

North Yorkshire County Council

Business and Environmental Services

Planning and Regulatory Functions Committee

16 MARCH 2021

C8/8/52/164C/PA (NY/2017/0219/FUL) PLANNING APPLICATION FOR THE PURPOSES OF THE DRILLING A BOREHOLE, TESTING OF THE BOREHOLE INCLUDING FLARING, ERECTION OF CONTAINERISED UNITS WITH EXHAUST STACKS, ASSOCIATED PLANT AND EQUIPMENT, INCLUDING THE ERECTION OF ACOUSTIC FENCING, LANDSCAPING, AND THE EXTRACTION OF MINE GAS, GENERATION OF ELECTRICITY AND ANCILLARY OPERATIONS ON LAND AT LAND OFF WEELAND ROAD, KELLINGLEY, WF11 8DN ON BEHALF OF ALKANE ENERGY UK LIMITED (SELBY DISTRICT) (OSGOLDCROSS, MID SELBY ELECTORAL DIVISION)

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of the report

- 1.1 To determine a planning application for drilling of a single borehole, testing of the borehole including flaring, erection of three containerised units with exhaust stacks, associated plant and equipment, including the erection of acoustic fencing, landscaping and the extraction of mine gas and generation of electricity together with ancillary operations on land off Weeland Road, Kellingley, WF11 8DN on behalf of Alkane Energy UK Limited.
- 1.2 Seven representations have been received objecting to the proposal in view of its potential impact on the Green Belt, visual impact on the landscape, noise, flood risk, traffic, detriment to horses, and potential alternative locations for the development and is therefore, reported to this Committee for determination.

2.0 Background

Site Description

- 2.1 The application site would occupy part of an arable field situated approximately 225m to the north of Weeland Road (A645), Kellingley, approximately 2.5km to the east of Knottingley; access to the site would be taken from Weeland Road via an existing agricultural entrance, which is proposed to be upgraded, and the formation of a new track to the site. The site and access would extend over an area of approximately 1.35 Ha (3.34 acres). The operational area of the site would cover 0.33Ha (0.82 acres); the site access track together with areas proposed to be used for landscaping and soil storage would extend over 1.02ha. A 'poled' electricity supply runs north south across the field to the west of the site, beyond which and running parallel is an overhead electricity transmission line with pylons served by Ferrybridge Power Station, which is seen in the distance when viewed from Weeland Road. To the west of the proposed access, the field is open to Weeland Road with no field boundary; to the east of the

access, the field boundary comprises a tall, established hedge preventing views beyond. A further 'poled' electricity line runs north south to the east of the site. The River Aire meanders to the north of the application site within open countryside. Agricultural land is located between the river and the application site; Willow Garth Local Nature Reserve is 350m to the north west of the site beyond Kemp Bank embankment, a manmade flood defence. A small, approximately 12m high wind turbine is located in the north west corner of the field between the pylon line and the embankment. Further to the west is a large solvent recycling plant. The site and surrounding land is designated as Grade 3, currently in arable use and falls within the Green Belt.

- 2.2 The former Kellingley Colliery sites situated to the south of Weeland Road and beyond an area of woodland opposite the site access. The site is now vacant on part of which planning permission has been granted for an Energy Centre (Energy from Waste); the remainder of the former colliery site has been granted outline planning permission by Selby District Council (2017) for a Business Park. The Aire and Calder Navigation lies to the south of the former Kellingley Colliery site and beyond that, further to the south, is the M62 motorway.
- 2.3 The nearest residential properties are located to the south of the site, on the south side of Weeland Road and to the east of the proposed access. To the east of the proposed application site is Stocking Lane, to the west of which is a large farm complex with a mix of uses including livery, tearooms, a plant nursery, café, and associated external schooling area. To the north of these are areas used for various forms of storage including vehicles and caravans. To the east of Stocking lane are two residential properties and a haulage yard. The land between Stocking Lane and the application site is in agricultural use.
- 2.4 A Public Footpath (no. 35.7/9/1) runs along Kemp Bank, the embankment forming the northern boundary of the field within which the proposed site would be located. The proposed operational compound would be situated 80m to the south of the footpath and embankment. Kemp Bank embankment has been strengthened in recent years as a flood defence, to protect land to the south from floods from the River Aire.
- 2.5 A location plan showing the application site and immediate surrounding area is appended as 1 to this report.

Planning Constraints

- 2.6 The application site falls within:
- the West Yorkshire Green Belt;
 - Flood Zone 3A;
 - Agricultural land classification Grade 3;
 - 350 m of Willow Garth Local Nature Reserve;
 - the Nottinghamshire Coalfield Consultation Area; and
 - the airfield safeguard zone – Robin Hood Airport

Planning History

- 2.7 The application site is currently in agricultural use and has no relevant planning history.

3.0 The proposal

- 3.1 Planning permission is sought for the drilling of a directional borehole into former coalmine driveways/seams associated with the former Kellingley Colliery workings to identify the presence of coalmine methane (CMM). Methane gas continues to desorb from coal fragments left underground and unworked fractured coal for many years after

the mines have closed can escape into the atmosphere through overlying strata until former workings flood. If CMM is present, it is proposed to carry out an appraisal to establish whether the CMM would flow in sufficient quantities to generate electricity. If the flow rates were commercially viable, the gas would be used to generate electricity via three containerised generators with exhaust stacks, associated plant and equipment, and link to the grid. Exploration and appraisal of hydrocarbons can only be carried out within a Petroleum Exploration and Development Licence (PEDL), which are issued by the Oil and Gas Authority. The applicant, Alkane Energy, holds PEDL 279; within which the application falls. Initially, the application was submitted for a 25-year period. This was on the assumption the exploration and appraisal phases were successful and flow of gas would be sufficient to generate electricity over this period. This has now been reduced to 15 years following an appraisal of the potential gas reserves. It is estimated that up to 6MW (million Watts) of electricity could be generated if the proposal advances to the production phase.

- 3.2 It is proposed to carry out the development in five phases. The success of Phases 1, 2 and 3 (exploration and appraisal) would determine whether the development could advance to Phase 4 (production). If Phases 1, 2 and 3 were unsuccessful, then the development would advance to Phase 5 (restoration). If Phases 1, 2 and 3 were successful, the site would be restored (Phase 5) at the end of the proposed 15 year period, or beyond, subject to the granting of any further planning permission.

Phase 1

- 3.3 Works in Phase 1 would include the upgrading of the site access, creation of the new access track, establishment of the drilling site, importation of plant, equipment and drilling rig, and the drilling of a single directional borehole. It is anticipated access and site preparation would take 3 – 4 weeks to complete. Initial site preparation works would involve removing top and subsoil from the access road and the drill site and stacking it in temporary storage bunds around the periphery of the site. A steel gate would be installed at the entrance, set back from Weeland Road to allow vehicles to safely pull in off the highway before accessing the track.
- 3.4 The site surface would be constructed using imported rolled inert recycled compacted hardcore, set on one or more geo-textile layers incorporating an impervious polyethylene membrane to prevent any drilling fluids from penetrating the ground. Once the site base is completed, plant and equipment would then be brought onto the site including a drilling rig, to a maximum height of 35m, crane (for the set-up of the rig), and supporting equipment; these would be brought in over a period of approximately 2 days.
- 3.5 The borehole would be directionally drilled to a vertical depth of around 620m and a horizontal distance of approximately 196m in a north-north-west direction targeting a roadway associated with the abandoned workings of the former Kellingley Colliery. The borehole would be lined in steel tubing, cemented to the strata to form a seal. The final set of casing to the target roadway would comprise approximately 25m of slotted steel liner. The completed borehole would be fitted with a valve and well-head equipment to ensure that any gas can be controlled.
- 3.6 Construction of the access and site would take place between 07:00 to 18:00 hours Mondays to Fridays, with no working at weekends or on Bank Holidays.
- 3.7 The drilling of the borehole would take place up to 24 hours a day, 7 days a week for up to 4 weeks. During this time, it is envisaged there would be an average of 2 HGV movements per day, plus other smaller vehicles, such as vans, visiting the site. Phase 1 is expected to take up to 14 weeks in total. A plan showing the layout of the site during the drilling phase is appended as 2 to this report.

Phase 2

- 3.8 Phase 2 is the appraisal stage. Testing would be carried out to establish whether CMM is present and if so, assess the likely quantities of gas and rates of flow. During this process, the CMM would be burnt using a portable flare stack; the stack and flame would be fully enclosed in a wide metal jacket. Flaring and gas testing would take place 24 hours a day for up to 3 weeks. The flaring would be undertaken in accordance with a Mining Waste Permit issued by the Environment Agency.
- 3.9 If the appraisal is successful, and CMM is identified in commercially viable quantities, the applicant would move to the construction phase to develop the site for electricity generation (Phase 3). If CMM is not present in commercially viable quantities, the borehole would be capped, sealed below ground level, plant and equipment removed, the site cleared, and then restored to its current agricultural use within a period of 12 months. A plan showing the layout of the site during the appraisal phase is appended as 3 to this report.

Phase 3

- 3.10 If the flow of gas is proven and sufficient to viably generate electricity, development of the site for electricity generation would commence. The construction phase would include the construction of concrete bases, installation of site drainage, erection of green mesh security fencing to a height of 2.4m, acoustic/screening fencing to a height of 4.5m, and the construction of a sub-station to connect to the electricity grid. Plant and equipment would be installed on part of the borehole platform, which would be retained for use as an operational platform and for vehicle manoeuvring. During Phase 3, it is anticipated that there would be up to 5 HGVs visiting the site together with up to 10 light vehicles and/or cars per day.
- 3.11 Containerised generators, containers and pumps would be installed; these would require a mobile crane for a period of approximately 3 days. Full installation and commissioning of all plant and equipment would take place over a period of up to 12 weeks. The borehole would be temporarily closed and there would be no flaring during the construction period. Phase 3 is expected to take up to 15 weeks and work would take place 24 hours a day.
- 3.12 The CMM would then be piped to compressors where it would be combusted in spark ignition engines; these would be fitted with alternators to generate electricity 24 hours a day, 7 days a week. There would be three containerised generator engines on the site. The containers are proposed to be painted olive green to minimise any visual impact. Each pump unit container would be 12.4m long x 3.8m wide x 3.1m high and would have vent stacks projecting above the height of the containers by 8.92m (12m high in total) and each having an internal combustion gas engine which would be capable of generating up to 2MW (Mega Watts) of electrical power. The electricity would be delivered to the local grid via an inter-connecting substation.

Phase 4

- 3.13 Phase 4 would be the production phase of the proposed development. CMM would be used to generate electricity 24 hours per day, 7 days per week for a period of up to 15 years (or beyond) depending on the commercial viability of the flow rates. During the production phase, vehicle movements would be between 2 and 6 light vehicles for maintenance and servicing of the plant and equipment.
- 3.14 Following the construction of the site, landscaping would be carried out. This would consist of a 5m wide tree screen to be planted to the west, south and north of the site

beyond the soil storage bunds, which would be seeded and grassed. To the east of the production area, there would be a 5m wide tree screen, widening out into a more substantial woodland area, in front of the south facing section of the acoustic fence. Further specimen trees are proposed to be planted in the most easterly section of the site. Climbing plants would be planted to grow up the acoustic fence. A post and wire fence would be erected beyond the soil storage bunds and landscaped areas around the outer perimeter of the site to the adjoining agricultural land. A plan showing the likely layout of the site is appended as 3 to this report and elevations appended as 4.

Phase 5

- 3.15 Phase 5 would be the restoration phase. The borehole would be abandoned, filled with oil well cement and capped, by cutting off the casing and removing the borehole cellar to a depth of at least 2m below ground level; the former cellar would be filled with inert hard-core. The site would be cleared of all plant, machinery, equipment and the hardstandings would be grubbed up, and materials removed off the site. Sub and top soils would then be reinstated and the site would be restored back to agriculture in accordance with an approved scheme. Some of the planted trees would be retained. Phase 5 would be carried out at the end of the proposed 15-year period, or sooner depending on the commercial viability of the generation of electricity. If the CMM was found not to be commercially viable at the end of Phase 2, the well would be abandoned and the site resorted as described.
- 3.16 The applicant has summarised the proposed hours of operation for each phase as follows:

Operation/Phase	Mondays to Fridays	Saturdays	Sundays, Public and Bank Holidays
Phase 1 - Construction of access track and well platform	07.30-18.00hrs	07.30-13.00hrs	Not at all
Phase 1 - Access and egress of HGVs during any stage	07.30-18.00hrs	07.30-13.00hrs	Not at all
Phase 1 - Drilling operations including mobilisation/demobilisation of the drilling rig	24 hours a day	24 hours a day	24 hours a day
Phase 2 - Borehole evaluation and gas testing/flaring	24 hours a day	24 hours a day	24 hours a day
Phase 3 - Plant installation and commissioning of production equipment	24 hours a day	24 hours a day	24 hours a day
Phase 4- Operational electricity generation	24 hours a day	24 hours a day	24 hours a day
Phase 5 - Restoration of access track and well platform	07.30 -18.00hrs	07.30-13.00hrs	Not at all

- 3.17 The application is supported by: a noise assessment, a Preliminary Ecological Appraisal, an air quality assessment, a Flood Risk Assessment (FRA), a landscape and visual impact assessment and site selection criteria which are summarised as follows:

Noise

3.18 The noise assessment measured background noise levels in the vicinity of the site during day and night-time at the nearest sensitive receptors; these were identified as Kellingley Farm and The Hidden Tearoom on Stocking Lane, Calder Grange on Weeland Road and users of the nearby footpath along Kemp Bank. Assessments were then made of potential noise that could occur during the drilling, flaring and proposed production phase. The noise assessment recommended a 4.5m high acoustic fence should be erected to the east, south and north of the site and noise attenuators be fitted to the containerised generator vent stacks to mitigate any prospective noise nuisance to the identified receptors. The assessment concluded there would be no perceptible difference in background noise levels over existing subject to the proposed mitigation measures being in place.

Ecology

3.19 The applicant has carried out a Preliminary Ecological Appraisal. The Appraisal identifies the majority of the proposed site as being a heavily managed arable field with habitats to the boundaries comprising scattered trees, species poor hedgerow, amenity grassland, scrub, tall grassland habitats and a running water ditch. The Appraisal concludes that nesting birds and other species may use the boundary habitats; the following protection measures are recommended:

- Vegetation clearance around the access point on Weeland Road should take place outside the bird-nesting season. If vegetation clearance takes place during the bird-nesting season, a check must take place by an appropriately experienced ecologist.
- A dark corridor should be maintained to the boundary to the north west and the ash tree to the east boundary with potential bat roost features should not be directly lit. Security lighting should have low-level directional lighting to reduce light spill to the site boundaries and lighting with a low UV component would reduce potential disturbance to bats.
- The boundary ash tree (TN2) should be retained.
- Any open trenches or pits must be covered at night to prevent mammals falling in and becoming trapped, as well as any pipes over 200mm, which should be capped off.
- Willow Garth Local Nature Reserve is 350m away from the site; it is recommended that sound baffling be incorporated round the completed compound to reduce any potential disturbance to nesting birds in the wildlife area. Wetting down is also recommended to reduce dust levels during the construction phase and a Construction Environment Management Plan (CEMP) should be produced.

3.20 The Appraisal recommends the following ecological enhancements:

- Planting of common and widespread grassland flowering species on the earth bunds to benefit invertebrate species.
- Bird and bat boxes should be placed on surrounding trees.

Air Quality

3.21 An air quality assessment has been carried out which makes predictions of ground level concentrations of nitrogen dioxide, the principal pollutant released to the atmosphere from the operation of the generators. The report considers that the most important meteorological parameters that govern the atmospheric dispersion of pollutants are wind speed, wind direction and atmospheric stability.

3.22 Modelling has been undertaken to show the effects on dispersion of the operation of the generators. Using 2015 meteorological data, the incremental increase in annual average ground level concentration would be 5.9, which can be compared to the Air Quality

Strategy (AQA) objective of 40. When added to the prevailing background concentration the resulting total concentration would be 26.3, which would be less than the AQA objective and not of concern to human health. The report concludes that the predicted incremental increases would be small compared to the assessment criteria and therefore not of concern to human health. With regard to the locations of the closest residential properties and overall, in the vicinity, the conclusion is that impacts on human health by emission to atmosphere from the proposed development would be insignificant.

Flood Risk

- 3.23 The applicant has carried out an FRA and identifies the site falling within Flood Zone 3A which is liable to flood during a 1 in a 100-year event but the area has not been flooded in recent flood events due to the protection of the Kemp Bank flood embankment. The FRA concludes the risks of flooding could be safely and effectively mitigated. The Kemp Bank embankment would provide protection to the site; the proposed site formation level at the centre of the borehole platform would be 8.8m AOD, 0.2m above the 1 in 100-year event flood level of 8.6m. The report concludes there would be no significant risk of flooding from the River Aire.
- 3.24 The proposed access route and site would be constructed from free draining hardcore. The site would be underlain with an impervious membrane. Surface water run-off from the site would be via French drains running around the perimeter of the site, feeding into an underground interceptor and soakaway system. The FRA concludes this would ensure the development would not add to local flood risk.
- 3.25 A small part of the site, the access in the south eastern corner, falls within Flood Zone 3, subject to 1 in 1000 year surface water flooding events. This part is situated away from the borehole platform and it is unlikely that surface water, at that location, would affect the proposed development. The Assessment concludes that no significant risk of surface water flooding is likely.

Landscape and visual impact

- 3.26 The applicant has undertaken a landscape and visual impact assessment of the proposed development when seen from four representative viewpoints and what effect the proposal could have on the landscape elements, landscape character and visual amenity. Three of the viewpoints are from Weeland Road and one to the north of the site on the Kemp Bank Embankment. The assessment concludes the level of the effect on agricultural land and hedgerows would be minor; the effect on landscape character receptors, moderate-minor; and the effect on visual amenity from the four representative view points as being moderate diminishing to minor through the phases of exploration, appraisal, production and restoration as planting becomes more mature. Overall, the assessment concludes the effects of the proposed development would be localised meaning the surrounding area would remain unaffected and there would be no wider effects. The site falls within a relatively low-lying and discreet location in an area where there is a notable baseline influence from existing development and the busy Weeland Road and with some enclosure from surrounding tree cover and built form. The extent of landscape mitigation would ensure that a planted buffer would be in place between the residents and the site and that effects would gradually be reduced over time as planting matures. The retention of a strip of up to native woodland/trees would result in some landscape improvement within this edge of urban area.

Site location criteria

- 3.27 A number of sites were investigated against specific site selection criteria including access to the former mine workings, accessibility to the highway network, proximity to

an electricity grid connection, and availability for agreeing occupation rights for the duration of the proposed operations. The proposed site and three alternative sites were considered. One alternative was the former Kellingley Colliery. Due to the proximity of the site to the shafts of the former coalmine, it was considered it would be susceptible to air ingress that could force premature cessation of the CMM extraction and the site was not available; the site was therefore not considered an ideal location.

- 3.28 A second alternative was land to the west of Common Lane, Beal. The site was considered a good location from which to drill a borehole because it lies almost directly over one of the principal underground roadways that the Silkstone mine workings have been developed from. However, it was not possible to negotiate a commercially viable electrical grid connection for the site; the site was therefore discounted. A third alternative was a site in industrial use. However, a detailed assessment of the mine workings revealed they were very likely to be flooded; the site was therefore discounted. The application site became the preferred site due to accessibility to the former coal workings and likelihood of containing CMM in productive quantities, proximity to the national grid, accessibility from the public highway, minimum impact on the landscape, ecology and flood risk and availability.

Archaeology

- 3.29 An archaeological geophysical survey has been undertaken that identifies a number of features of archaeological potential. These are likely to represent former field enclosures of the later prehistoric or Romano-British periods. The survey was less successful in other areas of the site where modern disturbance and former tree planting has hampered the results. The survey identifies features of archaeological interest but are unlikely to represent very significant remains. These features relate to a wider archaeological landscape of early agricultural settlement and the archaeological information that they contain will advance our understanding of the later prehistoric and Roman periods in the area.

