



Meeting: **PLANNING COMMITTEE**  
Date: **WEDNESDAY, 20 MARCH 2019**  
Time: **2.00 PM**  
Venue: **COUNCIL CHAMBER - CIVIC CENTRE, DONCASTER ROAD, SELBY, YO8 9FT**  
To: **Councillors J Cattanach (Chair), D Peart (Vice-Chair), L Casling, I Chilvers, J Deans, R Musgrave, R Packham, P Welch and D White**

## Agenda

- 1. Apologies for Absence**
- 2. Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

- 3. Chair's Address to the Planning Committee**
- 4. Suspension of Council Procedure Rules**

The Planning Committee is asked to agree to the suspension of Council Procedure Rules 15.1 and 15.6(a) for the committee meeting. This facilitates an open debate within the committee on the planning merits of the application without the need to have a proposal or amendment moved and seconded first. Councillors are reminded that at the end of the debate the Chair will ask for a

proposal to be moved and seconded. Any alternative motion to this which is proposed and seconded will be considered as an amendment. Councillors who wish to propose a motion against the recommendations of the officers should ensure that they give valid planning reasons for doing so.

**5. Minutes (Pages 1 - 10)**

To confirm as a correct record the minutes of the Planning Committee meeting held on 6 February 2019.

**6. Planning Applications Received (Pages 13 - 14)**

**6.1. 2017/0219/FUL - New House, Wistowgate, Cawood, Selby (Pages 15 - 30)**

**6.2. 2018/0631/COU - Gale Common Moto Park, Whitefield Lane, Whitley (Pages 31 - 50)**

**6.3. 2018/0818/EIA - Gascoigne Rail Freight Interchange, Former Gascoigne Wood Mine, New Lennerton Lane, Sherburn in Elmet (Pages 51 - 70)**

Please note that Appendices 1, 2 and 3 to this report are collated in a separate document pack for ease of reference.

**6.4. 2018/0898/EIA - Kingspan Insulation Ltd., Enterprise Way, Sherburn in Elmet (Pages 71 - 90)**

**6.5. 2018/1108/FUL - Land to Rear Of, The Lodge, 23 Selby Road, Riccall (Pages 91 - 106)**

*Janet Waggott*

**Janet Waggott, Chief Executive**

<b>Dates of next meetings (2.00pm)</b>
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Wednesday, 3 April 2019
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Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or [vforeman@selby.gov.uk](mailto:vforeman@selby.gov.uk).

## **Recording at Council Meetings**

Recording is allowed at Council, Committee and Sub-Committee meetings which are open to the public, subject to:- (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer on the above details prior to the start of the meeting. Any recording must be conducted openly and not in secret.

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# Agenda Item 5



## Minutes

### Planning Committee

Venue:	Council Chamber - Civic Centre, Doncaster Road, Selby, YO8 9FT
Date:	Wednesday, 6 February 2019
Time:	2.00 pm
Present:	Councillor J Cattanach in the Chair  Councillors D Peart (Vice-Chair), I Chilvers, J Deans, R Musgrave, R Packham and P Welch, I Reynolds and D Buckle
Officers Present:	Martin Grainger, Head of Planning, Ruth Hardingham, Planning Development Manager, Mandy Cooper, Principal Planning Officer, Jenny Tyreman, Senior Planning Officer, Paul Edwards, Principal Planning Officer, Sarah Morton, Solicitor, North Yorkshire County Council, Glen Donaldson, North Yorkshire County Council Highways; and Dawn Drury, Democratic Services Officer
Press:	0
Public:	20

#### **56 APOLOGIES FOR ABSENCE**

The Democratic Services Officer informed the Committee that apologies had been received from Councillors Casling and White.

It was noted that Councillor Buckle was in attendance as a substitute for Councillor Casling and Councillor Reynolds was in attendance as a substitute for Councillor White.

#### **57 DISCLOSURES OF INTEREST**

Councillor D Peart declared a personal interest in agenda item 6.5 – 2018/0646/FUL – A19 Caravan Storage Limited, Hazel Old Lane, Hensall as he used to be a business partner of the applicants father. Councillor Peart confirmed that he would not take part in the debate or vote.

Councillor I Reynolds declared a personal interest in agenda item 6.1 – 2018/0051/FULM – Park Farm, Main Street, Skipwith as he had been involved with the site with a previous owner. Councillor Reynolds confirmed that he would not take part in the debate or vote.

Councillor D Peart informed the Committee that he had received photographs of the site by email from an objector; Councillor R Musgrave confirmed that he had also received the photographs.

## **58 CHAIR'S ADDRESS TO THE PLANNING COMMITTEE**

Members were asked to note that application 6.6 - 2018/1108/FUL – Land to the Rear of the Lodge, 23 Selby Road, Riccall, had been withdrawn from the agenda and would therefore not be considered at this meeting.

An officer update note had been circulated, and the order of business had been amended to reflect the number of speakers on each item. The order of business would be as follows:

1. 2018/0681/FULM – Viner Station, Roe Lane, Birkin
2. 2018/0415/OUT – 4 Sutton Lane, Byram, Knottingley
3. 2018/0051/FULM – Park Farm, Main Street, Skipwith
4. 2018/0226/FUL – East End Cottage, Main Street, Thorganby
5. 2018/0398/FUL – Partridge Hill Farm, Oxmoor Lane, Church Fenton
6. 2018/0646/FUL – A19 Caravan Storage Limited, Hazel Old Lane, Hensall
7. 2018/1111/FULM – Dovecote Park, Bankwood Road, Stapleton

## **59 SUSPENSION OF COUNCIL PROCEDURE RULES**

The Committee considered the suspension of Council Procedure Rules 15.1 and 15.6 (a) to allow for a more effective discussion when considering planning applications.

### **RESOLVED:**

**To suspend Council Procedure Rules 15.1 and 15.6 (a) for the duration of the meeting.**

## **60 MINUTES**

The Committee considered the minutes of the Planning Committee meeting held on 16 January 2019.

### **RESOLVED:**

**To approve the minutes of the Planning Committee meeting held on 16 January 2019 for signing by the Chairman.**

## 61 PLANNING APPLICATIONS RECEIVED

The Committee considered the following applications:

### 62 2018/0681/FULM - VINER STATION, ROE LANE, BIRKIN

**Application:** 2018/0681/FULM

**Location:** Viner Station, Roe Lane, Birkin.

**Proposal:** Retrospective application for works as outlined in the report.

The Planning Development Manager presented the application which had been brought to Committee at the decision of the Head of Planning.

The Committee noted that the application was a retrospective application for different works as outlined in the report.

The Planning Development Manager informed the Committee that since the report had been written, the applicant had sought to speak with North Yorkshire Highways regarding alternative approach routes to the site. It was explained that the Local Highways Authority had taken into account the width and condition of the surrounding roads and with the intensified use of the site it was felt that the works were unsustainable for the open countryside location.

In relation to the officer update note, the Committee was informed that since the finalisation of the report there had been further consultation with the North Yorkshire County Council (NYCC) Sustainable Urban Drainage Officer (SuDS), who had recommended that the application be refused on the grounds recorded in the update report. It was noted that the applicant had submitted further information, however the NYCC SuDS officer had felt that there was still insufficient information to overcome previous concerns raised.

In response to member queries regarding alternative routes, the NYCC Highways Officer confirmed that the applicant had responded with three suggestions however no further information had been received.

David White, resident, spoke in objection to the application.

Julie Sadler, representing Hillam Parish Council, spoke in objection to the application.

Councillor John Mackman, Ward Councillor, spoke in objection to the application.

Mark Richmond, agent, spoke in support of the application.

Members queried that the report referred to SP2, however this was not listed in the reasons for refusal. The Planning Development Manager explained that SP2 allows for certain types of development within the open countryside such as the re-using of existing buildings, however Policy S13 of the Core Strategy would not allow such intensification within this countryside location. The

Committee agreed that the application seemed to be industrialisation of this site which was clearly unsustainable in this open countryside location.

Members queried why the applicant thought the highways issue had been resolved. The NYCC Highways Officer confirmed that the applicants suggestion of alternative sites such as Austfield Lane or Fox Lane could be a solution, however nothing further had been supplied by the applicant for assessment by the NYCC Highways Officer.

Members felt the application was an industrial development in the wrong location, and in an agricultural building. It was further noted that only one boiler would be required for farming purposes, and would only be used intermittently. The members also raised concerns over the impact on the existing highway network.

It was proposed, and seconded that the application be refused in line with the officers recommendation.

**RESOLVED:**

**To REFUSE the application for the reasons set out in Section 6 of the report.**

**63 2018/0415/OUT - 4 SUTTON LANE, BYRAM, KNOTTINGLEY**

**Application:** 2018/0415/OUT

**Location:** 4 Sutton Lane, Byram, Knottingley.

**Proposal:** Outline planning application for residential development of 4no 2 bedroom town houses and 2no 3 bedroom houses to include details of access and scale at number 6 (Including access and scale)

The Principal Planning Officer presented the application which had been brought to Committee as at least 10 letters of representation had been received which raised material planning considerations and officers would otherwise determine the application contrary to these representations.

The Committee noted that the application was an outline planning application for residential development of 4no 2 bedroom town houses and 2no 3 bedroom houses to include details of access and scale at number 6 (Including access and scale)

In relation to the officer update note, the members were informed that the application number on the report was incorrect and should read 2018/0415/OUT, and that the whole of the site was greenfield. They were further informed that the application proposals did not include any details with all matters reserved and therefore all conditions relating to highways had been removed from the application, namely conditions 8, 9 and 13; and the application was no longer subject to a Section 106 Agreement.

The members queried the close proximity of the other dwellings and whether the application required a working hours condition. The Principal Planning

Officer confirmed that the application was only at the outline stage and therefore conditions could be added if the Committee felt it necessary.

Members asked for clarification regarding concerns over poor visibility at the access to the site with reference to a hedge and in particular, if the residents of the neighbouring property refused to cut the hedge would the visibility still be achieved. The Principal Planning Officer confirmed that the issue would be addressed at the reserved matters stage of the application; it was also highlighted that Highways had raised no concerns or comments, but had recommended conditions relating to visibility splays along with the requirement for a Construction Management Plan. It is worth noting however, that it would be difficult to achieve a good level of visibility from the site due to confines of the existing red line.

John Wilby, resident, spoke in objection to the application.

Ian Wharton, applicant, spoke in support of the application.

The Committee felt that it would be appropriate to impose an additional condition to restrict construction/working hours in order to protect the amenity of neighbouring properties.

It was proposed, and seconded that the application be approved.

**RESOLVED:**

**To GRANT the application subject to the conditions set out in Section 15 of the report; and an additional condition relating to restricting working hours, in order to protect the amenity of neighbouring properties.**

**64 2018/0051/FULM - PARK FARM, MAIN STREET, SKIPWITH**

**Councillor Ian Reynolds did not take part in the debate or vote, as per his earlier declaration.**

**Application:** 2018/0051/FULM

**Location:** Park Farm, Main Street, Skipwith, Selby.

**Proposal:** Erection of 14 dwellings with associated access, garages and parking.

The Principal Planning Officer presented the application which had been brought to Committee as the application was a departure from the Development Plan and there were material considerations which would support the recommendation for approval.

The Committee noted that the application was for the erection of 14 dwellings with associated access, garages and parking.

The Committee was informed that there was an existing planning consent in place which justified approval; it was confirmed that the current scheme was

also an improvement on the existing approval.

In relation to the officer update note, the Committee acknowledged that since the report had been written, officers had received an update on the issue of parking for disabled residents which had not been addressed by the applicant. The Committee was informed that the applicant had made two suggestions, however the first had been rejected and the second suggestion had not been followed up by the applicant and the planning department had not been approached regarding the matter.

The Committee was informed that the following errors had been made in the report:

- The amount of units contained within the eastern parcel in the report as it should be 11 rather than 12.
- With reference to Policy SP9, Section C (sites below the threshold of 10 dwellings), the Committee was informed that it should refer to point B which refers to the threshold of above 10 dwellings where the Council would seek provision of up to 40% of Affordable Housing. It was confirmed that the scheme proposed 14% of affordable housing to be offered at 20% less than market value. The Principal Planning Officer explained that, officers were of the view that the proposed scheme offered higher quality in terms of design and layout and on this basis, it was the officer's view that the same provision was held.

Jennifer Hubbard, agent, spoke in support of the application.

Members queried whether there was a time limit before the property could be re-sold. The Principal Planning Officer confirmed that the property would not be held in perpetuity, but it was something that could be addressed in the proposed section106 agreement. In response to this, the view of the Committee was that it should be written into the agreement.

It was proposed, and seconded that the application be approved.

**RESOLVED:**

**To GRANT the application subject to the completion of a Section 106 agreement, and subject to the conditions set out at Section 15 of the report.**

**65 2018/0226/FUL - EAST END COTTAGE, MAIN STREET, THORGANBY**

**Application:** 2018/0226/FUL

**Location:** East End Cottage, Main Street, Thorganby.

**Proposal:** Proposed demolition of existing dwellings, outbuildings and garages and the erection of 3 No. residential dwellings, garages and associated works and infrastructure (amendment to planning permission 2016/1029/FUL).

The Senior Planning Officer presented the application which had been brought back to Committee following consideration at the 6<sup>th</sup> June 2018 meeting, where Members had deferred the application in order for Officers to give further consideration to the application.

The Committee noted that the application was for the proposed demolition of existing dwellings, outbuildings and garages and the erection of 3 No. residential dwellings, garages and associated works and infrastructure (amendment to planning permission 2016/1029/FUL).

The Committee was informed that this item had been deferred from the June Committee as evidence had been received that some buildings had been demolished without planning permission being sought, it was confirmed that no further representations had been received from neighbouring properties since the June meeting.

Members noted that a condition relating to surface water drainage works referred to in the original report had been omitted from the conditions list; therefore an additional condition needed to be added as set out in the officer update note.

In response to a query regarding the Barn Owls, the Senior Planning Officer confirmed that the demolition of the outbuildings had not been done in strict accordance with the mitigation measures set out in Section 7 of the Bat Survey Report. However, following advice from the County Ecologist, an updated Ecological Survey Report in Relation to Barn Owls (reference: CE0550) undertaken by Curtis Ecology dated 12 December 2018 had been submitted. The County Ecologist was satisfied with the updated Barn Owl Report, subject to a condition requiring the development to be carried out in accordance with the mitigation measures set out within the updated report.

Killian Gallagher, agent, spoke in support of the application.

Members agreed that the design and layout of the site was as good as was previously approved; and therefore supported the officers recommendation.

It was proposed, and seconded that the application be approved.

**RESOLVED:**

**To GRANT the application subject to the conditions detailed in paragraph 6.0 of the report, and the additional condition set out in the Officer Update Note.**

**66 2018/0398/FUL - PARTRIDGE HILL FARM, OXMOOR LANE, CHURCH FENTON**

**Application:** 2018/0398/FUL

**Location:** Partridge Hill Farm, Oxmoor Lane, Church Fenton.

**Proposal:** Proposed conversion of an agricultural barn building into a residential dwelling and necessary associated operational and remedial works

including demolition of redundant agricultural buildings

The Principal Planning Officer presented the application which had been brought to Committee since it did not accord with development plan policy in that the proposed rear extension would involve extensive removal of existing lean-to structures. Since this was all to be within the existing footprint of the current developed area, it was considered that there were material considerations which support the application and the recommendation for approval.

The Committee noted that the application was for the proposed conversion of an agricultural barn building into a residential dwelling and necessary associated operational and remedial works including demolition of redundant agricultural buildings.

Adam Gibbons, agent, spoke in support of the application.

Members noted that at present the building was an eyesore, and would be happy to see it re-developed and brought back into use; while all within the original footprint.

It was proposed, and seconded that the application be approved.

**RESOLVED:**

**To GRANT the application subject to the conditions detailed in paragraph 6.0 of the report.**

**67 2018/0646/FUL - A19 CARAVAN STORAGE LIMITED, HAZEL OLD LANE, HENSALL**

**Councillor Dave Peart did not take part in the debate or vote, as per his earlier declaration.**

**Application:** 2018/0646/FUL

**Location:** A19 Caravan Storage Limited, Hazel Old Lane, Hensall.

**Proposal:** Proposed erection of a two storey dwelling and detached double garage

The Principal Planning Officer presented the application which had been brought to Committee as the application was recommending approval contrary to Policy SP2 of the Core Strategy.

The Committee noted that the application was for the proposed erection of a two storey dwelling and detached double garage.

In relation to the officer update note, the Committee was informed that the applicants had confirmed that the site construction access and compound would now be accessed through the existing gap in the bund to the north. Due to this, it was explained that the conditions as drafted could be amended to ensure that the commencement of development was not prevented by the



need for the site access and site visibility to be provided.

The members were happy to support the officer's recommendation.

It was proposed, and seconded that the application be approved.

**RESOLVED:**

**To GRANT the application subject to the conditions detailed in paragraph 6.0 of the report, and the amendments contained within the officer update note.**

**68 2018/1111/FULM - DOVECOTE PARK, BANKWOOD ROAD, STAPLETON**

**Application:** 2018/1111/FULM

**Location:** Dovecote Park, Bankwood Road, Stapleton.

**Proposal:** Proposed construction of an extension to the existing facility to provide a new burger production building.

The Principal Planning Officer presented the application which had been brought to Committee because it constituted inappropriate development within the Green Belt.

The Committee noted that the application was for the proposed construction of an extension to the existing facility to provide a new burger production building.

The Committee supported the officer's recommendations.

It was proposed, and seconded that the application be approved.

**RESOLVED:**

- i) To be minded to APPROVE the application;**
- ii) To give authority to refer this application to the Secretary of State under the 2009 Consultation Direction with the indication that the authority is minded to approve it subject to the conditions set out in paragraph 7 of the report;**
- iii) To give the Planning Development Manager delegated authority in the event that the application is not called-in to approve this application in accordance with the conditions set out below and subject to any necessary changes to them subsequent to the Minister's decision, or**
- iv) In the event that the application is called-in a further report will come to Committee to outline the authority's case in support and the other and financial implications.**

The meeting closed at 4.00 pm.

## Planning Committee

### Guidance on the conduct of business for planning applications and other planning proposals

1. The reports are taken in the order of business on the agenda, unless varied by the Chairman. The Chairman may amend the order of business to take applications with people registered to speak, first, so that they are not waiting. If the order of business is going to be amended, the Chairman will announce this at the beginning of the meeting.
2. There is usually an officer update note which updates the Committee on any developments relating to an application on the agenda between the publication of the agenda and the committee meeting. Copies of this update will be situated in the public gallery and published on the Council's website.
3. People wishing to speak at Planning Committee cannot hand out documentation to members of the Committee. Photographs may be handed out provided that a minimum of 20 copies have been delivered to the Council by 12 noon on the last working day prior to the meeting. You can contact the Planning Committee members directly. All contact details of the committee members are available on the relevant pages of the Council's website: <https://democracy.selby.gov.uk/mgCommitteeDetails.aspx?ID=135>
4. Each application will begin with the respective Planning Officer presenting the report including details about the location of the application, outlining the officer recommendations and answering any queries raised by members of the committee on the content of the report.
5. The next part is the public speaking process at the committee. The following may address the committee for **not more than 5 minutes each**:
  - (a) The objector
  - (b) A representative of the relevant parish council
  - (c) A ward member
  - (d) The applicant, agent or their representative.

**NOTE:** Persons wishing to speak on an application to be considered by the Planning Committee should have registered to speak with the Democratic Services Officer (contact details below) **by no later than 3pm on the Monday before the Committee meeting (this will be amended to the Tuesday if the deadline falls on a bank holiday).**

6. Seating for speakers will be reserved on the front row. Anyone registered to speak (e.g. Ward Members and those speaking on behalf of objectors, parish councils, applicants/agents or any other person speaking at the discretion of

the Chairman) should sit on the reserved front row of the public seating area. This is for ease of communication between the committee and the speaker, should any issues need to be clarified later in the proceedings; it is not an opportunity to take part in the debate of the committee.

7. Each speaker should restrict their comments to the relevant planning aspects of the proposal and should avoid repeating what has already been stated in the report. The meeting is not a hearing where all participants present evidence to be examined by other participants.
8. Following the public speaking part of the meeting, the members of the committee will then debate the application, consider the recommendations and then make a decision on the application.
9. The role of members of the planning committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons in accordance with the statutory planning framework and the Council's planning code of conduct.
10. For the committee to make a decision, the members of the committee must propose and second a proposal (e.g. approve, refuse etc.) with valid planning reasons and this will then be voted upon by the Committee. Sometimes the Committee may vote on two proposals if they have both been proposed and seconded (e.g. one to approve and one to refuse). The Chairman will ensure voting takes place on one proposal at a time.
11. This is a council committee meeting which is open to the public; however, there should be no disruption from the audience while the committee is in progress. Anyone disrupting the meeting will be asked to leave by the Chairman.
12. Recording is allowed at Council, committee and sub-committee meetings which are open to the public, subject to:
  - a. The recording being conducted with the full knowledge of the Chairman of the meeting; and
  - b. Compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer using the details below prior to the start of the meeting. Any recording must be conducted openly and not in secret.
13. The arrangements at the meeting may be varied at the discretion of the Chairman.

### **Contact**

Vicky Foreman – Democratic Services Officer

Email: [vforeman@selby.gov.uk](mailto:vforeman@selby.gov.uk)

Telephone: 01757 292046

# Agenda Item 6

## Items for Planning Committee

20 March 2019

Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2017/0219/FUL	New House, Wistowgate, Cawood, Selby	Proposed conversion of existing residential ancillary building to separate dwelling	RELE	15-30
6.2	2018/0631/COU	Gale Common Moto Park, Whitefield Lane, Whitley	Section 73A application to vary conditions 01 (approved plans), 02 (approved plans), 03 (approved plans), 05 (approved plans), 13 (operating times), 14 (operating times) and 15 (operating times) of application 2011/0751/COU – ('Section 73 application for the retrospective change of use of land from agricultural to motocross use (D2)')	PAED	31-50
6.3	2018/0818/EIA	Gascoigne Rail Freight Interchange Former Gascoigne Wood Mine New Lennerton Lane, Sherburn in Elmet	Outline planning application with all matters (scale, appearance and layout) except access and landscaping reserved for the demolition of existing colliery buildings and construction of up to 186,000 sq m (approx. 2,000,000 sq ft) of Class B2/B8 and associated Class B1 floor space with supporting container storage area and associated buildings, trackside facilities, access and landscaping.	PAED	51-70
6.4	2018/0898/EIA	Kingspan Insulation Ltd., Enterprise Way, Sherburn in Elmet	Section 73 application to vary condition 02 of approval 2016/1456/EIA Proposed Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant with 8000m2 Factory Extension and Associated Infrastructure	FIEL	71-90
6.5	2018/1108/FUL	Land to the Rear Of, The Lodge, 23 Selby Road, Riccall	Proposed erection of amenity block following demolition of existing stables	LAHO	90-106

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# Agenda Item 6.1



**Report Reference Number 2017/0219/FUL (8/35/56G/PA)**

**To: Planning Committee**  
**Date: 20 March 2019**  
**Author: Rebecca Leggott (Senior Planning Officer)**  
**Lead Officer: Ruth Hardingham (Planning Development Manager)**

APPLICATION NUMBER:	2017/0219/FUL	PARISH:	Cawood Parish Council
APPLICANT:	Mr Jon Sheard	VALID DATE:	29th September 2017
		EXPIRY DATE:	24th November 2017
PROPOSAL:	Proposed conversion of existing residential ancillary building to separate dwelling		
LOCATION:	New House Wistowgate Cawood Selby North Yorkshire YO8 3SL		
RECOMMENDATION:	APPROVE		

This application is to be determined by the Planning Committee since it does not accord with Policy H12 (1) of the Selby District Local Plan. This requires in that the conversion of rural buildings to residential use in the open countryside will only be permitted where (amongst other criteria) it can be demonstrated that the building or its location is unsuited to business use or there is no demand for buildings for those purposes in the immediate locality. Since the proposal would comply with all other relevant criteria, it is considered that there are material considerations which support the application and the recommendation for approval.

## 1. Introduction and background

### The Site

- 1.1 The application site is located outside of the development limits of Cawood and therefore located within the open countryside.
- 1.2 Further to this, the site includes part residential and part agricultural land and is located near to a number of existing residential properties which are surrounded by open fields.

## The Proposal

- 1.3 The application seeks to convert an existing rural building to a residential dwelling.
- 1.4 It is noted that the proposal description states that the outbuilding in question is a residential ancillary out building. The planning history makes clear that the land had an agricultural tie until 2017 and further to this an application was submitted in 2010 for the change of use of two agricultural outbuildings to use one building as motor mechanic garage and one building as metal fabrication business. Though there is no evidence to suggest that this was implemented. Furthermore, from a site visit it does not appear to be residential in use at present and therefore it is considered that it is more correctly described as a rural building.
- 1.5 Further to this, it is noted that the agent has submitted additional information in terms of the use of the building in question and considers that application reference, 2009/0217/CPE for a certificate of Lawful Development for continued non-compliance with agricultural occupancy, confirms the out buildings as being residential. However, confirmation has been provided to the agent that this certificate of lawfulness only relates to the non-compliance with the agricultural occupancy condition on the house within the wider curtilage of the site and therefore does not relate to the change of the use of the outbuildings to residential use.
- 1.6 The proposal would involve the retention of all external walls and roofing materials and would only involve internal works. Therefore, the proposal would not involve any significant external changes other than the insertion of a number of new openings.

## Planning History

- 1.7 The following historical applications are considered to be relevant to the determination of this application:
  - 2017/0583/FUL, Section 73 application for the removal of condition 4 of approval CO/1977/16373 (8/35/56A/PA) Erection of a dwelling house, garage and siting of implement shed for market garden. Permitted, 05.09.2017.
  - 2010/0803/COU, Change of use of two agricultural outbuildings to use one building as motor mechanic garage and one building as metal fabrication business. Permitted, 01.12.2010.
  - 2009/0217/CPE, Certificate of Lawful Development for continued non-compliance with agricultural occupancy. Permitted, 27.04.2009.
  - 2007/0112/FUL, Section 73 application to continue residential occupancy without complying with condition 4 of permission 8/35/56A/PA relating to agricultural occupancy. Withdrawn, 05.04.2007.
  - CO/1994/0741, Proposed erection of an attached garage and the creation of a new vehicular access. Permitted, 11.08.1994.



- CO/1977/16373, Erection of a Dwelling house Garage & Siting of Implement Shed for Market Garden
- CO/1976/16372, Outline App For The Erection Of House & Garage. Permitted, 22.12.1976.

## 2. Consultations and Publicity

- 2.1 The application has been advertised as a Departure through press and site notices and adjoining neighbours have been notified directly.
- 2.2 **Parish Council** – The Cawood Parish Council have raised no objections to the proposed development. However, the Parish Council have commented that the proposal description is incorrect as the building has never been a residential ancillary building, it is an outbuilding.
- 2.3 **North Yorkshire Bat Group** – No comments received within the statutory consultation period.
- 2.4 **The Environment Agency (Liaison Officer)** – The Environment Agency has raised no objections to the proposed development.
- 2.5 **Environmental Health** – Environmental Health have raised no objections to the proposed development. However have suggested an informative relating to the proposed use of a package treatment plant for the disposal of foul sewage as the installation of a new foul drainage system will require building regulation approval in addition to appropriate consent to discharge issued by the Environment Agency.
- 2.6 **Natural England** - Natural England has no comments to make on this application.
- 2.7 **Yorkshire Water** – No comments received within the statutory consultation period.
- 2.8 **NYCC Highways Canal Rd** – NYCC Highways have raised no objections to the proposed development.
- 2.9 **Selby Area Internal Drainage Board** – The IDB have raised no objections to the proposed development. However, the IDB have commented that the application may increase the impermeable area to the site. Therefore, the applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area.

The IDB's current guidelines for any increase in surface water discharge are as follows:-

- If the surface water were to be disposed of via a soakaway system, the IDB would have no objection in principle but would advise that the ground conditions in this area may not be suitable for soakaway drainage. It is therefore essential that percolation tests are undertaken to establish if the ground conditions are suitable for soakaway drainage throughout the year.
- If surface water is to be directed to a mains sewer system the IDB would again have no objection in principle, providing that the Water

Authority are satisfied that the existing system will accept this additional flow.

- If the surface water is to be discharged to any watercourse within the Drainage District, Consent from the IDB would be required in addition to Planning Permission, and would be restricted to 1.4 litres per second per hectare or green field runoff.
- No obstructions within 7 metres of the edge of a watercourse are permitted without Consent from the IDB.

2.10 **Natural England** – Natural England have no comments to make on this application.

2.11 **The Environment Agency (Liaison Officer)** - This application lies within flood zone 2 and is classed as more vulnerable. The applicant's flood risk assessment should be assessed in line with the NPPF and its associated planning practice guidance and the application complies with any local planning guidance, such as that within your strategic flood risk assessment.

2.12 **Council's Contaminated Land Consultant** – No objections subject to conditions.

2.13 **Neighbour Summary** – All immediate neighbours were informed by letter, a site notice was erected and an advert placed in the local press. It is noted that 13 replica letters of support with different signature were received in relation to the original proposals relating to the design and sustainability of the proposal. However, following re consultation on the amended scheme no comments were received.

### **3. Site Constraints and Policy Context**

#### **Constraints**

3.1 The site is in the open countryside without allocation.

#### **Policy Context**

3.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that *"if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise"*.

