDING AREA - GEA (m2)		COVERED AREA AROUND BUILDING (m2)	
	upper parameter	lower parameter	upper parameter	lower parameter	upper parameter	lower parameter
Main Amenity Building	2500	2100	4800	2500	5000	3200
FFS Forecourt (Canopy) (included as part of overall Amenity canopy)	n/a	n/a	n/a	n/a	(2950)*	(2350)*
HGV FFS Forecourt (Canopy)	n/a	n/a	n/a	n/a	715	565
Drive-Through Coffee Shop	295.4	285	295.4	285	500	200
TOTAL	2795.4	2385	5095.4	2785	6215	3965

NOTE: Measurements based on AOD levels to the nearest metre (i.e can be +/- 1m)

NOTE: The location of the surface water attenuation / soakaway basins is indicative.

APPENDIX F Enlargements of remaining part of the table to the parameters plan
(Common to both referred to by condition 5 of the allowed outline parameters plan
and that now proposed)

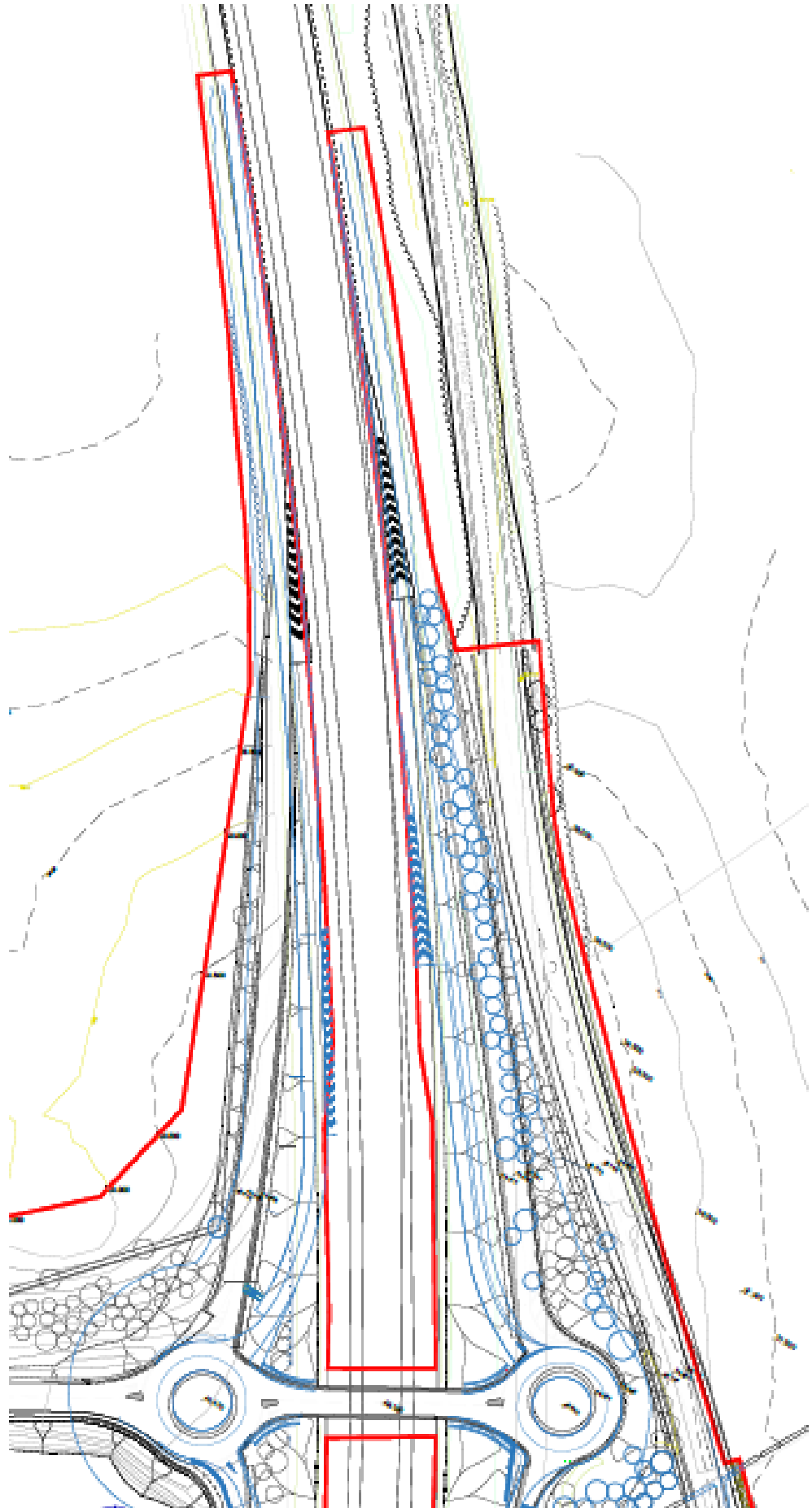
DEVELOPMENT ZONE	Max Height (m)		Max Height AOD (m)	
	upper parameter	lower parameter	upper parameter	lower parameter
Main Amenity Building	11	9	47	44
FFS Forecourt (Canopy) (included as part of overall Amenity canopy)	10	6	46	41
HGV FFS Forecourt (Canopy)	7.85	6	48.85	45.75
Drive-Through Coffee Shop	5.8	5	45.75	45
TOTAL				

DEVELOPMENT ZONE	Comments
Main Amenity Building	
FFS Forecourt (Canopy) (included as part of overall Amenity canopy)	sales area included within Amenity Building * canopy area part of Amenity Building canopy
HGV FFS Forecourt (Canopy)	covered area constitutes canopy (no building)
Drive-Through Coffee Shop	
TOTAL	

APPENDIX G Drawing of rear access referenced by outline conditions 13 and 17

APPENDIX I
Extract from comparative masterplan drawing (from proposed overbridge northwards) . This illustrates changes in the scheme between that permitted by the Inspector and that now sought by this Section 73 application.

Notably the straightend slip roads compared to the originals shown in light blue



APPENDIX J Extract from comparative masterplan drawing (from proposed overbridge southwards).