Amendments to the application

- 3.30 The planning application initially proposed a production phase of 25 years. However, following a review of the projected quantities of gas within the former mine workings, this has revised to 15 years. Following responses to landscape and archaeology consultations, amendments have been proposed to the landscaping and screening measures to be carried out throughout the production phase of the site, retention of landscaping post restoration and an archaeological geophysical survey was carried out, and the results submitted.
- 3.31 Prior to the submission of the application, the applicant requested a screening opinion to determine whether the proposal constituted Environmental Impact Assessment development for the purposes of the Environmental Impact Assessment Regulations 2017 (Regulation 8). The development was considered on its own merits and based on what was being proposed. The proposed development type is not listed in Schedule 1 of the Regulations. The proposed development type falls within Schedule 2 of the Regulations; Class 2(e) '*surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale*' and Class 3(a) '*industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1)*'. The criteria in Schedule 3 of the Regulations, including the characteristics of the proposed development; the environmental sensitivity of the location; the types and characteristics of the potential impact and based upon the scale, nature and location of the development as proposed were taken into account. The County Council concluded in the Screening Opinion issued on 23rd March 2018 that the proposal would not have

significant impacts upon the environment and was therefore not EIA development and did not need to be accompanied by an Environmental Statement.

4.0 Consultations

- 4.1 The following bodies were consulted on the application between October and December 2017. They were further consulted following the receipt of further/amended information in October 2019. Responses received are reported or summarised as follows:
- 4.2 **Selby District Council (Planning) (SDC):** commented on 6th March 2018. The key issues to be considered are Green Belt, low carbon and renewable energy, impact on the landscape, noise, air quality and lighting.
- 4.3 SDC advise the site is in the West Yorkshire Green Belt and Green Belt policy applies. Core Strategy policy SP3 refers to planning permission not being granted for inappropriate development unless very special circumstances have been put forward to justify why permission should be granted. SDC also advise the NPPF confirms that mineral extraction does not constitute inappropriate development as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land in the Green Belt.
- 4.4 Core Strategy Policy SP17 sets out a criterion by which all development proposals for new sources of renewable energy and low-carbon energy generation must meet. SDC also consider that *“proposals should be designed and located to protect the environment and local amenity, should demonstrate the wider environmental, economic and social benefits which outweigh any harm caused to the environment and local amenity, and should ensure that impacts on local communities are minimised.”* CMM extraction is identified in the policy. The NPPF (paragraph 147) states that mineral planning authorities should encourage the capture and use of methane from coalmines in active and abandoned coalfield areas.
- 4.5 SDC advise that Core Strategy Policy SP18 aims to protect the high quality and local distinctiveness of the natural and manmade environment. As the proposal is located in the countryside, attention should be paid to the overall impact on the countryside, environment and amenity.
- 4.6 SDC advise the site lies within Flood Zones 2 and 3 and therefore expect that an appropriate flood risk assessment and sequential test is submitted to the satisfaction of the LLFA and the Environment Agency.
- 4.7 **Selby District Council (Environmental Health) (EHO):** response received on 13th November 2017, 14th December 2017, 15th January 2018, 5th June 2018, 3rd July 2018 and 3rd August 2018. Conditions to control noise, external lighting and air quality/emissions and dust are recommended. The EHO also recommends conditions should be imposed to require:
- The flue diameter shall be 0.4m.
 - The efflux velocity shall not be less than 45m/s.
 - The generators shall not exceed a limit of 250mg/m³ for Nitrogen Oxides.
 - Monitoring to determine compliance with emission limit value and efflux velocity shall be carried out on the request of the planning authority and correct to the following reference conditions: temperature 273K, pressure 101.3kPa, without correction for water vapour, normalised to 5% oxygen measured dry. Dilution air may be added for waste gas cooling or improved dispersion but monitoring shall

be carried out upstream of the dilution air input or procedures designed to correct for the ratio of input air to the satisfaction of the planning authority.

- Conditions in relation to noise, external lighting (including a contour map showing illumination spill) and control of dust are required.

4.8 Yorkshire Wildlife Trust: response received 11th December 2018. The Trust advise:

- The site is immediately adjacent to their reserve at Willow Garth.
- The application is most likely to have impacts on Willow Garth. The key concerns relate to the impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and habitats within Willow Garth.
- Willow Garth is a small reserve and is very valuable for wildlife as it is a quiet and undisturbed site in an industrialised area. Borehole development adjacent to the reserve will greatly increase disturbance. The site supports a wide range of bird species and the increasingly rare harvest mouse.
- Noise from the drilling operations, lighting and potential nitrogen deposition could all impact on the nature reserve.
- The Trust would like further information as to the potential for nitrogen deposition on Willow Garth reserve to ensure that the water bodies and vegetation will not be impacted.
- The Trust would like to see a Construction Environmental Management Plan, which will mitigate impacts on nesting birds and other wildlife.
- The Trust would also like to see a detailed ecological mitigation and enhancement plan prior to determination, to include details on the timings of noisy operations so that nesting birds are not disturbed, and enhancements to the surrounding habitats, which will buffer and protect the wildlife reserve.
- The Trust “*would like to record a holding objection to the application.*”

4.9 Highway Authority: response received 10th November 2017. The access to the A645 is proposed to be improved to an acceptable standard; traffic lows to and from the development are likely to be between 3 and 10 vehicles per week, which will not impact on the local highway network. No objection subject to the imposition of conditions controlling construction of the access, visibility splays, construction traffic (hours), construction traffic during development, private access/verge crossing; and construction requirements.

4.10 Environment Agency York: response received 21st November 2017. No objection. Permits would be required to discharge surface water to a soakaway and to manage mining waste. A condition should be imposed to ensure no infiltration of surface water drainage into the ground from the site. Structures within 8 metres of the flood bank would require a flood risk activity permit, an EPR groundwater permit and possibly an Industrial Emissions Directive permit.

4.11 Yorkshire Water Services Ltd: response received 10th January 2018. There are no issues with regard to groundwater assets.

4.12 Robin Hood Airport; response received 8th December 2017. No objection.

4.13 The Lead Local Flood Authority (SuDS): response received 10th January 2018. The site is located in Flood Zone 3a with no known flood risk. The development requires a drainage layout plan and a drainage strategy. A herringbone soakaway system is proposed and onsite percolation tests to BRE 365 standard should be performed to confirm the infiltration rate of the soakaway system and determine if the proposed system is capable of discharging and attenuating the development surface water runoff rate for up to the 1 in 100 year plus climate change flood event. Micro drainage

calculations are requested to confirm the required Surface Water attenuation volume. The proposed SuDS attenuation features should be able to provide the 1 in 100 year design flood event plus with an allowance for climate change and urban creep. Pollution from any surface water runoff from parking areas and hardstanding should be mitigated against by using oil interceptors, roadside gullies, reed beds or alternative treatment systems. Conditions are proposed to require a detailed scheme for foul and surface water drainage, a scheme restricting the rate of development flow runoff from the site, the submission of a scheme for the treatment of all surface water flows from hardstanding and parking areas and a suitable maintenance plan of the proposed SuDS drainage scheme arrangement.

- 4.14 **NYCC Heritage – Archaeology:** response received 11th December 2017. Advised the proposed development is within an area of archaeological interest. A number of cropmarks are present in the field in which the application site is located. It appears that there are a series of enclosures that are typical of field systems and settlements of later prehistoric and Romano-British date. A scheme of archaeological evaluation needs to be undertaken to identify and describe the nature and significance of any surviving archaeological remains within the proposed development area, and enable an understanding of the potential impact of the proposal upon their significance.
- 4.15 On 5th July 2018, Archaeology advised the applicant had provided the results of an archaeological geophysical survey in support of the application. The survey identifies a number of features of archaeological potential. These are likely to represent former field enclosures of the later prehistoric or Romano-British periods. The survey was less successful in other areas of the site where modern disturbance and former tree planting has hampered the results. The survey identifies features of archaeological interest but are unlikely to represent very significant remains. These features relate to a wider archaeological landscape of early agricultural settlement and the archaeological information that they contain will advance our understanding of the later prehistoric and Roman periods in the area. It is recommended a scheme of archaeological mitigation recording be undertaken in response to the ground- disturbing works associated with this development proposal. This should comprise an archaeological strip, map and record undertaken in advance of development, including site preparation works, top soil stripping, excavations for new foundations and new drainage or services, to be followed by appropriate analyses, reporting and archive preparation to ensure a detailed record is made of any deposits/remains that will be disturbed. A condition should be imposed to secure the archaeological recording.
- 4.16 **NYCC Heritage - Principal Landscape Architect:** response received 8th January 2018. The proposed development could be highly visible and could adversely impact on the openness of the Green Belt and affect local landscape character, views and setting of Kellingley. The proposed mitigation was considered inadequate. The revised time scale, landscape planting, proposed bunds and acoustic fencing would provide a reasonable level of screening and mitigation and are acceptable subject to conditions requiring:
- A detailed landscaping scheme to be submitted prior to the commencement of development in advance of the works; to include details of planting, boundary fencing, acoustic fence, maintenance and aftercare.
 - Details of the colour of all fencing, buildings and structures to be submitted prior to the commencement of development.
 - The acoustic fence to be dark green and planted with climbing plants, to reduce its visibility.
 - New hedgerows and screen planting to be implemented in the first available planting season.

- Planting to be maintained and defective plants replaced for a minimum of 5 years to ensure successful establishment.
- All roads, buildings and structures to be removed and the site restored to agricultural use (as existing) on completion of the development in accordance with details to be submitted and approved by the MPA in advance of the works.

4.17 **NYCC Heritage – Ecology:** response received 19th December 2017. The Preliminary Ecological Appraisal was:

- Undertaken in accordance with the current CIEEM best practice guidelines by a suitably qualified ecologist. There are no statutory designated sites within the immediate proximity. The site falls within the outer SSSI impact risk zone, however mining, oil and gas applications are not included within this area and it is agreed that the proposed development is unlikely to have an impact upon statutory designated sites. There is unlikely to be a negative impact upon the Gale Common SINC, however the Local Wildlife Site known as Willow Garth lies closer to the development site and unmitigated there is the potential for indirect impacts upon the habitats and species of the site.
- The application site is part of a large arable field with boundary features including a drain to the west, trees and hedgerows to the north and east. Weeland Road forms the boundary to the south. The only direct impact resulting from the proposed development is the loss of an area of the arable field and any associated impacts upon farmland birds, which is considered to be of low significance given the size of the application site in comparison to the wider agricultural unit.
- Key concerns could relate to the impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and habitats within Willow Garth. There is a drain on the western edge of the arable field which has the potential to support water vole, however the distance of the development from this feature means that it is unlikely to have a negative impact upon water voles should they be present.
- In terms of any possible indirect effects of noise, dust and lighting, the Ecologist is satisfied that the recommendations in the PEA could be applied as conditions and there is therefore unlikely to be any significant effect upon protected species and habitats of principal importance.
- A detailed ecological mitigation and enhancement plan should be submitted prior to commencement of development. This could be prepared alongside the Construction Environmental Management Plan (CEMP), so long as it includes details of operational measures as well as measures during construction.

4.18 **NYCC Public Rights of Way Team:** response received 6th December 2017. No works should be undertaken, which would create an obstruction to any Public right of Way.

4.19 **Oil & Gas Authority (OGA):** response received 21st February 2018. The response was made following a request by Planning Control for advice on the status of licences relating to the proposal and the existing CMM operations at the former Kellingley Colliery site in light of representations received:

- *The purpose of a Methane Drainage Licence ('MDL') is to permit its licensee to "get natural gas in the course of operations for making and keeping safe mines whether or not disused." Note that methane gas may be naturally vented or flared without a MDL.*
- *The getting of petroleum for purposes other than the maintenance of safety as provided for by a MDL is only permitted under a Petroleum Exploration and Development Licence ('PEDL').*

- *Alkane Energy UK Limited was awarded PEDL279 in 2016, covering the area of their proposed borehole (which includes the geographic area covered by MDL048, which in turn includes the Kellingly site where methane gas is currently being extracted and used for power generation). PEDL279 was granted on the basis of a firm programme of work to drill a well into the abandoned colliery workings .*
- *Harworth Estates Curtilage Limited ('HEC') hold MDL048. This was issued on 20th June 2016 and is due to expire "for the term of two years after 3rd May 2016 or until all the headgear has been demolished at Kellingley, whichever is sooner."*
- *It should be noted that both Harworth Estates Mines Properties and HEC are part of the wider Harworth Group. Harworth Power Generation Limited ('HPGL'), although it has a similar name, is not part of the Harworth Group. It is thus not correct for HPGL to state in their October 2017 letter that "[a]s such HPGL has the licence..." if, by "licence", they mean the MDL or PEDL licence issued by the OGA.*
- *HPGL state in their letter that "power generation is intended to continue for the foreseeable future." We would note that such activity can only continue lawfully under a MDL or PEDL licence. Any application for a new or extended MDL once the current one expires, will be decided by the OGA on the circumstances related to the maintenance of safety of the mine at the time - the OGA would consider whether the continued active extraction of methane (which is subsequently used for power generation) is necessary to maintain the safety of the mine.*

4.20 **The Coal Authority (CA):** response received 16th July 2018. The application site is located in an area of former deep mining activity. There are no records of any coal mining activity having taken place at a shallow depth at that location.

4.21 From a planning perspective, the CA considers in areas such as this where worked coal seams are present beneath the site, the potential impacts arising from such works in relation to ground stability and mine gas pathways, as well as hydrogeology should be properly considered. They consider that in particular that sufficient consideration needs to be given to the stability of the geology on site, which may be affected by the proposed development. The local planning authority needs to ensure it is satisfied that it has adequate information in this respect in order to inform the decision making process.

4.22 Other bodies that were consulted but did not respond are; Hensall Parish council; Heck Parish Council; Beale Parish Council; HSE (Well engineering and operations); MoD Safeguarding Organisation; CAA; Northern Powergrid; Leeds and Bradford Airport and Danvm Drainage Commissioners.

Notifications

4.23 County Councillors John McCartney and Mike Jordan have been notified. No comments have been received.

5.0 Advertisement and representations

5.1 The application has been advertised by means of a Site Notice posted on 19th January 2018 and a further notice posted on 10th October 2019 following the receipt of further information at the entrance to the site on Weeland Road. A Press Notice was placed in the Selby Times on 16th January 2018 and on 10th October 2019.

5.2 Neighbour Notification letters were sent on 15th January 2018 and, following the receipt of amended information, on 8 October 2019. The following properties received a neighbour notification letter:

215 Weeland Road
213 Weeland Road

Willow House, Weeland Road
 Fairview, Weeland Road
 211A Weeland Road
 203 Weeland Road
 Kerkyra, Glebelands
 1 Glebelands
 2 Glebelands
 3 Glebelands
 4 Glebelands
 Green Logic Unit 2 Brears Farm Nurseries
 Unit 1 Brears Farm Nurseries
 The Farmers Kitchen, Brears Farm Nurseries
 Kellingley Farm, Stocking Lane
 Glebedale Bungalow, Stocking Lane
 10 Glebelands
 Turvers Lane, Glebelands

5.3 Seven letters of representation have been received objecting to the proposal. Four representations are from local residents and three from Harworth Power Generation Ltd and Harworth Estates Mines Property Ltd. Local residents have raised objection to the proposal for the following summarised reasons:

- Landscape impact upon the Green Belt.
- Lack of consideration of alternatives as part of a sequential test within a flood risk assessment, including land at the former Kellingley Colliery, which benefits from planning permission for an energy centre.
- The size of the site and nature of the development are such as to constitute EIA development.
- The proposed development does not comply with policy as it is located within the Green Belt, and would cause a reduction in agricultural land.
- The proposal is inappropriate to the area, which is currently blighted by heavy industry and pollution.
- Impact of traffic.
- Noise and disturbance will have an impact on the neighbouring livery yard and riding school.

5.4 Harworth Power Generation Ltd and Harworth Estates Mines Ltd have raised objection to the proposal for the following summarised reasons:

- The application does not demonstrate exceptional circumstances for developing in the Green Belt.
- Impact on the landscape.
- The planning application should be accompanied by an EIA.
- The application should be accompanied by an assessment of alternatives.
- The site lies in Flood Zone 3A and a Sequential Test should be undertaken.

6.0 Planning policy and guidance

The Development Plan

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. In this instance, therefore, the *Development Plan* consists of policies contained within a number of planning documents. These documents include:

- any extant planning policies contained within Plan(s) adopted by the County and District (or Borough) Councils 'saved' under direction of the Secretary of State; and,
- any planning policies contained within *Development Plan* Documents adopted under the Local Development Framework regime.

6.2 The *Development Plan* for the determination of this application comprises the following:

- The 'saved' policies of the North Yorkshire Minerals Local Plan (1997), (NYMLP);
- The extant policies of the Selby District Core Strategy Local Plan (2013); and,
- The 'saved' policies of the Selby District Local Plan (2005)
- Selby District Council 'New Local Plan' - 'Preferred Options Selby District Local Plan (2021'

6.3 Weight in the determination process may also be afforded to emerging local policies, depending on their progress through consultation and adoption. The Minerals and Waste Joint Plan (joint with North Yorkshire County Planning Authority, the City of York Council and North York Moors National Park Authority, referred to as MWJP in this report) also contains emerging local policies that are of relevance to this application.

The North Yorkshire Minerals Local Plan (1997) (saved by SoS Direction 2009)

6.4 There are no 'saved' policies directly relating to coalmine methane. The 'saved' policies considered most relevant to the proposal are:

- 4/1 Determination of Planning Applications
- 4/6A Nature Conservation and Habitat protection - Local
- 4/13 Traffic Impact
- 4/14 Local Environment and Amenity
- 4/15 Public Rights of Way
- 4/16 Ancillary and Secondary Operations
- 4/18 Restoration to Agriculture
- 4/20 Aftercare
- 7/2 Exploration Boreholes
- 7/4 Appraisal Boreholes
- 7/5 Production Wells
- 7/10 Restoration

6.5 **'Saved' Policy 4/1 - Determination of Planning Applications:** This policy sets out the criteria that need to be satisfied when considering a mining application:

- a) the mineral deposit on the application site has been fully investigated;
- b) the siting and scale of the proposal is acceptable;
- c) the proposed method and programme of working would minimise the impact of the proposal;
- d) landscaping and screening has been designed to effectively mitigate the impact of the proposal;
- e) other environmental and amenity safeguards would effectively mitigate the impact of the proposal;
- f) the proposals and programme for restoration are acceptable and would allow a high standard of restoration to be achieved;
- g) a high standard of aftercare and management of the land could be achieved;
- h) the proposed transport links to move the mineral to market are acceptable; and
- l) any cumulative impact on the local area resulting from the proposal is acceptable.

- 6.6 The NPPF does not mention the matters covered in a) to d) and with regard to criterion e) The NPPF Paragraph 205 (c) states that when determining planning applications, local planning authorities should ensure that any unavoidable emissions or vibrations are controlled or mitigated (if not possible to remove at source). Therefore, the (e) accords with the NPPF and to which great weight can be attached.
- 6.7 With regard to criteria f) and g), Paragraph 205 of the NPPF states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards (e), through appropriate conditions, where necessary. Therefore, (f) and (g) of Policy 4/1 are consistent with the NPPF and can be given great weight.
- 6.8 Criterion h) of 'saved' Policy 4/1 refers to transport links being acceptable and is similar to the NPPF but there are differences in the objectives. Paragraph 102 of the NPPF states that potential impacts on the transport network should be considered, therefore, the NPPF should be given more weight in this instance.
- 6.9 Criterion i) of 'saved' policy 4/1 regarding cumulative impact is consistent with NPPF Paragraph 205 (b) which requires that cumulative effects of multiple impacts from individual sites in a locality should be taken into account and therefore this element of the policy can be given great weight.
- 6.10 **'Saved' Policy 4/6A - Nature Conservation and Habitat Protection – Local:** This policy requires the Mineral Planning Authority to protect the nature conservation or geological interest of Local Nature Reserves and of other sites having a nature conservation interest or importance, and will have regard to other wildlife habitats. This Policy is consistent with paragraph 170 of the NPPF regarding protecting the local environment by minimising impacts on biodiversity. This would therefore include impacts on sites of nature conservation interest and therefore this Policy can be given great weight
- 6.11 **'Saved' Policy 4/13 -Traffic Impact:** The policy requires that where rail, waterway or other environmentally preferable modes of transport are not feasible, operations will only be permitted where the likely vehicle movements to be generated can be satisfactorily accommodated by the local highway network and would not cause undue disturbance to local communities. This Policy is consistent with the provisions of paragraph 102, 108 and 111 of the NPPF that includes that improvements to the transport network should be considered; transport proposals should be assessed and be sustainable and safe. Paragraph 109 of the NPPF also confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, and, therefore this policy can be given great weight.
- 6.12 **'Saved' Policy 4/14 - Local Environment and Amenity:** The policy states that mining operations ... will be permitted only where there would not be an unacceptable impact upon the local environment or residential amenity. This Policy is considered to be consistent with paragraph 205 of the NPPF as that states that when determining planning applications, local planning authorities should ensure that there are no unacceptable adverse impacts on the natural environment and human health and that the cumulative impacts of a development on a locality should take into account and it can therefore be given great weight.
- 6.13 **'Saved' Policy 4/15 - Public Rights of Way:** The policy states that in relation to proposals for mining operations, which would interrupt, obstruct or conflict with use of a

public right of way, they will only be permitted where satisfactory provision has been made in the application for protecting the existing right of way for providing alternative arrangements both during and after work. Whereas, paragraph 98 of the NPPF includes that decisions should protect and enhance public rights of way and access, and take opportunities to provide better facilities such as adding links to existing rights of way networks. Therefore, the NPPF should be given more weight in this instance as such opportunities would contribute to the social objective within paragraph 8 of the NPPF of having accessible open spaces.

