

The Planning Inspectorate

PLANNING APPEAL FORM (Online Version)

WARNING: The appeal and essential supporting documents must reach the Inspectorate within the appeal period. If your appeal and essential supporting documents are not received in time, we will not accept the appeal.

Appeal Reference: APP/W9500/W/22/3301450

A. APPELLANT DETAILS

The name of the person(s) making the appeal must appear as an applicant on the planning application form.

Name

Address

Preferred contact method Email Post

B. AGENT DETAILS

Do you have an Agent acting on your behalf? Yes No

Name

Company/Group Name

Address

Phone number

Email

Your reference

Preferred contact method Email Post

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

LPA reference number

Date of the application

Did the LPA validate and register your application? Yes No

Did the LPA issue a decision? Yes No

Date of LPA's decision

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address? Yes No

Does the appeal relate to an existing property? Yes No

Address

Land west of Highfield
Sled Gates
Fylingthorpe
North Yorkshire

Is the appeal site within a Green Belt? Yes No

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site? Yes No

E. DESCRIPTION OF THE DEVELOPMENT

Has the description of the development changed from that stated on the application form? Yes No

Please enter details of the proposed development. This should normally be taken from the planning application form.

Outline application for construction of up to 5 no. principal resident dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Area (in hectares) of the whole appeal site [e.g. 1234.56]

Does the proposal include demolition of non-listed buildings within a conservation area? Yes No

F. REASON FOR THE APPEAL

The reason for the appeal is that the LPA has:

1. Refused planning permission for the development.
2. Refused permission to vary or remove a condition(s).
3. Refused prior approval of permitted development rights.
4. Granted planning permission for the development subject to conditions to which you object.
5. Refused approval of the matters reserved under an outline planning permission.
6. Granted approval of the matters reserved under an outline planning permission subject to conditions to which you object.
7. Refused to approve any matter required by a condition on a previous planning permission (other than those specified above).
8. Failed to give notice of its decision within the appropriate period (usually 8 weeks) on an application for permission or approval.
9. Failed to give notice of its decision within the appropriate period because of a dispute over

provision of local list documentation.

G. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No

Please explain.

To confirm / understand site lines being proposed

2. Hearing

3. Inquiry

H. FULL STATEMENT OF CASE

[see 'Appeal Documents' section](#)

Do you have a separate list of appendices to accompany your full statement of case? Yes No

[see 'Appeal Documents' section](#)

(a) Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal? (Please attach draft version if available) Yes No

(b) Have you made a costs application with this appeal? Yes No

I. (part one) SITE OWNERSHIP CERTIFICATES

Which certificate applies?

CERTIFICATE A

I certify that, on the day 21 days before the date of this appeal, nobody, except the appellant, was the owner of any part of the land to which the appeal relates;

CERTIFICATE B

I certify that the appellant (or the agent) has given the requisite notice to everyone else who, on the day 21 days before the date of this appeal, was the owner of any part of the land to which the appeal relates, as listed below:

CERTIFICATE C and D

If you do not know who owns all or part of the appeal site, complete either Certificate C or Certificate D and attach it below.

I. (part two) AGRICULTURAL HOLDINGS

We need to know whether the appeal site forms part of an agricultural holding.

(a) None of the land to which the appeal relates is, or is part of, an agricultural holding.

(b)(i) The appeal site is, or is part of, an agricultural holding, and the appellant is the sole agricultural tenant.

(b)(ii) The appeal site is, or is part of, an agricultural holding and the appellant (or the agent) has given the requisite notice to every person (other than the appellant) who, on the day 21 days before the date of the appeal, was a tenant of an agricultural holding on all or part of the land to which the appeal relates, as listed below.

J. SUPPORTING DOCUMENTS

01. A copy of the original application form sent to the LPA.
02. A copy of the site ownership certificate and agricultural holdings certificate submitted to the LPA at application stage (if these did not form part of the LPA's planning application form).
03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
05. (a) Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
05. (b) A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.
- 05.(c) A list of all plans, drawings and documents upon which the LPA made their decision.
06. (a) Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application.
06. (b) A list of all plans, drawings and documents (stating drawing numbers) which did not form part of the original application.
07. A copy of the design and access statement sent to the LPA (if required).
08. A copy of a draft statement of common ground if you have indicated the appeal should follow the hearing or inquiry procedure.
09. (a) Additional plans, drawings or documents relating to the application but not previously seen by the LPA. Acceptance of these will be at the Inspector's discretion.
09. (b) A list of all plans and drawings (stating drawing numbers) submitted but not previously seen by the LPA.
10. Any relevant correspondence with the LPA. Including any supporting information submitted with your application in accordance with the list of local requirements.
11. If the appeal is against the LPA's refusal or failure to approve the matters reserved under an outline permission, please enclose:
- (a) the relevant outline application;
- (b) all plans sent at outline application stage;
- (c) the original outline planning permission.
12. If the appeal is against the LPA's refusal or failure to decide an application which relates to a condition, we must have a copy of the original permission with the condition attached.
13. A copy of any Environmental Statement plus certificates and notices relating to publicity (if one was sent with the application, or required by the LPA).
14. If the appeal is against the LPA's refusal or failure to decide an application because of a dispute

over local list documentation, a copy of the letter sent to the LPA which explained why the document was not necessary and asked the LPA to waive the requirement that it be provided with the application.

K. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided?

Yes

No



L. CHECK SIGN AND DATE

(All supporting documents must be received by us within the time limit)

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full statement of case) to the LPA today.

Signature

Mr Alistair Flatman

Date

20/06/2022 12:59:31

Name

Mr Alistair Flatman

On behalf of

Mr SIW Properties

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

M. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full statement of case) not previously sent as part of the application to the LPA. If you do not send them a copy of this form and documents, we may not accept your appeal.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the decision notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

N. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

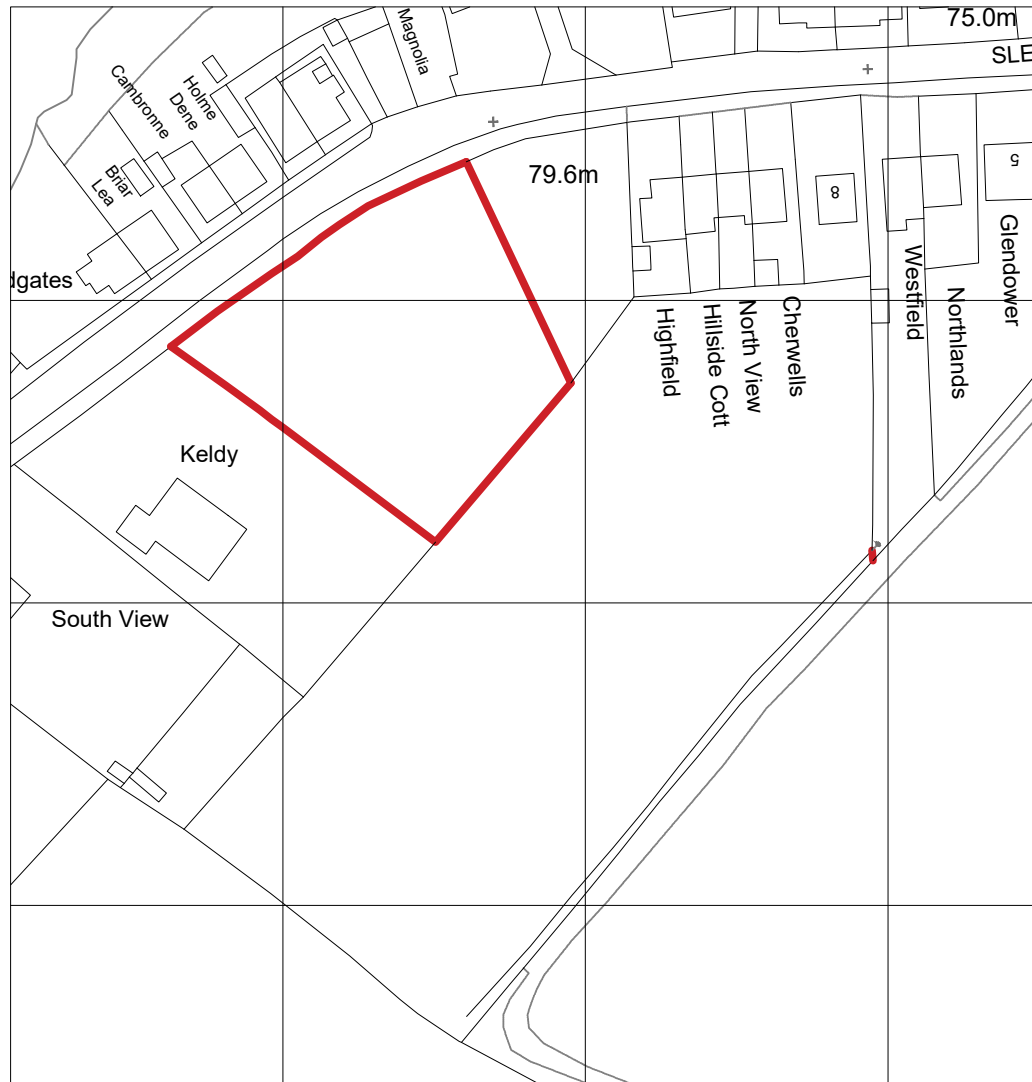
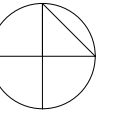
Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. Please ensure that any correspondence you send to us is clearly marked with the appeal reference number.

You will not be sent any further reminders.

The documents listed below were uploaded with this form:

Relates to Section:	FULL STATEMENT OF CASE
Document Description:	A copy of the full statement of case.
File name:	App 4 - Decision Notice 12 Jan 2022.pdf
File name:	App 3 - Officer Delegated Report.pdf
File name:	App 6 - FPCR Appeal Statement final 17.06.22.pdf
File name:	App 1 - Site Location.pdf
File name:	Appeal Statement of Case May 2022.pdf
File name:	App 2 - pre app NYM_2021_ENQ_17392.pdf
File name:	App 5 - AMA Highways Appeal Statement - 15.06.22.pdf
Relates to Section:	FULL STATEMENT OF CASE
Document Description:	A separate list of appendices to accompany your full statement of case
File name:	Appeal Appends and Original Submission Index May 2022.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	01. A copy of the original application sent to the LPA.
File name:	App form 3 May 2021.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	03. A copy of the LPA's decision notice (if issued). Or, in the event of the failure of the LPA to give a decision, if possible please enclose a copy of the LPA's letter in which they acknowledged the application.
File name:	2022-01-12 Public - Decision Notice.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	04. A site plan (preferably on a copy of an Ordnance Survey map at not less than 10,000 scale) showing the general location of the proposed development and its boundary. This plan should show two named roads so as to assist identifying the location of the appeal site or premises. The application site should be edged or shaded in red and any other adjoining land owned or controlled by the appellant (if any) edged or shaded blue.
File name:	App 1 - Site Location.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	05.a. Copies of all plans, drawings and documents sent to the LPA as part of the application. The plans and drawings should show all boundaries and coloured markings given on those sent to the LPA.
File name:	0215_SLED_101_Existing Location and Site Plan (3).pdf
File name:	AMA_20940_SK001 Site access plan.pdf
File name:	0215_SLED_102_Proposed Site Plan.pdf
File name:	Planning Statement - April 2021.pdf
File name:	AMA Highways Supporting Statement - 20940 - Sled Gates, Whitby - 11.05.21.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	05.b. A list of all plans, drawings and documents (stating drawing numbers) submitted with the application to the LPA.

File name:	Appeal Appends and Original Submission Index May 2022.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	05.(c) A list of all plans, drawings and documents upon which the LPA made their decision.
File name:	Appeal Appends and Original Submission Index May 2022.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	06.a. Copies of any additional plans, drawings and documents sent to the LPA but which did not form part of the original application (e.g. drawings for illustrative purposes).
File name:	0215_SLED_102B_Proposed Site Plan.pdf
File name:	AMA_20940_SK003.pdf
File name:	AMA_20940_SK002.pdf
File name:	0215_SLED_102C_Proposed Site Plan hedge to rear.pdf
File name:	0215_SLED_102D_Proposed Site Plan with revised vis splay.pdf
File name:	AMA_20940_SK004 showing 40m vis splay to east.pdf
File name:	Hedgerow Assessment MBE OTH 2021 09 Land West of Highfield Fylingthorpe - Hedgerow Assessment - Letter Report.pdf
File name:	AMA Highways Technical Note - 20940 - Sledgates, Whitby - 23.07.21.pdf
File name:	0215_SLED_102E_Proposed Site Plan.pdf
File name:	AMA Highways Technical Note - 20940 - Sledgates, Whitby - 09.11.21 (1).pdf
File name:	10589-Hedgerow Translocation_Final 161221.pdf
File name:	Email to HS dated 17 Nov 2021.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	06.b. A list of all plans, drawings and documents (stating drawing numbers) which did not form part of the original application.
File name:	Appeal Appends and Original Submission Index May 2022.pdf
Relates to Section:	SUPPORTING DOCUMENTS
Document Description:	07. A copy of the design and access statement sent to the LPA.
File name:	0215-900-LR-SLED GATES DAS_APR 21.pdf
Completed by	MR ALISTAIR FLATMAN
Date	20/06/2022 12:59:31



LOCATION PLAN
1:1250@A3



SITE PLAN
1:500@A3

Notes:
Unless indicated, this drawing is for information only.
Do not scale, use figured dimensions only.
All dimensions to be checked on site

0 Drwg. original size: A3

Revisions:			
Date:	Rev:	Note:	Check:

elevens2architects
elevens2architects
 30 The Fairway
 Pudsey
 Leeds LS28 7RE

T: +44(0)7958738229
 E: leeds@elevens2architects.co.uk
 W: elevens2architects.co.uk

Project: **SLED GATES
Whitby**
 Drawing Title: Existing Location and Site Plan
 Scale: As shown
 Drwg. Created: 05.03.2021

Drwg. No:	0215_SLE_101
Status:	Planning (*)
Revision:	*

North York Moors National Park Authority



The Old Vicarage, Bondgate, Helmsley, York YO62 5BP
Tel: 01439 772700
Email: general@northyorkmoors.org.uk
Planning enquiries: planning@northyorkmoors.org.uk
www.northyorkmoors.org.uk

Alistair Flatman Planning
FAO Alistair Flatman
via email

Your ref:
Our ref: NYM\2021\ENQ\17392
Date: 05 March 2021

Dear Mr Flatman

Pre-application enquiry for housing development at Land adjacent to Highfields, Sled Gates, Fylingthorpe

Thank you for your enquiry regarding the above received 15/02/2021 for which I apologise for the delay in reply, due to the need to consult with the Highway Authority.

In your enquiry you are seeking advice in relation to two different scheme, one a proposal for 5 road frontage dwellings, the other for a larger scheme of 27 dwellings.

Both proposals would be considered against the Policies contained within the North York Moors Local Plan. The following are the most relevant:-

Strategic Policy M - Housing – seeks to ensure the delivery of new homes to help meet the needs of local communities, and includes delivery through suitable small sites in listed settlements; and through affordable housing schemes on rural exception sites.

Whilst, the Authority will support proposals for a variety of tenures, types and sizes of dwellings, schemes will be expected to meet the need for smaller dwellings.

In terms of housing types, principal residence and affordable housing will be permitted on suitable small sites in Larger Villages (such as Fylingthorpe); Affordable housing schemes will be encouraged in Larger and Smaller Villages through Rural Exception Sites.

Strategic Policy C- Design – this states that development will only be supported where it is of a high quality design; incorporates good quality construction materials and design details that reflect architectural character and form of the original building or the local vernacular; the siting, orientation, layout and density complement existing buildings; the scale, height, massing and form are compatible with surrounding buildings and not have an adverse impact upon the amenities of adjoining occupiers; sustainable design and construction techniques are incorporated; there is a good quality landscaping and planting scheme; local wildlife and biodiversity is enhanced; provision is made for adequate storage, cycling facilities and car parking are provided.

Continued.../



Policy CO7 - Housing in Larger Villages – This Policy sets out that principal residence and affordable housing will only be permitted on suitable small sites within the main built up area of the village only, with proposals meeting the need for smaller dwellings.

Policy CO11 - Affordable Housing on Rural Exception Sites – seeks to permit development of 100% affordable dwellings as an exception to policy on appropriate sites in order to meet specifically identified local affordable housing needs. However, development will only be permitted where the need is supported by an up to date local housing needs survey; the number, design, materials and proposed layout of the dwellings are appropriate to the size, form and character of the settlement; robust arrangements are put in place to ensure that the dwellings remain affordable to the community in perpetuity, and effective community engagement has been undertaken.

Schemes of up to 12 dwellings would normally be considered appropriate.

In terms of the proposed scheme for 5 units, I would advise you that in principle, this would appear to meet the requirements of Policy CO7, but would of course be subject to satisfactory details of scale, design, in accordance with Strategic Policy C. However, there has been significant local objection in the past to the development of this site, which I would expect to continue so it is likely that any application would have to be determined by the Planning Committee.

The Highways Authority has no objections in principle to this scheme and has advised that whilst they would not be entering an agreement to adopt the proposed access road, they would be willing to adopt the increased footway width at the front of the properties (proposed to provide visibility splays) which can be dedicated following the alterations being carried out to the required standard. This could also require a lighting column and road side salt bin replacement. The amount of visibility appears to be adequate but this should be backed up with any supporting evidence as to why these figures have been selected. This evidence needs to be relevant and up to date. Measures would also need to be taken to prevent surface water from the site discharging onto the publicly maintainable highway.

There may be wider drainage issues which will need investigating as this has again been raised in the past by the local community.

In terms of proposed scheme for 27 houses – this proposal does not meet the requirements of a “small site” as set out in Policy CO7 and would not receive favourable consideration. Furthermore, it does not meet the requirements of Policy CO11 (exception sites) partly due to the numbers proposed but also because the need demonstrated in recent housing needs surveys is being progressed at another site in Robin Hoods Bay.

The Highways Authority has concerns in relation to this proposal and has advised that the Road layout should be set out to the current NYCC specification. This current layout does not meet the current specification and also could be improved from a pedestrian safety perspective. Details that would be required include the visibility splay information mentioned above and also details about highway drainage, street lighting, dimensions and ground levels. The main issues that need altering in this layout are the lack of turning areas at the end of the cul de sacs and the lack of footways on where the desired pedestrian routes would be. Although it is permitted within the standards for a development of this size to only have one footway, there is concern that this layout would result in pedestrians walking in the carriageway when walking from the SW leg to the NE side of the access.

Our Ref: **Error! Reference source not found.**

3

Date: **Error! Reference source not found.**

I hope that the above advice is of assistance but trust that you appreciate that this is an informal view only; a formal decision can only be made in response to a planning application. However, if you have any further queries, please do not hesitate to contact me again at the above address.

Yours sincerely

H. Saunders

Mrs Hilary Saunders MRTPI
Planning Team Leader
Development Management

Tel. no. 01439 772700

Email:- h.saunders@northyorkmoors.org.uk

Following the Government's announcement of new national restrictions (4 January 2021) the office in Helmsley will remain closed however reception staff will be available to answer telephone calls remotely during normal office hours and will periodically visit the office to collect mail. We will continue to provide an effective planning service; however Officers will be unable to meet directly to offer advice, although site visits for applications and enforcement purposes will still be undertaken, with safeguards in place.

North York Moors National Park Authority

Delegated decision report

Application reference number: NYM/2021/0351/OU

Development description: outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)

Site address: Land west of Highfield, Sled Gates, Fylingthorpe

Parish: LCPs of Fylingdales and Hawsker-cum-Stainsacre

Parish: Fylingdales

Case officer: Mrs Hilary Saunders

Applicant: SIW Properties

c/o agent,

Agent: Alistair Flatman Planning

fao: Mr Alistair Flatman, 24 West End Grove, Horsforth, Leeds, West Yorkshire, LS18 5JJ,

Director of Planning's Recommendation

Refusal for the following reason(s)

Refusal reason code	Refusal reason text
1	The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal is therefore contrary to Policy CO2 and CO7 of the North York Moors Local Plan which only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety.
2	The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

Consultation responses

Parish

Object

22 December 2021 –Previously registered comprehensive objections remain. In addition, further reasons for objection are as follows:-

Significant speeding both uphill and downhill; splay calculations were in error; setback distance is wrong; no basis for unquantified claims of net gain on hedge removal and shrub planting; a full hedge flora cannot be magically returned by planting shrubs; the applicant has provided no biodiversity data for NYMNP to evaluate; there is no reason to change the decisions of previous applications that were refused on highways grounds.

12 August 2021 – The traffic survey suggests that the traffic is lighter than 20 years ago –the survey was done in December during a pandemic lockdown! The second monitoring point indicated on the plans was not there, also according to the figures somehow vehicles went missing between the two points.

This road is busier than it has ever been. Cyclists are following the route of the Tour de Yorkshire and their numbers have increased exponentially.

Cars have to park on the right hand side of the road as the houses do not have drives and garages. Cars park on both sides. The road is narrow and buses cannot pass each other. The pavement is used regularly by the bus going up hill.

The Inspector who dismissed the appeal said the land/access should not be used until the Highway Department did work on the road or put a scheme in place to reduce the speed of the traffic. Nothing has changed.

The ecological survey of the hedge was only done at one time of year and no allowance has been made for other species that become obvious earlier or later in the year.

5 July 2021 - The sight lines information given to the Highways Department is different to the ones on the plans. The owners of the hedges that have to be taken down to allow for the proper sight lines have still not been approached for permission.

26 May 2021 -This is not a windfall site. The 4 inch diameter sewage pipe is at capacity, there is also the problem of the discharge of private water. The plans are an inaccurate representation of the hedges and trees on the site and adjacent properties. There has been no reasonable ecological survey.

The applicants omit to note that several previous applications were refused on Highways grounds, including:

Document title

NYM/2006/0652/FL – on visibility grounds

NYM/2007/0146/FL- on highways safety grounds.

14 years later a survey took place near the end of a lockdown on 3-9 December 2021 and found only 75% of that number- very atypical. As Govt advised us all to stay at home, it is a gross underestimate. It is unlikely that 14 years on, with a much higher vehicle ownership, that traffic has declined. Of course, it was in winter in a period of Covid restrictions, not a normal summer's set of days.

The Applicant noted that the proposed site ingress and egress is within a 30 mph area. Yet 55% of vehicles approaching downhill were, according to the applicant, going more than 30mph- with 5 > 45mph. That affects the splays. Delivering their proposed splays of 58m to the west and 40m to the east would still be a problem- just as they were at the last Appeal failure.

Given the fact there hasn't been any traffic calming measures implemented or even considered the reasons for the Inspectors decision still stands in 2021.

The splays as drawn would affect a Victorian-era hedge. The hedge should be protected and subject to a final botanical survey may well come under the 1997 Hedgerow Regulations for protection as well. There is not just one fence to be considered, the sight lines rely on neighbours being willing or to cut their fences down. In fact they might be breaking the law if they do so as they are agricultural hedges.

The application ignores any biodiversity interests or possible net gains (required by both the NYMNP Local Plan of 2020 and the 2019 NPPF) as there are not desk or field surveys. It ignores most of the relevant sections of the 2020 NYMNP Local Plan and the Supplementary Planning Document 3.

The Parish Council Objection to the application is based on all the above items.

Highways

Recommend refusal - The LHA are not aware of where an allowance to say the Y distance looking left can be adjusted away from the nearside kerbline for the reason that the oncoming traffic will not be at this location. The far side does frequently have parked cars on the road which has the resulting effect of pushing the oncoming vehicles, including buses, out into the near side lane. Therefore the LHA does not accept the claim that the visibility can be measured at a point 0.9 metres out into the road.

Section 7.7.7 of Manual for streets does say that the X value for measuring visibility can be adjusted to 2 metres for lightly trafficked roads and as the proposed access is a private drive and the flows of traffic on the major road are relatively low, the LHA are willing to agree that this can be applied for this location.

The applicant's calculations in determining the required visibility splays include small adjustments for gradients, wet weather etc. The LHA has not evaluated these figures as it does not have a bearing on the ultimate conclusion that the LHA has made. The proposals for the downhill, north side visibility is that a distance of 47.4 metres is required. The latest revised plan, AMA/20940/SK/006 dated 09/11/2021 shows this to be achievable by moving the access point southwards from the previous layout. The applicant has claimed that the Y value of 47.4 can be achieved but this is relying on the X value being relaxed to 2 metres and the hedges are maintained so that it does not overhang the proposed highway extents.

For the uphill, south side, the required visibility distance is 68.2 metres. The applicant claims that the Y value visibility can be achieved only by taking a point 0.9 metres out from the kerbline into the carriageway. The achievable distance on the kerbline is in the region of 48 metres. These figures are relying on the X value being relaxed to 2 metres and the hedges of the neighbouring properties maintained so that they do not overhang the existing highway extents.

Yorkshire Water

No objections subject to conditions

Environmental Health

No objections

Third party responses

The following people all object for some or all of the reasons stated below:

Mr McGovern, Middlethorpe, Sledgate Farm, Sled Gates, Fylingthorpe

Dr T Reed, The Pond House, Sledgates

Mr C Bancroft, Muir Lea Stores, Muir Lea New Road, Robin Hoods Bay

V A Mennell, Newthorpe, Sledgates

Mrs S J Pickering, Northview, Sledgates, Fylingthorpe

Mr & Mrs Wittering, Sledgates Cottage, Fylingthorpe

Mr & Mrs Ryder, Highfield Cottage, Sledgates, Fylingthorpe

Mr & Mrs Storey, 2 Kingston Garth, Fylingthorpe

Mr J Collinson, Coppergarth, Sledgates, Fylingthorpe

Mr T Collindon, Cambronne, Sledgates, Fylingthorpe

Mrs C Harrison, Moorland Rise, Sledgates, Fylingthorpe

Jo Parry, Briar Lea, Sledgates, Fylingthorpe

MW Hardwick, Copsford, Sledgates

Mrs P Andrews, Keldy, Sledgates

Mrs White, Flying Hall School, Robin Hoods Bay

Mr & Mrs Hodgson, Magnolia, Sledgates

- Harm to highway safety – which is no less than it was in 2007 and the latest speed survey by the applicant only serves to reinforce this view.
- 3 previous applications have been refused due to highway safety and the road has become busier with increased traffic, caravans, motorhomes, no change to previous reasons .
- The loss of a hedge of 1997 Hedgerow Regulations standard and field biodiversity.
- Loss of privacy and outlook.
- The buses and lorries still have to cross the centre line and use the pavement on occasions to pass due to cars parked legally outside their property.
- The proposed development site has been refused planning permission several times since 1986 by highways and the national parks planners.
- Since 1986 the traffic has increased due to the popularity of Robin Hoods Bay.
- A lot of properties in the village are now holiday homes, we don't need any more.
- The field contains a lot of wildlife which would disappear if this planning goes ahead.
- None of the previous and numerous applications have been successful, either at first attempt, or at appeal. Could there be very valid reasons for this, reasons that are still applicable today?
- The ancient hedge and stone wall that line the path along the frontage of the field currently mean that road safety and visibility splays cannot be achieved.
- The complete decimation of an ancient hedge and stone wall over the complete span of the frontage onto Sledgates, in the region of 90-meters, and the creation of a path of approximately 3 meters width, to replace the narrow village path that has existed for centuries, might too be alien and somewhat out of place?
- This, in the 'important gateway' to the village.
- The new hedge would, by necessity, have to be repositioned some three, perhaps four feet back into the field, completely altering the streetscape that has existed for hundreds of years. As there is a 'presumption' that ancient hedges and pathways be retained within the National Park, is completely unacceptable.
- The refusal of 2005 application, which was for four dwellings left the existing hedge intact and was refused because the works necessary to create a safe access would result in an alien and unduly obtrusive form of development.'
- Proposal pays scant regard to Highway Safety, the maintenance and enhancement and particular character of the village or the healthy protection, retention and enhancement of the biodiverse ancient areas of our special home.
- Incorrect statements in the application summary.
- Unsupported assertions in supporting documents.
- Delivery of the claimed visibility splay relies on the hedgerows of others, not just the developer.
- This hedge qualifies as important as it has a bank or wall supporting the hedgerow; less than 10% gaps and more than 3 woodland species.
- There are only two routes into the Robin Hood's Bay. The first is from the Whitby to Scarborough Road via Hawsker, and the second is from the same road by via Sledgates (the proposed access for this development). As Robin Hood's Bay

becomes increasingly popular, the traffic situation into, and within, the village presents considerable problems. There is a lack of adequate parking in Robin Hood's Bay centre which means both entry roads, including Sledgates, are regularly lined with cars parked partly on verges and partly on the road, lines of them sometimes stretching nearly back to the main road. Presumably the people who would be living in those houses may have several cars per household and will also have visitors seeking access and parking?