3.3 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. Paragraph 213 provides as follows:-

*"213. ....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

3.4 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

3.6 The principal Core Strategy Policies are:

- SP1 - Presumption in Favour of Sustainable Development
- SP2 - Spatial Development Strategy
- SP19 - Design Quality

3.7 Policy SP1 of the Core Strategy outlines that *"when considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework"* and sets out how this will be undertaken. Policy SP1 is therefore consistent with the guidance in Paragraph 11 of the NPPF in relation to the presumption in favour of sustainable development and decision taking.

3.8 Development in the countryside is limited in SP2 to the replacement or extension of existing buildings, the re-use preferably for employment and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy.

3.9 Policy SP19 promotes high quality design and provides that development proposals should have regard to local character, identity and context including being accessible to all.

### **Selby District Local Plan**

3.10 The relevant Selby District Local Plan Policies are as follows:

3.11 Policy H12 is the principal policy which would support the conversion of rural buildings to residential use in the countryside. The relevant criteria include where it is unsuited for or there is no demand for business use; it is the best means of conserving a building of interest; the building is structurally sound and capable of re-use without substantial re-building; it will not require extensive alteration, rebuilding or extension outside of the fabric of the building and there will be no adverse effect upon local character and no effect upon highway safety.

- ENV1 - Control of Development which would permit good quality development subject to normal development management criteria.
- ENV2 – Pollution and contaminated land
- H12 – Conversion to residential use in the countryside

3.12 Policy H12 is the principal policy which would support the conversion of rural buildings to residential use in the countryside. The relevant criteria include where it is unsuited for or there is no demand for business use; it is the best means of conserving a building of interest; the building is structurally sound and capable of re-use without substantial re-building; it will not require extensive alteration, rebuilding or extension outside of the fabric of the building and there will be no adverse effect upon local character and no effect upon highway safety.

### **The NPPF**

3.13 Paragraph 79 of the NPPF provides as follows:-

*“ Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:....*

*c) the development would re-use redundant or disused buildings and enhance its immediate setting...”*

## **4 Appraisal**

4.1 The main issues to be taken into account when assessing this application are:

1. Principle of the use
2. Conversion not requiring substantial rebuilding or extensive alteration
3. Design
4. Impact upon amenity
5. Ecology and Protected Species
5. Contamination
6. Flood Risk

### **Principle of the Use**

4.2 The principle of the re-use of rural buildings for residential use is supported by Policy SP2 and its commentary (para 4.31). The re-use of redundant or disused buildings is seen as an exception to avoiding isolated new homes and the commentary to the Policy includes that it would lead to an enhancement to the immediate setting. Policy SP2 (c) qualifies the re-use as preferably for employment purposes whereas the Framework which is more up to date, at para 79, has no such qualification.

### **Conversion/ not require substantial rebuilding or extensive alteration.**

4.3 The principal tests in SDLP Policy H12 of relevance here are summarised below together with officer comments :

A) Unsuitable for business use.

A lack of information has been submitted in order to demonstrate that the building is unsuitable for business use. It is noted that the submitted information states that, *“The proposed building site within an existing domestic curtilage which makes business use wholly inappropriate.”* From a review of the site history the rural building in question has been used for various *business* uses which inconsistent with the contention that it is a residential ancillary use.

Though it is noted that Policy H12 (1) of the Selby District Local Plan requires in that the conversion of rural buildings to residential use in the open countryside will only be permitted where (amongst other criteria) it can be demonstrated that the building or its location is unsuitable to business use or there is no demand for buildings for those purposes in the immediate locality this is not a requirement of paragraph 79 of the NPPF.

B) Best reasonable means of conserving a building of interest

The building is not of architectural or historic interest and given external changes are limited to new openings it is not considered that the proposals would damage the fabric and character of the building.

- C) Structurally sound and capable of re-use without substantial rebuilding

The application is accompanied by a Structural Survey Report in support of the application. This survey concludes that, the building is structurally sound and subsequently the current proposal involves no rebuilding. Therefore, it is considered that the building is structurally sound and is capable of reuse without substantial rebuilding, unlike many other conversions where more works are required.

- D) Re-use and adaptation generally take place within the fabric and not require extensive alteration/ rebuilding or extension

All external walls and roofing would be retained therefore there would be no external works other than the insertion of a number of new openings.

- E) Conversion and creation of curtilage not to have a significant adverse effect on local character

It is noted that the wording within the commentary for Policy H12 states, *“Since the reason for permitting residential use contrary to normal countryside policies is to preserve attractive buildings in their setting, it is important to ensure that the conversion can be carried out sympathetically without damaging the intrinsic character of the building and without substantial rebuilding, extension or alteration.”* The rural outbuilding in question is not considered to be an attractive building. However, the proposed scheme would retain all the external fabric of the building (walls and roofing) with the exception of the insertion of the new openings. Therefore, there would be a limited impact on the local character of the area. The curtilage will need to be correctly defined using appropriate boundary treatment and given that the application site is located within the curtilage of an existing residential dwelling this would not have any adverse impacts on local character.

- F) Not create conditions prejudicial to highway safety

The site is served from an existing access and thus in terms of traffic generation and in the light of no highway authority objections, the access is acceptable.

- 4.3 The policy concludes that conditions may be imposed on any permission to control future extensions or alterations; this can be addressed by the removal of permitted development rights.

## **Design**

- 4.4 The application is for the conversion of an existing rural building to a separate dwelling. In terms of the proposed external alterations these include the inclusion of two car parking spaces in terms of layout and then the insertion of a number of new openings to the existing rural building. It should be noted that all existing materials are to remain including, corrugate panel roofing and concrete block up to 2.7m high with corrugated cladding above which matches the roofing.

## **Impact upon Amenity**

- 4.5 The neighbours have made no comments in relation to the current proposals. However, the Cawood Parish Council have raised concerns in terms of the use of the building not being a residential ancillary building and in fact an agricultural building.
- 4.6 In considering the above and given the separation and the alignment between the two properties, they would remain in line so there are no effects in either direction and Policy ENV1 is satisfied.

### **Ecology and Protected Species**

- 4.7 The application is accompanied by a Preliminary Ecology Appraisal Report. However, that the appraisal has demonstrated that there is a very low likelihood of any such species being present, there are no outstanding objections and implementation in accordance with recommendations within section 4.3 of the report can be controlled by condition on any approval.

### **Contamination**

- 4.8 Relevant policies in respect of land contamination include Policy ENV2 of the Selby District Local Plan and Policy SP19 "Design Quality" of the Core Strategy. The application is supported by a contaminated land screening assessment form. Comments were sought from the Council's contaminated land consultant, who raised no objections subject to a number of conditions relating to the investigation of land contamination, submission of remediation scheme, verification of remediation scheme and the reporting of unexpected contamination.
- 4.9 Subject to the aforementioned condition, it is considered that the proposal would be acceptable in respect of land contamination and is, therefore, in accordance with Policy ENV2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and the advice contained within the NPPF.

### **Flood Risk**

- 4.10 The application site is located within Flood Zone 2.
- 4.11 In terms of drainage, the submitted application form sets out that surface water would be disposed of via a sustainable drainage system and the foul sewage would be disposed of via a septic tank.
- 4.12 The Ouse and Derwent Internal Drainage Board, Yorkshire Water and Environment Agency have been consulted on the proposals and neither have raise objections.
- 4.13 Foul water is going to a new package treatment plant which is shown on the drawings so does not need conditioning since it will be on any approved drawings. However, limited information has been provided in terms of the scheme for surface water drainage, however, it is considered that an acceptable scheme of drainage can be achieved therefore further information can be requested and subsequent measures secured by way of condition.

### **Legal Issues**

- 4.14 Planning Acts: This application has been determined in accordance with the relevant planning acts.

- 4.15 Human Rights Act 1998: It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.
- 4.16 Equality Act 2010: This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

## **Financial Issues**

- 4.17 Financial issues are not material to the determination of this application.

## **5. Conclusion**

- 5.1 This type of conversion of an existing rural building to residential is acceptable in principle in the NPPF and in development plan policy. Though it is noted that the proposal would conflict with criteria 1 of Policy H12 of the Core Strategy, it is considered that the NPPF is a material consideration and in line with Paragraph 79 of the NPPF the further reuse of the building would be sustainable. Furthermore, the Framework is more up to date and more flexible since it does not include criteria requiring the building to be 'unsuited to business use'.
- 5.2 The works are appropriate to this agricultural building in terms of openings. In view of the size of the site, the extent of new residential curtilage would be acceptable. Thus, subject to comments from the Contaminated Land specialist and the recommended conditions set out below, this application complies with the up to date Framework guidance and with, principally SDLP Policy H12 and compliance with the conditions would create a scheme in compliance with the development plan.

## **6. Recommendation**

- 6.1 The application is recommended for APPROVAL subject to the following conditions:

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

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

02. The development hereby permitted shall be carried out in accordance with the following approved plans and documents, notwithstanding the details in the application form:

2615-03-01A – Existing and Proposed Plans and Elevations  
2615-01-04B – Drainage Plan  
2615-01-03 - Existing Block Plan  
2615-01-04 – Location Plan

Reason: For the avoidance of doubt.

03. Prior to the first occupation of the dwelling hereby approved the boundary treatments of the curtilage of the dwelling shall be in place as shown on drawing reference, 2615-03-01A.

Reason: In accordance with the details of the application and to protect the amenities of the prospective occupants and in order to comply with local plan Policy ENV1.

04. In the event that protected species are discovered on the application site upon commencement of the approved development, which were not previously identified, it must be reported in writing immediately to the Local Planning Authority. A site investigation and assessment must be undertaken and where mitigation is necessary, a mitigation scheme must be prepared, which is subject to approval in writing of the Local Planning Authority.

Reason:

In the interests on nature conservation interest and the protection of protected species and in order to comply with Policy ENV1(5) of the Selby District Local Plan, Policy SP18 of the Core Strategy, The Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010.

05. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

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

06. Prior to the first occupation of the dwelling hereby approved a detailed scheme for the provision of surface water should be submitted to and approved by the Local Planning Authority. The following points should be considered:

- Discharge rates to any water course
- Storage volume
- Allowance for climate
- A range of durations should be used to establish the worst-case scenario.

Any such Scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.



07. Notwithstanding the provisions of Class A to Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order) no extensions, garages, outbuildings or other structures shall be erected, nor new windows, doors or other openings inserted other than those hereby approved, without the prior written consent of the Local Planning Authority.

Reason:

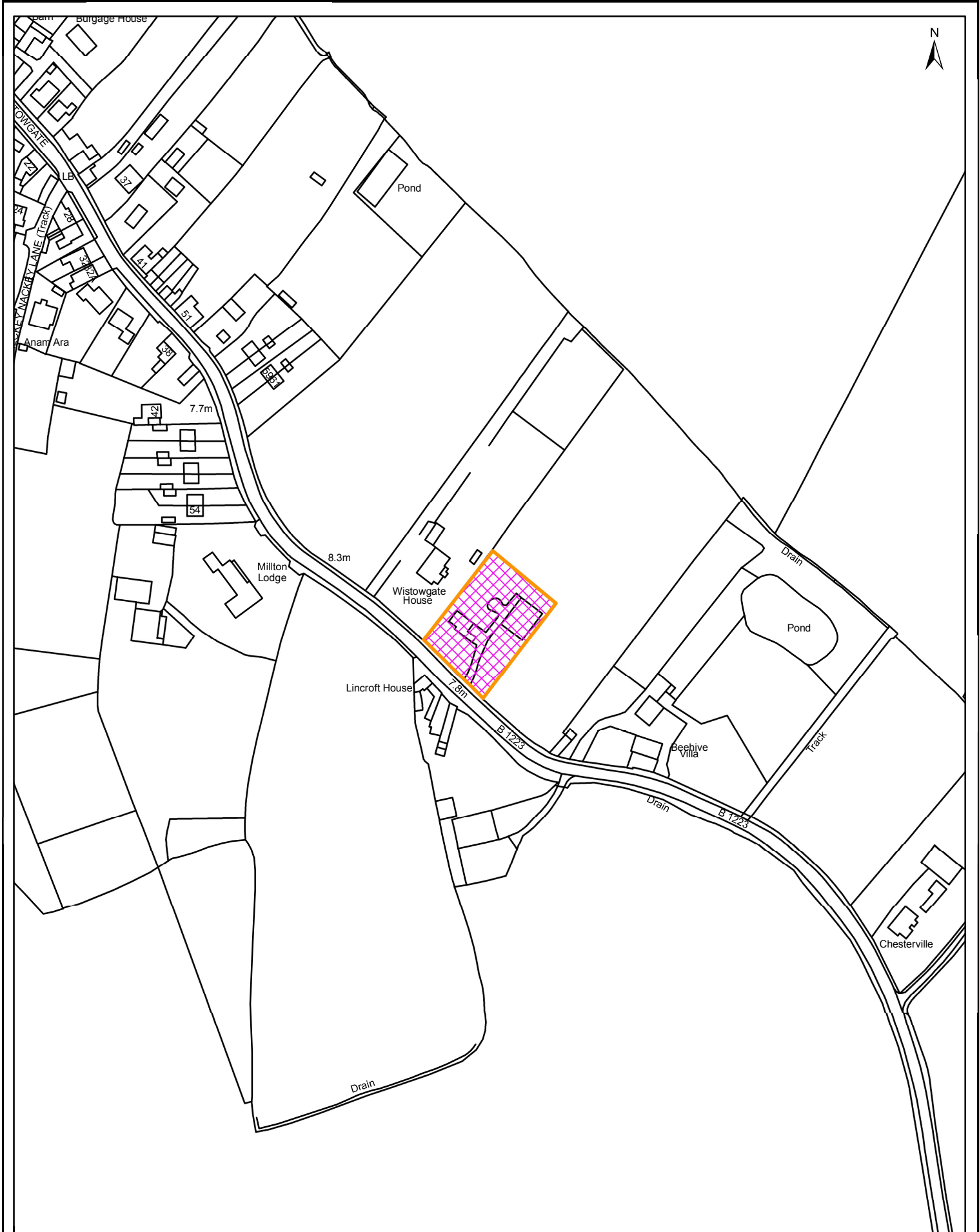
In order to ensure that the character and appearance of the surrounding area is protected in the interests of residential amenity having had regard to Policy ENV1 of the Selby District Local Plan.

6.2 Planning Application file reference 2017/0219/FUL and associated documents.

**Case Officer** Rebecca Leggott Senior Planning Officer  
rleggott@selby.gov.uk

**Appendices:** None

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# APPLICATION SITE

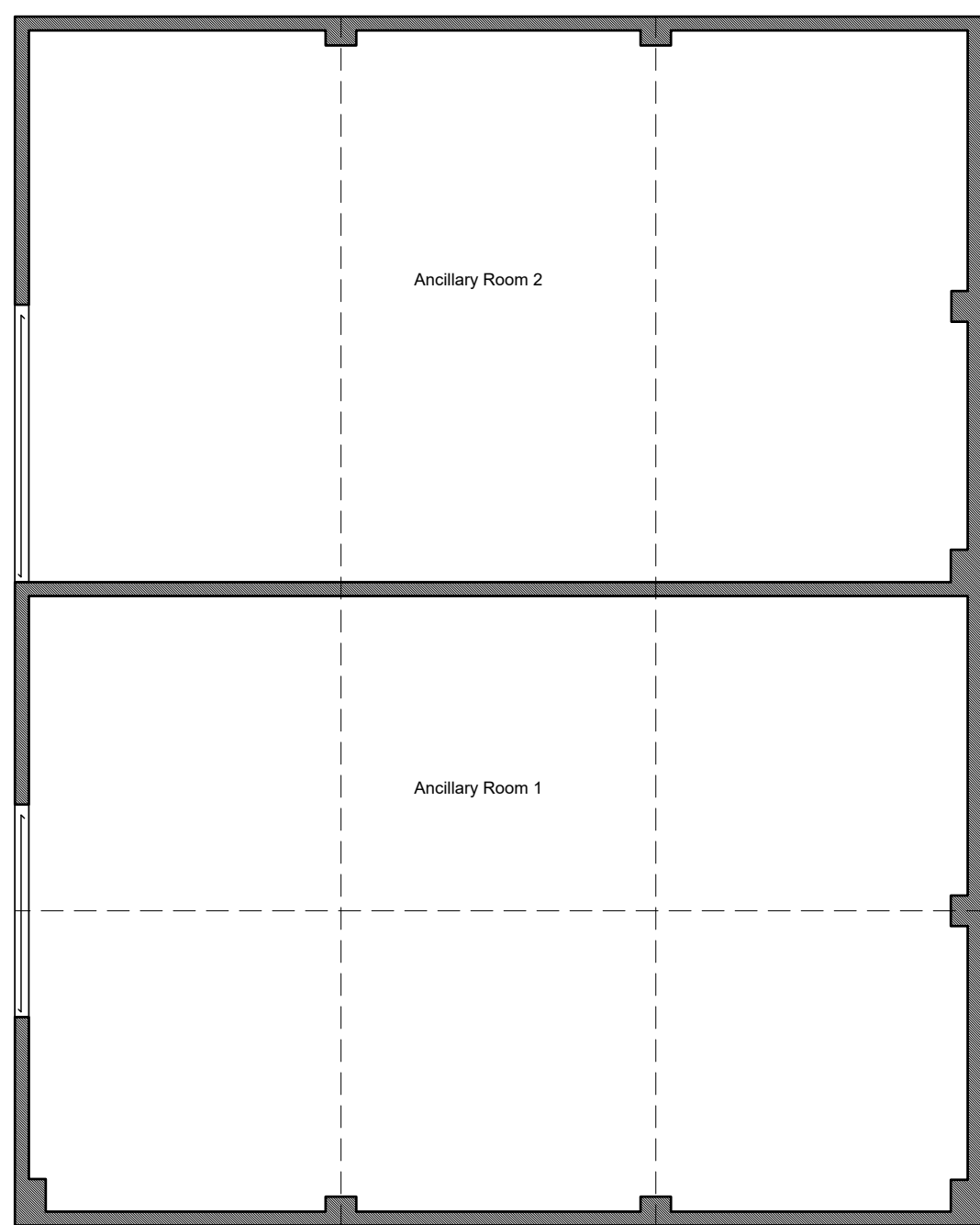
2017/0219/FUL

New House, Wistowgate, Cawood

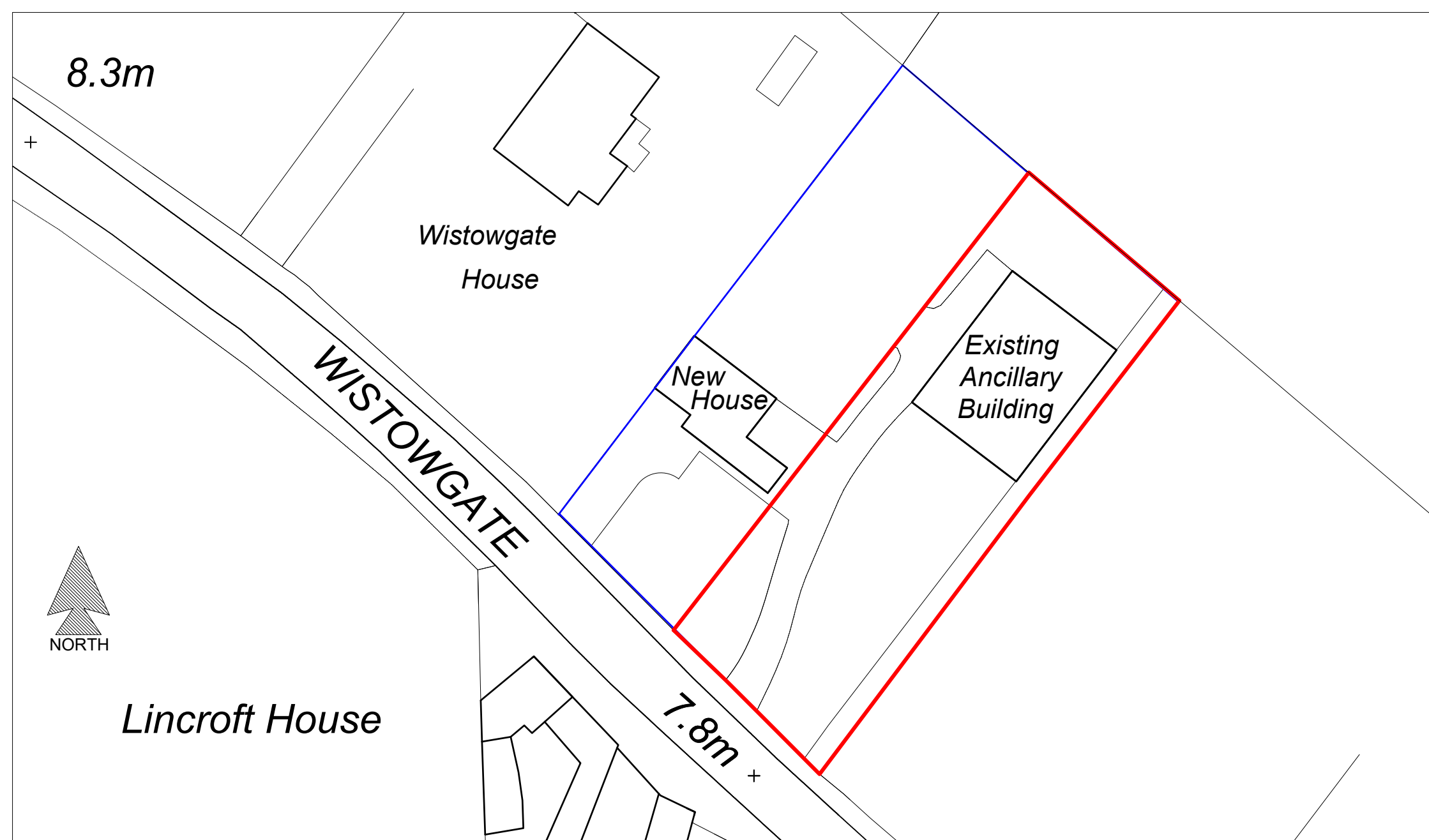
1:2,500



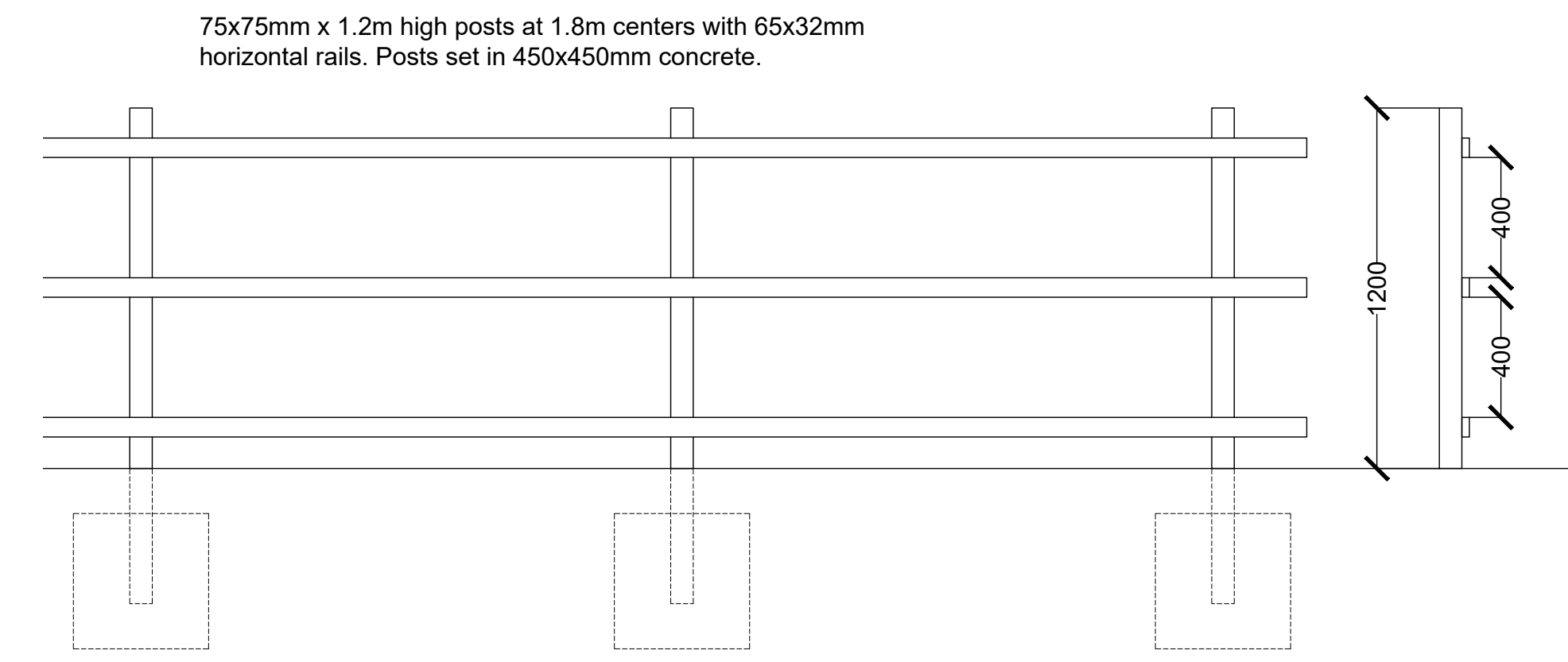
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Existing Floor Plan 1:100