- 6.14 **‘Saved’ Policy 4/18 - Restoration to Agriculture:** The policy requires that where agriculture is the intended primary afteruse, the proposed restoration scheme should provide for the best practicable standard of restoration. The NPPF Paragraph 205 also considers that planning authorities should seek restoration and aftercare at the earliest opportunity and for it to be to high environmental standards, through the application of appropriate conditions, where necessary. It is considered that ‘saved’ Policy 4/18 is therefore consistent with the NPPF and should be afforded full weight in the determination of this application.
- 6.15 **‘Saved’ Policy 4/20 - After-care:** The policy states that where conditions require agricultural, forestry or amenity (including nature conservation) restoration then there will also be an aftercare requirement to bring the restored land up to an approved standard for the specified after-use and that normally this requirement will run for a period of five years following restoration. This Policy is considered consistent with paragraph 205 of the NPPF, which states that when determining planning applications, local planning authorities should provide for restoration and aftercare at the earliest opportunity to be carried out to high environmental standards. Great weight can be given to Saved policy 4/20.
- 6.16 **‘Saved’ Policy 7/2 - Exploration Boreholes:** The policy requires that proposals should be sited in the least environmentally sensitive area relative to the geological prospect and that provision is made for short term mitigation of effects on amenity and on the environment and allowance is made for longer term additions and/or enhancement of such mitigation measures. NPPF Paragraph 209 (e) encourages the capture and use of methane from coalmines in active and abandoned coalfield areas but it does not have a statement about short-term mitigation of the effects on amenity and environment. As there are differences, more weight should be given to the NPPF policy.
- 6.17 Paragraph 7.9 of the North Yorkshire Minerals Plan 1997 states that for coal bed methane extraction, any proposals received will be subject to the policies of this Plan (i.e. the North Yorkshire Minerals Plan 1997), particularly those relating to oil and gas. This clarifies that although the policies listed above may refer to traditional oil and gas extraction they are to be used when assessing the suitability of coalmine methane extraction.
- 6.18 **‘Saved Policy 7/4 - Appraisal Boreholes:** The policy supports proposals where the applicant can demonstrate the drilling and testing of boreholes is necessary to determine the quality, nature and extent of the deposit, and they form part of an overall scheme for the appraisal and delineation of the field as a whole.
- 6.19 **‘Saved’ Policy 7/5 - Production Wells:** The policy supports the retention of "short term" exploration and appraisal borehole sites into production wells when they make full provision for an improved standard of landscaping, protection of local amenity and site restoration.

6.20 **'Saved' Policy 7/10 – Restoration:** The policy supports proposals for the exploration, appraisal and development of gas resources where there are provisions for full restoration of the site and require:

i) a 1 year time limit for the restoration of exploration sites or the submission of proposals for continued appraisal work;

iii) a 2 year time limit for the restoration of a production site, to run from the cessation of significant oil or gas production from the site.

Selby District Core Strategy Local Plan 2013

6.21 The Core Strategy is the long-term strategic vision setting out a number of broad policies to guide development principles for the area. It does not contain any policies specific to mineral development, but there are general development management policies that are relevant to this application. The relevant policies are as follows:

- Policy SP1 Presumption in Favour of Sustainable Development
- Policy SP3 Green Belt
- Policy SP15 Sustainable Development and Climate Change
- Policy SP18 Protecting and Enhancing the Environment
- Policy SP19 Design Quality

6.22 **Policy SP1 Presumption in Favour of Sustainable Development:** The policy requires a positive approach to be taken that reflects the NPPF's presumption in favour of sustainable development. The planning authority will work with applicants to find solutions so that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

6.23 **Policy SP3 Green Belt:** The policy states that within the defined Green Belt, planning permission will not be granted for inappropriate development unless the applicant has demonstrated that very special circumstances exist to justify why permission should be granted.

6.24 **Policy SP15 Sustainable Development and Climate Change:** Part B of the policy - Design and Layout of Development, states that to ensure development contributes toward reducing carbon emissions and resilience to the effects of climate change, schemes should, where necessary or appropriate protect, enhance and create habitats to both improve biodiversity resilience to climate change and utilise biodiversity to contribute to climate change mitigation and adaptation. Proposals also should include tree planting, new woodlands and hedgerows in landscaping schemes to create habitats, reduce the 'urban heat island effect' and to offset carbon loss and by minimising traffic growth.

6.25 **Policy SP18 Protecting and Enhancing the Environment:** The policy seeks to maintain and achieve a high quality environment. Relevant points in this policy include safeguarding and enhancing the historic and natural environment. This is consistent with

6.26 **Policy SP19 Design Quality:** The policy seeks to ensure that proposals will be expected to have regard to the local character, identity and context of the surroundings and the open countryside to meet key requirements.

The "Saved" policies of the Selby District Local Plan (2005)

6.27 Some of the policies of this plan that are relevant are 'Saved' and can therefore be given weight. The relevant 'saved' policies are:

- 'Saved' Policy ENV1 - Control of Development.
- 'Saved' Policy ENV2 - Environmental Pollution and Contaminated Land.
- 'Saved' Policy ENV3 - Light Pollution
- 'Saved' Policy ENV5 – Development and Flood Risk
- 'Saved' Policy ENV9 - Sites of Importance for Nature Conservation
- 'Saved' Policy ENV 28 - Other Archaeological Remains:
- 'Saved' Policy T1 - Development in Relation to the Highway Network
- 'Saved' Policy T2 – Access to Roads
- 'Saved' Policy T8 – Public Rights of way

6.28 **'Saved' Policy ENV1 - Control of Development:** The policy seeks to ensure that proposals for new development provide good quality development. Mitigation measures may be required to ensure that the impacts on the surrounding area are limited and that effects on the character of the area or the amenity of adjoining occupiers are minimised. It is considered that weight can be attached to this policy as effects on the natural environment and/or local amenity should be taken into account when determining a planning application. (NPPF Paragraphs 127,170,175, 178 and 180). It is considered that great weight can be attached to 'saved' Policy ENV1 as the NPPF is clear that the effects on the natural environment (NPPF paragraphs 170, 175, 178 and 180) or general amenity (NPPF paragraphs 127 and 180), and the potential sensitivity of an area to adverse effects (NPPF paragraph 180), should be taken into account in determining a planning application.

6.29 **'Saved' Policy ENV2 - Environmental Pollution and Contaminated Land:** The policy specifically refers to noise and pollution and states that preventative measures should be incorporated as an integral element in the scheme. Where there is the potential for noise to be generated as a result of a development, appropriate mitigation measures may be required to ensure that the development will not result in any significant impacts on the amenity of the surrounding area. The impact on airborne emissions should be assessed and measures to prevent pollution of watercourse or the ground. This is considered to be consistent with NPPF Paragraph 170, which aims for planning decisions to contribute to and enhance the natural and local environment and for development wherever possible, to help improve environmental conditions such as air, and water quality. Paragraph 180 of the NPPF also seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment and ENV2 is consistent with this.

6.30 **'Saved' Policy ENV3 - Light Pollution:** The policy considers the impact from lighting of the site. This is consistent with Paragraph 180 (c) of the NPPF, which seeks to limit light pollution on local amenity.

6.31 **'Saved' Policy ENV5 – Development and Flood Risk:** The policy seeks to control development in areas of high risk flooding and ensure appropriate standards of flood defence can be achieved. The policy is consistent with paragraphs 155 – 165 of the NPPF but the NPPF sets out more specific requirements to prevent flooding and ensure development is not placed at unacceptable flood risk. Greater weight should therefore be attached to the NPPF.

6.32 **'Saved' Policy ENV9 - Sites of Importance for Nature Conservation:** The policy seeks to avoid harm to a site of local importance for nature conservation and states that it will not be permitted unless there are no reasonable alternative means of meeting the

need and it can be demonstrated that there are reasons that outweigh the need to safeguard the intrinsic local nature conservation value of the site or feature. It is considered that Policy ENV9 is consistent with NPPF paragraph 170 principles a) and b) for determining planning applications and therefore can be given full weight.

- 6.33 **‘Saved’ Policy ENV 28 - Other Archaeological Remains:** The policy requires an archaeological assessment to be undertaken where development proposals affect sites of known or possible archaeological interest. Paragraphs 189 and 190 of the NPPF require similar work to be undertaken on sites, which have archaeological interest. Therefore, great weight can be applied to this policy.
- 6.34 **‘Saved’ Policy T1 - Development in Relation to the Highway Network:** The policy requires development proposals to be well related to the existing highways network and will only be permitted where existing roads have adequate capacity and can safely serve the development, unless appropriate off-site highway improvements are undertaken by the developer. Paragraph 108 of the NPPF requires safe and suitable access to sites for all users. The policy is considered to accord with paragraph 108 of the NPPF and therefore weight can be attached to the policy.
- 6.35 **‘Saved’ Policy T2 – Access to Roads:** The policy supports development proposals which would result in the creation of a new access or the intensification of the use of an existing access provided there would be no detriment to highway safety and the access can be created in a location and to a standard acceptable to the highway authority. The policy does not support proposals which would result in the creation of a new access onto a primary road or district distributor road unless there is no feasible access onto a secondary road and the highway authority is satisfied that the proposal would not create conditions prejudicial to highway safety. Paragraph 108 Of the NPPF requires safe and suitable access to sites for all users and Paragraph 109 seeks to ensure there would be no unacceptable impact on highway safety. The policy is considered to accord with paragraphs 108 and 109 of the NPPF and therefore weight can be attached to the policy.
- 6.36 **‘Saved’ Policy T8 – Public Rights of way:** The policy does not support development that would have a significant adverse effect on a public right of way unless satisfactory alternatives are provided with adequate signage, makes provision for walkers, horse riders, cyclists and people with sight and mobility problems. Paragraph 98 of the NPPF requires policies to protect and enhance public rights of way and acces, including taking opportunities to provide better facilities for users. The policy is considered to accord with the paragraph 98 of the NPPF and therefore weight can be attached to the policy.

The North Yorkshire Minerals and Waste Joint Plan (MWJP)

- 6.37 The draft MWJP (the Plan) was published for consultation in November 2016. It was submitted to the Secretary of State for Communities and Local Government on 28 November 2017. An Examination in Public (EiP) was held in February 2018. The hearings have been concluded. At present, the plan is still in the examination phase. Main Modifications have been prepared to meet the Inspectors requirements but have to be published for consultation; it is not clear when this will be achieved. Given the Plan is at an advanced stage of preparation, some weight can be attached to the emerging policies as proposed to be modified. The following emerging policies and/or respective parts relevant to this application are summarised as follows:

Policy M16: Key spatial principles for hydrocarbon development

Policy M17: Other spatial and locational criteria applying to hydrocarbon development

Policy M18: Other specific criteria applying to hydrocarbon development

Policy D01: Presumption in favour of sustainable minerals and waste development.

Policy D02: Local amenity and cumulative impacts

Policy D05: Minerals and Waste Developments in the Green Belt
 Policy D06: Landscape
 Policy D07: Biodiversity and geodiversity
 Policy D08: Historic Environment
 Policy D09: Water Environment
 Policy D10: Reclamation and afteruse
 Policy D11: Sustainable design, construction and operation of development
 Policy D12: Protection of agricultural land and soils

- 6.38 **Emerging Policy M16: Key spatial principles for hydrocarbon development:** Hydrocarbon development includes all development activity associated with exploring, appraising, and/or producing hydrocarbons (oil and gas), including both surface and underground development. This policy seeks to guide where hydrocarbon development should be located. With regard to CMM, the policy states that proposals will be supported where any surface development would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. The supporting definitions to the policy define coal mine methane as an 'unconventional hydrocarbon'.
- 6.39 **Emerging Policy M17: Other Spatial and locational Criteria applying to hydrocarbon development:** This policy supports hydrocarbon development in locations with suitable direct or indirect access to classified A or B class roads and there is suitable capacity on the road network for the level of traffic generation proposed. Access and on-site manoeuvring also needs to be acceptable. There should also not be any unacceptable cumulative impact and a high standard of protection should be provided to environmental, recreational, cultural, heritage or business assets important to the local economy. Specific local amenity considerations in terms of noise, light pollution, emissions to air or ground or surface water and induced seismicity need to be considered and will be permitted where impact is considered acceptable. Criteria 2v) *requires new processing or energy generation infrastructure for hydrocarbons should, as a first priority, be sited on brownfield, industrial or employment land. Where it can be demonstrated that development of agricultural land is required, and subject first to other locational requirements in Policies M16 and M17, proposals should seek to utilise land of lower quality in preference to higher quality.*
- 6.40 **Emerging Policy M18: Other Specific Criteria Applying to Hydrocarbon Development:** This policy supports hydrocarbon development where it can be demonstrated that that arrangements can be made for the management or disposal of any returned water and Naturally Occurring Radioactive Materials arising from the development. Part 2 of the policy relates to decommissioning and restoration, requiring wells to be decommissioned (subject to other regulatory requirements) in a way to prevent risk of ground and surface water contamination and emissions to air; sites to be cleared and the land restored to its original or other beneficial use within an agreed timescale. In the case of unconventional hydrocarbon development, the Mineral Planning Authority may require provision of a financial guarantee, appropriate to the scale, nature and location of the development proposed, in order to ensure that the site is restored and left in a condition suitable for beneficial use following completion of the development.
- 6.41 **Emerging Policy D01: Presumption in favour of sustainable minerals and waste development:** The policy states there is a presumption in favour of sustainable minerals and waste development and that the authorities will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

- 6.42 **Emerging Policy D02: Local amenity and cumulative impacts:** The policy is supportive of minerals development, including its transport infrastructure, where it can be demonstrated there will be no unacceptable impacts on local amenity, local businesses and users of public rights of way as a result of noise, dust, vibration, odour, emissions to air, land or water, visual intrusion, site lighting, vermin, birds and litter, subsidence and land instability, public health and safety and disruption to public rights of way network.
- 6.43 **Emerging Policy D05: Minerals and waste development in the Green Belt:** The policy states that proposals will be supported where they will preserve the openness of the Green Belt and reclamation and afteruse will be required to be compatible with Green Belt objectives. This policy is consistent with NPPF policy in respect of the Green Belt.
- 6.44 **Emerging Policy D06: Landscape:** The policy aims to protect the landscape. Proposals will be permitted where it can be demonstrated that there will be no unacceptable impact on the quality and/or character of the landscape, having taken into account any mitigation measures. Where proposals may have an adverse effect on landscape, a high standard of design, mitigation and landscape enhancement should be provided.
- 6.45 **Emerging Policy D07: Biodiversity and geodiversity:** The policy permits proposals where it can be demonstrated that there will be no unacceptable impacts on biodiversity or geodiversity, including on statutory and non-statutory designated or protected sites and features, Sites of Importance for Nature Conservation, Sites of Local Interest and Local Nature Reserves, local priority habitats, habitat networks and species, having taken into account any mitigation measures proposed.
- 6.46 **Emerging Policy D08: Historic Environment:** The policy aims to ensure that minerals development proposals will be permitted where they will conserve and where possible enhance those elements, which contribute to the significance of the area's heritage assets including their setting. Proposals, which would affect an archaeological site of less than national importance, will be permitted where they also conserve that which contributes to its significance in line with the importance of the remains.
- 6.47 **Emerging Policy D09: Water environment:** The policy aims to ensure proposals for mineral development cause no unacceptable impacts to arise, taking into account any proposed mitigation, on surface or groundwater quality and/or surface or groundwater supplies. A high level of protection is required to surface and ground quality and flows. Proposals for mineral developments not allocated in the Joint Plan, will, where relevant, be determined in accordance with the Sequential Test and Exception Test for flood risk set out in National Policy. Proposals should, where necessary or practicable relative to scale, nature and location of a development include measures to contribute to flood alleviation.
- 6.48 **Emerging Policy D10: Reclamation and afteruse:** The policy seeks to permit minerals proposals where it can be demonstrated that the restoration and aftercare elements would be carried out to a high standard taking into account the location and context of the site.
- 6.49 **Emerging Policy: D11 Sustainable design, construction and operation of development:** The policy aims to allow mineral developments where it has been demonstrated that measure appropriate and proportionate to the scale and nature of the development have been incorporated into its design, construction and operation in relation to a number of items including minimisation of greenhouse gases and the generation and utilisation of renewable or low carbon energy.

- 6.50 **Emerging Policy D12: Protection of agricultural land and soils:** The policy seeks to protect Best and Most Versatile agricultural land from unnecessary and irreversible loss. Aftercare to a high standard of agricultural restoration should be achieved and development proposals will be required to conserve soils in a sustainable way.

Emerging Selby District Council Local Plan

- 6.51 The Selby District Council 'New Local Plan' (the Plan) is in its formative stages. A public consultation on the 'Preferred Options Selby District Local Plan (2021)' was launched on 29 January 2021, extending to 12 March 2021. The consultation period is therefore current. The Plan is described as '*a vision and framework for future growth of the district, identifying new housing, employment and other development could take place*' and will set out the policies against which planning applications will be considered.
- 6.52 The consultation document '*sets out the Council's preferred approach to development growth in the District up to 2040*'. It sets out the current preferred spatial approach in terms of where development will be focused and the draft policies to be used to determine planning applications. The Council advises '*that it is important to note that this is not the final stage of the plan as we are continuing to complete a number of key pieces of evidence, which may influence the final version of the plan. However, it provides an indication of our preferred approach at this stage.*'

Other policy considerations:

National Planning Policy

- 6.54 The policy relevant to the determination of this particular planning application provided at the national level is contained within the following documents:
- National Planning Policy Framework (NPPF) (published February 2019)
 - National Policy Statement for Electricity Networks Infrastructure (EN-5);
 - Noise Policy Statement for England (2010)

National Planning Policy Framework

- 6.55 The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.
- 6.56 The overriding theme of Government policy in the NPPF is to apply a presumption in favour of sustainable development. For decision-making, this means approving development proposals that accord with the development plan immediately (if plans are up-to-date and consistent with the NPPF). The Government defines sustainable development as that which fulfils the following three roles:
- a) an economic objective – aiming to build a strong, responsive and competitive economy, ensuring that sufficient land of the right types is available in the right places and at the right time.
 - b) a social objective – aims to support strong, vibrant and healthy communities, by fostering a well-designed and safely built environment, with accessible services and open spaces that support social and cultural well-being; and
 - c) an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'

- 6.57 Within the NPPF, paragraph 11 advises that when making decisions, development proposals that accord with the development plan should be approved without delay. The Framework also seeks to apply a presumption in favour of sustainable development but this does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. This should only occur if material considerations indicate that a different decision should be reached.
- 6.58 NPPF Paragraph 48 allows local planning authorities to give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the NPPF. Clearly, these are relevant in relation to the emerging North Yorkshire Minerals and Waste Joint Plan.
- 6.59 NPPF Paragraph 54 encourages local planning authorities to consider if otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
- 6.60 Paragraph 80 of the NPPF requires that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Paragraph 83 regarding supporting a prosperous rural economy supports the sustainable growth and expansion of all types of business in rural areas and the development and diversification of agricultural and other land-based rural businesses.
- 6.61 With respect to highways matters in considering development proposals, Paragraph 108 (b) requires that safe and suitable access to the site can be achieved for all users and Paragraph 109 supports developments which would not have an unacceptable impact on highway safety.
- 6.62 Paragraph 117 in Chapter 11 of the NPPF encourages the planning system to make effective use of land, aims to ensure that planning decisions promote an effective use of land while safeguarding and ensuring safe and healthy living conditions.
- 6.63 Paragraph 133 of Chapter 13 (Protecting Green Belt land) of the NPPF states that the Government attaches great importance to Green Belts and that the fundamental aim is to prevent urban sprawl by keeping land permanently open as the essential characteristics of Green Belts are their openness and their permanence. The Green Belt serves five purposes including:
- checking the unrestricted sprawl of large built-up areas,
 - preventing neighbouring towns from merging into one another,
 - assisting in safeguarding the countryside from encroachment,
 - preserving the historic setting and special character of historic towns and assisting in urban regeneration, and
 - by encouraging the recycling of derelict and other urban land.
- 6.64 Paragraph 143 states that inappropriate development is, by definition, harmful to the Green belt and should not be approved except in very special circumstances. New buildings in the Green Belt are normally inappropriate development, however certain other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. This includes mineral extraction (Para. 146).
- 6.65 Paragraph 147 goes on to say that when located in the Green Belt, elements of many renewable energy projects comprise inappropriate development and in such cases

developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

- 6.66 Paragraph 154 of the NPPF states that in determining planning applications for renewable and low carbon development, local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects can provide a valuable contribution to cutting greenhouse gas emissions. The paragraph concludes that local planning authorities should approve applications if their impacts are, or can be made acceptable.
- 6.67 Paragraph 155 aims to direct inappropriate development away from areas at highest risk of flood. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Paragraph 163 requires developments not to increase flood risk elsewhere and developments within flood risk areas should be supported by a site specific flood risk assessment.
- 6.68 Chapter 15 (Paragraph 170) aims to ensure that planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and sites of biodiversity or geological value. Decisions should recognise the intrinsic character and beauty of the countryside, minimise impacts on and provide net gains for biodiversity, prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution.
- 6.69 Paragraph 175 requires that local planning authorities should, when determining planning applications, consider if there would be significant harm to biodiversity then possibly refuse planning permission unless adequately mitigated or compensated for.
- 6.70 Paragraph 180 requires that planning policies and decisions should ensure that new development is suitable for its location taking into account the likely effects, including cumulative effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site. With regard to adverse impacts resulting from noise from the development, the advice is that noise should avoid giving rise to significant impacts on health and the quality of life. Paragraph 180 goes on to say that tranquil areas should be identified and protected where they are relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
- 6.71 Paragraph 181 states that planning policies and decisions should sustain and contribute to compliance with national objectives for pollutants. The focus of planning policies and decisions should be on whether a proposed development is an acceptable use of land, rather than the control of processes or emissions (as these are subject to separate pollution control regimes). Planning decisions should assume that these regimes would operate effectively as referred to in Paragraph 183 of the NPPF.
- 6.72 Paragraph 209 e) of the NPPF states that Planning Authorities should encourage the capture and use of methane from coal mines in active and abandoned coalfield areas.