- Similarly no consideration appears to have been given to the reality of construction vehicles accessing the site, or access for those involved with the provision of services to the houses.
- Among other matters is the pedestrian flow along what is a narrow pavement on that stretch of road. Motorhomes often park at the top of Sledgates and their owners walk into the village, as do visitors in Bed and Breakfast at the top of the hill. Many pupils from Fyling Hall school regularly use the footpath to access the school to and from the village during term-time and groups of them walking up and down are a regular feature during term time. Many children from this stretch of the road also regularly walk to school or to the park along it.
- We watch the bats that roost there and fly over at night, the barn owl flies across it and hunts in it, we have seen so many types of birds (including bullfinches who are becoming increasingly rare) appearing in and out of the boundary hedges, the badgers come over the road from there and deer regularly wander around it.
- The Appeal in January 2008 was rejected on the basis of very sensible submissions by the Highways Department, who considered that the application to develop the land for housing should not be approved on the basis of very real safety concerns about site access, all of which still apply.
- The means by which foul sewage and water run off will be dealt with is unclear and needs clarifying. Both land drains and mains water and sewage drainage are a particular issue at that point on Sled Gates and from the staining on the road surface at the proposed site entrance the issues can be easily observed.
- The proposed development site is currently part of an agricultural field and yet the plans show no access to the rest of the field.
- The field itself is of high ecological value, the land is currently low intensity agricultural land grazed by sheep and as such host to a diverse range of species. It is regularly frequented by deer, foxes, badgers, bats, birds of prey including buzzards and multiple species of owl are regularly viewed hunting the area. The land is quite marshy and as such is also home to frogs, toads, newts etc. The site and land adjacent to it could certainly be home to protected and priority species and likewise are extremely important habitats, as such I feel it imperative that full surveys are carried out.
- Parking for the 5 houses is barely sufficient and visitors to the dwellings on the site who might park on the road would cause further issues with visibility.
- If the existing field gate access is to be closed off and replaced with the proposed access point, how will tractors and agricultural vehicles safely access the site? It is

clear that they will need to use the new entrance to the site to access the field behind it - a gateway in the back hedgerow is indicated for that purpose.

Publicity expiry

Site notice expiry date – 16 June 2020

View of application site heading up Sledgates away from the village. Site is behind hedgerow and photo demonstrates bend in the road



View down the hill on Sledgates towards village of Fylingthorpe – application site just out of view to the right



Hedgerow on left proposed to be removed and demonstrates poor sightlines



View into site from adjacent land to east



Background

This application relates to part of a field fronting onto the main 'C' class road that runs through the village of Fylingthorpe. The front of the site is bounded by a low stonewall which has historically been topped by a hedgerow.

The site is located towards the edge of the village. The character of this part of the village derives in part from the mix of short terraces adjacent the site to the east and larger detached dwellings in spacious grounds to the west. On the opposite side of the road are a number of small semi-detached houses.

Outline Planning Permission for the erection of two dwellings on this site was refused in 1987 and dismissed at appeal. Notably the Planning Inspector considered that residential development here would constitute infill between the centre of the village and development to the west but considered that the works required to create a safe highway access would likely to require major alterations to the hedge and wall, which could have an adverse impact on the character and appearance of the locality. Prior to this appeal refusal, two applications were refused over the space of three years, one for 6 houses and one for 4.

Planning permission was again refused in 2005 for the construction of two pairs of semi-detached dwellings set back from the back edge of the pavement. With this application it was proposed that the existing front boundary wall and hedge would be removed, with a new stone faced retaining wall and hedgerow being re-created further back from the road in order to achieve the necessary sightlines. New tree and hedgerow planting would be undertaken at the rear of the site and the existing row of mature trees on the western boundary would be retained with some additional planting also being undertaken. A 1.5 metre boundary fence would be erected on the eastern boundary with the adjacent dwellings. This application was refused on the basis that the design, form and general appearance of the development would result in an alien and unduly obtrusive form of development which would harm the character and appearance of this important gateway site into Fylingthorpe village.

Full planning permission was then refused again in 2006, for the erection of two 4 bedroom detached houses with associated garaging, with vehicular access being from a similar (relocated approximately 3.5m further along site boundary) point as the existing field access. This application was refused on the basis that adequate sight-lines could not be achieved.

A further application was refused in 2010 for the erection of two 4 bedroom detached dwellings with associated garaging with vehicular access. This application was refused because at that time the previous local plan had been superseded by the Local Development Framework which had introduced a change (Core Policy J) with a tighter definition on infill plots which stated that an infill site is "a small gap within a continuously built up frontage within the main built up area of the settlement which can accommodate no more than one dwelling".

Furthermore, Core Policy J also sought to resist speculative development. The proposal did not comply with the requirements of CPJ.

The Local Development has now been superseded by the 2020 Local Plan which has reverted back to allowing development on some larger sites and consequently this current application was submitted. This application is in outline form and seeks permission for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale).

Main issues

Local Plan

Strategic Policy A – National Park Purposes – seeks to take a positive approach to new development, in line with the presumption in favour of sustainable development and where decisions are consistent with National Park statutory purposes:

1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park;
2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

It is explained within the Policy text that sustainable development means development which maintains and enhances geodiversity and biodiversity through conservation and enhancement of habitats and species.

Policy CO7 - Housing in Larger Villages – Sets out that in order to support the wider service function of Larger Villages, principal residence and affordable housing will only be permitted on suitable small sites (suitable for up to 5 dwellings) within the main built up area of the village only, with proposals meeting the need for smaller dwellings.

Policy CO2 – Highways - only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety; the external design and layout and associated surfacing works take into account, as appropriate, the needs of all users including cyclists, walkers, horse riders and users of mobility aids; and highway detailing, road improvements and street furniture are sensitive to the character, heritage, built form and materials of the area, the need to conserve and enhance biodiversity and are the minimum required to achieve safe access.

Policy ENV1 - Trees, Woodlands, Traditional Orchards and Hedgerows - states that there will be a presumption in favour of the retention and enhancement of existing trees, woodland, traditional orchards and hedgerows of value on all developments.

Where the wider sustainability benefits of the development clearly outweigh the loss, proposals will be expected to minimise harm and provide a net biodiversity and amenity gain, with appropriate replacement of lost trees or hedgerows.

Material Considerations

The main issues in this case are considered to be whether this site constitutes a suitable site under Policy CO7, whether its development complies with the criteria set out in that policy and whether the proposed development complies with the requirements of other Local Plan policies, especially highway safety and natural habitats.

It is considered that this does comprise a suitable small site within the main built up area of the village of Fylingthorpe and so falls to be considered under Policy CO7. Previous Planning Inspectors found at appeal that:

“The site is on the edge of the village with small, semi-detached properties opposite and larger detached dwellings in spacious grounds to the west.

I consider that development of the appeal site would be infill between the centre of the village and the development to the west”.

The Inspector went on to dismiss that appeal as he considered it had not been satisfactorily shown that an environmentally sensitive access could be achieved. This is particularly pertinent to the current application.

Whilst accepting that the site might comprise a suitable site in terms of Policy CO7 consideration must be given as to whether the site can achieve safe access which is a requirement of Policy CO7 as well as Policy CO2.

The Highway Authority has given the proposals extensive considerations and the applicant’s agent has submitted a number of traffic surveys and plans in an effort to overcome the Highway Authority concerns. However, the Highways Authority have concluded that satisfactory sightlines cannot be achieved and have consequently recommended refusal on highway safety grounds.

In terms of the issue of the hedgerow, during consideration of previous applications, evidence was found, to suggest that this hedgerow was in place prior to 1845, and although there are some discrepancies between maps as to whether or not this was a hedge or a fence, the presence of this boundary prior to 1845 makes it historically important. In view of this, it has not previously been considered desirable to lose this defined boundary.

The Authority’s Ecologist has been consulted on the current application and has advised that based on the data available, it is considered that the hedge is worthy of retention under the hedgerow regulations. However, it understands that whilst considered worthy of retention under the hedgerow regulations, its removal could still

be authorised by an approved planning application as that legislation overrides the hedge regulations, but that this should be considered in the planning balance. All hedgerows containing native woody species are considered priority habitats. This does not give them firm legal protection but does mean that as a public body we have to have a 'due regard' for their importance when undertaking our functions. If consented for removal it would mean that the mitigation and compensation requirements would be higher than for non-priority habitat so that we can ensure that overall biodiversity loss is not permitted.

In view of the above it is considered that the proposal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

Conclusion

In view of the above it is considered that the proposals would have a detrimental impact on highways safety and result in undesirable habitat loss. Consequently, the proposal would be contrary to Policies CO2, CO7 and ENV1 and refusal is recommended.

Pre-commencement conditions

N/A

Contribution to Management Plan objectives

N/A

Explanation of how the Authority has worked positively with the applicant/agent

Refusal (No Amendments Requested/Departure from Development Plan)

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and concluded that the scheme represents a form of development so far removed from the vision of the sustainable development supported in the Development Plan that no changes could be negotiated to render the scheme acceptable and thus no changes were requested.

**Town and Country Planning Act 1990
North York Moors National Park Authority**

**Notice of Decision of Planning Authority on Application for
Permission to Carry out Development**

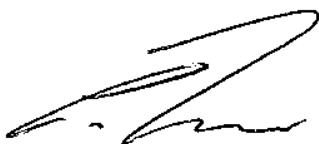
To SIW Properties
c/o Alistair Flatman Planning
fao: Mr Alistair Flatman
24 West End Grove
Horsforth
Leeds
West Yorkshire
LS18 5JJ

The above named Authority being the Planning Authority for the purposes of your application validated 04 May 2021, in respect of **outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)** at **Land west of Highfield, Sled Gates, Fylingthorpe** has considered your said application and has **refused** permission for the proposed development for the following reason(s):

- 1 The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal is therefore contrary to Policy CO2 and CO7 of the North York Moors Local Plan which only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety.
- 2 The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

Explanation of how the Authority has Worked Positively with the Applicant/Agent

The Authority's Officers have appraised the scheme against the Development Plan and other material considerations and concluded that the scheme represents a form of development so far removed from the vision of the sustainable development supported in the Development Plan that no changes could be negotiated to render the scheme acceptable and thus no changes were requested.



Mr C M France
Director of Planning

Date 12 January 2022

Rights of Appeal

- (1) If the applicant is aggrieved by the decision of the Local Planning Authority to:
 - a) refuse an application for planning permission or grant it subject to conditions;
 - b) refuse an application for any consent, agreement or approval required by a condition imposed on a grant of planning permission or grant it subject to conditions; or
 - c) refuse an application for any approval required under a development order

they may appeal to the Secretary of State of Department of Communities and Local Government in accordance with Section 78 of the Town and Country Planning Act 1990, within six months of the date of this notice (12 weeks in the case of a minor commercial application). The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

- (2) If permission to develop land is refused, or granted subject to conditions, whether by the Local Planning Authority or by the Secretary of State, the owner of the land may claim that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the council of the county/district in which the land is situated a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

Note: If an aggrieved applicant wishes to exercise their right of appeal as above mentioned, they should do so using a form which you can get from the Secretary of State at:

Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel: 0303 444 00 00) or online at www.planningportal.gov.uk/planning/appeals

Notes

1. Please note, only the applicant possesses the right of appeal.
2. No consent, permission or approval hereby given absolves the applicant from the necessity of obtaining the approval, under the Building Regulations, of the District Council in whose area the site of the proposed Development is situated; or of obtaining approval under any other Bye-Laws, local Acts, orders, regulations, and statutory provisions in force; and no part of the proposed development should be commenced until such further approval has been obtained.
3. In your own interests your attention is particularly drawn to the conditions under which approval has been given to your proposals. Failure to comply fully with the conditions could lead to enforcement action resulting in work already done being demolished or prosecution in Magistrates' Court.
4. If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within 28 days of the date of this notice.
5. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your Local Planning Authority's decision on your application, then you must do so within: 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.



**'Outline Application for Construction of up to 5 no. Principal Residence Dwellings'
On Land to the West of Highfield, Sled Gates, Fylingthorpe, YO22 4TZ**

Highways Appeal Statement

Town and Country Planning Act 1990 Appeal to Secretary of State

By Andrew Moseley BA(Hons) DipTP MSc MCHIT CTPP

On Behalf of SIW Properties

Planning Application Reference - NYM/2021/0351/OU

15th June 2022

Highways Appeal Statement

North York Moors National Park Authority Planning Application Reference – NYM/2021/0351/OU

Residential Development of 5 no Dwellings and Associated Works on Land West of Highfield, Sled Gates, Fylingthorpe, YO22 4TZ

14th June 2022

Introduction

Andrew Moseley Associates (AMA) have been commissioned by SIW Properties to produce this Highways Appeal Statement (HAS) to accompany a planning appeal against North York Moors National Park Authority (NYM) decision to refuse planning consent (Ref: NYM/2021/0351/OU) for the 'Residential development of 5 no dwellings and associated works on Land West of Highfield, Sled Gates, Fylingthorpe, YO22 4TZ'.

Planning permission was refused on a single point relating to highways as follows:

'The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal is therefore contrary to Policy CO2 and CO7 of the North York Moors Local Plan which only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety.'

The planning application was accompanied by the following Highways reports / documents which are also appended to this document:

- ▶ Highways Supporting Statement – 11th May 2021;
- ▶ Highways Technical Note 1 – 23rd July 2021; and
- ▶ Highways Technical Note 2 – 9th November 2021.

These documents are assumed to be considered by the Planning Inspectorate as part of the appeal's consideration and as such their content has not been duplicated within this appeal statement.

Each of these submissions demonstrated that in AMA's professional opinion the proposed development would not result in a severe impact on highways capacity or highways safety, which is the key planning policy test set out in the NPPF (2021) policy stated (Paragraph 111).

In addition, the proposed development fully accords with the North York Moors Local Plan Policy CO2 and CO7 and has been designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement. It is considered that the development would be suitably served by the proposed access and would not create or add any problems in relation to road safety or the efficiency of the highway network.

This HAS fully reviews the highways impact of the proposed residential dwellings and is considered to fully and adequately address the highways officer's point of objection and, accordingly, the reason for refusal.

This Statement sets out the following elements:

- ▶ Planning History;
- ▶ Description of Site Location;
- ▶ Details of the Local Highway Network;
- ▶ Details of the Proposed Development;
- ▶ Proposed Site Access;
- ▶ Parking Provision;
- ▶ Sustainable Modes Access – Walking, Cycling and Public Transport;
- ▶ Estimated Traffic Generation & Expected Highway Impact;
- ▶ Collision Data Review; and
- ▶ Conclusion.

The following supporting information is also appended to this Statement:

- ▶ **Figure 1** – Indicative Site Location Plan;
- ▶ **Appendix A** – Proposed Site Layout and Access Arrangements;
- ▶ **Appendix B** - Highways Supporting Statement – 11th May 2021;
- ▶ **Appendix C** - Highways Technical Note 1 – 23rd July 2021; and
- ▶ **Appendix D** - Highways Technical Note 2 – 9th November 2021.

Planning History

An outline planning application was submitted to NYM Local Planning Authority on the 11th May 2021 for the development of five residential dwellings to be accessed via a single private drive from Sled Gates.

The original application was supported by a Highways Supporting Statement prepared by AMA on the 11th April 2021 which subsequently received two Highway Responses from NYCC on the following dates; 24th June 2021 and 4th August 2021.

Both of the NYCC consultation responses were addressed by Highways Technical Notes prepared by AMA on the following dates; 23rd July 2021 and 9th November 2021.

Following the receipt of the AMA Highways Technical Notes in response to the points raised by NYCC, the application was refused by NYM on the 12th January 2021.

The site has been subject to various historical planning applications for the development of residential dwellings on this parcel of land.

Details of the previously submitted planning applications available on the NYM planning portal are provided below:

- ▶ 40290243B – Outline application for the construction of two dwellings – decision refused 12-08-1986 which was later dismissed at Appeal on 19-03-1987 – No comments for refusal were available to read;
- ▶ NYM/2004/0449/OU/FL – Full application for the construction of four dwellings – decision refused 26-08-2005 – No reasons for refusal were based on highways matters;
- ▶ NYM/2006/0652/FL - Full application for the construction of two dwellings – decision refused on 10-11-2006 – The main reason for refusal was recorded as the required visibility of 60m in a north-easterly direction cannot be achieved;

- ▶ NYM/2007/0146/FL - Full application for the construction of two dwellings - decisions refused on 05-04-2007. Appeal was later lodged on 31-10-2007 which was later dismissed 24-01-2008. Planning permission was refused for the removal of wall and hedgerow for the required clear visibility of 70m; and
- ▶ NYM/2010/0278/FL - Outline application for the construction of two dwellings - decision refused 18-06-2010 - No reasons for refusal were based on highways matters.

It should be noted that no highways safety concerns were raised for either the NYM/2004/0449/OU/FL application or for the NYM/2010/0278/FL application.

Further details of the appellant's case are provided in later subsections, which are considered to fully address any previous elements of objection / refusal on other planning applications relating to highways matters, specifically in relation to visibility splays.

For context, full details of the proposed development site and proposals are provided in this Statement.

Description of Site Location

The proposed site is located on land to the west of Highfield, within the residential settlement of Fylingthorpe. An indicative site location plan is provided in **Figure 1**.

Details of the Local Highway Network

Sled Gates, from which the site would be accessed to the north, is a two-way residential street which forms a key route through the residential settlement of Fylingthorpe. Fronting the north of the application site, Sled Gates is subject to a 30mph speed limit, is street lit and has a footway running along the southern extent of the carriageway.

Approximately 150m to the west of the proposed site access, the 30mph speed limit is lifted to National Speed Limit (NSL). The carriageway continues west for approximately 2.0km before meeting with A171 Robin Hood's Bay Road via a priority-controlled T-junction.

To the east of the site access, Sled Gates continues through Fylingthorpe, becoming Thorpe Bank at the Thorpe Bank / Thorpe Green Bank / Sled Gates T-junction after approximately 175m metres. From here, Thorpe Lane continues for approximately 1.0km before entering Robin Hood's Bay.

A171 Robin Hood's Bay Road is a single carriageway two-way road and is subject to NSL. To the north the carriageway continues for approximately 6.0km via Hawsker before entering the southern extent of Whitby. To the south, A171 Robin Hood's Bay Road continues for approximately 20.0km via Fylingdales, Cloughton and Burniston before entering the northern extent of Scarborough.

The site is considered to be well located for access to the local and regional highway networks.

Details of the Proposed Development

The proposed development consists of five residential dwelling to be accessed via a proposed new T-Junction private drive onto Sled Gates to the north of the proposed development. A copy of the proposed site layout for the application is provided in **Appendix A**.

Proposed Site Access

As detailed within the HSS submitted for the planning application and following HTN's, the development proposes an access to the north of the application site from Sled Gates.

The private access will serve the five residential dwellings and is designed in accordance with NYCC residential design guide with a 4.5m wide carriageway, 2m wide footways along both sides of the access and 6m radii for ease of leaving the highway .

Sled Gates is subject to a 30mph speed restriction within a built-up residential settlement of Flyingthorpe, Therefore in accordance with NYCCs own Highway Design standards, visibility should be sought at 2m x 45m for a 30mph speed limit for any development less than 6 units. This is similar to the Manual for Streets (MfS) design standard which seeks splays at a 43m length and as such is considered an acceptable standard to adopt in this location.

It should be noted that although the 2.0m x 45m visibility splay requirement can be achieved from the proposed site access location, Automatic Traffic Counter (ATC) speed surveys were undertaken to provide a more robust assessment of the vehicle speeds passing the application site and the calculation of resultant visibility splays in accordance with MfS2 and DMRB.

ATC speed surveys were initially undertaken across a seven-day period between the 3rd December and the 9th December 2020, which recorded an 85th percentile speed for eastbound traffic travelling at 36.0mph and for westbound traffic at 28.3mph.

Based on the guidance at the time of submitting the HSS, wet weather reductions of 2.5mph were applied to the design speeds.

Visibility splays within the initial HSS were therefore designed in accordance with MfS of 2.4m x 58m provided to the west of the site and splays of 2.4m x 40m to the east of the site access. Details of the visibility splays for the observed December 2020 speeds are provided in the original HSS attached to this Appeal Statement at **Appendix B**. It should be noted that NYCC only require a 2.0m setback.

As part of the NYCC Highways Comments received on 24th June 2021, comments were raised with regards to the ATC speed survey locations and the suitability of the surveyed month not being considered as neutral.

As part of the AMA Highways Technical Note dated 23rd July 2021 as provided in **Appendix C**, clarification of the survey locations was provided, this was later confirmed acceptable by NYCC.

With regards to the suitability of December being a suitable month for speed data collection the following response was prepared by AMA within the Highways Technical Note dated 23rd July 2021;

“Although December is not considered by DMRB to be a typical neutral month for traffic, it is considered that the speeds observed along Sled Gates would not be affected and remain constant throughout the year as the road environment is that of a residential area.

Any seasonal variance such as the summer holiday period would result in higher traffic volumes and would be much more likely to lead to reduced speeds approaching the site access as there would be more vehicles on the road, thus suggesting the surveys undertaken are fit for purpose.”

To address matters the second Highways Response received from NYCC, dated 4th August 2021, further seven-day ATC speed surveys were undertaken at the same location points on Sled Gates.

The revised speed surveys were undertaken between 1st October and 7th October 2021. However during the course of the data collection, the south-western ATC was damaged and upon collection was reinstalled to ensure validity and robustness of data. Therefore survey data for the south-western ATC has been collected between the 12th and 18th of October 2021.

Both the north-eastern and south-western ATC were undertaken within a neutral month considered appropriate by DMRB and NYCC, and therefore avoid any further doubt on the validity of data.

The findings from the seven-day ATC surveys recorded 85th percentile speeds for eastbound traffic travelling at 32.7mph and for westbound traffic at 38.4mph.

Following the revised visibility splay guidance, wet weather reductions for design speeds were not applied to the revised ATC surveys in the HTN note 9th November 2022 as provided in **Appendix D** and calculations within this.

Visibility splays have been assessed using the MfS2 calculations for the recorded speeds, as set out within the AMA Highways Technical Note prepared on the 9th November 2021. For ease of reference the calculations applied are set out below for the north-eastern and south-western splays.

MfS2 calculations are considered appropriate for these ATC speed survey locations based on the residential nature of Fylingthorpe and the built-up urban characteristics of Sled Gate fronting the application site. Sled Gates is also subject to a 30mph speed limit and therefore MfS design guidance is considered to be acceptable.

Gradients southbound from the northern ATC (uphill) are 1:10.5 (9.524%) and northbound from the southern ATC (downhill) are 1:13.756 (7.27%).

North-Eastern Splay (To North-East of Site Access)

SSD	=	$vt + v^2/2(d + 0.1a)$					
V	=	speeds (metres per second)					
t	=	driver perception reaction time (seconds)					
d	=	deceleration (metres per second squared)					
a	=	longitudinal gradient (%) - Plus for upgrades and minus for downgrades					
85th Percentile Wet							
		v	v	t	d	a	
		(km)	(m/s)	(s)	(m/s²)	(+/- %)	
		32.70	52.63	14.62	1.5	3.68	9.524
Stopping Sight Distance							
vt	=	21.93					
v ²	=	213.74					
d + 0.1a	=	4.63					
2(d + 0.1a)	=	9.26					
SSD (metres)	=	45.0					
SSD (metres) + 2.4m	=	47.4					

As detailed above, the north-eastern site access visibility splay requirement to the nearside kerb is 47.4m.

South-Western Splay (To South-West of Site Access)

SSD	=	$vt + v^2/2(d + 0.1a)$				
V	=	speeds (metres per second)				
t	=	driver perception reaction time (seconds)				
d	=	deceleration (metres per second squared)				
a	=	longitudinal gradient (%) - Plus for upgrades and minus for downgrades				
85th Percentile Wet						
Weather Speed (mph)						
38.40		61.8	17.17	1.5	4.41	-7.27
Stopping Sight Distance						
vt	=	25.76				
v ²	=	294.81				
d + 0.1a	=	3.68				
2(d + 0.1a)	=	7.36				
SSD (metres)	=	65.8				
SSD (metres) + 2.4m	=	68.21571				

As detailed above, the north-eastern site access visibility splay requirement to the nearside kerb is 68.2m.

Based on the revised October 2021 recorded 85th percentile speed surveys, the AMA Highways Technical Note prepared a new site access drawing with revised visibility splays.

As per NYCC policy, given the site is for less than six dwellings and is a private drive, a 2m setback is considered to be NYCC policy compliant and is agreed as a suitable setback by NYCC Highways.

As detailed in the AMA Highways Technical Note, the north-eastern visibility splays meets the nearside kerb at the required distance of 47.4m.

The south-western visibility splay, which is based on the required MfS2 calculation for visibility splays seeks 2.0m x 68.2m. To the nearside kerb a distance of 47.8m is achieved and at 68.2m is offset from the nearside kerb by 0.9m.

The main reason for NYM's planning refusal relates to the need for the splay at 68.2m to be offset 0.9m from the nearside kerb.

It is AMAs professional opinion that the 0.9m offset does not give rise to any adverse road safety impacts for a number of reasons as detailed below and this should not warrant a reason or justification for refusal on highways safety grounds.

The south-western splay is not facing into oncoming vehicular traffic and is the offside lane, therefore, vehicles would be highly unlikely to be in the oncoming lane towards the access. This would be a highly rare occurrence and would be overtaking vehicles, which is not considered likely given the residential 30mph area and low vehicle speeds.

On the highly rare occurrence that a vehicle would be in the nearside lane overtaking, it would also be clearly visible from the junction at a 0.9m offset from the nearside kerb at the splay of 68.2m.

Sustrans also seek a dynamic width of 1m for a cyclist in their design standards, with a minimum width of 0.75m when static.

This minor offset should therefore be considered in context. It would require a cyclist to be cycling down the wrong side of the road hugging the nearside kerb without any movement to not be visible at the extreme of the splay, this is clearly something that would never occur.

In addition, due to the curvature of the carriageway, vehicles traveling north-eastbound would not be overtaking at this point of the carriageway.

It is therefore considered that the achievable visibility splays in both directions are appropriate in relation to operation and highway safety.

Further to the 85th percentile speeds, a review of the raw ATC data identifies that when considering the average speed along Sled Gates the following speeds were recorded for north-eastbound traffic is 30.2mph and for south-westbound traffic is 25.6mph for which the proposed splays more than accommodate.

The data also identifies a relatively low level of traffic travelling along Sled Gates through the residential settlement of Fylingthorpe, the ATC data recorded a weekday average of 1,271 two-way vehicular trips across a 24hr period. When reviewing the average weekday movements for the worst case time period of 07:00 to 19:00, when it is generally accepted that the majority of vehicle based trips are undertaken, a total of 1,171 two-way trips were recorded, equating to approximately 100 two-way trips in any hour.

Based on the relatively low observed base flows present along Sled Gates, it is considered that the visibility splays achieved by the proposed residential development would result in minimal conflicts for north-eastbound traffic travelling past the application site and an even lower occurrence of any overtaking approaching or passing the site.

Consequently the offset of 0.9m from the nearside kerb for the south-western visibility splay is not considered to pose a highways safety concern and is considered acceptable.