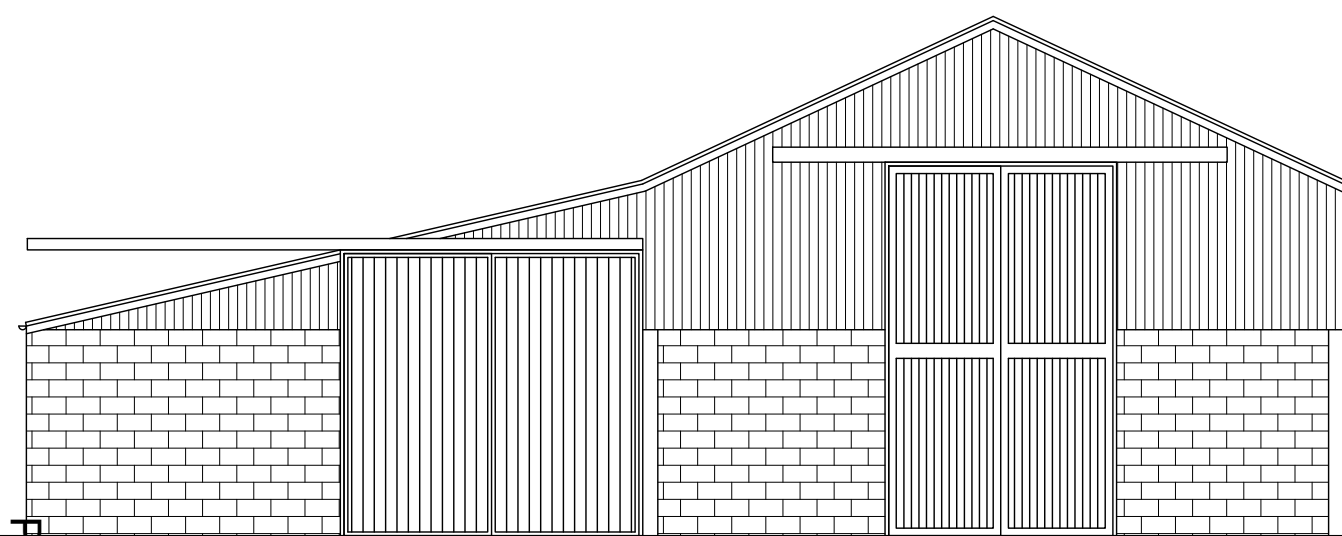


Existing Block Plan 1:500

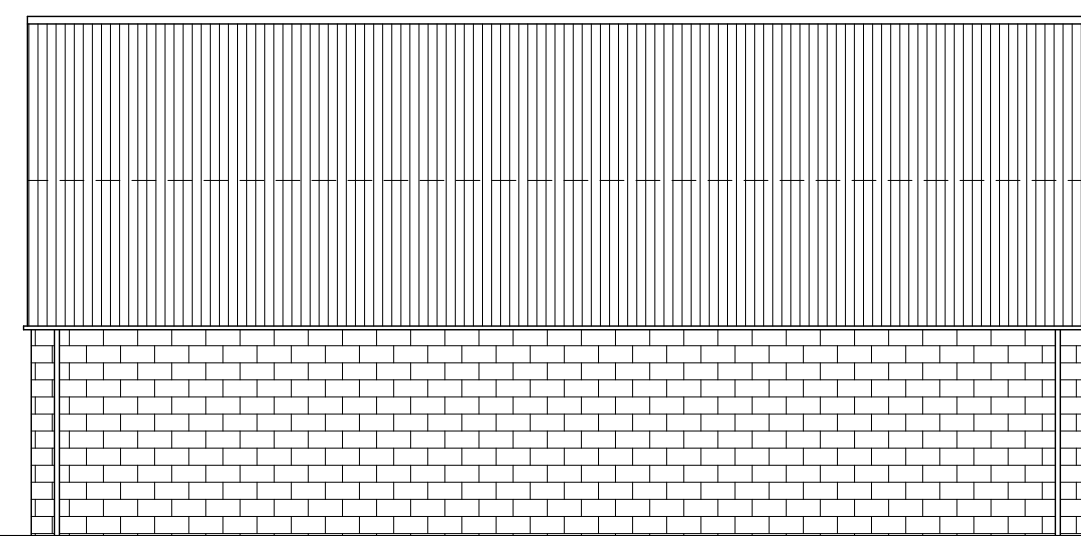


Detail of Post and Rail Timber Fence 1:20

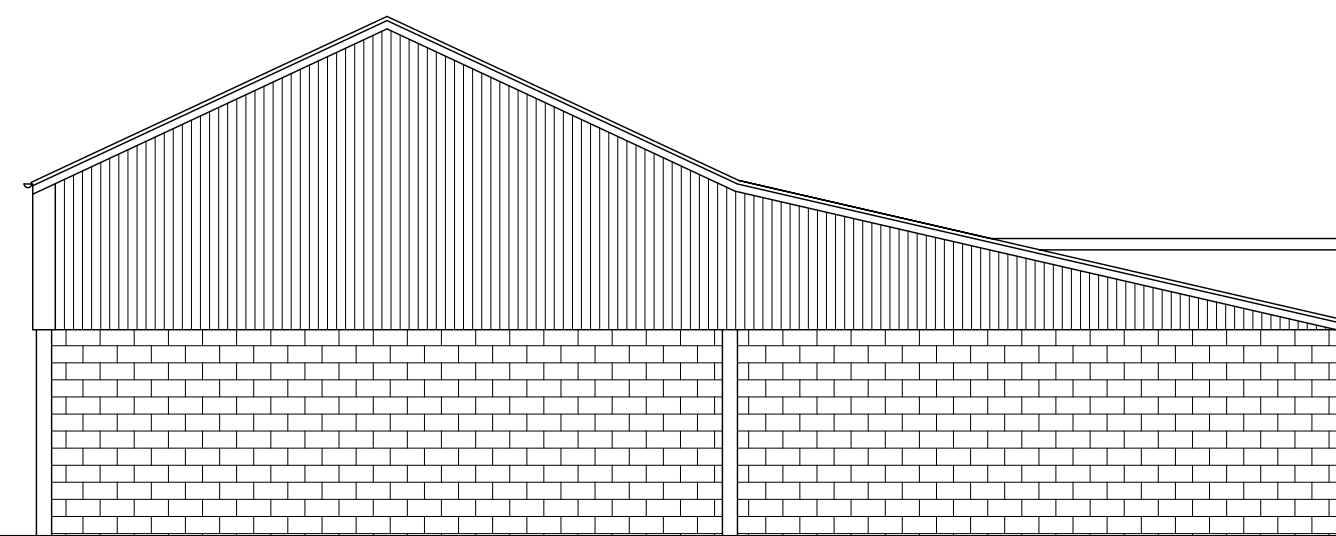
**AMENDED DRAWING**



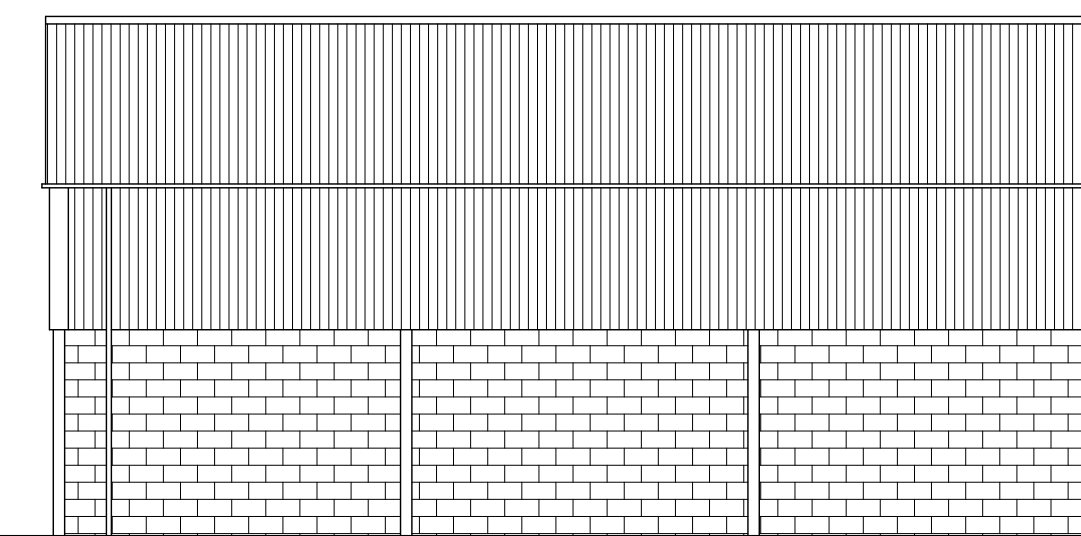
Existing North Western Elevation 1:100



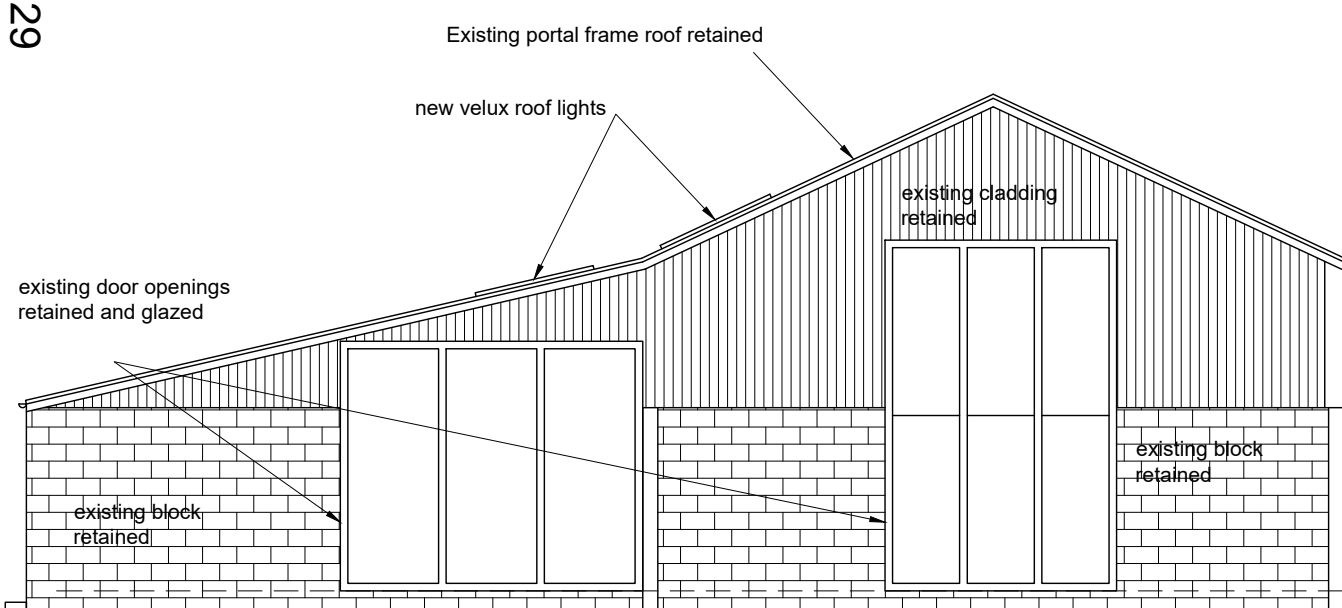
Existing North Eastern Elevation 1:100



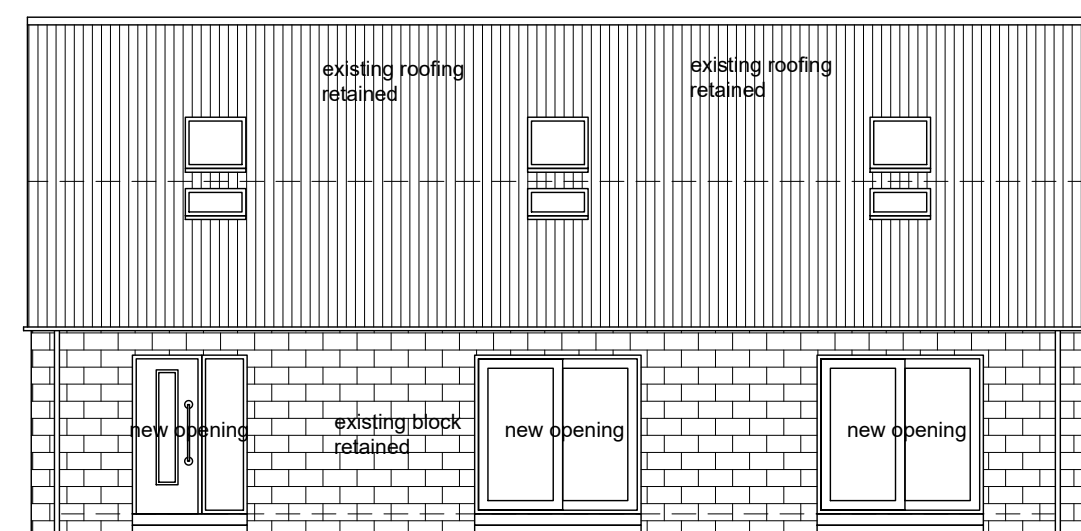
Existing South Eastern Elevation 1:100



Existing South Western Elevation 1:100



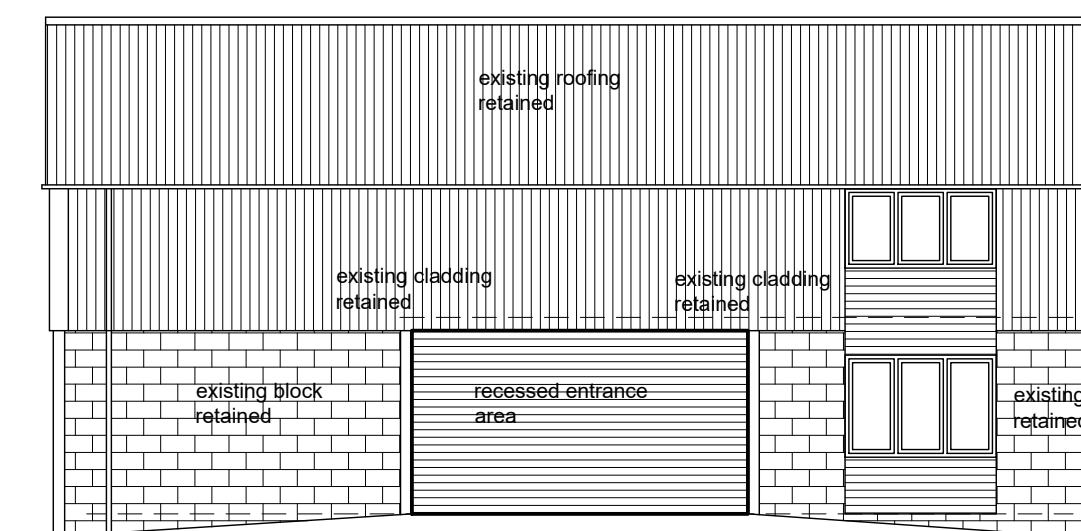
Proposed North Western Elevation 1:100



Proposed North Eastern Elevation 1:100

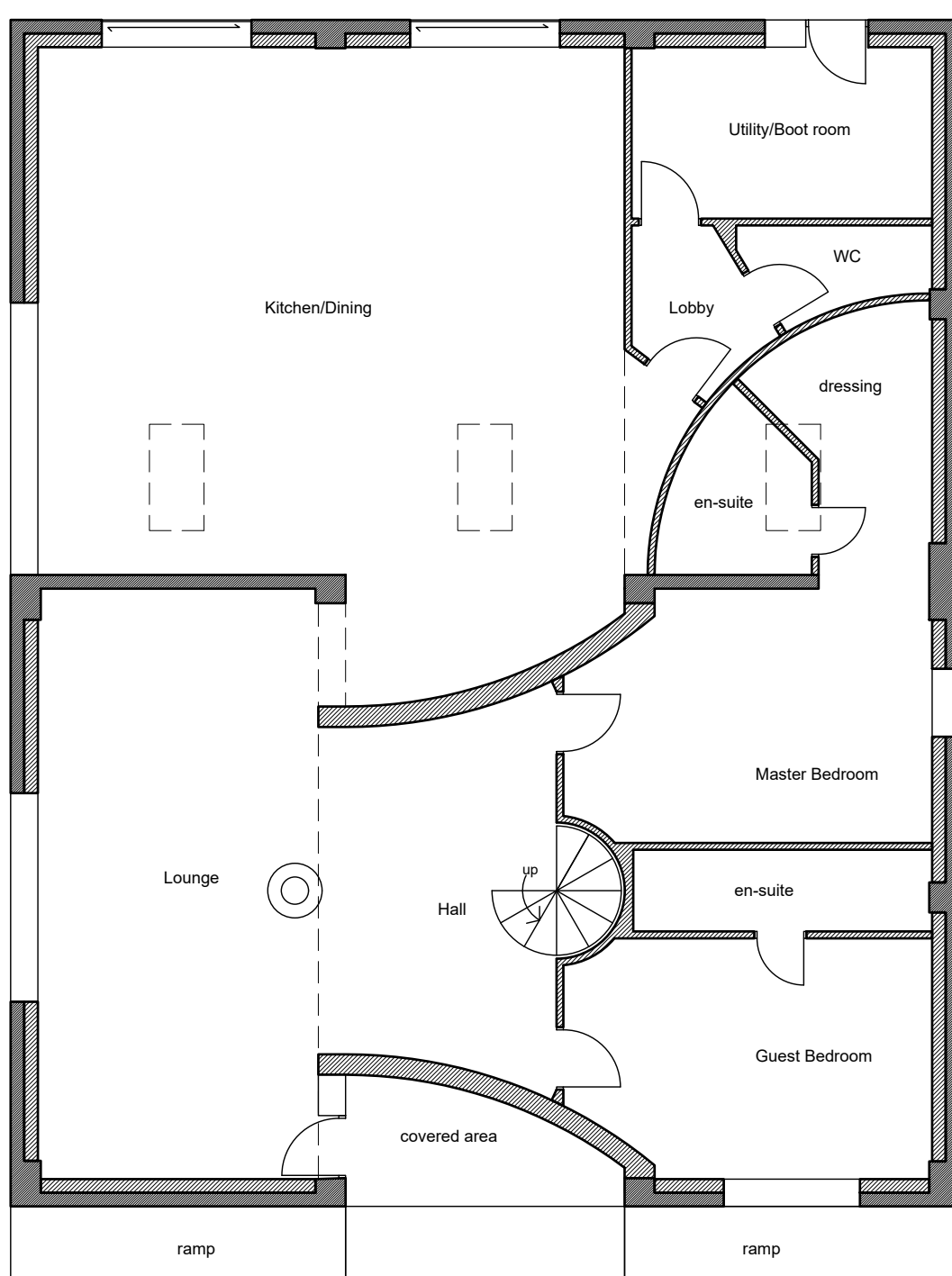


Proposed South Eastern Elevation 1:100

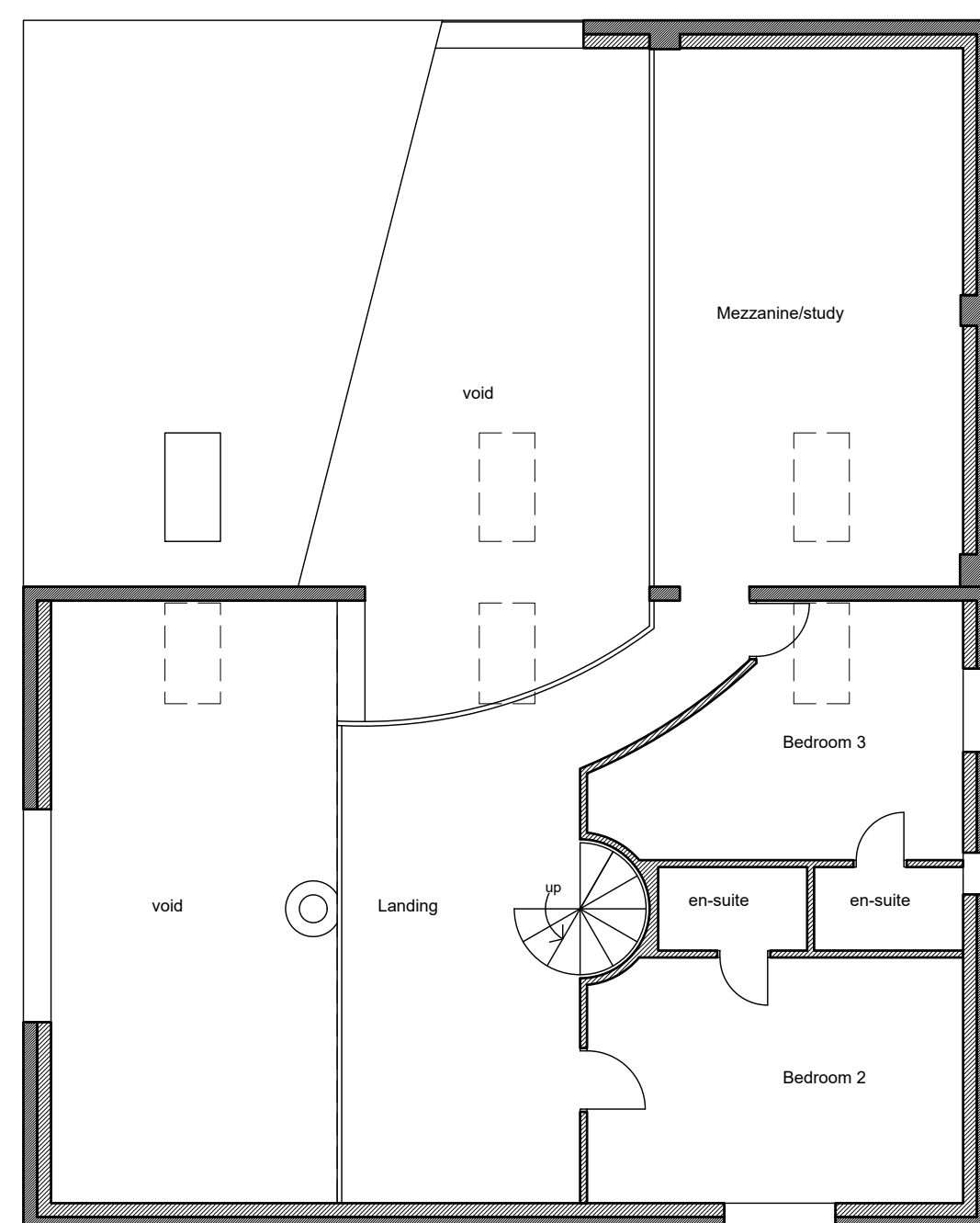


Proposed South Western Elevation 1:100

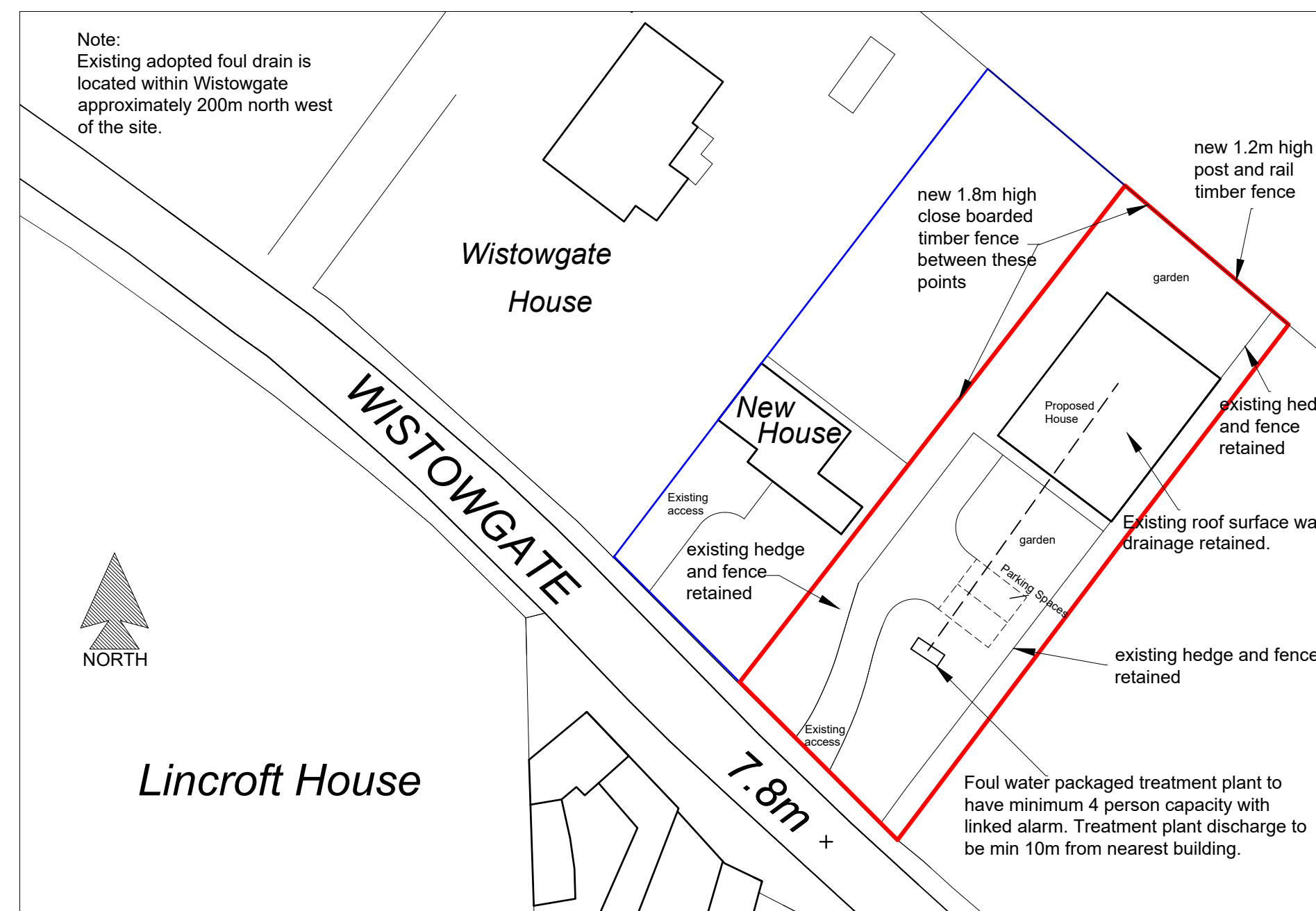
Notes  
All existing external materials to be retained. New insulated inner lining to provide thermal compliance with building regulations.



Proposed Ground Floor Plan 1:100

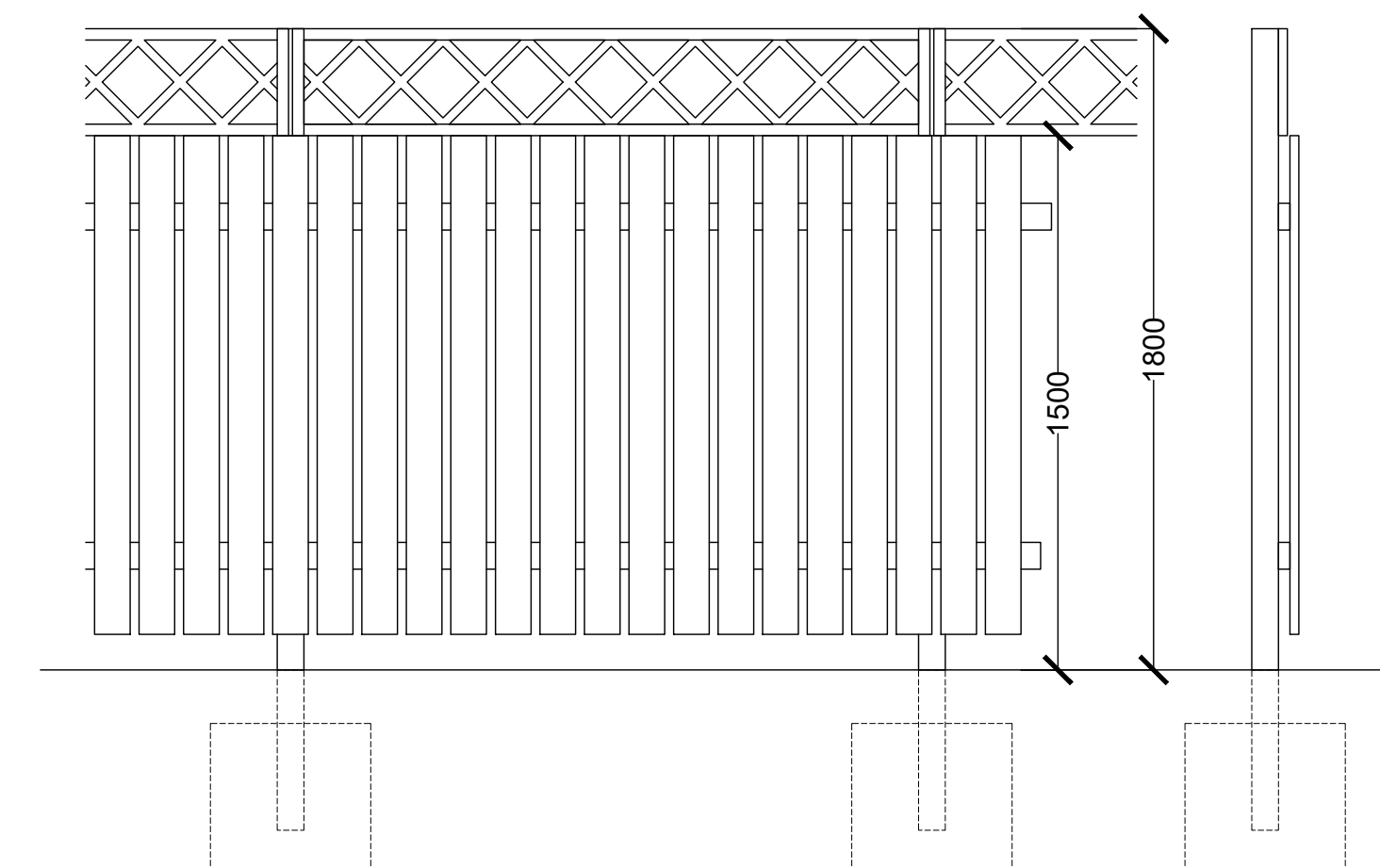


Proposed First Floor Plan 1:100



Proposed Block Plan showing drainage and boundary treatments 1:500

75x75mm x 1.5m high timber posts at 1.8m centers with 75x32mm horizontal rails at top and bottom supporting 100x25mm timber slats. Posts set in 450x450mm concrete. 1.2m close boarded fence with 300mm trellis on top.



Detail of Close Boarded Timber Fence 1:20

Existing and Proposed Plans and Elevations scale 1:500, 1:100, 1:20 13-12-2018 drwg. no. 2615-03-01A

Mr and Mrs Sheard  
Ancillary Building at New House Wistowgate Cawood  
scale 1:500, 1:100, 1:20 13-12-2018 drwg. no. 2615-03-01A  
Chris Finn Architect  
38 RYTHERGATE  
CAWWOOD SELBY YO3 3TP  
TEL: 01757 268650

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# Agenda Item 6.2



Report Reference Number 2018/0631/COU

**To:** Planning Committee  
**Date:** 20 March 2019  
**Author:** Paul Edwards (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0631/COU	PARISH:	Whitley Parish Council
APPLICANT:	Mr S Crampton	VALID DATE: EXPIRY DATE:	11th June 2018 6th August 2018
PROPOSAL:	Section 73A application to vary conditions 01 (approved plans), 02 (approved plans), 03 (approved plans), 05 (approved plans), 13 (operating times), 14 (operating times) and 15 (operating times) of application 2011/0751/COU – ('Section 73 application for the retrospective change of use of land from agricultural to motocross use (D2)')		
LOCATION:	Gale Common Moto Park Whitefield Lane Whitley Goole North Yorkshire		
RECOMMENDATION:	<ol style="list-style-type: none"><li>1. Refuse this s.73A application</li><li>2. Committee authorise the taking of Enforcement action to ensure compliance with the existing consent/cease the unauthorised use</li></ol>		

The Scheme of Delegation states that where ten or more letters raise material planning considerations and where officers would otherwise determine the application contrary to the representations, the application should be determined by Committee.

This application has attracted a large number of representations from members of the public both for (50) and against (47) the application and the proposals are thus presented to Committee for determination.

In view of the breaches of planning control it is also considered that Committee be aware of and authorise the taking of enforcement action to remedy the breaches.



## **1. Introduction and background**

### **The Site**

- 1.1 The application site is the existing Gale Common Moto Park which is used for outdoor motocross (off-road motorcycle racing on enclosed off-road circuits) on two tracks which are described as a Junior Track up to 85cc and an Adult track.
- 1.2 The site is west of Whitley off Whitfield Lane where the Lane runs parallel with and to within 200m of the M62 adjacent to the north. The Gale Common Ash Disposal site is adjacent to the site to the west, with Cridling Stubbs beyond. The nearest residential properties are on the outskirts of Whitley to the east, some 950m away. Whitfield Lane is a single carriageway road subject to the national speed limit without, in the vicinity of the site, footways or street lighting.
- 1.3 The land is in the Green Belt and there are no heritage assets in the vicinity of, or affected by the application and there are no other local or national landscape or ecological designations.
- 1.4 The larger ~13.4 ha site has a use authorised for motocross by a permission from 2009 and the courses were originally confined to the south east side of the site, linear in form along the south eastern boundary on ~7.5ha of land. Recently the agricultural land to the north west has also been incorporated into the use and the current s.73 application proposes a realignment of all tracks, including the provision of a third track and the formation of 400 car parking spaces across the full 13.4ha. In support of the application it is stated that there has been heavy investment by the applicant and more flexibility is required in order to ensure the operations can remain viable and to meet the market demand.
- 1.5 The current scale and frequency of activities on the site has been the subject of complaint and this s.73 application was submitted in June 2018 to seek to regularise the scale of the use.

