

**North Yorkshire Council**

**Community Development Services**

**Strategic Planning Committee**

**12 MARCH 2024**

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

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

**1.0 PURPOSE OF THE REPORT**

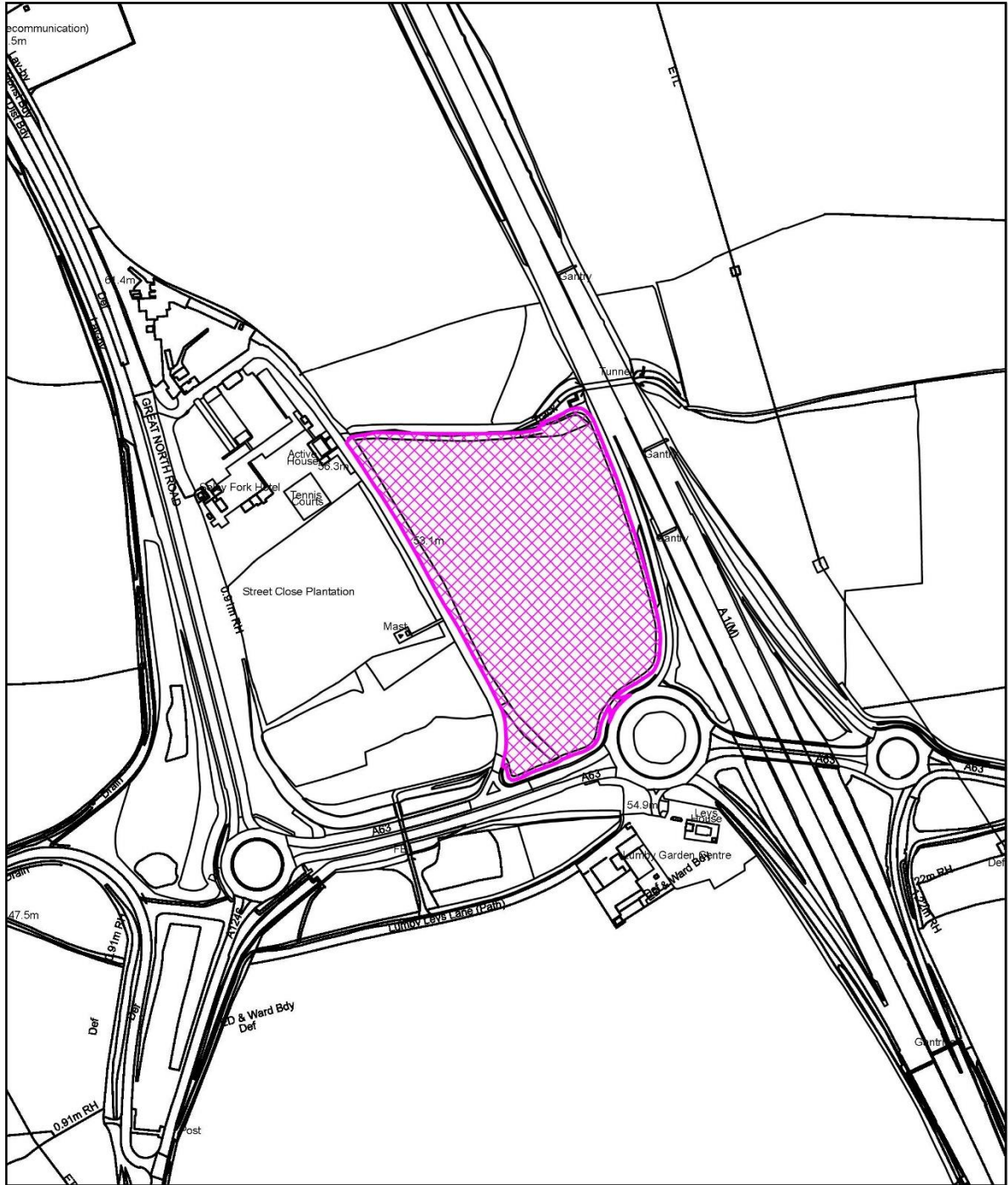
- 1.1 To determine a planning application for the construction of a Motorway Service Area (MSA) on land at Lumby, South Milford.
- 1.2 The application has been reported to Strategic Planning Committee due to it being reported to the former Selby District Council Planning Committee on 15<sup>th</sup>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

**2.0 SUMMARY**

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

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

Land at Lumby, South Milford  
2019/0547/EIA



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### 3.0 **PRELIMINARY MATTERS**