Parking Provision

Parking provision would be provided be in line with NYCC policy requirements, with adequate parking and turning facilities on site allowing vehicles to enter and exit in forward gear.

The proposed parking provision has not been queried by NYCC Highways.

Sustainable Modes Access – Walking, Cycling and Public Transport

The proposed development is considered to be accessible on foot, with Sled Gates providing a footway along the site frontage of site. To the east, the footway continues through the residential area of Fylingthorpe and continues towards Robin Hood's Bay of which the entirety is accessible within a 2km catchment of the site. Both residential areas provide facilities such as convenience stores; a post office; and multiple businesses with employment opportunities and leisure facilities.

There are a number of Public Rights of Way (PRoW's) within the vicinity of the site that provide traffic free walking facilities throughout the local area.

The residential areas of Robin Hood's Bay, Fylingthorpe, High Hawsker, Fylingdales-on-Ouse, Newtonon- Ouse, Flawith, Youlton and Cross Lanes are accessible within a 5km catchment of the site.

In addition to the on-road cycle facilities, National Cycle Network (NCN) Route 1 is accessible within 850m to the east of the site.

The route provides largely traffic-free cycle facilities north and south towards Whitby and Scarborough along the coast and provides a quality cycle route for those wishing to cycle between the two towns.

There are three bus stops within the recommended 400m walking catchment of the site, with the closest bus stop situated approximately 160m to the north of the site, and the furthest stop situated 400m from the site. The bus stops are equipped with timetabling information and are accessible via the existing pedestrian infrastructure.

Further details of the bus services are provided in **Table 1**.

Table 1 - Local Bus Services and Frequency

SERVICE	ROUTE	MONDAY - FRIDAY	SATURDAY	SUNDAY
X93	Whitby – Scarborough	Every hour (06:35 to 19:00)	Every hour (06:55 to 19:00)	Every hour (10:20 to 19:30)

The above demonstrates that there are ample facilities to accommodate pedestrian, cycle and public transport trips to and from the site. There are numerous existing key goods and services within an acceptable walking and cycling distance, further reducing the need for car-based movements to and from the site.

The site is therefore considered to be in a sustainable location for access by non-car modes in line with national planning policy guidance.

Estimated Traffic Generation & Highway Impact

The development proposes five dwellings, therefore a robust generic residential trip generation of 0.8 two-way car movements is assumed for the AM and PM peak development hours.

It is calculated that the proposed development will generate 4 two-way vehicular movements during each development peak hour.

This equates to approximately one additional vehicle on the local highway network every 15 minutes.

On this basis the trip generation of the proposed scheme is considered to be negligible and would have an imperceptible impact on the local highway network.

The development proposals would clearly result in a negligible impact on operation / capacity of the local highway network including any highways safety risks, due to the minimal trip generation occurring from the five dwellings.

Collision Data Review

To determine the recent and historical highways safety record of the surrounding road network and to counter NYCC's comment that the site is detrimental to the safe operation of the highway, accident data has been obtained for the latest five-year period available in the vicinity of site between January 2017 – December 2021.

A total of zero collisions were recorded within the study area, including 200m either side of the proposed site access junction, within the latest five years. It is therefore considered that there are no existing road safety issues within close proximity to the site, nor would the development exacerbate the existing conditions.

Conclusion

It is concluded that the detail contained in this Highways Appeal Statement should provide sufficient information for the full consideration of proposed development.

The Statement has highlighted the following key findings:

- ▶ The only objection from NYM Local Planning Authority in relation to road was that the south-western visibility splay encroaches slightly into the offside lane by 0.9m from the nearside kerb;
- ▶ Visibility splays for the required 30mph speed limit along Sled Gates at 2.4m x 45m can be achieved from the proposed site access to the nearside kerb, however for robustness seven-day ATC speed surveys were collected for a robust assessment of speeds within the vicinity of the application site to calculate resulting splays;
- ▶ In accordance with the MfS2 design standards, visibility splays for the recorded speeds have been achieved for the north-eastern visibility splay onto oncoming traffic. The south-western visibility splay however can only be achieved by a slight offset into the carriageway by 0.9m.
- ▶ The south-western splay is considered acceptable as this does not face into oncoming vehicular traffic and is the offside lane, therefore, vehicles would be highly unlikely to be in the oncoming lane towards the access. This would be a highly rare occurrence and would be overtaking vehicles, which is not considered likely given the residential 30mph area and low vehicle speeds.
- ▶ On the highly rare occurrence that a vehicle would be in the nearside lane overtaking, it would also be clearly visible from the junction at a 0.9m offset from the nearside kerb at the splay of 68.2m.
- ▶ The proposals are for five dwellings which would equate to 4 additional two-way vehicle trips occurring on Sled Gates and the Local Highway Network during the AM and PM network peak periods respectively. These are considered to be immaterial and as such cannot be considered detrimental to the operation of Sled Gates in highways safety or capacity terms;
- ▶ The site is in a sustainable location, is within acceptable walking and cycling distances of local key goods and services and has access to public transport services within 400m of the site; and
- ▶ No accidents have occurred in the last five-years along Sled Gates therefore it cannot be considered that there are any existing highways safety risks in proximity to the site, nor would the introduction of five dwellings significantly increase any road safety risks.

Therefore the application proposals and supporting information accord with North York Moors Local Plan Policy CO2 and CO7 achieving a safe, secure and convenient access to and from site to the Local Highway Network the NPPF 2021.

Based on the information contained in this Highways Appeal Statement and key findings in the conclusion, it is considered that the proposals would not result in an unacceptable impact on highway safety, or that the residual cumulative impacts on the road network would be severe in line with the requirements of NPPF Paragraph 111.

Therefore, there are no traffic or transportation reasons that the appeal should not be allowed.

Appended Documents

Figure 1 - Indicative Site Location Plan

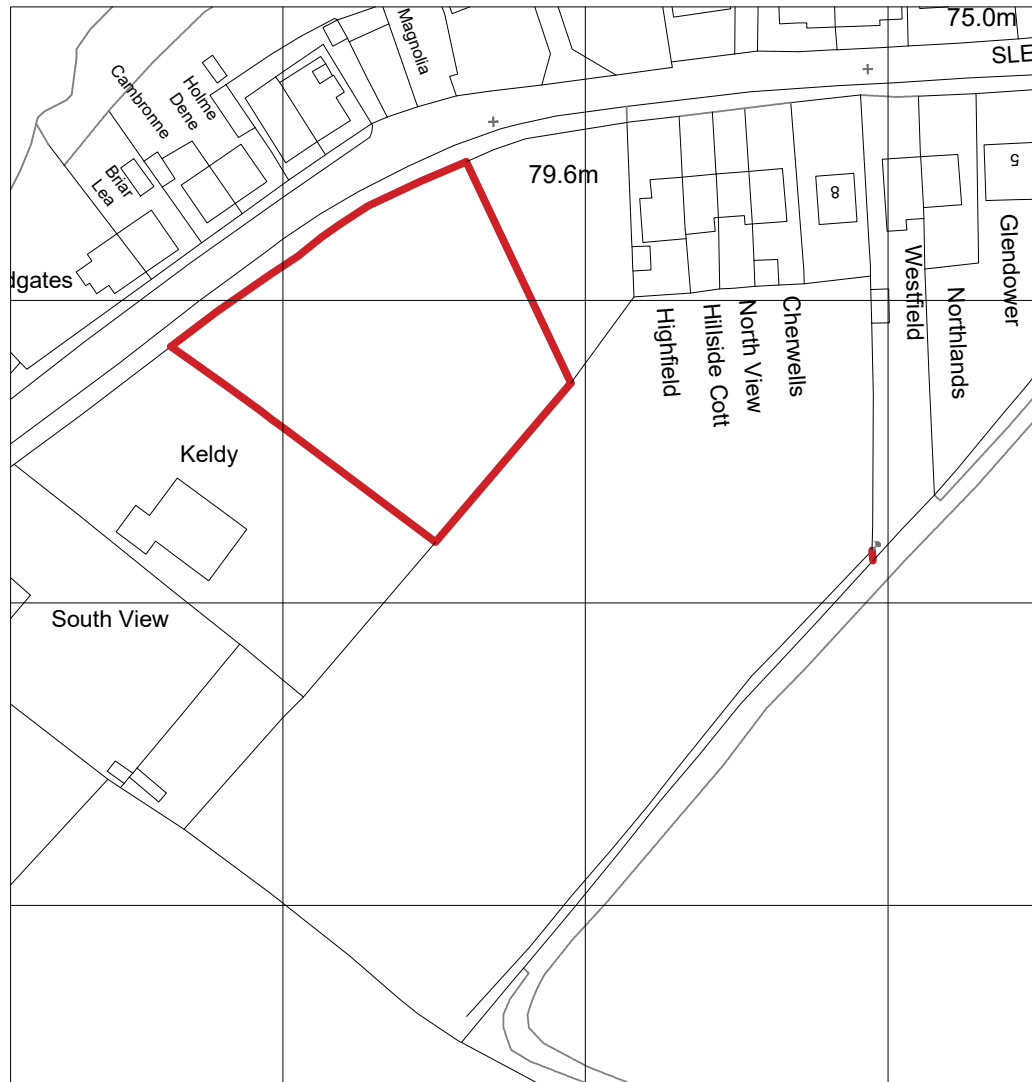
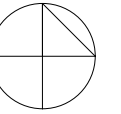
Appendix A - Proposed Site Layout and Access Arrangements

Appendix B - Highways Supporting Statement - 11th May 2021

Appendix C - Highways Technical Note 1 - 23rd July 2021

Appendix D - Highways Technical Note 2 - 9th November 2021

Figure 1
Indicative Site Location Plan



LOCATION PLAN
1:1250@A3



SITE PLAN
1:500@A3

Notes:
Unless indicated, this drawing is for information only.
Do not scale, use figured dimensions only.
All dimensions to be checked on site

0 Drwg. original size: A3

Revisions:

Date:	Rev:	Note:	Check:

eleven52architects

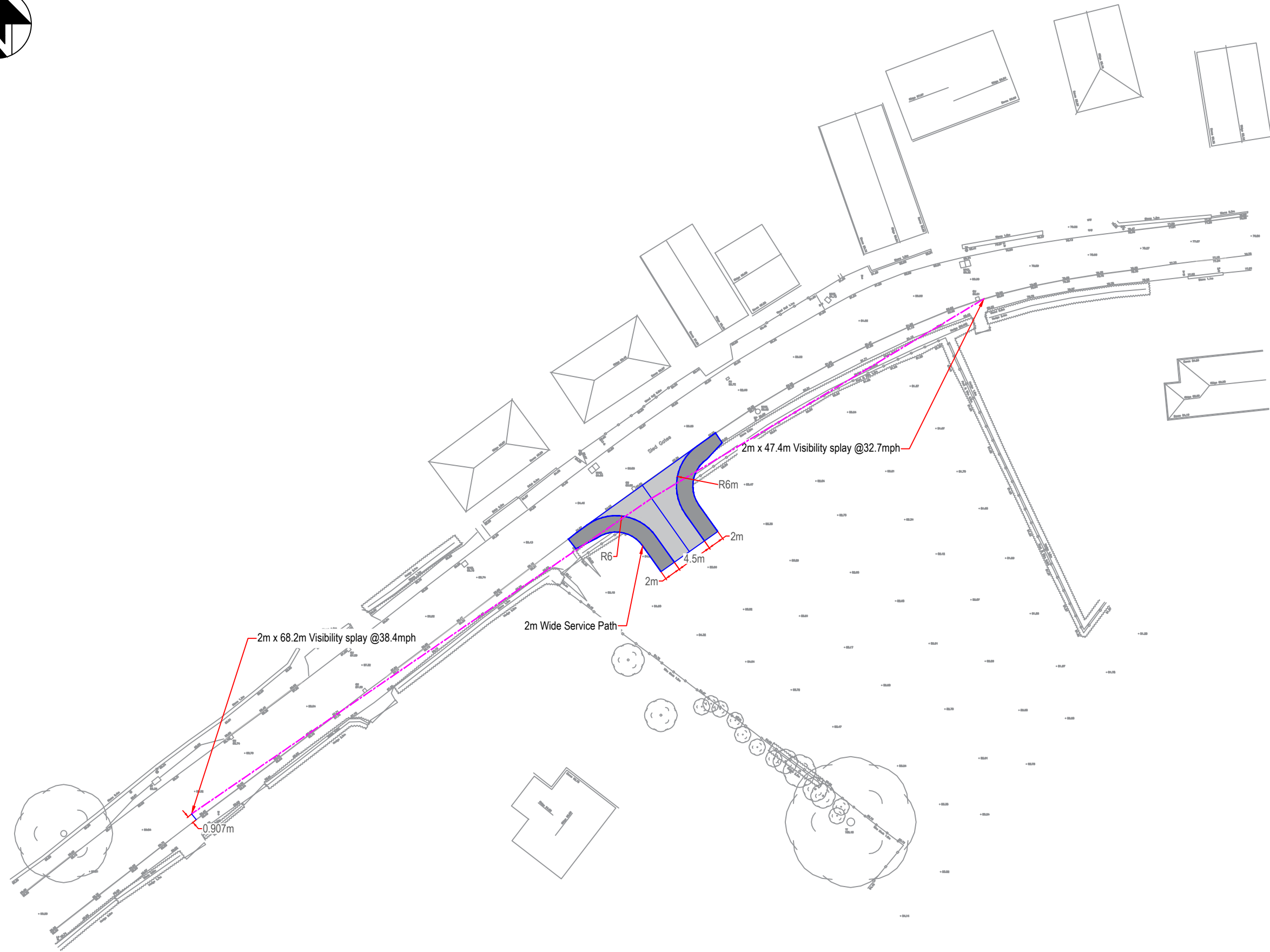
eleven52architects
30 The Fairway
Pudsey
Leeds LS28 7RE
T: +44(0)7958738229
E: leeds@eleven52architects.co.uk
W: eleven52architects.co.uk

Project: **SLED GATES
Whitby**
Drawing Title: Existing Location and Site Plan
Scale: As shown
Drwg. Created: 05.03.2021

Drwg. No:	0215_SLE_101
Status:	Planning (*)
Revision:	*

Appendix A

Proposed Site Layout and Access Arrangements



NOTES

P1 Preliminary - Initial Issue



Project:
**SLED GATES
WHITBY**

Client:
BRITOLGY

Drawing:
**PROPOSED ACCESS &
VISIBILITY SPLAYS**

Drawn By: **AJA** Date: **09/11/2021**

Checked: **ATM** Scale: **1:500** **A3**

Drawing No. **AMA/20940/SK/006** Rev. **-**

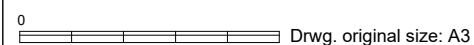


INDICATIVE SITE PLAN
5 3b5p Houses

AMENDED

NYMNPA
17/11/2021

Notes:
Unless indicated, this drawing is for information only.
Do not scale, use figured dimensions only.
All dimensions to be checked on site



Revisions:			
Date:	Rev:	Note:	Check:

elevens2architects
elevens2architects
 30 The Fairway
 Pudsey
 Leeds LS28 7RE
 W: elevens2architects.co.uk

Project: **SLED GATES
Whitby**
 Drawing Title: Indicative Site Plan
 Scale: 1:500@A3
 Drwg. Created: 25.01.2021

Drwg. No:	0215_SLE_102
Status:	Planning (*)
Revision:	E

Appendix B

Highways Supporting Statement – 11th May 2021

Highways Supporting Statement

Proposed Residential Development – Sled Gates, Fylingthorpe

11th May 2021

Introduction

Andrew Moseley Associates (AMA) has been commissioned to prepare a Highways Supporting Statement (HSS) to review the highways impact associated with an outline planning application for a proposed residential development totalling five dwellings located to the south of Sled Gates, Fylingthorpe.

This Statement sets out the following elements:

- ❑ Site Location;
- ❑ Details of the Local Highway Network;
- ❑ Sustainable Modes Access – Walking, Cycling and Public Transport;
- ❑ Proposed Development, Site Access and Parking;
- ❑ Collision Data;
- ❑ Refuse Collection and Servicing;
- ❑ Traffic Generation and Expected Highway Impact; and
- ❑ Conclusion.

The Statement is supported by the following appended documents:

- ❑ **Figure 1** – Site Location; and
- ❑ **Appendix A** – Site Layout
- ❑ **Appendix B** – ATC Survey Summary;
- ❑ **Appendix C** – Site Access Design and Visibility Splays.

Site Location

The site is located to the south of Sled Gates to the west of the residential area of Fylingthorpe. A site location plan is appended to this Statement in **Figure 1**.

The site currently consists of undeveloped land and is bound to the north by the Sled Gates; to the east and south by undeveloped land; and to the west by residential dwellings.

The Local Planning Authority (LPA) is Scarborough Borough Council (SBC) and the Local Highway Authority (LHA) is North Yorkshire County Council (NYCC).

Details of the Local Highway Network

Sled Gates from which the site would be accessed is a single carriageway two-way road subject to a 30mph speed restriction. The carriageway has a pedestrian footway running alongside the southern extent of the road and is street lit.

Approximately 150m to the west of the proposed site access, the 30mph speed limit is lifted to National Speed Limit (NSL). The carriageway continues west for approximately 2.0km before meeting with A171 Robin Hood's Bay Road via a priority-controlled T-junction.

To the east of the site access, Sled Gates continues through Fylingthorpe, becoming Thorpe Bank at the Thorpe Bank / Thorpe Green Bank / Sled Gates T-junction after approximately 175m metres. From here, Thorpe Lane continues for approximately 1.0km before entering Robin Hood's Bay.

A171 Robin Hood's Bay Road is a single carriageway two-way road and is subject to NSL. To the north the carriageway continues for approximately 6.0km via Hawsker before entering the southern extent of Whitby. To the south, A171 Robin Hood's Bay Road continues for approximately 20.0km via Fylingdales, Cloughton and Burniston before entering the northern extent of Scarborough.

Sustainable Modes Access – Walking, Cycling and Public Transport

The proposed development is considered to be accessible on foot, with Sled Gates providing a footway along the site frontage of site. To the east, the footway continues through the residential area of Fylingthorpe and continues towards Robin Hood's Bay of which the entirety is accessible within a 2km catchment of the site. Both residential areas provide facilities such as convenience stores; a post office; and multiple businesses with employment opportunities and leisure facilities.

There are a number of Public Rights of Way (PRoW's) within the vicinity of the site that provide traffic-free walking facilities throughout the local area.

The residential areas of Robin Hood's Bay, Fylingthorpe, High Hawsker, Fylingdales-on-Ouse, Newton-on-Ouse, Flawith, Youlton and Cross Lanes are accessible within a 5km catchment of the site. In addition to the on-road cycle facilities, National Cycle Network (NCN) route 1 is accessible within 850m to the east of the site.

The route provides largely traffic-free cycle facilities north and south towards Whitby and Scarborough along the coast and provides a quality cycle route for those wishing to cycle between the two towns.

There are three bus stops within the recommended 400m walking catchment of the site, with one stop situated approximately 160m to the south and the furthest stop to the north situated 400m from the site. The bus stops are equipped with timetabling information and are accessible via the existing pedestrian infrastructure.

Table 1 – Local Bus Services and Frequency

SERVICE	SERVICE DESTINATIONS	WEEKDAYS	SATURDAY	SUNDAY
X93	Whitby - Scarborough	Up to every 60 mins from 06:36 – 20:23	Up to every 60 mins from 06:56 – 21:23	Up to every 60 mins from 08:58 – 19:37
X94	Whitby - Scarborough	Up to every 60 mins from 09:28 – 19:12	Up to every 60 mins from 09:28 – 19:12	Up to every 60 mins from 09:28 – 19:07

A review of the existing facilities for access to the site by a range of non-car modes has been carried out. The site is considered to be in a sustainable location with a range of facilities to accommodate access by non-car modes in line with local and national transport planning policy.

Proposed Development, Site Access and Parking

The proposed development consists of five residential dwelling to be accessed via a proposed new T-junction onto Sled Gates to the north of the proposed development. A copy of an indicate site layout for the outline consent is in **Appendix A**.

Parking for the dwelling is to be provided in line with the required NYCC standards as detailed below:

- 3+ bedroom dwelling – 2 parking spaces.

In addition, secure facilities for cycle storage will be provided within an appropriately sized garage or alternatively standalone secure cycle storage within the curtilage of the proposed dwelling.

To determine the required visibility splays for the site access, two 7-day ATC surveys were undertaken to the east and west of the proposed site access location between Thursday 3rd December 2020 – Wednesday 9th December 2020. A summary of the survey is attached at **Appendix B**. The ATC survey found that the 85th percentile wet weather vehicular speeds for eastbound traffic to the west of the site was 36mph (inclusive of a 2.5mph wet weather reduction); whilst westbound traffic to the east of the site was 28.3mph.

In accordance with Manual for Streets (MfS), visibility splays of 58m are provided to the west of the site and visibility splays of 40m are provided to the east of the site access. The visibility splays are set out in drawing no. AMA-20940-SK-001 and as attached at **Appendix C**.

The site access has been designed with a carriageway width of 4.5m and radii of 6m. A 2m wide service path has also been provided to both sides of the site access as set out in **Appendix C**.

The proposed development is therefore considered to provide access and parking provision in line with policy requirements.

Collision Data

A review of the most recent five-year period (2016 – 2020) on Crashmap identifies that no collisions were recorded within the vicinity of the site. The study area includes 200m either side of the proposed site access junction.

It is therefore considered that there are no existing road safety issues within close proximity to the site, nor would the development exacerbate the existing conditions.

Refuse Collection and Servicing

No special arrangements would be required for the proposed development, simply adopting the existing provision accepted for all other residential properties in the local area, generally collected weekly from the roadside.

Full refuse collection details would be provided at reserved matters stage.

Traffic Generation and Expected Highway Impact

The development proposes five dwellings, therefore a robust generic residential trip generation of 0.8 two-way car movements is assumed for the AM and PM peak development hours.

It is calculated that the proposed development will generate 4 two-way vehicular movements during each development peak hour.

It is therefore considered the trip generation of the proposed scheme is considered to be negligible and would have an imperceptible impact on the local highway network.

Conclusion

It is considered that the information contained in this Statement should provide sufficient detail for the highways officer to be able to make a positive recommendation on the development proposal.

The proposed development is situated in a sustainable location with a range of key facilities and services available within a 2km walking catchment area, with a number of PRoW's within the vicinity of the site.



The proposed development would generate four two-way trips in both the AM and PM peaks and is therefore considered that the additional movements would have a negligible impact on the local highway network.

In conclusion, the proposals would not result in any detrimental highways impact and therefore there are no traffic or transportation reasons preventing the granting of planning permission.



Appended Documents

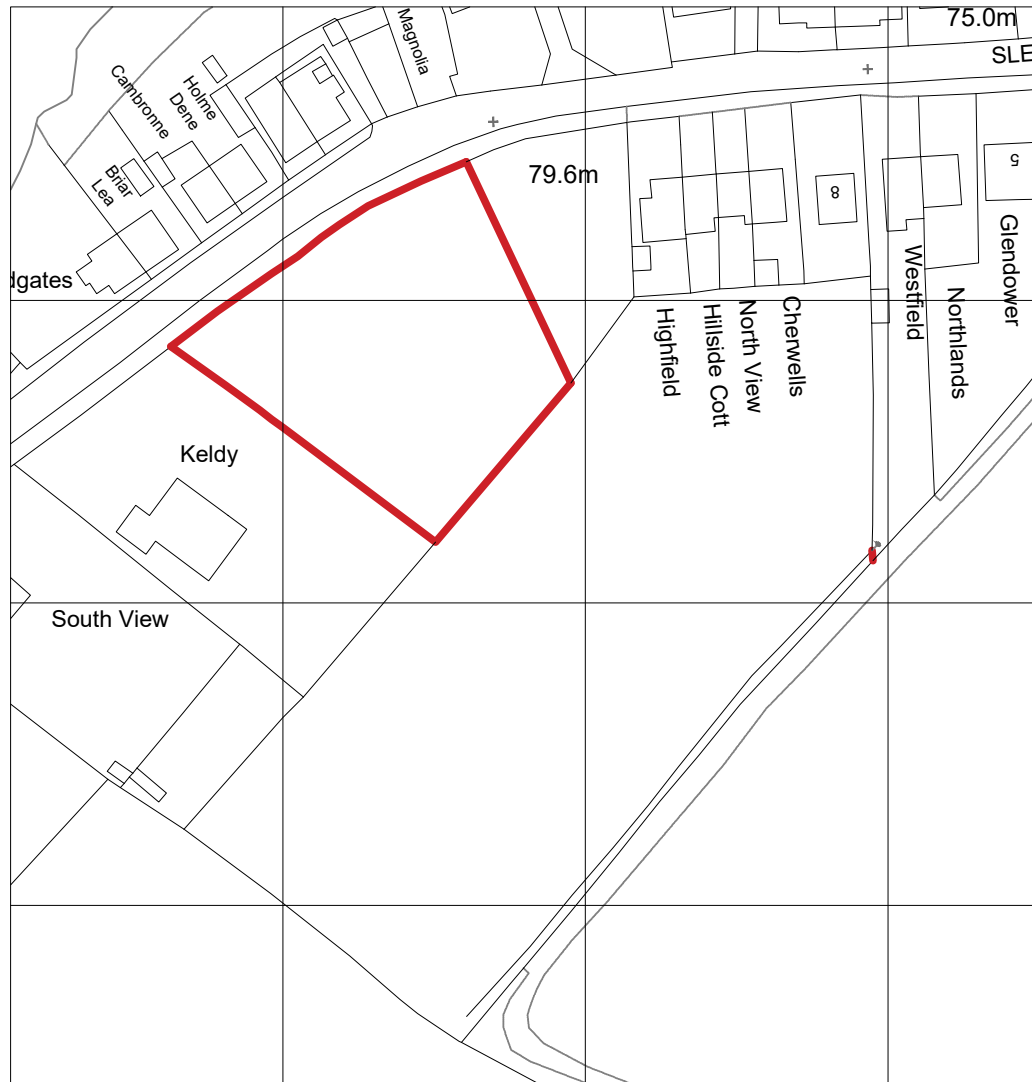
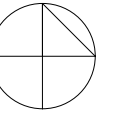
Figure 1 – Site Location

Appendix A – Indicative Site Layout

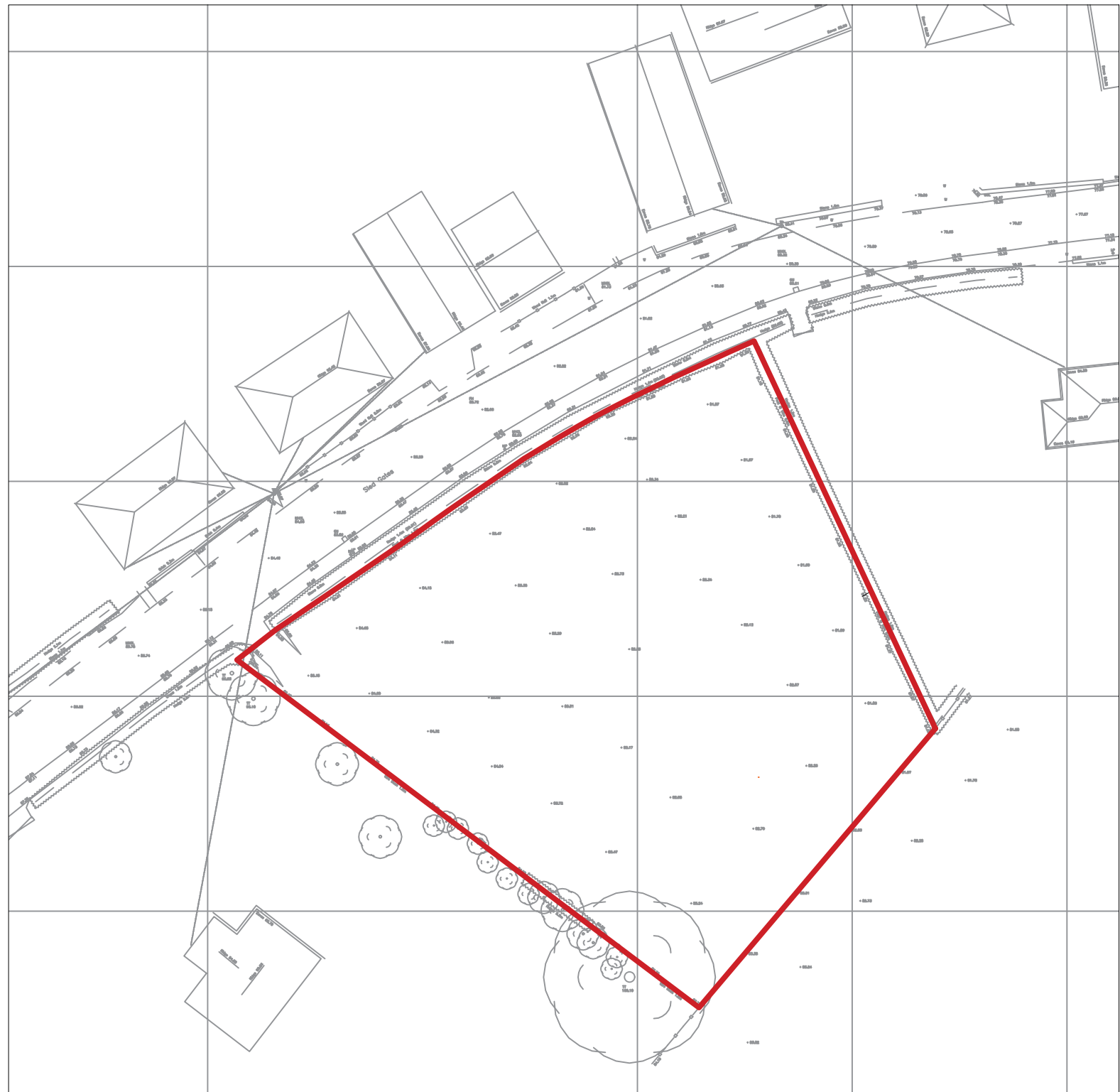
Appendix B – ATC Survey Summary

Appendix C – Site Access Design and Visibility Splays

Figure 1 – Site Location



LOCATION PLAN
1:1250@A3



SITE PLAN
1:500@A3

Notes:
Unless indicated, this drawing is for information only.
Do not scale, use figured dimensions only.
All dimensions to be checked on site

0 Drwg. original size: A3

Revisions:

Date:	Rev:	Note:	Check:

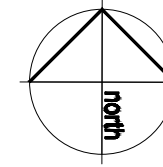
eleven52architects

eleven52architects
30 The Fairway
Pudsey
Leeds LS28 7RE
T: +44(0)7958738229
E: leeds@eleven52architects.co.uk
W: eleven52architects.co.uk

Project: **SLED GATES
Whitby**
Drawing Title: Existing Location and Site Plan
Scale: As shown
Drwg. Created: 05.03.2021

Drwg. No:	0215_SLE_101
Status:	Planning (*)
Revision:	*

Appendix A – Indicative Site Layout



ILLUSTRATIVE SITE PLAN
5 3b5p Houses

Notes:
Unless indicated, this drawing is for information only.
Do not scale, use figured dimensions only.
All dimensions to be checked on site

0 Drwg. original size: A3

Revisions:

Date:	Rev:	Note:	Check:

elevens2architects

elevens2architects
30 The Fairway
Pudsey
Leeds LS28 7RE
T: +44(0)7958738229
E: leeds@elevens2architects.co.uk
W: elevens2architects.co.uk

Project: **SLED GATES
Whitby**

Drawing Title: Proposed Site Plan

Scale: 1:500@A3

Drwg. Created: 25.01.2021

Drwg. No: **0215_SLE_102**

Status: **Planning
(*)**

Revision: *****



Appendix B – ATC Survey Summary

Sled Gates, Whitby ATC 1, Sled Gates (East)

Produced by Streetwise Services Ltd.