### **S.73 applications**

- 1.6 A s.73 application is an application to vary or remove conditions associated with a planning permission. However since development has already commenced, the proposal is being treated as a s.73A application (planning permission for development already carried out).
- 1.7 The Courts have determined that an application under s73A is a conventional planning application in all respects, other than the development will have already been commenced. It is not the same as an application under s73 so the Council is not required to confine its attention to the appropriateness of conditions.
- 1.8 The application was submitted to vary conditions attached to a 2011 consent and the applicant has specifically identified conditions relating to materials in the bunds, timescale for bund implementation, landscaping of bunds, compliance with the approved plans, increase in numbers of formal events, increase in numbers of practice events and, increase in numbers of 'kick start' events. The proposals would expand into the entire 2009 red line area.



## 2. Planning History

2.1 The parent application to this s.73A is an approval granted in October 2011 (2011/0751), **(the Existing Permission)** itself granted by a s.73A application which sought to vary conditions from the 2009 approval. That approval granted on 16 December 2009 (2009/0828) was a retrospective application for the change of use of agriculture to a motocross use.

2.2 This 2009 consent was granted with eighteen conditions relating to, of relevance here:

- Details of the nature of the bund material (Condition 1)
- A work programme for the bund completion to be submitted within one month of the consent (Condition 2)
- Bunds to be thereafter completed within 9 months of the approval of the work programme (2)
- Details of landscaping of the bunds to be submitted within three months of the consent; bunds to be landscaped within the first growing season following bund completion (3)
- Details of all boundary treatments to be submitted within three months of the consent (4)
- A scheme to control noise submitted within one month of the consent and thereafter employed at each event (6)
- Details of loudspeaker installation and use (7)
- The noise barrier scheme set out and used at each event (8)
- Records to be kept to show that noise tests are carried out on participating bikes, in accordance with Autocycle Union requirements (9)
- Setting out of access and visibility splays within three months of the consent (10 & 11)
- Method statement for use of water bowser to control dust within one month of consent (12)
- No more than 12 formal motocross events per year; no more than one per month and limited to Wednesday or Sunday 0700 hrs to 1800hrs (13)
- No more than 12 practise events per year 1000 hrs to 1600hrs (14)
- No more than 2 kick start club practise sessions per month 0930hrs to 1430hrs (15)
- Details of events for the forthcoming year to be submitted each November (17)

2009/0828

2.3 The subsequent history of relevant applications will assist to explain the sequence of events at Gale Common and by reference to the list of original conditions at para 2.2 above.

2010/0083/DPC Application to provide the details to discharge conditions was approved in respect of Conditions 2 (Feb 2010) and 3 and 4 (March 2010). The approved timetable for the bund construction and completion was approved as 'between 3 to 5 years'.

2010/0846/FUL An application made in August 2010 to further vary the time period for bund construction – (Condition 2) to five years - was refused in November 2010.

2011/0751/COU A further application made in July 2011 to vary the time period for bund construction – (Condition 2) was approved by Committee in October 2011.

- 2.4 The approved solution for the purposes of this application (2011/0751) was a phased implementation across the site such that the north east bund would be installed within 0-8 months, the south east bund within 9 – 30 months; the north west bund within 31 to 47 months and the final leg of the north east margin by 48 – 60 months. These periods started from the date of the decision -13 October 2011.
- 2.5 Thus the four areas of phased bunding were required to have been completed by no later than June 2012, April 2014, August 2015 and September 2016 respectively.
- 2.6 In addition conditions were recast in the 2011 consent from the 2009 consent such that:
- Details of the nature of the bund material (Condition 1)
  - Revised programme for the phased bund completion as per para 2.4 above, (completions variously by June 2012 to Sept 16)(2)
  - Bunds to be landscaped during the first growing season after the completion of each respective bund (3)
  - Scheme of frontage boundary treatment as previously (4)
  - Operated in accordance with the approved noise control scheme (6)
  - Operated in accordance with approved public address system scheme (7)
  - The noise barrier scheme set out and used at each event (8)
  - Records to be kept to show that noise tests are carried out on participating bikes, in accordance with Autocycle Union requirements (9)
  - Setting out of access and visibility splays within three months of the consent (10 & 11)
  - Operation in accordance with the approved dust suppression statement for use of water bowser (12)
  - No more than 12 formal motocross events per year; no more than one per month and limited to Wednesday or Sunday 0700 hrs to 1800hrs (13)(same as previously)
  - No more than 12 practise events per year 1000 hrs to 1600hrs (14)(same as previously)
  - No more than 2 kick start club practise sessions per month 0930hrs to 1430hrs (15)(same as previously)
  - Details of events for the forthcoming year to be submitted each November (17)

2011/0751

- 2.7 A further application in 2011 to discharge conditions relating to noise control (6), loud speakers (7) & dust (12) was approved in October 2011 (2011/0864). The scheme for the control of noise as originally required through Condition 6 above relied upon the applicant's case that the original consent (2009) had stated on the decision notice that:

“It is considered that the proposed development would not have adverse impact on the nearest residential dwelling in terms of noise as the noise generated from the activities would not cause statutory nuisance. The noise from the site is not audible at the nearest dwelling and the levels of noise would be 45-46dB LAeq.”

and that since the events could only take place under the auspices of the relevant governing body the applicants asserted, and the planning authority agreed that no

further information was required since the governing rules are enforced by the Club and monitored by the national body.

- 2.8 It is important to advise Committee that the bunds were not intended to act as noise attenuation or mitigation measures and submitted Noise Impact Assessments confirm that their role or ability to mitigate noise would be very limited. The bunds were regarded as features in the landscape to be planted to help to screen the uses and it was the affiliated Codes of Practice and the ways in which the site is operated that were intended to control against noise.
- 2.9 The original application documentation advises that the Kickstart club was set up in 2008 as a result of a successful Youth Opportunity Fund grant from Wakefield MDC and is targeted at giving safe and legal off road participation for 12 to 18 years olds.

**Nature of the current application**

- 2.10 The current application seeks to vary conditions attached to the **Existing Permission**. It is described as principally seeking to address the breach of the timescale for bund construction and to amend the time restrictions to improve the viability of the facility. In detail the implications of proposed changes affect the following existing conditions:

<b>Current Condition number and nature</b>	<b>Effect of condition</b>	<b>Proposed variation</b>
1. Construct bunds using materials and in accordance with approval	Phased completion no later than – by Sept 2016	Construct bunds within five years of any approval
2. Construct bunds in accordance with the approval	Phased completion no later than – by Sept 2016	Construct bunds within five years of any approval
3. Landscape bunds in accordance with approval	Next growing season after bund completion	Planting within ~six years
5. Strict conformity with plans	Implement existing layout	Seek reconfigurations and extension of existing track to the west
13. Number of formal events	12 per annum (no more than 1 per month)	12 per annum
14. Number of practice sessions	12 per annum	Total 75 per annum
15. Kick Start practice sessions	2 per month	

- 2.11 In addition the new layout relocates the existing event and practice tracks across other parts of the, previously unused parts of the site, adds a Kids Track, a double portacabin, parking area for 400 cars and a formalised second access in the north east corner off Whitfield Lane. New 6m high bunds are proposed along the north (Whitfield Lane edge of the courses) and the south eastern boundary, respectively, 380m and 530m long.

**3. Consultation and Publicity**

- 3.1 **Eggborough Parish Council** – objects to the application on the grounds of
- Noise pollution and disturbance to residents

- they are contravening the conditions of the original planning application in that there is no bund and they are having excessive meetings

3.2 **Womersley Parish Council** has requested that their comments summarised below are taken into account:

- the increase to 75 events (6 per month) is too many and it should be maximum 1 per month and then only if existing conditions are adhered to
- parking for 400 cars will create a potential highways issue
- flouting of previous conditions put in some ten years ago
- there are large amounts of caravans and vans staying overnight that is not currently allowed
- the reworking of Gale Common to extract waste and remove the noise barriers will mean that the noise will be heard in Womersley and Cridling Stubbs
- the site is in Green Belt and the reasoning behind the 2010 refusal should still stand

3.3 The Council concludes that the current use has some impact; is minimal but the impact after removal of some of Gale Common is unknown given the increase in numbers of events and the numbers of attendees.

3.4 **County Highway Authority** has replied that it has no objections.

3.5 **Environmental Health** – The original response in June 2018 objected on the grounds of the impact on noise from the site on the residential amenity of residents in the area. The officer explains that complaints relating to noise from the site were received in January, February, May, July and August 2017. Following discussions with the site operator and an investigation into the complaints an Abatement Notice for statutory noise nuisance was served in November 2017.

3.6 The Officer advised that investigations for a breach of this notice are currently ongoing and that complaints have been received on weekdays when only one bike is operating on the track demonstrating that the use by only one bike can be audible at residential properties.

3.7 Officers have been working together to seek to find a solution to the activities and the breaches but the concern from the EHO is that no data has been received on the way in which bikes are tested or monitored and requests for sight of the data have not been replied to. The advice is that if it can be demonstrated that the bikes can comply with the standards and that those standards would not result in harm to amenity, it could be possible to condition the control. The objection however remains until this can be established.

### **Publicity**

3.8 The application was advertised by both press and site notice. At the time of writing, ninety-seven representations from members of the public have been received.

3.9 The forty-seven representations objecting to the application have come from Whitley, Cridling Stubbs, Eggborough and Great Heck addresses. The single most repeated issue is that of noise and the objections may be summarised as:

- Levels of unbearable and intolerable noise; meets take place every weekend, bank holidays and some weekdays
- Cannot enjoy gardens or leave windows open, noise ruins quiet family downtime. You can hear noise over the noise from the M62... they may as well be in my back garden. Irritating, constant droning and they sometimes start on a Friday when they are there all weekend. It is significantly louder than previous events and has doubled in size
- Do not object per se and we should support local businesses but noise is becoming totally unacceptable
- Already in breach of conditions designed to control numbers of meetings, ensure implementation of noise mitigation and for the construction of bunds; there is no noise cancelling equipment. If there are controls, they should be complying with them
- Supposed to have no more than 48 meets a year and increases will create more nuisance. Every weekend is far too frequent and feelings are running high in the village
- The proposed bunds would need a huge number of HGV movements to bring the material in. Bunds would have to be at least 4m high to have any affect
- Indiscriminate parking on the lane makes it impassable, effects upon use of footpath, dust causes breathing difficulties and eye irritation, effects upon cyclists
- Visitors come early and for the full weekend and camp over the weekend without a licence
- Loss of agricultural land and conflicts with Green Belt policy
- Effects on wildlife
- There seems an inability to enforce the existing conditions

3.10 County Councillor John McCartney has written on two occasions to object and that he is being inundated with complaints. He notes that a great many in support are not Selby District residents whilst the communities of Whitley and Eggborough suffer from the noise and consistent breaches of planning conditions. The activity has expanded into a field to the west and this application should be refused and a Stop Notice served.

3.11 The fifty representations in support of the application have come from four Whitley addresses and are then from various parts of the north and north west of England including Hambleton, South Milford, Barton upon Humber, Hull, Harrogate, Bradford, Rotherham, Doncaster, Manchester, Halifax, Liverpool and Ellesmere Port. The comments in support may be summarised as:

- The site and facility is fantastic; is very well run, safely organised and marshalled
- One of the best prepared tracks in the country
- It's out of the way and a good amenity for kids of all ages
- There is minimal noise and it is a great local resource, dispute the argument about noise since we live next to the A19 and the M62
- Much needed local resource, caters for all age groups and helps to keep troublesome off-roaders off the roads
- A vital outdoor pursuit which is a safe professional place for child and youth development
- Support is given to big projects like the Gale Common Extraction Project but why not support small local projects that bring actual benefit

- Creates local employment and aids the local economy where other local facilities have closed

#### 4. Site Constraints and Policy Context

- 4.1 The site is in the open countryside, in Green Belt without allocation.
- 4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *“where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise”*.
- 4.3 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.
- 4.4 The decision making process when considering proposals for development in the Green Belt is in three stages, and is as follows:
- a. It must be determined whether the development is appropriate development in the Green Belt. The NPPF and Local Plan set out the categories of appropriate development.
  - b. If the development is appropriate, the application should be determined on its own merits unless there is demonstrable harm to interests of acknowledged importance, other than the preservation of the Green Belt itself.
  - c. If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be permitted unless very special circumstances can be demonstrated. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations..
- 4.5 Paragraph 146 of the NPPF sets out exceptions to inappropriate development in the Green Belt. Engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
- 4.6 The construction of the bunds would not conflict with the purposes of including land in the Green Belt. However, the effect of the bunds on the openness of the Green Belt has been reviewed and although they are proposed and required to be planted/landscaped under the **Existing Permission**, officers consider it inconceivable that the construction of two bunds with lengths of 530m and 380m, each 6m high would not have some impact upon openness. Initially and before any planting establishes they would be strong regular, almost alien features in the landscape. In conclusion this would trigger a need for the applicant to make a very special circumstances case.
- 4.7 The fact that the site already has planning permission for this use and has operated for almost ten years is material in considering this current proposal.

- 4.8 Case law establishes that if an applicant can demonstrate a ‘fall-back’ position, this may constitute a material consideration to be taken into account when determining the application.
- 4.9 A ‘fall-back’ is an existing consent which is capable of being implemented regardless of the decision on this application. Under Mansell v Tonbridge and Malling Borough Council [2017] EWCA Civ 1314, which concerned the redevelopment of a site of a large barn and a bungalow to provide four dwellings, Lindblom LJ confirmed the legal considerations in determining the materiality of a fall-back position as a planning judgement where: (1) the basic principle is that for a prospect to be a “real prospect”, it does not have to be probable or likely: a possibility will suffice; (2) there is no rule of law that, in every case, the “real prospect” will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO. In some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand.
- 4.10 In this case, in the event that this application is refused then the applicant will be able to operate the facility in accordance with the **Existing Permission** and this is material to the decision to be made on the current application.

## **Development Plan**

### **Selby District Core Strategy Local Plan**

- 4.11 The relevant Core Strategy Policies are:

- SP1: Presumption in Favour of Sustainable Development
- SP2: Spatial Development Strategy
- SP3: Green Belt
- SP13: Scale and Distribution of Economic Growth
- SP18: Protecting and Enhancing the Environment
- SP19: Design Quality

### **Selby District Local Plan**

- 4.12 Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework. Paragraph 213 provides as follows:-

*“213. ....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”*

- 4.13 The relevant Selby District Local Plan Policies are:

- ENV1 - Control of Development. Would permit good quality development subject to normal development management criteria.

- ENV2 – Pollution and Contaminated Land. Would not permit development that could be affected by, of relevance here, levels of noise, unless satisfactory remedial or preventative measures are in place.
- ENV3 – Light Pollution. Would only permit outdoor lighting schemes that represent the minimum necessary for security and operation; designed to minimise pollution, not affect highway safety and not significantly detract from character of the rural area.
- T1: Development in Relation to the Highway Network. Proposals are to be well related to the network and will only be permitted where it has adequate capacity and can safely serve the development, unless appropriate off-site improvements are undertaken.
- T2: Access to Roads. The intensification of the use of an existing access would be permitted provided there is not detriment to highway safety.
- RT3: Formal Sport and Recreational Facilities would be permitted provided criteria relating to not being so intrusive as to seriously detract from character by virtue of appearance or noise; not being prejudicial to highway safety or a significant adverse effect upon local amenity; new buildings or structures are well designed and appropriately landscaped; and designed to give easy access and participation in sport for disabled people are satisfied. Policy RT3 continues that in Green Belt proposals would have to relate to uses of land and essential facilities for outdoor sport which preserve the openness of the green belt and do not conflict with the purposes of including land within it.

### **National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

- 4.14 The National Planning Policy Framework (February 2019) replaced the July 2018 NPPF. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2019 NPPF and as set out above, the current application is inappropriate development and the application is not accompanied by a case for very special circumstances.

## **5. Appraisal and Key considerations**

- 5.1 The merits of this application and whether a s.73A approval should be issued are separate considerations from how to address the reported or actual breaches of existing conditions. If this application is approved, then the new consent would become immediately effective whereas if it was refused and the operator ‘falls back’ to the **Existing Permission** the expediency of considering action against any breaches of planning control becomes a further/ separate consideration.
- 5.2 The Framework’s six tests for the imposition of conditions (para 55) are that conditions must be:
- Necessary
  - Relevant to planning
  - Relevant to the development to be permitted
  - Precise
  - Enforceable, and
  - Reasonable in all other respects



- 5.3 The Core Strategy has been adopted since both the 2009 and the 2011 consents. In addition, the 2012 NPPF was replaced in 2018 and again in February 2019.
- 5.4 SP Policy SP13 can be seen as supportive in principle of this use subject to normal development management criteria, as may SP18 bearing in mind the use has consent.
- 5.5 The substance of the green belt guidance has not changed from the 2012 version of the Framework. The 2009 consent will have been determined against the former SDLP Policies GB2, GB4 and national policy contained in the former PPG2. At that time it was considered that the proposed use and bunds would not affect openness or the character of the Green Belt. Although the principle is established and may continue under the current consent if the implementation is lawfully complying with conditions, the scale of this proposal is considered to be significantly different to the existing consent and would have a materially greater planning impact.

### **Key considerations**

- 5.6 Therefore the key to the determination of this application is whether a new planning consent for the development including with the proposed variation to conditions would be contrary to the provisions of the development plan or national policy and whether there are reasonable grounds for refusal if the application is not in accordance with the plan and there are no material considerations to indicate otherwise.

### **1. Bund construction**

- 5.7 The extent of the site proposed for tracks and car parking is significantly larger than that which exists (although within the original red line). The bunding although proposed previously and conditioned has not been provided. The previously imposed time scales for implementation have been proposed for variation by application three times and have been approved twice; this is the fourth application to vary the implementation of the bunding condition. This must raise the question of whether the condition(s) are necessary, reasonable, and capable of being complied with or enforceable given the passage of time since their first imposition. The applicant is now requesting a further time period for compliance of five years.
- 5.8 It is agreed between the applicants and Environmental Health that the bunding has very limited sound attenuation properties; they were designed and proposed more for cosmetic visual purposes and to break the line of sight between Whitley and the visible activities. Thus the present objectors' perceptions that installing the bunds would stop the noise are not correct.
- 5.9 The timing of bund construction, the applicant says is reliant upon the buoyancy of the development industry to generate the material (building waste) and five years has been suggested as a reasonable/ realistic timescale.
- 5.10 However, it seems that it has not been possible, with experience, to frame conditions that can be reasonable in terms of time periods for implementation and that have a reasonable prospect of being complied with. Thus the alternative would be to refuse permission if conditions cannot be used to address harm or mitigate impacts. Although it must follow that the present development proposal would be inappropriate since it does not comply with the possible exception at paragraph 146 b) of the 2019 NPPF in view of the impact on openness, this would make the

application contrary to Local Plan Policy SP3 unless a case for very special circumstances is made. Although that case has not been made to date the existence of the fall back is a material consideration to indicate lesser weight to be given to Policy SP3 in this instance.

## **2. Amendment to number of events**

- 5.11 The table at para 2.10 above summarises the applicant's proposals as 12 formal race events per year and 75 Kick Start plus practice sessions per year. These totals increase the total permitted number of sessions of any type from 48 to 87 per year. Kick Start would not take place at the same time as formal events or practice sessions.
- 5.12 The applicant opines that the increase in the numbers of events will allow operation at a level that will permit a more viable use of the site yet not have significantly different impacts on the amenity of the closest residents. The use, he continues, is highly weather dependent since bikes cannot use the track if there is too much rain (for compacting, drainage and safety reasons) and the present control of only 12 per year and then only one per month means that if the weather does not allow an event in a particular month, he can never catch up or reschedule that event because of the 'no more than one per month' limit. This affects both the racing calendar and his employees (10 part-time at present but hoping to increase by seven part-time and one full time). Thus the proposal is to retain the restriction to no more than 12 formal events per year but to remove the 'one per month' control so as to give more flexibility within the year on when they are held.
- 5.13 The flexibility sought for 12 events across the year is considered to be acceptable but, if the numbers of formal events is subtracted from the totals, the proposed increase of practice and kick start sessions combined would actually double those numbers across the year (from 36 to 75).
- 5.14 Your officers are of the opinion that based upon the current operation no increase in numbers of events should be permitted until the noise issue has been resolved or is capable of resolution.

## **3. Noise**

- 5.15 The way in which the site was expected or understood to operate in terms of the control of noise and where/when it would be audible has not been born out with operating experience. It is not known if bikes are being sound tested before they compete or practise and the EHO's view is that if they are then that level of noise is unacceptable, born out by the levels of complaints. The Officer has additionally observed that just a single uncompliant bike can cause noise disturbance and complaint.
- 5.16 The Council does not have any SPD or Plan Policy on how to limit noise and the existing condition relies on Codes of Practice from the national governing body. The Noise Policy Statement for England sets out policy and criteria on the basis that 'significant adverse impacts' should be avoided and the lower threshold of 'adverse impacts' should be mitigated and minimised.
- 5.17 The approved scheme (2011/0864) to control noise was based on an expectation that operations would follow the current Autocycle Union requirements. There is no evidence that this is taking place since the EHO has asked for but not received

records of noise monitoring; this would therefore appear to be a breach of the approved scheme which is causing impacts upon the area.

- 5.18 The Autocycle Union (ACU) is the internationally recognised national governing body for motorcycle sport. Gale Common is not currently listed on the ACU site as a promoter or Club affiliated to the ACU but the applicant has confirmed he is quite prepared to apply the ACU code to his site. The ACU's environment code refers to the need for organisers to exclude competitors with broken or noisy silencers and that riders should pass a technical control, including for noise. The Sound Level Control technical information on the ACU site says that all machines should be sound tested and maximum sound levels are specified.
- 5.19 The frequency of events and the noise associated with them is the subject of complaint and it is clear that the site is not operating in a manner which protects neighbour amenity. It can only be concluded that there appears to be a breach of control.
- 5.20 Although the Environmental Health advice would support a new permission if it can be proven that noise emissions controlled by the Code of Practise will not be heard at the nearest residential properties, there is however nothing to enable the local planning authority to conclude that noise can be controlled or that noise within the parameters set by the Code will not be audible or affect amenity.
- 5.21 It does not appear to be sufficient, as before, to suggest that a condition on any approval which ensures compliance with the ACU code will suffice. In the absence of an ability to use planning conditions to mitigate or control the effects of development, the only alternative is to refuse permission.

## **6. Conclusions on the key considerations**

- 6.1 Despite earlier views expressed, officers take the view that the construction of two bunds, 6m high and respectively 530m and 380m long would be physically incapable of preserving openness. This means that the proposed development is inappropriate and should not be permitted unless a case for very special circumstances (vsc's) which would outweigh the harm from inappropriateness and any other harm has been made.
- 6.2 However, it appears to officers inescapable that this proposal is inappropriate development and the applicant has more recently been requested to provide a case for vsc's.
- 6.3 One of the areas of harm that has been identified is the levels of noise that have been the subject of complaint since January 2017. There is no evidence from the applicant that noise can be mitigated or controlled to within acceptable levels by the use of conditions. Accordingly the application should be refused on the grounds of noise impact.
- 6.4 The proposal to increase the numbers of events has no support from officers until the noise can be controlled. Thus there is no justification to allow the increase in the number of events.
- 6.5 Finally the time periods for the implementation of bunds have been repeatedly varied. Should the current proposal for a further extension of five years for bund

construction be acceptable, the operating site would have been without any of the required bunds for ~ 16 years.

- 6.6 Although a refusal of this application would leave the existing consent in place, in planning terms and having regard to the development plan and the guidance on the imposition of conditions, it is not possible to propose conditions that have any reasonable prospect of being complied with, thus the alternative must be to refuse this application as Committee is now considering a s.73A application.

## **7. Considerations of Enforcement**

- 7.1 The enforcement function is delegated to the Head of Planning, but it is appropriate given the recommendation for refusal to advise Committee that officers will consider appropriate enforcement measures and consider the expediency of enforcement in view of the ongoing breaches if the application is refused.
- 7.2 Planning enforcement is a discretionary function and authorities are requested to act proportionately in responding to breaches of control (NPPF para 58).
- 7.3 A Planning Enforcement Management Plan has been considered in draft by Policy Review Committee and in the meantime Planning Practice Guidance says that there is a clear public interest in enforcing planning law in a proportionate way and effective enforcement is important to tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area. This aids to maintain the integrity of the decision-making process and to help ensure that public acceptance of the decision-making process is maintained.
- 7.4 The failure to provide noise monitoring evidence and the failure to complete or even commence the requisite bunds is an example of a degree of harm that is not a trivial or technical breach but which is having repeated demonstrable effects upon the population. Although it is good practice to defer enforcement until any retrospective application has been determined it is right however that any refusal of this s.73A application is quickly followed by consideration of enforcement.
- 7.5 The request by County Councillor McCartney for a Stop Notice is amongst the many options available to the authority and your officers are also considering the use of Breach of Condition Notices and/or Enforcement Notice to address the breaches. The expansion of the activities onto the larger site, although within the red line, will itself constitute a breach unless the S.73A application showing the remodelling of all of the courses is accepted.
- 7.6 The Committee is requested to agree the recommendation that officers continue to consider the nature and expediency of any action and to continue to seek a solution or serve Notices accordingly to cease the use or secure compliance with existing conditions.

## **8. Recommendations**

A: This application under s.73A is recommended to be refused for the reasons of

1. The application under s.73A to vary the current use is on a significantly larger site and scale than the present use and the applicant has not identified with evidence how the impacts of the additional and increased frequency of activities can be mitigated in order to protect the residential amenities of residents in the vicinity. In the absence of such mitigation there would be harm to the character

and amenities of the area and unacceptable levels of noise contrary to saved Local Plan Policies ENV1, ENV2 and Core Strategy Policies SP2 and SP13.

2. The proposed development is inappropriate development in the Green Belt and a case for very special circumstances to address the harm of inappropriateness and other harm has not been made contrary to the NPPF and Local Plan Policies SP3, ENV2 and RT3.
  3. The local planning authority has specifically considered if conditions may be imposed to address otherwise unacceptable development in line with good practice but the prolonged inability of the site and operations to implement mitigation and monitoring and successive s.73A applications is evidence that conditions are incapable of being proposed to address the harm and thus the application is refused.
- B: If the application is refused in line with the recommendation, Committee agree the need to seek the appropriate enforcement action to remedy the breaches of conditions or to cease the use until such time that the amenities of the area may be protected and that officers should proceed accordingly.

## **9. Legal Issues**

### Planning Acts

This application and the expediency of enforcement action have been considered in accordance with the development plan, the relevant planning acts and guidance and other material considerations.

### Human Rights Act 1998

The public interest in refusing the current application and enforcing planning control is not outweighed by any impacts on the applicants or visitors to the site. This recommendation for refusal is proportionate and decisions made in accordance with these recommendations would not result in any breach of convention rights.

### Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

### **Financial Issues**

There are no financial issues that are material to the determination of this application.

