

North Yorkshire Council
Community Development Services
Strategic Planning Committee

10 OCTOBER 2023

**23/00046/MFULE - INSTALLATION AND OPERATION OF A SOLAR FARM AND
BATTERY ENERGY STORAGE SYSTEM WITH ASSOCIATED INFRASTRUCTURE
INCLUDING SUBSTATION, ACCESS TRACKS, POLE MOUNTED CCTV, FENCING AND
LANDSCAPING FOR A PERIOD OF 40 YEARS**

Report of the Corporate Director – Community Development Services

1.0 Purpose of the Report

- 1.1 To determine a planning application for Full Planning Permission for the installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years on land off Great Sike Road, Old Malton, Malton, North Yorkshire.
- 1.2 This application is brought to the Strategic Planning Committee, in accordance with the North Yorkshire Council Constitution, because it is a significant planning application relating to energy and physical infrastructure accompanied by an Environmental Statement and it is recommended for approval.

2.0 EXECUTIVE SUMMARY

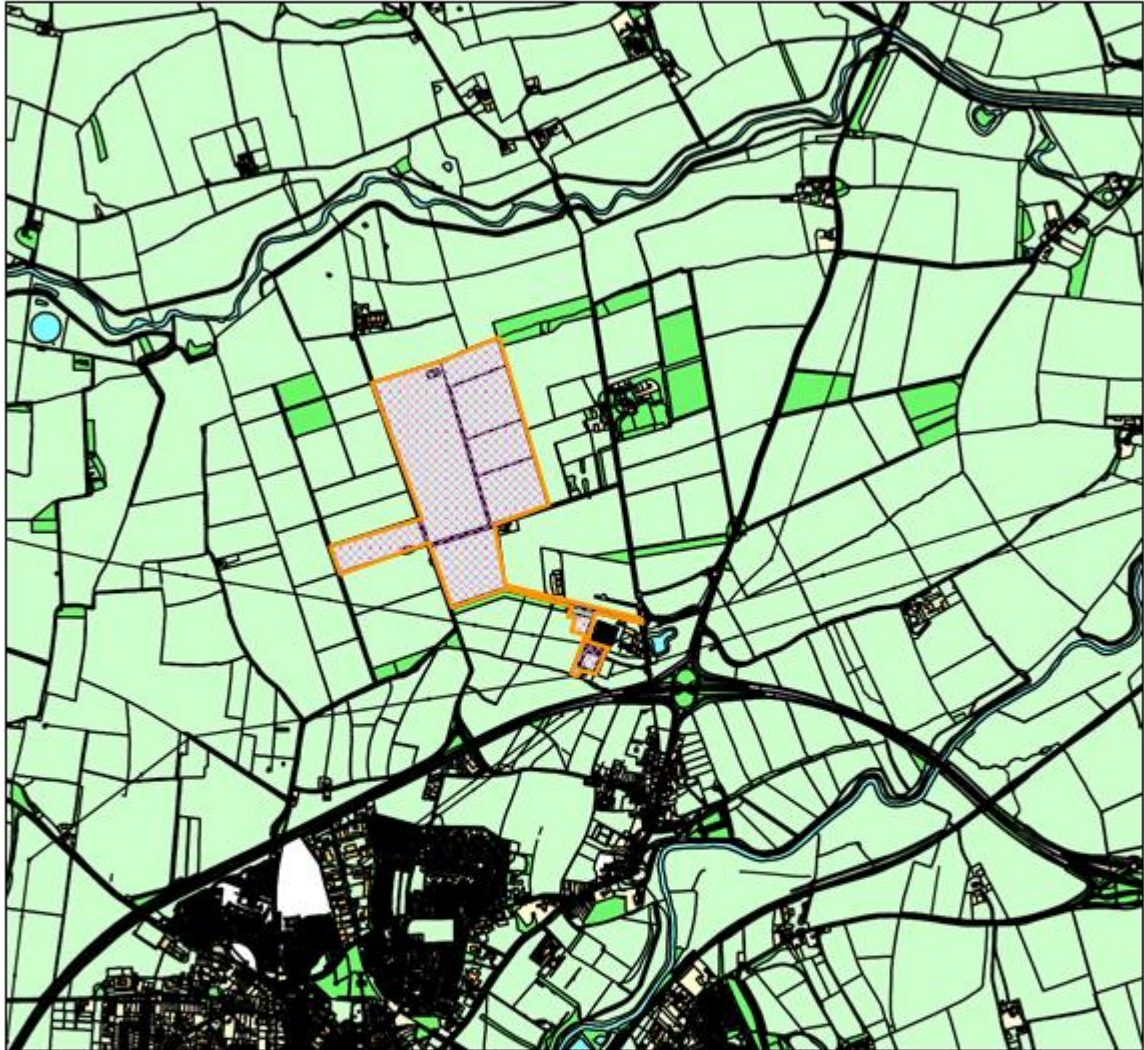
RECOMMENDATION: That planning permission be GRANTED subject to conditions listed at Section 12.

- 2.1 This application seeks Full Planning Permission for the installation and operation of a solar farm and battery energy storage system with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years on land off Great Sike Road, Old Malton, Malton, North Yorkshire. The site area is 52.86ha.
- 2.2 The Site is divided into two main sections; the solar panel site and the battery energy storage system (BESS) and plant site. The two parts of the site are linked by an unclassified farm road. The site is located on cultivated agricultural land farmed by the tenants of Eden Farm. The BESS site is adjacent to Eden Camp Museum, and just to the north of the A64 bypass. The surrounding landscape is flat and comprises mainly of agricultural fields bordered by hedgerows and trees with isolated farmsteads and dwellings nearby. There are two Grade II Listed Buildings located close to the site. The Eden Camp Museum is located adjacent to the southeast boundary of the battery site. The site is in Flood Risk Zones 2 and 3.
- 2.3 The principle of developing the land for a solar farm and battery storage system is in accordance the local development plan.
- 2.4 The key issue is whether or not the public benefits of the proposal, of providing low carbon energy, outweighs:

- the provision of inconclusive evidence that there are no reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding (the Sequential Test) or on lower grade agricultural land
- harm caused by the temporary (40 years) loss of Best and Most Versatile Agricultural Land (BMV);
- less than substantial harm caused to the setting of two Grade II Listed Buildings; and,
- Minor, localised harm to the landscape
- Impact on the local farming economy

- 2.5 The proposal is expected to be capable of providing energy for the equivalent of 8,660 homes - this means the scheme could supply the average annual electricity needs of 38% of the households in former Ryedale District Council area, based on the number of households totalling 22,500. The proposed development would result in carbon savings of just over 12,500 tonnes per year. The NPPF sets out a presumption in favour of sustainable development, and renewable energy development is central to the local and national policy goals of achieving a sustainable future. The proposed development would make a valuable contribution to this. The proposal has already secured a connection to the National Grid and is capable of being completed relatively quickly.
- 2.6 A large number of objections have been received from members of the public and there are objections from Malton Town Council, Habton Parish Council and the CPRE. Excepting the Town and Parish Council, there are no objections from statutory consultees and only some minor conflicts with local Policy have been identified where the proposal is found to alter the character of the immediate locality, contrary to policies SP13, SP16 and SP20.
- 2.7 The significant public benefit of the proposal is considered, on balance, to outweigh the temporary loss of BMV land, location in a Flood Risk Zone and lack of viability evidence used to set the Sequential Test parameters, the minor harm to heritage assets and the character of the site and surrounding lanes and the policy conflicts identified in this report. Having regard to the overall planning balance the development is found to be sustainable and in the public interest. Approval is recommended subject to conditions.

23/00046/MFULE

Land off Great ~~Sike~~ Road Old ~~Malton~~**Scale:** 1:25,000

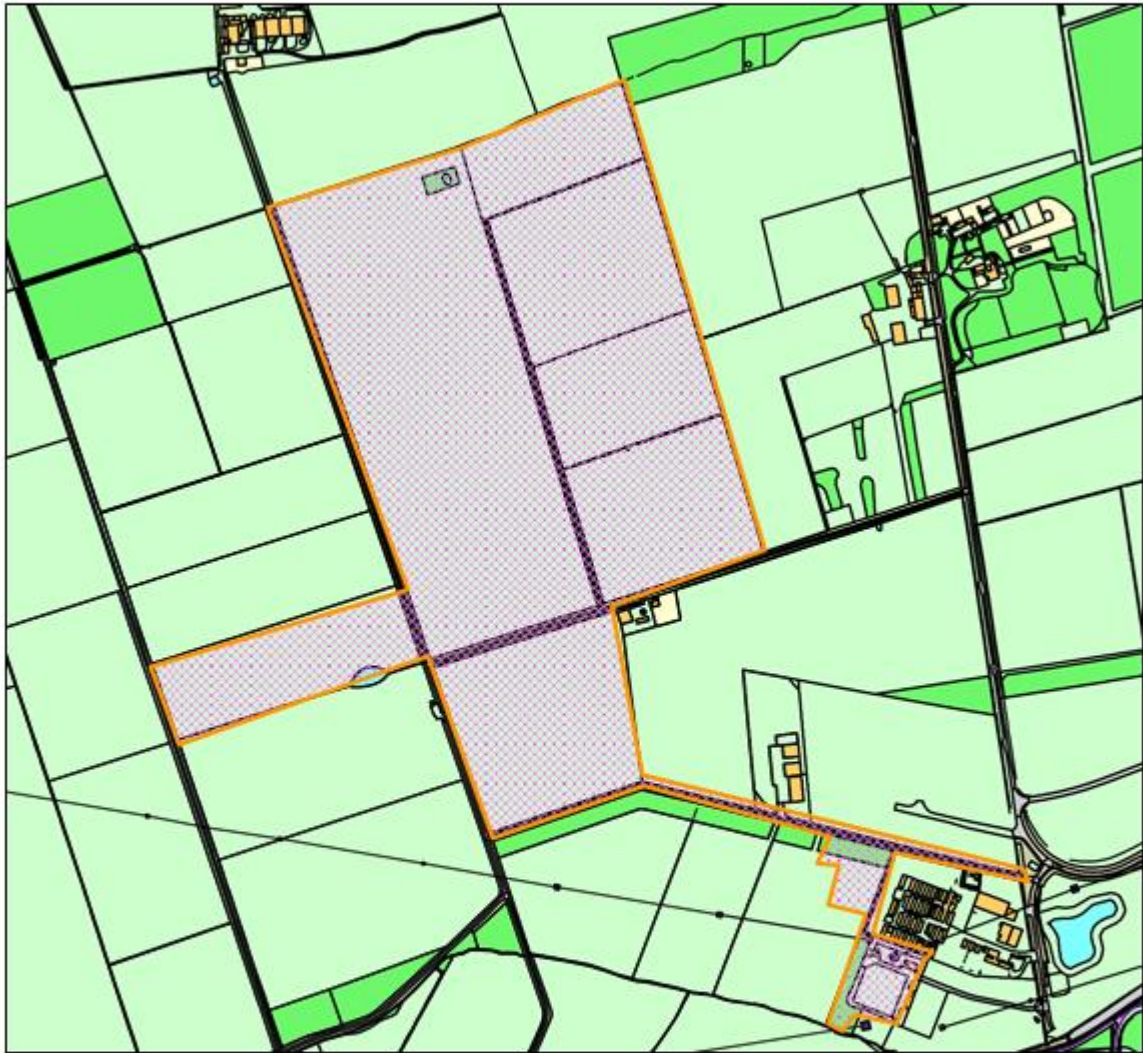
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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	24/07/23
MSA Number	

23/00046/MFULE

Land off Great Sike Road Old Malton

**Scale:** 1:8,908

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Organisation	North Yorkshire Council
Department	Development Management
Comments	Not Set
Date	18/07/23
MSA Number	

3.0 PRELIMINARY MATTERS

- 3.1 Access to the case file on Public Access can be found here:-
<https://planningregister.ryedale.gov.uk/caonline-applications/applicationDetails.do?activeTab=summary&keyVal=ROMFMFNOHVK00>
- 3.2 Pre-Application advice on the proposal was provided by the Local Planning Authority (LPA) on 26th May 2020 (20/00309/PREAPP). This advice relates to a proposal for a solar farm covering approximately 120-130ha. The Site area now proposed is 52.86ha and therefore significantly smaller.
- 3.3 A request for a Screening Opinion was submitted for the proposed development (20/00315/SCR) to determine whether the LPA considered the application to be development under Schedule 1 or 2 of the Environmental Impact Regulations 2017. The LPA's Screening Opinion was that the proposed development is an Environmental Impact Assessment (EIA) development. As a consequence the Regulations require that the application must be accompanied by an Environmental Statement (ES).
- 3.4 A request for a Scoping Opinion was subsequently submitted (20/01142/SCO) to determine which matters the LPA considered could have a significant environmental impact and so should be considered within the scope of the ES. The LPA determined that the following matters should be scoped in: Cultural Heritage; Agricultural Land and Soils; Cumulative Impacts; and Biodiversity and Ecology. The following matters were scoped out: Landscape and Visual Impact, Ground Conditions, Flood Risk, Transport, Air and Climate, Noise, Accidents, Material Assets and Human/Health/Population.
- 3.5 During the course of determining this application, the Windmill at Windmill Farm, Old Malton was added to the List of Buildings of Special Architectural or Historic Interest. The building is now listed at Grade II. The proposal is considered to affect the setting of the Windmill at Windmill Farm. As this affects cultural heritage, a matter within the scope of the ES the application was re-publicised in accordance with Section 25 to the Environmental Impact Assessment Regulations 2017 and also to comply with Section 67 of the Planning (Listed Buildings and Conservation Areas) Act 1990. An addendum to the Cultural Heritage chapter (Chapter 7) of the applicant's Environmental Statement was submitted as a consequence of the listing of the Windmill.
- 3.6 During the course of determining this application the applicant has submitted an amendment to the proposal, which principally affected the layout of the proposed Battery Energy Storage System (BESS) and plant, moving it further to the west and away from Eden Camp Museum. Amendments to the associated infrastructure design and site layout plans were also submitted.
- 3.7 In response to comments received from the North Yorkshire Fire and Rescue Service dated 21 July 2023 the applicant submitted a further revision to the BESS site layout to allow for a service track to be built around all sides of the BESS complex. As the revisions to the BESS site layout are relatively minor in the context of the proposed development and do not have a material effect on the matters within the scope of the Environmental Statement a further consultation regarding these changes was not necessary.
- 3.8 There is one relevant planning application for this application site which is detailed below.

17/01156/FUL – Installation of a Gas fuelled capacity mechanism embedded electricity generation plant to support the National Grid to include formation of a vehicular access from Freehold Lane – Decision Date 06.12.2017. The site was directly to the south of the BESS site in this application. It is understood that planning application 17/01156/FUL has lapsed.