Channel 1 - Eastbound

























	03/12/2020 Thursday	04/12/2020 Friday	05/12/2020 Saturday	06/12/2020 Sunday	07/12/2020 Monday	08/12/2020 Tuesday	09/12/2020 Wednesday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	389	378	338	276	360	398	359	377	357
Mean Speed	24.0	24.3	24.0	24.7	23.3	23.9	24.0	23.9	24.0
85%ile Speed	28.1	28.1	28.1	28.5	28.6	28.1	28.8	28.3	28.3
No. Vehicles > 30 MPH Limit	28	33	18	30	23	32	24	28	27
% Vehicles > 30 MPH Limit	7.2	8.7	5.3	10.9	6.4	8.0	6.7	7.4	7.6
No. Vehicles > 45 MPH	0	0	0	0	0	0	0	0	0
% Vehicles > 45 MPH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Channel 2 - Westbound

	03/12/2020 Thursday	04/12/2020 Friday	05/12/2020 Saturday	06/12/2020 Sunday	07/12/2020 Monday	08/12/2020 Tuesday	09/12/2020 Wednesday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	355	398	325	306	378	389	370	378	360
Mean Speed	24.2	24.6	24.8	25.2	24.2	23.7	24.8	24.3	24.5
85%ile Speed	28.5	28.4	28.8	28.6	28.2	28.8	28.2	28.4	28.5
No. Vehicles > 30 MPH Limit	35	47	40	36	37	36	44	40	39
% Vehicles > 30 MPH Limit	9.9	11.8	12.3	11.8	9.8	9.3	11.9	10.5	11.0
No. Vehicles > 45 MPH	0	0	0	0	0	0	0	0	0
% Vehicles > 45 MPH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Channels 1+2 - Eastbound & Westbound

	03/12/2020 Thursday	04/12/2020 Friday	05/12/2020 Saturday	06/12/2020 Sunday	07/12/2020 Monday	08/12/2020 Tuesday	09/12/2020 Wednesday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	744	776	663	582	738	787	729	755	717
Mean Speed	24.1	24.5	24.4	25.0	23.8	23.8	24.4	24.1	24.3
85%ile Speed	28.3	28.3	28.4	28.6	28.4	28.4	28.5	28.4	28.4
No. Vehicles > 30 MPH Limit	63	80	58	66	60	68	68	68	66
% Vehicles > 30 MPH Limit	8.5	10.3	8.7	11.3	8.1	8.6	9.3	9.0	9.3
No. Vehicles > 45 MPH	0	0	0	0	0	0	0	0	0
% Vehicles > 45 MPH	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Class No	Vehicle Description	Class No	Vehicle Description
1	Car, Light Van Taxi 	5	Rigid 2 Axle HGV + 2 Axle (Close coupled) Trailer 
1	Light Goods Vehicle 	6	Rigid 3 Axle HGV + 2 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 1 Axle Caravan or Trailer 	6	Rigid 3 Axle HGV + 3 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 2 Axle Caravan or Trailer 	7	Artic, 2 Axle Tractor + 1 Axle Semi-Trailer 
2	Rigid 2 Axle Heavy Goods Vehicle 	8	Artic, 2 Axle Tractor + 2 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	9	Artic, 2 Axle Tractor + 3 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 1 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 2 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	11	Artic, 3 Axle Tractor + 3 Axle Semi-Trailer 
5	Rigid 2 Axle HGV + 2 Axle Drawbar Trailer 	12	Bus or Coach, 2 Axle 
5	Rigid 2 Axle HGV + 3 Axle Drawbar Trailer 	12	Bus or Coach, 3 Axle 
5	Rigid 2 Axle HGV + 1 Axle Caravan or Trailer 	13	Vehicle with 7 or more Axles 

Sled Gates, Whitby ATC 2, Sled Gates (West)

Produced by Streetwise Services Ltd.



Channel 1 - Eastbound

























	03/12/2020 Thursday	04/12/2020 Friday	05/12/2020 Saturday	06/12/2020 Sunday	07/12/2020 Monday	08/12/2020 Tuesday	09/12/2020 Wednesday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	333	368	312	299	339	364	344	350	337
Mean Speed	31.4	31.7	31.2	31.2	31.6	30.6	31.2	31.3	31.3
85%ile Speed	38.6	38.8	38.9	38.3	38.1	38.3	38.5	38.5	38.5
No. Vehicles > 30 MPH Limit	187	207	173	170	201	184	188	193	187
% Vehicles > 30 MPH Limit	56.2	56.3	55.4	56.9	59.3	50.5	54.7	55.4	55.6
No. Vehicles > 45 MPH	6	5	5	2	4	5	5	5	5
% Vehicles > 45 MPH	1.8	1.4	1.6	0.7	1.2	1.4	1.5	1.4	1.3

Channel 2 - Westbound

	03/12/2020 Thursday	04/12/2020 Friday	05/12/2020 Saturday	06/12/2020 Sunday	07/12/2020 Monday	08/12/2020 Tuesday	09/12/2020 Wednesday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	363	345	321	268	322	368	327	345	331
Mean Speed	29.3	28.5	28.0	28.7	28.4	28.1	28.7	28.6	28.5
85%ile Speed	33.5	33.7	33.1	33.4	33.3	33.3	33.9	33.5	33.5
No. Vehicles > 30 MPH Limit	135	116	92	88	104	99	105	112	106
% Vehicles > 30 MPH Limit	37.2	33.6	28.7	32.8	32.3	26.9	32.1	32.4	31.9
No. Vehicles > 45 MPH	1	0	1	2	0	0	1	0	1
% Vehicles > 45 MPH	0.3	0.0	0.3	0.7	0.0	0.0	0.3	0.1	0.2

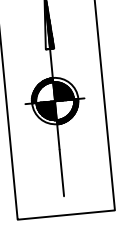
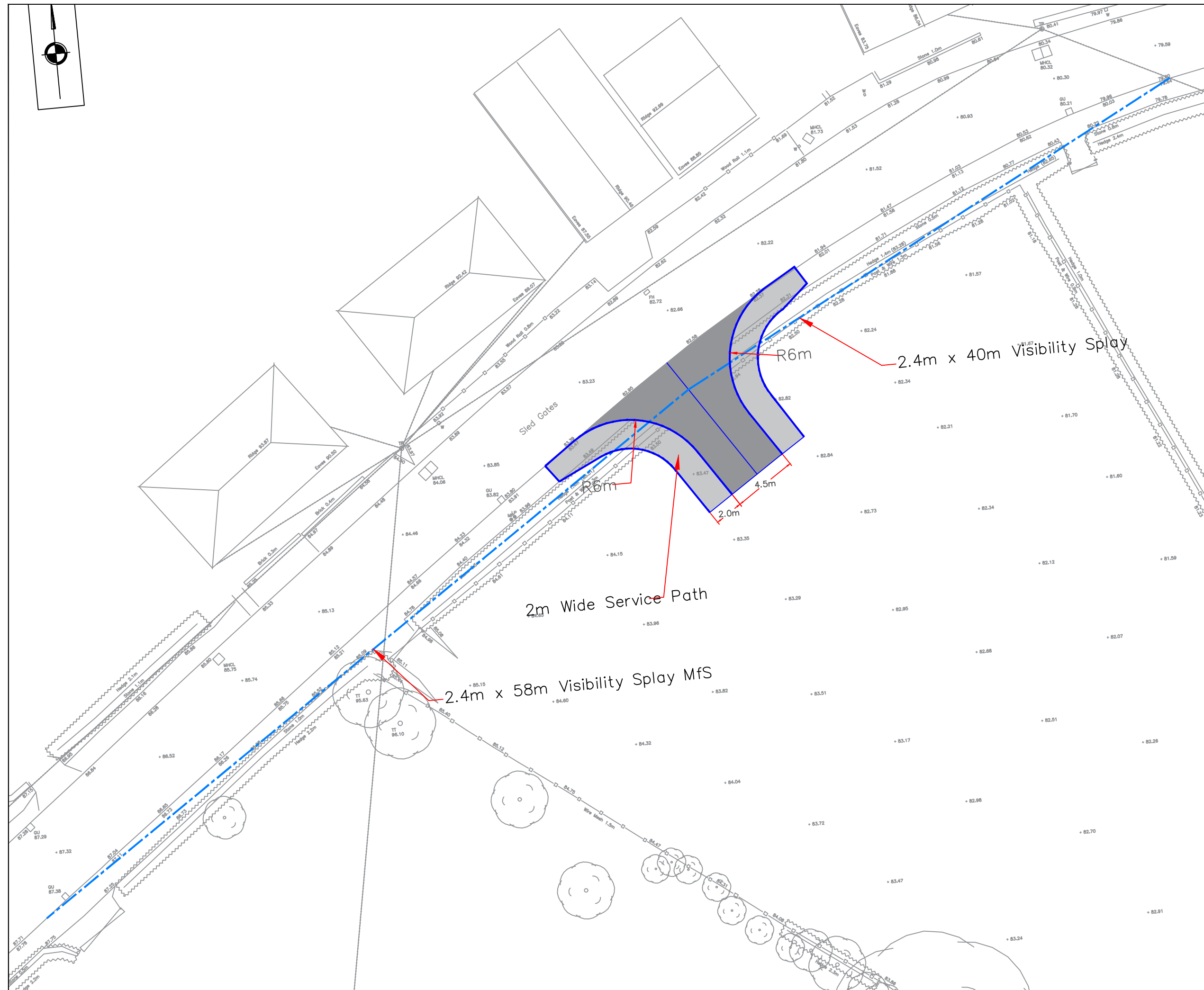
Channels 1+2 - Eastbound & Westbound

	03/12/2020 Thursday	04/12/2020 Friday	05/12/2020 Saturday	06/12/2020 Sunday	07/12/2020 Monday	08/12/2020 Tuesday	09/12/2020 Wednesday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	696	713	633	567	661	732	671	695	668
Mean Speed	30.4	30.1	29.6	30.0	30.0	29.4	30.0	30.0	29.9
85%ile Speed	36.0	36.3	36.0	35.9	35.7	35.8	36.2	36.0	36.0
No. Vehicles > 30 MPH Limit	322	323	265	258	305	283	293	305	293
% Vehicles > 30 MPH Limit	46.3	45.3	41.9	45.5	46.1	38.7	43.7	44.0	43.9
No. Vehicles > 45 MPH	7	5	6	4	4	5	6	5	5
% Vehicles > 45 MPH	1.0	0.7	0.9	0.7	0.6	0.7	0.9	0.8	0.8

Class No	Vehicle Description	Class No	Vehicle Description
1	Car, Light Van Taxi 	5	Rigid 2 Axle HGV + 2 Axle (Close coupled) Trailer 
1	Light Goods Vehicle 	6	Rigid 3 Axle HGV + 2 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 1 Axle Caravan or Trailer 	6	Rigid 3 Axle HGV + 3 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 2 Axle Caravan or Trailer 	7	Artic, 2 Axle Tractor + 1 Axle Semi-Trailer 
2	Rigid 2 Axle Heavy Goods Vehicle 	8	Artic, 2 Axle Tractor + 2 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	9	Artic, 2 Axle Tractor + 3 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 1 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 2 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	11	Artic, 3 Axle Tractor + 3 Axle Semi-Trailer 
5	Rigid 2 Axle HGV + 2 Axle Drawbar Trailer 	12	Bus or Coach, 2 Axle 
5	Rigid 2 Axle HGV + 3 Axle Drawbar Trailer 	12	Bus or Coach, 3 Axle 
5	Rigid 2 Axle HGV + 1 Axle Caravan or Trailer 	13	Vehicle with 7 or more Axles 



Appendix C – Site Access Design and Visibility Splays



NOTES

- CARRIAGEWAY
- FOOTWAY
- KERB

REVISIONS

REV	DESCRIPTION	DATE	BY
-	-	-	-



Project:
**SLED GATES
WHITBY**

Client:
BRITOLGY

Drawing:
**PROPOSED ACCESS &
VISIBILITY SPLAYS**

Drawn By: **MHT** Date: **10/05/2021**

Checked: **ATM** Scale: **1:250 @ A3**

Drawing No. **AMA/20940/SK001** Rev. **-**

Appendix C

Highways Technical Note 1 – 23rd July 2021

Highways Technical Note – Response to Highways Comments from North Yorkshire County Council

Outline application for up to 5 no. Dwellings – Land West of Highfield, Sled Gates, Flyingthorpe

Planning Application Reference (North Yorkshire County Council) – NYM21/0351/OU

23rd July 2021

Introduction

This Highways Technical Note has been prepared by Andrew Moseley Associates in response to comments received from North Yorkshire County Council (NYCC) Highways in relation to the Highways Supporting Statement (HSS) submitted for a proposed residential development comprising five residential dwellings on land to the west of Highfield, Sled Gates, Flyingthorpe.

The NYCC planning reference is NYM21/0351/OU.

NYCC Officer Comments and Applicant's Responses

For ease of reference, this Note provides responses to each of the highways officers comments in the same order as the NYCC Highways Consultation Response, a copy is attached in **Appendix A**.

NYCC Comment 1

The details refer to the fact that two surveys were carried out but the locations have not been mentioned. Can these locations be confirmed and ideally shown how close they are to the 57 metres south west of the proposed junction and 40 metres north east.

AMA Response 1

Both ATCs were located along Sled Gates at the extremities of the proposed visibility splays. Details of the locations for both the eastern and western ATC points are provided in *Figure 1*.



Figure 1 - Eastern ATC Street View Location:

NYCC Comment 2

The surveys were done in Dec 2020. December is not a typical neutral traffic month as specified by the Department of transport Design Manual for Roads and Bridges CA18. Can the applicant provide any information as to why this timing should be considered appropriate.

AMA Response 2

Comments are noted. Although December is not considered by DMRB to be a typical neutral month for traffic, it is considered that the speeds observed along Sled Gates would not be affected and remain constant throughout the year as the road environment is that of a residential area.

Any seasonal variance such as the summer holiday period would result in higher traffic volumes and would be much more likely to lead to reduced speeds approaching the site access as there would be more vehicles on the road, thus suggesting the surveys undertaken are fit for purpose.

NYCC Comment 3

For the vision splays to be achievable, it is relying on neither of the two neighbouring plots to have any hedges or vegetation growing over the highway boundary. Traditionally, the local Highway Authority would only write to the owners of the properties with any over hanging vegetation concerns following a routine inspection or an inspection following a complaint.

AMA Response 3

As detailed within the AMA Proposed Access & Visibility Splays drawing number: 20940/SK004 already submitted to the LPA / LHA, both the eastern and western visibility splays from the proposed site access are drawn within the applicants land ownership or within the highway boundary.

The topographical survey this is plotted upon fully details existing hedgerows and boundary locations, which the splays avoid in their entirety. The splays are not encroached upon by vegetation or boundaries and as such is not considered to be an issue.

As per NYCC policy, given the site is for less than six dwellings and is a private drive a 2m setback is NYCC policy compliant. This is reflected in an updated visibility splays plan, SK-005, in **Appendix B** of this document. Further detail is provided in later AMA comments.

NYCC Comment 4

On the clear understanding that the work needed to make the alterations as shown on the plan will require removing the current hedgerow and wall at the back of the existing footway.

AMA Response 4

Comments are noted, the hedgerow would be located to the rear of the proposed splays to ensure these are maintained free of obstruction. This would be delivered at the developers expense.

NYCC Comment 5

The figure of 36mph is taking into account a reduction of 2.5mph for wet weather reduction but the survey was carried out over 7 days, therefore this reduction should not apply.

AMA Response 5

All survey days were undertaken in dry weather, therefore it is appropriate to apply this wet weather speed reduction, which the proposed visibility splays achieve.

In addition and when considering the proposed splays, NYCCs design guide recognises the use of Manual for Streets (MfS) standards for visibility splay based on the following criterion, which this site meets as a 30mph speed limit:

‘All highways **within** the built up / urban area, which may include 20, 30 or 40 mph zones are to be classified as "streets" and the visibility requirements set out in MfS are to be applied **unless** the 85%ile speed is found to be greater than 37 mph / 60 kph.’

As the speeds surveys detail that the 85th percentile speeds fall below 37mph, the visibility splays of the site access meet the NYCC Highways standard. In addition these would not result in any severe impact upon highway capacity or road safety and as such are acceptable in highways terms.

NYCC Comment 6

No consideration to the incline of the road appears to have been taken into consideration. Have the gradients at the points surveyed being measured.

AMA Response 6

At worst, the incline of the road over the full length of the visibility splay is 1:10, therefore for robustness we have considered it at this gradient to calculate any adjustment to the resulting splay.

On the basis that the 36mph is the adjusted wet weather speed, the following calculation has been applied based on MfS.

SSD	=	$vt + v^2/2(d + 0.1a)$				
V	=	speeds (metres per second)				
t	=	driver perception reaction time (seconds)				
d	=	deceleration (metres per second squared)				
a	=	longitudinal gradient (%)				
85th Percentile Wet						
Weather Speed (mph)						
		v	v	t	d	a
		(km)	(m/s)	(s)	(m/s²)	(+/- %)
		36.00	57.94	1.5	4.41	-10
<u>Stopping Sight Distance</u>						
vt	=	24.14				
v ²	=	258.89				
d + 0.1a	=	3.41				
2(d + 0.1a)	=	6.82				
SSD (metres)	=	62.0				
SSD (metres) + 2.4m	=	64.4				

We have appended an updated visibility splays plan (SK-005) to this note based on a 64.4m SSD for the western visibility splay. This splay is offset from the nearside kerb by 240mm into the carriageway.

It is generally accepted that this is acceptable to a maximum of 600m from the nearside kerb as this would be the width of a cyclist, which is a minimum 'vehicle' width.

It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

On this basis the splays are considered to be highly robust and in line with MfS standards which NYCC consider to be appropriate for implementation based on their own policy documentation.

NYCC Comment 7

As the road is a bus route, an allowance for a safe stopping distance of these vehicles should be applied.

AMA Response 7

As set out in MfS2, Paragraph 10.1.12, buses travel at 90% of the average speed for all vehicles on a 30mph road.

As detailed in the submitted Highways Supporting Statement, the average speed in this instance was 31.3mph and buses travelling at 90% would be 28.2mph. As such the SSD calculations provided in Comment 6 and shown on the updated SK-005 appended are more than sufficient to cater for bus stopping distances and are considered acceptable.

Conclusion

This Highways Technical Note provides responses and clarifications upon the comments received along with additional information where appropriate for the LHAs consideration.

In conclusion, the information provided within this Note demonstrates that the proposed development is acceptable in highways terms.



Appended Documents

Appendix A – NYCC Highways Consultation Response

Appendix B – Site Access & Visibility Splays Plan – SK-005

Appendix A – NYCC Highways Consultation Response

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION-
ADDITIONAL/AMENDED INFORMATION**

Application No:	NYM21/0351/OU
Proposed Development:	Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Location:	Land west of Highfield, Sled Gates, Fylingthorpe
Applicant:	SIW Properties

CH Ref:		Case Officer:	Ged Lyth
Area Ref:	4/29/709	Tel:	01609 780 780
County Road No:		E-mail:	Area3.Whitby@northyorks.gov.uk

To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	24 June 2021
FAO:	Hilary Saunders	Copies to:	

Note to the Planning Officer:

The Local Highway Authority (LHA) has received further information since the issue of the recommendation dated 15/6/21. At this moment, the LHA is not changing that recommendation of refusal without further clarification on a number of issues.

The principal highways concern regarding this application is whether visibility splays can be achieved in both directions for the proposed access. The applicant has produced a revised drawing, nr. AMA/20940/SK004 dated 7/6/21 stating that splays of 2.0 x 58 metres to the west and 2.0 x 40 metres to the east are the maximum splays that can be achieved.

It is worth mentioning that previous applications for similar developments at this location have been submitted, refused and appeals lost with the vision splay requirements being one of the key reasons. In 2007 an appeal was lost with reason numbers 5, 8, 9 and 11 referring to different requirements for the different approach speeds from the two different directions. However, Reason number 11 mentions that the appellant has not provided any alternative speed survey data to provide evidence of what figures would be appropriate. The data provided for this application includes the results of a speed survey carried out in Dec 2020 producing 85th percentile speeds of 36 mph for traffic travelling downhill / north east bound and 28.3 mph for uphill traffic, south west bound. these speeds correspond to distances of 57 metres and 40 metres respectively. As these minimum requirement figures and maximum achievable figures are virtually the same (one metre difference for one direction) the Local Highway authority has a number of concerns about these figures that should be addressed:

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

Application No:

NYM21/0351/OU

- The details refer to the fact that two surveys were carried out but the locations have not been mentioned. Can these locations be confirmed and ideally shown how close they are to the 57 metres south west of the proposed junction and 40 metres north east.
- The surveys were done in Dec 2020. December is not a typical neutral traffic month as specified by the Department of transport Design Manual for Roads and Bridges CA18. Can the applicant provide any information as to why this timing should be considered appropriate.
- For the vision splays to be achievable, it is relying on neither of the two neighbouring plots to have any hedges or vegetation growing over the highway boundary. Traditionally, the local Highway Authority would only write to the owners of the properties with any over hanging vegetation concerns following a routine inspection or an inspection following a complaint.
- On the clear understanding that the work needed to make the alterations as shown on the plan will require removing the current hedgerow and wall at the back of the existing footway.
- The figure of 36mph is taking into account a reduction of 2.5mph for wet weather reduction but the survey was carried out over 7 days, therefore this reduction should not apply.
- No consideration to the incline of the road appears to have been taken into consideration. Have the gradients at the points surveyed being measured.
- As the road is a bus route, an allowance for a safe stopping distance of these vehicles should be applied.

Can the applicant respond to these points and where appropriate, amend any details to the visibility splays required and what is achievable?

