



Meeting: **PLANNING COMMITTEE**
Date: **WEDNESDAY, 3 APRIL 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.

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

To confirm as a correct record the minutes of the Planning Committee meeting held on 20 March 2019; **these will be circulated separately to the agenda.**

6. Planning Applications Received (Pages 3 - 4)

- 6.1. 2018/1122/REMM - Morello Garth, Park Lane, Barlow, Selby (Pages 5 - 22)
- 6.2. 2018/0631/COU - Gale Common Moto Park, Whitefield Lane, Whitley, Goole (Pages 23 - 42)
- 6.3. 2018/0673/OUTM - Leeds East Airport, Busk Lane, Church Fenton (Pages 43 - 80)

Janet Waggott

Janet Waggott, Chief Executive

Dates of next meetings (2.00pm)

Wednesday, 24 April 2019

Enquiries relating to this agenda, please contact Victoria Foreman on 01757 292046 or 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.

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

Telephone: 01757 292046

Agenda Item 6

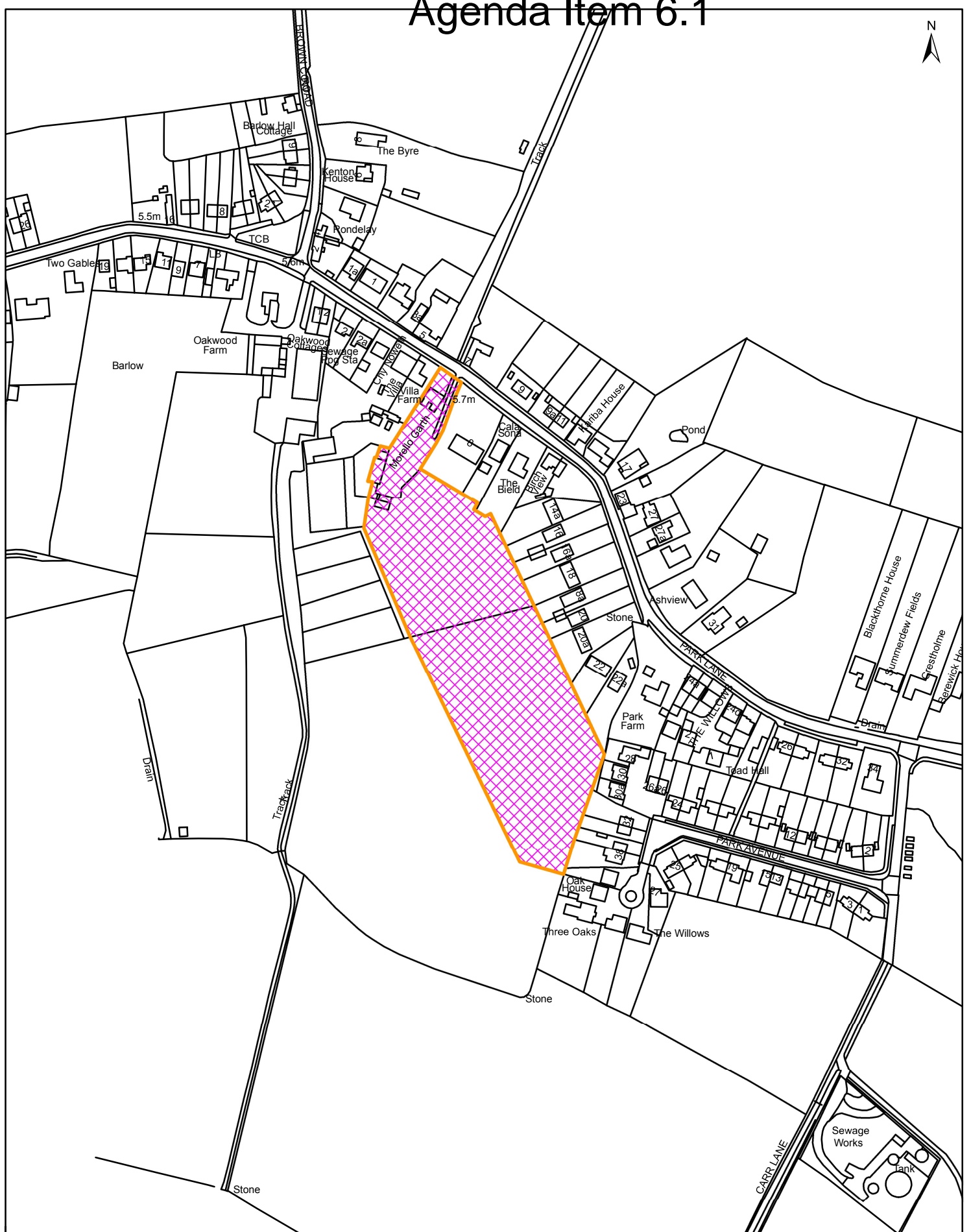
Items for Planning Committee

3 April 2019

Item No.	Ref	Site Address	Description	Officer	Pages
6.1	2018/1122/REMM	Morello Garth, Park Lane, Barlow, Selby	Reserved matters application including appearance, landscaping, layout and scale of approval 2015/0775/OUT Outline planning permission for residential development including access (all other matters reserved for future consideration)	JETY	5 - 22
6.2	2018/0631/COU	Gale Common Moto Park, Whitefield Lane, Whitley, Goole	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	23 - 42
6.3	2018/0673/OUTM	Leeds East Airport, Busk Lane, Church Fenton	Hybrid application for (1) Full planning permission for the erection of a building for creative, digital and media use and associated works, including parking, servicing and access; and permanent change of use of existing buildings to commercial TV and film studios and associated services and activities; and (2) Outline planning permission, with means of access to be considered, for the development of a creative, digital and media industries employment park and film studios (including A1, A3, D1 and C1 use class buildings), open space, landscaping, car parking and ancillary works	GABE	43 - 80

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Agenda Item 6.1



APPLICATION SITE

2018/1122/REMM
Morello Garth, Park Lane, Barlow

1:3,000



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Proposed Residential Development at Park Lane, Barlow



Page 7

**AMENDED
DRAWING**

POS = 3376m²
= 225m² per dwelling

1100mm high profile rail fencing to over look the open fields

House Type	Accommodation	Floor Area Ft ²	Total Units	Total Ft ²
T401	4B House	1748	2	3496
T4+	4B House	1412	1	1412
T4	4B House	1339	2	2678
T11	4B House	1254	3	3762
N1+	4B House	1331	1	1331
Affordable B1	2B House	1200	6	7200
Total			15	19879

- Enclosure Details.**
- Indicative Landscaping - Refer to Landscape Architects Details.
 - Rear and dividing fences to be 1.8m Feather edge timber close boarded Fence. Unless otherwise stated.
 - Low level hedging to front of properties
 - Garden Gate - SW leged and braced gate 1.8m high
 - Tarmac driveways with concrete path edging
 - Rear Garden Patios and Access Paths Marshalls Saxon concrete paving slabs. Colour Buff.
 - Site Access road - Block Paving to adoptable highway standards
 - Denotes the POS area
 - Denotes affordable housing. Affordable housing is 40%. With 15 houses there will be 6 affordable houses required.
- Refer to Landscape Architects details for proposed Landscaping

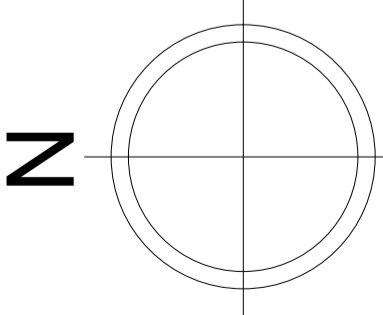
Rev	By	Note	Date
A		PAS Layout revised following planners comments.	09.01.19



Thorp Arch Grange Walton Road Thorp Arch Wetherby LS23 7BA
T: 01937 543 595 F: 01937 582 333 E: info@berkeleydeveer.co.uk

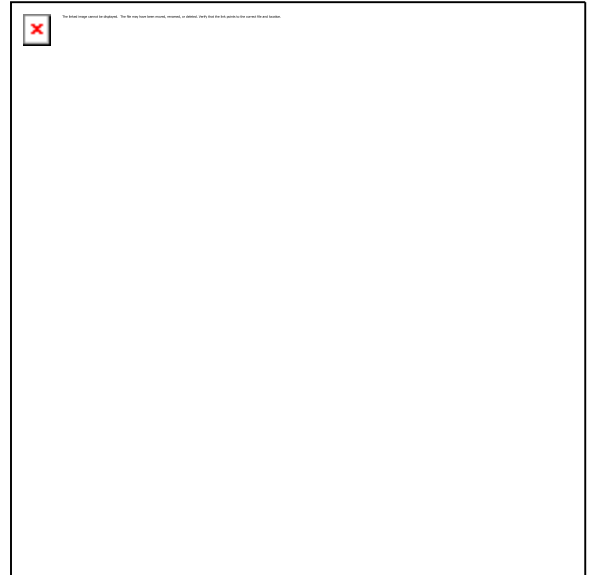
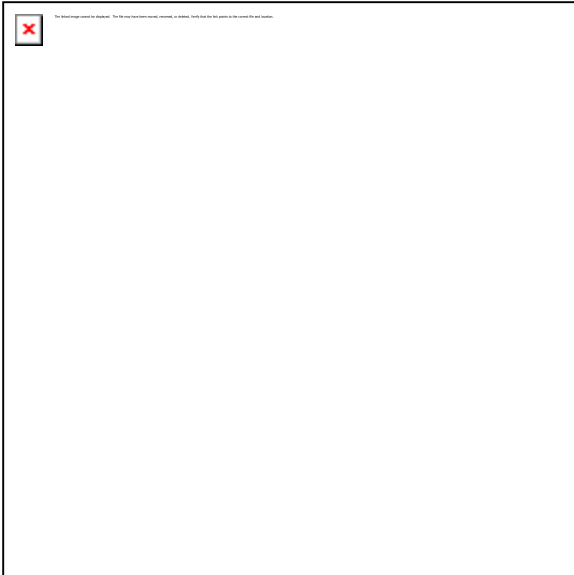
PROJECT Park Lane, Barlow
TITLE Planning Layout
DATE July 2018 SCALE 1:500@A1
DWG. NO. BDV.13.02 REVISION A
DRAWN CHECKED

DO NOT SCALE FROM DRAWINGS. ANY DISCREPANCIES TO BE NOTIFIED TO THE ARCHITECTS. COPYRIGHT RESERVED



Planning Layout

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Report Reference Number: 2018/1122/REMM

To: Planning Committee
Date: 3 April 2019
Author: Jenny Tyreman (Senior Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/1122/REMM	PARISH:	Barlow Parish Council
APPLICANT:	Alfa Homes Ltd	VALID DATE: EXPIRY DATE:	2 nd October 2018 1 st January 2019
PROPOSAL:	Reserved matters application including appearance, landscaping, layout and scale of approval 2015/0775/OUT Outline planning permission for residential development including access (all other matters reserved for future consideration)		
LOCATION:	Morello Garth Park Lane Barlow Selby North Yorkshire YO8 8EW		
RECOMMENDATION:	GRANT		

This application has been brought before Planning Committee as at least 10 letters of representation have been received which raise material planning considerations and Officers would otherwise determine the application contrary to these representations.

1. INTRODUCTION AND BACKGROUND

Site and Context

- 1.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Barlow, which is a Secondary Village as identified in the Core Strategy, and is part located outside the defined development limits of Barlow and is therefore located within the open countryside. The site access (approved under outline planning application reference 2015/0775/OUT) is located within the part of the site within the defined development limits, while the remainder of the site including the proposed dwellings, public open space, SuDS pond and pumping station is located within the part of the site outside the defined development limits.
- 1.2 The application site comprises an existing property known as Morello Garth and an area of open undeveloped grassland to the rear of Morello Garth and a number of other properties to the east of Morello Garth fronting Park Lane. To the north and north west of the application site is Park Lane and properties fronting onto Park Lane; to the north east and south east of the application site are properties fronting onto Park Lane and Park Avenue; to the south west of the application site is an area of open undeveloped grassland.

The Proposal

- 1.3 The application seeks approval of reserved matters (layout, scale, appearance and landscaping) pursuant to an outline planning permission reference 2015/0775/OUT, which considered the principle of the development and access.
- 1.4 Therefore, the principle of the development and access has been established through the outline permission and only those reserved matters (layout, scale, appearance and landscaping) can be considered at this stage.

Relevant Planning History

- 1.5 The following historical applications are considered to be relevant to the determination of this application.
- 1.6 An outline application (reference: 2015/0775/OUT) for a residential development including access with all other matters reserved for future consideration was approved on 30 November 2015.
- 1.7 A non-material amendment application (reference: 2016/0452/MAN) to planning permission reference 2015/0775/OUT, an outline planning permission for residential development including access (with all other matters reserved for future consideration) was approved on 9 May 2016.
- 1.8 An application (reference: 2018/0016/FULM) for the proposed erection of a residential development of 49 units with associated open space and access was withdrawn on 28 June 2018.

2. CONSULTATION AND PUBLICITY

All immediate neighbours were informed by letter, a site notice has been erected, an advert placed in the local press and statutory consultees notified.

- 2.1 **Parish Council** – Have considered the proposals and have the following comments:
- The original decision to grant outline planning consent for the site (2015/0775/OUT) makes no reference to the number of dwellings to be built. Since the outline permission was granted, Selby District Council has formally adopted the Core Strategy Local Plan. The scale of the current proposal for 15 dwellings fails to meet the strategic and policy objectives of the Core Strategy Local Plan, particularly with reference to Policy SP4.
 - The original decision to grant outline planning consent for the site (2015/0775/OUT) required the development was to be carried out in accordance with specified plans/drawings. The proposed layout, as now submitted, extends the site boundary significantly, particularly in the southwest corner of the site.
 - The proposed layout of the site potentially deprives existing neighbouring properties of an acceptable level of residential amenity with regard to overlooking, overshadowing and loss of privacy and involves an unacceptable loss of open aspect.
 - There were no objections to the outline planning permission from NYCC Highways. However, the Parish Council believes the volume of traffic in the village has increased significantly in the three years since the decision was taken and believe it would be prudent for the Council to insist on updated traffic survey information before detailed planning approval of carriageway dimensions and visibility splays is considered.
 - Concerns regarding the volume and frequency of heavy construction vehicle movements through the village as a result of the proposed development. In particular, concerns about construction traffic passing through the village at times corresponding with the commencement and completion of the primary school day. Consider the Council and the Highway Authority should consider placing restrictions on construction traffic so as to minimise the heightened risk to school children and parents during these times.
 - Concerns regarding the potential for excessive noise, vibrations and the potential for damage to property, resulting from the demolition works planned. Consider the Council and the applicant should consult with those residents likely to be impacted directly to gain their agreement to the planned methods for completing the works and ensure adequate compensation is available should neighbouring properties suffer damage.
- 2.2 **NYCC Highways** – No additional comments to add other than those recommended under planning application reference 2015/0775/OUT.
- 2.3 **Selby Area Internal Drainage Board** – No objections.
- 2.4 **Yorkshire Water Services Ltd** – No comments.
- 2.5 **SuDS and Development Control Officer** – No comments.
- 2.6 **Environmental Health** – No comments.
- 2.7 **Landscape Architect** – Initial Comments dated 21.11.2018: Further detailed landscape information is required. This should include detailed planting proposals, planting schedule and outline planting specification. Further information is also needed to explain the design of the SuDS pond and how this can be successfully

integrated into the POS, rather than being a steep sided engineering solution. Request screen planting to the pumping station.