- 3.9 Also relevant is an application for land adjacent to the south-east corner of the application site (the BESS site), which is detailed below:

14/00426/MOUTE -Erection of new livestock market (sui generis) comprising circa. 2,850 sq. m floorspace: Agricultural Business Centre comprising circa. 6,010 sq m of floorspace for uses within Use Class A1, A2, A3, D1, B1, B2, B8 and agricultural vehicle sales (sui generis); and new Business Park comprising circa. 19,040 sq m of floorspace for uses within Use Class B1, B2, and B8 including premises for The Ginger Pig comprising 1,790 sq. m of floorspace (for uses falling within Class B1, B2, B8 and A1) along with (in respect of all elements) all associated development including drainage, provision of services, landscaping, boundary treatments, attenuation ponds and access and associated highway works. (Site area 17.8ha). Decision Date 24.03.2015.

4.0 SITE AND SURROUNDINGS

- 4.1 The Site is located on land adjacent to Northern Powergrid's Old Malton substation and Eden Camp Museum, Old Malton, which is approximately 2.5km north of Malton Town Centre. The A64 Scarborough to York road is located approximately 200m to the south of the Site. The A169, which runs from Malton to Whitby lies to the east of the Site's boundary. The site area is approx. 52.86ha.
- 4.2 The site comprises of cultivated agricultural land, with existing roads intersecting the Site. Hedgerows and other vegetation, including individual trees, are located around and within the Site.
- 4.3 The site is divided into two distinct parts; the main part of the site, hosting the solar panels, and a smaller part, to the south-east, which would host the Battery Energy Storage System (BESS), sub-station and other associated operational plant. Northern Powergrid's electricity substation is adjacent to the BESS and operational plant compound.
- 4.4 There are several access points to the site, off Freehold Lane, Great Sike Road, Borough Mere Lane and Fenton Lane, which all intersect portions of the Site. A public Bridleway runs through the southern part of the Site along Great Sike Road and adjacent to the site, along a part of Borough Mere Lane and Freehold Lane.
- 4.5 The immediate surrounds of the Site comprise mainly of agricultural land, separated by hedgerows and some individual trees. The Eden Camp Museum and Eden Business Park are located to the southeast of the Site. Several farmsteads and properties lie close the site boundary, including Windmill Farm adjacent to the southern boundary of the solar panels site, Acomb House to the north and Eden Farm to the east. Areas of woodland also border the Site, with a strip of woodland near to the north-eastern boundary and another square of woodland lying beyond the north-western boundary.
- 4.6 The Site lies within the open countryside, as defined in local policy SP1. The agricultural land quality of the site is classified as a combination of agricultural land Grades 1, 2, 3a and 3b, of which approx. 60% is Best and Most Versatile agricultural land (Grades 1, 2 and 3a). The Site is located within Flood Zones 2 and 3, but protected from fluvial flooding from the River Rye. There are no designated heritage assets

associated with the Site, although the Grade II Listed Windmill at Windmill Farm is adjacent to the southern boundary of the solar panel site and Grade II Listed Acomb House Farmhouse is located 125m to the north of the Site. Old Malton Conservation Area and its setting, being located to the south of the A64 and screened from the site by woodlands and the topography of the land, is not significantly affected by the proposal. The site is also within a Minerals and Waste Safeguarding Area for Limestone.

- 4.7 The area to the east of the Northern Powergrid substation and Eden Camp Museum is allocated as employment land in the Local Plan Proposals Map (Policy SD12).

5.0 DESCRIPTION OF PROPOSAL

- 5.1 This application seeks Full Planning Permission for the installation and operation of a solar farm and Battery Energy Storage System (BESS) with associated infrastructure including substation, access tracks, pole mounted CCTV, fencing and landscaping for a period of 40 years.
- 5.2 The solar farm element has the capacity to generate up to 30.4MW of electricity, whilst the battery energy storage system has a capacity of 12.63MW.
- 5.3 The Proposed Development would comprise of rows, or strings, of solar panels arranged across the Site, together with ancillary equipment. The rows of panels would be mounted on aluminium frames supported by upright poles driven into the ground to a depth of approximately 1m. The panel mounting system details are shown in drawing No PL.001. The strings of panels would be separated by around 4.5m, to allow for ease of movement around the panels for maintenance and to prevent shadowing. The total above ground height of the panels/strings would be approx. 3.1m.
- 5.4 A total of 11 Inverter-transformer stations are located at points around the Site (elevations are provided in Drawing PL005b – MV Power Station). The inverters are raised up on 1.4m platforms with railings around and they will have a total height of approx. 4.3 metres. They will be approx. 6.6 metres long by 2.5 meters wide. The mounting platforms will be approx. 7.3m long by 3.6m wide.
- 5.5 A customer substation will be located in bottom south-east corner of solar panel site the site, close to Freehold Lane. The substation elevations are provided in PL006. The substation will be approx. 3.9m high by 10m long by 3.5m wide.
- 5.6 The Battery Energy Storage System (BESS), Substation and associated plant would be located on the smaller parcel of land to the south of Freehold Lane and adjacent to the western boundary of Eden Camp. Elevations for the batter containers and substation are shown in Drawings No OM-EL-BAT-01 Battery Container and PSE2-CIV-1499-200 - Substation General Arrangement. There will be six battery containers with dimensions at approx. 14.6m long by 1.45m wide by 3m high.
- 5.7 The substation control room housing would be approx. 9.9 metres long by 4.5 metres wide by 3.9m high. The plant compound will be fenced all round with 2.6 metre high palisade fencing. The BESS will be accessed via a new track off Freehold Lane, with additional tracks running between and around the battery equipment.
- 5.8 It is proposed that the main part of the Site will be surrounded with a perimeter fence, 2.5m in height. The applicant advises that for security reasons, pole mounted CCTV cameras would be provided at various points around the Site, each with a maximum height of 3m. Satellite dishes at a height of 3m would also be positioned around the Site. Elevations for these elements are provided in Drawing PL007.

- 5.9 The Proposed Development has an estimated life-span on 40 years, after which time the equipment would be removed and the Site returned to its original state. The applicants state they would be happy to accept a planning condition in this respect.
- 5.10 The Proposed Development will be connected directly to the national grid, with the point of connection at the adjacent Malton Substation located to the immediate east of the proposed battery storage location. The applicant advises that the close proximity to a grid connection is an important technical and economic consideration in the selection of the site. This consideration is assessed in the Sequential Test section of this report.
- 5.11 Internal access roads are proposed to provide access for operation and maintenance.
- 5.12 A landscaping scheme is proposed for the site.

6.0 PLANNING POLICY AND GUIDANCE

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

Adopted Development Plan

- 6.2 The Adopted Development Plan for this site is The Ryedale Local Plan Strategy 2013.
- The Minerals and Waste Joint Plan February 2022 (MWJP 2022) is the relevant document for assessing how development affecting minerals and waste should be planned and controlled.

Emerging Development Plans

- 6.3 The Malton and Norton Neighbourhood Plan is currently being prepared and covers the area in which the Site is located. This plan is yet to be formally made and as such is not part of the development plan for the Site. At its current production stage only very limited weight can be given to the Plan; the relevant policy in the plan is E4: Green and Blue Infrastructure.

Guidance - Material Considerations

- 6.4 Relevant guidance for this application is:

- National Planning Policy Framework 2021

The NPPF 2021 states that achieving sustainable development means that the planning system has three overarching objectives, economic, social and environmental. Paragraph 9 states:

These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

- National Planning Practice Guidance - Renewable and low carbon energy
- Overarching National Policy Statement for Energy (EN-1)
- Draft Overarching National Policy Statement for Energy (EN-1) (out to consultation 2021).
- National Policy Statement for Renewable Energy Infrastructure (EN-3)
- Draft Overarching National Policy Statement for Renewable Energy Infrastructure (EN-3) (out to consultation 2021)
- Written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015.

6.5 For decision making the effect of this guidance is to guide local planning authorities, when determining planning applications for renewable and low carbon development, towards approving the application if its impacts are (or can be made) acceptable.

7.0 **CONSULTATION RESPONSES**

- 7.1. The following consultation responses have been received and have been summarised below. Please see website for full comments.
- 7.2. **Malton Town Council:** *"Recommend refusal"*. Reasons: Loss of BMV agricultural land, flood risk and harm to tourism.
- 7.3. **Habton Parish Council:** Object. Reasons: Noise pollution, impact on Eden Camp Museum tourist attraction, fire risk, visual impact and industrialising the countryside.
- 7.4. **Division Member(s):** Cllr M Potter; former Ward Councillor for Pickering West and former Ryedale District Council Climate Change Champion: *"The balance between negative impacts and benefits in terms of energy and food security weighs in favour of approval"*.
- 7.5. **NYC Building Conservation Officer:** No objection. **In my opinion the level of harm [to Heritage assets] would be on the very low end of less than substantial"*
- 7.6. **NYC Highways Authority:** No objection subject to condition.
- 7.7. **NYC Head of Planning Services:** No objection
- 7.8. **NYC Public Rights of Way:** No objection. Advisory notes provided.
- 7.9. **NYC Economic Development:** No comment received.
- 7.10. **NYC Environmental Health:** No objection subject to conditions regarding noise emissions and land contamination.
- 7.11. **NYC Natural Services.** No objection subject to conditions.
- 7.12. **NYC Trees and Landscapes Officer:** No objection subject to conditions.
- 7.13. **NYC Local Lead Flood Authority:** No objection subject to conditions.

- 7.14. **NYC Head of Planning Services:** No objection.
- 7.15. **NYC Archaeology Services:** No objection subject to conditions.
- 7.16. **North Yorkshire Fire and Rescue Service:** *“No objection but with observations regarding Building Regulation compliance”.*
- 7.17. **Health and Safety Executive:** *“HSE does not advise, on safety grounds, against the granting of planning permission in this case”.*
- 7.18. **National Highways:** No objection subject to conditions.
- 7.19. **Yorkshire Water:** No comment received.
- 7.20. **Northern Gas Networks:** No comment received.
- 7.21. **Environment Agency:** No objection subject to condition.
- 7.22. **Vale of Pickering Internal Drainage Board:** No objection subject to conditions.
- 7.23. **Council for the Protection of Rural England:** Objection. Reasons: Loss of BMV land and impact on soils; Detrimental impact on users of the PRoW network; loss of Biodiversity Net Gain after 40 years; Impact on visitor attraction; and proposal is contrary to local and national planning policy.
- 7.24. **Natural England:** No objection subject to conditions.
- 7.25. **Northern Power Grid:** No comment received.
- 7.26. **NYC Local Lead Flood Authority:** No objection subject to conditions.
- 7.27. **Historic England:** *“In this case we are not offering advice”.*
- 7.28. **Yorkshire Water Land Use Planning** – No comment received.
- 7.29. **Secretary of State – Government Planning and Levelling Up:** No comment received.

Representations

- 7.30. 541 representations have been received, from groups and individuals, of which 42 are in support and 498 are objecting. A summary of the comments is provided below, however, please see website for full comments.
- 7.31. Support:

Loss of Best and Most Versatile Agricultural Land justified

- Loss of BMV is outweighed in my opinion by the provision of local renewable energy which has to be located near to a bulk electricity supply point to be viable
- The small loss of arable farmland to accommodate this site will be of little consequence when compared to the benefits it represents
- The use of good land is inevitable due to extreme limitations imposed by grid access
- New housing and business developments continue to be built in Ryedale on good agricultural land. This has not caused major objections

Site selection justified

- Despite the need to protect BMV land there is now only one feasible grid connection with the necessary capacity available in the whole of Ryedale
- It will be many years before the grid is upgraded to enable other sites to be considered
- Northern Powergrid's power generation availability map shows Malton as the only bulk supply point in the area
- This site is likely the only site in Ryedale with the possibility of meaningful export connection to the electricity grid

Noise/amenity impacts acceptable

- Any noise produced by associated transformers, etc. is very low-level and will not be heard.
- Objections have been made to the storage facility on the basis of noise and possible explosion, without foundation. Eden Camp already sits in close proximity to a sub (power) station!
- There is already a transformer substation in Old Malton which I do not believe has given rise to any noise complaints.

Landscape impacts acceptable

- The site will have virtually no visual impact.
- Benefits of the proposal outweigh any visual harm
- Solar panels are temporary structures which can be removed.
- Having seen the visual assessment of the site it will largely be well screened

Biodiversity benefits

- It must be accepted that intensively farmed land is particularly low in terms of biodiversity, so it's no surprise that BNG is claimed to be significant.
- As long as the limited amount of soil stripping is carried out properly the site should be able to be restored at the end of the 40 years for which permission is requested.
- This proposal would change an area of intensive farming to one which was much more beneficial to nature by reportedly increasing the biodiversity by 110%.

Green electricity generation - benefits

- By saving 12.5 tonnes of CO₂ pa from entering the atmosphere, we shall be making significant contribution to reducing the greenhouse effect globally

- Project will generate clean electricity for over 8,600 homes
- RDC and North Yorkshire County Council have both declared climate emergencies
- The current proposal appears to provide a sensible and responsible approach to assist in providing for local energy needs/dependency while limiting the impact on the local community/environment
- Producing energy using Solar PV in tandem with battery storage is an efficient way to make the most of the power produced and aid grid balancing in the region.
- This development is in keeping with the Council's local plan. This includes new land uses such as renewable energy production

Miscellaneous comments

- Provides annual funding for community projects
- Will create jobs
- The proposed Tesla lithium iron phosphate batteries are not prone to thermal runaway and not associated with fire risk.

7.32. Objections:

Heritage - harm

- There will be substantial harm to the setting of 2 Grade II listed buildings which should require clear and convincing justification

Loss of Best and Most Versatile Agricultural Land not justified

- Would set a precedent for the use of high quality agricultural land for power generation
- Public benefit of proposal could be provided in a more suitable location
- Loss of Best and Most Versatile agricultural land; should be built on lower quality farmland
- Discounting the lanes area the proportion of BMV land affected is well over 60%
- Will result in the loss of 130 acres of good farmland
- Quality of the soil will degrade over time due to shading of the land resulting in loss of soil quality –
- If land is excavated and banded, it will never be replaced in the land grades as it is today
- Conflicts with Overarching National Policy Statement for Energy (EN-1) which states that applicants should 'preferably use land in areas of poorer quality (Grades 3b, 4 and 5) except where this would be inconsistent with other sustainability considerations.'

