



## **PLANNING COMMITTEE**

Tuesday 9 May 2017 at 6.00 pm

Council Chamber, Ryedale House, Malton

### **Agenda**

15 **Late Observations**

(Pages 2 - 17)

# Agenda Item 15

RYEDALE  
DISTRICT  
COUNCIL



Please Contact: Mrs Karen Hood  
Extension 386  
Email: karen.hood@ryedale.gov.uk

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All Members of the Planning Committee  
Council Solicitor  
Head of Planning & Housing  
Managing Development Team Leader

Ref: Agendas/Planning/2016/2017

5 May 2017

Dear Councillor

**Meeting of the Planning Committee - 9 May 2017**

With reference to the above meeting I enclose for your attention the late observations received since despatch of the agenda.

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Hood', is written over a light blue horizontal line.

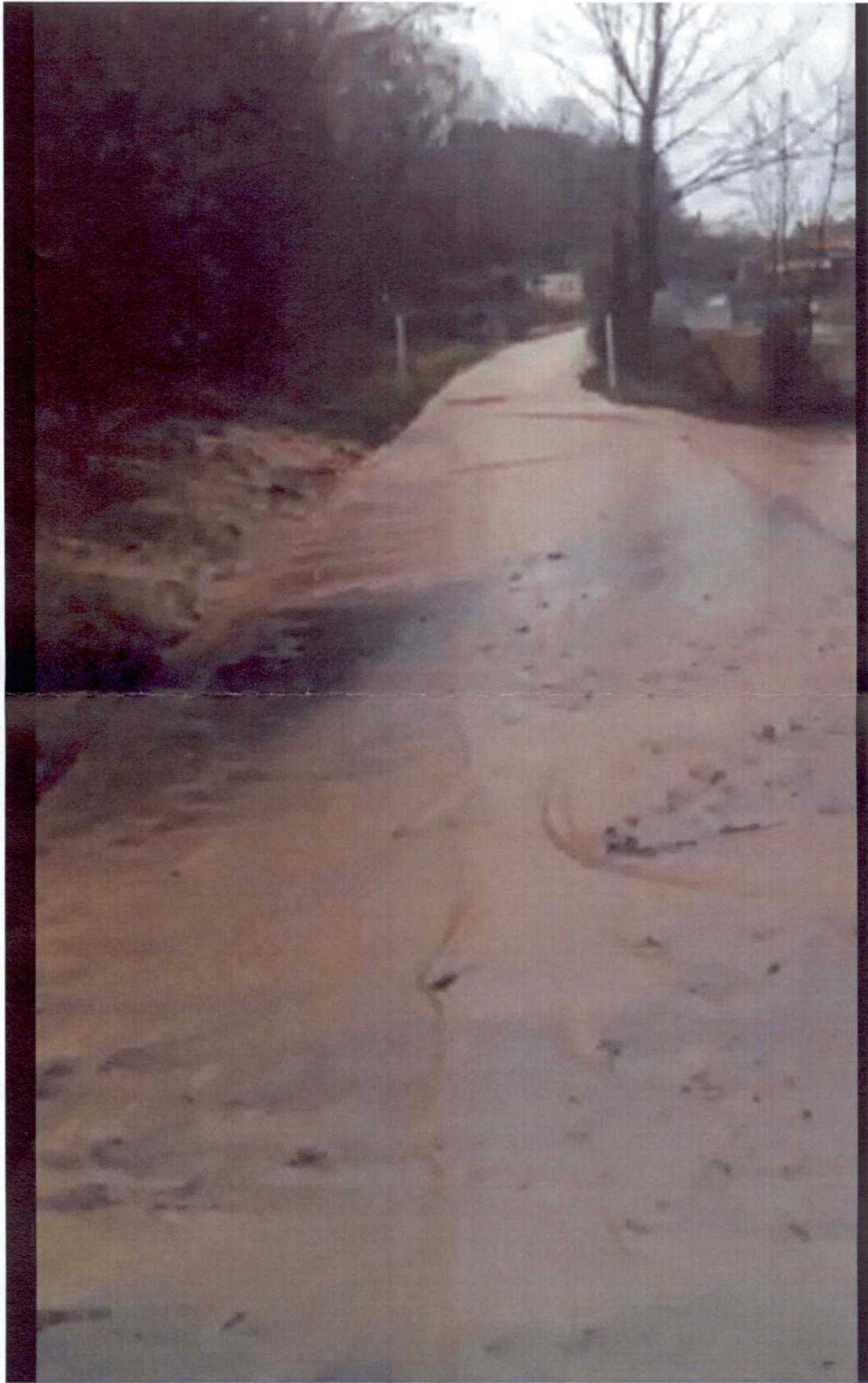
Mrs Karen Hood  
Managing Development Team Leader