Further comments dated 30.01.2019: Screen planting is provided around the pumping station and is acceptable. Further information is needed in relation to the pond and for outline planting specification (establishment and maintenance), even if the ongoing maintenance and management is submitted at a later stage for the S106.

Further comments dated 06.03.2019: Satisfied with the soft landscape proposals. Would like to see some further clarification on treatment of the SUDS pond, i.e. how is this to be graded, surfaced and maintained.

- 2.8 **Natural England** – No comments.
- 2.9 **North Yorkshire Bat Group** – No response within statutory consultation period.
- 2.10 **Rural Housing Enabler** – No objections. Advise that all the affordable housing units should adhere to National Space Standards and the applicant should make early contact with a partner Registered Provider on order to confirm that the number, size and type of the units are acceptable to them.
- 2.10 **Designing Out Crime Officer** – No objections.
- 2.11 **North Yorkshire Fire & Rescue Service** – No objections.
- 2.12 **HER Officer** – No response within statutory consultation period.
- 2.13 **Public Rights of Way Officer** – No response within statutory consultation period.
- 2.14 **North Yorkshire County Council (CPO)** – No response within statutory consultation period.
- 2.15 **Education Directorate North Yorkshire County Council** – No comments.
- 2.16 **NYCC Archaeologist** – No objections.
- 2.17 **Neighbour Summary** – All immediate neighbours were informed by neighbour notification letter, a site notice was erected and an advert place in the local press. Twenty three letters of objection have been received as a result of this advertisement with concerns raised in respect of: (1) the principle of the development, outside development limits of a Secondary Village; (2) the increase in the size of the application site by comparison to the outline approval; (3) lack of local amenities to serve the proposed development; (4) the back land form of development proposed; (5) the design of the proposed development and resultant impact on the character and appearance of the area; (7) the impact of the proposed development on the residential amenities of neighbouring properties in terms of overlooking, overshadowing, loss of privacy and loss of views; (8) the impact of the proposals on nature conservation and protected species; (9) the impact of the proposals on flood risk and drainage; (10) impact of the proposals on highway safety; (11) the impact of construction traffic on the residential amenities of

neighbouring properties and highway safety; (12) noise and disturbance to neighbouring residential properties resulting from the construction period; (13) the potential for the proposed development to set a precedent for future back land development; (14) who would be responsible for the landscaping and maintenance of the POS; (15) whether there is any lighting proposed for the scheme; and (16) whether the affordable housing would be affordable.

3. SITE CONSTRAINTS AND POLICY CONTEXT

Constraints

- 3.1 The development limit boundary runs through the application site, such that the application site is part located within the defined development limits of Barlow, which is a Secondary Village as identified in the Core Strategy, and is part located outside the defined development limits of Barlow and is therefore located within the open countryside.
- 3.2 The application site is part located within Flood Zone 1, which has a low probability of flooding; part located within Flood Zone 2, which has been assessed as having between a 1 in 100 and 1 in 1,000 annual probability of river flooding (1% - 0.1%), or between a 1 in 200 and 1 in 1,000 annual probability of sea flooding (0.5% - 0.1%) in any year; and part located within Flood Zone 3a, which has been assessed as having between a 1 in 100 or greater annual probability of river flooding (>1%) or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any one year. (Officer Note: when the outline application (reference 2015/0775/OUT) was assessed, the application site was located wholly within Flood Zone 1 and the application was assessed as such in terms of flood risk).
- 3.3 Part of the application site comprises potentially contaminated land from former use of the land as agriculture/nurseries.

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

- 3.4 The National Planning Policy Framework (February 2019) replaces the July 2018 NPPF, first 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 unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.

Selby District Core Strategy Local Plan

- 3.5 The relevant Core Strategy Policies are:
- SP1 – Presumption in Favour of Sustainable Development
 - SP2 – Spatial Development Strategy
 - SP4 – Management of Residential Development in Settlements
 - SP5 – The Scale and Distribution of Housing
 - SP8 – Housing Mix
 - SP9 – Affordable Housing
 - SP15 – Sustainable Development and Climate Change

- SP16 – Improving Resource Efficiency
- SP18 – Protecting and Enhancing the Environment
- SP19 – Design Quality

Selby District Local Plan

3.6 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).”

3.7 The relevant Selby District Local Plan Policies are:

- ENV1 – Control of Development
- ENV2 – Environmental Pollution and Contaminated Land
- T1 – Development in Relation to the Highway Network
- T2 – Access to Roads
- RT2 – Open Space Requirements for New Residential Development
- CS6 – Development Contributions to Infrastructure and Community Facilities

4. APPRAISAL

4.1 Since the principle of development and access have been established under the outline planning permission (reference 2015/0775/OUT), the main issues to be taken into account when assessing the reserved matters application are:

- Design and Impact on the Character and Appearance of the Area
- Impact on Residential Amenity
- Impact on Highway Safety
- Recreational Open Space
- Affordable Housing
- Other Issues

Design and Impact on the Character and Appearance of the Area

4.2 The application site comprises an existing property known as Morello Garth and an area of open undeveloped grassland to the rear of Morello Garth and a number of other properties to the east of Morello Garth fronting Park Lane. To the north and north west of the application site is Park Lane and properties fronting onto Park Lane (mix of two storey and bungalows); to the north east and south east of the application site are properties fronting onto Park Lane (mix of two storey and bungalows) and Park Avenue (two storey); to the south west of the application site is an area of open undeveloped grassland.

- 4.3 In terms of layout, it was established under the outline permission (reference 2015/0775/OUT) that the back land form of development this site would result in would be acceptable. While the character of the village was originally linear, this has slowly eroded with the introduction of modern development over time. There are now a number of modern suburban cul-de-sacs including Mayfield Court, Laburnum Court Avenue and Park Avenue. These developments have changed the plan of the village from what was originally a straggling linear settlement to a more compact settlement which includes in-depth development. The proposal would result in a similar depth of housing development to Park Avenue sitting just behind the housing fronting the main road through the village. Within this context, the proposed development would not be considered to be harmful to the form and layout of the village and would not harm its intrinsic character.
- 4.4 In terms of scale and appearance, the design and materials of surrounding properties are a mixture. The submitted proposed layout plan (drawing no. BDV.13.02 Rev A) demonstrates how the proposed dwellings would be located in a linear layout within the site and would comprise a mix of two storey dwellings and bungalows formed from six dwelling types, distributed evenly throughout the site so there is no visible clustering of house types. The proposed elevations for each of the house types demonstrate each of the dwellings would have a simple traditional appearance with pitched roof forms. Detached garages would be dispersed between properties where not provided integral to the dwellings. A street layout plan (drawing no. BDV.13.03 Rev A) has been submitted which demonstrates that the proposed dwellings would have an acceptable appearance when viewed in the context of the scheme. Having regard to the location of the proposed development and the context of the site, it is considered that the scale and appearance of the proposed development would be acceptable and would not have any significant adverse impact on the character and appearance of the area. The submitted Planning Statement sets out that the materials will be reflective of the surrounding properties; however, no specific details of materials have been submitted at this stage. A condition could be attached to any planning permission requiring details of materials to be submitted to and approved by the Local Planning Authority prior to development above foundation level in the interests of the character and appearance of the area.
- 4.5 In terms of landscaping, a landscape proposals plan (drawing no. 2964/1) was originally submitted with the proposals. This demonstrated existing vegetation to be retained; proposed trees with limited specification; and proposed shrub planting, grass and wildflower area with no specification. The Council's Landscape Architect was consulted on the original landscape proposals plan and advised that further detailed landscape information was required, including detailed planting proposals, planting schedule and outline planting specification. In addition, it was requested that screen planting was provided to the pumping station and further information be provided to explain the design of the SuDS pond and how this could be successfully integrated into the POS, rather than being a steep sided engineering solution. A revised landscape proposals plan (drawing no. 2964/2 Rev B) was submitted which demonstrated detailed planting proposals, planting schedule and screen planting around the pumping station, which the Council's Landscape Architect is satisfied with. However, the Council's Landscape Architect has again requested that further information is needed in relation to the design of the SuDS pond and for outline planting specification (establishment and maintenance). A further revised landscape proposals plan (drawing no. 2964-2C-DLP-A1-500) has been submitted

which details the outline planting specification and the Councils Landscape Architect has raised no objections to this. However, no further information has been submitted in relation to the design of the SuDS pond. It would be considered reasonable and necessary to attach a condition to any planning permission granted requiring further details of the landscaping of the SuDS pond to be submitted to and approved by the Local Planning Authority.

- 4.6 In terms of boundary treatments, the submitted proposed layout plan (drawing no. BDV.13.02 Rev A) demonstrates rear and dividing fences between the proposed dwellings would be 1.8 metre high feather edge close boarded timber fences, while low level hedging would be provided to the front of the dwellings. The western boundary of the site, adjoining the open fields would comprise a 1.1 metre high profile rail fencing to overlook the open fields beyond. These boundary treatments are considered acceptable having regard to the context of the site and can be secured by way condition.
- 4.7 Subject to the aforementioned conditions, it is considered that the proposal is acceptable and would not have a significant or detrimental impact on the character and appearance of the area. The proposal is therefore considered acceptable in accordance with Policy ENV1 (1) and (4) of the Selby District Local Plan, Policies SP4 and SP19 of Core Strategy and the advice contained within the NPPF.

Impact on Residential Amenity

- 4.8 To the north and north west of the application site is Park Lane and properties fronting onto Park Lane; to the north east and south east of the application site are properties fronting onto Park Lane and Park Avenue; to the south west of the application site is an area of open undeveloped grassland.
- 4.9 Given the size, siting and design of the proposed dwellings and their relationship to neighbouring residential properties outside the application site, it is not considered that the proposals would result in any significant adverse effects of overlooking, overshadowing or oppression on the residential amenities of any neighbouring residential properties outside the application site. While the proposals would have an effect on views from existing neighbouring properties, this is not a material consideration which can be taken into account in the determination of this application.
- 4.10 Given the layout, scale, appearance and landscaping of the proposed dwellings, it is not considered that the proposals would result in any adverse effects of overlooking, overshadowing or oppression on the residential amenities of any residential properties within the application site. Furthermore, the proposed dwellings would each benefit from an adequate amount of useable external amenity space for the occupiers of the proposed dwelling.
- 4.11 It is noted that concerns have been raised by neighbouring residential properties regarding the impact of the construction works on the residential amenities of neighbouring properties. A condition has been attached to the outline planning permission requiring a scheme to minimise the impact of noise, vibration, dust and dirt on residential properties in close proximity to the site to be submitted to and approved by the Local Planning Authority prior to site preparation and construction

work commencing. This would need to be done through a separate discharge of condition application.

- 4.12 Having regard to the above, it is considered that the proposals are acceptable in terms of residential amenity in accordance with Policy ENV1 (1) of the Selby District Local Plan and the advice contained within the NPPF.

Impact on Highway Safety

- 4.13 The access to the site has been established through the outline permission. In terms of parking, turning and manoeuvring within the application site, the submitted proposed layout plan (drawing no. BDV.13.02 Rev A) demonstrates that each dwelling would benefit from at least two, if not three, car parking spaces within the curtilage of each dwelling. A turning head is provided at the end of the cul-de-sac. NYCC Highways have been consulted on the proposals and have not raised any objections to the parking turning and manoeuvring areas.
- 4.14 Having regard to the above, it is considered that the proposal would be acceptable in terms of highway safety and is therefore in accordance with Policies ENV1 (2), T1 and T2 of the Selby District Local Plan and the advice contained within the NPPF.

Recreation Open Space

- 4.15 Policy RT2 of the Selby District Local Plan requires proposals for new residential development comprising 5 or more dwellings to provide recreational open space at a rate of 60 square metres per dwelling. The Section 106 Agreement attached to the outline planning permission contains a requirement to provide “Open Space Land” meaning outside open space to be provided at the site at a rate of 60 square metres per dwelling.
- 4.16 The submitted proposed layout plan (drawing no. BDV.13.02 Rev A) demonstrates that recreation open space would be provided to the west of the proposed dwellings at a rate of 225 square metres per dwelling, totalling 3376 square metres for the scheme. This is in excess of the 60 square metres per dwelling required by Policy RT2 and the Section 106 Agreement and therefore the extent of the recreational open space to be provided within the application site is considered to be acceptable.
- 4.17 The Section 106 Agreement prevents occupation of more than 75% of the dwellings until the “Open Space Specification” has been agreed with the Council. “Open Space Specification” is defined in the Agreement as follows:
- “...a specification for the design (including details of any apparatus to be installed) layout and configuration and thereafter carrying out of the Open Space Works and the maintenance specification to be agreed in writing by the District Council”.*
- 4.18 The submitted proposed layout plan (drawing no. BDV.13.02 Rev A) demonstrates that the recreational open space would not be anything more than what might be termed “amenity open space”. No details have been provided as to whether any

apparatus (such as play equipment) would be provided on the open space and no maintenance specification has been provided.

- 4.19 No evidence has been provided that the applicants have engaged with the Parish Council to discuss how the provision of the recreational open space might, or might not, fit in with any local aspirations and/or initiatives. Further, there are no unsolicited views on the matter in the Parish Council's comments on the application.
- 4.20 The adopted Recreation Open Space Strategy (2006) identifies two children's play areas in the village: (1) on the playing field on Park Road; and (2) on the playing field on Park Lane. However, the play equipment on each of these sites has been identified as being in poor condition. There are also sports fields in these two locations. However, these have been identified as not catering for a variety of types of sport. Under the heading "Improvements proposed" the Strategy states improvements need to be made to the existing facilities and opportunities increase the range of sports provided for need to be explored.
- 4.21 Some of these initiatives might have benefited from funding though this development. However, no financial contribution has been sought in respect of recreation open space under the Section 106 agreement; instead on-site recreational open space provision has been sought. The Open Space Land as shown within the current scheme is provided within an area that could easily lend itself to more than just basic open amenity space. This is something which needs to be explored with the Parish Council and the local community.
- 4.22 There is no requirement for the "Open Space Specification" to be agreed at the reserved matters stage and therefore it would not be unlawful to approve the reserved matters application without the "Open Space Specification". However, further discussions need to take place between the applicants, the Parish Council and the local community regarding the recreational open space and how this might be used and managed. The details of the "Open Space Specification" need to be secured through the Section 106 Agreement.

Affordable Housing

- 4.23 The Section 106 Agreement attached to the outline planning permission contains a requirement for the number of affordable housing units to be not less than 40% of the total number of dwellings at the site, which in this instance would be 6 dwellings, and for the location of the affordable housing units to be in accordance with an "Affordable Housing Plan" to be approved as part of the reserved matters approval. "Affordable Housing Plan" as defined in the Agreement as follows:

"...detailed scheme to be provided for the District Council's approval identifying the number, types, size, location and tenures of the Affordable Housing Units and the timetable for the construction and Practical Completion thereof..."

- 4.24 An Affordable Housing Plan (drawing no. BDV.13.06) has been submitted with the application, which demonstrates that six affordable housing units would be provided at the site. These would all be two bedroom bungalows, two of which would be intermediate and 4 of which would be to rent, evenly distributed throughout the site. Construction and practical completion would be subject to planning approval,

where after construction could commence circa May 2019 with practical completion circa August 2020.