Site selection not justified

- Development does not need to be near a Grid Access point (Old Malton Substation) as Harmony state
- there are many solar farm sites which are not located next to existing sub-stations

- We would urge RDC to ensure they have visibility of the Northern Powergrid confirmation letter to Harmony Energy detailing the cost and time for connection
- Just north of Malton are square miles of unproductive land used almost solely for gunning down game birds, why not place them there
- There is a good sized plot of rough unused grazing land about a mile to the west of Eden Farm. This land (north of the new Broughton Rise estate, north of the Malton bypass) has produced nothing of any value in the 23 years I have lived in Malton.
- A brownfield sites or roofs should be used instead
- There are alternative sites that should be used
- No evidence has been provided by Harmony Energy to prove development would not be viable in alternative locations
- Pre-application advice required the consideration of real alternative sites

Landscape harm

- Location is too close to an Area of Outstanding Natural Beauty
- Light pollution from additional lighting will harm night sky
- Harm will be caused to the rural character of the area
- Harm will be caused to the natural beauty of the location
- Countryside will take on an industrialised appearance
- The proposed 4 metre high hedgerows will enclose the lane and restrict the appreciation of the wider landscape
- Harm will persist for at least 40 years. Permission may then be renewed.
- We cannot be sure the solar panels will be removed after 40 years
- We cannot know who exactly will be accountable for the end of life disposal of the solar panels
- Site may be left derelict

Biodiversity - harm

- Batteries are sited too close to a waterway
- Risk of harmful run-off into River Derwent
- The River Derwent is a Site of Special Scientific Interest
- Biodiversity measures are inadequate
- Perimeter fencing will restrict movement of wildlife
- There will be a loss of biodiversity

Green electricity generation - problems

- Solar farms produce their maximum electricity in the summer when demand for electricity is at its lowest.
- Wind farms use much less land to produce the same amount of electricity
- I doubt that the installation will be able to supply its output to the National Grid for at least 2 to 3 years as applications to join it to the grid are taking that amount of time.
- Construction process negates green energy benefits
- Solar panels are not recyclable

Noise/amenity harm

- Harmful noise pollution from battery storage
- Noise will affect outdoor events at Eden Camp Museum
- No noise assessment has been included in this application
- Construction phase will disrupt local amenity
- Will harm outlook from nearby dwellings

Highway safety

- Construction traffic not suited to the narrow lanes
- I do not consider those using the bridleways for leisure are currently adequately protected during construction phase

Tourism loss

- Constant noise from solar panels will negatively impact tourism at Eden Camp Museum
- The impact on the new Ryedale cycleway that passes the development has not been discussed in the application.
- Will adversely affect an area that is currently enjoyed by walkers and cyclists
- Harm to countryside will have a detrimental effect on tourism
- Malton needs more locally grown food to further its claim to be the food capital of Yorkshire

Economic harm

- Loss of farm land will make it difficult for the farmer to operate a viable farming business
- The application fails to assess the economic impact on potential loss of the farming enterprise
- If farm size is reduced by around 40%, this would not leave sufficient land to provide enough straw for the livestock.
- Losing around 40% the land would threaten the future of the composting business at Eden Farm
- There will be a negative impact on the Ryedale economy including Eden Camp Museum and Eden Farm
- Development harms the tenant farmer's business
- Without subsidy solar panels are uneconomic
- Loss of farmland undermines food security

Fire Risk

- Extremely difficult for fire fighters to gain a 360 degree access to the site in the event of fire or explosion occurring
- Risk of battery fire presents danger to Eden Camp Museum

Flood Risk

- Panels will divert rainwater and increase flood risk
- Solar panels mounted on poles driven 1m deep into the soil will disturb and destroy a complex, established drainage network

Community harm

- The welfare of the tenant farmers has not been given any consideration
- Development provides no benefit to the local community
- Number of objections shows the application does not have the support of the local community
- The offer of £10,000 /per annum for local community funds feels like a bribe rather than genuine concern.
- Provision of an annual £10,000 community benefit fund will do little or nothing for the local community
- Provision of annual £10,000 community benefit fund has not been secured.

7.33 Objection by Mr and Mrs Sturdy, tenant farmers of Eden Farm and the application site.

7.34 Mr Sturdy is the tenant of Eden Farm. In his letter dated 23rd of March 2023 he sets out his reasons for objecting to the proposal. A letter of objection has also been received from Loxley Legal who has been appointed by Mr & Mrs Sturdy to make an additional representation on their behalf. This is set out in Loxley's letter RDP/13391.1 dated 22 March 2024. In the determination of this application due consideration has been given to the points raised in these letters of objection. The main planning issues raised in Mr and Mrs Sturdy's objection are listed below. Please see the Council's website for their full comments.

- Loss of, and long term harm to BMV land is not justified – evidence needs to be “most compelling evidence”
- Reduced food production
- Economic impact - the farming enterprise will become unviable
- Consideration of alternative locations and Sequential Test inadequate
- Lack of evidence to support viability of location claim
- Harm to setting of Listed Buildings and the AONB

8.0 ENVIRONMENT IMPACT ASSESSMENT (EIA)

8.1. The proposed development falls within Schedule 2 Category 3(a) *Industrial installations for the production of electricity, steam and hot water* of The Environmental Impact Assessment Regulations 2017 (as amended) and exceeds the threshold for EIA development due to the site being over 5ha. As such the proposal must be screened in accordance with Schedule 3 of the Regulations which requires the consideration of the following matters:

- Characteristics of the development
- Location of the development
- Characteristics of the potential impact

8.2 Having taken into account the criteria listed above, the Local Planning Authority (LPA) is of the opinion that because of the nature, size and location, having regard to the environmental sensitivities associated with the land, the proposed development is EIA development.

8.3 The LPA determined that the matters that should fall within the scope of the EIA are:

- Agricultural Land and Soils

- Cultural Heritage
- Biodiversity and Ecology
- Cumulative Impacts

8.4 The following matters were scoped out of the EIA assessment:

- Landscape and Visual Impact,
- Ground Conditions,
- Flood Risk, Transport,
- Air and Climate,
- Noise,
- Accidents,
- Material Assets
- Human/Health/Population.

8.5 A comprehensive Environmental Statement (ES) has been provided by the applicant which is considered to meet the information requirements for an ES, as set out in Schedule 4 of the 2017 Regulations.

8.6 The ES concludes:

- No residual significant adverse ecological effects during the construction and operational phases of the Proposed Development are predicted.
- No residual significant adverse heritage effects during the construction and operational phases of the Proposed Development are predicted.
- No residual significant adverse effects on soil resources and agricultural land quality are predicted during the construction and operational phases of the Proposed Development.

8.7 The ES matters are considered in detail under the relevant headings of the main issues affecting the application. Cumulative impacts are considered as a part of each ES subject matter.

9.0 **MAIN ISSUES**

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

- Principle of development
- Biodiversity and Ecology
- Cultural Heritage
- Flood Risk, Drainage and the Sequential and Exception Tests
- Agricultural Land and Soils and the Loss of Best and Most Versatile Agricultural Land
- Impact on the Rural Economy
- Highway impacts
- Landscape and Design
- Amenity of Neighbouring Development
- Other Matters – Archaeology, Arboricultural Impact, Public Rights of Way, Tourism, Fire Risk, Personal Circumstances, Minerals and Waste Safeguarding, Land Contamination

10.0 **ASSESSMENT**

Principle of Development

10.1 The application site is located in the open countryside, outside the development limits of the towns and villages identified as a focus for growth in local policy SP1 *General Location of Development and Settlement Hierarchy*. The policy sets out Ryedale's future development requirements and its distribution, which will be in line with the Spatial Strategy Summary of the Policy which states that development within the open countryside will be restricted to development;

- *which is necessary to support a sustainable, vibrant and healthy rural economy and communities, or*
- *which can be justified in order to secure significant improvements to the environment or conservation of significant heritage assets in accordance with the National Enabling Development Policy and Policy SP12 of this Plan, or*
- *which is justified through the Neighbourhood Planning process.*

10.2 In the preamble to policy SP1, the Strategy Summary clarifies that the development approach in the wider open countryside is, inter alia, to foster appropriate renewable energy production.

10.3 Local policy SP18 *Renewable and Low Carbon Energy* states:

Developments that generate renewable and/or low carbon sources of energy will be supported providing that individually and cumulatively proposals:

- *Can be satisfactorily assimilated into the landscape or built environment, especially in respect of the setting of the North York Moors National Park, the Howardian Hills Area of Outstanding Natural Beauty (and its setting), the Wolds and the Vale of Pickering;*
- *Would not impact adversely on the local community, economy, or historical interests, unless their impact can be acceptably mitigated;*
- *Would not have an adverse impact on nature conservation, in particular in relation to any sites of international biodiversity importance, unless their impact can be acceptably mitigated;*
- *Would not have an adverse impact on air quality, soil and water resources in Policy SP17, unless their impact can be acceptably mitigated.*

10.4 National Planning Policy Framework 2021. Paragraph 152 of the NPPF states that:

"The planning system should support the transition to a low carbon future in a changing climate [...] and support renewable and low carbon energy and associated infrastructure.

10.5 Paragraph 158 of the NPPF states:

When determining planning applications for renewable and low carbon development, local planning authorities should:

- a) *not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and*

b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

- 10.6 Whilst the Local Plan is supportive of renewable energy proposals in principle, it does not identify “suitable areas”. As such the NPPF is a key material consideration and the extent to which the development is acceptable in principle will be informed by a range of local and national policy considerations. Notwithstanding this point, the proposed development is for renewable energy generated from solar panels with excess electricity stored in on-site batteries. As such, the principle of this development in the open countryside is in accordance with the policies cited above and paragraphs 152 and 158 of the NPPF, but subject to demonstrating that the location is reasonably necessary and compliance with the other policies of the Local Plan and the NPPF.

Biodiversity and Ecology

- 10.7 Local policy *SP14 Biodiversity* states that in considering proposals for development:

Proposals which would have an adverse effect on any site or species protected under international or national legislation will be considered in the context of the statutory protection which is afforded to them.

Proposals for development which would result in loss or significant harm to:

- *Habitats or species included in the Ryedale Biodiversity Action Plan and priority species and habitat in the UK Biodiversity Action Plan*
- *Local Sites of Nature Conservation Importance or Sites of Geodiversity Importance*
- *Other types of Ancient Woodland and Ancient/Veteran Trees*

will only be permitted where it can be demonstrated that there is a need for the development in that location and that the benefit of the development outweighs the loss and harm. Where loss and harm cannot be prevented or adequately mitigated, compensation for the loss/harm will be sought.

- 10.8 Local policy *SP15 Green Infrastructure Networks* states:

A network of green open spaces and natural features will be created and managed across Ryedale to support biodiversity and environmental systems to enhance the attractiveness of places and to support healthy lifestyles by providing opportunities for activity and relaxation.[...]. New development will be managed in accordance with wider policies in this Plan, to assist the protection and improvement of Green Infrastructure assets and the connectivity between them.

- 10.9 The Site is within an area identified for Green Infrastructure in the Draft Malton and Norton Neighbourhood Plan (*Policy E4: Green and Blue Infrastructure*). The Policy sets out that development proposals must not harm the function of Green and Blue infrastructure areas identified on the Neighbourhood Plan Proposals Map, as part of a multifunctional wildlife amenity and recreational network. It is noted however that the Neighbourhood Plan is currently at the consultation stage and consequently it currently receives very limited weight in the planning balance.

- 10.10 Chapter 15 of the NPPF sets out national policy for conserving and enhancing the natural environment. Paragraph 174 states that planning policies and decisions should contribute to and enhance the natural and local environment.
- 10.11 Chapter 6 of the submitted *Environmental Statement (Vol 1)* considers the likely significant effects on important ecological features associated with the construction, operation and decommissioning of the Proposed Development. This chapter is supported by the following figures and technical appendices:
- Volume 2: Figures:
 - Figure 6.1. Statutory Designated Sites
 - Figure 6.2. Non-statutory Designated Sites
 - Figure 6.3. Habitat Plan
 - Figure 6.4. Pond Plan
 - Figure 6.5. Breeding Bird Survey Plan
 - Figure 6.6: Biodiversity Management Plan
 - Volume 3: Technical Appendices
 - Appendix 6.1. Ecological Impact Assessment Methodology
 - Appendix 6.2. Habitat and Species Baseline
 - Appendix 6.3. Information to Inform Habitats Regulations Assessment
 - Appendix 6.4. Biodiversity Net Gain Assessment
 - Appendix 6.5: Biodiversity Management Plan
 - Appendix 6.6: Outline Construction Environmental Management Plan
- 10.12 The site comprises of farmed agricultural land, with existing tracks intersecting the Site. Hedgerows and other vegetation, including individual trees, are located around the Site and between the field boundaries. The Site is not subject to any ecological designations. However the River Derwent Special Area of Conservation (SAC) and River Derwent Site of Special Scientific Interest (SSSI) are located approx. 0.6km to the south of the site and the Ings, Amotherby SSSI is located approx. 2.5 km to the west.
- 10.13 With the exception of some small sections of hedgerow where gaps need to be widened to facilitate access around the Site and for the cable route, and the removal of one poor quality tree, all boundary vegetation would be retained. A comprehensive landscaping scheme and biodiversity enhancements are proposed which would result in a significant biodiversity net gain across the Site of approx. 107%.
- 10.14 The applicant has provided a Habitats Regulations Assessment (ES Appendix 6.3) and Natural England and NYC Ecology consulted accordingly.
- 10.15 Natural England has stated no objection to the proposed development, subject to appropriate mitigation being secured stating:
- “[...] the main potential pathway for effect is the increased soil sedimentation/runoff [into the River Derwent] associated with clearance of the land prior to construction [...].*
- We consider that without appropriate mitigation the application would:*
- *have an adverse effect on the integrity of River Derwent Special Area of Conservation (SAC);*

- *damage or destroy the interest features for which River Derwent Site of Special Scientific Interest (SSSI) has been notified.*

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- *mitigation measures as set out in the Habitats Regulations Assessment appropriate assessment.*

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

10.16 NYC's ecologist has also commented on the proposed development, providing comment dated 20th February 2023 and, following receipt of the applicant's amendment to the Biodiversity Management Plan (Issue V3) which was updated to address the ecologists comments, a supplementary comment dated 10 July 23 has been provided which states:

Natural England's response and Habitats Regulations Assessment (HRA)

We note that in their response of March 2023, Natural England stated that they had "No objection subject to appropriate mitigation being secured". The importance of protecting watercourses from sedimentation during construction and decommissioning is emphasised and due weight must be given to this in the Construction Environmental Management Plan.

Natural England did not challenge the content and conclusions of Appendix 6.3 of the Environmental Statement ('Information to inform Habitats Regulations Assessment'), so the Council can effectively adopt this document as their HRA. The mitigation recommended in the HRA must be secured via appropriate planning conditions.

Biodiversity Net Gain report (Version 5)

I presume this is based on the revised Whole Site Layout Plan. The Biodiversity Metric output projects a 107% uplift in area-based habitats and a 43% uplift in hedgerows, which is comfortably compliant with policy.