National Planning Practice Guidance (PPG) (2014)

- 6.73 On 6th March 2014 the Department for Communities and Local Government (DCLG) launched the National Planning Practice Guidance (PPG) web-based resource. This was accompanied by a *Written Ministerial Statement*, which included a list of the previous planning practice guidance documents cancelled. The NPPG supports the national policy contained within the NPPF. The guidance relevant to the determination of this application is contained within the following Planning Practice Guidance:

Air Quality

- 6.74 This guidance sets out the UK's national emission reduction commitments for damaging air pollutants. As well as having direct effects on public health, habitats and biodiversity, these pollutants can combine in the atmosphere to form ozone, which can be transported great distances by weather systems. Whether air quality would be relevant to a planning decision will depend on the proposed development and its location and it should be assessed if the proposed development could significantly change air quality during the construction or operational phases. In addition, it should be assessed if the proposed development would expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It should also be considered whether there would be a potential adverse effect on biodiversity, especially where it would affect sites designated for their biodiversity value.

Climate Change

- 6.75 This guidance advises how to identify suitable mitigation and adaptation measures in the planning process to address the impacts of climate change. The guidance states that in addition to supporting the delivery of appropriately sited green energy, effective spatial planning is an important part of a successful response to climate change as it can influence the emission of greenhouse gases. In doing so, it advises that the local environment should be considered alongside the broader issues of protecting the global environment. One of the ways of mitigating climate change is to provide opportunities for renewable and low carbon energy technologies.

Minerals

- 6.76 This guidance advises on mineral developments. It advises minerals can only be worked where they naturally occur, and consequently location options for the economically viable and environmentally acceptable extraction of minerals may be limited. Working is a temporary use of the land, although often takes place over a long time. Working may have adverse and positive environmental effects, but some adverse effects can be effectively mitigated. Following working, land should be restored to make it suitable for beneficial after-use. Noise, dust and lighting from a development need to be assessed. Mineral Planning Authorities should take account of government energy policy, which makes it clear that energy supplies should come from a variety of sources. In respect of mitigating environmental effects of mineral extraction, mineral planning authorities should use appropriate planning conditions, having regard for issues for which they have responsibility, to mitigate against any adverse environmental impact. Proper restoration and aftercare should be ensured. Whilst the guidance specifically refers to hydrocarbons, there is no specific guidance or reference to CMM. The guidance sets out (paragraph 112) what hydrocarbon issues Mineral Planning Authorities can leave to other regulatory regimes whilst recognising there may on occasions be an overlap in responsibilities. Mineral Planning Authorities should assume other regulatory authorities will operate effectively but should be satisfied that issues will be addressed by other regulatory bodies by taking their advice. In particular, well design and construction, well integrity during operation, operation of surface equipment on a well pad and well decommissioning and abandonment are matters for the Health and Safety Executive. Matters relating to groundwater, the operation of site equipment, management of mining waste, flaring or venting of gas produced as part of an exploratory phase and the off-site disposal of return water are matters for the Environment Agency,

Natural Environment

- 6.77 This guidance explains key issues in implementing policy to protect and enhance the natural environment and includes advice on agricultural land, green infrastructure, biodiversity and landscape.

Noise

- 6.78 The guidance advises noise needs to be considered when development may create extra noise or would be sensitive to the prevailing acoustic environment. When taking decisions about new development, there may also be opportunities to make improvements to the acoustic environment. Good acoustic design needs to be considered early in the planning process to ensure that the most appropriate solutions are identified at the outset.

Renewable and low carbon energy

- 6.79 This guidance advises that increasing the amount of energy from renewable and low carbon technologies will help make sure the UK has a secure energy supply and reduce greenhouse gas emissions to slow down climate change. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is considered acceptable.

Green Belt

- 6.80 This guidance seeks to ensure that certain factors are taken into account in making the assessment of whether a proposal would impact on the openness of the Green Belt. These include but are not limited to: assessing both the spatial and visual aspects of the proposal, the duration of the development and its remediability (taking into account any provisions to return the land to its original state, and the degree of activity likely to be generated, such as traffic generation).

6.81 National Policy on Climate Change

The National Policy on Climate Change advises how to identify suitable mitigation and adaption measures in the planning process to address the impacts of climate change. The policy encourages energy efficiency and the generation of renewable energy to reduce emissions.

National Policy Statement for Electricity Networks Infrastructure (EN-5)

- 6.82 The Statement advises that the new electricity-generating infrastructure the UK needs to move to a low carbon economy while maintaining security of supply will be heavily dependent on the availability of a fit for purpose and robust electricity network. That network will need to be able to support a more complex system of supply and demand than currently and cope with generation occurring in locations that are more diverse. Embedded, relatively small local generation facilities, (like this proposal), are an integral part of the arrangements to ensure a robust electricity distribution network system is provided across the Country.

7.0 Planning considerations

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning authorities must determine each planning application in accordance with the planning policies that comprise the *Development Plan* unless material considerations indicate otherwise. In light of the abovementioned policies, the main considerations in this instance are the principle of the development, Green Belt, landscape and visual effects, biodiversity, local amenity, noise, air emissions, water and flood risk, and traffic.

Principle of the proposed development

- 7.2 The Selby District area is well placed to provide opportunities for the exploration, appraisal and capture of CMM due to the existence of former worked coalfields with remaining coal reserves. If not captured, CMM can, over time, be lost to atmosphere via fissures in overlying strata. Passively vented, this is a source of methane pollution. Capturing the CMM emissions from abandoned coalmines has the potential to significantly reduce the amount of heat-trapping gases in the atmosphere, lead to potential local improvements in air quality and provide an alternative clean energy resource through the generation of electricity. The application is for the exploration, appraisal and potential production of CMM from abandoned workings associated with the former Kellingley Colliery network. If the exploration and appraisal of CMM is successful and CMM is present in sufficient quantities, its production, could provide an alternative energy source for the generation of electricity that would be fed into the local grid for a period of up to 15 years or beyond. If CMM is not extracted and used in the proposed way, the opportunity could be missed as rising mine water would eventually fill the mine void and cut off the gas supply (unless de-watered). NPPF (paragraph 209 e)) states mineral planning authorities should encourage the capture and use of methane from coalmines in active and abandoned coalfield areas.
- 7.3 CMM gas is currently being extracted from the Kellingley Colliery site on the south side of Weeland Road, albeit the site has planning permission for a waste to energy plant and for the remainder of the site to be redeveloped as a mixed use/ employment park. The Oil and Gas Authority (OGA) has advised the company currently extracting the gas HPGL (Harworth Power Generation Ltd) had a methane drainage licence (MDL); this has now expired. The PEDL for the wider area has been issued by the OGA to the applicant (Alkane Energy); the PEDL gives exclusive rights to extract the CMM.
- 7.4 Harworth Power Generation Ltd have historically been extracting CMM from the former workings for mine safety purposes while the mine was operational. However, coal mining has now ceased at Kellingley Colliery and Harworth Power Generation Ltd only have a methane drainage licence. The OGA has advised that CMM can only be extracted with the benefit of a PEDL. PEDL 279, which covers the area of the application as well as the former Kellingley Colliery site, was awarded to the applicant in 2016. The applicant therefore has the right to explore, appraise and produce CMM under the provisions of the PEDL. The objection raised by Harworth Power Generation in respect of access to the CMM is therefore a matter for the OGA and is not a material planning consideration. Irrespective, the planning application must be considered on its merits, against the policies of the development plan and any material considerations or planning grounds to ensure the impact on the use of land is acceptable.
- 7.5 NPPF Paragraph 209 (e) encourages the capture and use of methane from coalmines in active and abandoned coalfield areas. There are no 'saved' policies in the NYMLP relating specifically to coal mine methane. 'Saved' Policy 4/1 - Determination of Planning Applications sets out the criteria that need to be satisfied when considering a mining application. For the purposes of this application, the mineral deposit has been fully investigated (a). The proposal would be small in scale and would target a potential hydrocarbon resource (b). The proposed method and programme of working has been designed to minimise the impact of the proposal (c). Landscaping and screening is proposed (d). Environmental and amenity safeguards to minimise noise, dust, emissions, and reduce the risk pollution are proposed (e). The site would be restored on completion of development (f). The site would be restored to its former agricultural use (g). There is an acceptable access and generated electricity would be fed into the national grid (h). The proposal would not result in any cumulative impact in the area (i). It is therefore considered the proposal would satisfy the criteria set out in 'saved' policy 4/1 to the NYMLP and which is consistent with the NPPF. 'Saved' Policy 7/2 of the

NYMLP relating to exploration boreholes requires proposals to be sited in the least environmentally sensitive area relative to the geological prospect and that provision is made for short term mitigation of effects on amenity and on the environment and allowance is made for longer term additions and/or enhancement of such mitigation measures. Policy 7/5 supports production wells and Policy 7/10 the restoration of wells following abandonment. Policy SP1 of the Selby District Core Strategy supports sustainable development.

- 7.6 Policy M16 of the emerging MWJP seeks to guide the location of hydrocarbon development. With regard to CMM, the policy states that proposals will be supported where any surface development would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. The applicant has investigated alternative sites to comply with this policy but has been unsuccessful in identifying a site that would meet the necessary locational requirements for the proposed development relative to the potential source of CMM from former workings. The proposal would avoid CMM passively venting to atmosphere or being flared off for mine safety purposes both of which would be worse environmentally in respect air quality and pollution. To do either of these options would be contrary to the thrust of national policy to ensure sustainable development. Emerging Policy M16 of the MWJP is at an advanced stage in the local plan process and to which some weight can be attached. The proposal would be contrary to the intentions of this policy in terms of how the policy seeks to direct developments of this nature to previously developed sites. However, it does not look to refuse development proposals of this nature if they are not located on previously developed sites.
- 7.7 Policy M18 of the emerging NYJP, provides for decommissioning and restoration of hydrocarbon developments and for unconventional hydrocarbons consideration of the need for a financial guarantee appropriate to the scale, nature and location of the proposed development to ensure restoration. In the event the exploration and appraisal phases were not successful the site would be restored back to agricultural use. This would similarly be the case at the end of the production phase or sooner depending on the commercial viability of generating electricity. Restoration could be controlled by condition; conditions 33, 34 and 35 would provide for restoration and aftercare. In this instance, it is not considered necessary to require the provision of a financial guarantee to ensure the site is restored at the end of either of these phases. The proposal is therefore considered to comply with emerging policy M18 of the NYLP.
- 7.8 NPPF Paragraph 209 e) states mineral planning authorities should encourage the capture and use of methane from coalmines in active and abandoned coalfield areas and the proposal accords with this. The proposal is for an exploratory borehole, potentially a production well and would be restored either post exploration and appraisal or post production. It is therefore considered the proposal accords with the NPPF, 'saved' policies 4/1, 7/2, 7/4 7/5 and 7/10 of the NYMLP would be sustainable development for the purposes of Policy SP1 of the Selby District Core Strategy emerging policies M16 and M18 of the NYJP and is acceptable in principle subject to the proposal satisfying the requirements of other relevant policies of the development plan.

Green Belt

- 7.9 The site would be located on part of an agricultural field situated within the West Yorkshire Green Belt. The NPPF attaches great importance to Green Belts and substantial weight should be given to any harm to the Green Belt. Green Belt serves five purposes: to prevent unrestricted urban sprawl of large built up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and character of historic towns; and assist in urban regeneration, by encouraging the recycling of derelict land and other urban

land. Paragraph 143 states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. However, paragraph 146a) of the NPPF advises that the extraction of minerals is not inappropriate development in the Green Belt as long as they preserve its openness, and do not conflict with the purposes of including land within it. The proposal is classed as 'mineral extraction'. National Planning Guidance on developments in the Green Belt (July 2019) requires the impact of a proposal in the Green Belt to be assessed and requires a judgment based on the circumstances of the case.

- 7.10 There are no policies in the NYMLP relating to Green Belt. Policies relating to such are found in the Selby Core Strategy Local Plan. Policy SP3 seeks to safeguard the Green Belt from inappropriate development unless the applicant has demonstrated very special circumstances exist to justify why permission should be granted. Paragraph 146a) of the NPPF advises that the extraction of minerals is not inappropriate development in the Green Belt as long as they preserve its openness, and do not conflict with the purposes of including land within it. Emerging MWJP Policy D05 Part 1 Minerals supports proposals for minerals development where the openness would be preserved and where reclamation and after use is compatible with Green Belt objectives.
- 7.11 Although the immediate surrounding area of the proposed site is generally open, it is very much 'urban fringe' Green Belt. It hosts a number of manmade features including overhead electricity lines with pylons, electricity lines (to which a proposed connection to supply the grid with generated electricity is proposed), a wind turbine and a manmade flood embankment, all within the same field as the proposal. All these features have a visual impact on the openness of the Green Belt and affect views. To the east of the field on Stocking Lane, is a mixture of farm and non-farm related uses including large structures and open storage. Further to the west is a large industrial waste solvent recovery business. The application site would be small in scale, extending over 1.3 hectares, detached from adjoining built developments, surrounding settlements and would not cause coalescence. The site has been selected as it is the preferred site to target the identified mineral resource in the absence of alternative locations that would achieve the same objective. Should the exploration and appraisal phases not be successful, the plant and equipment would be removed and the land restored to its current use. These phases would be short term and would not be inappropriate development in the Green Belt for their duration. They would be in accordance with paragraph 146a) of the NPPF in that they would not be inappropriate development and would preserve the openness of the Green Belt and would not conflict with the purposes of including land within the Green Belt. If the exploration and appraisal phases are successful the proposal would move into the production phase. This would involve the development of the site to include a gas pump and three electricity generators with 12m high stacks. The site could be operative for up to 15 years after which, or sooner, depending on the flow of gas and economic viability of producing electricity, the plant and equipment would be removed and the site restored to its former agricultural use, retaining some of the landscaping. Whilst the site could be present for up to 15 years, it would still be temporary. It would still constitute mineral extraction and therefore would not be inappropriate development in the Green Belt. It would be visible in the Green Belt but, in the longer term, being temporary in nature, it would preserve the openness of the Green and would not conflict with the purposes of including land within the Green Belt.
- 7.12 The applicant has undertaken a landscape and visual impact assessment of the proposed development when seen from four representative viewpoints to demonstrate what effect the proposal could have on the landscape elements, landscape character and visual amenity. Overall, the assessment concludes the effects of the proposed development would be localised meaning the surrounding area would remain unaffected and there would be no wider effects demonstrating that the proposal for mineral

extraction would not be inappropriate in the Green Belt landscape, would preserve its openness and would not conflict with the purposes of including land within the Green Belt in accordance with paragraph 146a) of the NPPF.

- 7.13 Emerging MWJP Policy D05 is consistent with supporting proposals for minerals development where the openness would be preserved and where reclamation and after use is compatible with Green Belt objectives. It supports mineral developments where they would preserve the openness of the Green Belt and where permitted, reclamation and afteruse will be required to be compatible with Green Belt objectives.
- 7.14 It is important to note that the proposal is for exploration, appraisal and production. The exploration and appraisal phases are proposed for a short temporary period; if they were not successful, the site would be restored to its current agricultural use, thereby according with the requirements of Policy D05. If the exploration and appraisal were successful, CMM could be produced and used for electricity generation for up to 15 years, less if it becomes unviable, after which the site would be restored to agriculture, similarly according with the requirements of Policy D05.
- 7.15 Other factors, which should be taken into account include the visual impact of the proposed development on the openness of the Green Belt. For the exploration and appraisal phases, the visual impact of the proposal would consist of the site construction, the 35m drill rig to drill the borehole (4 weeks), and, if CMM is found to be present, a flare stack approximately 5m high for the appraisal of gas over a period of approximately 3 weeks. 2.5m security fencing would be present around the site. Whilst the drill rig and flarestack would have some visual impact on the Green Belt they would be temporary in nature and removed after a short period irrespective of whether the proposal moves to the production phase. If the proposal advances to the production phase, it would involve the siting of pumping equipment, three gas / electricity generators with associated 12m vent stacks, a noise 4.5m attenuative barrier and 2.5m security fencing. Consequently the production phase would have a greater visual impact over an extended period of time and up to 15 years if CMM were to prove commercially viable. All plant and equipment would be painted in a colour to minimise its visual impact and which is proposed to be controlled by condition 24. Landscaping around the site would be planted to reduce the overall visual impact of the development, and which would diminish as landscaping matures, although it is acknowledged some of the planting would take longer to mature to provide effective screening; up to thirty trees would be retained post restoration and which would contribute and enhance the natural and local environment and the Green Belt.
- 7.16 Selby DC identified impact on the Green Belt as one of the key issues to address. Representations have been received objecting to the potential impact of the proposal on the Green Belt and maintain the proposal would be inappropriate development and that very special circumstances have not been demonstrated.
- 7.17 The proposal is for a mineral development of a small scale and temporary in nature. At the production stage, it would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It is considered the proposal would not be inappropriate development in accord with NPPF para 146 a) and therefore no very special circumstances need to be demonstrated. Irrespective, the exploration, appraisal and production of CMM as an alternative form of low carbon source of energy generation, which would reduce reliance on fossil fuels; this would be consistent with the NPPF and would constitute sustainable development. It would utilise a mineral resource that would otherwise be lost; it would deliver energy for future economic for the purposes of the economic, social and environmental objectives in accordance with paragraph 8 of the NPPF. Further, the site has been identified by the applicant as the

preferred site to target the identified mineral resource and would have the benefit of a direct interconnection to the electricity grid.

- 7.18 It is therefore, concluded, that whilst there would be some impact on the openness of the Green Belt during the exploration and appraisal stages associated with the drill rig and flare stack, this would be temporary and consequently would not affect the openness of the Green Belt. If development were to progress to the production stage, the development would still be temporary, albeit for a period of up to 15 years. The site and associated plant, equipment and noise attenuation fencing would be visually present throughout the production phase of the development. However, this would be coloured and landscaped to minimise its impact on the openness of the Green Belt. It is considered, should the proposal advance to the production phase, it would not be inappropriate development in the Green Belt, would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. It is considered that the proposal accords with Paragraph 146a) of the NPPF and Policy SP3 of the Selby District Plan Core Strategy and Emerging MWJP Policy D05.