- 4.25 The Council's Rural Housing Enabler has been consulted on the proposals and has advised raised no objections to the details contained within the "Affordable Housing Plan". The applicant has been advised that they should make early contact with a partner Registered Provider on order to confirm that the number, size and type of the units are acceptable to them.

Other Issues

- 4.26 Concerns have been raised that size of the application site has been increased by comparison to the outline approval. Amended plans have been submitted during the course of the application to address this issue and the application site shown on the submitted plans is now the same as on the outline approval.
- 4.27 Concerns have been raised regarding the principle of the development, outside development limits of a Secondary Village, the impact of the proposals on nature conservation and protected species, the impact of the proposals on flood risk and drainage, impact of construction traffic on the residential amenities of neighbouring properties and highway safety and noise and disturbance to neighbouring residential properties resulting from the construction period. These matters were considered under the outline approval and are not for re-consideration under this reserved matters application.

5. CONCLUSION

- 5.1 The application site benefits from outline an approval, which considered the principle of the development and access (reference 2015/0775/OUT) with all other matters (layout, scale, appearance and landscaping) reserved for future consideration. Therefore, the principle of the development and access has been established through the outline permission and only those reserved matters (layout, scale, appearance and landscaping) can be considered at this stage.
- 5.2 Having assessed the proposals against the relevant policies, the reserved matters for the layout, scale, appearance and landscaping are considered to be acceptable. The details ensure that the proposal would not result in detrimental impacts on the character and appearance of the area, the residential amenity of the occupiers of neighbouring properties or highway safety.
- 5.3 The proposed development is therefore considered to be acceptable having had regard to Policies ENV1, ENV2, T1, T2, RT2 and CS6 of the Selby District Local Plan, Policies SP1 SP2, SP4, SP5, SP8, SP9, SP15, SP16, SP18 and SP19 of the Core Strategy and the advice contained with the NPPF.

6. RECOMMENDATION

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

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

BDV.13.01 – Location Plan
BDV.13.02 Rev A – Proposed Layout Plan
BDV.13.T4+.01 – T4+ The Elton John Floor Plans and Elevations
BDV.13.B1.01 – B1 Floor Plans and Elevations
BDV.13.N1+.01 – N1+ House Type Floor Plans and Elevations
BDV.13.T11.01 – T11 The Montgomery Floor Plans and Elevations
BDV.13.T4.01 – T4 The Elton Floor Plans and Elevations
BDV.13.T401.01 – T401 House Type Floor Plans and Elevations
BDV.13.G01 – Single Garage Floor Plans and Elevations
BDV.13.04 – Gate and Fence Elevations
BDV.13.03 Rev A – Street Scenes
BDV.13.06 – Affordable Housing Plan
2964/2 Rev C – Detailed Landscape Proposals

Reason:

For the avoidance of doubt.

- 02.No development above foundation level shall commence until details of the materials to be used in the construction of the exterior walls and roof(s) of the proposed development have been submitted to and approved in writing by the Local Planning Authority, and only the approved materials shall be utilised.

Reason:

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

- 03.Prior to the occupation of the dwellings hereby permitted, boundary treatments to be retained and erected within the application site shall be implemented in accordance with drawing no. BDV.13.02 Rev A and thereafter shall be retained as such for the lifetime of the development.

Reason:

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

- 04.No development shall commence until a detailed design and associated maintenance plan of the landscaping of the SuDS pond, including grading and surfacing has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved detailed design prior to the completion of the development.

Reason:

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

7. 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. **Financial Issues**

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

9. **Background Documents**

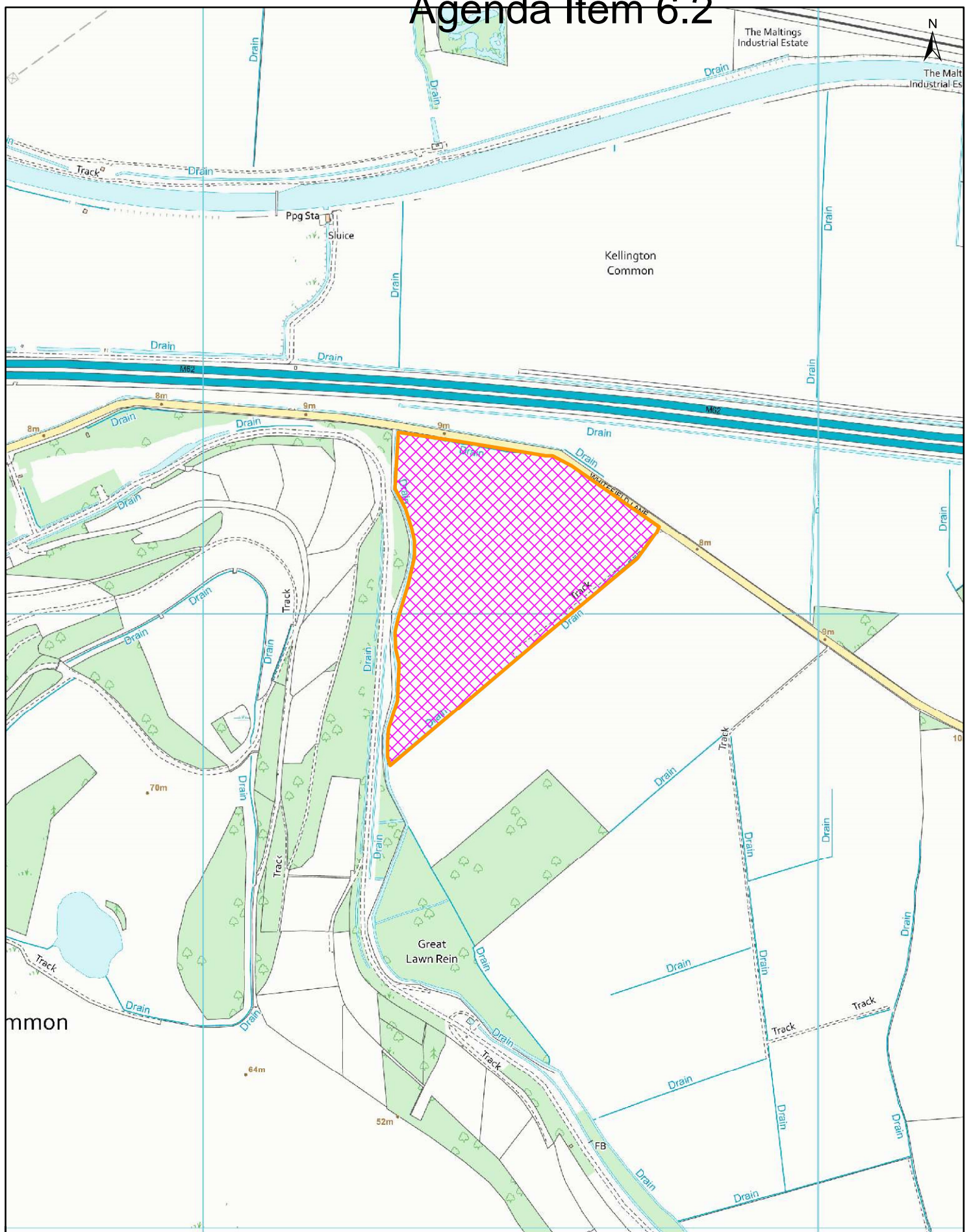
Planning Application file reference 2018/1122/REMM and associated documents.

Contact Officer: Jenny Tyreman, Senior Planning Officer

Appendices: None

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Agenda Item 6.2



APPLICATION SITE

2018/0631/COU

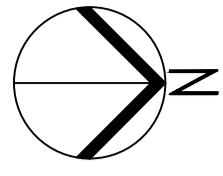
Gale Common Moto Park, Whitefield Lane, Whitley

Page 23

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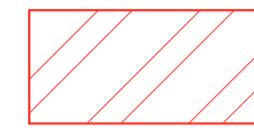
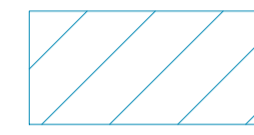




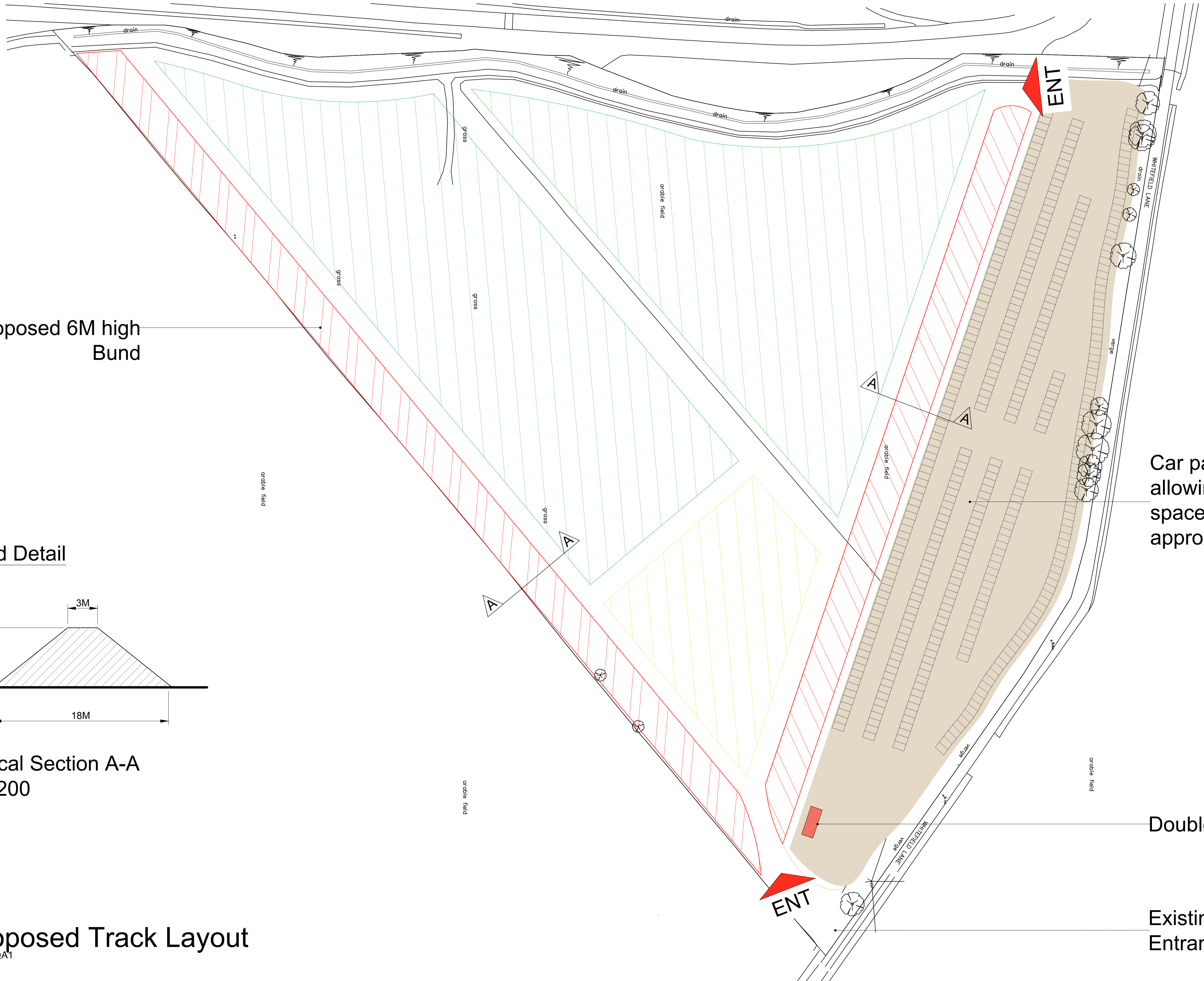
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- Notes:**
1. Do not scale this drawing.
 2. This drawing is subject to copyright laws and the use of this drawing is licensed by GFW for use on this project only.
 3. In the event of any discrepancies being found these are to be brought to the attention 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

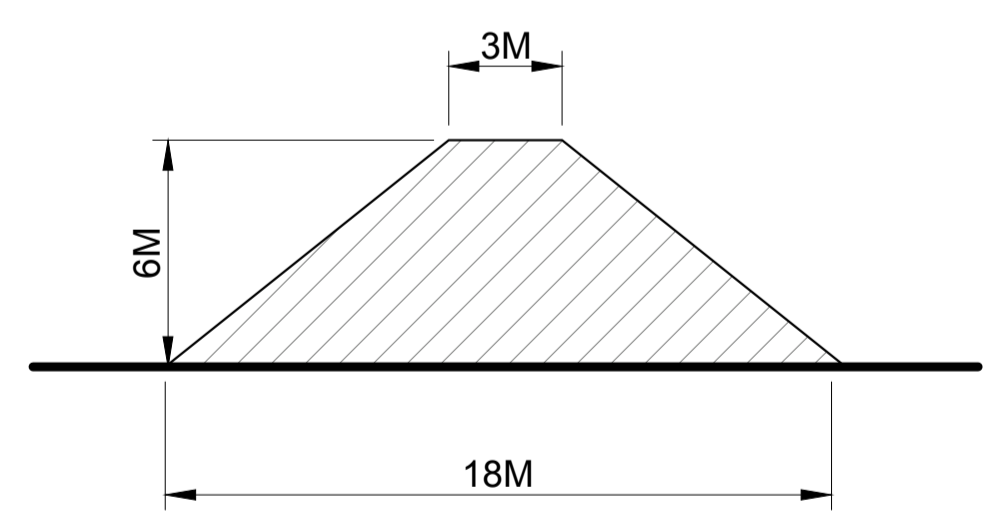
-  Proposed 6M High Bund
-  Practice Track
-  Race Track
-  Kids Track



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

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9 South End, Bedale, North Yorkshire, DL8 2BJ

Client/project:
Mr S Crampton
Gayle Common Motorcross

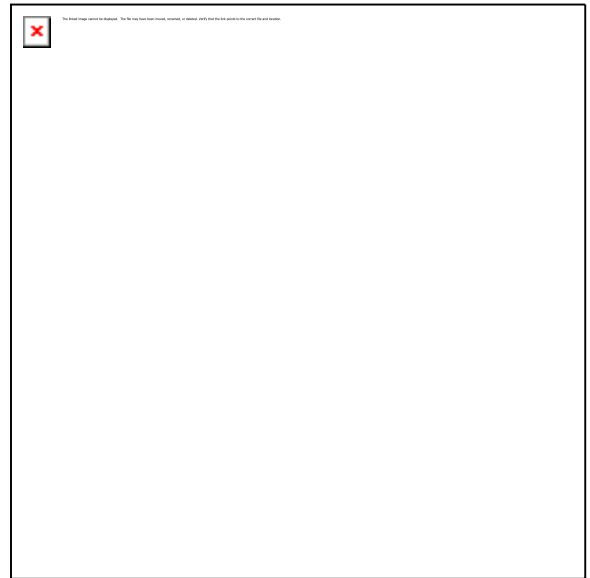
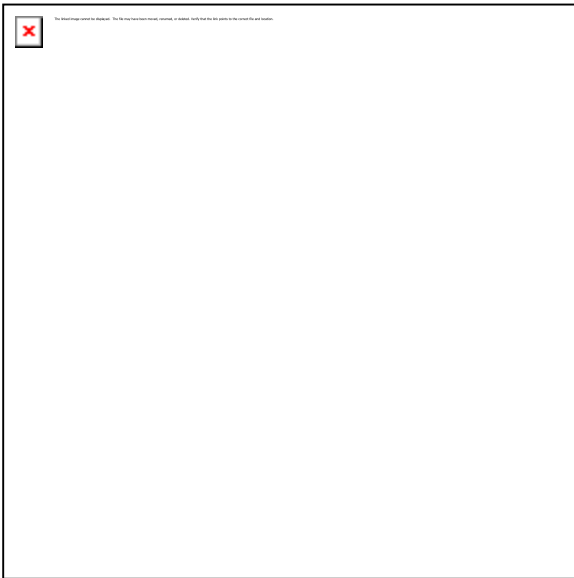
Drawing title:
Proposed Site Layout

Drawn by: GS
Checked by: HH

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

Project Number: BDL703400
Dwg No: 04
Revision: D

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Report Reference Number 2018/0631/COU

To: Planning Committee
Date: 3 April 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:	REFUSE		

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.