Revised Biodiversity Management Plan (Version 3, dated 5th June 2023)

We're generally happy with this, though I struggled to work out what the buff colouration represented on the accompanying graphic – there is no corresponding colouration in the Legend. The management prescriptions for the south-eastern grassland plot seem appropriate for Skylark, though consideration might be given to grazing (or an additional cut) in autumn to remove biomass and maintain a short sward to extend foraging opportunities over winter. [*Case officer note – this amended legend shows this to be Tussocky Grassland]*

The trees and shrubs selected for hedgerow and tree planting are appropriate to the location and landscape setting. While we're slightly reluctant to endorse the use of Sycamore, we appreciate that alternatives to Ash are limited.

Any change to the seeding or planting mixtures specified in the BMP should first be agreed with the local planning authority. Any changes to the BMP (see paragraph 3.1.4) should also be agreed with the LPA.

The selection of bird boxes in Annex 1 seems appropriate: Tree Sparrow is a key target species for conservation in Ryedale.

The possibility of Honey Bee hives is mentioned (section 2.3.19) While this is the applicant's choice, it should be borne in mind that Honey Bees are domesticated livestock which compete with wild insects for nectar and pollen.

It is implied in section 2.2.27 of the BMP that no cutting of grassland is intended in the first year after sowing. I would query whether this is wise. Establishment of species-rich grassland on ex-arable soils requires intensive management to deal with residual soil fertility. In particular, growth of annual weeds is likely to be vigorous during the first 12 to 18 months after sowing. Repeated cutting, with the arisings removed immediately, is usually considered essential on ex-arable sites during the establishment period. NB: this is offered as advice, amendment of the BMP is not required.

- 10.17 In consideration of the above advice it is concluded that, subject to a condition to ensure the necessary mitigation measures, the proposal will not result in significant harm to the nearby River Derwent Special Area of Conservation (SAC) or River Derwent Site of Special Scientific Interest (SSSI), species protected under international or national legislation or Green Infrastructure Networks. As such the proposal is considered to be in accordance with local policies SP14 and SP15 and paragraph 174 of the NPPF.
- 10.18 No other major projects have been identified that are likely to have significant cumulative and in-combination ecological effect along with the proposal.

Cultural Heritage

- 10.19 Local Policy SP12 Heritage states that:

Distinctive elements of Ryedale's historic environment will be conserved and where appropriate, enhanced. [...] Proposals which would result in less substantial harm will only be agreed where the public benefit of the proposal is considered to outweigh the harm and the extent of harm to the asset.

- 10.20 Paragraph 200 of the NPPF states:

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

- 10.21 Paragraph 202 of the NPPF states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 10.22 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid in the exercise of planning functions to the desirability of preserving the Listed Building(s) or its setting or any features of special architectural or historic interest which it possesses.

10.23 Chapter 7 of the applicant's submitted Environmental Statement (Vol 1) considers the environmental effects of the proposed development on archaeology and cultural heritage. This chapter is supported by the following figures and technical appendices:

- Appendix 7.1: Gazetteer of Heritage Assets within the Site
- Addendum to the Cultural Heritage chapter (Chapter 7) of the submitted Environmental Statement.
- ES Figures 7.1 to 7.5 Heritage Assets within and around the Site
- ES Appendix 7.6 Geophysical Survey Report.

10.24 There are no recorded surface/above ground heritage assets within the application site. However, Grade II listed Acomb House Farmhouse is located approximately 160m to the north of the Site and Grade II listed Windmill at Windmill Farm is located immediately to the south-east of the main part of the Site. Old Malton Conservation Area and its setting is located to the south of the A64 and screened from the site by woodlands and the topography of the land. As a consequence the site is not within the setting of Old Malton Conservation Area. The Windmill at Windmill Farm was recently listed, during the course of determining this application, on 22 May 23. In anticipation of this the applicant provided an addendum to the Cultural Heritage chapter (Chapter 7) of the submitted Environmental Statement.

10.25 In response to its first consultation Historic England stated that "*in this case we do not wish to offer advice*". In response to a second consultation following the listing of the Windmill at Windmill Farm Historic England again stated that they did not wish to offer advice.

10.26 The Council's Building Conservation Officer, in response to her first consultation commented:

No Objection - I have read the submitted information and I would concur regarding the potential impacts of the proposed development on above ground heritage assets. The report identifies the potential impacts to the setting of Acomb House Farmhouse as being the most considerable having have been identified as having a minor adverse impact. In my opinion the level of harm to the setting of this Grade II listed building is on the low end of less than substantial.

10.27 In response to her second consultation following the listing of the Windmill at Windmill Farm the Building Conservation Officer commented:

No objection - The development will change the wider setting of the listed building in a visual way by the introduction of a clearly modern and alien feature into an agricultural landscape. Due to the relatively low height, quiet and still nature of the panels, it will not however impact the prominence or tranquillity of the windmill. In addition, many of the distinctive elements of the landscape features that make up part of its wider setting would be retained to include hedges, trees, field boundaries and ditches.

In my opinion many aspects of the significance of the windmill will be unaffected to include its structure and fittings, its immediate setting, its visual prominence and many elements of its agricultural setting.

The submitted report identified that the impact of the development will be of low magnitude and that there would be no harm to the cultural significance of the Grade II listed windmill. In my opinion however, there would be harm to the wider setting of the windmill due to the introduction of a clearly modern alien

feature into an otherwise rural agricultural setting. For the reasons set out above, in my opinion the level of harm would be on the very low end of less than substantial. Mitigation of the visual impacts of the proposal could be achieved by improved and height- maintained hedgerow screening which could be secured by condition.

- 10.28 It is noted that in objections received to the proposed development it is asserted that the proposal will cause significant harm to the setting of the two Grade II Listed Buildings referred to above. Of particular note is an objection received from Mark Hepworth dated 18th July 2023, the person who applied for the Windmill to be listed, which sets out his reasons for disagreeing with the Building Conservation Officer's assessment of the level of harm, finding it to be "substantial". The Building Conservation Officer has read this letter of objection and maintains her view that the degree of harm is on the very low end of less than substantial.
- 10.29 Paragraph 202 of the National Planning Policy Framework states *'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.'* The Conservation Officer has identified harm, albeit at the very low end of less than substantial. Nevertheless this harm would still be classified as "less than substantial harm" and consequently must be weighed against the public benefits of the proposal.
- 10.30 The applicant's Planning Statement states that *"The Proposed Development comprises a 30.4MW solar farm which incorporates battery storage, and which is capable of providing energy for the equivalent of 8,660 homes - this means the scheme could supply the average annual electricity needs of 38% of the households in Ryedale District Council, based on the number of households totalling 22,500. [...] The proposed development would result in carbon savings of just over 12,500 tonnes per year"*.
- 10.31 It is considered that the application demonstrates that the proposed development would provide a significant public benefit that would outweigh the low level of harm identified by the Building Conservation Officer to the setting of Acomb House Farmhouse and the Windmill at Windmill Farm. As such the proposal is considered to be in accordance with local policy SP12 and paragraphs 200 and 202 of the NPPF.

Archaeology

- 10.32 The ES Chapter on Cultural Heritage is also informed by an archaeological desk based assessment prepared by CFA Archaeology Ltd and a geophysical survey carried out by Magnitude Surveys.
- 10.33 Local Policy SP12 states that *"Distinctive elements of Ryedale's historic environment will be conserved and where appropriate, enhanced [including] the nationally significant prehistoric archaeological landscapes of the Yorkshire Wolds and the Vale of Pickering."*
- 10.34 Paragraph 205 of the NPPF 2021 states:

Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

10.35 NYC's Principle Archaeologist has made the following comments on the proposal:

The geophysical survey had varied results as some of the fields had been fertilized with green waste which introduces small ferrous objects such as staples, wire etc. in to the plough soil which interfere with the survey technique. However the fields without green waste did produce anomalies of archaeological interest including a trackway in the western part of the site. This is interpreted as likely to be medieval in date in the Cultural Heritage chapter, although it is equally likely to be prehistoric or Roman in date.

It would be usual to request further information on the significance of heritage assets of archaeological interest by trial trenching. The Cultural Heritage chapter states the logistical reasons for not carrying out trial trenching at this time (para. 7.35) and sets out a series of mitigation measures as an alternative (para's 7.132 - 7.141).

This will include a programme of trial trenching followed by either, design changes to the scheme, or further archaeological mitigation prior to development. Given the nature of the development and the ability to use non-invasive foundation techniques this is an appropriate way forward in this case.

10.36 The County archaeologist recommends that a planning condition is applied to secure archaeological recording. Subject to this condition the proposal is considered to be in accordance with local policy SP12 and paragraph 205 of the NPPF.

10.37 No other proposals have been identified that could affect the significance of the heritage assets considered in this section of the report, therefore cumulative and in-combination effects are not significant.

Flood Risk, Drainage and the Sequential and Exception Tests

10.38 The site has been identified as being within Flood Risk Zones 2 and 3.

10.39 Local Policy SP17 *Managing Air Quality, Land and Water Resources* states that flood risk will be managed by:

- *Requiring the use of sustainable drainage systems and techniques, where technically feasible, to promote groundwater recharge and reduce flood risk. Development proposals will be expected to attenuate surface water run off to the rates recommended in the Strategic Flood Risk Assessment. In addition, major development proposals within areas highlighted as having critical drainage problems in the North East Yorkshire Strategic Flood Risk Assessment (or future updates) as Critical Drainage Areas may, if appropriate, be required to demonstrate that the development will not exacerbate existing problems by modelling impact on the wider drainage system*
- *Ensuring new development does not prevent access to water courses for the maintenance of flood defences*
- *Undertaking a risk based sequential approach to the allocation of land for new development and in the consideration of development proposals in order to guide new development to areas with the lowest probability of flooding, whilst taking account of the need to regenerate vacant and previously developed sites within the towns. In considering development proposals or the allocation of land, full account will be taken of the flood risk vulnerability of proposed uses and the national 'Exception Test' will be applied if required*

10.40 Paragraph 159 of the NPPF states:

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

10.41 Paragraph 161 of the NPPF states:

All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by [...] applying the sequential test and then, if necessary, the exception test [...].

10.42 Paragraph 162 of the NPPF states:

The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

Sequential Test

10.43 A Sequential Test report has been supplied with the application (Appendix C2). A supplementary Technical Note dated 23rd June 23 has also been provided, at the request of the Local Planning Authority, which provides additional information on the technical constraints for connecting to the National Grid. A supplementary “*Sequential Test Clarification*” document was provided on 24th July 23 and Harmony Energy’s email dated 20th September provides a further explanation of the locational considerations for the solar farm.

10.44 The Sequential Test document explains that the key locational factor for the proposed development is the site’s close proximity to the Old Malton Substation, which is stated to be the only publicly available electricity Bulk Supply Point (BSP) in the Ryedale area. Northern Powergrid (NPg) - the District Network Operator for this area, has agreed to provide the applicant with a connection configuration which utilises a metering circuit breaker (MCB) within their existing Old Malton Substation. This has a significant cost saving to the project and avoids NPg having to build a new substation (approx. dimensions 40m x 40m) on the proposed development site. The Sequential Test document advises that due to technical constraints on the network, NPg will only allow this connection configuration if the applicant’s own substation (which is a requirement of all projects of this scale) is located within 300m of the existing Old Malton Substation.

10.45 The Applicant’s technical note on grid connection assessments provides additional detail on the technical locational constraints. It states:

Theoretically, cabling could extend on from Harmony Energy’s substation (still required to be sited no more than 300m from Malton BSP) and connect into a scheme further afield. Nevertheless, the Sequential Test and associated desk-based research (found on the ‘Grid Availability & ALC/Constraints’ plan included within the Planning Statement) clearly highlights there are no more suitably obvious sites within a viable distance from Malton BSP, and therefore Harmony Energy has not sought to progress a development in a less logical location.

- 10.46 The technical note also considers other possible grid connections in the wider area, including the overhead line from York to Scarborough, the Knapton generation substation, and a Bulk Supply Point at Scarborough and explains why these alternatives were necessarily discounted.
- 10.47 Commenting on a research paper by Palmer et al; *The future scope of large-scale solar in the UK: Site suitability and target analysis* which was recently brought to the Council's attention, Harmony Energy advised that:

Whilst we do acknowledge and have clarified previously that it is technically feasible to locate a solar farm at a greater distance from the supply point than we have planned, we would argue that it is not commonplace, especially in the UK. There are a number of factors which impact the viability of solar farms as we have set out within our Technical Grid note and which are discussed within this research paper which all impact the overall deliverability and viability of bringing these schemes online. [...]). The majority of solar developments are, therefore, built in close proximity to the point of connection for a reason. The costs associated with a longer connection are significant, and especially in the UK, massively impact the viability and probability of a scheme coming forward. [...] Obtaining a viable grid connection in the first instance is challenging and then especially a viable connection in the north of England. The application at Old Malton is therefore unique as there is existing capacity at Malton BSP, availability to connect straight away and it is viable in close proximity to this BSP.

- 10.48 The applicant has explained that NPg are not willing to provide direct corroboration of the details provided in the Technical Note as they will not support individual developers. However, the LPA has verified that the applicant has applied to NPg and has an active line in NPg's Embedded Capacity Register for connection to the Bulk Supply Point at Malton Grid. Northern Powergrid's webpage "Generation Heat Map" <https://www.northernpowergrid.com/generation-availability-map> shows the location of BSPs in the area which is consistent with the applicant's Technical Note.
- 10.49 Due to the stated requirement for the applicant's own substation to be located within 300m of the existing Old Malton Substation the applicant has restricted its Sequential Test search area to a 300 meter radius from the Old Malton Substation. The Sequential Test concludes that "*Given the land-take required for the development and considering other constraints on land in the vicinity of the 300m buffer, it is clear that there are no other sites which are sequentially preferable to the application site in the district*".
- 10.50 However, the Sequential Test document did not set any parameters for determining the search area for alternative sites for the solar panels themselves, which are proposed to be located to the northwest of the Battery Energy Storage System and substation site, in fields that are between 400 to 1400 metres from the Substation. Consequently, the applicant was requested to provide a supplementary Sequential Test analysis for the location of the solar panels.
- 10.51 The applicant has supplied a document titled *Sequential Test – Clarifications*. In this document Figure 2 shows 4 areas within a practical distance of the Old Malton substation that are at an overall lower risk of flooding in comparison to the application site. The *Sequential Test – Clarifications* document states that these areas have been discounted for the various reasons which it sets out. Reasons include the loss of a higher percentage of BMV land, greater impact on designated landscapes and heritage assets and degraded efficiency due to longer cable runs. The applicant advised that technical limitations on cabling length and practical considerations limiting the routes

to connect the solar panels to the substation, including the need to obtain third party permissions to run cables through their land, also made increasing the Sequential Test area beyond the areas considered impractical.