Landscape and visual impact

- 7.19 The proposed development would have varying levels of visual impact on the landscape. The applicant has undertaken a landscape and visual impact assessment of the proposed development when seen from four representative viewpoints and what effect the proposal could have on the landscape elements, landscape character and visual amenity. Three of the viewpoints are from Weeland Road and one to the north of the site on the Kemp Bank Embankment. The assessment concludes the level of the effect on agricultural land and hedgerows would be minor; the effect on landscape character receptors, moderate-minor; and the effect on visual amenity from the four representative view points as being moderate diminishing to minor through the phases of exploration, appraisal, production and restoration as planting becomes more mature. Overall, the assessment concludes the effects of the proposed development would be localised meaning the surrounding area would remain unaffected and there would be no wider effects. The site falls within a relatively low-lying and discreet location in an area where there is a notable baseline influence from existing development and the busy Weeland Road and with some enclosure from surrounding tree cover and built form. The extent of landscape mitigation would ensure that a planted buffer would be in place between the residents and the site and that effects would gradually be reduced over time as planting matures. The retention of a strip of native woodland/trees would result in some landscape improvement within this edge of urban area.
- 7.20 Selby DC identified landscape impact as one of the key issues to address. The County Council's Principal Landscape Architect initially objected to the proposal and representations have been received objecting to the proposal in that it would have an unacceptable impact of the landscape. To mitigate the visual impact a revised landscape mitigation strategy has been submitted, which includes more extensive tree and hedge planting (88 specimen trees and 1,713m² of native woodland planting) and which the Council's Principal Landscape Architect considers acceptable in landscape policy terms and which would be secured by proposed condition 31.
- 7.21 Phase 1 would involve upgrading of the access road, the establishment of a hard surfaced compound and the drilling of a borehole. There would be some engineering activity to import stone for the hardstanding, the delivery of plant and machinery, construction of the borehole cellar and the delivery and construction of the drilling rig over a period of approximately ten weeks. The drilling rig would be 35m high and be operative for a period of up to four weeks. Once the target formation had been reached, the drill rig would be dismantled and removed off site. Consequently, there would be some visual impact, most particularly from the presence of the rig, but this would be

temporary and would be mainly viewed against a backcloth of manmade features including an overhead transmission line with pylon; local electricity powers lines and a wind turbine. It is therefore considered the first phase of the proposal would not have an unacceptable visual impact on the landscape.

- 7.22 Following the removal of the rig, the flow of gas would be measured and analysed to establish whether it would be sufficient to be commercially viable to generate electricity. A portable flare stack would be employed to flare the gas during this phase. The flare stack would be approximately 4m high, fully enclose the flame and be present for approximately two weeks to test the gas flow after which the flow of gas would be turned off at the borehole and the flare stack removed. As above, the flare stack and associated equipment would be temporary in nature and would not be visually unacceptable for its duration, particularly when seen against other features in the landscape. If the exploration and appraisal phases are not successful, all plant and equipment would be removed and the site restored.
- 7.23 If the flow of gas were to be sufficient to generate electricity, the development would enter the production phase. This phase would have the greatest potential visual impact. The phase would involve the development of the site and siting of three containers housing generators and a gas pump container, all of similar size. The generators would have vent stacks up to 12m high. 4.5m high acoustic fencing is proposed around the north, west and south of the plant and equipment. All the plant, containers and fencing are proposed to be coloured green to minimise their visual impact. The acoustic fencing and the vent stacks would potentially be the most visually intrusive elements of the proposal, particularly when seen from the footpath. The stacks would be the most visually intrusive features of the development in the landscape due to their 12m height. However, as above, they would be temporary, albeit it potentially for a 15-year period after which the site would be cleared of all plant, equipment, fencing, and the surface grubbed up and removed and the site restored to agriculture. Up to 30 trees would be retained post restoration.
- 7.24 'Saved' NYMLP policy 4/1 (b) requires the siting and scale of a proposal to be acceptable; (f) requires a high standard of restoration and (g) a high standard of aftercare. Policy 4/18 requires a high standard of restoration and Policy 4/20 a high standard of aftercare. The policies accord with paragraphs 102 and 205 of the NPPF. 'Saved' Policy ENV1 of the Selby District Local Plan requires proposals for new development to provide good quality development. Mitigation measures may be required to ensure that the impacts on the surrounding area are limited and that effects on the character of the area or the amenity of adjoining occupiers are minimised and accords with the NPPF. Policies SP18 and SP19 of the Selby District Core Strategy aim to protect and enhance the environment and require developments to make the best, most efficient use of land without compromising local distinctiveness, character and form. Emerging policy DO6 in the MWJP seeks to protect the landscape from unacceptable impact on the quality and/or character of the landscape through the proposed mitigation measures.
- 7.25 Details of landscaping, colour of plant, equipment and fencing, details of fencing, restoration and aftercare are proposed to be controlled by condition 24 to ensure the visual impact of the proposal is minimised.
- 7.26 It is considered that the proposal would be temporary in nature, would have a relatively small footprint, is located in an urban fringe setting with a backcloth setting of electricity pylons, electricity transmission lines, a wind turbine and is in close proximity to other built and industrial development. The proposal would benefit from an extensive landscaping scheme, up to 30 trees of which would be retained after restoration and aftercare to the benefit of the landscape. The proposal would comply with 'saved' policy

7/2 of the NYMLP in that short and long term effects of the proposal on the amenities of the area and environment would be mitigated by the landscaping proposals should the proposal extend into the production phase of the development. Similarly the proposal would comply with 'saved' policy 7/10 of the NYMLP in that restoration can be achieved at the end of each phase of the development through the requirements of proposed conditions 33 and 34. Consequently, it is considered the proposal would not have an unacceptable visual impact on the landscape and accords with 'saved' policies 4/1b, 4/15, 4/18 and 4/20 of the NYMLP, 'saved' policy ENV1 of the Selby District Local Plan, policies SP18 and SP19 of the Selby Core Strategy, emerging policy D06 of the NYJP and paragraphs 102 and 105 of the NPPF.

Local amenity - noise, light pollution, air quality (emissions and dust)

- 7.27 Noise levels would differ according to the phase of the development. The applicant has undertaken a noise assessment which measured background noise levels in the vicinity of the site during day and night-time at the nearest sensitive receptors; these were identified as Kellingley Farm and The Hidden Tearoom on Stocking Lane, Calder Grange on Weeland Road and users of the nearby footpath along Kemp Bank. There would be some increased noise for short periods during the early stages of the development whilst drilling and flaring take place. The drilling phase would take place 24 hours a day for up to 4 weeks and the report concluded that overall that noise levels at that stage would be likely to comply with the criteria given in NPPG guidance. In terms of flaring, the flare stack would be contained in a screened enclosure and would consist of shutting and flaring periods for 24 hours a day over a 2-week period. The noise assessment concludes that during this short term shutting and flaring phase, providing the panel faces north or west, the noise levels would comply with the criteria set out in the NPPG on Noise.
- 7.28 If the proposal were to advance to the production phase, a 4.5m high acoustic fence is proposed to be erected to the north west and south of the plant and equipment to minimise noise as measured at the nearest sensitive receptors. The noise assessment concludes that with the proposed acoustic fence, noise impact from both the construction and operational phases of the development would be likely to be at the level of "No Observed Adverse Effect" (NPPG).
- 7.29 Selby DC has requested noise impacts to be assessed. The Yorkshire Wildlife Trust considers noise would have an adverse impact on the Willow Garth Nature Reserve. Representations objecting to the potential impact of noise on the area and their properties and particularly the impact on nearby equestrian uses have been received. Selby EHO is of the view the proposed development has been configured with a specifically designed 4.5m high acoustic wall, the exhausts would be attenuated and the acoustic fence in its proposed location would reduce any noise impact to an acceptable level.
- 7.30 NYMLP 'saved' Policy 4/1 seeks to ensure that the siting and scale of proposals are suitably located and that environmental and amenity safeguards are in place to mitigate any impact from the proposals. 'Saved' Policy 7/2 requires the Mineral Planning Authority to be satisfied the proposal would be located in the least environmentally sensitive area relative to the geological prospect; that it has been selected as if it were to be retained for longer term appraisal and development; provision is made for short term mitigation of the effects on the amenity and environment; and adequate allowance is made for longer term additions to and/or enhancement of such mitigation measures. 'Saved' Policy ENV2 of the Selby Local Plan specifically refers to noise and pollution and states that preventative measures should be incorporated as an integral element in the scheme. Draft MWJP Policy M17 requires there to be no cumulative impact and developments should be to a high environmental standard with consideration in terms

of noise, light pollution, emissions to air, ground or surface water being taken into account. The policy supports developments where impact is considered acceptable. Policies D01 and D02 encourage the planning system to find solutions that mean that proposals can be approved and avoid unacceptable impacts on local amenity in relation to noise, dust and public health and safety. The NPPG Air Quality advised that impacts on air quality will depend on the proposed development and its location and it should be assessed if the proposed development could significantly change air quality during the construction or operational phases. In addition, it should be assessed if the proposed development would expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It should also be considered whether there would be a potential adverse effect on biodiversity, especially where it would affect sites designated for their biodiversity value.

- 7.31 Selby EHO has raised no objection regarding noise impacts subject the imposition of conditions. Whilst there would be noise associated with the first phase of the proposal that could not easily be mitigated, this would be of short duration and not at unacceptable levels. If the proposal advances to the production phase, mitigation measures are proposed which would attenuate noise to acceptable levels and to which Selby EHO has raised no objection. It is considered the predicted noise levels would not lead to any unacceptable loss of amenity to nearby residents or that the noise would be detrimental to equestrian uses or the Willow Garth Nature Reserve, or users of the public footpath running along the top of Kemp Bank embankment particularly given the proximity of other industrial uses and the public highway. Should the proposal progress to the production phase, noise attenuation measures are proposed in the form of acoustic fencing and barriers to the plant and equipment. The proposed means of mitigation and noise levels are proposed to be controlled by conditions 15, 16, 19, 20 and 21. It is therefore concluded that the proposal complies with Policy ENV2 of the Selby Local Plan, Policy 4/1, 4/14 and 4/15 of the NYMLP and accords with paragraphs 180, 181 and 183 of the NPPF, and emerging policies M17, D01 and D02 of the emerging MWJP.
- 7.32 In terms of dust, small amounts could be expected during the construction phase of the site from soil stripping and construction of the pad. Selby EHO recommends a condition be imposed controlling dust emissions during the construction and drilling phases. It is considered the amount of dust likely to be generated would be minimal and would not lead to an unacceptable loss of amenity. The level of dust generated would not be dissimilar to arable agricultural practices that the field within which the proposal is located would normally be subjected to and could be mitigated by condition. If the proposal advances to the construction phase, it is not expected any unacceptable levels of dust would be generated and could similarly be controlled by proposed condition 14. It is therefore considered the proposal complies with NYMLP Policy 4/1, emerging draft MWJP Policy M17, D01 and D02 in respect of dust.
- 7.33 In terms of the lighting, Selby DC has requested the impact of lighting be considered. The Yorkshire Wildlife Trust has expressed concern about the negative impacts lighting could have on the wildlife in the area and on their Willow Garth Nature Reserve. Selby EHO has raised no objection to the proposed lighting subject to the imposition of conditions.
- 7.34 NYMLP Policy 4/1, 'Saved' Policy ENV3 Light Pollution of the Selby Local Plan, and emerging draft MWJP Policy M17, D01 and D02 seek to ensure lighting levels would not be unacceptable and the amenities of the area should be protected.
- 7.35 Development of the site would be undertaken during normal daylight hours. Lighting is required throughout the drilling phase for health and safety purposes given drilling would

be undertaken 24/7. However, this would be for a short period and given the distance from the nearest properties and the nature reserve, it is considered lighting during this phase would not be unacceptable, lead to an unacceptable loss of amenity or have an adverse effect on the wildlife in the area. If the development progresses to the production phase, development of the site would be undertaken during normal daylight hours. Permanent lighting is proposed within the compound throughout the operational life of the site. Whilst maintenance of the site would normally be carried out during the day, lighting is required for emergency and security purposes and would be linked with security cameras. A lighting post of up to 5.5 m high is proposed to be located near the main gate to the compound. It would support a 150 watt downward facing halogen light which would be PIR controlled when movement is detected near the gate. The post would also support a 400 watt sodium (SON-T) downward facing lamp that would be directed into the site. Lighting inside the site would be comprised of 250 watt high pressure sodium (SON-T) floodlights, facing downwards. The lights would be mostly off during the hours of darkness and would only be switched on during maintenance or if the security system is activated. Details of the proposed lighting and controls to ensure the management of such are set out in proposed condition 23.

- 7.36 The proposed lighting during the production phase of the site would only be used in hours of darkness for security or emergency maintenance purposes. It is considered this would not lead to an unacceptable impact on the amenity of the area, nearby residents or wildlife in the area and associated with the Willow Garth Nature Reserve. Selby EHO has raised no objection. It is therefore considered, in respect of lighting, the proposal complies with NYMLP Policy 4/1, emerging draft MWJP Policy M17, D01 and D02.
- 7.37 In terms of possible emissions to atmosphere, Selby DC has requested air quality be considered. The Yorkshire Wildlife Trust is concerned that the Willow Garth Nature reserve could be at risk of pollution from potential nitrogen deposition. Representations have also been received from nearby residents about the risks of pollution to the atmosphere. Selby EHO has raised no objection.
- 7.38 Emissions from plant and machinery in all phases of the proposed development, emissions from the flare stack as part of the appraisal phase, and emissions from the plant and machinery during the production phases are matters for the Environment Agency and the Health and Safety Executive. 'Saved' Policy 4/1 of the NYMLP requires the proposed method and programme of working to minimise the impact of the proposal. Selby District Local Plan 'saved' Policy ENV2 requires proposals not to be detrimental in terms of pollution. Selby District Council Core Strategy Policy SP17 requires all development proposals from new sources of renewable energy and low-carbon energy generation to be designed and located such that they protect the environment and local amenity and wider environmental and that economic and social benefits should outweigh any harm to the environment and local communities. 'Saved' Policy 4/1 of the NYMLP and 'saved' Policy ENV2 of the Selby District Local Plan comply with paragraph 205 of the NPPF. Emerging policies M17, D01 and D02 in the MWJP seek to ensure proposals would not be unacceptable and the amenities of the area should be protected. The NPPG Air Quality advises that impacts on air quality will depend on the proposed development and its location and it should be assessed if the proposed development could significantly change air quality during the construction or operational phases. In addition, it should be assessed if the proposed development would expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It should also be considered whether there would be a potential adverse effect on biodiversity, especially where it would affect sites designated for their biodiversity value.

- 7.39 Other than dust which may arise during soil stripping operations and associated with the construction of the site and which would be negligible and only over a very short period, the potential impacts on air quality would be emissions from operative plant and machinery developing the site, and if the development progresses to the production stage, the proposed gas engines. Plant and machinery would operate in accordance with the manufacturer's design specifications. The applicant has advised that the gas engines would operate at values which meet current standards for Medium Combustion Plant Directive limits, but under certain conditions, particularly in cold weather, steam plumes may emanate from the stacks and that this would be non-polluting. Emission data for the proposed spark ignition internal combustion gas engines confirms that there would be 250mg/Nm³ concentration of Oxides of Nitrogen. The Selby District Council EHO is satisfied with the data submitted and recommends a number of technical conditions to ensure compliance with emission limit values. Other regulatory bodies would also be involved in ensuring that emission limit values are maintained.
- 7.40. The applicant has advised that the proposal would operate in accordance with manufacturer's specifications and would not have an unacceptable impact on air quality. Emissions to atmosphere would not have an unacceptable impact on air quality or lead to an unacceptable impact on the amenities of nearby land uses, residents or the Willow Garth Nature Reserve. Selby EHO has raised no objection subject to the imposition of conditions controlling plant and equipment and emissions to atmosphere. When considered against the NPPG Air Quality, the proposal would not expose people to harmful concentrations of air pollutants, including dust, or give rise to potentially unacceptable impacts during construction for nearby sensitive locations. It is also considered there would be no potential adverse effect from air quality on the biodiversity of Willow Garth Nature Reserve. However, emissions are matters for the Environment Agency. The proposal is therefore considered to comply with Policy 4/1, 414 and 4/15 of the NYMLP, 'saved' Policy ENV2 of the Selby Local Plan, Policy SP17 of the Selby District Council Core Strategy, paragraph 205 of the NPPF and policies M17, D01 and D02 of the emerging MWJP.

Flood risk and drainage

- 7.41 The applicant has carried out a Flood Risk Assessment (FRA) and advises the proposed site falls within Zone 3A which is liable to flood during a 1 in a 100-year event. The FRA concludes the risks of flooding could be safely and effectively mitigated. The Kemp Bank embankment would provide protection to the site; the proposed site formation level at the centre of the borehole platform would be 8.8m AOD, 0.2m above the 1 in 100-year event flood level of 8.6m. The report concludes there would be no significant risk of flooding from the River Aire. However, the Flood Risk Map has now been revised and site and access now falls within land identified as Flood Zone 1. As the proposal is greater than 1 hectare, a flood risk assessment is required.
- 7.42 The proposed access route and site would be constructed from free draining hardcore. The site would be underlain with an impervious membrane. Surface water run-off from the site would be via French drains running around the perimeter of the site, feeding into an underground interceptor and soakaway system. The FRA concludes this would ensure the development would not add to local flood risk and concludes that no significant risk of surface water flooding is likely.
- 7.43 Policy 4/1 (e) of the NYMLP requires environmental and amenity safeguards to mitigate the impact of the proposed development. Policy ENV5 of Selby District Local Plan, SP15, and SP18 Selby District Core Strategy require developers to use sustainable drainage measures to protect the environment and local amenity. Policy D11 of the emerging MWJP seeks to ensure mineral development proposals do not cause

unacceptable impacts to arise, taking into account any proposed mitigation, on surface or groundwater quality and/or surface or groundwater supplies.

- 7.44 The Environment Agency (EA) has advised permits would be required to discharge surface water to a soakaway and to manage mining waste. The EA require a condition to ensure no infiltration of surface water drainage into the ground from the site and advise structures within 8 metres of the flood bank would require a flood risk activity permit, an EPR groundwater permit and possibly an Industrial Emissions Directive permit. The Lead Local Flood Authority has confirmed the site is located in Flood Zone 3a and has no known flood risk.
- 7.45 The applicant has proposed a drainage layout and a drainage strategy to minimise flood risk and prevent surface and groundwater contamination. Condensate from the CMM pipework would be collected in an underground storage tank and tankered off site to a specialist water treatment processor. The site would be underlain with an impermeable membrane to prevent any ground water contamination. A SuDS system is proposed to cater for a 1 in 100-year flood. The local flood storage area is the land to the north of Kemp Bank, with Kemp Bank functioning as a flood defence feature. Pollution from any surface water runoff from the site are proposed to be required by conditions 27, 28 and 29.
- 7.46 NPPG guidance on Flood Risk states that the general approach in dealing with flood risk is to try to keep development out of Flood Zones 2 and 3 where possible. However, the guidance goes on to acknowledge that minerals have to be worked where they are found and that such developments should ensure they would not increase flood risk and would not increase flood risk elsewhere, where it is not possible to apply the sequential test. The site has been selected as it meets the best locational requirements to accessing the mineral, access to the site, access to a national grid connection and in a location that would minimise impacts on the surrounding area. Whilst the applicant has identified the site falling within Flood Zone 3, confirmed by the Lead Local Flood Authority, the land now falls within Flood Zone 1 on the EA's and Governments revised 'Flood map for planning' within which the proposed development can be found acceptable. As the site is greater than 1 hectare, a flood risk assessment is still required and which the applicant has carried out. The proposal would be protected from flood risk areas by the Kemp Bank embankment, would be 600mm higher than the adjoining land and would not result in greater flood risk to adjoining areas. The EA and the Lead Local Flood Authority have raised no objection, it is considered acceptable from a flood risk perspective. Whilst representations have been raised in respect of risk of flooding and ground water pollution, it is considered the proposed development, due to its size, location, and proposed measures to address drainage and pollution, would not be at risk of flooding or creating a risk of flooding elsewhere and would not be a risk to the pollution of groundwater.
- 7.47 It is therefore considered that the proposal accords with 'saved' Policy 4/1(e) of the NYMLP, 'saved' Policy ENV5 of Selby District Local Plan which accord with paragraphs 155 – 165 of the NPPF but to which greater weight should be attached in view of the more specific requirements to prevent flooding and ensure development is not placed at unacceptable flood risk of the greater protection. The proposal accords with these paragraphs in that the proposal falls within Flood zone 1 and would not create greater risk of flooding in the surrounding area. The proposal also accords with policies SP15 and SP18 of the Selby District Core Strategy and Policy D09 and D11 of the emerging MWJP.