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)

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:

Current Condition number and nature	Effect of condition	Proposed variation
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..
- 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
- 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. Recommendation

7.1 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.

8. Legal Issues

Planning Acts

This application has 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 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.

9. Background Documents

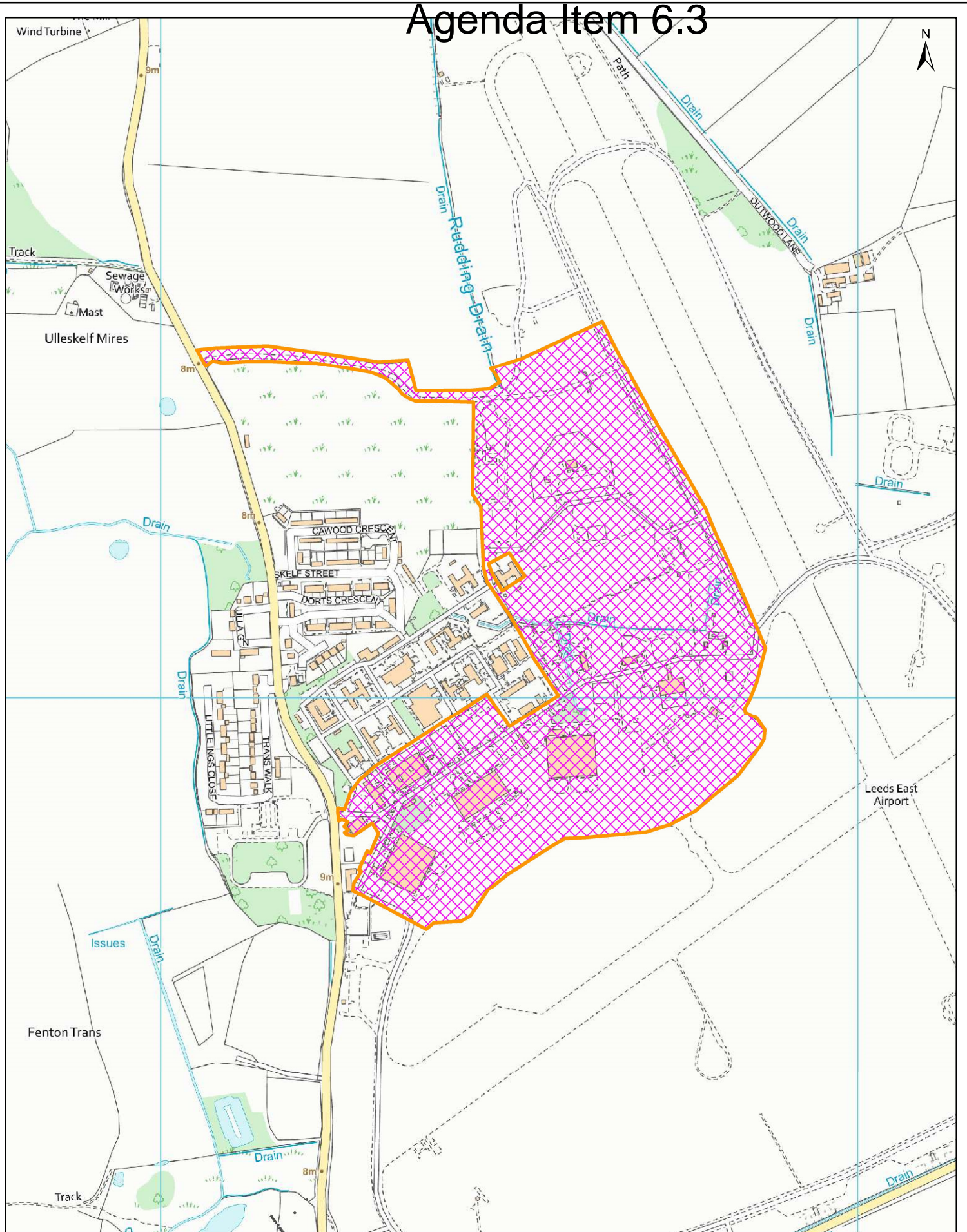
Planning Application file reference 2018/0631/COU

Contact Officer: Paul Edwards, Principal Planning Officer

Appendices: None

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Agenda Item 6.3



APPLICATION SITE

Leeds East Airport, Busk Lane, Church Fenton
2018/0673/OUTM

1:7,000



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KEY

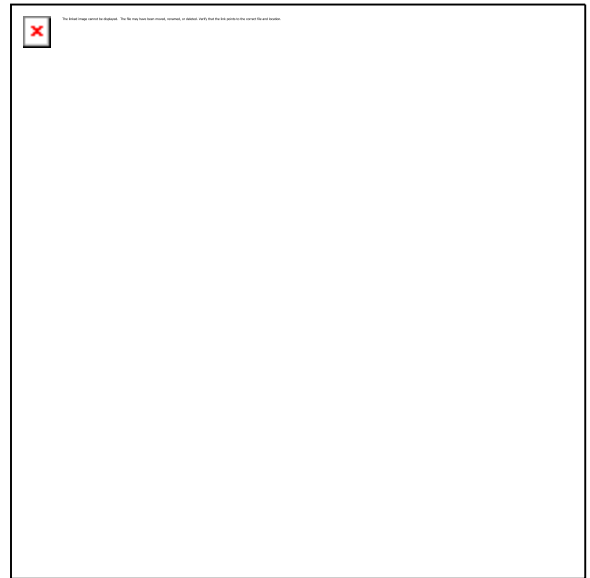
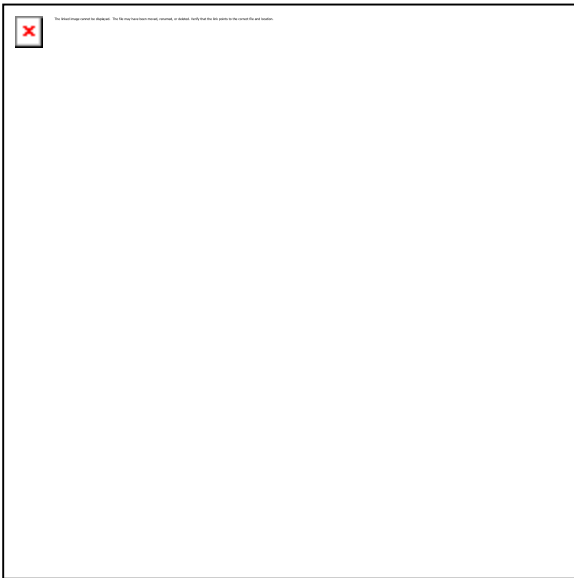
CREATE YORKSHIRE (14.74HA)	VEHICULAR MOVEMENT	PUBLIC OPEN SPACE	PARAGON BUILDING
STUDIOS (11.53HA)	VEHICULAR ACCESS	DEVELOPMENT PARCEL	EXISTING STUDIO BUILDING
AVIATION HUB (1.34HA)	PEDESTRIAN/CYCLE MOVEMENT	SECURITY GATE	PROPOSED STUDIO BUILDING (INDICATIVE)
	STAFF PEDESTRIAN/CYCLE MOVEMENT	SECURE GATE/BRIDGE	AVIATION USES
	EXISTING TREES	SECURITY FENCE	SCHEDULED MONUMENT
	PROPOSED TREES / LANDSCAPING	DRAINAGE	HARDSTANDING
			CAR/CYCLE PARKING



CONCEPT PLAN
CHURCH FENTON

Pegasus
Design

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Report Reference Number: 2018/0673/OUTM

To: Planning Committee
Date: 3 April 2019
Author: Gary Bell (Principal Planning Officer)
Lead Officer: Ruth Hardingham (Planning Development Manager)

APPLICATION NUMBER:	2018/0673/OUTM	PARISH:	Ulleskelf Parish Council
APPLICANT:	Makin Enterprises	VALID DATE: EXPIRY DATE:	4th July 2018 3rd October 2018
PROPOSAL:	Hybrid application for (1) Full planning permission for the erection of a building for creative, digital and media use and associated works, including parking, servicing and access; and permanent change of use of existing buildings to commercial TV and film studios and associated services and activities; and (2) Outline planning permission, with means of access to be considered, for the development of a creative, digital and media industries employment park and film studios (including A1, A3, D1 and C1 use class buildings), open space, landscaping, car parking and ancillary works		
LOCATION:	Leeds East Airport Busk Lane Church Fenton Tadcaster North Yorkshire LS24 9SE		
RECOMMENDATION:	MINDED TO APPROVE subject to conclusion of a planning obligation and referral to the Secretary of State		

This application is to be determined by the Planning Committee as the application is a Departure from the Development Plan and there are material considerations which would support the recommendation for approval.

1. Introduction and background

- 1.1 The application is presented to Planning Committee in accordance with the Council's Officer Delegation Scheme as the application is contrary to the requirements of the Development Plan. However, officers consider that there are material considerations which would justify approval of the application.
- 1.2 A request for a Screening Opinion was received by the Council on 6 June 2018 and it was concluded that the proposal detailed in the submission does not constitute EIA development. An Opinion to this effect was issued on 28 June 2018.

The Site

- 1.3 The application site is located at Church Fenton Aerodrome, formerly part of the RAF Church Fenton airbase which was established in the 1930s, and is approximately 1.5km north-east of Church Fenton village and 2km south of Ulleskelf village. To the west of the site are buildings also associated with the former RAF Church Fenton airbase now in private ownership separate to the Aerodrome beyond which there is residential development. Church Fenton Aerodrome remains in aviation use to the south and east of the application site, operating as 'Leeds East Airport'.
- 1.4 The application site extends to some 28ha comprising previously developed land. It is characterised by the former use as a military base with existing structures such as hangars, workshops, garages and storage buildings varying in scale and size and operational areas comprised of grassland, interspersed with areas of hardstanding including taxiways running throughout. Parts of the Aerodrome are subject to planning permissions which permit temporary uses for commercial film-making and outdoor vehicle storage.
- 1.5 Vehicular, pedestrian and cycle access to the site is from Busk Lane with the main entrance being at the south western end of the site and a more limited access existing further along Busk Lane to the north.
- 1.6 There are no statutory national or local landscape or wildlife designations covering the application site. The site does not contain any protected trees and there is no Conservation Area or nearby listed buildings that are affected. The site does, however, contain a Scheduled Ancient Monument associated with the former military use and taking the form of part of airfield defences dating from World War II.
- 1.7 In Landscape Character terms the surrounding area is virtually flat, within the Humberhead Levels, and is mainly arable farmland. There is limited woodland with any trees usually related to settlements, farms and along ditches. Unsurprisingly given the historical and current use of the site for aviation purposes, there are no public footpaths within the site.

The proposal

- 1.8 This is a hybrid planning application for commercial development with an overall concept of creating a hub of complementary creative, digital and media uses that

seek to draw collective benefit as a result of close proximity. A temporary planning consent presently exists for the 'use of land and buildings for commercial film-making and ancillary uses' until August 2020 (ref. 2015/0588/COU) and the current proposals seek to build on the recent and continuing success of this use. The application is for the permanent use of existing buildings together with the erection of new buildings for commercial film-making and associated uses (labelled the Studios) at the southern end of the site and the development of a Creative Industries Employment Park (labelled Create Yorkshire) to the northern part of the site.

1.9 The development for which permission is being sought is described as;

- 1) *Full planning permission for the erection of a building for creative, digital and media use and associated works, including parking, servicing and access; and permanent change of use of existing buildings to commercial TV and film studios and associated services and activities; and*
- 2) *Outline consent, with means of access to be considered, for the development of a creative, digital and media industries employment park and film studios (including A1, A3, D1 and C1 use class buildings), open space, landscaping, car parking and ancillary works.*

1.10 The agents have highlighted the unique nature of the site in terms of buildings that are well suited to the proposed use and the availability of previously developed yet under used land giving space for the new development to be successfully provided without significant detriment to visual amenity or landscape character. The site is also considered to be both private and secure – a proven and important locational demand of occupiers, particularly for the Studios element.

1.11 The application is accompanied by the following documents:

- Site Location Plan
- Concept Masterplan;
- 'Building 1' Drawing Pack
- Design & Access Statement
- Planning Statement (including Heritage Statement)
- Landscape and Visual Impact Assessment
- Landscape & Green Infrastructure Design Statement
- Economic Report
- Transport Assessment
- Travel Plan
- Air Quality Assessment
- Noise Assessment
- Ecological Appraisal
- Tree Survey & Arboricultural Report
- Flood Risk Assessment
- Drainage Impact Assessment
- Phase 1 Geo-Environmental Ground Investigation Report
- Utilities Report
- Statement of Community Involvement Report

1.12 Since much of the application is in outline, the intention is that specified documents and drawings (particularly the Design & Access Statement, the Landscape & Green Infrastructure Design Statement and the Landscape Parameters Plan) will become a part of any approval so that certain design and floor space principles are

established. In this way, future reserved matters applications will be required, where relevant, to be in accordance with the agreed parameters.

Planning History

- 1.13 Since its purchase from the Ministry of Defence at the end of 2014, the site has been subject to the following planning applications:
- 2017/0977/COU, Proposed temporary change of use of building and land for trial of guided Studio Tours alongside continued use of site for consented digital/media uses, APPROVED, 26.10.2017
- 2017/0861/COU, Section 73 application to vary condition 04 (maximum number of vehicles to be stored) of approval 2016/0758/COU for retrospective change of use of land for outdoor motor vehicle storage and use of building for associated uses alongside the continued use of the land for aviation uses with resumption at the end of a three year period back to the site's current aviation use, APPROVED, 24.10.2017
- 2017/0347/FULM, Erection of a building for use ancillary to the established civilian aviation of the aerodrome, APPROVED, 07.07.2017
- 2016/1237/COU, Temporary change of use for a period of three years of building to micro-brewery and ancillary uses alongside the continued use of the land for aviation uses with resumption at the end of the period back to the site's current aviation use, APPROVED, 12.12.2016
- 2016/0758/COU, Retrospective change of use of land for outdoor motor vehicle storage and use of buildings for associated uses alongside the continued use of the land for aviation uses with resumption at the end of a three year period back to the site's current aviation use, APPROVED, 22.08.2016
- 2016/0160/COU, Temporary change of use of land for outdoor motor vehicle storage and use of buildings for associated uses alongside the continued use of the land for aviation uses with resumption at the end of a 3 year period back to the site's current aviation use, APPROVED, 17.05.2016
- 2015/0834/COU, Planning application for temporary planning permission for a period of five years for use of buildings for motor vehicle showroom/display and ancillary vehicle servicing uses and associated use of land for motor vehicle demonstration and testing at Church Fenton Aerodrome, APPROVED, 25.09.2015
- 2015/0588/COU, Application for temporary planning permission for a period of five years for use of land and buildings for commercial film-making and ancillary uses alongside the continued use of the site for aviation uses with resumption at the end of the period back to the site's current aviation use, APPROVED, 10.08.2015
- 1.14 In accordance with good practice, this application has been the subject of without prejudice pre-application discussion, community engagement and consultation prior to its submission in June 2018. The applicant has stated that they have been encouraged by the positive response of the local community and stakeholders to the proposals.
- 2. Consultations**
- 2.1 The application has been statutorily advertised by site and press notice and by letter to adjoining properties and businesses.