- 10.52 Within the parameters of the applicant's Sequential Test it is considered that the proposal has satisfactorily demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. However it is considered that the reasoning used for setting the parameters of the area to be considered by the Sequential Test is not strongly evidenced for the following reasons.
- 10.53 The parameters of the applicant's Sequential Test area have been set by technical, practical and viability considerations. These factors dictate that the greater the distance from the Old Malton substation that development is located, the higher the infrastructure costs, with a consequent impact on the viability of the project. The viability of the proposal clearly diminishes as the distance from the substation increases. Viability therefore is a key consideration in determining the appropriate area for the Sequential Test. However, for commercial and practical reasons the applicant does not wish to provide its viability costings. Without a viability assessment it is considered that the applicant has not clearly evidenced that there are no reasonably available sites appropriate, and therefore viable, for the proposed development in areas with a lower risk of flooding. On that basis the requirement of the Sequential Test, to demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding has not been met. This weighs against the proposal in the planning balance.

Flood Risk & Drainage Report and the Exception Test

- 10.54 The application is accompanied by a Flood Risk & Drainage Report. The Flood Risk & Drainage Report sets out the following conclusions:

The site is located within PPG Flood Zones 2 and 3a, however it is protected from fluvial flooding from the River Rye. The development is classed as "Essential Infrastructure" in accordance with the PPG Flood Risk Vulnerability Classifications and therefore compatible in Flood Zone 3a subject to passing the Exception Test. The classification also states that these types of development "need to remain operational in times of flood".

In accordance with national planning policy and guidance, all potential sources of flooding to the site have been considered. Review of the available flood mapping from the Environment Agency confirm there to be fluvial and surface water flood risk at the proposed development site.

The development has been appropriately designed to remain operational in the event that the site is flooded either by breaching or failure of the River Rye flood defences or by surface water runoff. Implementation of proposed flood risk mitigation measures will offer flood resilience up to the approximate 1 in 100-year event with suitable accounting for freeboard. The proposed freeboard allowance is 300mm. Therefore, overall flood risk to the development from all sources is considered to be Low.

A Surface Water Management Strategy has been proposed which demonstrates that surface water runoff from the development can be managed via implementation of runoff dispersion and erosion protection measures including gravel pits along the edge of transformer and inverter stations, permeable tracks and erosion protection along the PV drip line.

For the battery storage site collected runoff will drain to a constructed SuDS basin and then discharge to an existing drainage channel located to the south of the site. The basin has been suitably sized to attenuate all storm events up to and including the design 0.5% AEP plus a 40% climate change allowance scenario whilst maintaining a maximum discharge rate equivalent to the 1.4 l/s/ha rate (equivalent to 0.2 l/s) required by the Yorkshire and Humber Drainage Board.

The surface water management design demonstrates that the scheme is feasible and compliant to appropriate best practice and regulatory requirements. Notwithstanding, the final drainage design and layout will be refined as required at the post planning stages.

The conditions of the Exception Test have been satisfied through the proposed flood resilience mitigation, development of the surface water drainage strategy and due to the nature of the development as a source of green energy for the National Grid.

Taking all of the above into account it is considered there are no overriding impediments to the development being granted planning permission on the grounds of flood risk or surface water drainage provision

- 10.55 The Environment Agency has been consulted on this application. The Agency has made the following comments:

Flood Risk

Our Flood Map for Planning shows the site lies within Flood Zones 2 and 3, with a medium / high probability of flooding from rivers and/or the sea. The application is for a solar farm with battery storage facility, which is considered to be 'essential infrastructure' in Annex 3 of the National Planning Policy Framework. It is therefore necessary for the application to pass the Sequential Test and Exception Test and to be supported by a site-specific flood risk assessment (FRA), which can demonstrate that the 'development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.[...]

Environment Agency position

We have no objection to the proposed development providing it is carried out in accordance with the submitted FRA. Should permission be granted, we request that the FRA is listed as an approved plan / document.

- 10.56 The Local Lead Flood Authority has also been consulted on this application. The Authority has made the following comment:

[...] The submitted documents demonstrate a reasonable approach to the management of surface water on the site, via attenuation and discharged at rates less than or equal to 1.4 l/s/ha. The LLFA have no objections.

- 10.57 To ensure that development is undertaken in line with paragraph 169 of the NPPF, which states that Major developments should incorporate sustainable drainage systems, the LLFA has also made recommendations intended to ensure that the proposed development will not increase the surface water run-off rate, volume or time to peak compared to the pre-development situation. The recommendations include maintaining appropriate vegetative areas between the solar arrays and a requirement

to provide a Construction Environmental Management Plan. A Construction Environmental Management Plan will be secured by condition.

- 10.58 It is noted that an amendment to the proposed layout of the BESS includes the relocation and redesign of the drainage pond. This change does not compromise the acceptability of the proposal in terms of SuDS regulations compliance, which can be refined as required at the post planning stages and subject to Building Regulations.
- 10.59 It is considered that the application has demonstrated that the proposal will provide a significant public benefit from the provision of low carbon energy. As such the development would provide wider sustainability benefits to the community that outweigh the flood risk. The application has also demonstrated that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, will reduce flood risk overall. Therefore the requirements for passing the Exception Test as set out in paragraph 164 of the NPPF 2021 are met.

Agricultural Land and Soils and the Loss of Best and Most Versatile Agricultural Land (BMV)

- 10.60 The application site has three main soil types: medium loamy; sandy loam and slowly permeable soils. The site is a combination of agricultural land grades 1, 2 and subgrades 3a and 3b. Best and Most Versatile (BMV) agricultural land is land in grades 1, 2 and 3a of the Agricultural Land Classification system. Approximately 60% of the development will be on BMV land.

- 10.61 Local Policy SP17 *Managing Air Quality, Land and Water Resources* states:

*Land resources will be protected and improved by: [...] Prioritising the use of previously developed land and protecting the best and most versatile agricultural land from irreversible loss. **New land allocations will be planned to avoid and minimise the loss of the Best and Most Versatile Agricultural Land.** Proposals for major development coming forward on sites that are not allocated for development which would result in the loss of the Best and Most Versatile Agricultural Land will be resisted unless it can be demonstrated that the use proposed cannot be located elsewhere and that the need for the development outweighs the loss of the resource.*

- 10.62 Paragraph 174 of the NPPF states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:[...] recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland

- 10.63 National Planning Policy Guidance (Paragraph: 013 Reference ID: 5-013-20150327) states that when considering planning applications for large scale ground-mounted solar farms, the factors that a LPA will need to consider include:

- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. See also a speech by the Minister for Energy and Climate Change, the Rt Hon Gregory Barker MP, to the solar PV industry on 25*

April 2013 and written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015.

- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use.*

10.64 The written ministerial statement on solar energy: protecting the local and global environment made on 25 March 2015 the Minister states:

“we want it to be clear that any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence”.

10.65 More recently, the *draft National Policy Statement for Renewable Energy (EN-3) (March 2023)*, seeks to avoid the use of BMV land where possible, but it also indicates that land type should not be a pre-dominating factor in determining the suitability of the site location. Whilst this is currently only a draft it gives an indication of the government’s most recent thinking on this issue.

10.66 Natural England is the statutory consultee for development that would lead to the loss of over 20ha of ‘best and most versatile’ (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system, where this is not in accordance with an approved plan.

10.67 Natural England has been consulted and has made the following comment with regard to the impact of the proposal on BMV agricultural land:

From the description of the development this application is likely to affect 29.5ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a substation, may permanently affect agricultural land this would be limited to small areas of BMV agricultural land.

However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large scale solar farms on previously developed and non-agricultural land.

[...]It is recognised that a proportion of the agricultural land will experience temporary land loss. In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised.

Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land, including a required commitment for the preparation of

reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade).

- 10.68 Chapter 8 of the Environmental Statement and Appendices 8.1 *Soils and Agricultural Report* and 8.2 *Old Malton Soil Management Plan* provide the application technical assessment of the impact of the proposal on soils and agricultural land quality.
- 10.69 Chapter 8 describes that during the installation of the solar farm all land within the Site will be removed from agricultural use. During the operational phase of the solar farm, grassland will be established. Following the lifetime of the solar farm (40 years) the infrastructure will be removed and the land will be returned to conventional agriculture. Table 1 to Appendix 8.1 shows that 56% of the site is BMV land, 33% grade 3b and the remaining 11% non-agricultural. It is noted that objectors state that the correct percentage figure for BMV land is over 60% if land covered by existing lanes is excluded from the calculation. In the context of this application this difference in BMV calculation methodology is not considered to be significant.
- 10.70 Appendix 8.2 *Old Malton Soil Management Plan Report 1716/3* dated 31st May 2022 sets out the applicant's proposals to safeguard the soil resources and agricultural land within the site. The report provides recommendations on land access and soil handling for the solar array installation. The recommendations are based upon the findings and interpretation of a soil survey Land Research Associates Limited (referenced in their report 1716/3 dated 3rd October 2022) The report provides recommendations regarding land access restrictions to avoid soil damage due to traffic and groundwork during wet conditions and detailed recommendations for soil stripping, handling, storage, reinstatement and aftercare methods. The report recommends that all operations should be undertaken strictly in accordance with the methodology described within the document and the Construction Code of Practice for the Sustainable Use of Soils on Construction Sites, DEFRA (2009). This can be ensured via a planning condition.
- 10.71 The report notes that the land is likely to be subject to piped drainage systems which are essential to the maintenance of land quality for agriculture and so recommends the application of a scheme of works for pre and post construction drainage system repair (in addition to the principles for safe traffic and handling set out in this document) will ensure no significant adverse impacts on surface runoff. This can be ensured via a planning condition.
- 10.72 A Key issue for this application is whether or not the use of BMV agricultural land has been demonstrated to be necessary, that the proposed development cannot reasonably be located elsewhere and that the need for the development outweighs the loss of the resource.
- 10.73 The Sequential Test documentation, considered earlier in this report, makes the case that the site has been chosen as the only site that is close enough to an electricity grid Bulk Supply Point to meet the technical requirements of Northern Powergrid and that there are no other reasonably available, viable sites appropriate for the proposed development that would allow a less harmful impact on BMV land. In terms of the plan making process and material provided by the developer the Council has no evidence that there are alternative available sites on land of less agricultural or no agricultural value.
- 10.74 Cumulative effects – It is considered that soil and agricultural land loss from an individual site should be considered on a site by site basis, against the benefits of the scheme. The LPA is not aware of any developments that would, in combination with

this proposal, affect the consideration of this proposal with regard to its Environmental Impact.

Rural Economy

10.75 Local policy SP9 *The Land-Based and Rural Economy* states that Ryedale's land-based economy will be sustained and diversified with support for [...] appropriate new uses for land including flood management and energy production related research and education in this field.

10.76 In the preamble to local policy SP9 paragraph 5.35 states:

This Strategy is intended to support and be flexible to the needs of those who rely on the land-based economy. It also supports new opportunities that may arise from future changes. These range from alternative cropping to renewable energy schemes.

10.77 Paragraph 84 of the NPPF states:

Planning policies and decisions should enable [...] the development and diversification of agricultural and other land-based rural businesses;

10.78 The applicant states that the scheme would provide a boost to the local economy during construction, and to local and wider supply chains, together with contributing to a shift towards a low carbon economy. The longer term benefits to the local economy would accrue mainly to the landowner as part of a rural diversification project. This would be offset by a reduction in farming activity in the locality.

10.79 Notwithstanding the resulting changes to the local economy that the proposal would bring, the proposal to change the use of the agricultural land in the site to use for the production of solar energy is in accordance the LPA's rural economic policies cited above.

10.80 It is noted that objectors have stated their concerns that the proposal will have a negative impact on the rural economy of Ryedale due to the reduction in land available to the farming economy and that it would negatively impact on the viability of Eden Farm. These points are noted and the negative impact on the local farming economy weighs against the proposal in the planning balance. However weight must also be given to the local and wider economic benefits and the fact that the proposal is in accordance with local policy SP9.

Highway impacts

10.81 Local policy SP20 *Generic Development Management Issues* sets out the development plan policy for access, parking and servicing. The policy states:

Access to and movement within the site by vehicles, cycles and pedestrians would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists. Information will be required in terms of the positioning and treatment of accesses and circulation routes, including how these relate to surrounding footpaths and roads

10.82 Paragraph 111 of the NPPF states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.83 The application is accompanied by a Transport Statement, a Construction Traffic Management Plan, a Construction Environmental Management Plan and a Solar Photovoltaic Glint and Glare Study.

10.84 With regard to Highways Impacts the applicant's Planning Statement states:

As set out in the Transport Statement in Appendix B1, the access into the Site is considered safe and suitable, with swept path analysis of key junctions provided. The construction period is expected to last approximately 20 weeks, during which period an average of 6 two-way heavy good vehicles trips and 29 two-way staff/light goods vehicle movements per day are expected. A Construction Traffic Management Plan has been presented at Appendix B2 which suggests mitigation measures to further reduce the impact of construction traffic. This includes limiting the time of vehicle arrivals to off-peak times, ensuring a banksman is available on Site at all times, putting appropriate parking arrangements and manoeuvring facilities in place and having temporary signage and barriers to safeguard pedestrians and facilitate safe access to and from the Site for vehicles. A suitable cleaning methodology to ensure mud is not transported on to the highway will also be implemented.

During the operational phase of the Proposed Development, the Site will be unmanned and trips will be limited to maintenance as and when needed. These trips will likely be undertaken in cars or light vehicles.

10.85 National Highways were consulted on this planning application and have provided advice based on the recommendations set out in the Technical Memorandum by JSJV (the consultants used by National Highways in preparing their reply). The summary and conclusions to JSJV's report states:

This review has highlighted that the impact of the proposed development on the SRN is likely to be negligible given the limited duration of the construction phase. In addition, the impact of glint and glare is suggested to be limited due to existing natural and enhanced screening. Consequently, the impact of the construction and operation of the development on the operation of the SRN is not considered to be severe.

However, no information relating to traffic impacts during the decommissioning phase has been provided by the Applicant. Hence, JSJV would recommend a Conditional Response to planning application 23/00046/MFULE, including a condition requiring a Decommissioning Traffic Management Plan.

On the basis of this review, the recommendation to National Highways in relation to this development proposals is: Recommend conditions.

10.86 National Highways' recommendation is that a condition should be attached to any planning permission that may be granted to ensure that a Decommissioning Traffic Management Plan is submitted to and approved in writing by the local planning authority prior to the eventual decommissioning of the development, along with an Informative which sets out the details that the decommissioning TMP must include.