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

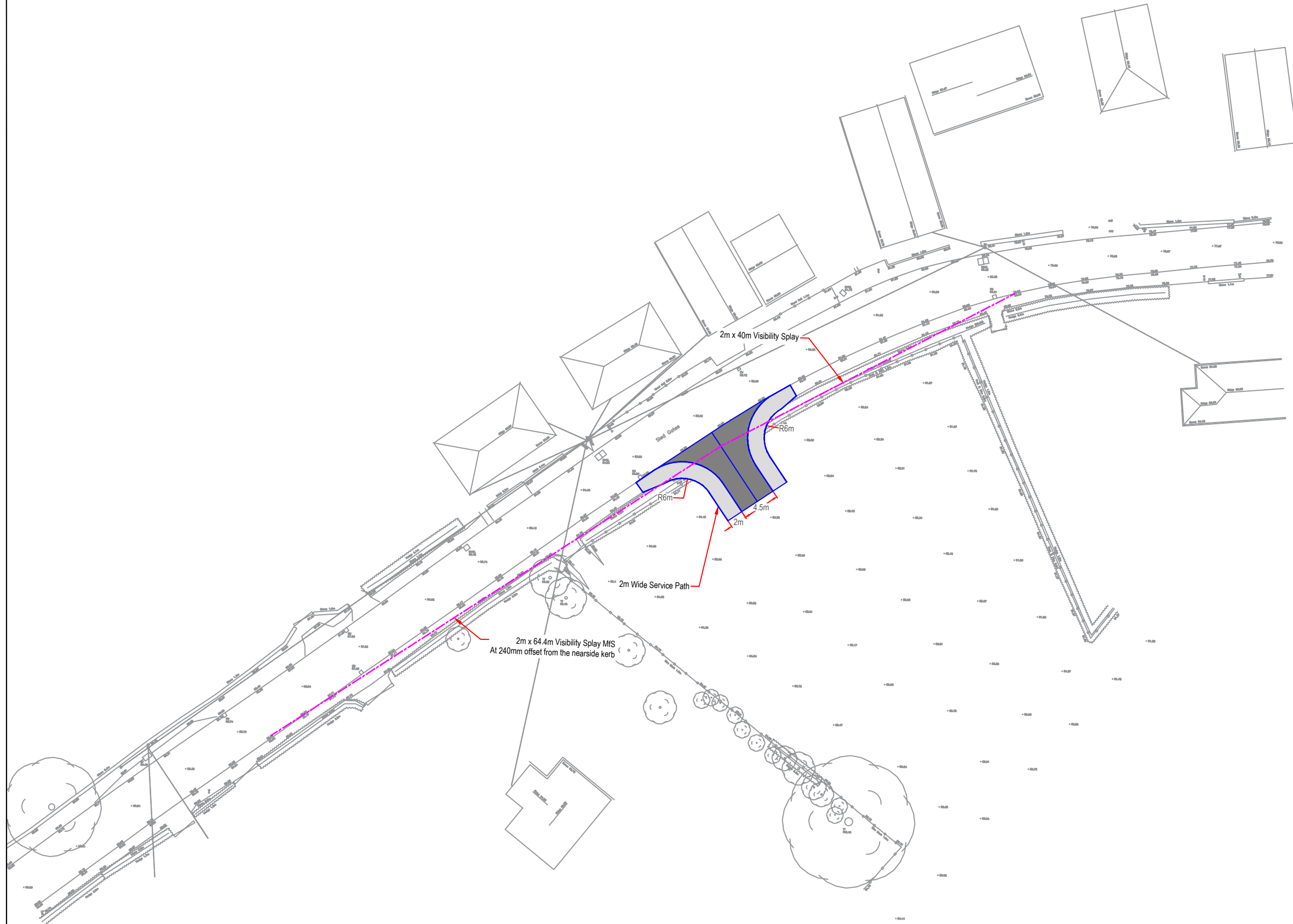
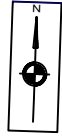
Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail: Area3.Whitby@northyorks.gov.uk



Appendix B – Site Access & Visibility Splays Plan – SK-005



NOTES

- CARRIAGEWAY
- FOOTWAY
- KERB

REVISIONS

REV	DESCRIPTION	DATE	BY
-	-	-	-



Project:
**SLED GATES
WHITBY**

Client:
BRITOLGY

Drawing:
**PROPOSED ACCESS &
VISIBILITY SPLAYS**

Drawn By: **AJA** Date: **23/07/2021**

Checked: **ATM** Scale: **1:500 @ A3**

Drawing No. **AMA/20940/SK005** Rev. **-**

Appendix D

Highways Technical Note 2 – 9th November 2021

Highways Technical Note – Response to Highways Comments from North Yorkshire County Council

Outline application for up to 5 no. Dwellings – Land West of Highfield, Sled Gates, Flyingthorpe

Planning Application Reference (North Yorkshire County Council) – NYM21/0351/OU

9th November 2021

Introduction

This Highways Technical Note has been prepared by Andrew Moseley Associates in response to comments received from North Yorkshire County Council (NYCC) Highways on 4th August 2021 relating to a proposed residential development comprising five residential dwellings on land to the west of Highfield, Sled Gates, Flyingthorpe.

The NYCC planning reference is NYM21/0351/OU.

NYCC Officer Comments and Applicant's Responses

All aspects of the NYCC Highways Officers comments relate to the data collected by Automatic Traffic Counters (ATCs) in relation to speed, volume and calculation of visibility splays.

For ease of reference, this Note provides responses to each of the highways officers observations where further details are required / queries are raised.

A copy of the NYCC Highways Consultation Response is attached in **Appendix A**.

Updated Automatic Traffic Count Surveys

The NYCC Highways Officer's comments query the validity of the ATC surveys used in the previous submission in regard to survey locations, timing of surveys and validity of the data.

On this basis, two new ATC surveys have been obtained at the extent of the visibility splays, specifically in the locations stated by the NYCC Highways officer as being appropriate to NYCC. To the north, this is the NYCC suggested lighting column and to the south the NYCC suggested telegraph pole.

Surveys in both were installed on the 1st October to the 7th October 2021 to provide 7-days worth of data for robustness.

During the course of the data collection, the southern ATC was damaged and upon collection was re-installed to ensure validity and robustness of data. Therefore survey data for the southern ATC has been collected between the 12th and 18th of October 2021.

This is considered to be a neutral month for data collection and as such the updated surveys are considered to be acceptable to NYCC Highways as per points 1 and 2 of the Officers Comments.

Count / Speed Data

The raw count details are provided in **Appendix B**.

ATC1 is the northern eastern ATC approaching the site access from the north and details that the 85th percentile speeds approaching the site are 32.7mph.

ATC2 is the south western ATC approaching the site access from the south and details that the 85th percentile speeds approaching the site are 38.4mph.

Visibility Splay Calculations

Manual for Streets (MfS) 2 calculations have been applied to the speed surveys taking account of gradient calculations for each approach.

Gradients southbound from the northern ATC (uphill) are 1:10.5 (9.524%) and northbound from the southern ATC (downhill) are 1:13.756 (7.27%).

Calculations are provided below for each splay.

Northern Splay (To North of Site Access)

SSD	=	$vt + v^2/2(d + 0.1a)$																					
V	=	speeds (metres per second)																					
t	=	driver perception reaction time (seconds)																					
d	=	deceleration (metres per second squared)																					
a	=	longitudinal gradient (%) - Plus for upgrades and minus for downgrades																					
<table border="1"> <thead> <tr> <th>85th Percentile Wet</th> <th>v</th> <th>v</th> <th>t</th> <th>d</th> <th>a</th> </tr> <tr> <th>Weather Speed (mph)</th> <th>(km)</th> <th>(m/s)</th> <th>(s)</th> <th>(m/s²)</th> <th>(+/- %)</th> </tr> </thead> <tbody> <tr> <td>32.70</td> <td>52.63</td> <td>14.62</td> <td>1.5</td> <td>3.68</td> <td>9.524</td> </tr> </tbody> </table>						85th Percentile Wet	v	v	t	d	a	Weather Speed (mph)	(km)	(m/s)	(s)	(m/s ²)	(+/- %)	32.70	52.63	14.62	1.5	3.68	9.524
85th Percentile Wet	v	v	t	d	a																		
Weather Speed (mph)	(km)	(m/s)	(s)	(m/s ²)	(+/- %)																		
32.70	52.63	14.62	1.5	3.68	9.524																		
<u>Stopping Sight Distance</u>																							
vt	=	21.93																					
v ²	=	213.74																					
d + 0.1a	=	4.63																					
2(d + 0.1a)	=	9.26																					
SSD (metres)	=	45.0																					
SSD (metres) + 2.4m	=	47.4																					

As detailed above, the northern site access visibility splay requirement is 47.4m.

Southern Splay (To South of Site Access)

SSD	=	$vt + v^2/2(d + 0.1a)$				
V	=	speeds (metres per second)				
t	=	driver perception reaction time (seconds)				
d	=	deceleration (metres per second squared)				
a	=	longitudinal gradient (%) - Plus for upgrades and minus for downgrades				
85th Percentile Wet						
		v	v	t	d	a
	Weather Speed (mph)	(km)	(m/s)	(s)	(m/s²)	(+/- %)
	38.40	61.8	17.17	1.5	4.41	-7.27
<u>Stopping Sight Distance</u>						
vt	=	25.76				
v ²	=	294.81				
d + 0.1a	=	3.68				
2(d + 0.1a)	=	7.36				
SSD (metres)	=	65.8				
SSD (metres) + 2.4m	=	68.21571				

As detailed above, the visibility splay requirement is 68.2m.

Site Access Layout Revisions

Based on the revised speed survey data, a revised site access design is provided in **Appendix C**.

As per NYCC policy, given the site is for less than six dwellings and is a private drive, a 2m setback is considered to be NYCC policy compliant.

The northern splay meets the nearside kerb at the required distance of 47.4m.

The southern splay at 68.2m is offset from the nearside kerb by 0.9m. It should be noted that this splay is not into oncoming vehicular traffic and is the offside lane, therefore vehicles would be highly unlikely to be oncoming towards the junction and on rare occasions overtaking vehicles, which is not considered likely given the residential 30mph area.

On this basis the splays are considered to be robust and in line with MfS standards which NYCC consider to be appropriate for implementation based on their own policy documentation.

Conclusion

This Highways Technical Note provides responses and clarifications upon the comments received along with additional information where appropriate for the LHAs consideration.

In conclusion, the information provided within this Note demonstrates that the proposed development is acceptable in highways terms.



Appended Documents

Appendix A – NYCC Highways Consultation Response

Appendix B – Raw Count Data

Appendix C - Site Access & Visibility Splays Plan – SK-006

Appendix A – NYCC Highways Consultation Response

**NORTH YORKSHIRE COUNTY COUNCIL
BUSINESS and ENVIRONMENTAL SERVICES**



**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION-
ADDITIONAL/AMENDED INFORMATION**

Application No:	NYM21/0351/OU
Proposed Development:	Application for outline application for construction of up to 5 no. dwellings with associated access (matters reserved: appearance, landscaping, layout and scale)
Location:	Land west of Highfield, Sled Gates, Fylingthorpe
Applicant:	SIW Properties

CH Ref:		Case Officer:	Ged Lyth
Area Ref:	4/29/709	Tel:	01609 780 780
County Road No:		E-mail:	Area3.Whitby@northyorks.gov.uk

To:	North York Moors National Park Authority The Old Vicarage Bondgate Helmsley YO62 5BP	Date:	4 August 2021
FAO:	Hilary Saunders	Copies to:	

Note to the Planning Officer:

The Local Highway Authority (LHA) has received further information since the issue of the recommendation dated 24/6/21 where the agent has responded to the issues and concerns raised by the LHA. The LHA is not satisfied that this latest response sufficiently addresses the LHA concerns to change the recommendation of refusal.

1. Survey Locations.

The LHA confirm that the locations shown are appropriate locations for the surveys. However, the LHA has received new queries about the locations. These are mentioned further below.

2. Survey timings.

The LHA cannot agree with all of the consultants reasoning. Whilst it is agreed that some of the data for a summer holiday period is likely to have reduced speeds compared with the December survey during the daytime, other factors such as the longer daylight hours are likely to have the opposite effect.

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

Application No:

NYM21/0351/OU

3. Vision Splays.

Whilst this is a concern for future residents of the proposals, it is not reasonable to object to the developers plans on the grounds that hedges belonging to neighbouring plots are not maintained sufficiently.

4. Work required to achieve the vision splay.

Agreed, no further comment required.

Comments 5, 6 and 7 all relate to the calculations in the speed survey.

The LHA does not agree with all of the consultants reasoning. The LHA are not aware of any part of the Design Manual for roads and Bridges document, Document CA185 Vehicle Speed Management where it permits a reduction of 2.5mph for wet weather. Although it does include an increase for when the road surface is wet. The LHA do not accept the comment "it is generally accepted that this is acceptable to a maximum of 600mm from the nearside kerb" as the LHA are not aware of such allowance in the CA185 document.

Regarding the comments received about the traffic surveys not taking place at the times or locations shown, the following observations have been made.

As stated in 1 above, the locations shown by the consultant would be in appropriate locations. However, the LHA would expect that such survey points are positioned next to fixed objects such as a lighting column or telephone pole. On the downhill side, a lighting column is located approximately 10 metres further downhill away from the locations shown. Similarly, on the uphill side, a telephone pole is located approximately 15 metres further uphill of the suggested locations. If these are the actual locations, the LHA is willing to accept these as appropriate locations.

The LHA can confirm that a notification for a traffic survey on Sled gates for those dates was received.

Does the applicant have any further information to help substantiate where and when these surveys took place?

Finally, it has been brought to the attention of the LHA that there are anomalies in the data of the survey. Taking the generous distance between the lighting column and the telephone pole this measures 150 metres, includes 11 dwellings and no junctions.

Therefore, it would be expected that the two eastbound volumes of traffic and the two westbound volumes of traffic would be very similar. However, this does not appear to be the case. Can the agent provide any reasonable reason for this occurring?

For Westbound / uphill traffic

	3/12/20	4/12/20	5/12/20	6/12/20	7/12/20	8/12/20	9/12/20
	Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
upper west site	363	345	321	268	322	368	327
lower east site	355	398	325	306	378	389	370

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

Application No:

NYM21/0351/OU

difference -8 +53 +4 +38 +56 +21 +43

traffic
entering
zone
shown as
positive.

For Eastbound traffic / downhill

	3/12/20	4/12/20	5/12/20	6/12/20	7/12/20	8/12/20	9/12/20
	Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
upper west site	333	368	312	299	339	364	344
lower east site	389	378	338	276	360	398	359
difference	-56	-10	-26	+23	-21	-34	-15

traffic
entering
zone
shown as
positive.

Whilst small discrepancies would be expected, these numbers are surprising unexpected.

Taking a cumulative increase or decrease on the number of vehicles located between the survey points over the 7 days, this produces these figures based on whatever the base number was from when the survey starts.

	3/12/20	4/12/20	5/12/20	6/12/20	7/12/20	8/12/20	9/12/20
	Thursday	Friday	Saturday	Sunday	Monday	Tuesday	Wednesday
cumulative number of vehicles compared with starting figure	-64	-21	-43	+18	+53	+40	+68

**LOCAL HIGHWAY AUTHORITY
CONSIDERATIONS and RECOMMENDATION**



Continuation sheet:

Application No:

NYM21/0351/OU

This suggests that the number of vehicles located between the two survey locations between the dates of Thursday 3/12/20 and Wednesday 9/12/20 fluctuated by 132 vehicles.

Unless the agent can provide a valid reason why the amount of vehicles located within a 150 metre length, would vary by such an amount, the LHA would contest the validity of the information supplied.

Signed:

Ged Lyth

For Corporate Director for Business and Environmental Services

Issued by:

Whitby Highways Office
Discovery Way
Whitby
North Yorkshire
YO22 4PZ

e-mail: Area3.Whitby@northyorks.gov.uk

Appendix B – Raw Count Data

Whitby ATC 01, (North) Sled Gates

Produced by Streetwise Services Ltd.



Channel 1 - Northbound































	01/10/2021 Friday	02/10/2021 Saturday	03/10/2021 Sunday	04/10/2021 Monday	05/10/2021 Tuesday	06/10/2021 Wednesday	07/10/2021 Thursday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	739	589	622	660	521	624	710	651	638
Mean Speed	24.9	24.6	25.2	25.2	24.7	24.3	24.7	24.8	24.8
85%ile Speed	28.6	28.1	28.2	28.5	28.4	28.4	28.7	28.5	28.4
No. Vehicles > 30 MPH Limit	74	54	62	81	47	41	63	61	60
% Vehicles > 30 MPH Limit	10.0	9.2	10.0	12.3	9.0	6.6	8.9	9.4	9.4
No. Vehicles > 45 MPH	2	1	1	0	1	0	0	1	1
% Vehicles > 45 MPH	0.3	0.2	0.2	0.0	0.2	0.0	0.0	0.1	0.1

Channel 2 - Southbound

	01/10/2021 Friday	02/10/2021 Saturday	03/10/2021 Sunday	04/10/2021 Monday	05/10/2021 Tuesday	06/10/2021 Wednesday	07/10/2021 Thursday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	658	557	649	628	557	625	674	628	621
Mean Speed	25.7	25.8	25.5	25.9	25.4	24.9	25.7	25.5	25.6
85%ile Speed	33.9	33.2	33.2	33.8	33.1	28.2	33.5	32.5	32.7
No. Vehicles > 30 MPH Limit	94	81	90	108	77	68	95	88	88
% Vehicles > 30 MPH Limit	14.3	14.5	13.9	17.2	13.8	10.9	14.1	14.1	14.1
No. Vehicles > 45 MPH	4	1	3	0	2	0	1	1	2
% Vehicles > 45 MPH	0.6	0.2	0.5	0.0	0.4	0.0	0.1	0.2	0.3

Channels 1+2 - Northbound & Southbound

	01/10/2021 Friday	02/10/2021 Saturday	03/10/2021 Sunday	04/10/2021 Monday	05/10/2021 Tuesday	06/10/2021 Wednesday	07/10/2021 Thursday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	1397	1146	1271	1288	1078	1249	1384	1279	1259
Mean Speed	25.3	25.2	25.4	25.6	25.1	24.6	25.2	25.1	25.2
85%ile Speed	31.3	30.7	30.7	31.1	30.7	28.3	31.1	30.5	30.6
No. Vehicles > 30 MPH Limit	168	135	152	189	124	109	158	150	148
% Vehicles > 30 MPH Limit	12.0	11.8	12.0	14.7	11.5	8.7	11.4	11.7	11.7
No. Vehicles > 45 MPH	6	2	4	0	3	0	1	2	2
% Vehicles > 45 MPH	0.4	0.2	0.3	0.0	0.3	0.0	0.1	0.2	0.2

Class No	Vehicle Description	Class No	Vehicle Description
1	Car, Light Van Taxi  	5	Rigid 2 Axle HGV + 2 Axle (Close coupled) Trailer 
1	Light Goods Vehicle 	6	Rigid 3 Axle HGV + 2 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 1 Axle Caravan or Trailer  	6	Rigid 3 Axle HGV + 3 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 2 Axle Caravan or Trailer  	7	Artic, 2 Axle Tractor + 1 Axle Semi-Trailer 
2	Rigid 2 Axle Heavy Goods Vehicle 	8	Artic, 2 Axle Tractor + 2 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	9	Artic, 2 Axle Tractor + 3 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 1 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 2 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	11	Artic, 3 Axle Tractor + 3 Axle Semi-Trailer 
5	Rigid 2 Axle HGV + 2 Axle Drawbar Trailer  	12	Bus or Coach, 2 Axle 
5	Rigid 2 Axle HGV + 3 Axle Drawbar Trailer  	12	Bus or Coach, 3 Axle 
5	Rigid 2 Axle HGV + 1 Axle Caravan or Trailer  	13	Vehicle with 7 or more Axles 

Whitby ATC 02, (South) Sled Gates

Produced by Streetwise Services Ltd.



Channel 1 - Northbound

























	12/10/2021 Tuesday	13/10/2021 Wednesday	14/10/2021 Thursday	15/10/2021 Friday	16/10/2021 Saturday	17/10/2021 Sunday	18/10/2021 Monday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	595	649	629	634	579	656	601	622	620
Mean Speed	30.5	30.3	30.2	29.6	30.1	30.2	30.2	30.2	30.2
85%ile Speed	38.5	38.6	38.5	38.1	38.2	38.5	38.3	38.4	38.4
No. Vehicles > 30 MPH Limit	274	303	301	258	258	281	261	279	277
% Vehicles > 30 MPH Limit	46.1	46.7	47.9	40.7	44.6	42.8	43.4	44.9	44.6
No. Vehicles > 45 MPH	10	14	15	11	6	9	12	12	11
% Vehicles > 45 MPH	1.7	2.2	2.4	1.7	1.0	1.4	2.0	2.0	1.8

Channel 2 - Southbound

	12/10/2021 Tuesday	13/10/2021 Wednesday	14/10/2021 Thursday	15/10/2021 Friday	16/10/2021 Saturday	17/10/2021 Sunday	18/10/2021 Monday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	626	707	649	685	667	599	624	658	651
Mean Speed	26.6	26.7	26.5	27.5	26.8	26.0	26.6	26.8	26.7
85%ile Speed	33.1	33.2	34.0	33.0	34.0	33.1	33.3	33.3	33.4
No. Vehicles > 30 MPH Limit	122	141	138	165	130	100	131	139	132
% Vehicles > 30 MPH Limit	19.5	19.9	21.3	24.1	19.5	16.7	21.0	21.2	20.3
No. Vehicles > 45 MPH	1	2	2	5	1	0	4	3	2
% Vehicles > 45 MPH	0.2	0.3	0.3	0.7	0.1	0.0	0.6	0.4	0.3

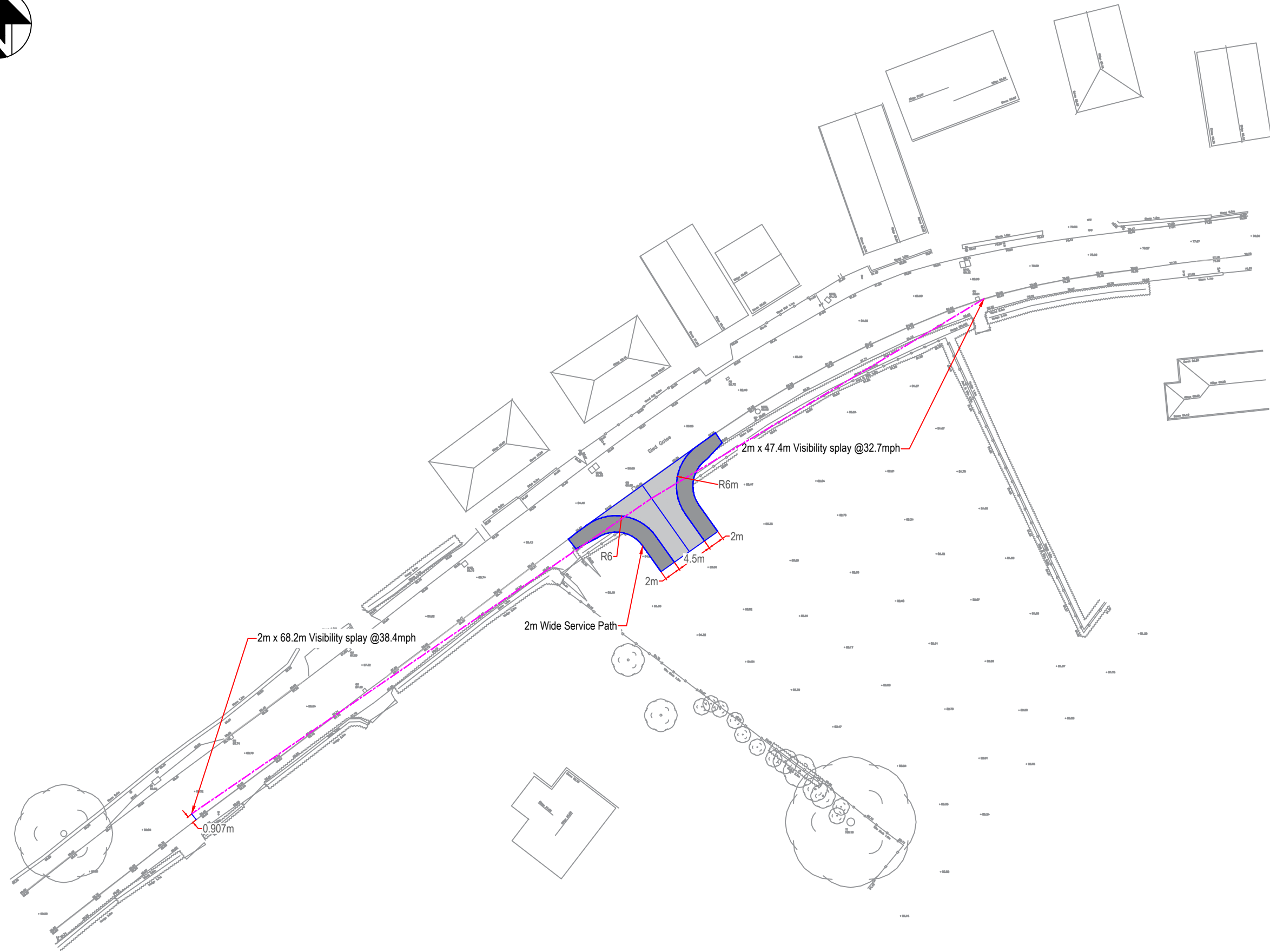
Channels 1+2 - Northbound & Southbound

	12/10/2021 Tuesday	13/10/2021 Wednesday	14/10/2021 Thursday	15/10/2021 Friday	16/10/2021 Saturday	17/10/2021 Sunday	18/10/2021 Monday	5-DAY MEAN	7-DAY MEAN
0000-2400 Vehicle Flow	1221	1356	1278	1319	1246	1255	1225	1280	1271
Mean Speed	28.6	28.5	28.4	28.6	28.5	28.1	28.4	28.5	28.4
85%ile Speed	35.8	35.9	36.3	35.5	36.1	35.8	35.8	35.9	35.9
No. Vehicles > 30 MPH Limit	396	444	439	423	388	381	392	419	409
% Vehicles > 30 MPH Limit	32.4	32.7	34.4	32.1	31.1	30.4	32.0	32.7	32.2
No. Vehicles > 45 MPH	11	16	17	16	7	9	16	15	13
% Vehicles > 45 MPH	0.9	1.2	1.3	1.2	0.6	0.7	1.3	1.2	1.0

Class No	Vehicle Description	Class No	Vehicle Description
1	Car, Light Van Taxi 	5	Rigid 2 Axle HGV + 2 Axle (Close coupled) Trailer 
1	Light Goods Vehicle 	6	Rigid 3 Axle HGV + 2 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 1 Axle Caravan or Trailer 	6	Rigid 3 Axle HGV + 3 Axle Drawbar Trailer 
1	Car or Light Goods Vehicle + 2 Axle Caravan or Trailer 	7	Artic, 2 Axle Tractor + 1 Axle Semi-Trailer 
2	Rigid 2 Axle Heavy Goods Vehicle 	8	Artic, 2 Axle Tractor + 2 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	9	Artic, 2 Axle Tractor + 3 Axle Semi-Trailer 
3	Rigid 3 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 1 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	10	Artic, 3 Axle Tractor + 2 Axle Semi-Trailer 
4	Rigid 4 Axle Heavy Goods Vehicle 	11	Artic, 3 Axle Tractor + 3 Axle Semi-Trailer 
5	Rigid 2 Axle HGV + 2 Axle Drawbar Trailer 	12	Bus or Coach, 2 Axle 
5	Rigid 2 Axle HGV + 3 Axle Drawbar Trailer 	12	Bus or Coach, 3 Axle 
5	Rigid 2 Axle HGV + 1 Axle Caravan or Trailer 	13	Vehicle with 7 or more Axles 



Appendix C – Site Access & Visibility Splays Plan – SK-006



NOTES

P1 Preliminary - Initial Issue



Project:
**SLED GATES
WHITBY**

Client:
BRITOLGY

Drawing:
**PROPOSED ACCESS &
VISIBILITY SPLAYS**

Drawn By: **AJA** Date: **09/11/2021**

Checked: **ATM** Scale: **1:500** **A3**

Drawing No. **AMA/20940/SK/006** Rev. **-**

Planning Ref: NYM/2021/0351/OU
Appeal Reference



SIW Properties

Lands West of Highfields, Sled Gates, Fylingthorpe

ECOLOGY & NATURE CONSERVATION APPEAL STATEMENT

by Dr Suzanne Mansfield BSc Hons, Ph.D., MCIEEM, CMLI

17 June 2022

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH
Company No. 07128076.

This report is the property of FPCR Environment and Design Ltd and is issued on the condition it is not reproduced, retained or disclosed to any unauthorised person, either wholly or in part without the written consent of FPCR Environment and Design Ltd.