- 2.2 **Church Fenton Parish Council** - has no objection in principle to the proposals but wish to see them considered in the context of an overall plan for the Airport to better understand cumulative effects and the ability to accommodate infrastructure requirements.
- 2.3 **Ulleskelf Parish Council** - raises concerns about the impact of additional traffic associated with the development on an already inadequate road system. Particular concerns relate to traffic travelling through Ulleskelf to the junction with the A162 to the west.
- 2.4 **Ryther cum Ozendyke Parish Council** - raises concerns regarding an increased risk of surface water flooding.
- 2.5 **Biggin Parish Council** - has not commented.
- 2.6 **Little Fenton Parish Council** - has not commented.
- 2.7 **NYCC Highways** - has considered the access from Busk Lane (including the proposed improvements to the northern access) and, subject to appropriate conditions, are satisfied with the proposed arrangements for vehicle, cycle and pedestrian access/egress and movement through the site. Importantly, the Highway Authority have considered the submitted Transport Assessment together with a further Transport Note (which considers cumulative impacts associated with a number of other developments) and concluded that the applicant has shown that the residual cumulative impact of the development can be accommodated and there are no reasons for refusing permission on highway and transportation grounds subject to the imposition of planning conditions and the completion of a S106 Agreement.
- 2.8 **NYCC Growth, Planning & Trading Standards** - consider the proposal to be an ambitious and far sighted project which will create new employment opportunities in an emerging sector with strong potential for growth. The application is supported as a scheme that will make a significant contribution to the functional economic areas of Selby and York and North Yorkshire.
- 2.9 **NYCC Heritage (Archaeology)** - welcomes the treatment of the scheduled gun post and that the development will help to secure the future for numerous former military buildings but expects there to be the potential for traditional below ground archaeological remains. A condition is recommended requiring a Written Scheme of Investigation.
- 2.10 **NYCC Public Rights of Way Officer** - has not responded.
- 2.11 **North Yorkshire Fire and Rescue** - has no objection/observation to the application at this stage. It will, it says, make further comment when it receives its statutory Building Regulations consultation.
- 2.12 **Principal Landscape Architect** - considers that, although the site is a modified landscape, the development would likely have significant landscape and visual effects and initially required further information and mitigation to be considered. The applicant has responded and the proposal now has officer support subject to appropriate planning conditions.

- 2.13 **NYCC Heritage (Ecology)** - initially commented that further information/survey work was required. In response the applicant submitted an Ecology Addendum Report and further information regarding mitigation measures to avoid impacts on protected species. The additional information is considered to be thorough and gives confidence that the potential impacts of the development can be mitigated. Subject to conditions requiring both an Ecological Management Plan and a Construction Environment Management Plan, there are now no outstanding objections.
- 2.14 **Natural England** - initially required further information with regard to foul and surface water matters given that the site lies some 2km from the Kirkby Wharfe SSSI. The applicant responded and Natural England have subsequently acknowledged the proposed drainage arrangements are unlikely to have an impact on the SSSI and so have no objections.
- 2.15 **The Yorkshire Wildlife Trust** - required an Ecological Management Plan and a Construction Environmental Management Plan together with sensitive lighting to safeguard protected species and existing habitats all of which can be the subject of planning conditions.
- 2.16 **North Yorkshire Bat Group** - has not commented.
- 2.17 **NYCC Lead Local Flood Authority** - commented that the documents submitted represent a reasonable approach to the management of surface water and recommended a planning condition relating to a scheme for foul and surface water drainage.
- 2.18 **The Environment Agency** - has advised that the application site lies within Flood Zone 2 and the proposed uses are classed as less vulnerable. The application should therefore be assessed in line with the Agency's flood risk standing advice.
- 2.19 **Yorkshire Water** - has no comment to make given the initial intention of directing foul drainage to the public sewer and surface water to the local watercourse system.
- 2.20 **The Shire Group of IDBs** - has replied with a standard response that the impermeable areas of the site will be increased so the applicants will have to ensure that any surface water systems installed have adequate capacity to accommodate any increase in surface water discharge.
- 2.21 **Ainsty IDB** - has no objection to the development in principle and comments in detail with regard to the disposal of foul and surface water and the proximity of proposed development to the adjacent watercourse (Rudding Drain). Planning conditions are recommended covering the matters of interest to the IDB.
- 2.22 **Police Designing out Crime Officer** - has commented that the indicative design and layout from a designing out crime perspective is to be commended and that the proposed scheme is considered acceptable.
- 2.23 **SDC Economic Development & Regeneration** - considers that the application should be supported for the following reasons which are felt to be material;
- The Council's Corporate Plan 2015-20 set out a clear commitment to making Selby District a 'Great Place' of which priority 1 was to make it a Great Place 'to do

business' with a key focus of securing new investment in the district and improving employment opportunities. The Corporate Plan was updated in 2018 retaining the Great Place ambitions but updating and refreshing priorities for 2018-2020. As well as the focus on securing new investment and employment opportunities, the need to create the conditions for the current and future workforce to achieve higher levels of skills and qualifications was emphasised and a number of priorities over the next two years identified:

- progress the key priorities in our Economic Development Framework - including attracting new business investments to create employment opportunities in priority sectors through our Inward Investment work
- work proactively with key landowners and developers to unlock the significant potential of our key transformational development sites. This included Church Fenton which is identified as having potential for a major new creative media and digital hub "Create Yorkshire" and the expansion of the film studios ("Yorkshire Studios") creating a site of regional significance.
- The Corporate Plan commitments to encouraging economic growth and delivering key transformational development sites will deliver a wide range of benefits including increased employment, skills and training opportunities for local people. It will also deliver growth in the Council's business tax base which is essential to secure the future sustainability of the Council and its ability to deliver first class public services.
- The 'Selby Economic Development Framework 2017 – 2022' (EDF) builds on the Council's agreed aims to make Selby District a great place to do business and enjoy life, as set out in the Corporate Plan and states that Selby District has a critical role to play in transforming growth in the north of England and rebalancing the country's economy, creating economic prosperity and better connected sustainable growth. The right mix of investment is sought to create diverse high value jobs that meet the needs and aspirations of residents and improve prospects for this and future generations.
- In the EDF, the Council commits to work alongside developers to bring forward new commercial land to attract investment into the District, creating new and higher-value employment opportunities, whilst meeting the needs of existing businesses to expand. Church Fenton Aerodrome is identified as one of 5 key development sites in the District, incorporating B1/2/8 uses and regionally significant film studio facilities. Progress on the EDF has recently been reviewed and the delivery of strategic sites, including Church Fenton, remains a high priority.
- The development of the Church Fenton site presents the opportunity to create an international centre of expertise and innovation built around the UK's global reputation in the Film and Creative Digital sectors. The successful film studios at Church Fenton are able to offer and exploit a rare resource that the established major studios are unable to compete with, that of space and facilities. The vision to develop a creative, digital campus adjacent to the film studios will ensure that the site will hold a unique position, nationally and can gain an international reputation that gives film producers the flexibility and access not readily available elsewhere.

- This development will be a first for Selby District and, as a consequence, will elevate the awareness and interest for business investment in the District to a new level as the specialist facilities will not only be unique to the District but throughout the Yorkshire region and beyond.

This project is considered to be unique and probably a once in a life time opportunity for Selby District to take a leadership role in delivering a high profile, exciting business sector, not just to the District but across the region.

2.24 **York & North Yorkshire LEP** - no comments received

2.25 **Screen Yorkshire** - supports the application and comments that Church Fenton has already added an important new element to the region's offer to film makers, both domestic and international. The site has massive potential to meet the need for high quality studio space, given it is almost unique in terms of scale, and to provide a base for supply chain businesses and training. Jobs in the sector are considered to be future facing and approaches to Screen Yorkshire show local people of all ages are seeking new opportunities within the creative industries.

2.26 **SDC Environmental Health** - has considered the submitted Noise Impact Assessment and Air Quality Assessment and considers both to be appropriate. However, as the application is largely in outline, conditions are recommended requiring a Construction Management Plan and controlling sound emitted from plant and equipment.

2.27 **Historic England** - has held pre-application discussions with the applicant's agent, with particular reference to the Scheduled Monument within the site, and has no objection on heritage grounds.

2.28 **City of York Contaminated Land** - consider the submitted information on likely contamination to be generally acceptable and recommend a number of planning conditions requiring further investigation and assessment prior to the commencement of development and in the event of unexpected contamination being found as works proceed.

Representations

2.29 One letter of representation has been received expressing support for the proposal which is considered to be an innovative and imaginative scheme providing jobs without conflicting with the environment.

3. SITE CONSTRAINTS AND POLICY CONTEXT

3.1 The site is located outside, but immediately adjacent to the development limits of Church Fenton Airbase. Therefore the site is located within open countryside but lies outside of the Green Belt and without specific allocation. The application has consequently been advertised as a Departure from the Development Plan. Legal opinion has been sought which concludes that, given the former and current uses of the site, it should be considered as 'previously developed land'. The areas of runway, buildings, taxi-ways, hardstanding and aprons are indisputably previously developed land. That leaves the areas of grass between these elements of built development which are considered to be essential operating infrastructure associated with the aviation use without which a small airfield could not function.

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

- 3.2 The National Planning Policy Framework (February 2019) replaces the July 2018 NPPF, first 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 unless material considerations indicate otherwise (paragraph 12). This application has been considered against the 2019 NPPF.
- 3.3 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". This is recognised in paragraph 11 of the National Planning Policy Framework (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.
- 3.4 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.

Selby District Core Strategy Local Plan (CS)

- 3.5 The relevant CS Policies are as follows:

SP1: Presumption in Favour of Sustainable Development. This reflects the approach set out in the NPPF for considering sustainable development proposals positively. The Council will work proactively to find solutions so that proposals can be approved wherever possible in order to improve the economic, social and environmental conditions in the area.

SP2: Spatial Development Strategy. Of relevance here, development in the countryside will be limited to the replacement or extension of existing buildings, the reuse of buildings preferably for employment purposes 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 in accordance with SP13; or other special circumstances.

In addition to the Spatial Strategy contained in the CS, other locational principles are included which are also seen as influencing the consideration of development proposals. The first such principle is that high priority is given to the importance of utilising previously developed land.

SP12: Access to Services, Community Facilities and Infrastructure. The assumption behind this policy is that future development needs to be provided with the services, facilities or infrastructure that are needed by new communities to function or to make sure existing communities do not suffer as a result. Facilities implemented in connection with a development should be in place or provided in phase with development. This includes joining up or creating Green Infrastructure in addition to measures necessary to mitigate or minimise the consequences of development.

SP13: Scale and Distribution of Economic Growth. Policy SP13 gives support to developing and revitalising the local economy. The Policy provides for an additional 37-52ha of employment land in the period up to 2027 but, notably, this provision is not described as a maximum.

Subsequent to adoption of the Core Strategy, and in the absence of a Site Allocations Local Plan, the Council's Authority Monitoring Report (AMR) May 2018 (period 2015-17) and the 2015 Draft Employment Land Review (ELR) provide relevant context. The former shows that the Council has already granted planning permission for employment use that significantly exceeds the Core Strategy requirement of 37-52ha (in large part due to significant employment developments at the Sherburn Industrial Estate). It should be noted that the 37-52ha figure contained in CS Policy SP13 is not presented as a maximum figure and there are no adopted policies which seek to resist new employment proposals once the figure is exceeded.

The Draft ELR did not consider the application site as the landowner was, at that time, intent on running the whole site as a civilian airport. Clearly, the current temporary film-making use and the current proposal for creative, digital and media industries development, representing economic growth, were both brought forward after the adoption of the Core Strategy and completion of the ELR and were not specifically considered during the preparation of those documents. However, the NPPF does encourage local planning authorities to be flexible enough to accommodate needs not anticipated in the plan. Also, it was recognised in the ELR that the Tadcaster Functional Economic Area (within which the majority of the site falls) should be considered for new employment allocations albeit in the order of 5-10 ha. The ELR also recognised that the Selby District had struggled to attract footloose inward investment activity and suggested that consideration should be given to large sites of >10ha.

SP13C supports sustainable development in rural areas that brings sustainable economic growth through local employment opportunities.

SP15: Sustainable Development and Climate Change. Promotes sustainable development by, amongst other things, giving preference to the use of previously developed land and seeking that schemes should incorporate sustainable design and construction techniques; sustainable drainage systems, protect and enhance habitats; include tree planting and minimise traffic growth through the use of, for example, Travel Plans and Transport Assessments, cycle lanes, pedestrian facilities and improved public transport.

SP16: Improving Resource Efficiency. This policy seeks to promote reductions in the use of energy in line with national standards and the use of renewable sources.

SP18: Protecting and Enhancing the Environment. This policy seeks to sustain high quality and local distinctiveness through, amongst other things; retaining and protecting features of natural interest, providing for their management and seeking to ensure that unavoidable impacts are mitigated or compensated for; producing a net gain in biodiversity, increasing connectivity of Green Infrastructure including networks of linked open spaces and opportunities for multi-functionality.

Policy SP19: Design Quality is the overarching requirement for good design as a key element to achieving sustainable development through having regard to local character, identity and context of site surroundings. A list of key requirements is

given within the policy which includes; making effective use of land, facilitating sustainable access, incorporating new and existing landscaping and creating mixed use places.

Selby District Local Plan (SDLP)

- 3.6 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).”

- 3.7 The relevant SDLP are as follows:

ENV1: Control of Development. This is a permissive criteria based development management policy that takes account of a number of planning considerations in the control of development. Of particular importance to this application are; the character of the area; the relationship to the highway network and the means of access; the standard of layout and associated landscaping; the effect upon important heritage assets

ENV2: Environmental Pollution and Contaminated Land. Seeks to prevent harm from noise, nuisance or contamination and to ensure previously contaminated sites are investigated and appropriately assessed.

ENV3: Light Pollution. Would permit lighting schemes where they are appropriately designed and do not detract from, for example highway safety, local amenity and character.

EMP2: The Location of Economic Development. Sets out the provision to be made for new employment development, concentrated in and around Eggborough, Selby, Sherburn and Tadcaster.

EMP8: Conversion of Rural Buildings. Provides for the reuse or adaptation of rural buildings for commercial, industrial or recreational uses subject to various criteria including that the building is structurally sound and will not be require substantial rebuilding, alteration or extension.

EMP9: Expansion of Existing Employment Uses. Proposals for expansion or redevelopment of existing uses outside of development limits or outside of established employment areas are supported by this policy subject to there being no adverse impact on highway safety and the character of the area together with a high standard of design and landscaping.

EMP11: Exceptional Major Industrial and Business Development. This policy seeks to facilitate, in exceptional circumstances, proposals which cannot ordinarily be accommodated within allocated employment land. The policy is intended to cater for major inward investment proposals that require large sites to be occupied by a large operator and any related development linked to its operation.