10.87 The Local Highway Authority has also been consulted and has made the following comment:

The access to the site entrance meets the local highway authority current standards and is considered appropriate to serve the type and volume of traffic likely to be generated by the proposals.

Impact on the highway will be minimal once the site is operational but appropriate conditions are required to ensure adequate on-site parking, turning and un-loading, traffic management and satisfactory control of mud etc being brought out onto the public highway by vehicles visiting the site. Swept path analysis has established that an Abnormal Indivisible Load Vehicle (AILV) can adequately access and egress the site. AILV movements will be carried out with specific traffic management such as escort vehicles and banksmen at the site access and abnormal load movements on the highway to be undertaken in accordance with applicable LHA guidelines. The LHA notes that the majority of delivery vehicle movements during the construction phase are expected to be carried out by HCV's and LCV's

Access to both parcels of land for installation of the solar panels will be via Freehold lane which is not a maintained public highway.

A sustained period of construction activity will likely bring about a deterioration of this surface, which may affect the enjoyment of the lane by recreational users along the Right of Way and other legitimate private users having access. Consequently it is recommended that the planning authority take account of this by way of condition and/or agreement with the applicant to ensure a programme of inspection and repair during this phase.

- 10.88 The Local Highway Authority recommends that a condition is attached to a planning permission, if granted, which states that no development for any phase of the development may commence until a Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority, in order to protect public safety and amenity. The applicant has confirmed that they will also accept a condition to ensure the surface of Freehold Lane is restored to its predevelopment condition.
- 10.89 Subject to the conditions recommended above it is considered that the proposal would have an acceptable impact on the highway network and is in accordance with local policy SP20 and paragraph 111 of the NPPF.

Landscape and Design

- 10.90 Local Policy SP13 *Landscapes* states:

The quality, character and value of Ryedale's diverse landscapes will be protected and enhanced by:

- *Encouraging new development and land management practises which reinforce the distinctive elements of landscape character within the District's broad landscape character areas of:*
 - *North York Moors and Cleveland Hills*
 - *Vale of Pickering*
 - *Yorkshire Wolds*
 - *Howardian Hills*
 - *Vale of York*

- *Protecting the special qualities, scenic and natural beauty of the Howardian Hills Area of Outstanding Natural Beauty, the setting of the Area of Outstanding Natural Beauty and the setting of the North York Moors National Park.*

Landscape Character

Development proposals should contribute to the protection and enhancement of distinctive elements of landscape character that are the result of historical and cultural influences, natural features and aesthetic qualities including:

- *The distribution and form of settlements and buildings in their landscape setting*
- *The character of individual settlements, including building styles and materials*
- *The pattern and presence of distinctive landscape features and natural elements (including field boundaries, woodland, habitat types, landforms, topography and watercourses)*
- *Visually sensitive skylines, hill and valley sides*
- *The ambience of the area, including nocturnal character, level and type of activity and tranquillity, sense of enclosure/exposure [...]*

10.91 Local policy SP16 *Design* states:

To reinforce local distinctiveness, the location, siting, form, layout, scale and detailed design of new development should respect the context provided by its surroundings [...]

10.92 Local policy SP18 *Renewable and Low Carbon Energy* states:

Developments that generate renewable and/or low carbon sources of energy will be supported providing that individually and cumulatively proposals:

- *Can be satisfactorily assimilated into the landscape or built environment, especially in respect of the setting of the North York Moors National Park, the Howardian Hills Area of Outstanding Natural Beauty (and its setting), the Wolds and the Vale of Pickering; [...]*

10.93 Local policy SP20 *Generic Development Management Issues* states that new development will respect the character and context of the immediate locality and the wider landscape/townscape character in terms of physical features and the type and variety of existing uses.

10.94 Paragraph 155 of the NPPF states:

To help increase the use and supply of renewable and low carbon energy and heat, plans should:

- a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, while ensuring that adverse impacts are addressed satisfactorily (including cumulative landscape and visual impacts); [...]*

10.95 Paragraph 174 of the National Planning Policy Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

10.96 The application is supported by the following documents used for the assessment of the landscape and visual impact of the proposal:

- Appendix A – Landscape and Visual Appraisal (LVA)
- Appendix A1 – LVA methodology
- Appendix A2 – Viewpoint Analysis
- Appendix A3 – Landscape Sensitivity
- Appendix A4 – Residential Visual Amenity Assessment
- Appendix A5 – Photosheets
- Appendix A6 – LVA Figures including Landscape Mitigation Plan

10.97 The applicant's LVA considers a 3km area of study.

10.98 The LVA study site does not fall within an area covered by any national or local landscape designation. However, the site does fall within the Vale of Pickering National Character Area which is characterised by low-lying flat or gently undulating land and, in the western side of the Vale, by irregular field patterns often enclosed by full hedges and hedgerow trees. To the southwest of the site, The Howardian Hills extend slightly into the 3km study area of the LVA. Pre-application advice to the applicant recommended that the effect of the proposal on the North York Moors National Park to the north and the Howardian Hills Area of Outstanding Natural Beauty should be considered in a LVA. However, the National Park lies over 8km to the north and the LVA confirms that there would be no view of the site from any location within the National Park. As such the LVA study area did not include the National Park

10.99 The site lies within a low lying and broadly flat vale. The LVA notes that due to the low-level nature of the development in combination with the layering effect of vegetation in the landscape that any visibility of the development would be limited to within 1-2km of the site. In the wider context, land rises gently to the west of Malton across a limestone ridge which forms part of the Howardian Hills AONB. The LVA found very few glimpses from the ridge towards the site. Table 6.1 of the LVA sets out a *Viewpoint Analysis Summary* which assesses the scale of landscape and visual effects to be (using the LVA terminology) "small or negligible", except from Windmill Farm where the visual effects are "medium" and "large" respectively, reducing to "small" as landscape mitigation becomes established. Large scale, adverse effects would largely be limited to the site itself where there would be a fundamental change in character from arable fields to a solar farm. Table 6.2 *Effects on Special Qualities of the Howardian Hills AONB* describes the effect of the development to range between "negligible" to "small/limited" reducing to "negligible" once mitigation planting is established. The LVA notes that there would be a change in the view from isolated farmsteads at Windmill Farm, Acomb House and Eden Farm but that this is a matter of private visual amenity and not the matter of public visual amenity addressed in the LVA.

10.100 The LVA concludes that:

- There would be a negligible visual impact on the existing landscape. An extensive programme of hedgerow management and infill planting, as set out in the Landscape Mitigation Strategy (LVA Fig 5) would soften the appearance of the proposed development and, as far as possible, mitigate effects on landscape and visual receptors.
- Following the establishment of mitigation planting there would be an adverse residual effect of “Minor” significance on the landscape character between Ryton Riggs to the north, Edenhouse Road to the east, Freehold Lane to the south and Cheapsides to the west.
- “Moderate” adverse effects on visual amenity would be experienced initially along the Public Right of Way (PRoW) network immediately adjoining the site but would reduce to “Minor” significance as mitigation establishes. In the wider landscape adverse visual effects would range from “Minor” to “Negligible” significance.
- Effects on the Howardian Hills AONB will reduce to “Negligible” once mitigation planting has established.
- The proposed development would not give rise to any cumulative effects.

10.101 *Appendix 1: LVA Methodology* sets out how the viewpoint analysis was conducted and the approach used is considered to be appropriate. It is noted that Mr and Mrs Sturdy, the tenants of Eden Farm, assert that the applicant’s LVA photo sheets are unrealistic and they have provided their own photomontages and graphics to provide alternative representations of the impact of the proposed development on the landscape. However, the methodology used in the production of the Sturdy’s graphics is not clearly described. The representations of Solar Panels in the Sturdy’s LVA appear to be significantly larger than the actual 3.1 metre height of the proposal panels.

10.102 The Council’s Trees and Landscape Officer has made the following comment on the landscape impact of the proposal:

A comprehensive landscaping scheme is proposed for the site, with existing hedgerows gapped up and managed at 4m height on the external hedges and 2m on internal hedges. In addition, new sections of hedgerows and trees will be planted to assist in screening the proposed development and increase biodiversity opportunities. Further habitat enhancement will be provided by the planting of a native tree belt parallel to the northern boundary that will help to screen the view of the solar panels from Acomb House situated to the north as it develops. This screening will be more effective and will establish more quickly if it is planted with heavy standards rather than whips (small saplings). [The] proposed biodiversity enhancement are expected to make an overall net gain across the site of 105.39%, of which 42.67% is in hedgerow units. The site has a number of defunct or species poor hedges, therefore enhancement through Hedgerow management and infill planting will increase the biodiversity and will mitigate the impact on landscape and visual receptors over a period of 5-10 years. The Landscaping and Visual Appraisal submitted with this application supports the view that there would be a “negligible effect on the landscape fabric”.

The proposed site plan shows that several new hedges are proposed as part of site landscaping, the provision of which is projected to comfortably compensate for the small amount of development related losses. Suitable specification, delivery and aftercare of new planting should be secured by means of a condition attached to a planning approval.

10.103 The applicant’s LVA concludes that there will be localised “Minor” harm to the landscape character; more significant adverse effects would largely be limited to the

site itself. Officers agree with the conclusion that there will be only localised harm to the landscape character.

10.104 In addition to the Minor harm to the landscape character identified in the LVA, weight must be given to the fact that the site is a part of a rural, pastoral landscape; siting a large number of solar panels on the land will industrialise and significantly alter and harm the rural character of the site and surrounding land, albeit the significant impacts are largely limited to the site and neighbouring lanes. As such the proposal is considered to be contrary to local policies SP13 and SP20 which require that development should protect or enhance the character of the landscape and respect the character and context of the immediate locality and the wider landscape and contrary to local policy SP16 which requires that development should be well integrated with its surroundings and reinforce local distinctiveness. However, in assessing the planning balance, weight must be given to the fact that the development is (relatively) temporary and reversible so that any landscape impacts are limited to the lifetime of the solar panels. Subject to suitable conditions requiring the implementation of the submitted Landscape Mitigation Plan and the eventual reinstatement of the land to its current condition it is considered that the very significant public benefits of providing renewable energy outweighs the harm identified under policies SP13, SP16 and SP20.

10.105 It is noted that policy SP18 *Renewable and Low Carbon Energy* requires only that development should satisfactorily assimilate into the landscape. This can be achieved through the implementation of the submitted Landscape Mitigation Plan. As such, the identified minor harm to the landscape is considered to be in accordance with policy SP18 subject to satisfactory mitigation measures.

Arboricultural Impact

10.106 Paragraph 131 of the NPPF states that planning decisions should take measures to ensure that existing trees are retained wherever possible.

10.107 The applicant has provided an Arboricultural Impact Assessment (AIA) for the proposal. The AIA states:

[...] Assessment of the tree data and proposal plan indicates that construction of the development as proposed will require the removal of one low quality tree and five sections of low quality hedge in order to form vehicular access points and install the AC cable connection.

The proposed site plan shows that several new hedges are proposed as part of site landscaping, the provision of which is projected to comfortably compensate for the small amount of development-related losses. Suitable specification, delivery and aftercare of new planting should be secured by means of a condition attached to a planning approval.[...].

10.108 The Council's Trees and Landscape Officer has made the following comment on the arboricultural impacts of the proposal:

Having considered the AIA, LVIA and other relevant documentation the proposal will have only a minor impact on trees and hedges. The Arboricultural Impact Assessment details a small amount of development-related losses - namely one low quality tree and five sections of low quality hedgerow will be removed to allow for access between fields and the installation of the electricity connection to the substation as detailed in the submitted with the planning application.

10.109 Subject to conditions recommended by the Trees Officer to provide a detailed arboricultural method statement prior to commencement of the development and to ensure tree works are in accordance with British Standard it is considered that the proposal will not cause significant harm to trees and hedgerows and therefore in accordance with local policies SP13 and SP14.

Amenity of neighbouring development

10.110 Local policy SP20 *Generic Development Management Issues* states:

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

10.111 Due to the low rise design, the type of development and the distance of separation between the solar panels and associated plant and the neighbouring properties, the proposal will not have a significant effect on the amenity of neighbouring property in terms of overbearing, loss of light or privacy.

Noise

10.112 With regard to noise, the BESS and plant compound in the southeast part of the site will generate some low level noise from the hum generated by its operation. It is noted that impact from noise generated in the BESS site, on the neighbouring Eden Camp Museum, has been a significant concern for some objectors to the proposal, including the operators of the Museum. The BESS site is approximately 43 metres to the west of the Eden Camp Museum outdoor events space.

10.113 A Noise Impact Assessment has not been provided with the application. However, because the site is subjected to high ambient noise levels from road traffic on the nearby A64 and A169 which pass the site to the south and east, submission of a Noise Impact Assessment is not considered necessary. The Council's Environmental Health Team has been consulted regarding the proposal. The officer responding has made the following comment:

I am satisfied that any noise emitted from this development will be masked by existing noise climate and therefore will not impact on nearby residential amenity. However to ensure that low frequency noise will not result in any problems, I will be asking that a noise condition be placed that emissions from the development shall not exceed the noise criterion curve associated with low frequency noise developed by Salford University in association with DEFRA and detailed in NANR45:

Condition:

Low frequency noise emissions from the development shall not exceed the noise criterion curve detailed in NANR45: Proposed Criteria for the assessment of low frequency noise disturbance. See Table below.

Frequency, Hz	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
dB Leq	92	87	83	74	64	56	49	43	42	40	38	36	34

Reason: To protect the amenity of existing neighbouring occupiers.

Glint and Glare

- 10.114 The applicant has supplied a Solar Photovoltaic Glint and Glare Study (Appendix 4A) in support of the application. In addition to considering the impact of the proposal on road traffic from glint and glare, this Study also considers the impact of the proposal from glint and glare on dwellings. The study identified 51 dwellings for assessment. The study found at two assessed dwelling locations that sufficient existing screening has not been identified considering baseline conditions. The likely impact was assessed as “moderate”. However, the report notes that existing external hedgerows around the reflecting solar panels is proposed to be strengthened and maintained at minimum 4m height, and new native hedgerow is proposed to be planted and maintained at 4m height. The study concluded that this will be sufficient to remove all impacts. No further mitigation was recommended in the study.
- 10.115 The study concludes that overall, no significant impacts upon roads or dwellings have been identified once the proposed screening within the Landscape Mitigation Plan has been established.
- 10.116 It is considered that the submitted Solar Photovoltaic Glint and Glare Study satisfactorily demonstrates that the proposal will not have a significant impact on the amenity of dwellings from glint or glare.