Archaeology

7.48 An archaeological geophysical survey has been undertaken that identifies a number of features of archaeological potential. These are likely to represent former field enclosures of the later prehistoric or Romano-British periods. The survey was less successful in other areas of the site where modern disturbance and former tree planting has hampered the results. The survey identifies features of archaeological interest but are unlikely to represent very significant remains. These features relate to a wider archaeological landscape of early agricultural settlement and the archaeological information that they contain will advance our understanding of the later prehistoric and Roman periods in the area. The NYCC Heritage – Archaeology has raised no objection subject to an Archaeological Investigation being carried out prior to the commencement of development and which is proposed to be required by condition 30. The proposal is considered to comply with ‘saved’ policy ENV28 of the Selby District Plan which accords with Paragraphs 189 and 190 of the NPPF, Policy SP18 of the Selby District Core Strategy and emerging Policy D08 of the NYJP.

Biodiversity

7.49 The applicant has carried out a Preliminary Ecological Appraisal. The Appraisal identifies the majority of the proposed site as being a heavily managed arable field with habitats to the boundaries comprising scattered trees, species poor hedgerow, amenity grassland, scrub, tall grassland habitats and a running water ditch. The Appraisal concludes that nesting birds and other species may use the boundary habitats and recommends a number of protection measures are employed to ensure any vegetation is cleared outside the bird nesting season, light spill should potential bat roosting habitats, open trenches and pipework should be protected to avoid mammals becoming trapped, suppression of dust and sound baffling be employed around the compound to minimise any disturbance to nesting birds.

7.50 Policy 4/1 of the NYMLP seeks to ensure that the siting and scale of proposals are suitably located and that environmental and amenity safeguards are in place to mitigate the impact of the proposal. Policy 4/6A requires the Mineral Planning Authority to protect the nature conservation or geological interest of Local Nature Reserves and of other sites having a nature conservation interest or importance, and will have regard to other wildlife habitats. This is consistent with paragraph 170 of the NPPF regarding protecting the local environment by minimising impacts on biodiversity. ‘Saved’ Policy ENV9 of the SDLP directs development will not be permitted unless there are no reasonable alternative means of meeting the need and it can be demonstrated that there are reasons that outweigh the need to safeguard the intrinsic local nature conservation value of the site or feature. Policy ENV9 is consistent with NPPF and therefore can be given full weight. Policy SP 18 of the Selby District Local Plan Core Strategy seeks to maintain and achieve a high quality environment. Policies D01, D02 of the emerging MWJP seek to protect the environment. Policy D07 supports proposals where it can be demonstrated that there will be no unacceptable impacts on biodiversity or geodiversity, including on statutory and non-statutory designated or protected sites and features, Sites of Importance for Nature Conservation, Sites of Local Interest and Local Nature Reserves, local priority habitats, habitat networks and species, having taken into account any mitigation measures proposed.

7.51 The Yorkshire Wildlife Trust and the County Council’s Ecologist have expressed concern to the potential impact of the proposal on Willow Garth Nature Reserve. The Trust has advised the site is immediately adjacent to the reserve and would have negative impacts in terms of noise, lighting and dust on breeding birds and harvest mice. They are also concerned about the potential impacts of nitrogen deposition on the reserve. The County Council’s Ecologist is of the view the Preliminary Ecological Appraisal was undertaken in accordance with the current CIEEM best practice guidelines by a suitably qualified ecologist. There are no statutory designated sites within the immediate proximity and

that whilst the site falls within the outer SSSI impact risk zone, mining, oil and gas applications are not included within this area and accepts that the proposed development is unlikely to have an impact upon statutory designated sites. Whilst there is potential for indirect impacts on the habitats and species of the nature reserve, the only direct impact resulting from the proposed development, would be the loss of an area of the arable field and any associated impacts upon farmland birds. This is considered to be of low significance given the size of the application site in comparison to the wider agricultural unit. Key concerns could relate to the impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and habitats within Willow Garth. There is a drain on the western edge of the arable field which has the potential to support water vole, however the distance of the development from this feature means that it is unlikely to have a negative impact upon water voles should they be present. In terms of any possible indirect effects of noise, dust and lighting, the Ecologist is satisfied that the recommendations in the PEA could be applied as conditions and there is therefore unlikely to be any significant effect upon protected species and habitats of principal importance. Proposed condition 32 requires a detailed ecological mitigation, enhancement plan to be submitted prior to commencement of development, and which could be prepared alongside the Construction Environmental Management Plan (CEMP), condition 14.

- 7.52 The concerns of the Yorkshire Wildlife Trust relate to potential impacts of noise, lighting and dust upon surrounding habitats and species, including bats, birds and their habitats and that the site is immediately adjacent to their nature reserve. This is not the case; the Nature Reserve is approximately 350m to the north west of the site. In respect of potential noise impacts on the reserve, there would be increased noise during the site construction works and drilling; these are for a short period and given the levels of noise predicted and duration, it is not considered they would have a significant or lasting impact. More significantly perhaps are the potential longer term impacts associated with noise should the development enter the production stage. Noise mitigation measures are proposed in that the pumps and generators would be in containers. The acoustic wall is not, however, proposed on the side of the site nearest the reserve. Nevertheless, the site is considered to be of a sufficient distance from the reserve for it not to have an unacceptable impact from noise. It should also be noted that the nature reserve is closer to an established industrial development than the proposed site. With regard to nitrogen deposition, this could originate from emissions from the plant and equipment associated with the appraisal and production phases of the development, but would be a matter for the Environment Agency.
- 7.53 With regard to proposed lighting, whilst there would be night-time lighting during the drilling operations, this would be for a short period. Should the site progress to the production phase, the proposed lighting would be low height, low luminance and projected into the site. The lighting would only be activated for security reasons or emergency maintenance or repair works. With regard to dust, it is considered the risk of dust migration are minimal and unlikely to extend as far as the nature reserve. Nitrogen levels would be very low and unlikely to migrate to the nature reserve in a way that would generate any unacceptable impact. It is considered that the proposal would not have an unacceptable adverse impact on the nature reserve.
- 7.54 The proposed landscaping scheme identifies an area alongside the access track which would be 'set aside' during the operational phase of the development with the aim that it would be managed to provide a natural habitat, to encourage biodiversity, which is not present in the existing field. The additional landscaping to screen the site would result in an increased habitat to that which is already present and up to 30 trees of which would be retained post restoration. The applicant also proposes a number of bird and bat boxes to be mounted on surrounding boundary trees as a further ecological enhancement and

which would encourage biodiversity. The number and locations of these would be determined as part of the Ecological mitigation and enhancement required by proposed condition 32.

- 7.55 The NYCC Ecologist is satisfied there would be unlikely to be any significant adverse effects upon protected species and habitats of principal importance and that subject to the submission of a detailed ecological management plan the proposal would be acceptable. An ecological mitigation and enhancement is required by proposed condition 32.
- 7.56 Proposed condition 32 requiring an ecological mitigation and enhancement plan would ensure any vegetation is cleared outside the bird-nesting season, to control noise, dust suppression, lighting ecological protection and mitigation and a construction management plan. Subject to such conditions, the proposal is considered to be suitably located would employ acceptable environmental and amenity safeguards. The proposal would not lead to any cumulative impact or unacceptable impacts on the natural environment and particularly Willow Garth Nature Reserve because of noise, dust, lighting or ground pollution. The proposal is therefore, considered to comply with Policy 4/1 and 4/6A of the NYMLP; 'saved' Policy ENV9 of the Selby District Local Plan, which comply with paragraphs 174, 175, 176 and 177 of the NPPF; Policy SP18 of the Selby District Local Plan Core Strategy and policies M17 and policy D07 of the emerging MWJP.

Soils and agricultural land use

- 7.57 The proposed site is low lying and is currently in agricultural arable use. It is identified as Grade 3 land, capable of producing moderate to high yields of a narrow range of arable crops. The proposed site would use a small area of the field, the remainder of which would continue to be in agricultural use throughout the life of the development. To the east of the site, the land is open pasture used for equine purposes. Top and sub soils would be removed as part of the initial construction phase and stored in bunds for future use in restoration back to agriculture.
- 7.58 'Saved' Policy 4/1 of the NYMLP (f) and (g) require proposals to have a programme for restoration to achieve a high standard of restoration; and to achieve a high standard of aftercare and management. Policy 4/18 of the NYMLP requires that where agriculture is the intended primary afteruse, the proposed restoration scheme should provide for the best practicable standard of restoration. Emerging Policy D10 of the MWJP supports development where it can be demonstrated that the restoration and aftercare elements would be carried out to a high standard taking into account the location and context of the site. Emerging Policy D12 of the NYJP seeks to ensure soils are managed in a sustainable way. 'Saved' Policy SP18 of the Selby Local Plan aims to conserve and enhance the natural environment.
- 7.59 The proposal would not lead to a significant loss of agricultural land. Stripped soils would be retained and used for the restoration of the site back to agricultural use. Restoration and aftercare could be controlled by condition. The proposal therefore accords with 'saved' Policy 4/1 of the NYMLP (f) and (g) and Policy 4/18 of the NYMLP, 'saved' policy SP18 of the Selby Local Plan which are in accordance with paragraph 170 of the NPPF, and Policies D10 and D12 of the emerging MWJP.

Highways matters- Traffic and transport and Public Rights of Way

- 7.60 The site is situated off and would be accessed from Weeland Road (A 645) which has a speed limit of 60 mph. Public Footpath (no. 35.7/9/1) runs along Kemp Bank, the embankment forming the northern boundary of the field within which the proposed site

would be located. The proposed operational compound would be situated 80m to the south of the footpath and embankment.

- 7.61 It is proposed to access the site by improving an existing farm access off Weeland Road. A new tarmac 'bell mouth' would be created with visibility splays in both directions along the highway necessitating the removal of a small shrub to the west and the trimming back of a small section of the hedge to the east. A steel barrier gate would be set back from Weeland Road to allow vehicles to safely pull off the highway to access the gate. Vehicles approaching the proposed from the east would have just left a 40 mph zone from Knottingley. Traffic approaching from the west should be slowing down for the speed restriction. A track would then be constructed across the field to the proposed development site. During the site set up, drilling and site construction phases, the number of vehicles visiting the site per day is expected to be within the range of 1 to 10 light vehicles/cars and between 0 and 5 HGVs with up to 4 or 5 abnormal loads. Once operational, only cars or light vans would attend the site 1 to 3 times a week.
- 7.62 'Saved' Policy 4/1(h) of the NYMLP refers to transport links being acceptable. Paragraph 102 of the NPPF states that potential impacts on the transport network should be considered and paragraph 109 supports development proposals if there would be no unacceptable impact on highway safety and to which greater weight should be attached in this instance. 'Saved' Policy 4/13 supports proposals where the likely vehicle movements to be generated can be satisfactorily accommodated by the local highway network and would not cause undue disturbance to local communities if alternative means of transport are not available. 'Saved' Policy T1 of the Selby District Local Plan requires development proposals to be well related to the highway network and which should have adequate capacity and can safely serve the development. 'Saved' Policy T2 of the Selby District Local Plan requires new accesses to ensure highway safety and to be constructed to a standard acceptable to the Highway Authority.
- 7.63 The Highway Authority has raised no objection to the proposal subject to conditions to ensure that the design and construction of the access meets the necessary standards, and post restoration, the access would be downgraded back to the original agricultural access. The public footpath, whilst in close proximity to the proposed site would not be physically affected.
- 7.64 Emerging policy Policy M17 of the NYJP supports hydrocarbon development with suitable access to classified A and B roads where there is capacity to accommodate the increased levels in traffic, access is acceptable and there are suitable site arrangements for on-site manoeuvring and parking. The proposed site would be served by an A class road which can accommodate the increase in traffic, the accesses as proposed to be improved would be acceptable and parking and manoeuvring space would be provided on the site.
- 7.65 The design of the proposed access and the proposed number of vehicle movements are considered acceptable. Subject to proposed conditions 9, 10, 11, 12 and 13 controlling the design of the access, its removal following restoration and restricting the number and hours of vehicle movements it is considered the proposal accords Policy ENV1, T1 and T2 of the Selby District Local Plan which Paragraphs 102 and 109 of the NPPF, Policy M17 of the Selby District Core Strategy and emerging Policy D11 and M17 of the NYJP.

8.0 Conclusion

- 8.1 The applicant holds the PEDL for the area within which the site is located which enables exploration and appraisal of hydrocarbons. A site selection process has determined the

site as the preferred location to gain access to CMM by drilling a borehole into former deep mine coal workings which are not already flooded, potentially contain CMM in sufficient quantities for the viable production of electricity through a generation process, provide access to a national grid connection and which has acceptable access to the public highway.

- 8.2 Abandoned coalmines have the potential to vent small amounts of methane via fractured strata or manmade pathways into the coal seams. The potential diminishes as former seams fill with water over an extended period. The proposed extraction of CMM would both reduce the potential for passive migration and venting to atmosphere and potentially produce an alternative greener source of energy. In the absence of CMM extraction, there is a continued need to monitor and manage coalmine gas over time, a practice that is employed at former colliery sites. The responsibility for public safety in respect of disused mine workings, including the former Kellingley Colliery and in particular gas emissions from the same, is the responsibility of the Coal Authority. If planning permission were to be granted, the Coal Authority would require the applicant to enter into an interaction agreement to ensure nothing it does would compromise the Coal Authority's duties and responsibilities, in that regard.
- 8.3 CMM capture and its use as fuel for power generation is supported and encouraged in the NPPF (paragraph 209 e). Capturing the CMM would enable electricity generation 24 hours a day, 7 days a week until the flow of gas is insufficient to make the process economically viable. Using CMM would mitigate its potentially harmful effect on the climate as well as offsetting the need for conventional oil and gas from natural fields, which are declining resources. The technology used to turn CMM into electricity is now well established in the UK and has proven to be clean and safe at other former colliery sites in the County and encouraged in the NPPF, paragraph 209 e).
- 8.4 The proposal requires a relatively small area of land on which to construct such a site with the potential to generate up to 6MW (million watts) of electricity, the equivalent of powering about 3,000 homes, and which would be fed into the National Grid. The proposal is for exploration, appraisal of CMM, the success of which will determine whether the proposal advances to the production phase. If the proposal enters the production phase, production of electricity would be for a period of up to 15 years depending on the flow of CMM and the economic viability of generating electricity.
- 8.5 Paragraph 205 of the NPPF advises great weight should be given to the benefits of mineral extraction, including to the economy. In doing so, there should be no unacceptable adverse impacts on the natural or historic environment, human health or from noise, dust or particle emissions. Paragraph 209 (e) requires mineral planning authorities to encourage the capture and use of CMM from coalmines in active and abandoned coalmines.
- 8.6 Policy M16 of the emerging MWJP guides where hydrocarbon development should be located. With regard to CMM, the policy states that proposals will be supported where any surface development would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. A search for a site to comply with this policy did not prove successful leading to the current site being chosen because of its locational factors.
- 8.7 The main issues raised by the application are the principle of the development, Green Belt, landscape and visual effects, biodiversity, local amenity, noise, air emissions, water and flood risk, and traffic and impacts on climate change by the use of hydrocarbons for energy generation

- 8.8 The principle of the development is supported by the NPPF, paragraph 209 e). Minerals can only be worked where they occur, recognised by the NPPF (paragraph 203). The NPPF (paragraph 146 (a) considers certain forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it; mineral extraction is one of the forms of development identified.
- 8.9 In this instance the 'openness' of the Green Belt would not be adversely affected by the proposals and would not conflict with the purposes of including land within it; the proposal would be temporary, mitigation measures are proposed to screen the development – assuming it advances to the production phase, and the site would be restored on cessation of electricity generation.
- 8.10 The development would be at its most visible during the exploration phase in the presence of the drilling rig. However, this would be for a temporary period. Should the proposal progress to the production phase, extensive landscaping is proposed to assist in screening the development. The existing landscape in the immediate area is heavily influenced by the presence of pylons, overhead electricity lines and a wind turbine. Established developments are located to the east off Stocking Lane and industrial development to the west. Whilst the three vent stacks and proposed acoustic fence would be the most visually prominent features when viewed from the surrounding area and the public footpath, when seen against the backcloth of the existing landscape features, it is considered the proposal would not result in an unacceptable impact on the landscape and in any event would be temporary.
- 8.11 The proposal would not lead to unacceptable impacts on the biodiversity of the area. The current field has little biodiversity although adjoining field boundaries may host nesting birds. The proposal is some 350m away from the Willow Garth Nature Reserve. The proposed landscaping and additional planting, some of which would be retained post restoration, and the provision of bird and bat boxes would enhance the biodiversity of the area.
- 8.12 The proposal would not have an unacceptable impact on the amenities of the area through noise, dust or emissions to air and which could be controlled by condition.
- 8.13 The proposal would not be at risk of flooding or cause greater risk to flooding. Measures are proposed to contain the site to prevent pollution to ground water and contain surface water runoff.
- 8.14 The site would be accessed off the primary road network, which could accommodate the projecting vehicle movements serving the site.
- 8.15 The proposal may be considered to conflict with emerging MWJP Policy M16. The policy supports proposals for the production of CMM where surface development to extract CMM would be located on industrial or employment land or within the developed surface area of existing or former coal mining sites. Whilst this emerging policy can be given some limited weight, it is considered the proposal would comply with other development plan policies to which greater weight can be attached and which support the proposal. Emerging policies M17 and M18 of the NYJP set out other spatial and locational criteria applying to hydrocarbon development. Policy M17 supports hydrocarbon development with suitable access to classified A and B roads where there is capacity to accommodate the increased levels in traffic, access is acceptable and there are suitable site arrangements for on-site manoeuvring and parking. The proposed site would be served by an A class road which can accommodate the increase in traffic, the accesses as proposed to be improved would be acceptable and parking and manoeuvring space

would be provided on the site. Part 2 of the policy requires proposals not to have any cumulative impact and supports developments that would have supporting infrastructure. In this instance, the proposal is for a single borehole and generated electricity could be directly connected into the grid – a primary reason for selecting the site. The proposed exploration and appraisal phases would be short term and not have an unacceptable impact on the amenities of the area for the purposes of Part 3 and 4 to the policy. Should the proposal progress to the production phase, mitigation measures in the form of noise barriers and landscaping are proposed. With regard to policy M18 of the emerging NYJP, the site would be restored at the end of the exploration and appraisal phases should the flow of CMM not prove economically viable and at the end of the production phase if it does prove commercially viable. In this instance, it is not considered necessary to require the provision of a financial guarantee to ensure the site is restored at the end of either of these phases.

- 8.16 There are no material planning considerations to warrant the refusal of this application. Whilst the proposal may be considered not to comply with Policy M16 of the emerging MWJP, it is considered the applicant has demonstrated there are no accessible viable alternative sites, which would support the proposal and on balance the benefits of the proposal in producing electricity from the identified preferred location outweigh the conflict with emerging Policy M16. It is considered the proposal to explore and appraise the presence of CMM has the potential to generate an alternative source of energy over a temporary period. The exploration and appraisal phases would be for a temporary period. Should the proposal enter the production phase, it is considered the development would not have an unacceptable visual impact, and would not adversely affect the openness of the Green Belt or the purposes of including land within it. It would accord with the ‘saved’ policies 4/1, 4/6A, 4/13, 4/14, 4/15, 4/16, 4/18, 4/20 of the North Yorkshire Minerals Local Plan; ‘Saved’ policies ENV1, ENV2, ENV3, ENV9, ENV28 of the Selby District Local Plan (adopted 2005); extant policies of SP1, SP3, SP15, SP18, SP19 of The Selby District Core Strategy Local Plan (adopted 2013); and emerging policies M17, M18, D01, D02, D05, D06, D07, D08, D09, D10, D11, and D12 of the North Yorkshire Joint Minerals and Waste Plan. It is therefore recommended that planning permission should be granted subject to the conditions set out in the recommendation.

Obligations under the Equality Act 2010

- 8.17 The County Planning Authority in carrying out its duties must have regard to the obligations placed upon it under the *Equality Act* and due regard has, therefore, been had to the requirements of *Section 149 (Public Sector Equality Duty)* to safeguard against unlawful discrimination, harassment, victimisation, and any other conduct prohibited by the Act. It also requires public bodies to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between people who share a protected characteristic and people who do not share it. It is considered that the proposed development would not give rise to significant adverse effects upon the communities in the area or socio-economic factors, particularly those with ‘*protected characteristics*’ by virtue that the impacts of the proposal can be mitigated so that they will not have a significant impact on groups with ‘*protected characteristics*.’

Obligations under the Human Rights Act

- 8.18 The *Human Rights Act* requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner, which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual’s private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country.