T1: Development in Relation to the Highway Network. Proposals are to be well related to the network and be capable of being safely served by existing roads, 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.

4. APPRAISAL

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

- The Principle of development
- Highway impact, accessibility and mitigation
- Landscape, design and visual impact
- Flood risk and drainage
- Impact on residential amenity
- Biodiversity and ecology
- Impact on Heritage assets
- Ground conditions
- Economic benefits

The principle of development

- 4.2 The CS sets out a Vision for the District which includes a diverse economy with a wide range of job opportunities to assist in reducing the dependency on surrounding towns and cities. One of the objectives stemming from the Vision is the promotion of the efficient use of previously developed land for appropriate uses giving preference to land of lesser environmental value.
- 4.3 CS Policy SP1 states 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 will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible.
- 4.4 The application site is located outside, but immediately adjacent to, the development limits of Church Fenton Airbase and is therefore located within the open countryside. CS Policy SP2 sets out the spatial development strategy for the district and states that the majority of new development will be directed towards the towns and more sustainable villages. The policy states that development in the open countryside will be limited to the replacement or extension of existing buildings, the re-use of buildings preferably for employment purposes, and well-designed new buildings of an appropriate scale, which would contribute towards and improve the local economy where it will enhance or maintain the vitality of rural communities, meet rural affordable housing need, or other special circumstances.
- 4.5 Part of the scheme proposes the re-use and the extension of existing buildings which is in accordance with Policy SP2. However the proposal also involves the creation of over 57,000 sq m of new floor space, comprising employment floor space and a range of ancillary uses, including shops, cafes/restaurants and a hotel which, it is considered, goes beyond what might be anticipated by the strand of SP2 referring to '*well-designed new buildings of an appropriate scale*' aimed at improving the local economy. New commercial floor space of the scale proposed is clearly to be considered more widely than the economy of the immediate local area.

- 4.6 CS Policy SP13 provides policy guidance with regards to the scale and distribution of economic growth. Part C states that in rural areas, sustainable development (on both greenfield and previously developed land) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported, including for example:
- The re-use of existing buildings and infrastructure and the development of well-designed new buildings
 - The redevelopment of existing and former employment sites and commercial premises
 - The diversification of agriculture and other land based rural businesses
 - Rural tourism and leisure developments, small scale rural offices or other small scale rural development
 - The retention of local services and supporting development and expansion of local services and facilities in accordance with Policy SP14.
- 4.7 Policy SP13D states that in all cases development should be sustainable and be appropriate in scale and type to its location, not harm the character of the area, and seek a good standard of amenity.
- 4.8 Policy SP13 is supportive to the re-use of existing buildings and infrastructure and the development of well-designed new buildings. The application proposes the re-use of existing buildings to make permanent the role of commercial film making at Church Fenton. The application also proposes a significant number of new buildings and, whilst the majority of these new buildings are subject of the outline element of the application whereby details of design will be determined through reserved matters, there is no reason why an appropriate design cannot be achieved. Though the proposal will see the expansion of a current enterprise, the scheme does not represent small-scale rural development envisaged by Policy SP13. In view of the site's location in the open countryside, the overall scale of development proposed is not considered to be in strict accordance with Policy SP13.
- 4.9 SDLP Policy EMP2 sets out the provision for the location of future economic development across the district. The policy states that encouragement will be given to proposals for small-scale development in villages and rural areas in support of the rural economy. The scheme cannot be regarded as small scale and, on this basis, the proposal is not specifically supported by Policy EMP2. However, the policy does not specifically preclude the possibility of large scale proposals or state that they would be unacceptable per se. SDLP Policy EMP8 sets out a number of criteria whereby the conversion of rural buildings for commercial uses will be permitted. This policy can be applied to the element of the scheme which proposes the permanent re-use of existing buildings on site. These buildings already have the benefit of temporary consent (ref. 2015/0588/COU), are structurally sound and are capable of re-use without substantial re-building / their re-use will take place within the existing fabric of the building and are therefore considered to be in accordance with Policy EMP8.
- 4.10 There are no adopted policies specific to the proposed use in the subject location. SDLP Policy EMP11 does make provision for major inward investment that requires large sites and cannot be ordinarily accommodated within allocated employment sites. The Policy does, however, anticipate such development to be related to the relocation of a major national or industrial employer within the District which may, in

addition to providing a significant number of jobs, also promote opportunities for creating spin-off employment through related business and services. Whilst the circumstances of the application under consideration do not strictly represent those anticipated, the proposal does represent the opportunity for major inward investment based around a core activity, namely commercial film making, together with complementary creative, digital and media uses.

- 4.11 The location, scale and intended use of this site is not related to the present rural economy and officers consider that it is not the intention of CS Policies SP2 and SP13 and SDLP Policy EMP2 to allow major new commercial floor space in the open countryside. On this basis, and notwithstanding the support offered by the spirit of SDLP Policy EMP11, it cannot be concluded that the application is in accordance with the Development Plan.
- 4.12 As mentioned above, Section 38(6) of the Planning and Compulsory Purchase Act states that any determination shall be in accordance with the development plan unless material considerations indicate otherwise. Paragraph 12 of the NPPF does however state that local planning authorities may take decisions that depart from an up-to-date development plan if material considerations in a particular case indicate that the plan should not be followed. The material considerations that weigh in favour of the proposal are considered below.

Economic Development Framework

- 4.13 The Council's adopted Economic Development Framework (2017-2022) is not part of the Development Plan but officers are of the view that its objectives are material considerations when it comes to the determination of this proposed development. The Framework aims to transform growth, create economic prosperity and attract diverse high-value jobs to the District. Creative Industries is one of the priority growth sectors identified in the Framework which recognises Church Fenton as playing a key role in the recent growth of film and TV industries across Yorkshire and the Humber. The Framework seeks to work with key partners to build on the opportunities presented by the Church Fenton Airfield for development of a creative and media hub following the success of Yorkshire Studios' occupation of an existing hangar building on the site. Officers consider that the subject application represents a realistic and significant milestone in advancing this opportunity to provide for high skilled, quality jobs together with learning and skills development.
- 4.14 The Council's approach, based upon the Framework, has been to recognise that there are a number of key development sites, including those that are unallocated such as Church Fenton, and that their release for employment will provide large scale sites in locations that can link into existing and allocated employment sites and centres of population. In this way, providing a wide range of sites with consent gives maximum flexibility and choice.
- 4.16 The NPPF places significant weight on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development and requires there to be sufficient flexibility to accommodate needs not anticipated in the plan. Planning decisions should recognise and address the specific locational requirements of different sectors and should include making provision for clusters or networks of knowledge and data-driven, creative or high technology industries. The current proposal is promoted as one such cluster alongside one of the largest television and film production facilities in the country. The Framework goes on to reflect CS Policies SP2 and SP13 in stating that

decisions should enable the sustainable growth and expansion of all types of businesses in rural areas through the conversion of existing buildings and well-designed new buildings.

- 4.17 Paragraph 84 of the NPPF recognises that sites may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

Summary

- 4.18 As concluded above, the application is not considered to be in accordance with the Development Plan. On balance, however, the submitted proposals are considered to be acceptable in principle given that the proposals for development of previously developed land align with the stated economic development objectives of the District, which identify the site as providing the opportunity for a major creative and media hub. The application site is already home to Yorkshire Studios and, as such, the principle of the site being used for commercial film making has already been accepted through the grant of temporary planning permission. This application, if approved, will provide permanent consent and will allow for further investment in the currently under used site to provide for a wider variety of related and complementary employment and ancillary uses, which will both support the needs of the film-making use and provide for the continued growth of a modern, diversified and sustainable economy which is a key objective of the Council's Core Strategy. Without such growth the future vision for the District in terms of creating prosperous and sustainable communities will not be fully achieved.
- 4.19 Whilst the site is located in a rural area, it is a large previously developed site and has a history of varied uses. The NPPF states that the use of previously developed land and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist. The proposals will bring about the effective re-use of the site and will represent a scale of development not considered to be inappropriate, subject to Officers being satisfied that the scheme will not cause significant harm to local amenity and the character of the area (addressed below in this report).
- 4.20 Significant weight should be given to the need to support economic growth and productivity. The recognition by Selby District Council that the site provides a key employment opportunity to develop a high quality, regionally important, creative media hub define the special circumstances which weigh in favour of the proposal in a location which would normally be restricted to small scale rural development.
- 4.21 For the reasons above, it is considered that the material considerations are of sufficient weight in the balance to enable the Council to depart from the Development Plan subject to there being no identified harm when considering other material considerations as discussed below.

Highways impact, accessibility and mitigation

- 4.22 The application submission included a Transport Assessment (TA) which sought to establish that the quantum of vehicular traffic movements forecast to be generated

by the proposed development can be safely accommodated on the local highway network and that the residual cumulative impacts of the development are not severe (the NPPF states that applications should only be refused where such impacts are severe). The TA, which was revised following initial discussions with Highways Officers, presents what the applicants consider to be a robust assessment of traffic likely to be generated by the development. Figures of 394 two-way trips during the AM peak and 374 during the PM peak are used albeit they are considered by the applicant's traffic consultants to be an over estimation and, therefore, a worst case scenario. This, it is argued, demonstrates that the average increase in traffic flow as a result of the scheme will have a negligible impact on the surrounding highway network and local environment and that the development traffic can be satisfactorily accommodated.

- 4.23 A Framework Travel Plan (FTP), aimed at minimising single occupancy car journeys by encouraging employees at the development to travel in a sustainable manner, has also been the subject of discussion and agreement with the Local Highway Authority (LHA). The FTP includes for the provision of a site specific shuttle bus to run on weekdays, on a demand basis, between the proposed employment and a location to be determined once future employees can be surveyed (but most likely to be a local train station). The LHA wish to see this matter included in a Section 106 Agreement.
- 4.24 The LHA consultation response confirms that the TA analyses have been undertaken using the nationally accepted junction analysis programs in accordance with the requirements of NPPG on Travel Plans, Transport Assessments and Statements. The following junctions have been considered;
- B1222/Fenton Lane roundabout;
 - A162/B1222 roundabout;
 - Main Street/Station Road/Fenton Lane mini-roundabout;
 - A162/B1223 Raw Lane priority junction;
 - Busk Lane/Bracken Hill priority junction;
 - Boggart Lane/Church Fenton Lane/Busk Lane priority junction;
 - A63/A162 roundabout (existing layout); and
 - A63/A162 roundabout (with improvement scheme).
- 4.25 Two scenarios were considered in the TA; the 2023 design year plus committed development - the 'base situation', and the base situation plus the traffic generated by the 'Create Yorkshire' proposals for the application site. These are the analyses required by NPPG to determine the residual cumulative impact of the development and provide the basis on which the proposals should be considered. A number of sites in Church Fenton, Ulleskelf and Sherburn in Elmet that have planning permission have been included as committed development. In addition, and beyond what is required by the NPPF, the applicants have prepared a further Transport Note (TN) which considers the cumulative impact of development including sites which are in the planning process but not yet finally determined. These additional sites were determined by the LHA in consultation with Council officers and include sites in Church Fenton, Thorpe Willoughby, Selby, Hambleton and Sherburn in Elmet, most notably proposals for the former Gascoigne Wood Mine.
- 4.26 The TN has consequently considered the following scenarios;

Scenario 1 2023 Design Year + Committed Development + Identified Additional Sites.

Scenario 2 2023 Design Year + Committed Development + Identified Additional Sites + Phase 1 & 2 'Create Yorkshire' Generated Traffic.

Scenario 3 2023 Design Year + Committed Development + Identified Additional Sites

+ Phase 1 & 2 'Create Yorkshire' Generated Traffic

+ Gascoigne Wood Generated Traffic.

This additional analysis shows that when the impact of the application proposals is considered all junctions except the A63/A162 roundabout perform within their theoretical capacity. When the Gascoigne Wood site is included, both the A63/A162 and the A162/B1222 roundabouts exceed their theoretical capacities.

- 4.27 The TN reaches the same conclusion as the TA submitted in respect of the Gascoigne Wood proposals in that the traffic generated by that development alone is sufficient to require an improvement of the A162/B1222 roundabout. The applicant is therefore proposing mitigation to address the capacity issue at the A63/A162 roundabout above and beyond the mitigation previously agreed at this roundabout. It is also proposed that funding of the mitigation is proportionately shared between the sites which have a significant impact on junction, i.e. the application site, Gascoigne Wood (if approved) and those developments which already have planning permission but with obligations to improve the roundabout. The LHA considers this matter can be adequately covered through a Section 106 Agreement. This mitigation is considered necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to the development thus meeting the statutory tests for Section 106 agreements as set out in The Community Infrastructure Levy Regulations 2010 and the NPPF.
- 4.28 The TN also shows that in Scenario 2, without traffic associated with Gascoigne Wood, it is possible to deliver Phase 1 of the application site without the A63/A162 junction exceeding 85% of its theoretical capacity. The LHA would thus support development of Phase 1 of the application site in advance of works to the A63/A162 roundabout and, again, it is considered that this matter can be controlled through a Section 106 Agreement.
- 4.29 In conclusion, the LHA considers that the applicant has shown that the residual cumulative impact of the application site can be accommodated even when considering the impact of sites in addition to those that are required to be treated as committed development. This will require developer funded mitigation above that agreed for existing committed developments. It is consequently considered that there are no reasons for refusing the granting of permission on this site on highway and transportation grounds and that matters can be covered by clauses in a Section 106 Agreement and the imposition of appropriate planning conditions.
- 4.30 As described above, the site is a modified landscape within which the existing buildings, areas of hardstanding, runways and fencing exert a strong influence. The surrounding area is virtually flat, sitting within the Humberhead Levels, and is mainly arable farmland which has also had an impact on the appearance of the landscape. There is limited woodland with any trees usually related to settlements, farms and along ditches. Inevitably, given the scale of building proposed, the erection of new buildings and the loss of existing open space will have significant landscape and visual effects.

- 4.31 In seeking to address the comments of the Principal Landscape Architect, the applicants have revised the Landscape and Green Infrastructure Design Statement and have submitted a Landscape Parameters Plan. The underlying approach, shown on the indicative Masterplan, is the retention where possible of existing trees, the reintroduction of drains and dykes and the planting of significant numbers of new trees to give strong green infrastructure benefits and effectively define areas or 'cells' for new built development. This landscape-led approach has also paid particular attention to the Scheduled Monument on the site which would be retained and suitably integrated to allow interpretation of the WWII associations of the former land use. The Scheduled Monument will sit within a strong, linear area of greenspace that will form a central hub providing both opportunities for social interaction between occupants of the development and pedestrian and cycle access through the site. This area of greenspace will provide a sense of place, in contrast to the existing utilitarian nature of the site, as well as being publically available.
- 4.32 The submitted Landscape Parameters Plan has been prepared setting out various viewpoints in the context of the existing airfield and the surrounding landscape. The viewpoints, and particularly those giving open views towards the site, have been reviewed in relation to existing landscaping and its management. The existing aviation use does result in some constraints in relation to both new planting and the height of vegetation. Additional planting has, however, been added into the proposals along the northern access road to reinforce the existing vegetation and link in with the proposed woodland buffer to the northern edge of the application site. Similarly, a section of new planting has been indicated on the western site boundary to soften views from properties on Cawood Crescent across open land.
- 4.33 Whilst the majority of new buildings envisaged as part of the development fall within the outline element of the application, and will therefore be the subject of future submissions at reserved matters stage, Building 1 at the northern end of the Create Yorkshire employment area forms part of the full application. The building would be the largest on the site at 90m by 60m and seeks to articulate the design principles and concepts contained in the Design and Access Statement. The proposed material are a combination of concrete panels, timber cladding and insulated wall panels typical of modern industrial buildings. The building, whilst large is not considered to be out of character given the presence of the 3 large hangar buildings to the south of the site which will remain as the tallest buildings within the site.
- 4.34 Subject to appropriate conditions, it is considered that the impact of the development can be appropriately mitigated such that it can be successfully integrated into the surrounding landscape in a way that will bring long term beneficial effects.