Residential Visual Amenity Assessment (RVAA)

- 10.117 The applicant has supplied a Residential Visual Amenity Assessment (RVAA - Appendix 4) in support of the application. The Assessment states that the aim of the RVAA is to identify where effects on residential visual amenity are of such a nature or magnitude that they may be considered as dominating the properties to the extent that they would be undesirable places to live in. The Assessment reports that there are three properties within the 250m RVAA study area that have potential visibility of the Proposed Development; Windmill Farm, Acomb House and Eden Farm. The Assessment concludes that in no case would the visual impact on dwellings be of such nature and/or magnitude that they potentially affect living conditions at any property to the point it becomes an unattractive, oppressive place to live in terms of residential amenity. Officers concur with this conclusion.
- 10.118 In consideration of the above assessments of the impact of the proposal on the amenity of neighbouring development it is concluded that the proposal will not cause significant harm and is in accordance with local policy SP20.

Fire Risk

- 10.119 It is noted that a significant number of objectors to the proposal have stated concerns regarding a perceived fire risk that the proposal presents, from the batteries located in the Battery Energy Storage Site (BESS) and plant area. Whilst these matters are principally regulated by Building Control, it was nevertheless considered prudent to consult the North Yorkshire Fire and Rescue Service (NYFRS) regarding the proposal. In response to the first consultation letter the NYFRS Business Fire Safety officer stated:

At this stage I can only object if have concerns regarding access or other substantial reasons relating to fire safety [...] any concerns we had over the build, including battery storage facilities and the alleged risk will be commented on when we receive the building regs. consultation.

10.120 Following amendments to the BESS site layout and the publication of new guidance from the National Fire Chiefs Council - *National Fire Chiefs Council on Grid Scale Battery Energy Storage System planning* the NYFRS Business Fire Safety officer submitted a supplementary comment. The key points made are:

Site access - *Suitable facilities for safely accessing and egressing the site should be provided. [...] Road networks on sites must enable unobstructed access to all areas of the facility. [...]*

Water Supplies - *Water supplies will depend on the size of the installation. In most cases, initial firefighting intervention will focus on defensive firefighting measures to prevent fire spread to adjacent containers. As a result, proposals for water supplies on site should be developed following liaison with the local fire and rescue service considering the likely flow rates required to achieve tactical priorities. [...] hydrant supplies for boundary cooling purposes should be located close to BESS containers [...] Any static water storage tanks designed to be used for firefighting must be located at least 10 metres away from any BESS container/cabinet.*

While my opinion and reply following the initial consultation has not changed, given the [NYFRS] guidance and the fact the revised site plans and additional documents cannot confirm all points identified it is crucial NYFRS are in constructive dialogue with yourselves, the site developers and any stakeholders going forward at each stage.

10.121 In response to the comments received from the NYFRS Business Fire Safety officer the applicant has revised the BESS site layout to provide improved access for firefighting vehicles. The applicant, Harmony Energy, advise that they are engaging with the NYFRS to ensure the proposal meets fire safety and building regulations. The applicant has also stated that they would accept the following planning condition:

Notwithstanding the details submitted with the application, prior to the first export date of the development, the applicant shall submit an overarching fire safety precaution statement to the local planning authority to be agreed in conjunction with the North Yorkshire Fire Service.

However, as this is a matter controlled by Building Regulations, this condition is not considered to be necessary or in accordance with paragraph 56 of the NPPF 2021.

Personal Circumstances

10.122 The tenant farmers of the application site, Mr and Mrs Sturdy have stated that their personal circumstances, as they are affected by this application are exceptional and as such should be a material consideration in the determination of this application. They cite a statement by Lord Scarman, in a House of Lords judgement regarding Westminster City Council v Great Portland Estates Plc, [1985] A.C. 661 (1984) which considers the relevance of personal circumstances in making planning policy. He states:

However, like all generalisations Lord Parker C.J.'s statement has its own limitations. Personal circumstances of an occupier, personal hardship, the difficulties of businesses which are of value to the character of a community are not to be ignored in the administration of planning control. It would be inhuman pedantry to exclude from the control of our environment the human factor. The human factor is always present, of course, indirectly as the background to the

consideration of the character of land use. It can, however, and sometimes should, be given direct effect as an exceptional or special circumstance. But such circumstances, when they arise, fall to be considered not as a general rule but as exceptions to a general rule to be met in special cases. If a planning authority is to give effect to them, a specific case has to be made and the planning authority must give reasons for accepting it. It follows that, though the existence of such cases may be mentioned in a plan, this will only be necessary where it is prudent to emphasise that, notwithstanding the general policy, exceptions cannot be wholly excluded from consideration in the administration of planning control.

10.123 The Sturdy's letter dated 23rd of March 2023 states that their personal circumstances are truly exceptional and fundamentally different from other planning applications where the applicant and the occupant of the land are the same person. The personal circumstances listed are:

:

- *the farm will not be viable if it is reduced in size as proposed*
- *the length of time our family have farmed the land*
- *the duration of the tenancy for a third generation,*
- *we have been unimpeachable tenants*
- *we have invested in the land, machinery and buildings*
- *Eden Farm is our home and our only source of income*
- *the tenancy prevents me from using the farm for any purpose other than agriculture*
- *our contribution to the local economy*
- *the contribution our business makes to the environment - I recycle the local garden waste*

10.124 It is clear that the proposed development will have a significant impact on the running of the Sturdy's farm. However the personal circumstances stated are not considered to amount to exceptional or special circumstances that provide a significant material consideration for the determination of this application. The economic considerations cited by the Sturdy's are considered earlier in this report.

Public Rights of Way

10.125 There are a number of public bridleways and footpaths within the immediate vicinity of the site. They are:

- Freehold Lane forms a public bridleway (ref: 20.60/16/1), providing access to public bridleways to the east (ref: 25.60/17/1) and west (ref: 25.60/9/1).
- The length of Great Sike Road, which traverses east-west through the northern parcel between Edenhouse Road and Borough Mere Lane, forms a public bridleway (ref: 25.60/15/1).
- To the south of the Great Sike Road junction, Borough Mere Lane forms a public bridleway (ref: 25.60/9/1), which continues south providing access to Old Malton and Malton.
- To the north and south of the Great Sike Road junction, Edenhouse Road forms a public bridleway (ref: 25.60/17/1), which provides access to a public footpath to the north and Eden Camp to the south.
- There is a cycle route which is accessible from Edenhouse Road via Freehold Lane, approximately 300m to the east of the southern part of the site.

- 10.126 No alterations to any of the PRow are proposed as a result of the development proposals.
- 10.127 The NYC Public Rights of Way Officer does not object to the proposal. He comments: *There are several Public Bridleways within the area of the proposed development site boundary, which also form part of the Malton to Pickering Cycle route. No changes to the surface of the route must occur without prior consent from North Yorkshire County Council. Any damage caused to the surface as a consequence of the development will be the responsibility of the developers to repair to the satisfaction of North Yorkshire County Council.*
- 10.128 Adverse effects on visual amenity would be experienced initially by users along the Public Right of Way (PRow) network immediately adjoining the site but the effect would significantly reduce as landscape mitigation establishes in the form of additional hedgerow planting and as the existing perimeter hedgerows are allowed to increase to 4 metres in height.
- 10.129 A condition to ensure the surface of the bridleways are maintained in their current condition will be added to the planning permission if granted.
- 10.130 As no alterations to PRows are proposed the application is considered to be in accordance with local policy SP20. If the application is approved, an informative regarding the applicants legal obligations regarding PRows will be added to the decision notice.

Minerals and Waste Safeguarding & Land Contamination

- 10.131 The application site is within a Minerals and Waste Safeguarding Area for Limestone and does not fall within the exemption criteria stated in paragraph 8.55 of the Minerals and Waste Joint Plan (2022). Therefore the relevant policy of that Plan to consider in this instance is Policy S02 *Developments proposed within Safeguarded Surface Mineral Resource*. The Policy states:
- Applications for development other than mineral extraction in Safeguarded Surface Minerals Resource areas should include an assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.*
- 10.132 The applicant has submitted a Phase 1 Land Contamination and Minerals Assessment (Appendix E1) in support of the proposal. The Assessment notes that “*The site interrelationship with highly sensitive receptors including adjacent residential housing and surface water features would preclude mineral extraction given that the environmental and physical impact are likely to be unacceptable*” and concludes that there is no conflict with the Joint Minerals and Waste Plan of North Yorkshire as there is an overriding need for renewable energy solutions, and mineral extraction cannot be achieved in an environmentally acceptable or likely economic manner.
- 10.133 The NYC Minerals and Waste officer has commented “*The mineral assessment satisfies the requirements of Policy S02 so no further information is required*”. It is considered therefore that the proposal is acceptable in terms of its impact on safeguarded surface mineral resources.
- 10.134 With regard to land contamination issues the Assessment found no landfills within influencing distance of the site. Contaminated land is not considered likely to significantly affect the development of the site. Notwithstanding this point the Environmental Health officer recommends a planning condition that work should stop

if unexpected land contamination is found during the course of works, pending an investigation into the nature of the contamination found.

Tourism

10.135 Local policy SP8 Tourism states that the Council will seek to encourage sustainable tourism, and maximise the opportunities to further develop tourism, including the potential provided by:

- *The archaeological landscapes of the Vale of Pickering and the Yorkshire Wolds*
- *The protected landscapes of the North York Moors National Park and Howardian Hills Area of Outstanding Natural Beauty*
- *Ryedale's religious and Medieval history*
- *Malton's Roman, Medieval and Georgian heritage*
- *Malton and Norton's longstanding association with horse racing*
- *Outdoor adventure in northern Ryedale including Dalby Forest – the Great Yorkshire Forest*
- *Local food production*
- *Farm and rural diversification*
- *Biodiversity and the development of nature tourism*

10.136 Several objections have been received concerning the potential impact on tourism in general in the local area and on the adjacent Eden Camp Museum. However, as discussed earlier in this report, the proposal will not cause significant harm to the wider landscape nor will it cause significant visual or noise impacts at Eden Camp Museum. As such it is considered that the proposal will not conflict with the objectives of policy SP8.

Statement of Community Involvement

10.137 The application is accompanied by a Statement of Community Involvement. The Statement sets out Harmony Energy's approach to consultation with the local community and stakeholders.

10.138 The statement sets out that the scheme will support the local community via the availability of a £10,000 per annum community benefit fund and potential improvements to local cycle ways and paths. In addition, the scheme is also looking to supply local businesses with direct power from private wire opportunities. The applicant has confirmed that these benefits are aspirations only at this stage and they are not secured by legal agreements. As such no weight has been given in the planning balance to these proposals.

Temporary 40 year permission – efficacy of planning condition

10.139 It is noted that several objectors to the proposal have stated concerns that planning conditions to remove the development from the site after 40 years will not be enforceable. The planning condition sits with the land and, should ownership of the land change, the condition will be enforceable against future owners. The use of this type of planning condition is well established in the planning system, accepted as enforceable and in accordance with paragraph 56 of the NPPF 2021 which states "*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects*".

11.0 PLANNING BALANCE AND CONCLUSION

11.1 The key issue in assessing the planning balance is whether or not the public benefits of the proposal, of providing low carbon energy, outweighs:

- The provision of inconclusive evidence that there are no reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding or on lower grade agricultural land,
- harm caused by the temporary (40 years) loss of Best and Most Versatile Agricultural Land;
- less than substantial harm caused to the setting of two Grade II Listed Buildings; and,
- Minor, localised harm to the landscape
- Impact on the local economy.

11.2 Viability was a key consideration for the applicant in determining an appropriate area for the Sequential Test. However, for commercial and practical reasons the applicant has not provided a viability assessment. Without a viability assessment it is considered that the application is not supported by clear evidence that the Sequential Test document has considered a wide enough area within which to assess whether or not there are reasonably available sites appropriate, and viable, for the proposed development in areas with a lower risk of flooding or on lower grade agricultural land. This weighs against the proposal in the planning balance.

11.3 It is noted that the appeal inspector in her consideration of alternative sites for an appeal against Hambleton District Council's refusal of an application for the installation of a solar photovoltaic array/solar farm at land south of Leeming Substation, west of the village of Scruton (Appeal Ref: APP/G2713/W/23/3315877, LPA Ref: 21/01362/FUL) the inspector observed:

*27. I have not been provided with any evidence that indicates that there is any national or local policy requirement to carry out an assessment of alternative sites for solar farm developments. Nevertheless, the appellant provided a sequential assessment. This concluded that there were no sequential preferable sites in the area. **Moreover, the Council have not put forward any brownfield or lower grade alternative sites.**[my emphasis]*

28. It was suggested that the area of search in the assessment could have been wider and that it should have considered more than just the Leeming Bar substation. To this end the Parish Council drew my attention to some other appeal decisions where a more substantial catchment area was required. However, given the proposal is seeking to use the spare grid capacity at this sub-station, and bearing in mind the limited opportunities that currently exist for grid connections nationally, I consider it is, in this case, justified to only consider sites within an area that could also make use of this capacity, rather than capacity that may exist at other substations elsewhere. In addition, from the technical considerations set out by the appellant at the hearing regarding how connections to the substation need to be made, I consider that the area of search utilised in the appellant's assessment is reasonable.

11.4 This application would affect approx. 29.5ha of BMV agricultural land from a site totalling approx. 52.86ha. Natural England has commented that they consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations, subject

to satisfactory soil management measures that will allow the restoration the former land quality when the development is removed from the site. In the planning balance, the harm from the temporary loss of BMV land must be set against the public benefits of the proposal.