Article 1 of *Protocol 1* provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

- 8.19 Having had due regard to the Human Rights Act, the relevant issues arising from the proposed development have been assessed as the potential effects upon those living within the vicinity of the site namely those affecting the right to the peaceful enjoyment of one's property and the right to respect for private and family life and homes, and considering the limited interference with those rights is in accordance with the law, necessary and in the public interest.

9.0 Recommendation

- 9.1 For the following reasons:

Whilst the proposal is in conflict with emerging policy M16c of the MWJP, the proposal accords with the 'saved' policies 4/1, 4/6A, 4/13, 4/14, 4/15, 4/18, 4/20, 7/2, 7/4, 7/5 and 7/10 of the North Yorkshire Minerals Local Plan, and 'Saved' policies of the ENV1, ENV2, ENV3, ENV9, ENV28, T1 and T2 of the Selby District Local Plan, policies SP1, SP3, SP15, SP18, SP19 of the Selby District Core Strategy and policies M17, M18, D01, D02, D05, D06, D07, D08, D09, D10, D11 and D12 of the emerging North Yorkshire Joint Plan, and therefore it is recommended that planning permission is granted.

That, **PLANNING PERMISSION BE GRANTED** subject to the following conditions:

Time Limits

1. The development hereby permitted shall be begun not later than three (3) years from the date of this permission.

Reason: To comply with Section 91 of Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Written notification of the commencement of each of the following stages of the development shall be provided in writing to the Mineral Planning Authority within seven (7) days of the commencement of each stage:
- a) Construction of the site access and access road to the site.
 - b) Site construction.
 - c) Drilling of the well.
 - d) Decommissioning and removal of the drilling rig.
 - e) Flow testing of the well / commencement of the flaring of gas.
 - f) Completion and outcome of flow testing and flaring of gas and decision to progress to the construction stage
 - g) Construction of the site for electricity generation and connection to the national grid.
 - h) Landscape planting approved in accordance with condition 31.
 - i) Commencement of electricity generation.
 - j) Cessation of electricity generation for a continuous period of six months.
 - k) Decommissioning of the well.
 - l) Decommissioning of the site operational compound including all the development incorporated in the land edged red on Location Plan no. 14-2528-401 Rev H and including the interconnection to the national grid
 - m) Restoration of the operational compound

- n) Removal of the access road
- o) Reduction and reinstatement of the access to the original farm access dimensions.

Reason: To enable the Mineral Planning Authority to monitor the development to ensure compliance with this permission.

3. The site development stages b), c), d), e) and f) set out in condition 2 shall be completed within a period of 9 months from the date of commencement of stage a) of condition 2.

Reason: To ensure the drilling is completed in a reasonable period of time and to enable the Mineral Planning Authority to monitor the development to ensure compliance with this permission.

4. This permission is valid for a period of fifteen (15) years from the date of commencement of stage b in condition 2, after which the development hereby approved shall cease to be used, and all above ground facilities, plant and ancillary equipment including the acoustic and security fencing shall be removed and the site restored to agriculture in accordance with the requirements of condition 33:

- (i) Within twelve (12) months of the cessation of gas production; or
- (ii) Within twelve (12) months of the cessation of generation of electricity; or
- (iii) Within twelve (12) months following abandonment of the site;

Whichever is the sooner.

Reason: In the interests of visual amenity and to enable the Mineral Planning Authority to monitor the development and ensure the site is restored to agriculture at the earliest opportunity and in the interests of the amenity of the area.

5. In the event electricity generation ceases for a continuous period of six months, the Mineral Planning Authority shall be notified in writing in accordance with condition 2 k) and within a further 12 months, the well shall be abandoned, the site cleared of all plant and machinery and ancillary equipment, including the acoustic and security fencing, and restored to agriculture in accordance with the requirements of condition 31.

Reason: To enable the Mineral Planning Authority to monitor the development to ensure compliance with this permission and to inform the Mineral Planning Authority in the event early restoration of the land is required.

List of Plans and Drawings

6. The development shall be carried out except where modified by the conditions to this permission in accordance with the following documents: The letter and planning application and all supporting documents received by the Mineral Planning Authority dated 14 August 2017 and amended Planning Statement Revision A dated 6 June 2018. The following submitted plans:

<u>Ref.</u>	<u>Date</u>	<u>Title</u>
Location Plan	18.08.2017	14-2528-401 Rev H
Existing site layout plan	Received 18.08.2017	14-2528-402 Rev D

Proposed well testing and evaluation site layout	Received 18.08.2017	14-2528-408 Rev B
Existing highway entrance	Received 18.80.2017	14-2528-412
Proposed improvement of the existing highway entrance	Received 18.08.2017	14-2528-413
Lighting Scheme	10.2005	Rig 28 Lights
Proposed site layout	Received 02.12.2019	14-2528-404 Rev J
Proposed site elevations	Received 02/12/2019	14-2528-405 Rev F
Proposed borehole platform layout	02/12/2019	14-2528-403 Rev G
Block plan and indicative landscape scheme	Received 06.12.2019	14-2528-409 Rev K
Landscape proposals during operation	Received 24.12.2019	14-2528-416 Rev A
Landscape proposals post restoration	Received 24.12.2019	14-2528-417 Rev G

c) All schemes and programmes approved in accordance with this permission.

Reason: To ensure that the development is carried out in accordance with the approved application details.

7. A copy of this decision notice together with the approved plans and any details or schemes subsequently approved pursuant to this permission shall be kept at the site at all times and the terms and contents thereof shall be made known to the supervising staff at the site.

Reason: To ensure the developer and site operatives are conversant with the terms of the planning permission.

8. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 or any other order revoking or re-enacting the order, no plant or buildings shall be erected within the application site without the prior grant of planning permission by the Mineral Planning Authority.

Reason: To reserve the rights of control by the Mineral Planning Authority in the interests of protecting local amenity.

Highway Matters

9. There shall be no excavation or other groundworks, (with the exception of investigative works,) or the depositing of material on the site until the access to the site has been set out and constructed in accordance with drawing number 14-2528-413. The access shall thereafter be the sole means of access to and from the site and shall be maintained in a safe manner, which shall include the repair of any damage to the existing adopted highway at the point of access occurring during construction.

Reason: In the interests of vehicle and pedestrian safety.

10. Prior to the commencement of use of the access from the A645 (except for the purposes of constructing the access) visibility splays of 2.4m x 215m as measured

from a point down the centre line of the access and along both channel lines of the A645 shall be provided. The visibility splay shall have an eye height of 1.05m and an object height of 0.6m. The visibility areas shall thereafter be maintained clear of any obstruction for the operational life of the site including restoration.

Reason: To ensure a satisfactory means of access to the site from the public highway and in the interests of highway safety.

11. Prior to the commencement of development (with the exception of investigative works) details of measures to be employed to prevent the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site shall be submitted to and approved in writing by the Mineral Planning Authority. The approved measures shall be made available before and thereafter retained and employed on all HGVs leaving the site during the construction of the access track and the site.

Reason: This is a pre-commencement condition required to ensure that no mud or other debris is deposited on the carriageway in the interests of highway safety.

12. Prior to the commencement of development (with the exception of investigative works), a scheme for recording the condition of the existing highway within 400m either side of the approved access shall be submitted to the Mineral Planning Authority for approval. The condition survey shall be carried out prior to the commencement of development and submitted to the Mineral Planning Authority within 7 days of being carried out. A further condition survey shall be carried out in accordance with the approved details within 7 days of the completion of the site access and site construction and the results submitted to the Mineral Planning Authority to determine what, if any, highway improvements works are to be carried out.

Reason: This is a pre-commencement condition required to ensure a satisfactory means of access to the site from the public highway and in the interests of highway safety.

13. Prior to commencement of development, (with the exception of investigative works), details for:

- a. On-site parking capable of accommodating all staff and sub-contractors vehicles clear of the public highway; and
- b. On-site materials storage area capable of accommodating all materials required for the construction of the site;

shall be submitted to the Mineral Planning Authority for approval in writing. The approved areas shall be kept available for their intended use at all times throughout the site construction period.

Reason: This is a pre-commencement condition required to ensure the provision of on-site vehicle parking and storage facilities, in the interests of highway safety and the general amenity of the area.

14. Prior to the commencement of development, a Construction Management Plan (CEMP) shall be submitted to the Mineral Planning Authority for approval in writing. 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. The

construction of the development shall be undertaken in accordance with the approved plan unless the Mineral Planning Authority has approved any variation in writing.

Reason: This is a pre-commencement condition required to protect the amenities of the area.

Noise

Construction and Drilling Phase

15. Prior to the commencement of construction and development phases of the site, a scheme to control and monitor noise emitted during the construction and development phase, including drilling of the borehole, shall be submitted to Mineral Planning Authority for approval in writing. The scheme shall be prepared in accordance with BS5228 'The Control of Noise (Code of Practice for Construction and Open Sites) and shall identify locations at which noise will be monitored, the means and frequency of monitoring, provide predicted noise levels, mitigation measures and verification methods to ensure noise levels as measured at Kellingley Farm, Weeland Road, Brears Farm and Calder Grange do not exceed:

Weekday daytime	07:00 – 19:00	65 L _{aeq}
Weekday evening	19:00 – 23:00	55 L _{aeq}
Night	23:00 – 07:00	45L _{aeq}
Saturday	0700 - 13:00	65 L _{aeq}
Saturday	13:00 – 23:00	55 L _{aeq}
Sunday	07:00 – 23:00	55 L _{aeq}

Thereafter, the noise emitted from construction and development phases, including drilling of the borehole shall not exceed the permitted levels and shall be monitored at the approved monitoring points in accordance with the approved monitoring scheme, and at the request of the Mineral Planning Authority, should complaints about noise levels be received. Should noise levels exceed the approved levels, the construction and, development of the site, including the drilling of the borehole shall cease until the source of noise has been identified and mitigation measures employed to ensure compliance with the approved levels. The approved mitigation measures shall thereafter, be employed on the site to ensure compliance with the approved noise levels.

Reason: This is a pre-commencement condition required to protect the amenities of the area and those of the nearest residential properties to the development.

Flaring Phase

16. Prior to the commencement of flaring, a scheme to control and monitor noise emitted during the flaring phase, shall be submitted to Mineral Planning Authority for approval in writing. The scheme shall identify locations at which noise will be monitored, the means and frequency of monitoring, provide predicted noise levels, mitigation measures and verification methods to ensure noise does not exceed the following:

Kellingley Farm	37 LAeq,1 hour
Weeland Road	42 LAeq,1 hour
Brears Farm	40 LAeq,1 hour
Calder Grange	38 LAeq,1 hour

Thereafter, the noise emitted from construction and development phases, including drilling of the borehole shall not exceed the permitted levels and shall be monitored at the approved monitoring points in accordance with the approved monitoring scheme, and at the request of the Mineral Planning Authority, should complaints about noise levels be received. Should noise levels exceed the approved levels, the flaring shall cease until such time as the source of noise has been identified and mitigation measures employed to ensure flaring complies with the approved levels. The approved mitigation measures shall thereafter be employed on the site to ensure compliance with the approved noise levels.

Reason: This is a pre-commencement condition required to protect the amenities of the area and those of the nearest residential properties to the development.

17. Flaring of gas shall take place in a single period totalling not more than 4 weeks from the commencement of flaring which shall be notified to the Mineral Planning Authority in accordance with condition 2f).

Reason: To protect the amenities of the area.

18. All plant and machinery associated with the exploration, appraisal and production phases of the development shall be adequately maintained and silenced in accordance with the manufacturer's recommendations at all times.

Reason: To protect the amenities of the area.

19. All plant, machinery and vehicles accessing the site throughout the exploration, appraisal and production phases shall employ 'white' noise-reversing systems.

Reason: To safeguard the amenity of local residents and adjacent properties/landowners and land users.

Production Phase

20. Prior to the commencement of construction of the production phase of the site, a scheme to control and monitor noise emitted during the production phase from the pumping of gas and generation of electricity shall be submitted to Mineral Planning Authority for approval in writing. The scheme shall identify locations at which noise will be monitored, the means and frequency of monitoring; provide predicted noise levels, mitigation measures and verification methods to not exceed the BS4142; 2014 rating level daytime of 40 and BS142:2014 rating level night time 33 at Kellingley Farm, Weeland Road, Brears Farm and Calder Grange. Thereafter the noise emitted from the pumping and generation of electricity shall not exceed the permitted levels and shall be monitored at the approved monitoring points in accordance with the approved monitoring scheme, and at the request of the Mineral Authority, should complaints about noise levels be received. Should noise levels exceed the approved levels, the pumping of gas and generation of electricity shall cease until the source of noise has been identified and mitigation measures employed to ensure compliance with the approved levels. The approved mitigation measures shall thereafter be employed on the site to ensure compliance with the approved noise levels.

Reason: To protect the amenities of the area

21. Prior to the commencement of electricity generation, details of the 4.5m 'Acoustic Screen' shown on Drawing Number 14-2528-404 Rev J surrounding the perimeter of the south, north and east elevations surrounding the generator containers, transformers and cooling radiators, shall be submitted to the Mineral Planning Authority for approval in writing. The 'Acoustic Screen' shall have a surface mass of not less than 17kgm² and shall be free from gaps and cracks. Any joins in the 'Acoustic Screen' and joint between the lower edge of the 'Acoustic Screen' and the ground shall be effectively sealed. The 'Acoustic Screen' shall be constructed in accordance with the approved details prior to the commencement of electricity generation and shall thereafter be retained and maintained throughout the production phase of the development.

Reason: *To protect the amenities of the area.*

Hours

22. No delivery or removal of materials, plant and equipment, construction of the access and site associated with the exploration, appraisal and development and restoration phases of the development shall take place, except between the hours of:

07:30 – 18:00 hours Monday to Fridays (except Bank or Public Holidays)

07:30 – 13:00 hours on Saturdays (except Bank or Public Holidays)

No delivery or removal of materials, plant and equipment, construction of the access and site associated with the exploration, appraisal and development and restoration phases of the development shall take place on Sundays or Bank or Public Holidays except in exceptional circumstances and subject to the prior agreement with the Mineral Planning Authority.

This condition shall not apply to the operations associated with the drilling of the borehole and well operations or the use of pumping equipment, flaring, the carrying out of essential repairs to plant, machinery and equipment used on the site and the management of the drilling and flow testing and flaring operations or exceptional circumstances referred to above.

Reason: *In the interests of highway safety and to protect the amenities of the area.*

Lighting

23. No development shall commence until a scheme and programme for the external lighting/floodlighting of the site during the exploration, appraisal and operational

phases of the development has been submitted to and approved in writing by the Mineral Planning Authority. The scheme and programme shall include details of the:

- a) Type and intensity of the lights;
- b) Types of masking or baffle at head;
- c) Type, height and colour of lighting columns
- d) Location, number and size of lighting units per column
- e) Light spread diagrams showing lux levels at the site boundary and calculation of the impact of these on nearby sensitive receptors
- f) Phasing of the implementation of the approved scheme relative to the phases of development to ensure the minimum lighting necessary is employed throughout the respective phases.

Thereafter the lighting shall be erected and operated in accordance with the approved scheme and programme throughout the operational life of the site.

Reason: This is a pre-commencement condition required to protect the amenities of the area.

Controls Over Buildings/Plant

24. No development shall commence until details of the colours of the external cladding or finish of the buildings, security fencing, cladding to plant and machinery and solid noise attenuation measures to plant and equipment, that would be present on the site throughout all phases of the development, commencing from the construction of the access to the site, have been submitted to and approved in writing by the Mineral Planning Authority. The buildings, security fencing, cladding to plant and machinery and, solid noise attenuation measures to plant and equipment within the control of the developer shall be painted in the approved colour(s) prior to or within 2 weeks of their arrival on the site and thereafter maintained in the same colour(s), throughout their presence on the site with the exception of plant and equipment required for short duration associated with well drilling and flaring operation activities.

Reason: This is a pre-commencement condition required to protect the visual amenities of the area.

25. The drill rig and any other similar plant and equipment associated with the drilling of the borehole and monitoring of the borehole shall not exceed a height of 35m as measured from the site compound ground level unless otherwise agreed in writing by the Mineral Planning Authority.

Reason: To protect the visual amenities of the area.

Drainage

26. No development shall commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable drainage shall be employed wherever possible. The approved scheme shall be implemented in accordance with the approved phasing. No part or phase of the development shall be brought into use until the drainage works approved for that part or phase have been completed after which they shall be maintained for the duration of each phase throughout the operational life of the site.

Reason: This is a pre-commencement condition required to ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk.

Runoff

27. No development of the production phase for the purposes of condition 2g) shall commence until a scheme restricting the rate of development flow runoff from the site has been submitted to and approved in writing by the Mineral Planning Authority. The flowrate from the site shall be restricted to the calculated greenfield runoff rate or to the nominal 1.4 litres per second per hectare. A 30% allowance shall be included for climate change effects and a further 10% for urban creep for the lifetime of the development. Storage shall be provided to accommodate the minimum 1 in 100 year plus climate change critical storm event. The scheme shall include a detailed maintenance and management regime for the storage facility. No part of the development shall be brought into use until the development flow restriction works comprising the approved scheme have been completed. The approved maintenance and management scheme shall be implemented throughout the operational life of the development.

Reason: This is a pre-commencement condition required to mitigate the risk of flood impact from the development proposals and ensure that flood risk is not increased elsewhere.

28. No development of the production phase for the purposes of condition 2g) shall commence until a maintenance plan of the proposed SuDS drainage scheme arrangement has been submitted to and approved in writing by the Mineral Planning Authority. The plan shall demonstrate that the surface water drainage system(s) is designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement document) attached to and forming part of this permission. The approved maintenance plan shall thereafter be implemented throughout the life of the site.

Reason: This is a pre-commencement condition required to prevent the increased risk of flooding and to ensure the future maintenance of the sustainable drainage system.

29. Any chemical, oil or fuel storage containers on the site shall be sited on an impervious surface with bund walls; the bunded areas shall be capable of containing 110% of the container(s) total volume and shall enclose within their curtilage all fill and draw pipes, vents, gauges and sight glasses. There must be no drain through the bund floor or walls. Double-skinned tanks may be used as an alternative only when the Mineral Planning Authority has first approved the design and construction in writing.

Reason: To safeguard local drainage systems and prevent the pollution of groundwater and adjacent land.

Archaeology

30. No development shall commence until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the Mineral Planning Authority. The scheme shall include an assessment of significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
 - b) The programme for post investigation assessment;

- c) Provision to be made for analysis of the site investigation and recording;
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- e) Provision to be made for archive deposition of the analysis and records of the site investigation; and
- f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Archaeological Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Archaeological Investigation.

No development shall commence until site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Archaeological Investigation and the provision made for analysis, publication (including the opportunity for a site open day and press release where very significant remains are found) and dissemination of results and archive deposition has been secured.

Reason: This is a pre-commencement condition required to protect the archaeological heritage of the area

Landscaping

31. No development shall commence until a scheme and programme for the landscaping of each phase of the site has been submitted to and approved in writing by the Mineral Planning Authority for approval in writing. The landscaping scheme shall include details of:
- a) Details for the planting of trees and shrubs including numbers, types and sizes of species to be planted, location and layout of planting areas, protection measures and methods of planting.
 - b) Details for the seeding of any landscaping areas including mixes to be used and rates of application.
 - c) Details for the management of any landscaping areas including maintenance of tree and shrub planting and grazing or mowing of seeded areas.
 - d) Details of trees and shrubs that are to be retained post restoration of the site.

The approved scheme and programme shall be implemented in the first available planting season following the commencement of development and shall thereafter be maintained for a period of five years including weed control, replacement of dead and dying trees and shrubs with species of similar size and species and maintenance of protection measures.

Reason: This is a pre-commencement condition required in the interests of visual amenity of the area.

Ecological Mitigation and Enhancement Plan

32. Prior to commencement of development, a detailed ecological mitigation and enhancement plan shall be submitted to the Mineral Planning Authority for approval in writing. The plan shall include details of measures to be employed during the construction and operational phases, together with details of vegetation protection measures, as well as detail on the habitats and features created on the site as biodiversity enhancement, including the provision of bat boxes and bird boxes and their respective number and locations, including how these habitats will be managed in the long term. The approved ecological mitigation plan shall thereafter be

implemented in full and measures employed there in shall be maintained throughout the operational life of the site.

Reason: This is a pre-commencement condition required to protect and enhance the biodiversity of the area.