Flood risk and drainage

- 4.35 When the application was first submitted, the Environment Agency flood maps showed the site as falling within Flood Zone 1 with a low probability of flooding. The flood maps have been updated and it is now the case that the majority of the site falls within Flood Zone 2 which carries a medium risk of flooding (1% - 0.1% probability in any year). Consequently, a revised Flood Risk Assessment (FRA) has been prepared and submitted. The site is described as being very flat at approximately 8.0mAOD. Existing ditches throughout the site are around 2m deep and the site is served by separate surface water and foul water sewerage infrastructure.

- 4.36 The FRA confirms that the site is located approximately 1.9km to the south of the River Wharfe and approximately 4.7km to the west of the River Ouse and considers that, whilst, the site is surrounded by land that is subject to higher flood risk, the site itself is at a low and acceptable risk from fluvial flooding. The FRA goes on to consider the risk of flooding from other sources including open drainage ditches within the site, groundwater and surface water and concludes that risk is low and acceptable. Notwithstanding this assessment, recognising that the site is located in Flood Zone 2, it is recommended that mitigation is provided by constructing new floor levels 300mm above surrounding ground levels and designing suitable surface water drainage systems to control flows and provide for any excess flows to be balanced on site. Such measures are capable of being secured by planning condition.
- 4.37 In accordance with the standing advice of the Environment Agency and requirements set out in the NPPF, a Sequential Test has also been undertaken as the proposals constitute major development falling within Flood Zone 2. The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The submitted Sequential Test argues that “the unique proposition provided by this specific site and this specific proposal” is predicated on the basis that the application site is; already home to the ‘Church Fenton Yorkshire Studios’; has a proven track record of suitability; comprises previously developed land within an operational commercial site; and has been specifically identified in the Council’s Economic Development Framework as a key development site to build from what it has already achieved to provide “a major creative and media hub in the region”. It concludes that, in this instance, only the application site is appropriate for the specific use proposed and other available employment land elsewhere in the District is not an appropriate alternative site for the specific use proposed. On that basis, it is considered that the Sequential Test is passed. Officers concur with this assessment and, as the Exception Test is not required given that the proposed development is classed as ‘less vulnerable’ by the Environment Agency, no objections are raised in terms of flood risk.
- 4.38 The submitted Drainage Report describes the existing drainage arrangements serving the site with foul water discharging to Yorkshire Water infrastructure and surface water being fed into the drainage ditches within the site. It goes on to describe predicted foul water flows as low and capable of being dealt with by pumping to the public sewer. Even if capacity was not available in the public sewer, and there is no suggestion that this will be the case, on-site solutions are available such as a private treatment plant. Surface water is to be discharged via existing on-site drainage ditches as at present albeit in a controlled manner. Again, suitably worded planning conditions are considered appropriate.
- 4.39 Responses from Yorkshire Water, the Local Lead Flood Authority and the 2 relevant Internal Drainage Boards have raised no objection to the approach being adopted to address flooding and drainage matters associated with the proposals. Planning conditions requiring detailed schemes at appropriate times of the development have been requested and are included in the officer recommendation.
- 4.40 The nearest residential properties to the application site are situated to the west on Cawood Crescent, Skelf Close, Dorts Crescent and, across Busk Lane, Trans Walk and Little Ings Close. For the most part, the houses are separated from the

application site by the remaining buildings associated with the former RAF base. The exception to this is Cawood Crescent which is separated from the northern part of the application site by an area of rough grassland containing shrubby vegetation. This latter relationship has resulted, as mentioned above, in a section of new planting being added to the proposals to soften what is recognised as the single major visual impact, others being described in the submitted Landscape & Visual Impact Assessment as moderate or limited.

- 4.41 The illustrative Masterplan contained within the submitted Design & Access Statement shows the area closest to the western boundary, and therefore to the nearest residential properties, to be the location for the ancillary uses such as offices, shops and cafes which will, in effect, act as a further buffer between residential and industrial uses. Together with the proposed central greenspace and landscaping, this arrangement is considered to result in an acceptable relationship with existing residential properties with no adverse impact on amenity.
- 4.42 The application is also accompanied by both Noise and Air Quality Assessments. With regard to air quality, the assessment predicts that impacts on air quality arising from the development would be negligible once operational and similarly low during construction subject to good site practice and mitigation measures. The noise assessment concludes that noise associated with the construction phases of the development can be effectively managed through implementation of a Construction Environment Management Plan (CEMP) which can be secured through a planning condition. The potential for adverse noise effects associated with the operation of the completed development, given separation distances and appropriate acoustic design, is predicted to be minimal. Traffic generated noise level changes are considered to be low in the worst case. The Council's Lead Officer for Environmental Health has considered the submitted Assessments and has raised no objection on either issue subject to planning conditions requiring the submission and agreement of a CEMP and restrictions on noise levels in relation to sensitive noise receptors (properties on those residential streets mentioned above).

Biodiversity and ecology

- 4.43 The application included a Preliminary Ecological Assessment which noted that there are no designated sites within or in the immediate vicinity of the application site and went on to comment on protected and notable species that might be affected by the proposed development. The Assessment also concludes that habitats within the site, primarily consisting of species poor grassland, are of low ecological value. Features within the site with potential for bat and barn owl roosts are to remain undisturbed as part of the development. A specific report, held confidentially, in respect of one particular protected species present on the site was also submitted.
- 4.44 In response to comments received from relevant consultees, namely the North Yorkshire County Council Ecologist and the Yorkshire Wildlife Trust, an Ecological Addendum Report was submitted based on surveys undertaken at more appropriate times in the year in respect particularly of bats, barn owls and grassland habitats. Subject to the submission of an Ecological Management Plan and a CEMP which can be required by planning condition, there are no objections from consultee bodies in relation to ecology. In summary, there are no over-riding ecological constraints to development of the application site and with appropriate mitigation, and enhancement resulting from the landscaping of the site, it is likely that there will be biodiversity net gains and ecological benefits arising from the development.

Impact on heritage assets

- 4.45 In determining applications affecting heritage assets, The NPPF requires that the significance of the affected asset be identified, described and assessed as part of the consideration of the impact of development. Local Planning authorities are required to take account of the desirability of sustaining and enhancing the significance of heritage assets and give great weight to the asset's conservation.
- 4.46 As already noted, the only heritage asset likely to be affected by the proposed development is the Scheduled Ancient Monument that sits within the site and forms part of the airfield defences associated with the former military use during WWII. The relevant part of the Monument is the northernmost surviving anti-aircraft gun post, located towards the north west of the site, and takes the form of a brick structure with a reinforced concrete roof containing a central circular gun pit surrounded by earth banking.
- 4.47 It is recognised that, despite the development not physically impacting on the gun post, the character of the setting will change albeit not to a degree that is considered to be significant. Indeed, discussions undertaken with Historic England have centred on providing beneficial effects through the asset being better understood and appreciated. Historic England has stated that, given the creative nature of the anticipated businesses on the site, the opportunity exists for an "imaginative and dynamic approach to the presentation and interpretation of the monument".
- 4.48 With regard to more general archaeological matters, the supporting information suggests that the archaeological potential of the site is low and possibly reduced further by the airfield use. However, whilst not objecting to the application, the County Council's Principal Archaeologist considers that there may be greater potential for below ground later prehistoric and Roman archaeology together with more recent military remains. A planning condition requiring a Written Scheme of Investigation is therefore suggested.

Ground conditions

- 4.49 The applicants also submitted a Ground Conditions Report as part of the application the purpose of which was to provide geotechnical and environmental information in relation to the proposed redevelopment of the site. The Phase 1 Geo-environmental assessment undertaken considered potential sources of historical ground contamination, likely impacts on sensitive receptors and, where necessary, the identification of any remediation and/or subsequent investigative works that may be required. The site was essentially assessed in two parts; the northern area of predominantly grassland with some areas of hardstanding and; the southern area occupied by the former airfield/current Leeds East Airport buildings.
- 4.50 The Assessment Report provides background data in terms of the land uses of the site and its surroundings together with details of the general geology, mining and hydrogeology. The assessment indicates that given the site history, the anticipated contaminant load within the on-site soils, its underlying geology, gassing potential and the nature of controlled waters receptors, sensitivity of the site is low to moderate. As is common place in such circumstances, further intrusive investigation is recommended which can be secured by way of a planning condition to ensure any identified contamination can be safely mitigated.

- 4.51 The consultation response received from the City of York Public Protection Team confirms that the Phase 1 report provides a good overview of the site's history, its setting and its potential to be affected by contamination and that the report and the proposed site investigation works are generally acceptable. A number of standard planning conditions are recommended to require further investigation and carrying out of any remediation measures considered necessary as a result.

Economic benefits

- 4.52 The application was accompanied by an Economics Statement which assesses the economic contribution of the proposed development in terms of a completed creative hub specifically serving the film and television industry which has seen, and is continuing to see, significant growth with resultant demand for studio and ancillary space. Growth in Yorkshire & Humber outstripped every other part of the UK between 2009 and 2015.
- 4.53 The main benefits of the scheme are seen as; an estimated 211 jobs/annum during the construction phase; some 1800 full time equivalent jobs once the development is completed representing a 5% increase in jobs within the Selby District; up to 70% of new jobs could employ people with a higher education, degree or equivalent level qualification; and opportunities to see a substantial uplift in tourism attributable to the impact of UK films. The significant numbers of direct jobs at the site, supporting local, regional and national labour chains, would have wider economic impacts, connecting with and supporting an extensive supply chain particularly through the efforts of Screen Yorkshire (the region's specialist body) and the anticipated direct impact of the recently announced locating of the Channel 4 HQ to Leeds.
- 4.54 The Statement describes the Selby population across various age bands, broadly in line with Yorkshire & Humber and the UK, but highlights that the population has grown faster (9.2% during the period 2006-2016) than national and regional rates. Jobs growth has also been substantially higher in the District than in the UK and elsewhere in the region with manufacturing remaining particularly important. The proportion of those of working age in, or seeking work is high in Selby although unemployment is slightly higher than comparator areas. The submitted information also shows that there are substantial numbers of Selby residents commuting out of the District for work. This application has the potential to provide a very substantial source of employment for the benefit of people living in both the local area and the wider district, with an extensive need for highly skilled workers over forthcoming decades.
- 4.55 With such information in mind, the development of Church Fenton Airfield for commercial uses within the creative, digital and media sector will help to address some of the key challenges identified in the Council's CS namely; developing the economy in a more sustainable way by retaining/creating new jobs and; by moderating unsustainable travel patterns by addressing out commuting for work. Similarly, the development will assist in working towards the CS objectives of; promoting the efficient use of land including the re-use of existing buildings and previously developed land for appropriate uses in sustainable locations giving preference to land of lesser environmental value and; developing the economy of the District by capitalising on local strengths, nurturing existing business, supporting entrepreneurs and innovation, and promoting diversification into new growth sectors.

- 4.56 To ensure that the development, which is promoted in the application as “a purpose-built scheme that is quite unique”, does indeed deliver the creative, digital, media and related occupiers anticipated such that a decision that is not in accordance with the Development Plan is justified, it is appropriate to seek to utilise a planning condition to regulate occupancy. At the same time, it is important that any such condition is suitably worded so as not to be overly restrictive and allows the Create Yorkshire element of the development to successfully emerge as a complementary cluster and a viable entity. A condition controlling the occupancy of buildings falling within the Create Yorkshire: East element of the development to creative and digital industries as defined by the Department for Digital, Culture, Media & Sport and any associated services has been agreed with the applicants.

Legal issues

- 4.57 Planning Acts
This application has been recommended in accordance with the relevant planning acts.
- 4.58 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.
- 4.59 Equality Act 2010
This application has been recommended 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

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

Background documents

- 4.61 Planning Application file reference 2018/0673/OUTM and associated documents.
Screening Opinion file reference 2018/0649/SCN and associated documents.

5. SUMMARY and CONCLUSIONS

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. Whilst the proposals are in accordance with SDLP Policy EMP11 in relation to major inward investment, it is concluded that the application does not accord with CS Policies SP2 and SP13 or SDLP Policy EMP2 given that the proposed scale of development in the countryside is beyond that anticipated by these policies. Accordingly, when the application is considered against the development plan as a whole, in view of the scale of the proposal - notwithstanding that part of the site currently has the benefit of temporary permission - and the location in the open countryside, it is not considered to be in accordance with the prevailing development plan. There are no development plan policies which specifically support this use in this location.

- 5.2 The officer assessment has considered the range of material considerations that might justify a determination other than in accordance with the plan. The site is listed in the Council's Economic Development Framework as a development site capable of playing a key role in the recent growth of film and TV industries across Yorkshire and the Humber. Policies in the development plan support the reuse of existing buildings, in this case the former hangars. The NPPF acknowledges that sites to meet local business needs may have to be located away from settlements and where they are not well served by public transport.
- 5.3 A substantial amount of analysis has been undertaken with regard to the traffic implications of the proposed development and, specifically, the impact on the local highway network. The applicants have extended the analysis beyond those matters that the NPPF identifies as the key highway considerations and the LHA has confirmed not only that the residual cumulative impacts of the proposals are not severe but also that a certain amount of development can proceed in advance of highway mitigation measures being required. Beyond that, an appropriate approach to delivering those highway improvement works considered necessary to facilitate the rest of the development has been identified and can be included in an appropriately worded Section 106 Agreement.
- 5.4 The likely effects arising from the development in respect of landscape impact, the relationship with nearby residential properties, flood risk, heritage assets and ecological considerations have been addressed in the ES and considered through consultation with appropriate bodies. Subject to the imposition of appropriate planning conditions, there are no outstanding areas of concern. This particular application is linked to a specific use which is not reflected in the generality of the AMR or ELR having emerged as a new opportunity not previously anticipated. The supportive Economic Development Framework together with some element of supporting commentary in the Development Plan are further material considerations that support this application.
- 5.5 The submitted Design and Access Statement, Landscape and Green Infrastructure Design Statement and the Landscape Parameters Plan provide sufficient clarity on the nature of the proposals and establish the requirements that future reserved matters applications would have to follow should outline consent be granted.
- 5.6 The former military site is a significant brownfield asset within the District and the recommended conditions and obligation are capable of improving the sustainable credentials and efficiency of use of this site. Importantly, this development is presented as a location specific proposal which needs to be on this previously developed land to take advantage of the existing hangar buildings. There currently exists an embryonic creative sector cluster with Church Fenton Yorkshire Studios a key driver for other local digital and media uses that have already located to be on the site. Planning consent will allow for a greater scale to be achieved built from what the agents have described as a "distinct, specialist and vibrant existing operation" which in turn will capitalise on what is a growing sector. It is suggested that specific inward investment opportunities of regional significance will not be forthcoming should the application not be approved. Approval of the application will not set a precedent for any other development proposals outside settlement boundaries which would need to be considered against the Development Plan and any relevant material considerations.
- 5.7 Therefore, in recommending that the Committee approve this application, Members are requested to recognise that the application is not in accordance with the

Development Plan but that there are economic benefits that will make a significant contribution to the creation of prosperous and sustainable communities within the District. Also the environmental information and the mitigation proposals included in the application will make a considerable contribution towards improving the appearance of the site and enhancing its credentials in terms of sustainability. The nature and extent of the material considerations justify development that does not accord with the Development Plan. Thus, subject to the recommended conditions and the conclusion of the planning obligation as outlined, the material considerations as set out in this report outweigh the conflict with the Development Plan such that planning permission should be granted.