Rev	Issue Status	Prepared / Date	Approved / Date
-	Draft	SMM / 14.06.22	-
Rev A	Final	SMM/ 17.06.22	SMM/17.06.22

CONTENTS

1.0	INTRODUCTION	3
2.0	ECOLOGICAL EVALUATION.....	6
3.0	EFFECTS OF APPEAL PROPOSALS	10
4.0	PLANNING POLICY CONTEXT, PLANNING CONSIDERATIONS & REASON FOR REFUSAL ON ECOLOGICAL GROUNDS	12
5.0	SUMMARY & CONCLUSIONS.....	15

APPENDIX 1: ECOLOGICAL APPRAISAL MARCH 2022

1.0 INTRODUCTION

Qualifications

- 1.1 My name is Dr Suzanne Mary Mansfield. I hold a Bachelor of Science with Honours Degree in Botany (specialising in Ecology and Ecophysiology) and a Ph.D. in Ecology & Toxicology. I am a Full Member of the Chartered Institute of Ecologists and Environmental Managers and a Chartered Member of the Landscape Institute (Landscape Science Division).
- 1.2 I am the Senior Ecology Director of FPCR Environment & Design Ltd and have over 30 years' experience as a professional ecologist, the majority of which has been spent in consultancy dealing with all aspects of ecology and nature conservation in support of planning applications for a wide range of projects including residential development. I have been involved in all aspects of project management from surveys, site selection, constraints analysis, mitigation to minimise environmental impacts, detailed design, and monitoring. I am responsible for a team of 89 ecologists and 9 Arboriculturalists over 4 offices with a diverse skills base covering all aspects of ecology and arboriculture.
- 1.3 We have acted as a consultant to government bodies such as Natural England, DEFRA, English Heritage, and the Environment Agency. FPCR also acts as consultant to many local authorities across the United Kingdom.
- 1.4 We were initially appointed on 29th November 2021 to review matters in relation to the proposed mitigation requirements for the planned removal of a hedge in connection with the application. We have subsequently reviewed matters raised in relation to ecology and nature conservation for the purposes of this Appeal.
- 1.5 The Statement which I have prepared and provide for this appeal is true and has been prepared and given in accordance with guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

Scope of Statement and Structure

- 1.6 This Statement has been prepared for SIW Properties, the appellant, I have considered the reasons for refusal as these relate to ecology and nature conservation matters and the Delegated Decision Report including the Officers comments and conclusions (Delegated Decision Report dated 12.01.22. Page 11 & 12 Material Considerations). I have reviewed the submitted application documents including material prepared by other ecologists appointed by the Appellant to review the hedge previously, correspondence by Elspeth Ingleby Ecologist North York Moors National Park Authority, and information provided by 3rd parties objecting to the scheme, including but not limited to those submitted by Dr T Reed C/O The Pond House, Sledgates, where these related to the site's hedges.
- 1.7 I have drawn on the submitted ecological supporting information in producing my statement and subsequent to the decision by the LPA to refuse the Application, a separate whole site review conducted by FPCR Environment & Design (FPCR).
- 1.8 I will also consider the likely extent of any harm and the ecological benefits associated with the proposals.

The Appeal Proposal & Grounds for Refusal

- 1.9 The application was validated 04 May 2021 by the North York Moors National Park Authority, in respect of an outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale) at Land west of Highfield, Sled Gates, Fylingthorpe. The application was refused permission (Decision No. NYM/2021/0351/OU) with two stated reasons for refusal, the second of which is concerned principally with the retention and enhancement of a roadside hedge.

RfR2 "The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments"

- 1.10 This Statement accompanies the main Appeal Statement (Alistair Flatman Planning) and should be read in conjunction with this and provides a detailed and evidence-based analysis with respect to matters relating to hedge loss as raised by RfR2 in the Decision Notice for refusal of the Application.

Site and Area Description

- 1.11 The Appeal site extends to 0.2 hectares of sheep grazed pasture to the south of Sled Gates and west of the residential area of Fylingthorpe, (an indicative site layout is shown in the Planning and Highways Statement Figure 1). The front of the site is bordered by a low stonewall which is topped by a hedgerow (H1 Figure 1 Habitat Plan). There are two further hedgerows lying on site boundaries to the east and west (H2 & H3). The site currently is part of an agricultural field compartment managed as grazed pasture.

Planning Background

- 1.12 There have been previous applications for 2-6 dwellings which have been refused on matters principally concerned with loss of character and appearance, highways, and local plan policy changes unrelated to ecology.
- 1.13 This application is in outline form and seeks permission for construction of up to 5 no. principal residence dwellings with associated access via a proposed new T Junction off Sled Gates to the north (matters reserved: appearance, landscaping, layout, and scale (planning reference NYM/2021/0351/OU).

LPA Response

- 1.14 The Delegated Decision Report prepared by North Yorkshire Moors Park Authority noted that the proposed visibility splays as drawn would affect a Victorian era hedge line. It was stated that the hedge should be protected and subject to a final botanical survey, may well come under the 1997 Hedgerow Regulations for protection as well. The LPA also stated that it was not one fence line that was affected as the sight lines rely on neighbours being willing or to cut their fences down and might be breaking the law as these are agricultural hedges. The response by Ged Lyth of North York County Council Highways Department Note to Planning Officer of 13 December 2021

constituting the substance of the Highways reason for refusal, refers to hedges rather than fences. However, the Planning Officer and author of the Decision Notice refers to fences but is likely also to be referring to hedges. The concern expressed is not only with regards to loss of sections of the frontage hedge but also the highways proposals being reliant in part on maintenance of existing hedges.

- 1.15 The LPA also indicates in its Decision Notice that the application ignores biodiversity interests or possible net gains (required by the NYMNP Local Plan 2020 and the 2019 NPPF) as there are no desk or field surveys. It ignores the relevant sections of the 2020 NYMNP Local Plan and the Supplementary Planning Document 3. It was also indicated that the Parish Council objection to the application was based on all the above issues.

Parish Council

- 1.16 The Parish Council assert there is no basis for unquantified claims of net gain on hedge removal and shrub planting nor in its opinion can replacement shrub planting adequately replace existing hedge flora. The Parish Council maintain that the application is not supported by any ecological (biodiversity) information that NYMNP can evaluate the effects of development.
- 1.17 The Parish Council also believe that as the survey of the hedge did not include survey of earlier or later emerging plant species it could have underrepresented the evaluation of the hedges value.

Third Party Comments in Relation to Appeal Scheme

- 1.18 I have reviewed all the third-party comments and objections in so far as they are relevant to ecology and summarise them briefly below. Comments are listed in the Delegated Decision and primarily concerned with:
- The loss of a hedge of 1997 Hedgerow Regulations standard hedge and field biodiversity. Hedge meets criteria as important as it has a bank or wall supporting it, less than 10% gaps and more than 3 woodland species
 - Scant regard to the protection and enhancement of biodiversity features, with loss of 90m of ancient hedge and associated stone wall
 - Presumption in the National Park for retention of ancient hedges and pathways
 - Loss of wildlife present in the field. Bats that roost there fly over the field and barn owls have been seen hunting. Many species of bird use the hedge and bullfinch (a declining species) observed also using boundary hedges, and badgers observed crossing road from field and deer also observed in field. Field itself is of high ecological value, and the land low intensity agricultural land grazed by sheep and as such host a diverse range of species that include the ones listed above but also foxes, and birds of prey including buzzards and multiple species of owl regularly seen hunting the area.
 - The site and land adjacent are quite marshy and as such is home to frogs, toads, newts etc. The site is almost certainly home to protected and priority species and likewise are extremely important habitats and it is imperative that full surveys are carried out.
- 1.19 In addition to the above more general concerns more detailed representations have been made regarding the ecological value of the hedge line fronting the Appeal site. These are summarised below:

Mr Bob McGovern (30.12.21), Mr John Collinson (02.12.21) & Dr Tim Reed 08.12.21) with comments of a similar nature

- 1.20 For clarity the concerns expressed by Mr McGovern & Mr Collinson in relation to visibility splays are dealt with by the Appellants Highways Witness Mr Andy Moseley of AMAPT. I (and my team at FPCR) consider issues in relation to ecology and biodiversity only. Comments in relation to highways have also been dealt with by the Appellants Highway Witness). With regard to direct impacts on the hedge, Mr McGovern expressed concerns about any break in the continuity of the hedge and wall, and in the likely survival rate of species and that a line of planted shrubs is not in any way, equivalent to the loss of a high value hedge meeting 1997 Regulations.
- 1.21 Mr McGovern maintained the appellant has not identified the true impact on the hedge and its diverse ground flora. Nor has the applicant ever supplied biodiversity data for NYMNP evaluation, and NYMNP did not meet its own Planning Advice Note 2, having made its decisions without this information, and should have considered a proper biodiversity baseline in line form of a 2022 survey consistent with its own Advisory notes.
- 1.22 Dr Tim Reed C/O The Pond House Sledgates in his email of 08 December 2021 10:13 to Hilary Saunders Planning Officer on the additional material provided by the applicant reiterated his earlier objections on biodiversity grounds (made in July 2021). His objection are similar in nature to Mr McGovern's (outlined above), that unverifiable claims were made regarding impacts to the front hedge; a hedge that exceeded 1997 Hedgerow Regulations criteria, and for which he had personally collected plant species data on 3 occasions across a summer, that a single data sample in his opinion would be inappropriate for validation of 1997 status; that the NYMNP needed to instead use a full list of both shrubs and ground flora available. It will also require clearance of a lightly grazed damp agricultural field that may well have botanical interest: thus, in his opinion use of the precautionary principle would have been appropriate here, and for NYMNPA to request the ecological survey (referring to NYMNPA Planning Advice Note 2).

2.0 ECOLOGICAL EVALUATION

Previous site evaluation

- 2.1 Previous site evaluation had focussed on the site hedgerows which have included separate assessments by the Appellants ecologists Middleton Bell Ecology, surveys provided by the NYMNP and third parties conducting their own surveys. This led to a lack of consensus over whether the hedges met criteria for Important hedges under the Regulations 1997.
- 2.2 In addition, comments have been made concerning an apparent lack of general ecological information backed up by site surveys. Third party objectors have provided anecdotal information over the use of the site by faunal species some of which are protected.

Middleton Bell Hedge Survey 21st June 2021 and assessment conducted by Dr Tim Reed C/O The Pond House

- 2.3 The hedgerow (H1) is described and defined in the Hedgerow Assessment Letter Report produced by Middleton Bell Ecology (MBE) on the 22nd June 2021, as being a native species rich hedgerow, with no gaps present atop a small hedge bank and wall. Former laying/coppicing was evident, and the hedgerow had a good structure with no/little vertical gaps from the base. The hedge appeared to have been recently managed.

- 2.4 The hedge was also surveyed on two occasions in 2003 and on one occasion c.2005 with survey data supplied by Elsbeth Ingleby, an ecologist with the NYMNP. This information was also included in the assessment completed by MBE. MBE concluded that the hedge did not meet criteria as an important hedge as insufficient species were found during survey.
- 2.5 The extended hedge survey completed by Dr Tim Reed (para 1.22 of this statement) submitted as part of his objection found more woody species following several visits that he made in 2021. Dr Reed concluded that the hedgerow qualified as Important under the Hedgerow Regulations 1997 on the basis of 5 (6 species minus 1 for hedges in N Yorkshire) confirmed woody species and 3 associated qualifying features.

Ecological Surveys conducted by FPCR in 2022 to inform the Appeal

- 2.6 A baseline survey was not originally conducted, and it appeared the LPA had been content that with the scale of the development located in part of a grazed pasture there were insufficient features present to trigger the need for a full ecological survey and none appeared to have been requested.
- 2.7 Nevertheless, an Extended Phase 1 Habitat survey including a Preliminary Protected Species survey was completed by FPCR in March 2022 to provide more up-to date information over the ecological value of the Appeal site and in response to 3rd party comments regarding an absence of baseline information (refer Appendix 1: Ecological Appraisal Report, FPCR, March 2022).
- 2.8 In addition to the above survey the hedge line H1 (site frontage) was also the subject of a further assessment under the Hedgerow Regulations 1997.
- 2.9 There are no statutory sites affected by the development of the Appeal site. Beast Cliff-Whitby (Robin Hood's Bay) SAC located 1.2km southeast of the site, this is designated for its vegetated sea cliffs. Given the reason for designation and the distance from the site it is considered unlikely that the development would directly impact it.
- 2.10 The North York Moors National Park, designated as an SPA, SAC and SSSI is located 770 m west of the survey area. Species listed as reasons for the SPA designation comprised of merlin and golden plover, both of which are for breeding only. As breeding habitat for these species are not present on site it is considered unlikely that the development would impact these species. It is estimated that around 8 million people visit the North York Moors every year. Given the low numbers of properties proposed for the site and the high visitor numbers in the area, the increase from human activity will not be significant.
- 2.11 There were no non-statutory sites within 2km search area.
- 2.12 The field which comprised the site consisted of poor semi-improved grassland was of low nature conservation value (due to limited species diversity) with no rare or notable plant species identified.

Hedgerow Regulations 1997

- 2.13 Given the variation in earlier conclusions over the quality of H1 the hedge was subject to a further independent review (by FPCR) under the Hedgerow Regulations 1997. For further information relating to the planning and legislative context of the Regulations refer to Section 4.0 of this statement, matters relevant to ecological survey and assessment are considered below. This mechanism offers some protection for hedgerows of more than 20 metres in length or which join other hedgerows provided they adjoin agricultural land, forestry, paddocks, common land, village

greens, a site of special scientific interest or a local nature reserve. In order to remove such a hedgerow an owner must serve notice on the local planning authority who then decides if it is 'important' and if so, it is whether it should be retained. A hedgerow is 'important' if it has existed for 30 years or more and it meets any one of the criteria set out in Part II of Schedule 1 the Regulations. Evaluation consists of both an onsite survey largely to establish the landscape and ecological and reference to appropriate documentation largely to establish historical value.

- 2.14 Sections 6.10-6.15 of the DEFRA 1997 The Hedgerow Regulations 1997: A Guide to the Law and Good Practice provides further details on survey requirements with a requirement that surveys are completed by suitable qualified individuals with botanical expertise. This guide does not include guidance on survey timings nor frequency, decisions in that respect are left to experienced surveyors.

FPCR Hedge Survey & review

- 2.15 This survey of the sites hedges was completed in March 2022 by suitable experienced ecologists in order to be able to observe and record earlier spring flowering plants. Our subsequent survey confirmed that Hedgerow 1 does meet the minimum criteria as important under Schedule 1 part II of The Hedgerow Regulations 1997. Its protection comes from paragraph 7 (b) at least 6 woody species and at least 3 of the features specified in sub-paragraph (4). Due to the location of the hedgerow within North Yorkshire the number of species needed to meet this criterion is reduced by 1 (therefore 5 woody species are required for hedges in N. Yorkshire). We recorded five species on the woody species list recorded within a 30m section. The associated features included the presence of a wall along the hedgerow, no gaps, and the presence of greater than 3 woodland species on schedule 2 of the Act. Those present during the survey comprised barren strawberry *Potentilla sterilis*, hart's-tongue *Asplenium scolopendrium* herb Robert *Geranium robertianum*, lords-and-ladies *Arum maculatum*, male-fern *Dryopteris filix-mas*, pignut *Conopodium majus*, primrose *Primula vulgaris*, soft shield-fern *Polystichum setiferum*, and wood avens *Geum urbanum*.
- 2.16 The hedge is not ancient but appears to be Victorian. The LPA (Officers Delegated Report) has suggested that the boundary has been in existence prior to 1845 though it is unclear whether there was a hedge or a fence. The matter of age was considered by the LPA ecologist noted that “*as any qualifying features for the archaeological, historical or landscape criteria must relate to records predating 1997, these cannot have changed since the hedgerow was previously assessed by colleagues for a previous application on the site. There was not found to be the features necessary to meet the criteria under these values and I will therefore not go into these further here*”. The value of the hedge as far as the 1997 Regulations is concerned, reflects its qualifying features under ecological criteria.
- 2.17 Hedgerow 2 was located off site; due to a lack of associated features it does not meet the criteria as it was not considered important under the Hedgerow Regulations 1997. However due to the high proportion of native species it is a habitat of principal importance. The hedgerow would require protection through the inclusion of barrier fencing during construction and included sympathetically into site design.
- 2.18 Hedge 3 is a domestic boundary hedge (belonging to the adjacent property of Fylingdales) comprising mostly of garden privet with some beech separated from the site by a chain link fence, as such not the subject of further assessment.

- 2.19 In addition, under the habitat descriptions for Hedgerow Habitat of Principal Importance as listed within Section 41 of the NERC Act, the hedges H1 & H2 consist of 80% or more native species and therefore qualifies as HPI.

Bats

- 2.20 No records of bats were returned from NEYEDC for within the site. There were no trees or structures which provide potential roosting opportunities for bats. The hedgerows on and adjacent to the site are likely to provide some foraging and commuting habitat for any species present in the local area.

Birds

- 2.21 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Several species of wild birds are also listed on Schedule 1 of the Act which provides protection for the species at all times. A single record for black redstart a schedule 1 species was returned from 970m east of the site in 2013. Swifts are frequently recorded in the area. Habitats on site are not suitable nesting habitats for either species. Additional bird species have been listed by 3rd parties, including bullfinch and barn owl seen in the former case using the onsite hedges and in the latter case hunting locally across fields.
- 2.22 Bullfinch (UK Conservation status Amber Protected in the UK under the Wildlife and Countryside Act, 1981. Priority Species under the UK Post-2010 Biodiversity Framework) occur in woodland, but can also be found in hedgerows, scrubby areas and parks and gardens provided there are trees to feed on and dense vegetation to nest in. Given the sites location adjacent to open farmland and nearby woodland (associated with Thorpe Beck in the north) these are considered likely to be using the wider area that includes the site and hedges for foraging (nesting habitat is considered more limited given the extent of management and presence of alternative better-quality habitats nearby). Presence of bullfinch in the wider area with anecdotal sightings on site does not therefore infer greater value and given hedges are part of habitat mitigation proposals would be a matter of addressing conservation needs at this point with proposals readily able to accommodate this species.
- 2.23 Barn owls (UK Conservation Status Green. Protected in the UK under the W&CA 1981 under Schedule 1)) are widespread across the UK and prefer open countryside and farmland. Sightings are consistent with birds utilising open farmland to the south of the site. The site itself supporting closer grazed pasture grassland with a lack of suitable cover will limit the potential for small mammals in particular rodents such as voles & shrews on which the species relies. Better quality feeding habitat is present locally.

Great crested newts

- 2.25 Consultation with the local records centre returned no records of GCN from within the 1km search area.
- 2.26 The poor semi-improved grassland provides sub-optimal terrestrial habitat for great crested newts in their terrestrial phase. Hibernation potential is present in the base of the hedgerow and wall, however, there is no breeding habitat present on site.
- 2.27 The pond closest to the site and the pond 300m north were both surveyed as part of the Natural England eDNA survey undertaken for district licensing in 2019. Both ponds were negative for GCN eDNA.
- 2.28 As such it is considered that GCN do not pose a statutory constraint to the development of the Site.
- 2.29 Habitats on site were considered sub-optimal due to their homogenous nature and lack of suitable structure. No records were returned for within 1 km of the site therefore it is considered that reptile species do not pose a statutory constraint to development.

Overall Conclusions Site Ecological Value

- 2.30 The assessment confirmed the site to have limited overall nature conservation value with no protected or priority faunal species wholly reliant on the site.
- 2.31 The sites hedges have greater value, H1 is important under the Hedgerow Regulation 1997, and along with H2 are hedgerow Habitats of Principal Importance under Section 41 of the NERC Act.
- 3.0 EFFECTS OF APPEAL PROPOSALS
- 3.1 No statutory or non-statutory site would be affected by proposals. Given the low numbers of properties proposed for the site and the high visitor numbers in the North York Moors National Park (SAC, SPA, SSSI) area, the increase from human activity is not considered to be significant.
- 3.2 Representations were also made by 3rd party objectors with regard to the lack of ecological supporting information, reliance on out-of-date survey information, and the validity of surveys provided in support of the application. Botanical and preliminary protected species surveys completed in March 2022 have confirmed that the site overall has limited nature conservation value with no protected or priority faunal species present that was wholly reliant on the site.
- 3.3 Poor semi-improved pasture representing low value grassland habitat will be lost.
- 3.4 H2 will be retained. H1 will also be retained but will need to be translocated further into the site for highways reasons, to improve site access for housing, the need for which is outlined in the Planning Statement (refer also to mitigation proposals and also Section 4 of this Statement which considers the planning and legislative context of proposals to translocate H1).

Mitigation

- 3.5 The assessment confirmed the site to have limited overall nature conservation value with no protected or priority faunal species wholly reliant on the site. General measures to enhance wildlife habitats as part of development proposals would be sufficient to address impacts.
- 3.6 All wild bird species are protected while nesting by the Wildlife and Countryside Act 1981 (as amended). This legislation protects wild birds and their eggs from intentional harm, and makes it illegal to intentionally take, damage, or destroy a wild bird nest while it is in use or being built. Site clearance works would need to be completed prior to or after March-August inclusive or a pre commencement check carried out by a suitable experienced ecologist.
- 3.7 Whilst the effects of the Appeal proposals on habitats and local wildlife is limited overall the proposals have nevertheless included mitigation as follows:
- Native species to be included within the landscape planting proposals for the site along with additional habitat features including new hedge and tree planting.
 - To enhance roosting opportunities for bats within the site artificial bat bricks to be included within new properties on site (positioned > 4 m from ground level on the eastern, southern, or western gable walls of the dwellings away from artificial lighting).
 - Artificial lighting on the site in accordance with current Bat Conservation Trust guidance with no artificial lighting being directed onto areas of retained/existing connective habitat around the edges of the site to support a continuation of foraging and commuting by bats using the local area.
 - Provision for nesting birds (e.g., house sparrow, swift and house martin) would be included within the site; ideally as permanent features built into selected dwellings and or garages (Schwegler No. 17B) and house sparrow (Schwegler No. 1SP)).
- 3.8 All retained hedges will be managed with nature conservation in mind. The development proposals also include the planting of a new native species hedge to define the southern site boundary and to provide net gain (for considerations regarding the planning and legislative context for biodiversity net gain (BNG) refer to Section 4.0 of this Statement). Species should include if feasible those of local providence and be appropriate to the location (see Section 3.3 of Method statement for native tree and shrub species). Again, planting will include tree species such as oak and ash which will be allowed to develop into standards to create structure as well as increasing diversity.

Hedge translocation FPCR expertise and experience

- 3.9 As the hedge H1 cannot be retained in its current alignment it is proposed to translocate the entire affected length further into the site. A hedgerow translocation method statement has been prepared and submitted to support the application (Hedgerow Translocation Method Statement, FPCR, 2021. Copy submitted with Appeal papers). The document was prepared to assess the state of the hedge, the physical factors that might affect the feasibility of extracting the hedge from its current alignment, methods of translocation, the key elements that should be considered to ensure successful translocation and to demonstrate the expertise of FPCR to complete this work.
- 3.10 FPCR are a multi-disciplinary practice who offer a complete ecological service covering a range of disciplines, we have over 50 years of experience of providing ecological and arboricultural advice.

During this time, we have worked on many habitat translocations and large-scale habitat recreation schemes. I have also been directly involved in a number of these. Habitat translocation has involved, wetland, grassland, individual trees, scrub, and hedges. We have also completed specialist translocations involving habitats on more complex sites such as those developed on pulverised fuel ash containing orchid assemblages.

- 3.11 Examples of work we have conducted or have been directly involved in where hedgerow translocation was required included numerous larger scale developments from minerals to infrastructure projects. Working alongside a specialist contractor we have successfully translocated hedgerows as part of the Northampton Gateway Rail Freight Interchange for Segro Ltd (A total of 2776m of conservation grade hedges were translocated. For further details refer to submitted Method Statement 2021). In February this year we successfully gained LPA approval for circa 400m of hedge meeting Regulations criteria at Merchant Field Cleckheaton for Harron Homes.
- 3.12 FPCR can therefore demonstrate expertise attained over many decades of being involved in habitat recreation and translocation work for many schemes.
- 3.13 The hedge is considered suitable for translocation, and it is considered that the hedge could be readily relocated further into the site to retain what is a valuable nature conservation resource. By relocating further into the site, the required visibility splays and access works can be completed without constraint and the hedge line can be reconnected not far from its original alignment, reinforced, and managed to enable it to continue to serve as a functional ecological unit.
- 3.14 The final location of the translocation will be along the frontage of the new development and very close to its original alignment. This minimises any issues in relation to extraction, effects of transportation, drying out and any potential damage. Once established the hedge line will look similar to the original. The hedge will be retained albeit aligned further into the development. Original connections will be preserved, and the hedge connected to a proposed new hedge in the southern site boundary.
- 4.0 PLANNING POLICY CONTEXT, PLANNING CONSIDERATIONS & REASON FOR REFUSAL ON ECOLOGICAL GROUNDS
- 4.1 Matters in relation to planning are dealt with in the Planning Statement of Mr Alistair Flatman. I review relevant policies and guidance in terms of a consideration of ecological matters.
- 4.2 References were made in the Committee Report under main issues to the local plan adopted July 2020. Strategic Policy A, and ENV1.
- 4.3 *Under Strategic Policy A - Achieving National Park Purposes and Sustainable Development Within the North York Moors National Park*, it is stated that a positive approach to new development will be taken, in line with the presumption in favour of sustainable development set out in the National Planning Policy Framework and where decisions are consistent with National Park statutory purposes: 1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park.
- 4.4 *Under Policy ENV1 of the Local Plan Trees, Woodlands, Traditional Orchards, & Hedgerows* it is stated there will be a presumption in favour of the retention and enhancement of existing trees, woodlands, traditional orchards, and hedges of value on all developments. Where the wider sustainability benefits outweigh the loss development proposals will be expected to minimise harm

and provide a net biodiversity and amenity gain with appropriate replacement of trees or hedgerows.

- 4.5 The LPA have commented that the following matters of an ecological nature have been material considerations:
- 4.6 In previous applications evidence suggested that the hedge was in place prior to 1845 (albeit there were discrepancies as to whether there was a fence or hedge) the presence of this boundary prior to 1845 makes it historically significant. In view of this the LPA have concluded that it is not previously been considered desirable to lose this boundary. This appears to be at odds to the comments of the LPA's ecologist in her email of the 18th June 2021, which stated that previous surveys did not find criteria meeting archaeological, historical or landscape criteria (under the Hedgerow Regulations 1997).
- 4.7 The LPA's ecologist has stated that based on current information the hedge is considered to be worthy of retention under the Hedgerow Regulations. However, the ecologist also acknowledged that its removal could still also be authorised by an approved planning application as the legislation overrides the Regulations, but this should be considered in the planning balance. The ecologist also acknowledged that all hedgerows containing native woody species are considered priority habitats, but this did not give them firm legal protection, but it did mean that as a public body the LPA have a 'due regard' (under the NERC Act 2006) for their importance when undertaking its functions. If consented for removal it would mean that the mitigation and compensation requirements would be higher than for a non-priority habitat to ensure that overall biodiversity loss is not permitted.

REASON FOR REFUSAL

- 4.8 NYMNP have refused the outline for 5 dwellings. Reason for Refusal 2 stated that "*the existing roadside hedge classifies as being a habitat of importance (under the NERC Act) and therefore its removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in strategic Policy A and Policy ENV1 of the NYM Local Plan that state there is a presumption in favour of the retention and enhancement of existing hedgerow of value on all developments*"
- 4.9 The justification for RfR2 is based on the LPA's perception of the likelihood of habitat loss which it is stated would be contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan., These policies establish a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.
- 4.10 The proposals do not result in the loss or removal of any hedge (H2 retained and H1 translocated and realigned) and enhancements are proposed in the form of a new native species hedge with standard trees which will define the southern site boundary. All hedges within the site will be subject to management with biodiversity & nature conservation in mind. A net gain in hedgerow habitat is achieved.
- 4.11 The term remove is defined in Section 97 (8) of the 1997 Hedgerow Regulations as 'uproot or otherwise destroy' It includes acts of deliberate grubbing out and also acts that involve the destruction of the hedgerow. Consideration as to whether the proposed work or other activity would constitute removal will have to be judged according to the circumstances of each individual case. Exemptions include where development has been authorised by planning permission (or has deemed to have been granted). Provision is made in the regulations for hedgerow management

under 'For the proper management of a hedgerow'. Cutting back a hedgerow in a manner that does not result in its destruction is unlikely to constitute removal. Such works are recognised as being outside the scope of the Regulations and does not require LPA notification.