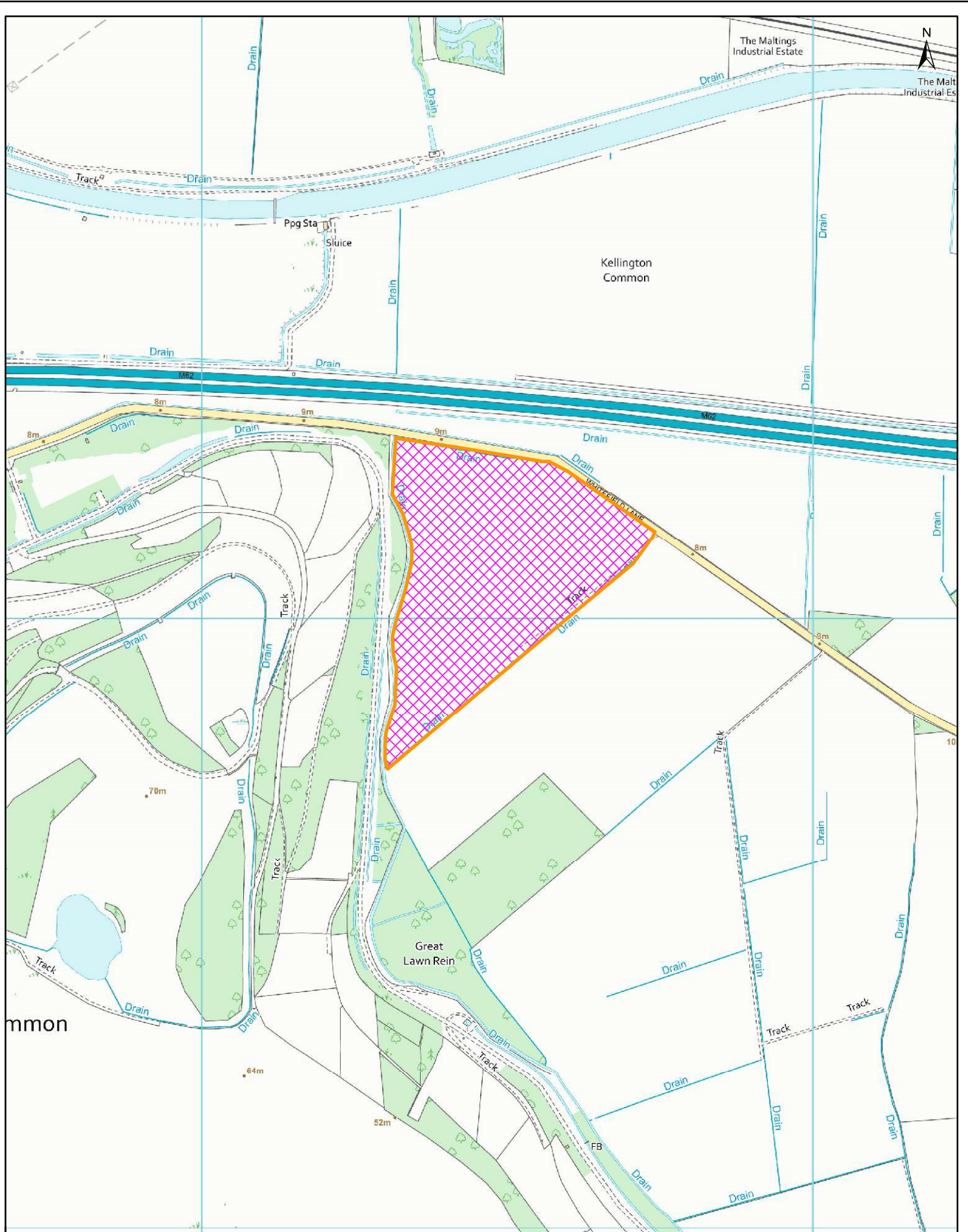
## **10. Background Documents**

Planning Application file reference 2018/0631/COU

Contact Officer: Paul Edwards, Principal Planning Officer

Appendices: None

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# APPLICATION SITE

2018/0631/COU

Gale Common Moto Park, Whitefield Lane, Whitley

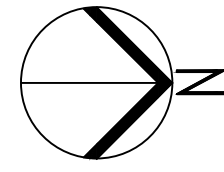
Page 47

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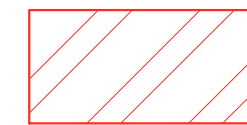
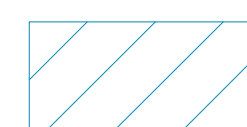


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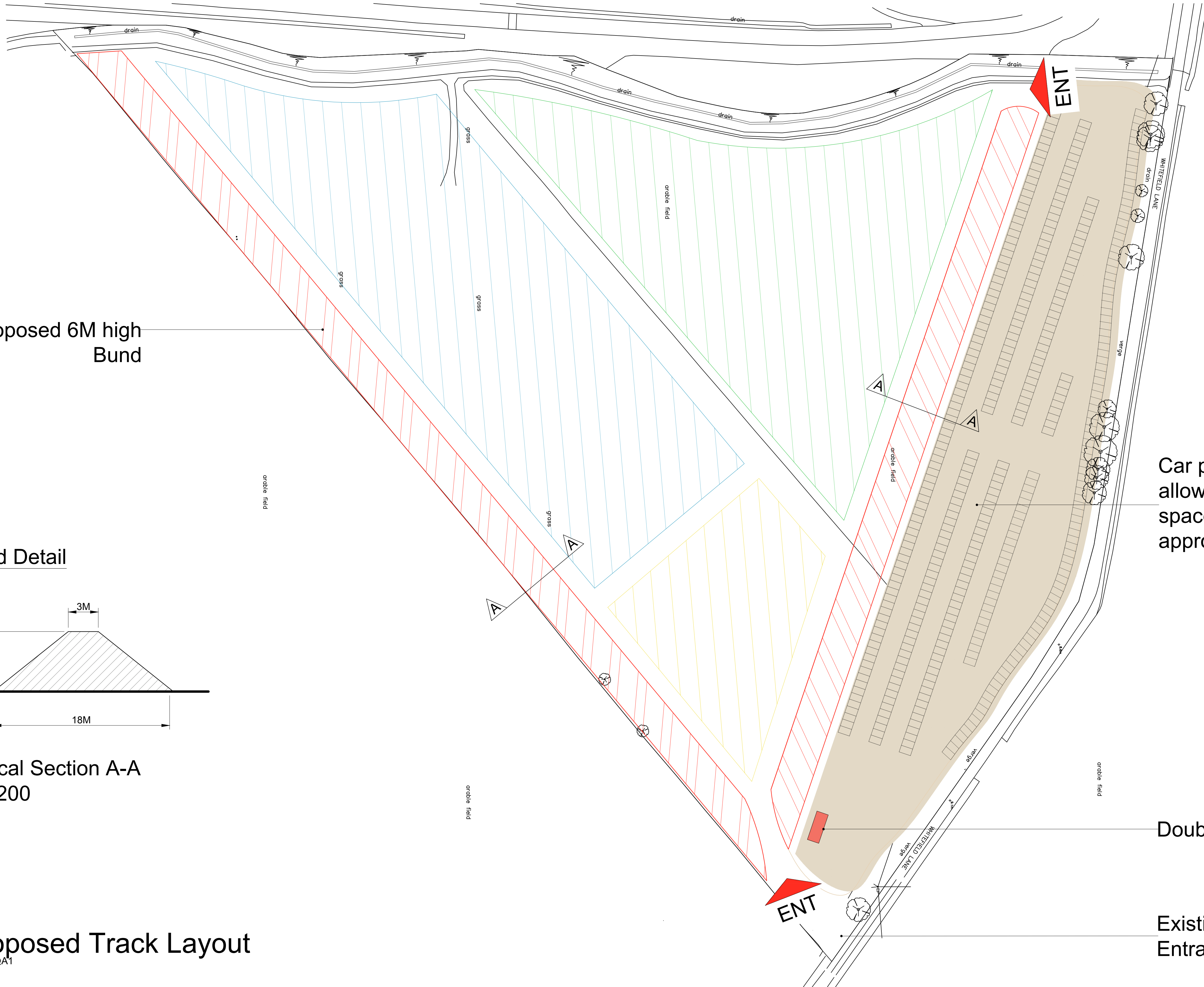




- Notes:**
1. Do not scale this drawing.
  2. This drawing is subject to copyright laws and the use of this drawing is licensed by GFW for use on this project only.
  3. In the event of any discrepancies being found these are to be brought to the attention of GFW architectural team.
  4. This drawing is to be used solely for the information titled.
  5. Construction staff and operatives must ensure the main contractor has provided accurate information on all H&S aspects relating to the designs identified on the drawing, including review of designers / contractors risk assessments, method statements, permits to work and pre construction information.
  6. The proposed layouts are subject to the following, although not exhaustive:
    - Structural and Drainage Engineers requirements.
    - Mechanical and Electrical Engineers requirements.
    - Planning, Listed Building and Building Control approvals as appropriate.
  7. The existing and proposed layouts are based on third party survey information. The accuracy is not underwritten by GFW.

**Legend**

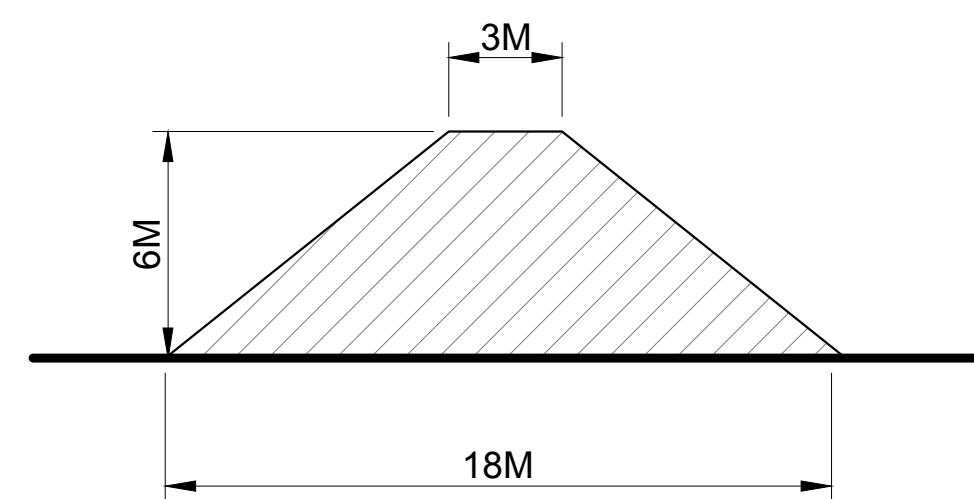
-  Proposed 6M High Bund
-  Practice Track
-  Race Track
-  Kids Track



Proposed 6M high Bund

Car park area allowing 400 spaces approximately

**Bund Detail**



Typical Section A-A @1:200

**Proposed Track Layout**

1:1000@A1

Date	Rev	Description	Drawn	Chkd
24.05.18	D	Proposed new bund section updated following noise consultants feedback	GS	HH
15.05.18	C	30M bund shown & car park spaces	GS	HH
19.04.18	B	Client approval of layout	GS	HH
11.04.18	A	Reconfiguration of track layout to include 6M bund	GS	HH

**Revisions**

- Status:**
- Preliminary
  - Comment
  - Construction
  - Planning
  - Tender
  - Record

**GEORGE F. WHITE**

Tel: 01677 425301 Fax: 01677 424 291 Email: bedale@georgefwhite.co.uk  
9 South End, Bedale, North Yorkshire, DL8 2BJ

**Client/project:**  
Mr S Crampton  
Gayle Common Motorcross

**Drawing title:**  
Proposed Site Layout

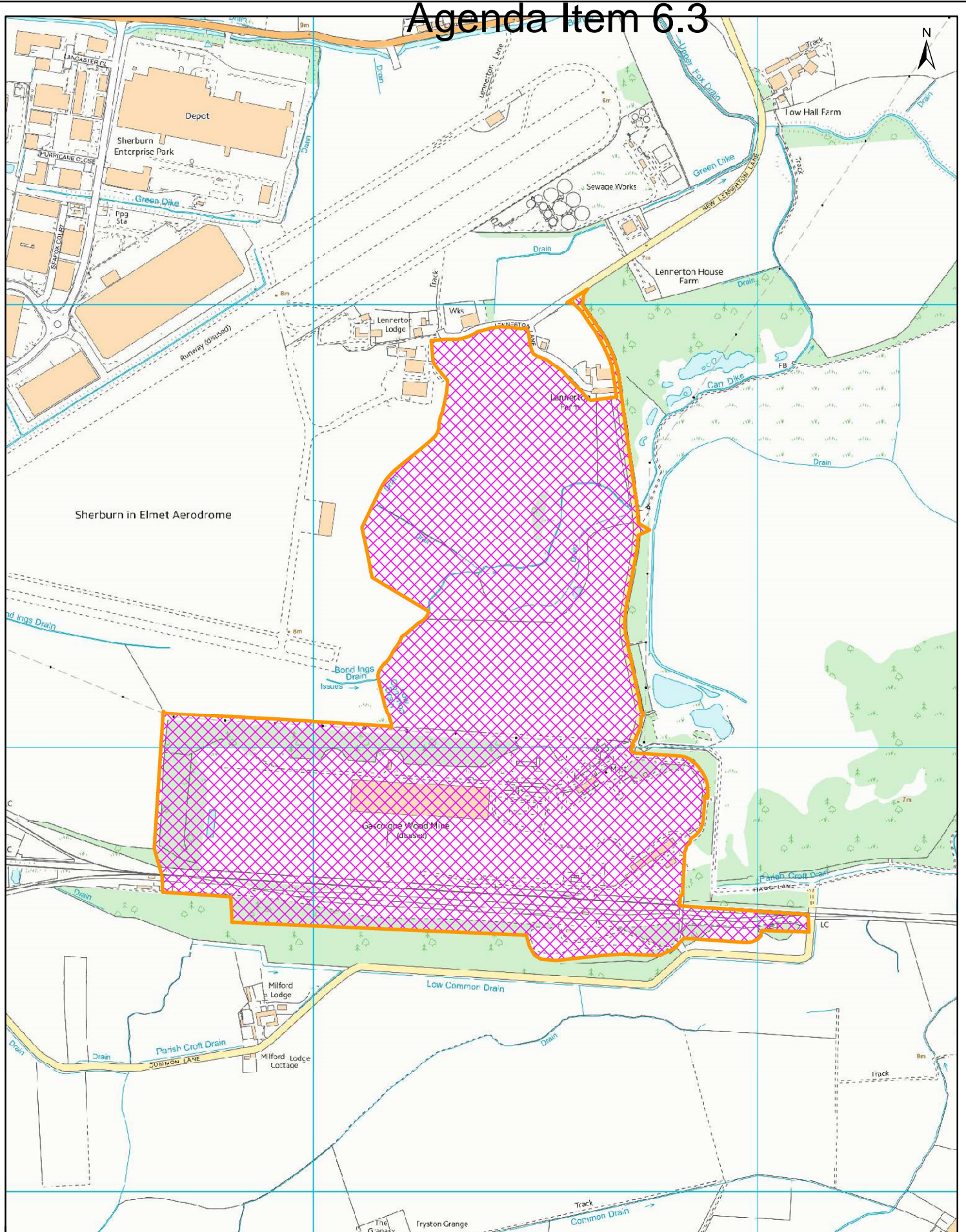
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**Checked by:** HH

**Date:** 21/03/18  
**Scale:** 1:1000@A1

**Project Number:** BDL703400  
**Dwg No:** 04  
**Revision:** D

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## APPLICATION SITE

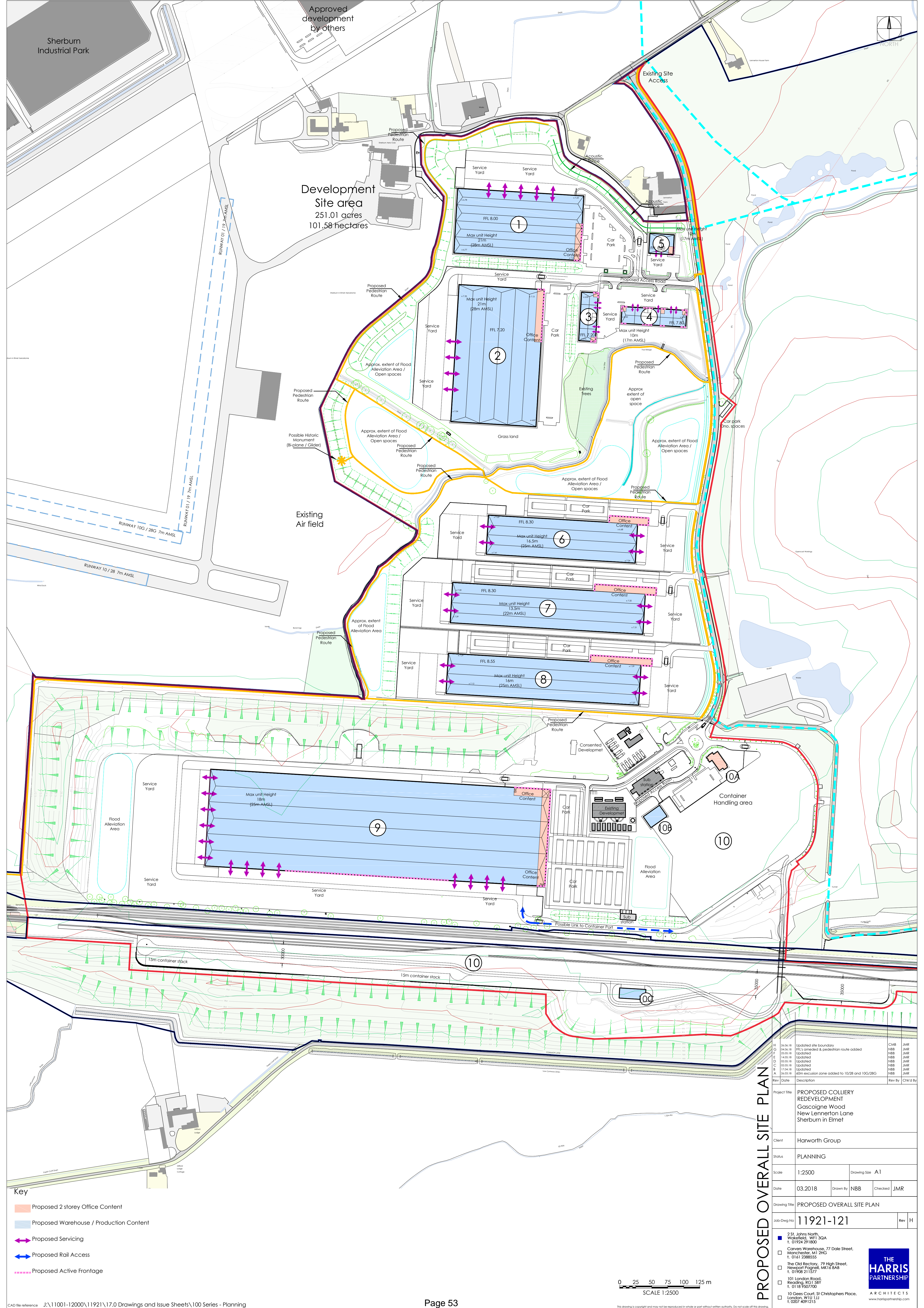
Gascoigne Wood, Lennerton Lane, Sherburn in Elmet  
2018/0818/EIA

1:11,000

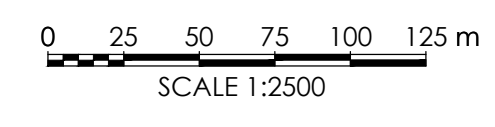


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- Key**
- Proposed 2 storey Office Content
  - Proposed Warehouse / Production Content
  - Proposed Servicing
  - Proposed Rail Access
  - Proposed Active Frontage



**PROPOSED OVERALL SITE PLAN**

Rev	Date	Description	Rev By	Chkd By
H	26.06.18	Updated site boundary	CMB	JMR
G	04.06.18	FFL's amended & pedestrian route added	NBB	JMR
F	25.05.18	Updated	NBB	JMR
E	14.05.18	Updated	NBB	JMR
D	02.05.18	Updated	NBB	JMR
C	02.05.18	Updated	NBB	JMR
B	17.04.18	Updated	NBB	JMR
A	28.03.18	40m exclusion zone added to 10/28 and 10G/28G	NBB	JMR

Project Title	PROPOSED COLLIERY REDEVELOPMENT Gascoigne Wood New Lennerton Lane Sherburn in Elmet		
Client	Harworth Group		
Status	PLANNING		
Scale	1:2500	Drawing Size	A1
Date	03.2018	Drawn By	NBB
		Checked	JMR
Drawing Title	PROPOSED OVERALL SITE PLAN		
Job/Dwg No	11921-121	Rev	H

<ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> 2 St. Johns North, Wakefield, WF1 3GA T: 01924 291900</li> <li><input type="checkbox"/> Carvers Warehouse, 77 Dale Street, Manchester, M1 2HG T: 0161 2388555</li> <li><input type="checkbox"/> The Old Rectory, 79 High Street, Newport Pagnell, MK16 8AB T: 01908 211577</li> <li><input type="checkbox"/> 101 London Road, Reading, RG1 3BT T: 0118 9507700</li> <li><input type="checkbox"/> 10 Gars Court, St Christophers Place, London, W11 1JJ T: 0207 4091215</li> </ul>	
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**Report Reference Number:** 2018/0818/EIA

**To:** Planning Committee  
**Date:** 20 March 2019  
**Author:** Paul Edwards (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0818/EIA	PARISH:	South Milford Parish Council
APPLICANT:	Harworth Group PLC	VALID DATE: EXPIRY DATE:	17 July 2018 2018 16 October 2018 Extension of time agreed through a PPA
PROPOSAL:	Outline planning application with all matters (scale, appearance and layout) except access and landscaping reserved for the demolition of existing colliery buildings and construction of up to 186,000 sq m (approx. 2,000,000 sq ft) of Class B2/B8 and associated Class B1 floor space with supporting container storage area and associated buildings, trackside facilities, access and landscaping.		
LOCATION:	Gascoigne Rail Freight Interchange Former Gascoigne Wood Mine New Lennerton Lane, Sherburn in Elmet		
COMMITTEE RESOLUTION 5/12/18	That consideration of the application is Deferred with Members minded to refuse the application for reasons that the Committee set out.		

This application has been brought back to Committee in the light of the resolution in December 2018 when the Committee was minded to refuse the application. Five potential reasons for refusal were given by Committee and officers were instructed to undertake further research and obtain more information in support of the suggested reasons, before bringing the matter back to Committee (Minute No. 37.2). The applicant has provided further information in response to the issues raised at Planning Committee and further representations have been received from other interested parties and consultees which need to be taken into account in coming to an overall decision on this application.

## 1. Background

- 1.1 The application site extends to some 101.58 ha (251 acres) of which 43 ha (106 acres) is agricultural land to the north of and outside of the bunded former Gascoigne Wood colliery site in use as a rail related interchange. The site is accessed via a private colliery road (7.3m wide) with a 20mph speed limit from its junction with New Lennerton Lane 0.8km to the north of the existing site entrance. The adopted New Lennerton Lane then forms a T junction with the B1222 Bishopdyke Road a further 0.6km to the north. The private colliery road defines the eastern boundary of the northern parts of the proposed development on the agricultural land outside of the bunded former colliery.
- 1.2 The application is in outline for Environmental Impact Assessment (EIA) development. Details of access and landscaping have been submitted as part of the proposals. The other three reserved matters, scale, layout and appearance are reserved for future submission and approval. Thus the precise number, location, scale and appearance of units, up to a maximum floorspace of 186,000 sq m (2,000,000 sq ft) of principally B2 and B8 floorspace is not before the authority for approval at this time. Should outline planning permission be granted any reserved matters approvals will need to be in accordance with requirements of the Design Guidance Document and the Parameters Plan approved pursuant to this application.
- 1.3 The applicant states that the proposed development is intended to be a manufacturing led facility making use of the existing unique rail infrastructure opportunity.
- 1.4 The application had been recommended for approval subject to referral to the Secretary of State to give him the opportunity to 'call-it-in' for his own determination and subject to a schedule of thirty-six conditions and the satisfactory conclusion of a planning obligation. The full Committee minute on this item, approved at your meeting on 16 January 2019, is provided as **Appendix 1** to this Report and **Appendix 2** is the previous full Officer Committee report, without the schedule of recommended conditions but including the Officer Update Note tabled to Committee.
- 1.5 Since that Committee resolution, further research has been carried out by the applicants and including work in conjunction with the applicants for the hybrid outline application (Create Yorkshire) at the former Church Fenton airbase (Leeds East Airport). This is application 2018/0673/OUTM for the erection and change of use of buildings for creative, digital and media use and for the erection of a creative, digital and media industries employment park and film studios and was carried out in order to identify any cumulative highway impacts associated with the two applications.

### Reasons for Refusal

- 1.6 The reasons for refusal identified by the Committee are as follows:
  1. The application went against the Council's Development Plan, namely policies SP2 and SP13



2. The use of open agricultural land for a large part of the development was felt to be excessive and was of concern to the Committee
  3. The cumulative impact of housing and development on the highways network, including the numbers of potential employees for Sherburn 2 and any potential development at Gascoigne Wood from outside of the District, would cause further pressure on the surrounding roads
  4. Insufficient information on ecology and biodiversity had been provided to Members, including inadequate consideration of comments from Yorkshire Ornithological Society about a red listed bird on site
  5. The impacts of the proposal on Sherburn Aero Club required further mitigation.
- 1.7 The applicant, the **Harworth Group plc** has provided further information and clarification in the light of the Committee's resolution and these have been assessed by officers to determine whether the further information would support the proposed reasons for refusal.
- 1.8 In addition the County Highway Authority has reconsidered its advice in the light of the Committee resolution and taking account of the joint work on cumulative highway impacts referred to at para 1.5 above. The full response from the Highway Authority is awaited but your officers have seen it in draft.

## **2. Further Representations**

- 2.1 Prior to the December Committee meeting a reconsultation exercise had been commenced in the light of revised ecological information. The officer recommendation was amended by an Officer Update Note. That Update Note also referred to representations received after the completion of the principal report and is attached as part of **Appendix 2**. The additional information received from the applicant has not materially changed any environmental effects but has been the subject of further specific reconsultation with parties where appropriate.
- 2.2 Additional representations received as a result of this further publicity may be summarised as follows:
- 2.3 **The County Highway Authority** The updated response is awaited but it is understood to take into account the joint, cumulative assessment above and the role of the Wider Sherburn Growth and Infrastructure Delivery Plan that is underway.
- 2.4 **The Head of Economic Development and Regeneration** has considered the further evidence submitted by the applicant following Committee and sets out material considerations for why the application should be approved, referring to its fit with a range of adopted Council, Northern and national strategies and plans and the wider benefits it will deliver. The Council's Corporate Plan has as a top priority making Selby a Great Place 'to do business', the key focus of this work is through securing new investment in the district and improving employment opportunities with the Gascoigne Rail Freight Interchange specifically identified as a key strategic opportunity of regional significance.
- 2.5 The full text of the response is attached as **Appendix 3** to this Report but can be summarised below as:

- The Council's 2018 updated Corporate Plan emphasises the need to create the conditions for the current and future workforce to achieve higher levels of skills and qualifications. Amongst the things to focus on over the next two years in unlocking key transformational development sites, Gascoigne Wood is identified as having potential for a major new rail based manufacturing and logistics hub of regional significance
- The Selby Economic Development Framework (EDF), contains district targets including increased employment and increased productivity and the EDF identifies Gascoigne Interchange as one of 5 key development sites in the District, incorporating B1, B2 and B8 uses and regionally significant rail freight infrastructure. The Framework also specifies that the Council will work alongside key developers and landowners to attract investors and occupiers to Gascoigne Interchange
- The recent review of the EDF and its Delivery Plan identified the 4th highest of the 10 priorities that were agreed as '*Deliver Strategic Sites: Gascoigne Wood*'
- The response then sets out the advantages of the site including that a rail freight interchange at this site would be consistent with national and *Transport for the North* policy. It highlights that the site provides a unique opportunity for rail-related employment within the region. Detailed comparisons are given to eight other rail terminals in the region which are all, without exception limited in size, landlocked with little or no room for expansion and with restricted opportunities
- By comparison to other sites with some rail connection, the larger Gascoigne RFI application site is identified as having the ability to attract major inward investment and deliver supply to meet the projected demand arising from rail freight growth in the UK. This major inward investment opportunity is at least on par with Siemens (Goole) and the HS2 rail college development (Leeds)
- The Head of Economic Development continues with a summary of the significant local and regional economic benefits of this development and comments on the scale of the proposal, the employment benefits for local people and refers to the Infrastructure Delivery Plan for Sherburn which is underway to identify wider and longer term solutions which will take Gascoigne RFI into account and which is itself one of the priority actions in the EDF Delivery Plan

2.6 It is concluded that this application should be supported in order to enable the delivery of a rail freight interchange of regional significance at this site as an existing and key Council commitment.

2.7 **The Environment Agency** has no further comments to make and confirms that its August 2018 response in not objecting subject to conditions remains valid.

2.8 **County Council Rights of Way** confirms it has the same response as previously and requests, in not objecting, for an Informative on any approval.

2.9 **Shire Group of IDBs** confirms it has no further comments to make and that the original response in not objecting still applies.

- 2.10 **Natural England** says that it previously commented on this application; that it made no objection to the original proposal and that the proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.
- 2.11 **North Yorkshire Police Designing out Crime Officer** says that he has no further comments to make from previously when he commented that the indicative design and layout from a designing out crime perspective is to be commended. Comments were offered on aspects of the design, particularly on motorcycle/ moped ground anchor points.
- 2.12 **SDC Environmental Health** notes the noise conditions in the 5 December officer report.
- 2.13 **The Coal Authority** has no specific comments on the additional information and whilst considering the amendments to the overall site plan, their previous comments still stand (no objection).
- 2.14 **The County Landscape Architect** has further commented that the proposed scheme is now not satisfactory in its current form. This concern appears to be the same as the September 2018 response which led then to a series of negotiated revisions to the Design Guidance Document and Parameters Plan.
- 2.15 The concerns raised refer to a since superseded Parameters Plan and refer to points raised in the initial consultation response.

**Officer Note:** The December 2018 Report (**Appendix 2**) at paras 4.59 to 4.67 (for example) set out the sequence of matters that had been addressed through negotiation and include a short list of matters that the Landscape Architect had identified (para 4.60) would remove any objection provided these matters were addressed.

Your officer's conclusion was that it had been understood that the applicants' revisions and further information had addressed the concerns. The recommended conditions based upon the content of the revised Parameters Plan and the Design Guidance Document, since this is an outline planning application, were to be the manner, together with any obligation in which advanced planting, quality landscape and design and longer term maintenance and management can be achieved. The Heads of Terms for any obligation would reflect this.

It had been understood that the Architect's earlier concerns had thus been addressed.

- 2.16 **The County Ecologist** has replied in detail to the further ecological information and is pleased that the applicants have provided additional information to address some of the concerns.
- 2.17 Under specific headings, the Ecologist concludes:

### Bats

That she is pleased that the two trees identified can be retained; that further assessment has been provided that bat roosting and foraging habitat can be protected from lighting impacts by adherence to guidelines; the landscape buffer to Lennerton Farm needs to incorporate native species to protect bat foraging and asks how adherence to the dark corridor guidelines can be secured through any permission.