- 11.5 The Conservation Officer has identified harm, albeit at the very low end of less than substantial, to the setting of Acomb House Farmhouse and the Windmill at Windmill Farm. Nevertheless this harm would still be classified as “less than substantial harm” as defined in the NPPF and consequently, to accord with paragraph 202 of the NPPF the harm must be weighed against the public benefits of the proposal.
- 11.6 The applicant’s LVA concludes that there will be localised “Minor” harm to the landscape character. In addition to the Minor harm to the landscape character identified in the LVA, weight must also be given to the fact that the site is a part of a rural, pastoral landscape; siting a large number of solar panels on the land will industrialise and significantly alter and harm the rural character of the site and surrounding land, albeit the significant impacts are largely limited to the site and neighbouring lanes. As such the proposal is considered to be contrary to local policies SP13 and SP20 which require that development should protect or enhance the character of the landscape and respect the character and context of the immediate locality and the wider landscape and also contrary to local policy SP16 which requires that development should be well integrated with its surroundings and reinforce local distinctiveness. This weighs against the proposal in the planning balance. However, in assessing the planning balance, weight must be given to the fact that the development is (relatively) temporary and reversible so that any landscape impacts are limited to the lifetime of the solar panels.
- 11.7 The proposal will have a negative impact on the rural economy of Ryedale due to the reduction in land available to the farming economy and it will negatively impact the farming operation at Eden Farm. The negative impact on the local farming economy weighs against the proposal in the planning balance. However weight must also be given to the economic benefit to the landowner as part of a rural diversification project and the fact that the proposal is in accordance with local policy SP9 *The Land-Based and Rural Economy*.
- 11.8 The applicant expects that the proposed development will be “*capable of providing energy for the equivalent of 8,660 homes - this means the scheme could supply the average annual electricity needs of 38% of the households in Ryedale District Council, based on the number of households totalling 22,500. [...] The proposed development would result in carbon savings of just over 12,500 tonnes per year*”. As the application has already secured an agreement with Northern Powergrid for a grid access connection the proposed development can be brought forward relatively quickly. In assessing the public benefit of the proposal, consideration has been given to paragraph 3.3.80 of the draft Overarching National Policy Statement for Energy (EN-1) which states; “there is an urgent need for new (and particularly low carbon) electricity NSIPs to be brought forward as soon as possible, given the crucial role of electricity as the UK decarbonises its economy”. It is noted that this allocation is not a NSIP development, but the point made applies equally well to this proposal. The support in both national and local policy for renewable energy is caveated by the need for the impacts to be acceptable, or capable of being made so. Nevertheless, the renewable energy benefit of the proposal must be accorded substantial weight.
- 11.9 Weight is also given to the fact that Harmony Energy have secured a grid connection for the proposal with National Powergrid and consequently are in a position to complete the development and begin low carbon electricity production relatively quickly. This should be weighed against the uncertainty that, should this development be refused, a similar development could be delivered elsewhere that can make use of the Old Malton

grid connection, in significantly a less harmful location, if one can be found, and in a reasonably short timeframe.

- 11.10 A large number of objections have been received from members of the public and there are objections from Malton Town Council, Habton Parish Council and the CPRE. Excepting the Town and Parish Council, there are no objections from statutory consultees.
- 11.11 The principle of the development is in accordance with policy SP1 *General Location of Development and Settlement Hierarchy*, policy SP9 *The Land-Based and Rural Economy* and policy SP18 *Renewable and Low Carbon Energy*. There are minor policy conflicts identified with policies SP13 *Landscapes*, SP16 *Design* and SP20 *Generic Development Management Issues* where the proposal is found to alter the character of the immediate locality.
- 11.12 Significant biodiversity enhancements would be achieved at the site. The enhancements will be secured by planning condition.
- 11.13 National and local planning policy sets out a presumption in favour of sustainable development, and renewable energy development is a central part of the national and local goal of achieving a sustainable future.

Conclusion

- 11.14 The significant public benefit of the proposal is considered, on balance, to outweigh the policy conflicts identified in this report and the lack of viability evidence used to set the Sequential Test parameters. Having regard to the overall planning balance the development is found to be sustainable and in the public interest. Approval is recommended subject to conditions.

12.0 RECOMMENDATION

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

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

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

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

ES Figure 1.1 Rev A - Site Location Plan
 ES Figure 1.3 Rev C - Proposed Site Plan
 Drawing No OM_BSP_Rev H BESS Site Plan
 BESS site plan indicating proposed plant type and layout
 Drawing No PL.001 - Technical Details - Mounting Structure
 Drawing No PL.005b - Solar Panel Mounting Structure
 Drawing No PL.006 – Customer Substation
 Drawing No PL.007 - Technical Details - Gate, Fence, Construction Road, Camera, Satellite Dish
 Drawing No OM-EL-BAT-01 Envision Battery Elevation

Drawing No OM-EL-BTR-01 Rev 0 - Indicative Battery Transformer (KNAN Transformer)
 Drawing No OM ED(DNOLVAC) Rev 0 Indicative Customer Switchroom
 Drawing No OM_ED(DNOLVAC)_Rev0 DNO LVAC Transformer
 Drawing No PSE2-CIV-1499-200 Rev OA - Proposed 66/33 kV Substation General Arrangement Plan
 ES Figure 6.6 Biodiversity Management Plan (dated 14/08/2023)
 ES Appendix 6.5: Biodiversity Management Plan (V4, dated 11/08/2023)

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

- 3 Planning permission is hereby granted for a temporary period not exceeding 40 years from the date that electricity from the development is first exported to the electricity distribution network ("First Export Date"). Written confirmation of the First Export Date will be provided to the Local Planning Authority within one month of the First Export Date.

Reason: The proposed development has a limited lifetime and when that point is reached, the land should be restored to its previous character and appearance and to productive agricultural use.

- 4 By the end of the 40 year period the development hereby approved must be decommissioned. No later than 12 months after decommissioning, all structures shall have been removed and the site restored in accordance with a restoration scheme which has been submitted to and approved in writing by the Local Planning Authority. The restoration scheme shall be submitted to the Local Planning Authority no less than 6 months prior to decommissioning and shall make provision for the dismantling and removal from the site of all structures, including fencing. The Local Planning Authority must be notified of the cessation of electricity generation in writing no later than one calendar month after the event.

Reason: The proposed development has a limited lifetime and when that point is reached, the land should be restored to its previous character and appearance and to productive agricultural use.

- 5 The solar panels, mounting structures, their associated plant, equipment and fencing (excluding the BESS Site Plan area) must be removed from the site within 12 months of the solar farm (excluding the BESS) ceasing to be operational in accordance with a restoration scheme which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the land is restored to its previous character and appearance and returned to productive agricultural use, if the solar farm were to cease operation before the end of the 40 year permission.

- 6 The Battery Energy Storage System (excluding the solar farm and its associate plant) must be removed from the site within 12 months of the BESS (excluding the solar farm) ceasing to be operational in accordance with a restoration scheme which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the land is restored to its previous character and appearance and returned to productive agricultural use, if the BESS were to cease operation before the end of the 40 year permission.

- 7 No development for any phase of the development must commence until a

Construction Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. Construction of the permitted development must be undertaken in accordance with the approved Construction Management Plan.

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

1. Restriction on the use of Edenhouse Road (One way, West Bound) access for construction purposes;
2. Wheel and chassis underside washing facilities on site to ensure that mud and debris is not spread onto the adjacent public highway;
3. An area for the parking of contractors' site operatives and visitor's vehicles clear of the public highway;
4. Areas for storage of plant and materials used in constructing the development clear of the highway;
5. Measures to manage the delivery of materials and plant to the site including routing and timing of deliveries and loading and unloading areas;
6. Details of the traffic management including escorting of abnormal loads accessing or leaving Freehold Lane from Edenhouse Road;
7. A photographic survey to record the condition of the carriageway and adjacent verges of the full length of Edenhouse Road from its junction with Freehold Lane to the A169 should be undertaken before the development commences and submitted to the Planning Authority and the Highway Authority. The survey will be used in order to establish if any damage or degradation to the publicly maintainable highway has occurred during the period of work on the site and any such damage deemed to have taken place as a consequence of the development works will require to be rectified at the cost of the applicant;
8. Contact details for the responsible person (site manager/office) who can be contacted in the event of any issue.

Reason: In the interest of public safety and amenity.

- 8 No works for the development hereby approved shall commence unless and until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development and eventual decommissioning works shall proceed in accordance with the agreed details.

Reason: In the interests of conserving the natural environment and to ensure the development is in accordance with policy SP14 of The Ryedale Plan - Local Plan Strategy 2013.

- 9 No works for the development hereby approved shall commence until details of a scheme of works for pre and post construction drainage system repair has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a full method statement for all required drainage works. The development shall be carried out in accordance with the agreed scheme of works.

Reason: To ensure that surface water run-off from the site is not increased and in accordance with policy SP17 of The Ryedale Plan - Local Plan Strategy.

- 10 No works for the development hereby approved shall commence unless and until a Soil Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include proposals to safeguard soil resources and agricultural land and a commitment for the preparation of reinstatement, restoration and aftercare plans; including plans to return the land to the

predevelopment land quality(ALC grade). The development shall proceed in accordance with the agreed details.

Reason: In the interests of safeguarding soil resources and agricultural land for future generations.

- 11 A) No development shall commence until an Archaeological Written Scheme of Preservation/Investigation has been submitted to and approved by the local planning authority in writing. The scheme should set out the methodology for preservation of archaeological remains in situ and/or provide a scheme of mitigation for recording of remains that do not require physical preservation. The scheme shall include an assessment of significance and research questions; and:

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

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

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

D) The details submitted in pursuance of Condition A. above shall be preceded by the submission to the Local Planning Authority for approval in writing, and subsequent implementation, of a scheme of archaeological investigation to provide for:

- (i) The proper identification and evaluation of the extent, character and significance of archaeological remains within the application area;
- (ii) an assessment of the impact of the proposed development on the archaeological significance of the remains.

Reason: This condition is imposed in accordance with Section 16 of the NPPF (paragraph 205) as the site is of archaeological significance.

- 12 The development hereby approved shall proceed in accordance with Appendix 6.5: Biodiversity Management Plan Version 3 dated 05/06/2023. The ecological enhancement measures, monitoring and management schedule set out there in shall be implemented in accordance with the Plan. Any changes that are required to the Biodiversity Management Plan enhancement measures, monitoring and management schedule shall be first agreed in writing by the Local Planning Authority prior to implementation.

Reason: In the interests of conserving the natural environment and to ensure the

development is in accordance with policy SP14 of The Ryedale Plan - Local Plan Strategy 2013.

- 13 Notwithstanding the approved plans, before any part of the development hereby approved commences, plans showing details of a landscaping and planting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and new hedgerows and "gapping up" of hedgerow including existing items to be retained. New native hedges shall be planted at the minimum rate of 5-7 plants /metre of new hedge, in double staggered rows with mixed native species suitably protected from grazing animals, and appropriately maintained for a period of 5 years following planting. All planting seeding and/or turfing comprised in the above scheme shall be carried out during the first planting season following the commencement of the development, or such longer period as may be any variation.

Reason: to ensure appropriate enclosure of the development, and in the interests of complimenting the prevailing landscape character of the area.

- 14 All tree works are to be undertaken in accordance with British Standards BS 3998:2010 (Tree Works) by a suitably qualified arborist.

Reason: To comply with good practice, to ensure that the work is undertaken in a competent manner and in the interests of protecting the landscape character of the area.

- 15 Low frequency noise emissions from the development shall not exceed the noise criterion curve detailed in NANR45: Proposed Criteria for the assessment of low frequency noise disturbance as measured from the nearest receptor with no financial interest in the development. See Table below.

Frequency, Hz:	10	12.5	16	20	25	31.5	40	50	63
80	100	125	160						
dB Leq:	92	87	83	74	64	56	49	43	42
	38	36	34						

Reason: To protect the amenity of existing neighbouring occupiers.

- 16 No decommissioning of the development hereby approved shall commence unless and until a full Decommissioning Traffic Management Plan has been submitted to and approved in writing by the local planning authority (who shall consult with National Highways or its successors). Thereafter the decommissioning of the development shall proceed in accordance with the approved DTMP unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that the A64 continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

- 17 If, prior to or during development, ground contamination is suspected or manifests itself then no further development (unless otherwise agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted an appropriate remediation strategy to the Local Planning Authority and the written approval of the Local Planning Authority has been received. The strategy should detail how the contamination shall be managed. The remediation strategy shall be

implemented in accordance with such details as may be approved and a remediation validation report shall be required to be submitted to Local Planning Authority to demonstrate the agreed strategy has been complied with.

Reason: To ensure that a satisfactory strategy is put in place for addressing contaminated land, making the land suitable for the development hereby approved without resulting in risk to construction workers, future users of the land, occupiers of nearby land and the environment.

- 18 The development hereby approved shall be carried out in accordance with the Old Malton Solar Farm and Battery Storage Flood Risk & Drainage Assessment Report reference GON.0084.0054 version 2 dated 11/08/2023 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the development does not increase flood risk in the locality and is in accordance with policy SP17 of The Ryedale Plan - Local Plan Strategy 2013.

- 19 No external lighting shall be installed other than in complete accordance with a scheme that has previously been approved in writing by the Local Planning Authority.

Reason: To ensure that any lighting installed at the site does not cause unacceptable harm to the environment or wildlife.

- 20 No changes to the surface of the site access routes running from the maintained public highway to the site shall occur without prior written consent from the Local Planning Authority. Any damage caused to the surface of the site access routes as a consequence of the development will be the responsibility of the developers to repair to the satisfaction of Local Planning Authority and repairs should be completed within 3 months of the first export of electricity from the application site. A photographic survey to record the condition of the bridleway shall be undertaken before the development commences and submitted to the Planning Authority.

Reason: To ensure the proposal would not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists using the public bridleways leading to the site and in accordance with policy SP20 of The Ryedale Plan - Local Plan Strategy.

INFORMATIVE(S)

- 1 The decommissioning TMP must include details (text, maps, and drawings as appropriate) of the scale, timing, and mitigation of all decommissioning related traffic impacts. It must include but not be limited to: site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit journeys on the SRN during highway peak hours such as the use vehicle booking systems etc); light management; measures to ensure that HGV loads are adequately secured, travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries; plus sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway (and means to remove if it occurs).
- 2 There are several Public Bridleways within the area of the proposed development site boundary, which also form part of the Malton to Pickering Cycle route. No changes to the surface of the route must occur without prior consent from North Yorkshire County Council. Any damage caused to the surface as a consequence of the

development will be the responsibility of the developers to repair to the satisfaction of North Yorkshire Council.

i) There is a Public Right of Way or a 'claimed' Public Right of Way within or adjoining the application site boundary.

ii) If the proposed development will physically affect the Public Right of Way permanently in any way an application to the Local Planning Authority for a Public Path Order/Diversion Order will need to be made under S.257 of the Town and Country Planning Act 1990 as soon as possible. Please contact the Local Planning Authority for a Public Path Order application form.

iii) If the proposed development will physically affect a Public Right of Way temporarily during the period of development works only, an application to the Highway Authority (North Yorkshire Council) for a Temporary Closure Order is required. Please contact the County Council or visit their website for an application form.

iv) The existing Public Right(s) of Way on the site must be protected and kept clear of any obstruction until such time as an alternative route has been provided by either a temporary or permanent Order.

v) It is an offence to obstruct a Public Right of Way and enforcement action can be taken by the Highway Authority to remove any obstruction.

vi) If there is a "claimed" Public Right of Way within or adjoining the application site boundary, the route is the subject of a formal application and should be regarded in the same way as a Public Right of Way until such time as the application is resolved.

vii) Where public access is to be retained during the development period, it shall be kept free from obstruction and all persons working on the development site must be made aware that a Public Right of Way exists, and must have regard for the safety of Public Rights of Way users at all times.

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

Target Determination Date: 18.07.2023

Case Officer: Kevin Riley, kevin.riley@northyorks.gov.uk

Appendix A – Proposed Layout Plan