- 4.12 The proposals would require the repositioning of the hedge (H1) to accommodate sight lines. Again, this does not involve the removal of the hedge in the manner which would result in the hedge being lost as it does not involve the destruction of the hedge.
- 4.13 Regardless of where the hedgerow stands under the Regs 1997 (and the hedge only meets the minimum criteria (Section 2.15 of this statement) this is superseded by planning regulations (also made clear by the LPA ecologist in her email of the 22 December 2021 Elsbeth Ingleby to planning officer). It is clear that it is a habitat of importance under the NERC Act 2006, in line with the LPA's statutory purposes the LPA do not wish it to be lost or detrimentally affected by proposals. (Email Elsbeth Ingleby 22 December 2021 to Planning Officer). However, priority habitat has no firm legal protection as the LPA ecologist noted, rather as a public body the LPA have a 'due regard' under the NERC Act 2006. The LPA's ecologist has stated (see Officers Delegated Report) that if consented for removal it would mean that the mitigation and compensation requirements would be higher than for a non-priority habitat to ensure that overall biodiversity loss is not permitted. Comments made have all appeared to be in relation to ensuring no loss off biodiversity. The email of the 7th June 2021 paragraph 2 sets out what the ecologist expected by way of mitigation and compensation including reinstatement, location of new diverse hedgerow planting, timing of removal of existing hedge to avoid breeding birds, and reserve matters requirements for nest boxes.
- 4.14 The extent or level of mitigation/compensation that was expected by the LPA ecologist appears to also be clear in her email of the 18th June 2021 to the planning officer. The last paragraph of the same email suggests that the Ecologist considered that were the hedge to be lost and replaced then details of an appropriate planting mix would be required.
- 4.15 Measures that are proposed go further than replacement planting as advocated by the LPA's Ecologist. By translocating H1, its soils, seed bank, and component shrubs a short distance into the site would be saved. The technique used has been successfully applied by FPCR and its specialist contractors on conservation grade hedges for consented schemes nationally, it has been confirmed that the hedge is capable of being translocated and a method statement has been prepared and submitted to the LPA in support of the application. Post translocation the hedge would be managed, and additional native species will be planted. Existing linkages will be maintained and reinforced in the form of a new native species rich hedge in the south of the site. The pasture grassland on the site has been assessed by survey as of low value. A net gain in hedge habitat will be achieved.
- 4.16 A nest box & bat box scheme will provide additional benefits (and is a proposal that meets the requirement indicated by the LPA's ecologist in her Email 7th June 2021. Swift boxes to be included),

Overview of planning policy context and planning considerations

- 4.17 The proposals therefore accord with the relevant policies of the Local Plan.

5.0 SUMMARY & CONCLUSIONS

- 5.1 The Appeal site is supported by a baseline ecology survey which has identified that the land within the Appeal site is of low value, being largely comprised of low value pasture grassland.
- 5.2 The Appeal site land is not subject to any formal designation.
- 5.3 There are no protected species confirmed as being present and dependent on the site that would require specific measures in mitigation.
- 5.4 Requirements of local fauna, such as bats and birds can be dealt with through scheme design and precautionary best practice measures can be used to avoid any potential harm.
- 5.5 There would also be a landscape scheme secured and other standard measures included in the form of bird and bat boxes and a sensitive lighting scheme for foraging and commuting bats. Measures proposed can also be expected to achieve a betterment as a result of the provision of new nesting and roosting sites and inclusion of native and wildlife friendly landscape planting that includes a new native species rich hedge and reinforcement of the newly realigned and translocated frontage hedge.
- 5.6 At the site level there is low value botanically poor intensively managed habitats of limited value for local fauna. The loss of such habitats therefore must be considered as limited at the site and local level and as such would not result in any cumulative harm on any adjacent habitats.
- 5.7 Given that the frontage hedgerow has nature conservation value it is preferable to seek to translocate the hedgerow rather than lose it or replant a new hedgerow in compensation. By translocating this hedgerow mature ecological resources can be retained on the site. Ecological resources for new habitat creation schemes will be more rapidly generated. Provision is more rapidly made for ecological function, structure & habitat diversity than habitat creation alone using seeds or nursery materials. The retained hedge line will be able to contribute visually in a similar way to the original. Native species of local provenance are maintained and not lost and relies less on the importation of additional nursery stock to create a new hedge.
- 5.8 The methodology for translocating the frontage hedge outlined here is one used routinely by FPCR and its clients over the last 30 years to successfully translocate valuable hedges that cannot feasibly be retained in their original alignments and is a tried and tested method used to successfully mitigate development impacts.
- 5.9 In light of the findings of the report and the methodology to be implemented, it is our professional opinion that the hedge can reasonably be translocated and therefore impacts to this hedgerow does not warrant a reason to refuse the planning application.
- 5.10 It can be clearly demonstrated that there are no adverse biodiversity impacts arising because of the Appeal Site and the mitigation measures and enhancement proposals provide a betterment at a local level.
- 5.11 The site can be developed in accordance with local plan policies relating to ecology and nature conservation.
- 5.12 I therefore conclude that the appeal scheme can be developed without any significant harm to biodiversity interests, and that positive changes would also arise from the scheme.

APPENDIX 1 ECOLOGICAL APPRAISAL MARCH 2022

Town and Country Planning Act 1990 (As Amended)

Appeal by SIW Properties

List of Plans and Appendices

Appeal against North York Moors National Park refusal of outline planning application (NYM/2021/0351/OU) for up to 5 dwellings – all matters reserved except for means of access to, but not within, the site.

@ Land adjacent to Highfields, Sled Gates, Fylingthorpe

Planning Inspectorate Ref: APP/tbc

LPA Reference: NYM/2021/0351/OU

May 2022

Prepared by Alistair Flatman Planning Ltd

Prepared by Alistair Flatman Planning Ltd

May 2022

Appeal against North York Moors National Park refusal of outline planning application (NYM/2021/0351/OU) for up to 5 dwellings – all matters reserved except for means of access to, but not within, the site.

The Planning Application

Original submission

The planning application was submitted via the Planning Portal on 4 May 2021 and included the following:

- i. Completed application forms, with all certificates signed and dated;
- ii. Site location plan – dwg 0215_SLE_101 - (Eleven52Architects)
- iii. Indicative Site Layout – dwg 0215_SLE_102 – (Eleven52Architects)
- iv. Access & Visibility Splay dwg (AMATP – AMA/20940/SK001
- v. Planning Statement – Alistair Flatman Planning
- vi. Design & Access Statement – Eleven52Architects
- vii. Highways Supporting Statement – AMA dated 11.5.21

The application was deemed valid on 4 May 2021.

Post submission

Post submission additional information and revised details were submitted as set out below to address highways and ecology comments:

May 2021

Updated Site Layout - dwg 102 rev B (Eleven52Architects)

June 2021

Revised Vis Splay dwg and Long sections – AMA dwgs SK002 & SK003 (AMA)

Revised Layout to address Ecology comments – dwg 102 rev C (Eleven52Architects)

Revised Layout to address highways comments – dwg 102 rev D (Eleven52Architects)

Revised Vis Splay dwg – AMA dwg SK004 (AMA)

Hedgerow Assessment – Middleton Bell Ecology (June 2021)

July 2021

AMA Highways Technical Note dated 23 July 21 – response to NYCC Highways comments

November 2021

Revised Layout to address highways comments/ revised access position – dwg 0215_SLE_102 rev E (Eleven52Architects)

Cover email from Alistair Flatman Planning dated 17.11.21

AMA Highways Technical Note dated 9.11.21 – further response to NYCC Highways comments

Revised Vis Splay dwg – AMA dwg SK006 (AMA) – see AMA Highways Technical Note dated 9.11.21

December 2021

Hedgerow Translocation Method Statement - FPCR

Copies of submitted plans and supporting technical reports set out above have been lodged with the appeal papers. The text in bold above are those plans / reports on which decision is to be made.

The application was refused under delegated powers on 12 January 2022 based on revised Site Layout Plan dwg 0215_SLE_102 rev E (Eleven52Architects) and Revised Vis Splay dwg – AMA dwg SK006 (AMA) – see AMA Highways Technical Note dated 9.11.21

REPORTS / PLANS ON WHICH DECISION IS TO BE MADE:

See bold above – dwgs 0215_SLE_102 rev E; AMA dwg SK006 and Hedgerow Translocation Method Statement (FPCR)

Appeal Statement - APPENDICES

Appendix 1 Site Location Plan

Appendix 2 NYM pre-application letter dated 5 March 2021 (LPA ref NYM/2021/ENQ/17392)

Appendix 3 **Planning Officer's** Delegated report

Appendix 4 Decision Notice dated 12 Jan 2022

Appendix 5 Highways Statement of Case – prepared by AMATP (date 15 June 2022)

Appendix 6 Ecology & Nature Conservation Statement of Case prepared by FPCR (date 17 June 2022)

May 2022



Town and Country Planning Act 1990 (As Amended)
Appeal by SIW Properties

Appeal Statement of Case

Appeal against North York Moors National Park refusal of outline planning application (NYM/2021/0351/OU) for up to 5 dwellings – all matters reserved except for means of access to, but not within, the site.

@ Land adjacent to Highfields, Sled Gates, Fylingthorpe

Planning Inspectorate Ref: APP/tbc

LPA Reference: NYM/2021/0351/OU

Prepared by Alistair Flatman Planning Ltd

TABLE OF CONTENTS

	PAGE NO
1.0 Introduction and Scope of Evidence	1
2.0 Site Location and Description of Development	2
3.0 Relevant Planning History	3
4.0 Appeal Proposal	4
5.0 National Government Guidance	7
6.0 Development Plan Context	11
7.0 Case for the Appellants.....	14
8.0 Concluding Statement and Summary	21

APPENDICES

Appendix 1 Site Location Plan

Appendix 2 NYM pre-application letter dated 5 March 2021 (LPA ref NYM/2021/ENQ/17392)

Appendix 3 Planning Officer's Delegated report

Appendix 4 Decision Notice dated 12 Jan 2022

Appendix 5 Highways Statement of Case – prepared by AMATP (date 15 June 2022)

Appendix 6 Ecology & Nature Conservation Appeal Statement of Case prepared by FPCR (dated 17 June 2022)

1.0 Introduction and Scope of Evidence

- 1.1 My name is Alistair Flatman and I am a Director Alistair Flatman Planning, an independent town planning consultancy based in Leeds. I hold an Honours Degree in Town Planning, a Post Graduate Diploma in Town and Country Planning and I am a Chartered Town Planner, being a member of the Royal Town Planning Institute. I have over 20 years experience in Planning and Development Consultancy.
- 1.2 Appeal is lodged on behalf of SIW Properties.
- 1.3 I have visited the site the subject of this appeal, and the immediate surroundings and I have taken into account in the preparation of this evidence, the site characteristics, surrounding land uses, relevant planning history, central government guidance and the appropriate local planning policy background.
- 1.4 The planning application and subsequent appeal seeks outline planning consent for residential development for up to 5no principal dwellings. All matters are reserved except for means of access to, but not within, the site.
- 1.5 The application was refused by Officers under delegated powers. The decision notice dated 12 January 2022 sets out two reasons for refusal in relation to highways and loss of hedgerow respectively. There are no other grounds for refusal.
- 1.6 This appeal statement addresses the wider planning issues setting out details of the proposal and deals with the relevant policy aspects.
- 1.7 As part of the appellants case, a detailed Highways Statement of Case has been prepared by AMATP to specifically address matters relating to highways whilst a further Appeal Statement of Case has been prepared by FPCR to address the hedgerow / nature conservation reason for refusal. Full copies are attached as Appendix 5 and 6 of the Appeal Statement.
- 1.8 This appeal statement will therefore seek to demonstrate the proposed residential development on this windfall site within the settlement is acceptable and the benefits of delivering housing weigh in favour of the proposal. The Appeal Statement clearly demonstrates the proposed residential development is in accordance with relevant Local Plan policies and NPPF relating to supply of housing.

2.0 Site Location

- 2.1 The site is located to the western edge of Fylingthorpe. The site sits within the built form of Fylingthorpe and comprises an infill plot with dwellings to the east, west and north. The Local Plan confirms Fylingthorpe as a 'larger village' (Local Plan Strategic Policy B – Table 1 (page 40)).
- 2.2 The site comprises a small field (0.2ha) located to the west of Highfields. The site comprises an infill plot with housing development to the east, west and north (as shown on the above plan).
- 2.3 Sled Gates forms the northern boundary to the site and it is proposed access will be taken from this road (see submitted site access plan).
- 2.4 The site sits within walking distance of the village school (c500m to the east), shop (c350m to the east), church (c350m to the east) and recreational space whilst there are also bus stops close to the site (c200m to east).
- 2.5 There are no specific housing allocations identified in the Local Plan. This infill site is considered to be a windfall site and would contribute to housing supply within the National Park as set out in the Local Plan and latest Land Availability Assessment Report (June 2019).
- 2.6 The site extends to 0.2ha is not subject to any heritage, landscape or ecology designations and there are no trees on site. The front of the site comprises an existing hedgerow. The site falls within Flood Zone 1.
- 2.7 There is an existing field gate access from Sled Gates into the site in the south west corner. A new site access is proposed which has been informed by initial speed survey works. Details are set out below.
- 2.8 Further details on highway characteristics and ecology / hedgerow are set out in the Appeal Statements prepared by AMATP and FPCR respectively (copies at Appendix 5 and 6).
- 2.9 A site location plan is attached at Appendix 1.

3.0 Relevant Planning History and Pre-application advice

Pre-application discussions

- 3.1 The site was subject to pre-application discussions (LPA ref NYM/2021/ENQ/17392) with the North York Moor National Park Planning Authority (NYMNPPA) to confirm whether the principle of development would be acceptable. 2 schemes were set out, one of which was for 5 units as per the appeal proposal.
- 3.2 The response (set out in letter dated 5 March 2021) confirms the principle of residential development on the site would be consistent with the Policy requirements of Local Plan policy CO7 'Housing in larger villages'. The pre-app also sought the views of the County Highways team and they also confirmed no objection in principle to residential development of up to 5 dwellings on the site.
- 3.3 In light of the positive pre-application responses, the outline planning application was submitted on behalf of the landowner. A copy of the LPA pre-app response is attached at Appendix 2

Planning History

- 3.4 In terms of planning history, the site has been subject to a number of previous applications, the most recent back in 2010. Planning Application NYM/2007/0146/FL for the construction of two dwellings was refused on 5 April 2007 with subsequent appeal dismissed. The subsequent appeal was dismissed (Jan 2008) on basis delivering suitable visibility splays.
- 3.5 However, there was then a 2010 application – LPA ref NYM/2010/0278/FL - Outline application for the construction of two dwellings – was also then refused in June 2010 on grounds of principle (previous tighter policy on infill plots) – there were no highways or hedgerow / ecology reasons for refusal. The 'agreed' visibility splays for the 2010 scheme were 2.4m x 38.6m downhill to east and 2.4m x 46m uphill to west. These were less than the 2007 scheme yet no objection was raised. The Policy reasons stated have been superseded by latest Local Plan (as confirmed in the Officer Report for the appeal proposal [p9] – copy at Appendix 3)
- 3.6 Previous concerns regarding highways (2007 & 2008) are noted and this scheme seeks to address matters through robust justification for visibility splays proposed (to create a safe means of access) and works to retain / translocate the hedge.
- 3.7 Furthermore, the NPPF makes clear the Government's objective to boost supply of housing whereby refusal of housing proposals should only be considered where adverse impacts arising would significantly and demonstrably outweigh this benefit (of boosting housing supply).
- 3.8 As such previous applications are noted but the previous issues raised have been addressed such that there are now clear grounds to support the proposed development.

4.0 Appeal Proposal

The Proposed Development

- 4.1 This Appeal Statement has been prepared in support of the appeal against the decision of North York Moors National Park (hereafter referred to as "the LPA") to refuse the outline planning application for the residential development comprising up to 5 principal dwellings on land west of Highfields, Sled Gates, Fylingthorpe.
- 4.2 The application is submitted in outline with all matters reserved except for means of access to, but not within the site.
- 4.3 An indicative layout is submitted with the application demonstrating how 5 units can be accommodated on site in a terrace of 3 and pair of semi-detached dwellings. The indicative layout for the site has been revised over the life of the application to address comments on access and also include hedge planting to the rear of the site (latest is Rev E – this is the version to be determined by this appeal).
- 4.4 The means of access is taken from Sled Gates with proposed visibility splays of 2.0m x 47.4m downhill to east and 2.0m x 68.2m uphill to west. The existing boundary treatment to Sled Gates would be repositioned with hedge being translocated.
- 4.5 Further details on Highways and Landscape (hedgerow translocation) are set out in documents prepared by AMATP and FPCR respectively – all of which (including Appeal Statements at Appendix 5 and 6) are submitted with the appeal papers.
- 4.6 As stated above, the application was amended post submission as set out below (under sub heading 'The Planning Application') to address comments from North Yorkshire Highways on site access and County Ecologist in terms of the frontage hedgerow.
- 4.7 The application was refused under delegated powers on 12 Jan 2022.
- 4.8 Copies of submitted plans prepared by Eleven52Architects and supporting technical reports have been lodged with the appeal papers.

The Planning Application

- 4.9 The planning application was submitted via the Planning Portal on 4 May 2021 and included the following:
 - i. Completed application forms, with all certificates signed and dated;
 - ii. Site location plan – dwg 0215_SLE_101 – (Eleven52Architects)
 - iii. Indicative Site Layout – dwg 0215_SLE_102 – (Eleven52Architects)
 - iv. Access & Visibility Splay dwg (AMATP – AMA/20940/SK001)
 - v. Planning Statement – Alistair Flatman Planning

-
- vi. Design & Access Statement – Eleven52Architects
 - vii. Highways Supporting Statement – AMA dated 11.5.21
- 4.10 The application was deemed valid on 4 May 2021.
- 4.11 Post submission additional information and revised details were submitted as set out below to address highways and ecology comments:
- May 2021
- Updated Site Layout - dwg 102 rev B (Eleven52Architects)
- June 2021
- Revised Vis Splay dwg and Long sections – AMA dwgs SK002 & SK003 (AMA)
- Revised Layout to address Ecology comments – dwg 102 rev C (Eleven52Architects)
- Revised Layout to address highways comments – dwg 102 rev D (Eleven52Architects)
- Revised Vis Splay dwg – AMA dwg SK004 (AMA)
- Hedgerow Assessment – Middleton Bell Ecology (June 2021)
- July 2021
- AMA Highways Technical Note dated 23 July 21 – response to NYCC Highways comments
- November 2021
- Revised Layout to address highways comments/ revised access position – dwg 0215_SLE_102 rev E (Eleven52Architects)
- Cover email from Alistair Flatman Planning dated 17.11.21
- AMA Highways Technical Note dated 9.11.21 – further response to NYCC Highways comments
- Revised Vis Splay dwg – AMA dwg SK006 (AMA) – see AMA Highways Technical Note dated 9.11.21
- December 2021
- Hedgerow Translocation Method Statement - FPCR
- 4.12 It is noted that through the life of the application the County Ecologist has not raised strong objection to the loss of the hedge. As summarised in the Officer Report (page 11 and 12), it is advised that the hedge could be removed and this forms part of the planning balance. This matter is dealt with in this appeal statement (Section 7) and FPCR Appeal Statement (Appendix 6).
- 4.13 Copies of submitted plans and supporting technical reports set out above have been lodged with the appeal papers. The text in bold above are those plans / reports on which decision is to be made.
- 4.14 The application was refused under delegated powers on 12 January 2022.

The decision

- 4.15 The decision notice (dated 12 January 2022) sets out 2 reasons for refusal. The reasons for refusal are set out below:

The above named Authority being the Planning Authority for the purposes of your application validated 04 May 2021, in respect of **outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale) at Land west of Highfield, Sled Gates, Fylingthorpe** has considered your said application and has **refused** permission for the proposed development for the following reason(s):

- 1 The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal is therefore contrary to Policy CO2 and CO7 of the North York Moors Local Plan which only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety.
- 2 The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

- 4.16 A copy of the officer's delegated report is enclosed at Appendix 3 with a copy of the decision notice found at Appendix 4.
- 4.17 The first reason for refusal relates to highways matters – as such a detailed Highways Statement of Case has been prepared by Andy Moseley Associates (AMA) to address the refusal. This is attached at Appendix 5.
- 4.18 The second reason for refusal relates to the boundary hedge – as such a detailed Ecology / Nature Conservation Statement of Case has been prepared by FPCR to address the refusal. This is attached at Appendix 6.
- 4.19 This Appeal Statement sets out the general appeal proposal details assessing it against the relevant planning policies. The merits of the appeal proposal and relevance of aforementioned policies as set out in the reason for refusal are referenced in Section 7 of this Statement whilst full case in terms of highways and nature conservation are presented in Appendices 5 & 6.

5.0 National Planning Policy Framework (NPPF)

- 5.1 This section provides a summary of those policies contained in the NPPF considered to be of particular relevance to the determination of this appeal.
- 5.2 The appeal site sits within the built up area of Fylingthorpe (as confirmed by the Pre-application advice letter and Officers Delegated Report (page 11) (copies at Appendix 2 & 3 respectively).
- 5.3 The National Planning Policy Framework (revised Feb 2019) sets out the government's planning policies for England and how these are expected to be applied. The National Planning Policy Framework must be taken in to account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.
- 5.4 Set out below is a summary and assessment of the relevant sections of the NPPF.
- 5.5 The National Planning Policy Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. The guidance advises that the policies in paragraphs 1-211 taken as a whole constitute the government's view on what sustainable development in England means in practice for the planning system.

Achieving Sustainable Development

- 5.6 Paragraphs 7, 8 and 11 of the NPPF confirms that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 5.7 Paragraph 11 sets up the presumption in favour of sustainable development stating:
- For decision-taking this means:*
- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
- 5.8 The application site comprises an infill site within Fylingthorpe (larger village) and therefore comprises a windfall site that can contribute to the supply of housing throughout the plan period. The adopted

Local Plan includes policy CO7 which allows for the development of housing in larger villages such as Fylingthorpe. As such the proposal is consistent with policies in an up to date development plan (para 11-c of the NPPF).

Decision Making

- 5.9 Para 38 advises that LPAs should approach decisions on proposed development in a positive and creative way and should seek to approve applications for sustainable development where possible.
- 5.10 In respect of pre-application engagement, para 39 acknowledges the benefits of early engagement. A pre-application enquiry was lodged to the LPA (LPA ref NYM/2021/ENQ/17392 – copy attached at Appendix 2 – no objections were raised in terms of principle or highways to residential development on this site.
- 5.11 Para 47 confirms that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible.

Delivering a sufficient supply of homes

- 5.12 Chapter 5 of the NPPF relates to the delivery of a sufficient supply of homes. Paragraph 60 confirms the Government's objective of significantly boosting the supply of housing with paragraph 69 confirming the role of smaller sites in meeting housing requirements of an area. This site is consistent with that advice.
- 5.13 Paragraphs 74-77 confirm the importance of maintaining a minimum 5 year supply of deliverable supply of housing sites. Where this 5 year supply is not maintained Local Plan policies can be considered out of date (as per Para 11 'd' of the NPPF).
- 5.14 The application site comprises an infill site within Fylingthorpe (larger village) and therefore comprises a windfall site that can contribute to the supply of housing throughout the plan period. The June 2019 Land Availability Assessment confirms the role of such windfall sites in meeting the housing supply numbers for the plan period within the National Park.
- 5.15 The importance of delivering principal housing for families (within Fylingthorpe and wider national park) is a key consideration in the determination of this appeal.

Promoting Sustainable Transport

- 5.16 Chapter 9 of the NPPF refers to highways matters with para 111 advising that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.17 The proposed development comprises up to 5 dwellings served from a new access point. The location of this access point has been informed by speed surveys and also the need to deliver suitable visibility splays.

- 5.18 As such the proposal will not give rise to any unacceptable highways impacts and the cumulative impacts of the road network would not be severe. The proposal is therefore consistent with para 111 of the NPPF.

Design

- 5.19 Chapter 12 of the NPPF refers to Design and advises that good design is a key aspect of sustainable development.

- 5.20 The proposed development is submitted in outline with details on design / appearance reserved for future consideration. However, a site layout has been prepared and a Design & Access Statement submitted, which gives an indication on design for dwellings. From the information submitted it is considered the site can be designed and to reflect the residential character of its surrounds whilst providing a safe means of access. The proposal can deliver a well-designed scheme of up to 5 principal dwellings with benefits to visual amenity of the site and its surrounds. The Design & Access Statement that accompanies the development proposals clearly sets out how the development could, in the future, meet all of the objectives set out in para 130 and represents high quality design.

Meeting the challenge of climate change, flooding and coastal change

- 5.21 Paragraph 159 of Chapter 14 confirms that development should be directed to areas with the lowest probability of flooding.

- 5.22 The site lies within Flood Zone 1 and is therefore at low risk from flooding.

Conserving and enhancing the natural environment

- 5.23 Paragraph 174 of Chapter 15 advises that the planning system should contribute to and enhance the natural and local environment by: -

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

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

c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land

instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."

- 5.24 Paragraph 176 advises that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks. The recently adopted Local Plan (July 2020) has been prepared with this national guidance in mind and policies adopted accordingly, including CO7 which allows for small scale housing developments in larger villages.
- 5.25 Paragraph 180 relates to ecology and biodiversity considerations when determining planning applications. The site comprises a paddock set to grass and is not subject to any ecological, or landscape designations and is not considered to be a valued landscape.
- 5.26 The site is predominantly grassland with trees beyond the site boundaries to the south-west. There are no known significant populations of protected species or areas of ecological interest on site. As such it is considered the site is of low wildlife value.
- 5.27 Paragraph 183 refers to ground conditions advising that when making decisions, consideration must be given to whether a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. The site has no evidence of any built development and is shown on historic mapping as being a field. As such there are no known issues of contamination or land instability.

6.0 Development Plan Context – North York Moors Local Plan (July 2020)

- 6.1 With respect to the proposed development, the Development Plan currently comprises the adopted North York Moors National Park Authority Local Plan adopted in July 2020.
- 6.2 The reasons for refusal set out 4 Local Plan policies, namely CO2, CO7 and ENV1 as well as Strategic Policy A. In addition, Strategic Policies B and M are also relevant in terms of settlement hierarchy and delivery of housing. These policies are summarised below:
- 6.3 Strategic Policy A reflects the overarching principles of the national park and sustainable development stating:

Strategic Policy A - Achieving National Park Purposes and Sustainable Development

Within the North York Moors National Park, a positive approach to new development will be taken, in line with the presumption in favour of sustainable development set out in the National Planning Policy Framework and where decisions are consistent with National Park statutory purposes:

- 1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park;*
- 2. To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.*

Where there is an irreconcilable conflict between the statutory purposes the Sandford Principle will be applied and greater weight will be attached to the first purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the National Park.

Sustainable development means development which:

- a) Is of a high quality design and scale which respects and reinforces the character of the local landscape and the built and historic environment;*
- b) Supports the function and vitality of communities by providing appropriate and accessible development to help meet local need for housing or services, facilities, energy or employment opportunities;*
- c) Protects or enhances natural capital and the ecosystem services they provide;*
- d) Maintains and enhances geodiversity and biodiversity through the conservation and enhancement of habitats and species;*
- e) Builds resilience to climate change through adaptation to and mitigation of its effects;*
- f) Makes sustainable use of resources, including using previously developed land wherever possible; and*
- g) Does not reduce the quality of soil, air and water in and around the National Park.*

- 6.4 Strategic Policy B 'The Spatial Strategy' sets out the settlement hierarchy within the National Park. The site comprises a small field within the built environs of Fylingthorpe which is identified in the Local Plan as a larger village.
- 6.5 Supporting text within the Local Plan in respect of small scale development in larger villages is set out in para 3.12 – copied below:

Larger Villages

3.12 These settlements have a more 'self-contained' character, and a range of facilities serving the wider community. The Local Plan allows for small scale development in the main built up area of these villages to meet housing, employment and community needs, including 'principal residence' housing on suitable sites (Policy CO7). No development boundaries or limits are defined and the suitability of a site for development will be defined on a case by case basis.