### Water vole

Requested a revised site masterplan and design guide prior to determination to reflect the applicants' agreement to the recommendations and more information is needed on long term watercourse management. **Officer Note:** This has been provided in plan form with a statement of intent

### Birds

The ecologist requests that the blue land to the east of the application site is used to secure the required enhancement and compensation measures. This, she concludes, provides an excellent opportunity to provide essential compensation and secure the net gains for biodiversity advocated by national policy.

### Management

In respect of bringing the blue land into the proposal as mitigation and enhancement for the on-site effects, it is recommended that prior to determination the applicant needs to commit to managing the blue land and provide high level targets/objectives which are appropriate to the species which require compensation. This should include the area of land proposed for management, the habitats to be retained or created, the period of time over which management will take place and how success will be monitored. The actual detail relating to the timeframe for creation, specific planting/seeding mixes and management prescriptions can then be provided within a detailed management plan secured by condition and/or legal agreement.

**Officer Note** The applicant did confirm (5/12/18) that the land within the applicant's ownership, edged in blue, can be used for compensation for the ground nesting birds. This area of land will be managed and maintained in a suitable way for 25 years, the details of which will be set out within the Section 106 agreement. The addressing of the dark corridor issue will be via final layout and the ecology and biodiversity management plan that had been sought by condition.

- 2.18 By way of final clarification and summarising the County Ecologist's position (6 March), the consultee remains disappointed that further off site enhancement measures for birds has not been able to be committed to at this time. However the applicant's proposals to include additional offsite enhancement measures for water voles are, it is confirmed welcomed. These measures in addition to the recommendations for protection, mitigation, compensation and enhancement set out in the original ecological reports and the subsequent ecological submissions are considered sufficient for this outline proposal to meet current national and local policy.
- 2.19 As such, she concludes, there is no reason for the proposal to be refused on ecological grounds.

- 2.20 **The Yorkshire Wildlife Trust** acknowledges that there are a number of positive approaches to mitigating the impacts of the development as proposed by the applicants but wishes to maintain a holding objection to the application. Detailed comments may be summarised as:
- A number of bird species and breeding birds, including red and amber list birds will be negatively impacted and displaced by the development and the breeding bird survey shows how important the applicants' land to the east is for many species
  - The eventual improvement in habitat and possible net gain in biodiversity will only be confirmed as the site is built out gradually. There is no confirmation without a staging plan and Construction Environmental Management Plan – which will be essential to provide certainty - that replacement habitat will be in place before habitat is lost and also for long term monitoring
  - There are comments upon the ability of spaces between buildings to support breeding lapwing and that there will be disturbance during construction
  - Long term ecological management of the site will be essential and the Trust would wish for conditions to ensure that this will be fully funded and in place before full planning permission is given. The suggested mitigation habitats could be valuable but will depend on appropriate management.
- 2.21 In commenting on the more recently revised proposals, the Trust welcomes the water vole added mitigation and further mitigation for breeding birds. It still considers that off-site habitat is required and, if not the suggested on-site habitat creation will need to be successful. It supports long term management and monitoring suggested by the County Ecologist – who has not objected- and the use of conditions to take steps if mitigation is not successful.
- 2.22 **North Yorkshire Fire and Rescue Service** confirm it has no objection/observation to the proposed development.
- 2.23 **The County Archaeologist** confirms the previous comments of no objections remain valid and that he has no additional observations to a make on the amendments.
- 2.24 **Mr B Bartle** who made representations on behalf of Messrs Stoker (who are the agricultural tenants of the farmed parts of the site) asked if the supplementary consultation was overtaken by events at Committee but is otherwise instructed by the Airfield owners (as a separate party to the Club) to sustain and add to their objection.
- 2.25 **Cunnane Town Planning** on behalf of Samuel Smith Old Brewery has followed up the representation reported in the December Update Note with further correspondence. The objectors' specific reply to the applicants' further information following December Committee can be summarised as:
- On the principle of development, the applicants' acknowledge the proposal does not accord with the development plan and the objector asserts that the existence of rail infrastructure is not sufficient to outweigh the direct conflict with the Core Strategy
  - The 12.5% non-rail related condition, it is suggested, is unenforceable over the lifetime of development

- On the applicants' assertion that the entire site is necessary to create a 'campus', the representation says that this does not justify the extent of the land take; development plan policies seek to curtail development in the countryside and there is no evidence that a campus is required
- On the applicants' assertion that the returns from the brownfield redevelopment alone are insufficient to justify bringing the rail infrastructure into use, the representation says that there is no viability or financial information to support this
- No evidence has been presented to support the statement that the development of the entire site would foster links with and potentially wider use of the rail infrastructure
- There are no meaningful attempts to join the site to other areas or take design cues from the environs of the site
- No new evidence is presented to support the assertion that end users could be motor manufacturers who could export to the UK and beyond using the rail network

2.26 In conclusion, the objector says no new evidence has been presented that can attract weight in balancing the harm to the development plan, the principal remains unacceptable and the Council should maintain its adopted position of refusal.

### **3. Further Research and more information**

3.1 Officers have considered the information provided in response to the proposed reasons for refusal identified by the Committee and have set this out below:

3.2 The order of assessment which follows is based upon the draft reasons for refusal:

1. Contrary to development plan policies SP2 and SP13
2. Excessive use of open agricultural land
3. Cumulative impacts of housing and employment development on the highways network
4. Insufficient information on ecology and biodiversity, red listed specie
5. Impacts upon Sherburn Aero Club

#### **1. Contrary to the development plan**

3.3 The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

3.4 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the Framework does not change the statutory status of the development plan as the starting point for decision making.

- 3.5 Thus the first part of the December Report considered whether the application accords with the development plan. It was concluded by officers and identified by Committee that there is conflict with Policies SP2 and SP13 (para 4.9 of the December Report).

SP2: Spatial Development Strategy. Development in the countryside will be limited to, of relevance here, the replacement or extension of existing buildings and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy and where it will enhance or maintain the vitality of local communities and in accordance with SP13; or other special circumstances.

SP13: Scale and Distribution of Economic Growth. Policy SP2 refers to compliance with SP13 which gives support to developing and revitalising the local economy. The Policy provides for an additional 37 to 52 ha of employment land in the period up to 2027; and the precise scale and location of smaller sites...in rural areas will be informed, the Policy continues, by the Employment Land Availability Assessment and determined through a Site Allocation Local Plan.

- 3.6 Policy SP13 does not describe the allocation as a maximum but the commentary (at 6.13) does provide an indicative employment land distribution and apportions 5-10 ha as a land requirement for Sherburn in Elmet, the precise scale and location determined through a Site Allocations Local Plan. The gross or net figures have already been far exceeded but it does continue to enable a variety, choice and options of sites as part of being able to realise growth through developing and revitalising local economies. Therefore, due to the indicative distribution it must be considered nevertheless that this application is contrary to this Policy.
- 3.7 The commentary to Policy SP13 also states, at para 6.34, "The Council also supports the reuse of the former Gascoigne Wood mine, provided this is directly linked to the use of the existing rail infrastructure that exists at the site". This is however not an adopted plan policy so it does not have the same weight. Whilst it is likely that the redevelopment of the existing banded former colliery site in isolation would today accord with policy subject to compliance with normal development management criteria, this is not the proposal that is in front of the authority.

Saved SDLP Policy EMP2: The Location of Economic Development specifies that new development is to be concentrated in and around Eggborough, Selby, Sherburn and Tadcaster and this policy makes actual allocations in and around these and others settlements.

SDLP Policy EMP9: Expansion of Existing Employment Uses. This Policy would support expansion or redevelopment of existing uses outside of development limits or outside of established employment areas subject to criteria. The support in Subs 4) is provided that expansion onto agricultural land will not result in the loss of the best and most versatile agricultural land and that the site will be well related to existing and well screened or landscaped.

- 3.8 It is considered that whilst the scheme is contrary to EMP2, the positive, and criteria based Policy EMP9 could be addressed with the previously recommended

conditions and obligations. The Committee view was that the loss of, incursion into agricultural land was contrary to policy and thus, since agricultural land would be taken as a matter of fact, there would be conflict with EMP9.

- 3.9 It should be noted (see para 3.4 above) that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The fit with Council, Northern and national plans and the wider benefits identified by the Head of Economic Development (see paras 2.4-2.6 and **Appendix 3**) are other material considerations that the Committee should take into account in deciding whether they outweigh the requirement to determine in accordance with the development plan or not.
- 3.10 If having reflected on the wider information submitted by the applicant and the further representations outlined in this report the Committee is still minded to refuse this application then any reason for refusal on the 'development plan point' could read:
1. The development of approximately 43ha of unallocated agricultural land unrelated to any existing settlement and without any present relationship or connections to the existing rail freight infrastructure and poorly served by public transport would constitute development in the open countryside that would be of a form, location and of a scale that is contrary to Policies SP2 and SP13 of the Selby District Core Strategy Local Plan and saved Policies EMP2 and EMP9 of the Selby District Local Plan.

## **2. Excessive use of open agricultural land**

- 3.11 The applicants have provided a new report and assessment on the need for the development and have sought to address with an explanation of why the agricultural land is necessary in order to provide choice and flexibility in a viable development. This approach has been considered by and is supported by the response from the Head of Economic Development and Regeneration.
- 3.12 These reports have been assessed and the applicants refer to the previously commissioned Agricultural Land Classification requested by Natural England that had not been the subject of any objection from Natural England. This had confirmed that a part of the site was Grade 3a (best and most versatile land)(bmv)(36% of the agricultural land is Good grade) and the site did not contain any 'Excellent' or 'Very Good' (Grades 1 & 2).
- 3.13 Whilst the core rail infrastructure is in place, the work, the applicants say is needed to upgrade in terms of re-signalling, container storage and the sidings could not be justified by development of just the existing brownfield site alone. Additionally, the brownfield redevelopment would merely maintain the status quo and the green field development would enable the fostering of closer links with the existing business parks and thus to ensure the site and the infrastructure is utilised to the fullest, the applicants conclude that the whole application site is required.
- 3.14 The concept behind the proposals at Gascoigne Wood, the applicants conclude, is to create a rail-connected manufacturing/assembly hub and it therefore needs to be of a sufficient scale to attract international investors and be large enough to create a 'campus'. The loss of agricultural land, the applicants conclude, is outweighed by the benefits of delivering such a scheme as is proposed.



- 3.15 The loss of agricultural land (43 ha) is a dis-benefit, although only 36% is in any of the 'best and most versatile' category. Of the five fields affected, two are in permanent pasture and some of the Grade 3a is to be incorporated into the open space/ accessible landscaped areas along the western flanks.
- 3.16 Development Plan policy seeks promotion of stewardship of wildlife by steering development to areas of least (environmental) and agricultural quality. The development of the agricultural land has not been the subject of objection from Natural England who concluded that, due to the areas involved, it fell outside of the need for formal consultation. On the Natural England Regional ALC maps the grade in this site appears the same as, for example, the S2 site which has consent for development of 35 acres of former agricultural land.
- 3.17 In view of the mixed quality of the 43ha, it would be unusual to refuse this application on loss of agricultural land reasons alone and your officers would advise that this could be difficult to substantiate in view of the irregular occurrence of best and most versatile land across the site and the lack of any Natural England objection. The fact of taking bmv land nevertheless makes it contrary to Policy EMP9 and this is already addressed in any possible 'development plan' reason for refusal at para 3.10 above.

### **3. Cumulative impacts of housing and employment development on the highways network**

- 3.18 In response to the concerns raised by the Committee about the likelihood of future employees commuting in from outside the District and the cumulative impact on surrounding highways that would result, the **Highway Authority** has been preparing further advice for Committee and this will be available before your meeting. It is understood that the Highway Authority is of the view that a refusal on highways grounds cannot be sustained since any impacts are not 'severe' in the NPPF sense.
- 3.19 The application and Environmental Statement sought to address the impacts of traffic generated as a result of the application on the network. The matters that are required to be taken into account include 'other committed development that is either consented or allocated where there is a reasonable degree of certainty it will proceed within the next three years' (Planning Practice Guidance 014 Reference ID: 42-014-20140306).
- 3.20 Eleven junctions were modelled in the TA and three showed potential capacity issues, the detailed analyses were summarised in paragraphs 4.27 to 4.37 of the December Report.
- 3.21 The work by the applicants in collaboration with the applicants of the Create Yorkshire proposal at Church Fenton has factored in the agreed TAs from both of these applications and this work is being assessed by the Highway Authority at length. Part of the solution proposed by the Highway Authority would appear to be the Infrastructure Delivery Plan for the Sherburn area as the first stage of a district-wide Strategic Plan for Growth & Infrastructure Delivery, being produced with the Better Together partnership with NYCC. This has been agreed by the Executive

(January 2019) as one of 10 priority actions in the EDF Delivery Plan for 2019 to 2020.

- 3.22 The Infrastructure Plan will assess existing infrastructure and connectivity focused on Sherburn in Elmet and Church Fenton, taking account of existing and approved growth. There will be a large area of study stretching from the A64 at Tadcaster in the north to the A63 close to South Milford in the south and as far west as the A1 in order to include connectivity with the strategic road network and rail stations. The Plan will then focus on how to address issues identified in the gap analysis and identify proactive methods to improve connectivity and accommodate future growth in this part of the District. The Plan is expected to take 6 months to complete, with an August / September 2019 sign-off. The concept behind the likely Highway Authority recommendation is understood to be that this wider Study would identify works to be undertaken in one action rather than incrementally in response to particular development projects.
- 3.23 Thus, it is understood, in order to pool contributions towards a series of measures that can be implemented in one go it is recommended that development up to a certain level can be accommodated before the necessary mitigation measures are required – and by then the Sherburn Infrastructure Plan will be approved .
- 3.24 Thus the commencement of a certain quantum of development has already been agreed by the Highway Authority since the TAs were based on worst case and triggers were reflected in the previously recommended conditions, before any off site works were required (except the New Lennerton Lane / B1222 junction). In this way, following any approval, development may proceed up to a defined limit before off site highway works are required.
- 3.25 The outcome of the Infrastructure Plan would, the Highway Authority will likely advise, identify Sherburn wide solutions that do not all fall to be addressed by individual applicants or as a result of application specific impacts. Any obligation would be structured to enable either the application specific impacts to be addressed or, upon the outcome of the Infrastructure Plan, the same monies go into any larger schedules of works.
- 3.26 The Highway Authority response is expected shortly and will be circulated to Members upon its receipt. It is understood at the time of writing that the Highway Authority will advise that a refusal on highway grounds cannot be sustained.

#### **4. Ecology: Insufficient information on ecology and biodiversity, red listed species**

- 3.27 The applicant's further explanation and additional information on Ecological mitigation and enhancement clarifies the context and methodology behind the bird surveys. Mitigation is proposed through both habitat creation, maintenance and, in the blue land in the applicants' ownership, further mitigation and enhancement.
- 3.28 In addition the York Ornithological Club's criticism of the breeding bird survey; namely that it was carried out on just four dates, and that it was timed to avoid the peak in bird activity is answered by the applicants. The applicants explain that surveyors visited the site on more than 24 separate occasions and the standard guidance on undertaking breeding bird surveys is that 'survey visits should be timed

to avoid the period of peak bird activity before dawn'. This is since at this time bird activity peaks very markedly so there is a risk that the first part of a plot covered will produce more records. The period of uniform activity is from about sunrise to midday.

- 3.29 The Club's suggestion that curlew breeds close by to the site has also been responded to. The applicants have confirmed that they have not recorded curlew in any of the surveys of the site (in visits on 24 separate occasions to the site).
- 3.30 Following the applicants holding additional discussions with the County Ecologist, further proposals have been advanced together with the measures to be incorporated in a planning obligation. The application now includes firm commitments that the land in the applicants' control outside of the application site (the blue land) will have areas managed and enhanced for water vole and otter habitat. In total there would be a 1.2km length and 15m wide corridor of management of the Carr Dike Channel and other field drains outside of the application site (in addition to the management of 1.1km of drain length within the application site). That curlew were not recorded in the applicants' surveys is the only evidence the Council has and without being able to challenge it with alternative evidence means that this cannot be used as a reason to resist the application. The Club has not replied to the re-consultation.
- 3.31 In summary, the County Ecologist, although noting that more mitigation could be sought, does acknowledge that the applicants have made significant progress in defining and mitigating impacts for an outline proposal.
- 3.32 The site is not a protected European site, a Nationally Designated site or a site identified in the Local Plan. The County Ecologist is not recommending refusal. The applicants have gone to very considerable lengths to define impacts and propose mitigation and thus the balance has to be whether potential effects upon ground nesting birds is sufficient to seek to resist the application on this ground. The County Ecologist does not consider that this is the case and Natural England similarly has not objected.
- 3.33 Your officers would thus conclude that significant additional information and proposals have been submitted which were not before Committee in December and the consultee does not recommend refusal. The comments from the YWT may not be fully addressed but the achievement of off-site mitigation and the commitment to future maintenance and management is sufficient to satisfy the County Ecologist.
- 3.34 Thus subject to the conclusion of a planning obligation and conditions, as a result of the further proposals and revisions, it is not considered that Ecology is a robust reason for refusal.

## **5. Impacts upon Sherburn Aero Club**

- 3.35 The applicants have held further discussions with the Aero Club and it was understood that the latter are to appoint a planning consultant. It is also anticipated that a joint statement or letter of progress between the parties is being prepared. This is not currently available to the planning authority but will be shared at Committee should it become available.

- 3.36 The legal advice taken into account in the report to Committee in December had been that any impacts upon the Aero Club could be dealt with at any reserved matters stage, particularly in the light of the 'no objection' from the Civil Aviation Authority (paras 4.50 to 4.54 **Appendix 2**).
- 3.37 The Committee discussion had referred to noise from the Airfield and its effects upon the development but this has not been raised by Environmental Health nor by the applicants; the latter had suggested that the majority B2 and B8 floorspace uses means that it is mostly unlikely that the development would be affected by aircraft noise.
- 3.38 The present situation is understood to be that the draft planning obligation could include Terms that have been drafted specific to the Club's earlier objection to ensure that:
- An area within which the Club have objected to any development will be defined at outline stage on the Masterplan and in the obligation as a 'Flight Path Area'
  - There will be no development within the Flight Path Area until any such development has been specifically approved as part of any reserved matters application, and a specification of Mitigation has been agreed with the local planning authority together with a timescale for its implementation
  - The Mitigation will have been agreed within the obligation in advance and could be upgrades to Runway 09/24 as specific compensation for the loss of runways 10/28 and 10G/28G to have been agreed with the Aero Club and the planning authority
- 3.39 There is however presently no draft agreement or anything presented to your officers that the Club is in agreement with at present and your officers will report further on the current situation to your meeting.
- 3.40 If the Club withdraws its objection then that would aid in assessing the robustness of or remove any refusal on this point since there is no CAA objection. If the objection is sustained, and bearing in mind the objection from the co-owners of the airfield separate to the Club, like any on-the-face-of-it unacceptable development, the authority is required and it is good practice in respect of costs to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or obligations.
- 3.41 Although there is not presently any agreed way forward since nothing has changed in terms of actual proposals, similarly, nothing has changed since the legal advice that this could be dealt with at the reserved matters stage. Thus, other than the doubt or uncertainty about the prospects of some development abutting the airfield limits, having considered the advice, it is not considered that effects upon the Aero Club can be sustained as a reasonable reason for refusal.

#### **4. Conclusion**

- 4.1 In line with Committee's instructions, your officers have undertaken further research and sought more information to strengthen the reasons for refusal. This has included assessing the additional explanations supplied by the applicants including their further proposals, the additional explanation and draft consultation response

from the County Highway Authority which itself has considered the joint piece of work on highways impacts by the Gascoigne Wood and Create Yorkshire applicants, the commissioning of the Sherburn Infrastructure Study and the further consultation responses through statutory publicity.

- 4.2 S.38 (6) of 2004 Act states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". An authority is not bound to follow the development plan since s.38 (6) confirms and it is paraphrased in the NPPF that "local planning authorities may take decisions that depart from an up-to date development plan, but only if material considerations in a particular case indicate that the plan should not be followed" (NPPF para 12).
- 4.3 The Committee did not consider in December that there were material considerations that could suggest a determination other than in accordance with the development plan.
- 4.4 The assessment of the further information and research that were not in front of Committee in December has led to the officer consideration that the Committee's Highways, Ecology, Aero Club and loss of agricultural land draft reasons for refusal, given the extra information and consultation responses, cannot be robustly defended without risks to the interests of the Council.
- 4.5 Therefore the worked up reason for refusal from paras 3.10 is:
  1. The development of approximately 43ha of unallocated agricultural land unrelated to any existing settlement and without any present relationship or connections to the existing rail freight infrastructure and poorly served by public transport would constitute development in the open countryside that would be of a form, location and of a scale that is contrary to Policies SP2 and SP13 of the Selby District Core Strategy Local Plan and saved Policies EMP2 and EMP9 of the Selby District Local Plan.
- 4.6 If Committee wishes to confirm its wish to refuse this application then this is the recommended reason for refusal.
- 4.7 In considering whether or not a single reason or reasons for refusal can be outweighed by material considerations it is a matter of balancing the advantages against the disadvantages. The Infrastructure Plan for Sherburn has a clear project plan and timescale for delivery and both the Head of Economic Development and, it is understood, the Highway Authority believe that a longer term solution can be achieved across the wider area and that this decision does not need to wait for its outcome given the mechanisms proposed. The earlier recommendation had a comprehensive set of highways and transport measures agreed with the Highway Authority and it is understood that it will again conclude that a refusal on highways grounds cannot be sustained.
- 4.8 The EDF has recently (January 2019) been reviewed and updated with a Delivery Plan which is adopted Council Policy. The EDF, your officers can confirm, does not have the weight of the development plan attached to it for decision-making but it is clearly a material consideration that deserves weight in the decision making

process and which was not in front of Committee in December. The Head of Economic Development, in the detailed response, places great weight on the importance and direction of the document as well as the Council's adopted Corporate Plan and recent 2018 refresh, as defining the Council's economic development goals. These goals specifically refer to the opportunities at the Gascoigne Rail Freight Interchange to create a major new rail-based manufacturing and logistics hub of regional significance, and your officers agree that this is a significant consideration.

4.9 Thus, Committee needs to consider whether the weight that should be given to these new material considerations, which were not in front of Committee in December, is sufficient to outweigh the harm to Policies.

## **5. Recommendation**

5.1 The Committee is requested to fully consider the additional information provided by the applicants, the further representations received and your officer's analysis of the five reasons for refusal identified by the Committee. In the light of the above, your instructions are requested in respect of whether to :

A: Refuse the application in line with the reason at paragraph 4.5 above, or

B: Indicate that it is Minded to Approve the application in the light of the further evidence provided by the applicant and in further representations received by the Head of Economic Development on the wider benefits of the development and its fit with other Local, Regional and national plans and strategies.

### **Case Officer:**

Paul Edwards, Principal Planning Officer  
pedwards@selby.gov.uk

### **Appendices (see separate document pack):**

Appendix 1: Minute Extract – Planning Committee 5 December 2018 - Minute 37.2

Appendix 2: Officer Report: 5 December 2018 and Officer Update Note 5 December 2018

Appendix 3: Consultation response from the Head of Economic Development and Regeneration

# Agenda Item 6.4



Report Reference Number: 2018/0898/EIA

**To:** Planning Committee  
**Date:** 20 March 2019  
**Author:** Fiona Ellwood (Principal Planning Officer)  
**Lead Officer:** Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0898/EIA	PARISH:	Sherburn In Elmet Parish Council
APPLICANT:	Kingspan Insulation Ltd	VALID DATE: EXPIRY DATE:	24th August 2018 23rd November 2018
PROPOSAL:	Section 73 application to vary condition 02 of approval 2016/1456/EIA Proposed Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant with 8000m2 Factory Extension and Associated Infrastructure		
LOCATION:	Kingspan Insulation Ltd Enterprise Way Sherburn In Elmet North Yorkshire LS25 6NE		
RECOMMENDATION:	APPROVE		

This application has been brought before Planning Committee due being a variation to application which was subject to an Environmental Impact Assessment Statement (EIA).

## 1.0 INTRODUCTION AND BACKGROUND

### The Site and Context

- 1.1 The 10.4 Hectare site is the existing Kingspan site to the east of Sherburn in Elmet on an established industrial estate. The Kingspan site is situated centrally within the Sherburn Industrial Estate, inside the perimeter of the existing Kingspan Insulation site predominantly on an unused grassed area. The existing Kingspan factory sits to the north and the proposed factory extension would adjoin this. In terms on surrounding uses, Eddie Stobart storage operation is located to the south and a number of other large industrial operations to the east and west.
- 1.2 The site is within Flood Zone 1 which represents the lowest possible risk of flooding by rivers or the sea.

## **The Proposal**

- 1.3 Planning permission was granted in 2017 under a combined application for, firstly the Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant and secondly an 8000m<sup>2</sup> Factory Extension and Associated Infrastructure. The changes proposed relate only to the RDF CHP element of the proposals.
- 1.4 The RDF is intended to produce energy from waste incineration. The permission was granted on the basis that the CHP plant would be powered annually by approximately 132,000 tonnes of Refuse Derived Fuel (RDF). The process of energy generation would be achieved through a gasification process. The rationale for the development was to enable the UK division of Kingspan Insulation Ltd to operate as a carbon neutral business. The stated intention was that energy generated from the proposed CHP plant would supply the UK division with green electricity, with all surplus energy being transferred to the national grid.
- 1.5 The previous application was assessed as requiring an Environmental Impact Assessment under the Town and Country Planning (EIA) Regulations 1999 England and Wales.
- 1.6 This Section 73 application seeks to vary condition 02 of approval 2016/1456/EIA for the Proposed Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant with 8000m<sup>2</sup> Factory Extension and Associated Infrastructure. C
- 1.7 Condition 02 of the consent requires the development to be in accordance with the list of plans, the Environmental Statement, the Transport Statement and the Traffic Statement Addendum.
- 1.8 The plans and statements and all conditions would remain as previously approved but as varied by the Planning Statement submitted with this application.

The main changes proposed are summarised as follows;

- Increase in feedstock tonnage from 132, 000 tonnes per year to 200,000 per annum
- Feed stock to be sourced from anywhere in the UK (previously a 50 mile radius)
- Increase from 20 HGV 2 way movements per day for feedstock and ash disposal to 33 HGV per day on average
- Increase in stack height from 45 to 50 metres
- An increase in the electrical capacity from 14MW to 18MW and thermal capacity from 1.5MW to 4 MW

## **Relevant Planning History**

- 1.9 The following historical applications are considered to be relevant to the determination of this application.
  - 2006/0509/FUL-(PER-17.07.2006) Proposed sub-division of existing warehouse/industrial unit into 2 No. units, new servicing areas, associated



access roads and car parking to include change of use from B2 (general industry) to B1 (business), B2 (general industry) and B8 (storage or distribution)

- 2006/0654/OUT (PER - 08.08.2006) Outline application for industrial units (B1, B2 and B8) and associated car parking.
- 2007/0754/FUL (PER - 30.10.2007) Proposed extension to existing industrial building for the loading of waste products
- 2011/1058/FUL (PER - 19.12.2011) Erection of an extension to industrial building and the erection of a temporary storage facility
- PD/2013/0254 (ADVICE - 31.10.2013) To overclad the existing roof with an insulated roof panel, and to install a solar PV system
- .
- SCR/2013/0013 (EIANOT - 08.11.2013) EIA screening opinion for installation of biomass CHP plant and associated infrastructure
- 2013/1173/FUL (PER - 12.03.2014) To overclad the existing insulated roof with 40mm composite panels and installation of a 3MW solar PV system on the cladded roof
- 2014/0244/FUL (PER - 15.05.2014) Retrospective application for erection of a small GRP substation
- SCR/2016/0002 (EIAREQ - 09.06.2016) Screening opinion request for the installation of a CHP plant, 8000m2 factory extension and associated works
- 2016/1456/EIA: (PER – 23.06.2017) Proposed Installation of a Refused Derived Fuel (RDF) fired Combined Heat and Power (CHP) plant and an 8000m2 Factory Extension and Associated Infrastructure.
- 2017/1067/HAZ: (PER- 11.05.2018) Application for consent under the Planning (Hazardous Substances) Regulations 2015 (Regulation 5) for the storage and use of substances.

## **2.0 CONSULTATION AND PUBLICITY**

### **2.1 Environmental Health**

First response- clarification sought on whether there is an intention to deviate from the Noise Technical Data set out in Appendix 6 of the EIA Statement. No objections to increased throughput regarding air quality.

Second response-in the light of the clarification of the noise data -no further observations

### **2.2 North Yorkshire Highways And Transportation North Yorkshire**

Do not consider the traffic generated will have an impact on the operation of the road network.

### **2.3 Yorkshire Water Services Ltd**

No comment to make on the proposed amendments to the existing permission.

## 2.4 Selby Area Internal Drainage Board

The application will increase the impermeable area to the site therefore the applicant should ensure that any existing or proposed surface water discharge system has adequate capacity for any increase in surface water run-off to the area.

Comments made that no details for surface water are given in this application. Percolation tests are needed. YW need to be satisfied about the additional flow. Conditions suggested regarding drainage details, runoff rates and no obstructions within 7 metres of a watercourse.

## 2.5 Environment Agency

As with 2016/1456/EIA the application requires an Environmental Permit before the plant can be brought into operation. Part of the permit determination will be to assess whether stack height will ensure insignificant environmental impact with atmospheric dispersion modelling.

## 2.6 Sherburn Aero Club

No Objections. But do wish the applicants to take up the recommendations of their own advisors and appropriately mark and light up the chimney to ensure safety for night flights and visibility.