6. RECOMMENDATION

a) Committee resolves that it is minded to approve this application subject to the terms of the planning obligation described in paragraphs 4.23 – 4.29 of this report and the attached schedule of conditions.

b) Authority is confirmed to officers to refer the application to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009 with this Committee's resolution to support it.

c) In the event that the application is not called in by the Secretary of State, authority is delegated to the Planning Development Manager to approve this application upon the conclusion of the planning obligation under Section 106 of the Act in line with the terms set out in paragraphs 4.23 - 4.29 above and subject to the imposition of the attached schedule of conditions. That delegation to include the alteration, addition or removal of conditions from that schedule if amendment becomes necessary as a result of continuing negotiations and advice and provided such condition(s) meet the six tests for the imposition of conditions and satisfactorily reflect the wishes of Committee.

d) In the event that the application is called in for the Secretary of State's own determination, a further report will come to Committee.

1. The development for which full planning permission is hereby granted shall begin not later than three years from the date of this decision.

Reason: To comply with the requirements of section 91 of the Town and Country Planning Act 1990 as amended.

2. Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") for any particular Phase of the development hereby granted outline planning permission shall be submitted to and approved in writing by the local planning authority before any development takes place within that Phase. The Phases shall be in general accordance with those shown in the submitted Design & Access Statement P17-2270.005 dated June 2018.

Reason: To ensure compliance with Section 92 (5) of the Town and Country Planning Act 1990 as amended.

3. Applications for the approval of the reserved matters shall be made to the local planning authority not later than the expiration of ten years from the date of this permission.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

4. The development in each of the Phases hereby granted outline planning permission shall take place not later than two years from the date of the final approval of the reserved matters for that respective Phase or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To ensure compliance with Section 91 of the Town and Country Planning Act 1990 as amended.

5. The development hereby permitted shall be carried out in accordance with the following approved plans and documents referenced:

- Site Location Plan drwg: SITE LOCATION (1:5000)
- Site Location Plan drwg: SITE LOCATION (1:2500)
- Spatial Elements drwg:P17-2270-SEFPA
- Concept Plan drwg: P17-2270-CP
- Design & Access Statement June 2018 P17-2270.005
- Landscape and Green Infrastructure Design Statement June 2018 P17-2270.006
- Landscape Parameters Plan drwg:P17-2270.025
- General Arrangement & Track Analysis of 16.5m HGV Drawing No 70039052-GA-001
- Building 1 Site Plan drwg: P17-2270-003
- Floor Plans Entrance Building drwg: P17-2270-21 Rev.B
- Elevations Entrance Building drwg:P17-2270-23 Rev.A
- Roof Plan & Area Plan Entrance Building drwg: P17-2270-22 Rev.A
- Sections Entrance Building drwg: P17-2270-24 Rev.A

Reason: To ensure that future reserved matters applications are in accordance with the outline planning permission hereby granted and that the development hereby granted full planning permission is undertaken in accordance with the approved details in the interests of the character and amenities of the area in order to comply with Plan Policies SP12, SP15, SP18, SP19, ENV1, and ENV12.

6. The occupancy of buildings falling within the Create Yorkshire: East Character Area element of the development as shown in the submitted Design & Access Statement P17-2270.005 dated June 2018 shall be restricted to creative and digital industries as defined by the Department for Digital, Culture, Media & Sport or any associated services as agreed in writing by the local planning authority.

Reason: To ensure that the buildings remain available for creative, digital, media and related uses as proposed.

7. The materials to be used in the construction of the external surfaces of Building 1 hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before above ground construction of the building commences. Development shall then be carried out in accordance with the approved details.

Reason: To ensure appropriate materials are used in the interests of the visual amenity of the area in accordance with Plan Policies ENV1 and SP19.

8. Notwithstanding details shown on submitted plans, no development in relation to the erection of a Building 1 hereby permitted shall take place until full details of both hard and soft landscape works associated with Phases 1 and 1a as shown in the submitted Design & Access Statement P17-2270.005 dated June 2018, together with a programme of implementation, have been submitted to and approved in writing by the Local Planning Authority. The details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. security gates, street furniture, refuse or other storage units, signs, lighting etc.); proposed and existing functional services above and below ground (eg. Drainage and power); retained historic landscape features and proposals for restoration, where relevant; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. These works shall be carried out as approved prior to the occupation of any part of the development or as may be otherwise agreed in writing by the Local Planning Authority. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Reason: This condition is imposed in accordance with Plan Policy ENV1 and because a well-designed landscaping scheme can reduce the impact of the development and help to integrate the development into the surrounding area.

9. A Landscape Management Plan, including long term design objectives, public accessibility, management responsibilities, implementation and maintenance schedules for all landscaping within the application site shall be submitted to and approved by the local planning authority prior to the first occupation of development within any Phase. The Landscape Management plan shall be implemented in accordance with the approved timescales.

Reason: In accordance with the details of the application and to ensure the retention and management of all landscaping and planted areas in order to protect the character and amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1 and ENV12.

10. There shall be no tree removal and no building, engineering or other operations shall commence in a particular Phase until details of all trees to be removed and details of trees to be retained and measures for their protection in accordance with a BS 5837 Survey have been submitted to and approved by the local planning authority. The works shall thereafter proceed in accordance with the approved details

Reason: This condition is necessary in order to ensure the preservation and planting of trees in the interests of the amenities and biodiversity of the area to comply with Plan Policies SP19, ENV1 and ENV12.

11. No building, engineering or other operations shall take place within a particular Phase until a Construction & Environmental Management Plan for that Phase has been submitted to and approved by the local planning authority. The submitted Plan shall include:
- hours of delivery, demolition and construction working

- details of on-site parking capable of accommodating all staff and sub- contractors vehicles clear of the highway
- loading and unloading of plant and materials
- details of on-site materials storage area capable of accommodating all plant and materials required for the operation of the site
- details of measures for the mitigation and monitoring the effects upon identified species in the CEMP and their protection during development
- details of any temporary or construction lighting
- a Soil Management Plan to ensure soils are retained on site where appropriate
- details of measures for the mitigation and monitoring of impacts of noise, vibration, dust and dirt upon residential property in close proximity and the amenities of local residents
- measures to provide for regular and effective communication with local residents
- a scheme for recycling/disposing of waste resulting from demolition and construction works
- measures to control the spread of mud including, if necessary, wheel washing facilities.
- details of the routes to be used by HGV construction traffic
- a traffic management plan
- a communications plan

The approved Plan shall be adhered to throughout the construction works associated with that Phase of the site to which the Plan relates.

Reason: This condition is necessary in order to address construction management issues before works commence and in the interests of protecting the character and amenities of the area in order to comply with Plan Policies SP18, SP19, ENV1, ENV2, T1 and T2.

12. No development, other than the change of use of existing buildings to commercial TV and film studios, shall commence until a scheme giving details of pedestrian and cycle access to and movement through the site, for members of the public, staff and visitors, has been submitted to and approved by the local planning authority. The submitted scheme should specifically address public access to the proposed public open space shown within the Create Yorkshire: West Character Area element of the development as shown in the submitted Design & Access Statement P17-2270.005 dated June 2018.

Reason: This condition is necessary in order to identify and secure public access through the site as proposed and in order to comply with Plan Policies SP12, SP18 and SP19.

13. Prior to the commencement of any development, other than the change of use of existing buildings to commercial TV and film studios, an Ecological Mitigation Compensation and Management Plan shall be submitted to and approved by the local planning authority. The Plan shall include detailed measures for the protection, mitigation, compensation and enhancement required to support protected species and habitats and to ensure a net gain in biodiversity. The plan shall also include a timescale for implementation, phasing, monitoring and long term management by a suitably competent body. The Plan shall thereafter be implemented in accordance with the approved details.

Reason: This condition is necessary in order to ensure mitigation in accordance with the Ecological Assessment and Addendum Report and Plan Policy ENV1.

14. No development shall commence until an Employment and Skills Framework Statement detailing arrangements to promote local employment and skills development opportunities related to the development has been submitted to the local planning authority. The plan must include proposals for working with Selby District Council's Economic Development Team and their Local Enterprise Partnership and explain how they have been consulted on the submitted plan. The Employment and Skills Framework Statement shall be supplemented by further detailed Statements for each subsequent Phase of development. The Employment and Skills Framework Statement must be implemented and maintained for the duration of the construction and use of the development.

Reason: This is a pre-commencement condition which is necessary in order that the local need to retain jobs within the Selby District and support economic development is a part of this development and in order to recognise that the development can assist in working towards the CS objective of promoting diversification into new growth sectors.

15. No public art or public interpretation boards shall be installed until details of their design, appearance and location have been submitted to and approved by the local planning authority.

Reason: In the interests of the interpretation and public understanding of the Scheduled Ancient Monument and the character and amenities of the area in order to comply with Plan Policy ENV1.

16. Prior to occupation of any Phase of the development hereby permitted, details of charging points for electric vehicles shall be submitted to and approved in writing by the Local Planning Authority, and thereafter shall be provided in accordance with the approved details and subsequently retained for that purpose.

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

17. Prior to the installation of any external lighting, lighting columns or street lighting within any Phase, details of an External Lighting Strategy to address mitigation of impacts upon the amenities of the area and protected species shall have been submitted to and approved by the local planning authority. All lighting units shall be installed and retained in accordance with the approved Strategy.

Reason: In order that the local planning authority may be satisfied on the nature and location of any external lighting in the interests of the character and amenities of the area and in order to comply with mitigation in accordance with the Ecological Assessment and Addendum Report and Plan Policy ENV1.

18. No above ground works in any Phase of the development shall be commenced until either it has been demonstrated that at least 10% of the energy requirements supply of the development for that phase has been secured from decentralised and renewable or low-carbon energy sources; or an alternative to reduce energy consumption, such as a 'fabric first' approach, has been agreed with the local planning authority. Details and a timetable of how this is to be achieved, including details of physical works on site, shall be first submitted to and approved in writing by the Local Planning Authority. Works shall thereafter be implemented in accordance with the approved details and timetable and retained, maintained and retained thereafter.

Reason: In the interest of sustainability, to minimise the impact of development in accordance with Plan Policy SP16.

19. The cumulative level of sound from all plant and equipment associated with the proposed development, when determined externally under free-field conditions, shall not exceed:

Location	Period	Limit
Residential dwellings on Dorts Crescent, Skelf Street and Cawood Crescent	Daytime (07:00 to 23:00) Night-time (23.00 to 07:00)	38dB LA,r,1hour* 31dB LA,r,15mins* 60dB LA,max
Residential dwellings on Little Ings Close, Trans Walk and those approved at the time of this permission on Busk Lane	Daytime (07:00 to 23:00) Night-time (23:00 to 07:00)	38dB LA,r,1hour* 30dB LA,r,15mins* 60dB LA,max

*All noise measurement/predictions and assessments made to determine compliance shall be made in accordance with British Standard 4142: 2014: Methods for rating and assessing industrial and commercial sound, and/or its subsequent amendments.

Reason: To protect the residential amenity of the locality and in order to comply with the NPPF and Plan Policies SP19 and ENV2.

20. A) No demolition, building, engineering or other operations shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
1. The programme and methodology of site investigation and recording
 2. Community involvement and/or outreach proposals
 3. The programme for post investigation assessment
 4. Provision to be made for analysis of the site investigation and recording
 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 6. Provision to be made for archive deposition of the analysis and records of the site investigation
 7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- The approved Written Scheme of Investigation shall be supplemented by further detailed Schemes prior to the commencement of each subsequent Phase of development.
- B) No demolition, building, engineering or other operations shall take place other than in accordance with the Written Scheme of Investigation approved under (A) above.
- C) The development within each Phase, other than the change of use of existing buildings to commercial TV and film studios, shall not be occupied until the site

investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: This condition is necessary in accordance with Section 12 of the NPPF (paragraph 141) and Plan Policy ENV28 as the site is of archaeological significance.

21. Prior to building, engineering or other operations within a particular Phase, 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 within the Phase. 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,
- ground waters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

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

Reason: This condition is necessary in order 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 Plan Policy ENV2.

22. Prior to building, engineering or other operations within a particular Phase, 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) must be prepared and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: This condition is necessary in order 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 Plan Policy ENV2.

23. Prior to first occupation or use within a particular Phase, other than the change of use of existing buildings to commercial TV and film studios, the approved remediation scheme must be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with Plan Policy ENV2.

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

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

25. Finished floor levels of any new buildings within the development shall be set no lower than 300mm above surrounding ground levels in accordance with the submitted flood risk assessment JAG/AD/JF/40140-RP001 Rev C.

Reason: To reduce the risk of flooding to the proposed development in accordance with Plan Policy SP15.

26. Building, engineering or other operations shall not commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. 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). The scheme shall detail phasing of the development and phasing of drainage provision, where appropriate. Principles of sustainable urban drainage shall be employed wherever possible. The works shall be implemented in accordance with the approved phasing and no development shall be brought into use until the drainage works approved for that phase have been completed.

Reason: This condition is necessary in order to ensure the provision of adequate and sustainable means of drainage in the interests of amenity and flood risk in accordance with Plan Policy SP15.

27. Deliveries shall be taken at or despatched from the site only between 07:00 - 22:00 hours Monday to Saturday and Bank or Public Holidays, and not at any time on Sundays.

Reason: To protect the amenity of the adjoining and nearby properties in accordance with Plan Policy ENV1.

28. There shall be no external storage of goods or materials within the site other than that associated with any ongoing building, engineering or other operations.

Reason: To protect the visual amenities of the area in accordance with Plan Policies ENV1 and SP19.

29. There shall be no occupation of Phase 2 of the development, nor shall the volume of traffic generated by the site exceed 240 two-way peak hour vehicle trips on more than 25% of the time over a 6 month period, prior to the highway works at the Northern access being constructed in accordance with the details based upon Drawing No: 70039052-GA-001 Rev: P02 and being approved in writing by the Local Planning Authority.

Reason: In accordance with Plan Policy T2 and in the interests of the safety and convenience of highway users.

Informative – Section 278 Agreement

There must be no works in the existing highway until an Agreement under Section 278 of the Highways Act 1980 has been entered into between the Developer and the Highway Authority.

30. No part of any Phase of the development, other than the change of use of existing buildings to commercial TV and film studios, shall be brought into use until:

- vehicular, cycle, and pedestrian accesses
- vehicular and cycle parking
- vehicular turning arrangements
- manoeuvring arrangements
- gates and or security barriers

for that Phase have been constructed in accordance with details submitted to and approved in writing by the Local Planning Authority. Once created these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times.

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

Contact Officer: Gary Bell, Principal Planning Officer

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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.



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