- 6.6 Strategic Policy M 'Housing' sets out the how the NYMPNA will deliver new housing through the Plan period advising that there is a need for a minimum of 551 new homes to be completed over the plan period. These homes will be delivered through (amongst others) windfall development.
- 6.7 In light of the above, supporting text set out in the Local Plan in respect of Strategic Policy M 'Housing' states that (NB bold underline is my emphasis):

The strategy for housing in this Local Plan is:

a) To meet a significant element of housing demand and need in the Local Service Centre of Helmsley, in order to help widen local housing choice and support local services. This will be achieved through the development of land allocated for new open market and affordable housing in the adopted Helmsley Local Plan and through Policy CO6.

b) To allow for a more limited amount of housing including principal residence and affordable housing on suitable small sites in Larger Villages. The aim is to have a flexible approach to new housing that will help stem population decline and support the vitality of the local economy and services in these communities whilst respecting the character and form of the built environment. This will be achieved through Policies CO7 & CO11

- 6.8 In light of the above, Policy CO7 refers to development within larger villages stating:

Policy CO7 - Housing in Larger Villages

In order to support the wider service function of Larger Villages, principal residence & affordable housing will only be permitted:

- 1. On suitable small sites within the main built up area of the village only. Proposals will be expected to meet the need for smaller dwellings;*
- 2. Conversions (not applicable)*

6.9 The application is submitted in outline with means of access to be considered only at this stage. As such Design based policies are not relevant to this outline application.

6.10 With regards the proposed means of access, Policy CO2 refers to Highways and is relevant to the assessment of the application. Policy CO2 states:

Policy CO2 - Highways

New development will only be permitted where:

1. It is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety;

2. The external design and layout and associated surfacing works take into account, as appropriate, the needs of all users including cyclists, walkers, horse riders and users of mobility aids; and

3. Highway detailing, road improvements and street furniture are sensitive to the character, heritage, built form and materials of the area, the need to conserve and enhance biodiversity and are the minimum required to achieve safe access.

New roads and significant road widening schemes are not considered appropriate in the National Park and will not be permitted unless it can be robustly demonstrated that they will meet a compelling need which cannot be met in any other way and are acceptable in terms of landscape and other impacts.

6.11 With regards nature conservation, Policy ENV 1 states:

Policy ENV1 - Trees, Woodlands, Traditional Orchards and Hedgerows

There will be a presumption in favour of the retention and enhancement of existing trees, woodland, traditional orchards and hedgerows of value on all developments.

Where a development would result in the unavoidable loss of an existing tree, orchard or hedgerow but the wider sustainability benefits of the development clearly outweigh the loss, proposals will be expected to minimise harm and provide a net biodiversity and amenity gain, with appropriate replacement of lost trees or hedgerows.

Development will not be permitted that would lead to loss of or damage to ancient woodland and aged or veteran trees found outside ancient woodland unless there are wholly exceptional reasons and the need for, and benefits of the development in that location clearly outweigh the loss.

6.12 This Appeal Statement seeks to deal predominantly with matters of principle. The Highways and Nature Conservation Appeal Statements prepared by AMA and FPCR respectively deal with highways and nature conservation reasons for refusal. They deal with Local Plan policies CO2 and ENV1 in more detail.

7.0 Case for the Appellant

- 7.1 This appeal statement seeks to demonstrate how the proposal complies with relevant planning policy, in this case NPPF and policies from the adopted North York Moors Local Plan (2020).
- 7.2 The pre-application response (copy at Appendix 2) is supportive of the proposal in principle.
- 7.3 However, once the application was submitted, Officers took an alternative view and refused the scheme on grounds of highways (reason 1) and nature conservation (reason 2).
- 7.4 The Highways Statement of Case prepared by AMA (Appendix 5) deals specifically with the highways reason for refusal and clearly demonstrates that the proposed development will not give rise to any highway safety concerns.
- 7.5 The Nature Conservation Statement of Case prepared by FPCR (Appendix 6) deals specifically with the nature conservation reason for refusal and clearly demonstrates that the proposed development will not result in the loss of the boundary hedge (through sensitive translocation) and that additional hedge planting on site delivers ecological benefits.
- 7.6 The case set out below deals more generally with the fact the site is a windfall site in a large settlement suitable for housing development (consistent with Local Plan Policy CO7). The scheme will boost housing and the presumption in favour of sustainable development set out in para 11 of the NPPF applies. There is no significant or demonstrable harm arising from the proposal that would outweigh the aforementioned presumption in support.
- 7.7 I consider the following points are relevant to the appellant's case in relation to the stated reasons for refusal in this instance:-
- Principle of Development
 - No adverse impacts arising from the proposed development that significantly and demonstrably outweigh the benefits of delivering housing on this 'suitable small site within the main built up area of the village of Fylingthorpe'
 - Compliance with NPPF and Local Plan Policies
- 7.8 These points are covered in turn below.
- The principle of development.
- 7.9 The NPPF is clear in setting out the Government's objective to boost the supply of housing (para 60) and the role that smaller sites can play in meeting housing requirements of an area (para 69).
- 7.10 The proposal is consistent with this national guidance in that it will deliver family housing in an existing settlement in the National Park.
- 7.11 Looking at policies set out in the Local Plan, it is clear that they also seek to boost supply of housing.

- 7.12 Fylingthorpe is identified as a larger village under Strategic Policy B in the Local Plan. Within larger villages, the Local Plan *allows for small scale development to meet housing, employment and community needs, including 'principal residence' housing on suitable sites (see also Policy CO7).*
- 7.13 Strategic Policy M 'Housing' sets out the how the NYMPNA will deliver new housing through the Plan period advising that there is a need for a minimum of 551 new homes to be completed over the plan period. These homes will be delivered through (amongst others) windfall development.
- 7.14 The supporting text set out in the Local Plan in respect of Strategic Policy M 'Housing' states that (NB bold underline is my emphasis):

The strategy for housing in this Local Plan is:

a) To meet a significant element of housing demand and need in the Local Service Centre of Helmsley, in order to help widen local housing choice and support local services. This will be achieved through the development of land allocated for new open market and affordable housing in the adopted Helmsley Local Plan and through Policy CO6.

b) To allow for a more limited amount of housing including principal residence and affordable housing on suitable small sites in Larger Villages. The aim is to have a flexible approach to new housing that will help stem population decline and support the vitality of the local economy and services in these communities whilst respecting the character and form of the built environment. This will be achieved through Policies CO7 and CO11.

- 7.15 The proposed delivery of housing on the appeal site is entirely consistent with this Local Plan policy and should be afforded significant weight, especially given the wider Government objective to boost supply of housing.
- 7.16 The delivery of new housing sites in the National Park will be delivered through development of windfall sites in larger villages. This is an adopted strategy to meet the Governments objective to boost the supply of housing.
- 7.17 The site comprises a windfall site within the larger village of Fylingthorpe and as such the principle of development is consistent with Strategic Policies B and M.
- 7.18 Further to Strategic Policies B and M, Local Plan Policy CO7 refers specifically to development within larger villages stating:

Policy CO7 - Housing in Larger Villages

In order to support the wider service function of Larger Villages, principal residence and affordable housing will only be permitted:

1. On suitable small sites within the main built up area of the village only. Proposals will be expected to meet the need for smaller dwellings;

- 7.19 The site sits within the larger village of Fylingthorpe as demonstrated on the aerial image below.



- 7.20 This windfall site comprises infill development in the village with the site within walking distance of local shop, school, church, recreation areas and bus stops. As such the development of this site for residential development of up to 5 principal dwellings is consistent with the Local Plan.
- 7.21 In the context of NPPF paras 60 and 69, and Local Plan Policy CO7 it is clear that the appeal proposal should be supported in principle.
- 7.22 Having visited the site and its surrounds there are no other obvious or available sites within Fylingthorpe that could deliver principal housing for families. Identified constraints on other land visited in Fylingthorpe included topography, tree cover or use of land as school playing field / open space.
- 7.23 This site, and this appeal proposal, therefore represents the only opportunity to deliver family homes in this large village. Without the development of this site the LPA are at risk of not being able to deliver on Strategic Policy M in terms of delivering family homes in Fylingthorpe. The implications of this are clear from the supporting text to Strategic Policy M (copied above) in terms of harm to vitality of the economy and services in the village. Villages like Fylingthorpe need smaller new developments to provide housing for families to ensure the longevity of the village and its local services.
- 7.24 The lack of any other available sites in Fylingthorpe is a significant material consideration weighing in support of the appeal proposal.

-
- 7.25 The appeal proposal can deliver up to 5 family dwellings (submitted indicative plan shows 5 3-bed dwellings). This would support the sustainable growth of Fylingthorpe consistent with NPPF and Local Plan policies.
- 7.26 The principle of development is therefore considered to be acceptable. This was confirmed in the Council's pre-application letter dated 5 March 2021.
- 7.27 It is also noted that the Officer's **Delegated Report** confirms the site as being suitable – page 11 of the report states '*It is considered that this does comprise a suitable small site within the main built up area of the village of Fylingthorpe and so falls to be considered under Policy CO7*'.
- 7.28 Furthermore, it is noted that planning application in 2010 for housing on site was refused on policy grounds only (that policy having now been superseded by the Local Plan as confirmed in the Officer Report (top of page 10) (Appendix 3). The LPA were content in 2010 with proposed means of access (shorter vis splays than now proposed) and the loss of the hedge.
- 7.29 Paragraph 11 of the NPPF sets up the presumption in favour of sustainable development and is clear that development proposals should be approved without delay where they '*accord with an up-to-date development plan*'.
- 7.30 In light of the above, it is considered the proposed development of up to 5 dwellings is consistent with Government objective to boost the supply of housing (NPPF para 60 & 69) and Local Plan Strategic Policy B, Strategic Policy M and Policy CO7.
- 7.31 As such the principle of development is acceptable and outline planning permission should be granted.
- No adverse impacts arising from the proposed development that significantly and demonstrably outweigh the benefits of delivering housing on this 'suitable small site within the main built up area of the village of Fylingthorpe'
- 7.32 NPPF para 11 also references importance of granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Whilst it is noted this guidance is set in the context of a Local Plan being out of date, it is still relevant to consider whether the grounds stated in the reasons for refusal are significant and demonstrable such that they outweigh the benefits – in this case the delivery of family housing in Fylingthorpe (with accepted economic, social and environmental benefits).
- 7.33 The site is not subject to any heritage, landscape or ecology designation and sits within Flood Zone 1. There are also no known ground or contamination issues with the site. As such there are no technical reasons to resist development of this small site.
- 7.34 The location of the site within the village and the proximity of housing to the east, west and north, ensures the development of

this infill site will not harm the landscape quality or scenic beauty of the national park in this location.

- 7.35 Furthermore, whilst matters of design are reserved for later approval, the submitted indicative layout demonstrates how the site could be developed to deliver up to 5 dwellings. The size and shape of the site enables a number of layouts to be considered as well as dwelling sizes. The site can therefore deliver smaller, family dwellings in either semi-detached or detached form, or indeed fewer larger detached dwellings.
- 7.36 In addition, the development of this site allows for provision of additional tree planting and hedge planting to the rear of the site as shown on the Indicative Layout (rev E) copied below:



INDICATIVE SITE PLAN
5 3b5p Houses

- 7.37 The provision of additional hedgerow at reserved matters stage together with translocation of existing hedge to front (see FPCR Appeal Statement and Hedgerow Translocation Method Statement) ensures there are clear opportunities for Biodiversity net gain on site. Further details on this matter are set out in the FPCR Appeal Statement (Appendix 6)
- 7.38 Concerns raised over highway safety and nature conservation (reasons for refusal 1 and 2) are noted but these are considered to be unsubstantiated (as demonstrated in the Appeal Statements prepared by AMA and FPCR) and any harm that is considered to arise is limited.
- 7.39 It remains the case that the appeal proposal can deliver a safe means of access and the hedge can be translocated (the process

of translocation is well established and can be successful) whilst there are opportunities for additional tree and hedge planting on the site. The impacts on highway safety and nature conservation are therefore considered to be limited and can not be considered to give rise to significant or demonstrable harm that would outweigh the significant benefits of delivering housing in the village.

- 7.40 This site remains the only realistic prospect of being able to deliver family homes in the village consistent with NPPF and Local Plan policies (B, M and CO7) and as such outline planning permission should be granted.
- 7.41 In light of the above, it is considered there is no significant or demonstrable harm arising from the proposed development of up to 5 dwellings that would outweigh the significant benefits arising (from boosting supply of family housing in the village). The appeal proposal is therefore consistent with Government objective to boost the supply of housing (NPPF para 60 & 69) and Local Plan Strategic Policy B, Strategic Policy M and Policy CO7. As such the principle of development is acceptable.

Compliance with NPPF and Local Plan Policies

- 7.42 In light of the above, and the Highways (AMA) and Nature Conservation (FPCR) Appeal Statements attached at Appendix 5 & 6, it is clear the proposal complies with all relevant Local Plan policies.
- 7.43 Assessing the proposed dwelling against the main objectives of the NPPF, it is clear the scheme accords with the overarching approach to planning in that:-
- The site will deliver up to 5 dwellings on a windfall site within the existing settlement and will therefore assist the NYMNPA in meeting its housing supply requirements
 - The appeal proposal is consistent with NPPF para 60 (boost supply of housing) and 69 (small windfall sites).
 - The site is not of any environmental, ecological, heritage or landscape values
 - The site can be safely accessed and will not give rise to any highway safety or capacity issues
 - The proposed development will not give rise to any ecological or landscape (tree / hedgerow) harm;
 - The development of this field within the settlement will not harm the landscape quality or scenic beauty in this part of the National Park;
 - As demonstrated by the submitted layout and details set out in the Design and Access Statement, the development proposal can provide a development that is sympathetic to, and reflective of, the character of the surrounding area.
- 7.44 As such the proposal is consistent with guidance set out in the NPPF.

- 7.45 In respect of Local Plan policies, the principle of development is considered to be appropriate in that the appeal proposal will deliver family housing on a suitable small site within the main built up area of Fylingthorpe. The appeal proposal is therefore consistent with Strategic Policy B, Strategic Policy M and Policy CO7 of the adopted Local Plan.
- 7.46 The Highways Appeal Statement demonstrates that the site can be safely accessed in accordance with Local Plan Policy CO2 (see Appendix 5).
- 7.47 The Nature Conservation Appeal Statement (Appendix 6) demonstrates that there will be no loss of hedgerow from the site (will be translocated) and that new hedge and tree planting will deliver ecological benefits. As such the appeal proposal is consistent with Local Plan policy ENV1
- 7.48 It is therefore considered that the proposal is wholly consistent with national guidance and adopted policies of the Local Plan. As such, the presumption in favour of sustainable development applies and the outline application should be approved.

8.0 Concluding Statement and Summary

- 8.1 This Appeal Statement has been prepared in support of the appeal against the decision of North York Moors National Park Planning Authority (hereafter referred to as "the LPA") to refuse the outline planning application for residential development on land west of Highfield, Sled Gates, Fylingthorpe – LPA ref NYM/2021/00351/OU.

The Site

- 8.2 The site is located to the western edge of Fylingthorpe. The site sits within the built form of Fylingthorpe and comprises an infill plot with dwellings to the east, west and north. The Local Plan confirms Fylingthorpe as a 'larger village' (Local Plan Strategic Policy B – Table 1 (page 40)). The site comprises a small field located to the west of Highfields.
- 8.3 Sled Gates forms the northern boundary to the site and it is proposed access will be taken from this road. The site sits within walking distance of the village school (c500m to the east), shop (c350m to the east), church (c350m to the east) and recreational space whilst there are also bus stops close to the site (c200m to east).
- 8.4 There are no specific housing allocations identified in the Local Plan. This infill site is considered to be a windfall site and would contribute to housing supply within the National Park as set out in the Local Plan and latest Land Availability Assessment Report (June 2019).
- 8.5 The site extends to 0.2ha is not subject to any heritage, landscape or ecology designations and there are no trees on site. The front of the site comprises an existing hedgerow. The site falls within Flood Zone 1.
- 8.6 A site location plan is attached at Appendix 1.

The Appeal Proposal

- 8.7 The appeal proposal comprises an outline planning application for the residential development comprising up to 5 principal dwellings on land west of Highfields, Sled Gates, Fylingthorpe. The application is submitted in outline with all matters reserved except for means of access to, but not within the site.
- 8.8 An indicative layout is submitted with the application demonstrating how 5 units can be accommodated on site in a terrace of 3 and pair of semi-detached dwellings. The indicative layout for the site has been revised over the life of the application to address comments on access and also include hedge planting to the rear of the site (latest is Rev E – this is the version to be determined by this appeal).
- 8.9 The means of access is taken from Sled Gates with proposed visibility splays of 2.0m x 47.4m downhill to east and 2.0m x 68.2m

uphill to west. The existing boundary treatment to Sled Gates would be repositioned with hedge being translocated.

- 8.10 The proposal was subject to pre-application discussions (LPA ref NYM/2021/ENQ/17392) with response advising that the principle of development was acceptable. No highways objections were raised at pre-application stage (please refer to letter at Appendix 2).

The Planning Application

- 8.11 The outline planning application was refused by Officers under delegated powers.
- 8.12 The decision notice dated 12 Jan 2022 sets out two reasons for refusal:

The above named Authority being the Planning Authority for the purposes of your application validated 04 May 2021, in respect of **outline application for construction of up to 5 no. principal residence dwellings with associated access (matters reserved: appearance, landscaping, layout and scale) at Land west of Highfield, Sled Gates, Fylingthorpe** has considered your said application and has **refused** permission for the proposed development for the following reason(s):

- 1 The Planning Authority considers that clear visibility of 68.2metres cannot be achieved along the public highway in a southern direction from a point 2 metres from the carriageway edge measured down the centre line of the access road and consequently traffic generated by the proposed development would be likely to create conditions prejudicial to highway safety. The proposal is therefore contrary to Policy CO2 and CO7 of the North York Moors Local Plan which only permits new development where it is of a scale which the adjacent road network has the capacity to serve without detriment to highway safety.
- 2 The existing roadside hedgerow classifies as being a habitat of importance (under the NERC Act) and therefore its proposed removal would result in habitat loss, contrary to the National Parks Statutory Purposes as set out in Strategic Policy A and Policy ENV1 of the NYM Local Plan, which states that there will be a presumption in favour of the retention and enhancement of existing hedgerows of value on all developments.

- 8.13 A copy of the officer's delegated report is enclosed at Appendix 3 with a copy of the decision notice found at Appendix 4.
- 8.14 The first reason for refusal relates to highways matters – as such a detailed Highways Statement of Case has been prepared by Andy Moseley Associates (AMA) to address the refusal. This is attached at Appendix 5.
- 8.15 The second reason for refusal relates to the boundary hedge – as such a detailed Ecology / Nature Conservation Statement of Case has been prepared by FPCR to address the refusal. This is attached at Appendix 6.
- 8.16 This appeal statement will therefore seek to demonstrate the proposed outline residential development of this windfall site is acceptable in principle and will not give rise to any unacceptable highway safety impacts or harm to nature conservation interests.

Summary of Case in Support of the Proposal

- 8.17 This section of my evidence summarises the Case in Support of the appeal proposal. This appeal statement seeks to demonstrate how the proposal complies with relevant planning policy (NPPF and policies from adopted North York Moors Local Plan [2020]).
- 8.18 The pre-application response (copy at Appendix 2) is supportive of the proposal in principle.
- 8.19 However, once the application was submitted, Officers took an alternative view and refused the scheme on grounds of highways (reason 1) and nature conservation (reason 2).
- 8.20 The Highways Statement of Case prepared by AMA (Appendix 5) deals specifically with the highways reason for refusal and clearly demonstrates that the proposed development will not give rise to any highway safety concerns.
- 8.21 The Nature Conservation Statement of Case prepared by FPCR (Appendix 6) deals specifically with the nature conservation reason for refusal and clearly demonstrates that the proposed development will not result in the loss of the boundary hedge (through sensitive translocation) and that additional hedge planting on site delivers ecological benefits.
- 8.22 The case set out below deals more generally with the fact the site is a windfall site in a large settlement suitable for housing development (consistent with Local Plan Policy CO7). The scheme will boost housing and the presumption in favour of sustainable development set out in para 11 of the NPPF applies. There is no significant or demonstrable harm arising from the proposal that would outweigh the aforementioned presumption in support.
- 8.23 I consider the following points are relevant to the **appellant's case** in relation to the stated reasons for refusal in this instance:-
- Principle of Development
 - No adverse impacts arising from the proposed development that significantly and demonstrably outweigh the benefits of delivering housing on this 'suitable small site within the main built up area of the village of Fylingthorpe'
 - Compliance with NPPF and Local Plan Policies
- 8.24 These points are covered in turn below.
- The principle of development.**
- 8.25 The NPPF is clear in setting out the Governments objective to boost the supply of housing (para 60) and the role that smaller sites can play in meeting housing requirements of an area (para 69).
- 8.26 The proposal is consistent with this national guidance in that it will deliver family housing in an existing settlement in the National Park.
- 8.27 Looking at policies set out in the Local Plan, it is clear that they also seek to boost supply of housing. Fylingthorpe is identified as a larger village under Strategic Policy B in the Local Plan. Within larger villages, the Local Plan *allows for small scale development to*

meet housing, employment and community needs, including 'principal residence' housing on suitable sites (see also Policy CO7).

8.28 Strategic Policy M 'Housing' sets out the how the NYMPNA will deliver new housing through the Plan period advising that there is a need for a minimum of 551 new homes.

8.29 The supporting text set out in the Local Plan in respect of Strategic Policy M 'Housing' states that (NB bold underline is my emphasis):

The strategy for housing in this Local Plan is:

b) To allow for a more limited amount of housing including principal residence and affordable housing on suitable small sites in Larger Villages. The aim is to have a flexible approach to new housing that will help stem population decline and support the vitality of the local economy and services in these communities whilst respecting the character and form of the built environment. This will be achieved through Policies CO7 and CO11.

8.30 The proposed delivery of housing on the appeal site is entirely consistent with this Local Plan policy and should be afforded significant weight, especially given the wider Government objective to boost supply of housing.

8.31 The site comprises a windfall site within the larger village of Fylingthorpe and as such the principle of development is consistent with Strategic Policies B and M.

8.32 Local Plan Policy CO7 refers specifically to development within larger villages stating '*In order to support the wider service function of Larger Villages, principal residence and affordable housing will only be permitted:*

1. On suitable small sites within the main built up area of the village only. Proposals will be expected to meet the need for smaller dwellings;

8.33 The site sits within the larger village of Fylingthorpe. The suitability of the site has been confirmed at pre-app and in the officer report determining the outline application (See Appendices 2 and 3).

8.34 In the context of NPPF paras 60 and 69, and Local Plan Policy CO7 it is clear that the appeal proposal should be supported in principle.

8.35 Having visited the site and its surrounds there are no other obvious or available sites within Fylingthorpe that could deliver principal housing for families.

8.36 This site, and this appeal proposal, therefore represents the only opportunity to deliver family homes in this large village. Without the development of this site the LPA are at risk of not being able to deliver on Strategic Policy M in terms of delivering family homes in Fylingthorpe.

8.37 The appeal proposal can deliver up to 5 family dwellings (submitted indicative plan shows 5 3-bed dwellings). This would

support the sustainable growth of Fylingthorpe consistent with NPPF and Local Plan policies.

- 8.38 The principle of development is therefore considered to be acceptable. This was confirmed in the Council's pre-application letter dated 5 March 2021. Principle also confirmed in the Officer Report (page 11). It is also noted that the 2010 refusal was on policy grounds only (that policy now superseded by Local Plan) – there were no objections on highways or nature conservation / loss of hedge.
- 8.39 In light of the above, it is considered the proposed development of up to 5 dwellings is consistent with Government objective to boost the supply of housing (NPPF para 60 & 69) and Local Plan Strategic Policy B, Strategic Policy M and Policy CO7.
- 8.40 As such the principle of development is acceptable and outline planning permission should be granted.
- No adverse impacts arising from the proposed development that significantly and demonstrably outweigh the benefits of delivering housing on this 'suitable small site within the main built up area of the village of Fylingthorpe'
- 8.41 NPPF para 11 also references importance of granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Whilst it is noted this guidance is set in the context of a Local Plan being out of date, it is still relevant to consider whether the grounds stated in the reasons for refusal are significant and demonstrable such that they outweigh the benefits – in this case the delivery of family housing in Fylingthorpe.
- 8.42 The site is not subject to any heritage, landscape or ecology designation and sits within Flood Zone 1. There are also no known ground or contamination issues with the site. As such there are no technical reasons to resist development of this small site.
- 8.43 The location of the site within the village and the proximity of housing to the east, west and north, ensures the development of this infill site will not harm the landscape quality or scenic beauty of the national park in this location.
- 8.44 Furthermore, whilst matters of design are reserved for later approval, the submitted indicative layout demonstrates how the site could be developed to deliver up to 5 dwellings together with new hedge and tree planting (refer to Proposed Plan 0215_SLE_102 rev E).
- 8.45 Concerns raised over highway safety and nature conservation (reasons for refusal 1 and 2) are noted but these are considered to be unsubstantiated (as demonstrated in the Appeal Statements prepared by AMA [Appendix 5] and FPCR [Appendix 6]) and any harm that is considered to arise is limited.
- 8.46 It remains the case that the appeal proposal can deliver a safe means of access and the hedge can be translocated (the process

of translocation is well established and can be successful) whilst there are opportunities for additional tree and hedge planting on the site. The impacts on highway safety and nature conservation are therefore considered to be limited and cannot be considered to give rise to significant or demonstrable harm that would outweigh the significant benefits of delivering housing in the village.

- 8.47 In light of the above, it is considered there is no significant or demonstrable harm arising from the proposed development of up to 5 dwellings that would outweigh the significant benefits arising (from boosting supply of family housing in the village). The appeal proposal is therefore consistent with Government objective to boost the supply of housing (NPPF para 60 & 69) and Local Plan Strategic Policy B, Strategic Policy M and Policy CO7. As such the principle of development is acceptable.

Compliance with NPPF and Local Plan Policies

- 8.48 In light of the above, and the Highways (AMA) and Nature Conservation (FPCR) Appeal Statements attached at Appendix 5 & 6, it is clear the proposal complies with all relevant Local Plan policies.
- 8.49 Assessing the proposed dwelling against the main objectives of the NPPF, it is clear the scheme accords with the overarching approach to planning in that:-
- o The site will deliver up to 5 dwellings on a windfall site within the existing settlement and will therefore assist the NYMNPA in meeting its housing supply requirements
 - o The appeal proposal is consistent with NPPF para 60 (boost supply of housing) and 69 (small windfall sites).
 - o The site is not of any environmental, ecological, heritage or landscape values
 - o The site can be safely accessed and will not give rise to any highway safety or capacity issues
 - o The proposed development will not give rise to any ecological or landscape (tree / hedgerow) harm;
 - o The development of this field within the settlement will not harm the landscape quality or scenic beauty in this part of the National Park;
 - o As demonstrated by the submitted layout and details set out in the Design and Access Statement, the development proposal can provide a development that is sympathetic to, and reflective of, the character of the surrounding area.
- 8.50 As such the proposal is consistent with guidance set out in the NPPF.
- 8.51 In respect of Local Plan policies, the principle of development is considered to be appropriate in that the appeal proposal will deliver family housing on a suitable small site within the main built up area of Fylingthorpe. The appeal proposal is therefore consistent

with Strategic Policy B, Strategic Policy M and Policy CO7 of the adopted Local Plan.

- 8.52 The Highways Appeal Statement demonstrates that the site can be safely accessed in accordance with Local Plan Policy CO2 (see Appendix 5). The Nature Conservation Appeal Statement (Appendix 6) demonstrates that there will be no loss of hedgerow from the site (will be translocated) and that new hedge and tree planting will deliver ecological benefits. As such the appeal proposal is consistent with Local Plan policy ENV1
- 8.53 It is therefore considered that the proposal is wholly consistent with national guidance and adopted policies of the Local Plan. As such, the presumption in favour of sustainable development applies and the outline application should be approved.
- 8.54 In this context, I would respectfully request that the appeal be allowed and outline planning consent be granted for the replacement.

APPENDIX 1
SITE LOCATION PLAN

APPENDIX 2

LPA pre-application response letter (5 March 2021)
(LPA ref NYM/2021/ENQ/17392)

APPENDIX 3

Planning Officer Delegated Report

APPENDIX 4

Decision Notice (dated 12 January 2022)

APPENDIX 5

Highways Appeal Statement
Andy Moseley Associates [AMA] (date / ref)

APPENDIX 6

Ecology & Nature Conservation Appeal Statement FPCR (17 June 2022)