Restoration

33. Restoration of the site shall be carried out:

- (i) within twelve (12) months of the cessation of gas production; or
 - (ii) within twelve (12) months of the cessation of generation of electricity; or
 - (iii) within twelve (12) months following abandonment of the site;
- Whichever is the sooner, in accordance with the following:

- a) All plant, buildings, hard standings and aggregates / hardcore including any geo textile membrane and including the access and access road and any interconnections to the national electricity grid shall be removed from the land.
- b) The upper layers of the subsoil material shall be ripped to a depth of 600mm with a heavy-duty winged instrument in two directions to ensure the removal of material injurious to plant life and any rock, stone, boulder or other material(s) capable of preventing or impeding normal agricultural land drainage operations, including mole ploughing and subsoiling. Any rock, stone, boulder or other material encountered shall either be buried at depth or removed from the site.
- c) Following the treatment of the subsoil, topsoil shall be replaced over the site to a minimum depth of 150mm and shall be ripped, cultivated and left in a state that will enable the land to be brought back to a standard fit for agricultural use.

Reason: To secure the proper restoration of the site to agriculture at the earliest opportunity.

34. On completion of restoration of the site and removal of the access road, the access to the A465 shall be reduced to a single agricultural access in accordance with a scheme to be first submitted to and agreed in writing by the Mineral Planning Authority.

Reason: To secure the proper restoration of the site and in the interests of the visual amenity of the area and highway safety.

35. On completion of restoration of the site and removal of the access road, the access to the A465 shall be reduced to a single agricultural access in accordance with a scheme to be first submitted to and agreed in writing by the Mineral Planning Authority.

Reason: To secure the proper restoration of the site and in the interests of the visual amenity of the area and highway safety.

Aftercare

36. Within 3 months of the certification in writing by the Mineral Planning Authority of the completion of restoration (the date when the Mineral Planning Authority) certifies in writing that the works of restoration have been completed satisfactorily) a scheme and programme for the aftercare of the site for a period of 5 years to promote the agricultural afteruse of the site shall be submitted to the Mineral Planning Authority for approval in writing. The scheme and programme shall contain details of the following:

- a) Maintenance and management of the restored site to promote its agricultural use.
- b) Weed control where necessary.
- c) Measure to relieve compaction or improve drainage.
- d) Maintenance and replacement of trees and shrubs, weed control and re-staking.
- e) An annual inspection to be undertaken in conjunction with representatives of the Mineral Planning Authority to assess the aftercare works that are required the following year.

Reason: To secure the proper aftercare of the site.

INFORMATIVES

You are advised that a separate licence will be required from the Highway Authority in order to allow any works in the adopted highway to be carried out. The 'Specification for Housing and Industrial Estate Roads and Private Street Works' published by North Yorkshire County Council, the Highway Authority, is available at the County Council's offices. The local office of the Highway Authority will also be pleased to provide the detailed constructional specification referred to in this condition.

Public rights of way are to be kept open for public use at all times throughout the exploration, appraisal and production phases of the development.

The grant of planning permission does not remove the need to obtain the relevant statutory consents/licences from the Environment Agency, the Oil and Gas Authority and the Health and Safety Executive.

Statement of Compliance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

In determining this planning application, the County Planning Authority has worked with the applicant adopting a positive and proactive manner. The County Council offers the opportunity for pre-application discussion on applications and the applicant, in this case, chose to take up this service. Proposals are assessed against the National Planning Policy Framework, Replacement Local Plan policies and Supplementary Planning Documents, which have been subject to proactive publicity and consultation prior to their adoption. During the course of the determination of this application, the applicant has been informed of the existence of all consultation responses and representations made in a timely manner which provided the applicant/agent with the opportunity to respond to any matters raised. The County Planning Authority has sought solutions to problems arising by liaising with consultees, considering other representations received and liaising with the applicant as necessary. Where appropriate, changes to the proposal were sought when the statutory determination timescale allowed.

K BATTERSBY

Corporate Director, Business and Environmental Services
Growth, Planning and Trading Standards

Background Documents to this Report:

1. Planning Application Ref Number: (NY/2017/0219/FUL) registered as valid on Application documents can be found on the County Council's Online Planning Register by using the following web link:

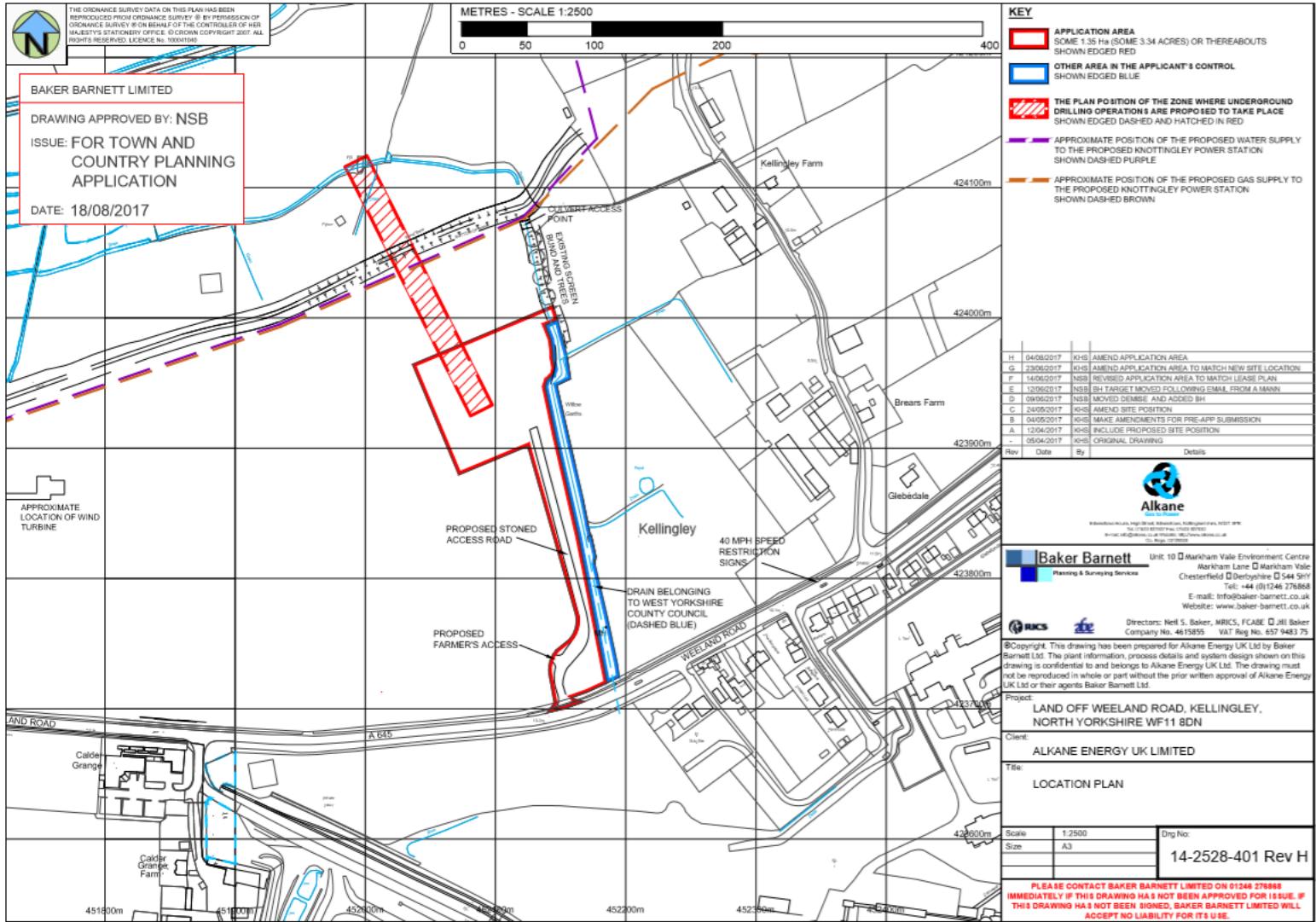
<https://onlineplanningregister.northyorks.gov.uk/register/>

Land off Weeland Road Committee Report

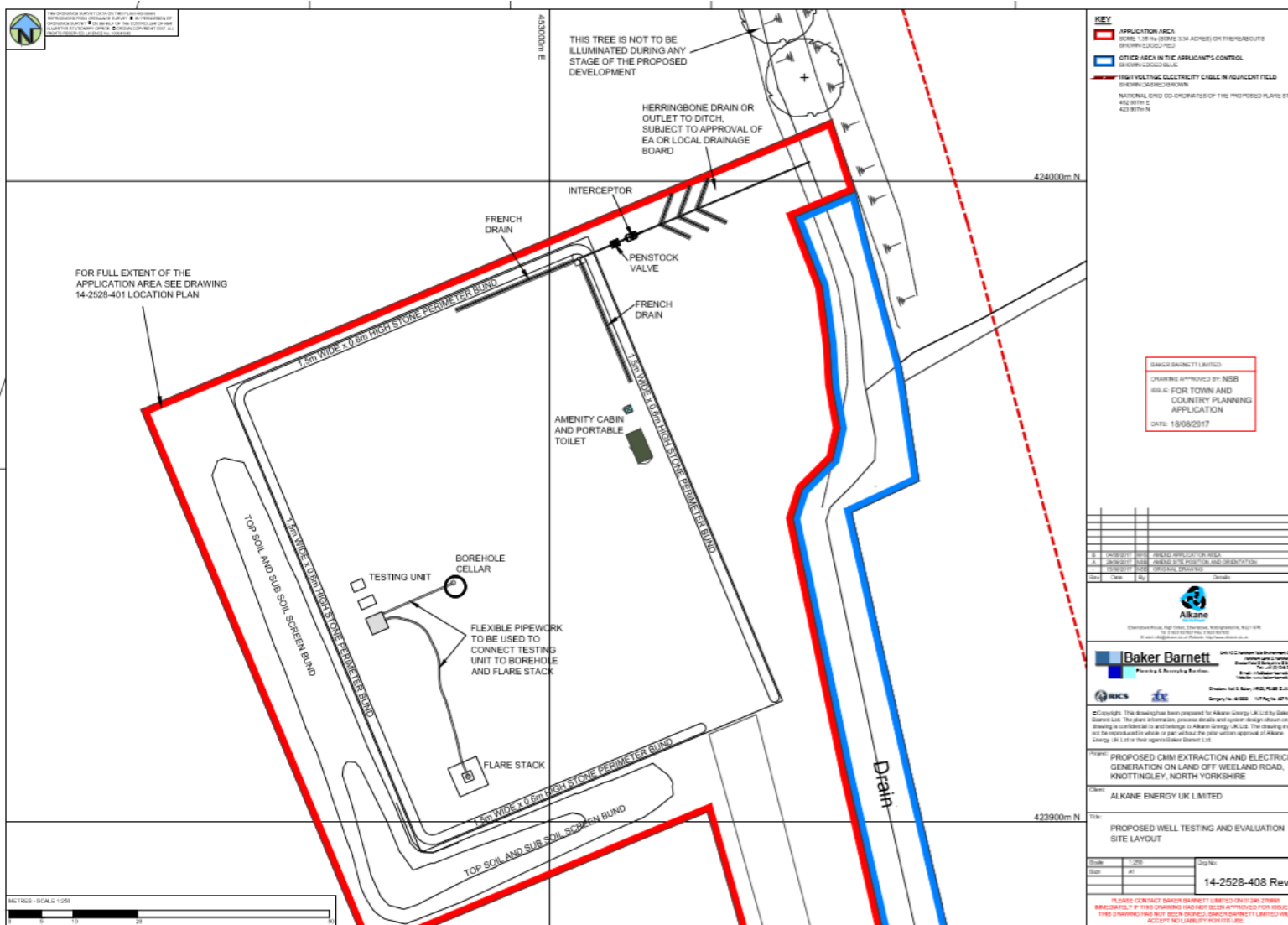
2. Consultation responses received.
3. Representations received.

Author of report: Stuart Perigo

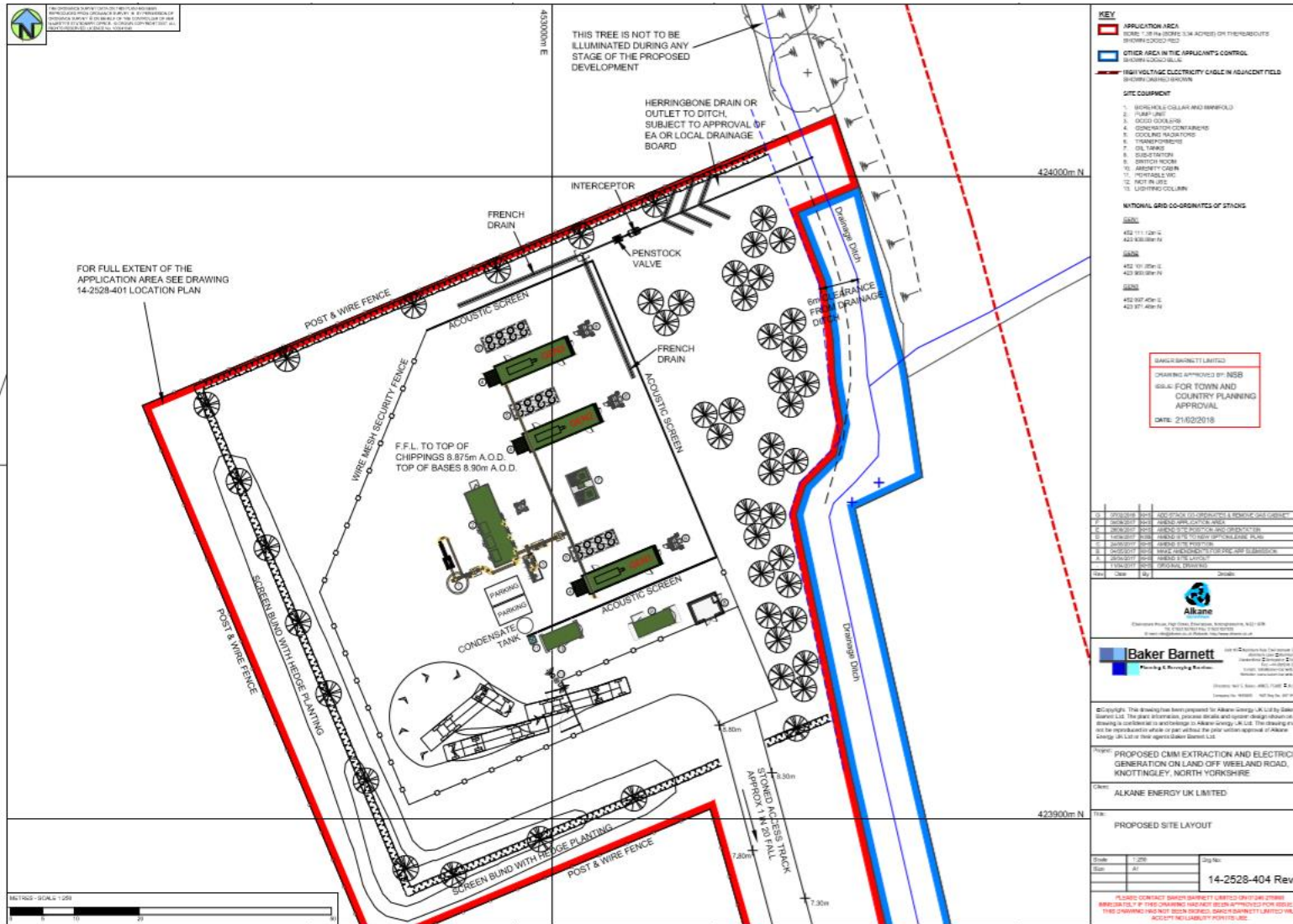
APPENDIX 1 LOCATION PLAN



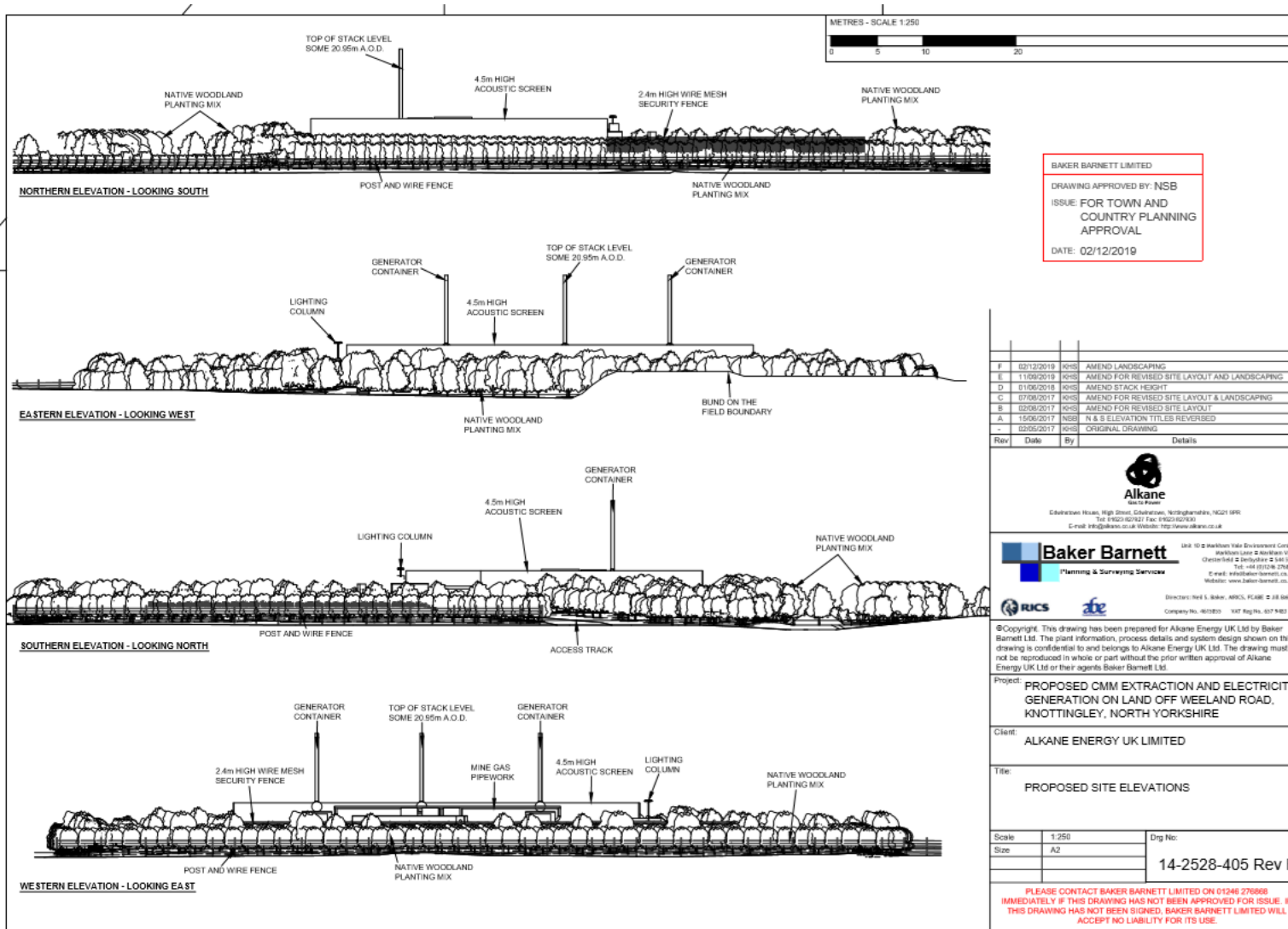
APPENDIX 3 EVALUATION AND APPRAISAL LAYOUT



APPENDIX 3 PRODUCTION LAYOUT



APPENDIX 4 PROPOSED ELEVATIONS IN THE PRODUCTION PHASE



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 ISSUE: FOR TOWN AND COUNTRY PLANNING APPROVAL
 DATE: 02/12/2019

Rev	Date	By	Details
F	02/12/2019	KHS	AMEND LANDSCAPING
E	11/09/2019	KHS	AMEND FOR REVISED SITE LAYOUT AND LANDSCAPING
D	01/06/2018	KHS	AMEND STACK HEIGHT
C	07/09/2017	KHS	AMEND FOR REVISED SITE LAYOUT & LANDSCAPING
B	02/08/2017	KHS	AMEND FOR REVISED SITE LAYOUT
A	15/06/2017	NSB	N & S ELEVATION TITLES REVERSED
-	02/05/2017	KHS	ORIGINAL DRAWING

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Project: PROPOSED CMM EXTRACTION AND ELECTRICITY GENERATION ON LAND OFF WEELAND ROAD, KNOTTINGLEY, NORTH YORKSHIRE

Client: ALKANE ENERGY UK LIMITED

Title: PROPOSED SITE ELEVATIONS

Scale	1:250	Dwg No:	
Size	A2		14-2528-405 Rev F

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