## 2.7 Health and Safety Executive

Do not advise, on safety grounds, against the granting of planning permission. Attention is drawn to unidentified pipe lines in the vicinity and details given for the operators which the HSE have on record.

## 2.8 Parish Council

The PC note this does not represent a significant increase in traffic on the local road network, but are concerned that the cumulative effect of increases are not being taken into account when considering the safe operation of the local road network. The PC also note the option to increase the chimney stack height from 45m to up to 50m due to the potential increased volume of exhaust gas emissions. The PC trust that this will be considered by the Environment Agency, but request that consideration also be given to safety issues arising from the proximity to Sherburn Aero Club (it is not clear whether the Aero Club have been consulted in this matter).

## 2.9 Publicity

The application was advertised by site notice, press notice and neighbour notification. A corrected Press Notice for this EIA application was publicised 28 February 2019 and expires on 30 March 2019. No responses have been received to date.

## 3.0 **SITE CONSTRAINTS AND POLICY CONTEXT**

3.1 The site lies within the established Sherburn Industrial Estate which has a significant employment permission. The site is also within a coal field area and is within Flood Zone 1. It is within the Sherburn Airfield East Airport Constraint Zone.

### **National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**

3.2 The National Planning Policy Framework (February 2019) (NPPF) is the latest iteration of the NPPF which was first published in March 2012. The NPPF does not

change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (paragraph 12). This application has been considered against the 2019 NPPF.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states "if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". This is recognised in paragraph 11 of the NPPF, with paragraph 12 stating that the framework does not change the statutory status of the development plan as the starting point for decision making.

The development plan for the Selby District comprises the Selby District Core Strategy Local Plan (adopted 22nd October 2013) and those policies in the Selby District Local Plan (adopted on 8 February 2005) which were saved by the direction of the Secretary of State and which have not been superseded by the Core Strategy.

### **Selby District Core Strategy Local Plan**

3.3 The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Spatial Development Strategy  
SP13 - Scale and Distribution of Economic Growth  
SP15 - Sustainable Development and Climate Change  
SP17 - Low-Carbon and Renewable Energy  
SP19 - Design Quality

### **Selby District Local Plan**

3.4 Annex 1 of the NPPF outlines the implementation of the Framework and provides as follows at paragraph 213 :-

*".....existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

3.5 The relevant Selby District Local Plan Policies are:

ENV1 - Control of Development  
ENV2 - Environmental Pollution and Contaminated Land  
T1 - Development in Relation to Highway  
T2 - Access to Roads  
ENV4 - Hazardous Substances  
EMP2 - Location of Economic Development  
EMP4 - Retention of Established Employment Area  
EMP6 - Employment Development

## **4.0 APPRAISAL**

4.1 The main issues to be taken into account when assessing this application are:

1. The Principle of Development
2. Impact on the character and appearance of the locality
3. Highway Safety Conditions
4. Flood Risk, Drainage, Climate Change and Energy Efficiency
5. Impact on Residential and Local Amenity
6. Nature Conservation Interests
7. Heritage Assets
8. Impact on safe operations at the Sherburn Aero Club
9. EIA and cumulative Impacts

### **The Principle of Development**

- 4.2 The principle of the development has been established through the previous permission granted on this site. Therefore the main issues are the impacts of the proposed changes as described above.

### **Impact on the character and appearance of the locality**

- 4.3 The amendments now proposed retain the layout of the 2016 Permission but allow for a potential increase in the stack height to up to 50m due to the potential increased volume of exhaust gas emissions. It is stated that the stack height will only increase, however, in the light of discussions with the Environmental Agency at the time of applying for the environmental permit.
- 4.4 The area surrounding the site is of an industrial nature. The Kingspan site is within the centre area of the industrial estate surrounded by other industrial buildings. When viewing the Sherburn Industrial Estate from the surrounding landscape at a number of specific viewpoints, other tall structures are visible. These include the grain store located to the north west of the Kingspan site, as well as structures upon the site of the British Gypsum factory, of which are all at or upwards of 30m in height. The chimney will therefore be seen in context with these existing tall industrial structures in the vicinity.
- 4.5 Although the chimney stack is likely to be one of the larger structures in the area, an increase from 45m to up to 50m will not be detrimental to the surroundings: from a visual amenity standpoint, a potential increase of up to 5m will not be significantly noticeable from the nearest residential areas which are located approximately 700m to the west and 500m to the north, or from the surrounding countryside.
- 4.6 It is therefore considered that the proposal can be accommodated without any unacceptable visual or landscape impacts, preserving the character and appearance of the surrounding landscape and the locality, according with Policy SP18 of the Core Strategy, Saved Policy ENV1 of the Local Plan, and with the NPPF.

### **Highway Safety Conditions**

- 4.7 Though the power export to the national grid will remain the same at up to 14MW of electricity the developer would like to increase the size the Plant to allow for the export of up to 18MW of electricity and up to 4MW of heat. This increase is intended to be available to local businesses such as Kingspan. This requires the throughput of feedstock to be increased to up to 200,000 tonnes per year in order to allow the Plant to operate on a continuous basis in an efficient manner.

- 4.8 The applicants state that while it is expected that suppliers of feedstock will primarily be located within a 50 mile radius of the Plant, due to more advantageous transport costs the project's funders will require greater flexibility in order to demonstrate long-term security of supply. It is, however, intended that all feedstock be sourced from within the UK, and not imported. The applicant, with the assistance of a feedstock aggregator, will endeavour to locate feedstock suppliers in as close proximity as possible to the project site, however, it is necessary that the project is not bound to a specific distance in order to be economically viable .
- 4.9 The arrangements set out in section 4.8 of the Environmental Statement accompanying the 2016 Permission will therefore be superseded by the current proposals when it comes to the range of feedstock sourcing.
- 4.10 In addition the Applicant has requested that the previously consented limit of 132,000 tonnes per annum (referenced in the Environmental Statement and Transport Statement and thus Condition 2 of the 2016 Permission) be increased to 200,000 tonnes per annum, therefore requiring an increase in the number of deliveries of feedstock to the Plant.
- 4.11 In addition to the delivery of feedstock, the Plant will create ash waste requiring disposal off-site. Delivery of consumables to the Plant must also be taken into consideration. Ash and consumables equate to approximately 20% of the total feedstock tonnage and require a separate allowance for traffic movements.
- 4.12 The sections of the Environmental Statement from the 2016 Permission with which this amendment is concerned are as follows:
- "4.10 Approximately 10% of the total feedstock will be burnt to ash and sent to landfill. There are no other by-products associated with the biomass process. The plant will operate 24 hours a day, 7 days a week."*
- "4.11 It is anticipated that there will be 5,800 heavy good vehicles movements annually associated with the CHP plant, which equates to approximately 250 movements a week. Personnel vehicle movements associated with the operation of the CHP plant will equate to 42 movements per day. The factory extension will create a net increase in HGV vehicle movements by approximately 22 per day and 22 staff movements per day, which will be spread over the 24-hour operation of the factory."*
- 4.13 The section of the Transport Statement for the 2016 Permission with which this amendment is concerned reads as follows:
- "4.1.4 It is anticipated that deliveries on site will be over a 52 week year on a 5.5 day week. This equates to around 20 deliveries per day, i.e. 40 movements a day."*
- 4.14 Although the necessary traffic movements for the Plant will rise due to the increase in power output and subsequent need for additional feedstock, on a day by day level the overall effect is not significant. By using a feedstock aggregator that sources feedstock from multiple waste providers the project is able to moderate its overall road usage, preventing any one delivery route from experiencing materially increased usage. As such the increase in vehicle movements when spread over a 6 day week is relatively minor.
- 4.15 Delivery hours would remain unchanged from the previous permission being between 7:00-19:00 hrs Mon-Fri and 7:00-16:00hrs Saturday.

- 4.16 The Highway Authority have been re-consulted and does not believe the increased traffic generated or the increased radius of material sourced will have an impact on the operation of the road network
- 4.17 The proposed development is not considered harmful to road safety conditions in accordance with policies ENV1(2), T1, and T2 of the Local Plan and the NPPF.

#### **Flood Risk, Drainage, Climate Change and Energy Efficiency**

- 4.18 No changes are proposed to the drainage aspects of the proposal and there is no proposals to change any of the relevant conditions. It is therefore considered that appropriate drainage at the site can be achieved and the proposals would not increase or have an adverse impact on flooding.
- 4.19 In relation to energy efficiency and climate change, the annual feedstock which will power the CHP plant will consist of RDF sourced from recycling centres from outside of the Sherburn Industrial Estate. The scheme will therefore generate electricity from a sustainable source of energy. The electricity will be used to power Kingspan's operation at Sherburn Industrial Estate, with surplus energy being fed into the national grid to be used via a licensed supplier at other Kingspan sites across the UK. At least 12,000MWh of heat from the steam turbine will be recovered and used to heat the Kingspan facility and nearby buildings on the industrial estate, thus reducing substantially the amount of fossil fuel used in the area. There are no other by-products associated with the gasification process. The plant will operate 24 hours a day, 7 days a week
- 4.20 The benefits of the scheme have been previously acknowledged through the grant of the earlier planning consents. The proposed changes will increase the electricity output and efficiency of the facility. The increased redirection of RDF waste from landfill to the site will present further environmental and public sustainability benefits.
- 4.21 The Environment Agency state that the facility required an Environmental Permit under the Environmental Permitting (England and Wales) Regulations (2010) before it could be brought into operation and raise no other specific comments or objections.
- 4.22 The NPPF, at Paragraph 148 sets out the planning system should support the transition to a low carbon future and to encourage the re-use of existing resources and support renewable and low carbon energy. The proposed development is to provide a sustainable source of energy and is acceptable in terms of flood risk, drainage, climate change and energy efficiency. As such, the development would be in accordance with ENV1 of the LP and Policies SP15, SP17 and SP19 of the Core Strategy and the NPPF.

#### **Impact on Residential and Local Amenity**

- 4.23 The key considerations in respects of residential amenity are considered to be the potential of the proposal to result in increased noise pollution, reduction in air quality and disturbance from vehicle movements. The nearest residential properties to the site are the dwellings along Bishopdyke Road (B1222) 400m to the north. There are also dwellings on the eastern edge of the settlement of Sherburn which is approximately 1.5 miles away.

- 4.24 The additional vehicle movements are spread over the week and will approach the site from different locations. Given the overall levels of traffic generated by the industrial estate, it is not considered that the extra vehicle movements associated with this change to the permission would impact on the nearby local residents to any significant degree.
- 4.25 In terms of noise, the Environmental Health Officer (EHO) has raised some queries which have been clarified and the EHO have no further concerns in this respect. It is not anticipated, given the sites location, that there would be any significant adverse impacts arising from the increases proposed.
- 4.26 In terms of air pollution, the applicants submitted an air quality assessment as part of the original ES. The assessment concluded that the proposal would not lead to any undue impact on the environment or local amenity with any remaining impacts on the local community suitably minimised. The report concluded that the impacts on existing pollutant concentrations were not expected to be significantly higher than existing at any of the assessed locations and that the rates of nitrogen and acid gas deposition were also predicted to not significantly affect the existing conditions at any assessed receptor sites. The assessment was completed from a 'worst-case' scenario, which assumed that the development would constantly emit the maximum permitted concentrations of each pollutant throughout its entire operation.
- 4.27 In view of this, the EHO does not consider the proposed changes would raise any concerns with regard to air quality.
- 4.28 It is therefore considered that the changes to the scheme in terms of vehicle movements and increased output will not (subject to the conditions previously imposed to mitigate the potential harm) result in any significantly detrimental impact to the nearest residents, other users of the estate or local amenity through noise, air quality, light spillage or nuisance from the construction phase. As such the development is in accordance with Policy ENV1(1) and SP19 of the Local Plan and the NPPF.

### **Nature Conservation Interests**

- 4.29 The site itself, and its immediate surroundings, are not designated sites for three purpose of nature conservation interest. There are no European or nationally designated sites within 2km of the survey site. No impacts on designated sites are therefore anticipated.
- 4.30 The conclusion was that the approved scheme would not have any impacts to designated sites. Ecology surveys previously submitted indicated no protected or notable species as the site was too isolated and homogeneous to be able to support wildlife. Scattered trees and scrub were able to support feeding and nesting birds, along with commuting and feeding bats and a landscaping scheme was imposed to achieve additional tree and shrub planting.
- 4.31 The proposed changes to the scheme would not impact further on any local nature conservation or wildlife interests and the need to meet the requirements of the landscaping condition and mitigation would remain. The proposed development is considered to be in accord with Policy SP18 of the adopted Plan, saved Policy ENV1 and NPPF

## **Heritage Assets**

- 4.32 Paragraph 196 of the NPPF should be read in conjunction with paragraph 193 of the NPPF which provides that when considering the impact of a proposal on the significance of a designated heritage asset, “great weight” should be given to the asset’s conservation. This wording reflects the statutory duty in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990.
- 4.33 Whilst considering proposals for development which affects a Listed Building or its setting, regard is to be made to Section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 which requires the Local Planning Authority to 'have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses'.
- 4.34 The nearest heritage assets to the site are Grade II Listed Buildings located centrally within Sherburn in Elmet, 1.7km to the west. Since these nearest heritage assets are in excess of 1.5km from the site, it is not considered that the increased stack height from 45 to 50 metres in height would impact on the setting, character and appearance of these heritage assets. As such there would be no conflict with Policy SP18 of the CS, saved Policy ENV1 of the LP or with the NPPF.

## **Impact on safe operations at the Sherburn Aero Club**

- 4.35 To the south of the industrial estate is Sherburn in Elmet Airfield which is a private facility in full operation and under license by the Civil Aviation Authority. The Airfield facilitates light aircraft and helicopters. The report accompanying the original application considered whether the CHP plant and chimney could represent a safety hazard to aircraft using Sherburn airfield or those flying en-route in the vicinity. This was assessed both in terms of the obstacle clearance requirements as set out in CAP 168 and any safety impacts resulting from the emissions plume from the chimney.
- 4.36 The original report submitted also indicated that the location of and the potential drift of the emissions plume from the chimney is such that it would not create any aircraft turbulence or present a safety hazard to pilots in terms of visibility or toxicity. The plant and chimney are not in the approach or take-off paths for the airfields runways. The report stated that the built chimney was to be no more than 45m in height and it would not infringe any obstacle clearance limits defined under CAP 168, which could potentially breach the requirements for Sherburn’s CAA Aerodrome Licence.
- 4.37 The chimney stack proposed would increase the height of the stack by 5m. The Sherburn Aero Club have been consulted, and following their discussion with the applicants Aero consultant, have confirmed that they have no objections to the proposals. This is subject to the applicant taking up the recommendations of their own advisors and appropriately marking and lighting up the chimney to ensure safety for night flights and visibility. It is therefore recommended that a condition is added to ensure the appropriate mitigation measures to the chimney stack are implemented. Subject to the condition it is concluded that the proposed development would not adversely impact on the safety of flights to Sherburn Aero Club.



## **EIA and cumulative Impacts**

- 4.38 When changes or extensions are made to Schedule 2 EIA development the changes or extensions should not be considered in isolation but in the context of the development as changed or extended. The ES submitted with the previous 2016/1456/ EIA application demonstrated that there are unlikely to be any significant impacts from the development itself or when considered cumulatively with other energy developments in the locality.
- 4.39 The EIA Regulations require the Environmental Statement to report on the main alternatives considered by the applicant and provide the reasons for choosing the site; such reasons should also give consideration to the associated environmental impacts.
- 4.40 Consideration was given to this on the original application. The key criteria were the operational requirements of Kingspan Insulation Ltd, the location of its existing factories and land ownership, the ability to provide heat to neighbouring uses and the physical parameters of available sites.
- 4.41 In relation to the renewable energy generation aspect of the proposal, the location of the development was influenced by the requirement for it to be in close proximity to the end users of the heat, which are the commercial premises at the industrial estate. In addition the provision of lower costs and renewable heat to adjacent businesses will help secure the future of these businesses and may help attract additional employment/business opportunities to the estate.
- 4.42 The conclusion on the original permission was that the development represented an economical and environmentally logical solution in an appropriate location. The proposed variations to the scheme are not of a significant nature and do not fundamentally alter the scheme proposed. They will provide more economic certainty and flexibility. Whilst consultation responses are awaited from the Environment Agency, the view of officers is that no adverse environmental impacts, either individually or cumulatively would arise as a result of these changes to the scheme

## **5.0 CONCLUSION**

- 5.1 In assessing the proposal, the development would be consistent with the aims of both the Core Strategy and the Local Plan and would bring economic, social and environmental benefits to the District. Given the established use of the site the variations to the approved scheme are considered to be acceptable. The principle of the scheme has already been established through the 2017 permission. The key issues in the determination of this planning application are the impacts of the proposed changes on the character and appearance of the locality, Highway safety, flood risk, drainage and climate change, residential amenity, Nature Conservation, Heritage Assets, and the safe operation of the nearby Sherburn airfield and the EIA and cumulative impacts.
- 5.2 It is considered that the development is acceptable in respect of the above having regard to all relevant policies of the development plan and other material subject to the conditions at section 6 of this report.

## 6.0 Recommendation

**The application is recommended to be granted subject no additional issues arising from the need to re-advertise and the expiry of the advertisement on 30 March 2019 and subject to the following conditions;**

01. The development for which permission is hereby granted shall be begun within a period of three years from 23 June 2017.

Reason:

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

02. The development hereby permitted shall not be carried out otherwise in complete accordance with the following plans and specifications;

Location Plan- 108838.001

Existing Site Plan-26478/4 REV A

Site Plans of Proposal- 26478/5 REV B

Proposed Site Plan- 26478/3 REV B

Elevations towards West and North- 26476/6 REV C

Elevations towards East and South- 26476/7 REVC

Parking Plan 108838-002A

Environmental Statement-November 2016

Transport Statement-SJT/JLA/15273-01b -5th December 2016

Traffic Statement Addendum-JT/JLA/15273-02a-13 March 2017

Planning Statement dated 02 August 2018

Traffic Statement Addendum dated 30 August 2018

Environmental Statement Addendum dated 30 August 2018

Reason:

To ensure that no departure is made from the details approved and that the whole of the development is carried out, in order to ensure the development accords with Policy ENV1.

03. The recommendations and mitigation measures detailed in the Preliminary Ecological Appraisal by Peak Ecology Ltd dated 01/06/2016 shall be carried out in full prior to the first bringing into use of the development.

Reason:

To mitigate against the loss of existing biodiversity and nature habitats and to comply with Policy ENV1 of the LP and SP18 of the CS and the NPPF.

04. Within 6 months of the commencement of the development commencing, a comprehensive scheme of landscaping and tree planting for the site, indicating inter alia the number, species, heights of planting and positions of all trees, shrubs and bushes to include details of the grassland seed mix shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme should thereafter be carried out in its entirety within the period of twelve months beginning with the date on which development is commenced, or within such longer period as may be agreed in writing with the Local Planning Authority. All trees, shrubs and bushes should be adequately maintained for the period of five years beginning with the date of completion of

the scheme and during that period all losses should be made good as and when necessary.

Reason:

To allow the Local Planning Authority to control the development in detail in order to ensure that the proposals are in keeping with the character and appearance of the area to comply with Policy ENV1 of the Selby District Local Plan and SP19 of the Selby District Core Strategy Local Plan.

05. Within 6 months of the development commencing, a detailed biodiversity management plan for the maintenance of the approved landscaping scheme of shall be submitted to and approved in writing by the Local Planning Authority. The approved plan should thereafter implemented and maintained for the lifetime of the development.

Reason:

In the interests of maximising the biodiversity potential of the site in accordance with Policy ENV1, SP18(3)(b) and the National Planning Policy Framework.

06. No development shall commence on site until a detailed site investigation report (to include soil contamination analysis), a remedial statement and an unforeseen contamination strategy have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed documents and upon completion of works a validation report shall be submitted certifying that the land is suitable for the approved end use.

Reason:

To secure the satisfactory implementation of the proposal, having had regard to Policy ENV2 of the Selby District Local Plan and the NPPF.

07. Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) must be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i. a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- ii. an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
  - an appraisal of remedial options, and proposal of the preferred option(s).

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

Reason:

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

08. Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

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

09. Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and be subject to the approval in writing of the Local Planning Authority.

Reason:

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

10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

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

11. Before work begins on the construction of the buildings and structures for the RDF and CHP plant above ground level hereby a schedule and samples of the external walling materials and roofing materials for the new buildings and structures shall be submitted to and approved in writing by the Local Planning Authority. Only those materials approved shall be used in the development hereby approved.

Reason:

In the interests of visual amenity, the impact on the conservation area and in order to comply with Policies ENV1 of the Selby District Local Plan and SP18 of the Core Strategy.

12. Before any work on the drainage systems commences, a scheme for the drainage of the development and the discharge of surface water from the site incorporating sustainable drainage details, shall be submitted for the written approval of the Local Planning Authority. Only the approved scheme shall be implemented and thereafter maintained for the lifetime of the development.

Reason

To comply with policy ENV1 of the Local Plan and to ensure that the site is properly drained and in order to prevent overloading

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

Reason

To comply with Policy ENV1 of the Local Plan and SP19 of the Core Strategy and to ensure the site is properly drained and in order to prevent overloading, surface water is not discharged to the foul sewer network.

14. No part of the development shall be brought into use until the approved vehicle access, parking, manoeuvring and turning areas approved have been constructed in accordance with the submitted drawing (Ref 108838-002A). Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

Reason

In accordance with Policy T1 and ENV1 of the Local Plan and to provide for appropriate on-site vehicle facilities in the interests of highway safety and the general amenity of the area.

15. There shall be no excavation or other groundworks, except for investigative works or the depositing of material on site, until details of a Construction Traffic Management Plan with measures to maintain the free flow of traffic on the highway network have been approved in writing by the Local Planning Authority and in consultation with the Highway Authority and the development shall thereafter be carried out and operated in accordance with the approved Construction Traffic Management Plan. The measures shall include but not be limited to:

- 1) Details of the routes to be used by HCV construction traffic

- 2) Measures to prevent mud/dirt being deposited on the highway
- 3) Parking/storage areas

Reason

In accordance with Policy ENV1 and T1 of the Local Plan and to avoid interference with the free flow of traffic and to secure safe and appropriate access and egress to the site in the interests of safety and convenience of highway users and the amenity of the area.

16. Prior to the development being brought into use, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The Travel Plan shall be implemented and the development shall thereafter be carried out and operated in accordance with the Travel Plan.

Reason:

In accordance with Policy ENV1 and T1 of the local Plan and to establish measures to encourage more sustainable non-car modes of transport.

17. Prior to the development being brought into use, the existing boundary fence which abuts the footway to the south of the proposed access shall be set back 2 metres from the back of the footway.

Reason:

In accordance with Policy T1 of the Local Plan and in the interests of road safety.

18. The Refuse-Derived Fuel (RDF) used to fire the Combined Heat and Power (CHP) plant shall consist of mainly paper, cardboard and non-recyclable plastics, and shall not include any RDF from animal origin.

Reason:

In accordance with Selby District Council's Policy SP19 and the National Planning Policy Framework (NPPF) paragraph 109.

19. The development hereby approved shall be constructed in accordance with noise mitigation recommendations as detailed in Section 6.3.3 of the Noise Impact Assessment, reference 7976.2/2079/03, and Section 8.61 of the Environmental Statement, reference K108383.

Reason:

To minimise any noise impact of construction activities on nearby noise sensitive receptors in the interest of amenity

20. No external lighting shall be installed on the site until plans have been submitted for the written approval of the Local Planning Authority which shall include details of the following;
  - a) A contour map showing illumination spill beyond the site boundary measured in lux in the horizontal plane.
  - b) The main beam angle of each light source.
  - c) The uniformity ratio in respect of the lighting.
  - d) The level of illuminance measured in lux, in the vertical plane at the windows of the nearest residential properties facing the site.

- e) The height of the lighting stanchions.
- f) Luminaire intensity at the receptors.

Thereafter the approved details only shall be implemented.

Reason:

To protect the amenity of the area and to minimise unnecessary light spillage above and outside of the development site and to comply with Policy ENV1 of the LP.

21. No development on the drainage systems for the site until a detailed design and associated management and maintenance plan of surface water drainage for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage design should demonstrate that the surface water runoff generated during rainfall events up to and including the 1 in 100 years rainfall event, to include for climate change, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The approved drainage system shall be implemented in accordance with the approved detailed design prior to completion of the development.

The scheme to be submitted shall demonstrate that the surface water drainage system(s) are designed in accordance with the standards detailed in North Yorkshire County Council SuDS Design Guidance (or any subsequent update or replacement for that document).

Reasons

To prevent the increased risk of flooding; to ensure the future maintenance of the sustainable drainage system, to improve and protect water quality and improve habitat and amenity.

22. Prior to the commencement of the development of the Refuse Derived Fuel fired Combined Heat and Power Plant (RDF & CHP), full details, including plans, elevations and a schedule of materials of all the buildings and any associated infrastructure for the RDF & CHP Plant, shall be submitted for the written approval of the Local Planning Authority. Thereafter only the approved details shall be implemented.

Reason

For the avoidance of doubt and because the submitted plans are indicative and don't provide sufficient information on the details of the buildings to assess the impact on the locality in accordance with Policy ENV1 of the Local Plan.

- 23 Before work starts on the Chimney stack for the RDF and CHP, details shall be submitted for the written approval of the Local Planning Authority to provide for marking and lighting of the chimney in accordance with aviation safety requirements. The approved details shall be implemented within an agreed timescale of the completion of the chimney and shall be maintained for the lifetime of its presence.

Reason

To minimise the risks associated with the safe operation of the adjacent airfield.

24. Prior to the Refuse Derived Fuel fired Combined Heat and Power Plant being brought into use, the operator shall submit to the Waste Planning Authority for approval in writing, verification that the facility has achieved (Design) Stage T1 Status through Design Stage Certification from the Environment Agency. The facility shall thereafter be configured in accordance with these approved details. Once operational, alterations to the processing plant should be undertaken to satisfy Best Available Technique or continued compliance with the R1.

Reason

To confirm the status of the plant and to ensure the waste hierarchy is considered and implemented fully in accordance with the National Planning Policy on Waste.

## **7.0 Legal Issues**

### **7.1 Planning Acts**

This application has been determined in accordance with the relevant planning acts.

### **7.2 Human Rights Act 1998**

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

### **7.3 Equality Act 2010**

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

## **8.0 Financial Issues**

- 8.1 Financial issues are not material to the determination of this application.

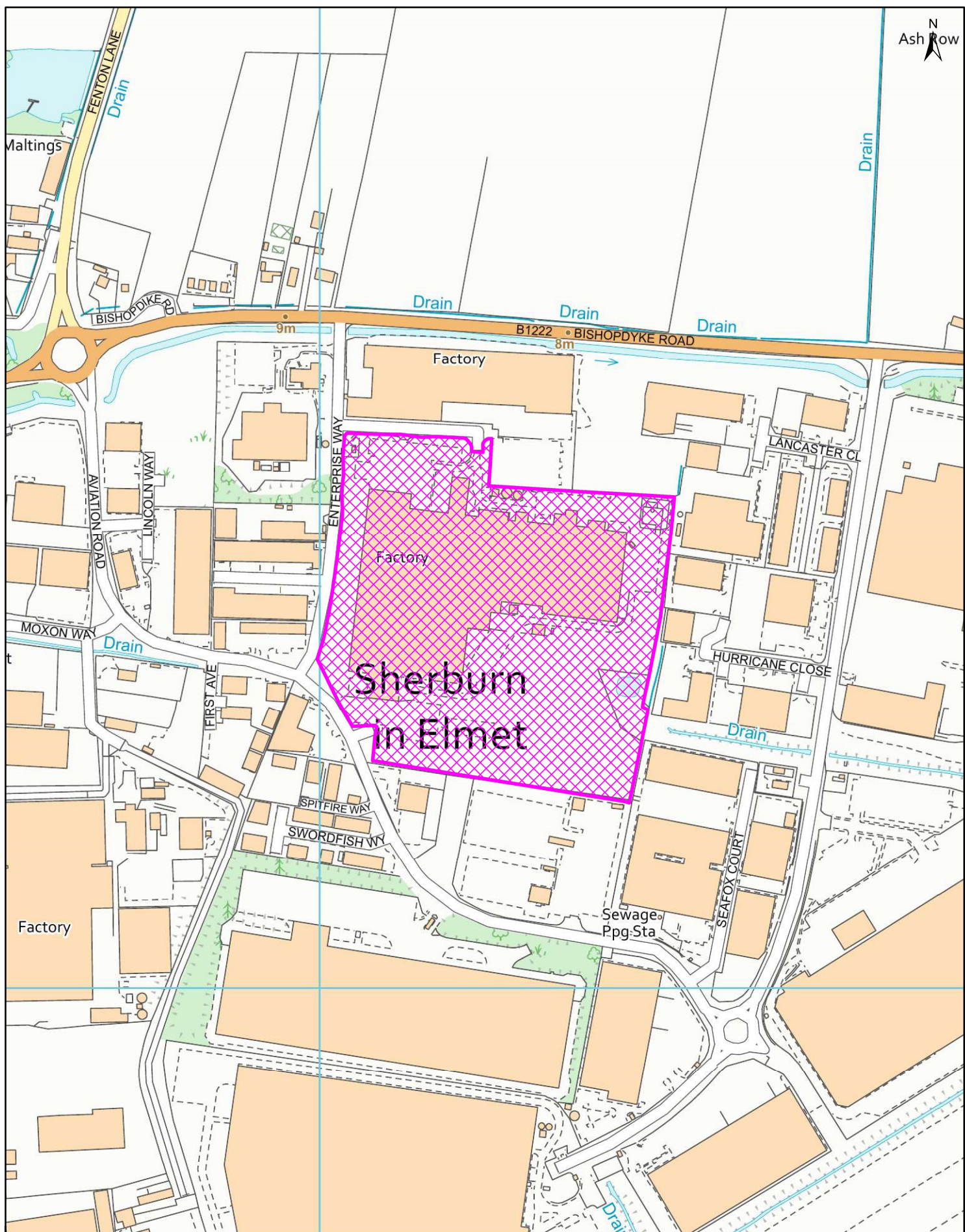
## **9.0 Background Documents**

- 9.1 Planning Application file reference 2016/1456/EIA, 2018/0898/EIA and associated documents.