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

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

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

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

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

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

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

#### Amenity building

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

#### Fuel filling station

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

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

#### Drive through coffee unit

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

#### Parking areas

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

#### Landscaping

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

#### Supporting Information

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

## **6.0 PLANNING POLICY AND GUIDANCE**

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

#### Adopted Development Plan

- 6.2. The Adopted Development Plan for this site is:
- Selby District Core Strategy Local Plan, adopted 22 October 2013
  - Those policies in the Selby District Local Plan, adopted on 8 February 2005, which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy
  - Minerals and Waste Joint Plan, adopted 16 February 2022

#### Emerging Development Plan – Material Consideration

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

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

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

#### Guidance - Material Considerations

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

## **7.0 CONSULTATION RESPONSES**

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

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

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



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

#### Local Representations

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

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

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

### **9.0 MAIN ISSUES**

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

## **10.0 ASSESSMENT AND RECOMMENDATION**

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

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

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

*Section 149 of The Equality Act 2010*

- 10.18 Under Section 149 of The Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions: (i) eliminating discrimination, harassment and victimisation; (ii) advancing equality of opportunity between persons

who share a relevant protected characteristic and persons who do not share it; and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are: age (normally young or older people), disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

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

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

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

#### **Drainage**

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

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

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

#### Consideration of Very Special Circumstances

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

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

10.32 The applicant has agreed for this to be secured through a s106 agreement. However, the applicant has advised that due to an increase in the rate of inflation and the cost of managing and maintaining Roadchef's MSAs, the parking charge for the HGV spaces linked to the very special circumstances case will need to be increased as follows:

- Option 1: £23.00 for 24hrs;
- Option 2: £27.00 for 24hrs, including a £10.00 food voucher.

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

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

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

10.35 Applications for TRO's are made to the local Highway Authority and to proceed with a TRO there needs to be ground to support a request, such as:

- for avoiding danger to persons or other traffic using the road or any other road or for preventing the likelihood of any such danger arising;
- for preventing damage to the road or to any building on or near the road;
- for facilitating the passage on the road or any other road of any class of traffic (including pedestrians);
- for preventing the use of the road by vehicular traffic of a kind which, or its use by vehicular traffic in a manner which, is unsuitable having regard to the existing character of the road or adjoining property;
- for preserving or improving the amenities of the area through which the road runs.

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

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

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

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

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

#### **Updated Planning Balance**

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



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

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

#### **Updated Recommendation**

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

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

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

### Conditions

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

#### **General**

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

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

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

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

Reason: For the avoidance of doubt.

#### **Design**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Landscape**

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

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

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

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

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

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

### **Ecology**

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

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

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

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

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

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

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

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

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

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

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

### **Highways**

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

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

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

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

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

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

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

Except for investigative works, no excavation or other groundworks or the depositing of material on site in connection with the construction of the mitigation schemes or any structure or apparatus which will lie beneath those schemes must take place, until full detailed engineering drawings which include the agreed actions of the Stage 1 Road Safety Audit have been approved in writing by the Local Planning Authority in consultation with the Local Highway Authority.

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

A programme for the delivery of the schemes and their interaction with delivery of the other identified schemes must be submitted to and approved in writing by the Local Planning Authority in consultation with the Local Highway Authority prior to construction works commencing on site. The schemes shall be constructed in strict accordance with the approved details and programme.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

Travel Plan that are identified therein as being capable of implementation after occupation must be implemented in accordance with the timetable contained therein and must continue to be implemented as long as any part of the development is in use.

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

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

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

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

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

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

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

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

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

### **Noise/Air Quality**

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

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

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

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

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

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

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

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

### **Drainage**

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

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

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

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

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

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

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

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

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

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

35. Prior to first occupation or use, the development hereby granted shall be built in accordance with the following submitted Surface Water Drainage Strategy:
- Sustainable Drainage Assessment, GeoSmart, reference 78829R5, dated 16/02/2024

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

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

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

### **Land Contamination**

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

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

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

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

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

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

39. In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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

### **Other**

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

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

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

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

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

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

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

### S106 Legal Agreement

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

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

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

11.4 It is considered that the above s106 Heads of Terms are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and as such complies with the Community Infrastructure Levy (CIL) Regulations 2010.

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

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

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

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

**Target Determination Date:** 29.03.2024



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

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

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

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

**Appendix D** – Proposed site plan