**Contact Officer:** Martin Grainger, Head of Planning

**Appendices:** None





## APPLICATION SITE

2018/0898/EIA

Kingspan Insulation Ltd, Enterprise Way, Sherburn in Elmet

1:5,000



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# Agenda Item 6.5



**Report Reference Number:** 2018/1108/FUL

**To:** Planning Committee  
**Date:** 20 March 2019  
**Author:** Laura Holden (Planning Officer)  
**Lead Officer:** Ruth Hardingham (Lead Officer – Planning)

APPLICATION NUMBER:	2018/1108/FUL	PARISH:	Riccall Parish Council
APPLICANT:	Mrs C Northern	VALID DATE: EXPIRY DATE:	5th October 2018 30th November 2018
PROPOSAL:	Proposed erection of amenity block following demolition of existing stables		
LOCATION:	Land To Rear Of The Lodge 23 Selby Road Riccall York North Yorkshire		
RECOMMENDATION:	APPROVAL		

This application has been brought back before Planning Committee following consideration at the 16<sup>th</sup> January 2018 meeting, where Members resolved to defer the application due to an objection which raised concerns over the ownership of the land.

Since the 16<sup>th</sup> January 2018 resolution of Planning Committee, the applicant's agent submitted information clarifying that the applicant does own the land and the correct ownership certificate has been signed.

## 1. INTRODUCTION AND BACKGROUND

### The Site

- 1.1 The application site is a parcel of open land situated approximately 5 miles north of Selby and south east of Riccall on the eastern side of the A19.
- 1.2 The site lies outside defined development limits and therefore is located within open countryside.
- 1.3 The site is situated within Flood Zone 1 which is at low probability of flooding.

## The proposal

- 1.3 The proposal is for the erection of amenity block following demolition of existing stables in relation to the previously approved holiday lodges on the site (2016/1258/COU).
- 1.4 The proposed amenity block is to be single storey, and measure 5 metres in length and 12 metres in width, and has a gable to the front measuring 2 metres in length and 5 metres in width. The proposed amenity block is to be 4.6 metres to the ridge height and 3.1 metres to the eaves height. The walls are to be timber cladding and the roof is to be slate tile.

## Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application:

Application Number: 2007/0934/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land at Norwood Nursery to the rear, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire, ,, Decision: REF, Officer: STNA, Decision Date: 16-NOV-07

Application Number: 2011/0739/COU, Description: Change of use of land for the siting of 12No. twin unit static holiday lodges, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire, ,, Decision: PER, Officer: LOMI, Decision Date: 19-SEP-11

Application Number: 2011/0959/DPC, Description: Discharge of conditions from approval 2011/0739/COU for the change of use of land for the siting of 12No. twin unit static holiday lodges, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire, ,, Decision: , Officer: STWR, Decision Date:

Application Number: 2008/0211/OUT, Description: Outline for the erection of 12no. Holiday Chalets on land to the rear, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire, ,, Decision: PER, Officer: RISU, Decision Date: 23-MAY-08

Application Number: 2011/0166/OUT, Description: Extension of time application for approval 2008/0211/OUT (8/15/89P/PA) for outline permission to erect 12no. Holiday Chalets on land to the rear, Address: Norwood Nurseries, Selby Road, Riccall, York, North Yorkshire, ,, Decision: PER, Officer: YVNA, Decision Date: 08-APR-11

Application Number: 2016/1258/COU, Description: Demolition of buildings on site, Change of use to allow the siting of 6 No. holiday use only units, Address: Land To Rear Of, The Lodge, 23 Selby Road, Riccall, York, North Yorkshire, ,, Decision: PER, Officer: KETH, Decision Date: 08-MAR-17

## 2. CONSULTATIONS

- 2.1 **HER Officer** – No objections
- 2.2 **NYCC Highways Canal Rd** – No objections

- 2.3 **The Ouse & Derwent Internal Drainage Board** – The Board has no objections to the principle of this development but feel it appropriate that the applicant clarifies the drainage strategy to enable an evaluation to be undertaken in terms of flood risk. The Board recommends that any approval granted should include the conditions relating to the submission of drainage details.
- 2.4 **Environmental Health** – No objections
- 2.5 **National Grid** – No objections
- 2.6 **Parish Council** – Objects – due to concerns over storage of propane gas, and chemicals, potential for vandalism and theft, lack of information regarding materials, inaccurate red line boundary. Following the submission of amended plans the Parish Council were re-consulted and the previous comments have been maintained.
- 2.7 **Plan Use Planning Yorkshire Water Services Ltd** – No objections, subject to a condition that there shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which are to be submitted to and approved by the Local Planning Authority.

## **Publicity**

- 2.8 **Neighbour Summary** – All immediate neighbours have been informed by letter and a site noticed has been erected. 19 letters of objection from 13 addresses have been received as a result of this advertisement. The letters of objection raise concerns in respect of:

### Highways:

- Restricts access for emergency vehicles
- Limits turning area
- Poor visibility
- Narrow entrance way
- Additional site traffic
- Existing access already busy

### Services:

- Power and sewerage not adequate
- Development over electricity cables running through the site

### Amenity:

- Increase in traffic, noise and pollution would result in loss of amenity
- Noise from generators
- Increase in crime, and litter
- Too close to residential properties

### Design:

- Building too large
- Inappropriate scale
- Materials not stated

### Other matters:

- Amenity block not necessary or justified
- Comments regarding potential intended/future use of the site
- Inaccuracies in the submitted plans
- Health and safety concerns over storage of combustible materials & gas

- Referral to Policy RT12 of Selby District Local Plan inaccurate because it refers to caravans and camping facilities and the previously approved application is for holiday lodges.
- Conditions for 2016/1258/COU are not going to be enforced or complied with
- Windows and doors could be added to change the amenity block into a residential property
- Concerns the site will make it harder to sell surrounding properties.

In response to the re-consultation the previous comments have been maintained.

### **3 SITE CONSTRAINTS AND POLICY CONTEXT**

#### **Constraints**

- 3.8** The application site is located outside development limits, and is therefore within the open countryside.
- 3.9** The application site is located within Flood Zone 1, which has a low probability of flooding.

#### **Selby District Core Strategy Local Plan**

- 3.10** The relevant Core Strategy Policies are:

SP1 - Presumption in Favour of Sustainable Development  
 SP2 - Spatial Development Strategy  
 SP13 - Scale and Distribution of Economic Growth  
 SP15 - Sustainable Development and Climate Change  
 SP18 - Protecting and Enhancing the Environment  
 SP19 - Design Quality

#### **Selby District Local Plan**

- 3.11** Annex 1 of the National Planning Policy Framework (NPPF) outlines the implementation of the Framework.

“213 .... existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

- 3.12** The relevant Selby District Local Plan Policies are:

RT11 - Tourist Accommodation  
 RT12 - Touring Caravan and Camping Facilities  
 ENV1 - Control of Development  
 T1 - Development in Relation to Highway  
 T2 - Access to Roads

#### **National Guidance and Policy – National Planning Policy Framework (NPPF), National Planning Practice Guide (NPPG)**



**3.13** The National Planning Policy Framework (July 2018) replaces the first NPPF published in March 2012. The Framework does not change the status of an up to date development plan and where an application conflicts with such a plan, permission should not usually be granted (para 12). This application has been considered against the 2018 NPPF.

## **4 APPRAISAL**

**4.8** The main issues to be taken into account when assessing this application are:

- Principle of Development
- Impact on Highways
- Impact on Residential Amenity
- Design and Impact on the Character and Form of the Area
- Flood Risk, Drainage, Climate Change and Energy Efficiency
- Other Issues

### **Principle of Development**

**4.9** Policy SP1 of the Selby District Core Strategy Local Plan (2013) sets out that when considering development proposals the Council will take a positive approach that reflects the presumption of sustainable development as contained in the National Planning Policy Framework (NPPF). It will always work proactively with applicants jointly 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.

**4.10** There are a number of policies within the development plan that are relevant. These include Core Strategy Policies SP2, SP13, SP15, SP18 and SP19. Taken together, the main thrust of these policies is that development in the open countryside (outside development limits) will generally be resisted unless it involves the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes and well-designed new buildings. Proposals of an appropriate scale which would diversify the local economy (consistent with the NPPF) or meet affordable housing needs (adjoining the development limits of a village and which meet the provisions of Policy SP9), or other special circumstances, may also be acceptable.

**4.11** Policy SP13 states that in rural areas sustainable development on both greenfield and previously developed sites which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported including rural tourism and other small scale rural development.

**4.12** There are no specific policies relating to the provision of holiday lodges, chalets, static caravans or cabins with the Local Plan, however Policy RT12 of the Selby District Local Plan relates to proposals for touring caravan and camping facilities and acknowledges that such developments are likely to be located beyond development limits. Given that the previously approved application for holiday lodges on the site was assessed under this Policy as the holiday lodges comply with the statutory definition of a caravan, it is considered acceptable that the proposed amenity block is assessed under the same policy.

- 4.13** RT12 (6) requires any new ancillary buildings or structures are essential to providing basic services on the site. The application proposes an ancillary building to the previously approved holiday lodge site, the building is to be used to as an office, as well as the storage of items related to the upkeep of the lodges and site. The proposals are therefore considered acceptable in accordance with Policy RT12 (6).
- 4.14** It is considered that the proposal would bring forward rural development that supports the rural economy and would therefore be in accordance with the local and national planning policies, subject to assessment of other criteria discussed further below.

### **Impact on Highways**

- 4.15** Policy in respect of highway safety and capacity is provided by Policies ENV1(2) and T1 and T2 of the Selby District Local Plan, Policy SP19 of the Core Strategy and paragraphs 34, 35 and 39 of the NPPF. These policies should be afforded significant weight.
- 4.16** RT12 (4) requires the site to have good access to the primary road network, with RT12 (5) requiring proposals to ensure that they would not create conditions prejudicial to highway safety or which would have a significant adverse effect on local amenity. Similarly Policy ENV1 (2) requires proposals to take account of the relationship of the proposal to the highway network, the proposed means of access, the need for road/junction improvements in the vicinity of the site and the arrangements to be made for car parking.
- 4.17** The proposal involves the use of an existing approved access, and due to the nature of the proposal will not result in the intensification of the existing access.
- 4.18** Objections received have been considered and are noted above in the publicity section. The application has been assessed by NYCC Highways have been consulted and have no objections to the proposal.
- 4.19** It is therefore considered that the proposal would not result in a detrimental impact on the existing highway network in accordance with Policies RT12 (4), ENV1 (2), T1 and T2 of the Selby District Local Plan.

### **Impact of the proposal on Residential Amenity**

- 4.20** Relevant policies in respect to impacts on residential amenity include Policy ENV1 (1) of the Local Plan. Policy ENV1(1) should be afforded significant weight given that it does not conflict with the NPPF.
- 4.21** Policy ENV1 (1) requires that the District Council take account of "The effect upon... the amenity of adjoining occupiers". It is considered that Policy ENV1 (1) of the Selby District Local Plan should be given significant weight as one of the core principles of the NPPF is to ensure that a good standard of residential amenity is achieved in accordance with the emphasis within the NPPF.
- 4.22** The key considerations in respect of residential amenity are considered to be the potential of the proposal to result in overlooking of neighbouring properties,



overshadowing of neighbouring properties and whether oppression would occur from the size, scale and massing of the development proposed.

- 4.23** Policy RT12 (5) requires proposals to take account of the effect upon the amenity of adjoining occupiers.
- 4.24** The proposed amenity block is situated to the North East of the site, and is approximately 12 metres from the nearest neighbouring boundary, and over 30 metres from the neighbouring property.
- 4.25** The proposals due to the appropriate separation distances, the existing and proposed boundary treatment and landscaping around the perimeters of the site and the orientation of the windows in amenity block ensures that there would be no significant detrimental impact in terms of overlooking or overshadowing or adverse noise and disturbance in accordance with Policies ENV1 (1) and RT12 (5).

### **Design and Impact on the Character and Form of the Area**

- 4.26** Relevant policies in respect of design and impact on the character of the area include Policy ENV1 (1) and (4) of the Selby District Local Plan and Policies SP4 and SP19 of the Core Strategy.
- 4.27** Significant weight should be attached to the Local Plan Policy ENV1 as it is broadly consistent with the aims of the NPPF. Relevant policies within the NPPF, which relate to design include paragraphs 56 to 64.
- 4.28** Policy RT12 (1) requires the proposal to not have a significant adverse effect on the character and open appearance of the countryside, or harm acknowledged conservation interests.
- 4.29** Policy RT12 (2) states any proposals for development within the locally important landscape areas, as defined on the proposals map, would conserve and enhance the landscape quality of the area in terms of scale, siting, layout, design, materials and landscaping.
- 4.30** Policy RT12 (3) states the proposal would not be visually intrusive and would be well screened by existing vegetation, or would incorporate a substantial amount of landscaping. In addition Policy ENV1 (1) requires proposals to take account of the effect upon the character of the area or the amenity of adjoining occupiers with
- 4.31** Policy ENV1 (4) requiring proposals to take account of the standard of layout, design and materials in relation to the site and its surroundings and associated landscaping.
- 4.32** Policy ENV21 relates to landscaping and states where appropriate proposals for development should incorporate landscaping as an integral element in the layout and design, including the retention of existing trees and hedgerows and planting of native, locally occurring species.
- 4.33** It is noted that the site is not located within a sensitive area of landscape, a Locally Important Landscaped Area, Green Belt, and would not affect the setting of a listed building or a nationally or locally important site of nature conservation interest. In addition the site is set back a significant distance from the most common public viewpoint of Selby Road and is well screened through existing mature ferns and

boundary fencing, which would be enhanced by further planting on the western and southern perimeters of the previously approved development on the site.

- 4.34** It is therefore considered that the proposed development would accord with Policies RT12 (1), (2) and (3) and ENV1 (1) and (4) of the Selby District Local Plan.

### **Flood Risk, Drainage, Climate Change and Energy Efficiency**

- 4.35** Policies SP15, SP16 and SP19 of the Core Strategy require proposals to take account climate change and energy efficiency within the design.

- 4.36** The NPPF paragraph 94 states that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. NPPF Paragraph 95 states to support the move to a low carbon future, local planning authorities should plan for new development in locations and ways which reduce greenhouse gas emissions; and which actively support energy efficiency improvements to existing buildings.

- 4.37** The application site is located in Flood Zone 1 (low probability of flooding).

- 4.38** Concern has been raised by residents and these points have been considered. The Drainage Board has suggested a condition to secure detail of surface water drainage. No detail has been submitted for foul drainage. It would therefore be reasonable and necessary to secure detail by condition.

- 4.39** It is therefore considered that the proposal is in accordance with Policies SP15, SP16 and SP19 of the Core Strategy Local Plan, and the NPPF, subject to conditions.

### **Nature Conservation and Protected Species**

- 4.40** Policy in respect to impacts on nature conservation interests and protected species is provided by Policy ENV1(5) of the Local Plan, Policy SP18 of the Core Strategy and paragraphs 109 to 125 of the NPP and accompanying PPG in addition to the Habitat Regulations and Bat Mitigation Guidelines published by Natural England.

- 4.41** In respect to impacts of development proposals on protected species planning policy and guidance is provided by the 1981 Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations 2010 and the NPPF. The presence of a protected species is a material planning consideration. In addition Policy ENV1(5) require proposals not to harm acknowledged nature conservation interests.

- 4.42** As such, having had regard to all the ecological issues associated with the proposal, it is concluded that the proposal is acceptable and that the proposal is in accordance with Policy SP18 of the Core Strategy and ENV1(5) of the Local Plan.

### **Other issues**

- 4.43** Many of the objections refer to the use of the previously approved holiday lodges and the end user of these approved lodges is not considered to be material to the determination of the application. Planning policy is geared toward rural tourism provision, additionally the previously approved holiday lodges and the current

proposal do not involve permanent residential occupation and conditions have be secured to ensure that the use remains as holiday use only. A condition will also be used to ensure that the proposed building is used only in connection with the approved use of the land.

- 4.44** Objection comments refer to concerns regarding the safety of the storage of propane on the site so close to residential properties. A verbal conversation with Environmental Health confirmed that there is other guidance and legislation controlling the storage and management of the propane stored on site, and therefore, it is not considered to be a planning consideration.
- 4.45** House prices are not a material planning consideration.
- 4.46** The National Grid have been consulted and have no objection to the proposal despite close proximity to a High-Pressure Gas Pipeline.
- 4.47** Objection comments regarding the enforcement of the previous permission (2016/1258/COU) conditions are not considered to be relevant to the determination of this application.

## **5 CONCLUSION**

- 5.8** The proposed development is considered to accord with Policies ENV1, RT12, T1 and T2 of Selby District Local Plan and Policies SP1, SP2, SP13, SP15, SP16, SP18 and SP19 of Selby Core Strategy.
- 5.9** The proposal is considered to be acceptable in respect of matters of acknowledged importance such as design and impact on the character and form of the area, highway safety, drainage and flood risk, residential amenity and nature conservation.

## **6 RECOMMENDATION**

This application is recommended to be GRANTED subject to the following conditions:

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

Reason:

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

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

Floor Plan & Elevations – Received 23<sup>rd</sup> November 2018

Site Plan – Received 23<sup>rd</sup> November 2018

Reason :

For the avoidance of doubt.

03. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is

necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with ENV2 of the Local Plan and SP19 of the Core Strategy

04. The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those stated in the Planning and Design and Access Statement received 26<sup>th</sup> September 2018.

Reason:

In the interests of visual amenity and in order to comply with Policy ENV1 of the Selby District Local Plan

05. No development approved by this permission shall be commenced until the Local Planning Authority in consultation with the Internal Drainage Board has approved a Scheme for the provision of surface water drainage works. Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered:

- Any proposal to discharge surface water to a watercourse from the redevelopment of a brownfield site should first establish the extent of any existing discharge to that watercourse.
- Peak run-off from a brownfield site should be attenuated to 70% of any existing discharge rate (existing rate taken as 140lit/sec/ha or the established rate whichever is the lesser for the connected impermeable area).
- Discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm).
- Storage volume should accommodate a 1:30 yr event with no surface flooding and no overland discharge off the site in a 1:100yr event.
- A 20% allowance for climate change should be included in all calculations.
- A range of durations should be used to establish the worst-case scenario.
- The suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology.

Reason:

To ensure the development is provided with satisfactory means of drainage and to reduce the risk of flooding.

06. The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason:

In the interest of satisfactory and sustainable drainage

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

Reason:

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

08. The amenity block hereby permitted shall only be used in connection with the use of the land for holiday lodges. It shall not at any time be used for any other purpose. If the use of the land for holiday lodges ceases, the building hereby permitted shall be removed as soon as practicable.

Reason:

In the interests of visual amenity in order to comply with Policies ENV1 and EMP13 of the Selby District Local Plan.

## **Legal Issues**

### Planning Acts

This application has been determined in accordance with the relevant planning acts.

### Human Rights Act 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of convention rights.

### Equality Act 2010

This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

## **Financial Issues**

Financial issues are not material to the determination of this application.

## **Conclusion**

As stated in the main body of the report.

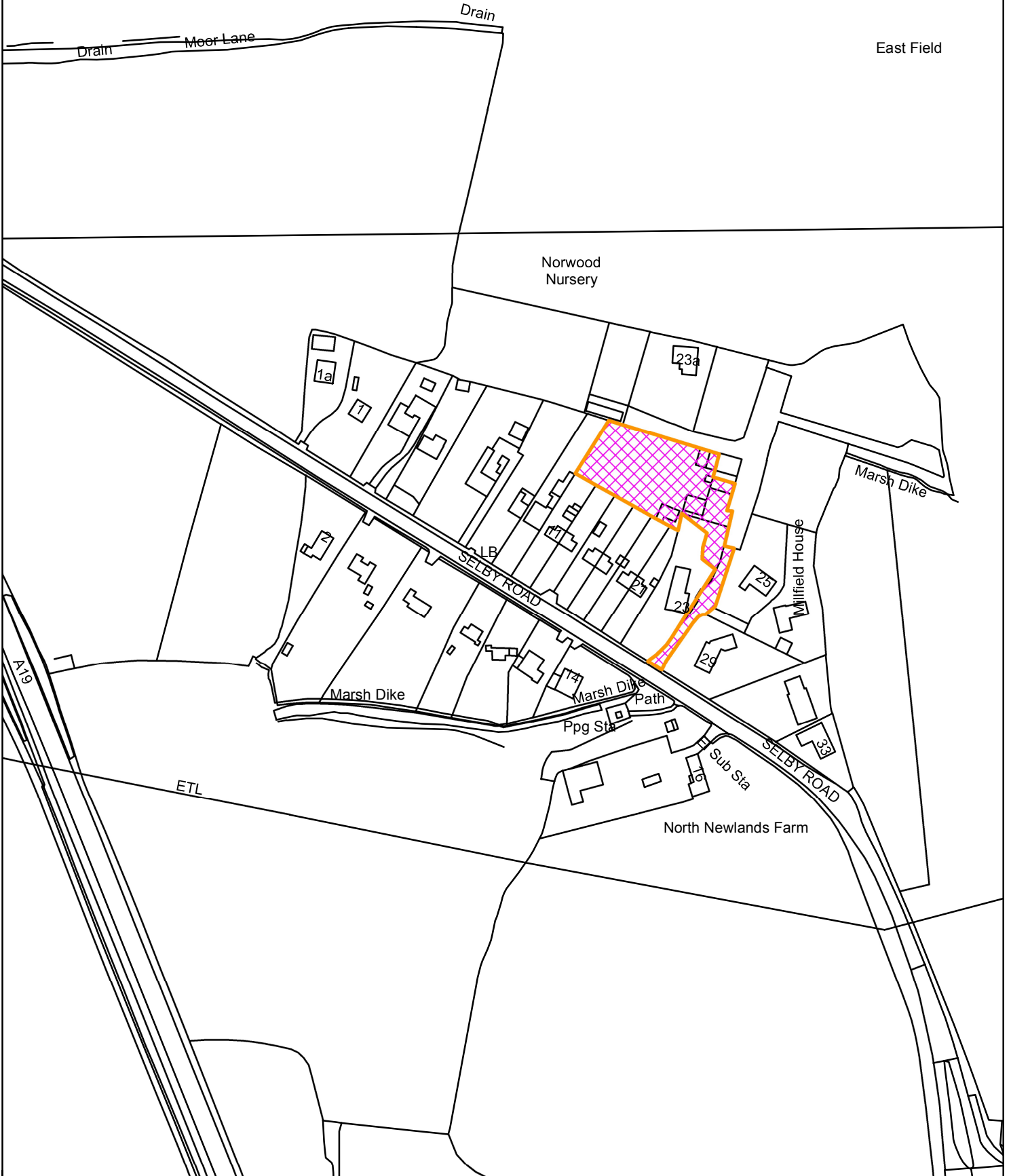
## **Background Documents**

Planning Application files reference 2018/1108/FUL and associated documents.

**Contact Officer:** Laura Holden, Planning Officer

**Appendices:** None

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## APPLICATION SITE

Land to rear of The Lodge, 23 Selby Road, Riccall  
2018/1108/FUL

1:2,500



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**AMENDED  
DRAWING**

REAR OF N<sup>o</sup> 23  
THE LODGE,  
SELBY RD.,  
RICCALL

PROPOSED OFFICE, STORAGE...

SITE PLAN.

NOTES  
BOUNDARY TO NORTH AMENDED.

1:200 SCALE    DATE DRAWN: 21-11-18    DRAWN BY: P. CRITCHLEY

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N<sup>o</sup> 23

ENTRANCE

LAKE

BUILDING USE  
NOT KNOWN.

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# Agenda Annex

## Glossary of Planning Terms

### **Community Infrastructure Levy (CIL):**

The Community Infrastructure Levy is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. It came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010.

### **Curtilage:**

The curtilage is defined as the area of land attached to a building.

### **Environmental Impact Assessment (EIA):**

Environmental impact assessment is the formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior to the decision to move forward with the proposed action. The requirements for, contents of and how a local planning should process an EIA is set out in the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

### **National Planning Policy Framework (NPPF):**

The National Planning Policy Framework was published on 27 March 2012 and sets out Government planning policies for England and how these are expected to be applied.

### **Permitted Development (PD) Rights**

Permitted development rights allow householders and a wide range of other parties to improve and extend their homes/ businesses and land without the need to seek a specific planning permission where that would be out of proportion with the impact of works carried out. Many garages, conservatories and extensions to dwellings constitute permitted development. This depends on their size and relationship to the boundaries of the property.

### **Previously Developed Land (PDL)**

Previously developed land is that which is or was occupied by a permanent structure (excluding agricultural or forestry buildings), and associated fixed surface infrastructure. The definition covers the curtilage of the development. Previously developed land may occur in both built-up and rural settings.

### **Planning Practice Guidance (PPG)**

The Planning Practice Guidance sets out Government planning guidance on a range of topics. It is available on line and is frequently updated.

### **Recreational Open Space (ROS)**

Open space, which includes all open space of public value, can take many forms, from formal sports pitches to open areas within a development, linear corridors and country parks. It can provide health and recreation benefits to people living and working nearby; have an ecological value and contribute to green infrastructure.

## **Section 106 Agreement**

Planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended), commonly known as s106 agreements, are a mechanism which make a development proposal acceptable in planning terms, that would not otherwise be acceptable. They can be used to secure on-site and off-site affordable housing provision, recreational open space, health, highway improvements and community facilities.

## **Site of Importance for Nature Conservation**

Site of Nature Conservation Interest (SNCI), Site of Importance for Nature Conservation (SINC) and regionally important geological sites (RIGS) are designations used by local authorities in England for sites of substantive local nature conservation and geological value.

## **Site of Special Scientific Interest (SSI)**

Sites of special scientific interest (SSSIs) are protected by law to conserve their wildlife or geology. Natural England can identify and designate land as an SSSI. They are of national importance.

## **Scheduled Ancient Monument (SAM):**

Ancient monuments are structures of special historic interest or significance, and range from earthworks to ruins to buried remains. Many of them are scheduled as nationally important archaeological sites. Applications for Scheduled Monument Consent (SMC) may be required by the Department for Culture, Media and Sport. It is an offence to damage a scheduled monument.

## **Supplementary Planning Document (SPD)**

Supplementary Planning Documents are non-statutory planning documents prepared by the Council in consultation with the local community, for example the Affordable Housing SPD, Developer Contributions SPD.

## **Tree Preservation Order (TPO):**

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

## **Village Design Statements (VDS)**

A VDS is a document that describes the distinctive characteristics of the locality, and provides design guidance to influence future development and improve the physical qualities of the area.





DISTRICT COUNCIL

Tel: 01757 705101

www.selby.gov.uk

# Planning Committee 2018-19



**John Cattanach (C)**

*Cawood and Wistow*

01757 268968

jcattanach@selby.gov.uk



**Dave Peart (C)**

*Camblesforth & Carlton*

01977 666919

dpeart@selby.gov.uk



**Liz Casling (C)**

*Escrick*

01904 728188

cllr.elizabeth.casling@northyorks.gov.uk



**Debbie White (C)**

*Whitley*

01757 228268

dwhite@selby.gov.uk



**Richard Musgrave (C)**

*Appleton Roebuck & Church Fenton*

07500 673610

rmusgrave@selby.gov.uk



**Ian Chilvers (C)**

*Brayton*

01757 705308

ichilvers@selby.gov.uk



**James Deans (C)**

*Derwent*

01757 248395

jdeans@selby.gov.uk



**Robert Packham (L)**

*Sherburn in Elmet*

01977 681954

rpackham@selby.gov.uk



**Paul Welch (L)**

*Selby East*

07904 832671

pwelch@selby.gov.uk

# Substitute Councillors



**Richard Sweeting (C)**  
*Tadcaster*  
07842 164034  
rsweeting@selby.gov.uk



**Ian Reynolds (C)**  
*Riccall*  
01904 728524  
ireynolds@selby.gov.uk



**Mel Hobson (C)**  
*Sherburn in Elmet*  
07786416337  
cllrmhobson@selby.gov.uk



**Chris Pearson (C)**  
*Hambleton*  
01757 704202  
cpearson@selby.gov.uk



**David Hutchinson (C)**  
*South Milford*  
01977 681804  
dhutchinson@selby.gov.uk



**David Buckle (C)**  
*Sherburn in Elmet*  
01977 681412  
dbuckle@selby.gov.uk



**Brian Marshall (L)**  
*Selby East*  
01757 707051  
bmarshall@selby.gov.uk



**Stephanie Duckett (L)**  
*Barlby Village*  
01757 706809  
sduckett@selby.gov.uk

(C) – Conservative (L) – Labour