Enc









**Planning Application 16/01658/OUT**  
**Erection of 6no. three bedroom terraced dwellings (site area 0.21ha)**  
**North Yorkshire Highways Depot, Manor Vale Lane, Kirkbymoorside.**  
**YO62 6EG**

## Noise

The Council **Local Plan SP 20 Generic Development Management Issues – Character** – requires that *“Proposed uses and activity will be compatible with the existing ambience of the immediate locality and the surrounding area and with neighbouring land uses and would not prejudice the continued operation of existing neighbouring land uses”*

In relation to **Amenity and Safety**

*New development will not have a material adverse impact on the amenity of present or future occupants, the users or occupants of neighbouring land and buildings or the wider community by reason of design, use, location and proximity to neighbouring land uses. Impacts on amenity can include, for example, noise, dust, odour, light flicker, loss of privacy or natural daylight or be an overbearing presence. Impacts on amenity would include noise from the bandroom as a relevant consideration.*

*Developers will be expected to apply the highest standards outlined in the World Health Organisation, British Standards and wider international and national standards relating to noise*

I would suggest that one of the reasons the band room and scout hut sought this location was that they could participate in their activities away from residential dwellings so that they could participate in their activities without causing disturbance to their neighbours.

The main issue in relation to noise is the noise from the band room, although it is not inconceivable that the arrival and departure from the band room and activities at the scout hut may be a source of noise depending on the particular activity undertaken.

An application for housing on this site (reference 08/00019/MOUT) was refused by notice dated 13 March 2008. The applicant appealed against this refusal but the inspector dismissed the appeal (APP/Y2736/A/08/2072443). One of the main reasons the appeal was dismissed was the living conditions of its potential occupants with particular regard to light, outlook and noise disturbance. The Inspector came to the view *“Whilst I accept that some people would enjoy the music I consider it likely that it would cause significant annoyance and disturbance to many, particularly when heard repeatedly for several hours most evenings”* (para 10)

The inspector also considered the argument regarding providing high levels of acoustic insulation to the dwellings

*“12. The appellant argues that the affected houses could be designed with measures to protect their occupants from the noise, although I am not*

*persuaded that this is practical: even if double or triple glazing in the houses were to be effective in blocking out the music, the residents would be unable to have their windows open in warm weather and, in any case they would not be able to enjoy their gardens on summer evenings without disturbance of the band. At the hearing the appellant referred in vague terms to other possible measures to baffle the noise although I am not convinced that a mound or bund could protect the houses and their gardens whilst still providing the necessary access to, and outlook for, the properties."*

In paragraph 13, the inspector advised that the suggested condition would be ineffective in ensuring that the living conditions of the residents of the proposal would not be harmed by the presence of the practice hall. The inspector concluded in paragraph 14 that

*"Thus, with regard to light, outlook and noise/disturbance I find that the proposal conflicts with policy H7(v) of the Local Plan which indicates that new residential development should provide a satisfactory standard of residential amenity. I also agree with the LPA that the proposal conflicts with the guidance in Planning Policy Guidance 24: Planning and Noise to locate housing away from sources of significant noise unless the noise can be mitigated".*

Although the original Local Plan and PPG 24: Planning and Noise is no longer in existence their replacements, the adopted Local Plan contains similar provisions in relation to noise and the NPPF as part of its Core Planning Principles requires that planning should *"always seek to secure high quality design and good standard of amenity for all existing and future occupants of land and buildings"* and that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

The applicants have submitted a Noise Impact Assessment, which advises (paragraph 3.1) that the NPPF does not provide any specific or quantified guidance with respect to noise and has withdrawn all previous guidance documents on the assessment of noise for planning purposes, which was detailed in PPG24, however Planning Practice Guidance on noise was published on 6 March 2014. The Guidance in paragraph 1 advises that *"Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment."* Clearly the introduction of new housing to the proximity of a band room is a relevant consideration. The Guidance also advises what factors influence whether noise could be a concern. This includes *"The potential effect of a new residential development being located close to an existing business that gives rise to noise should be carefully considered. This is because existing noise levels from the business even if intermittent (for example, a live music venue) may be regarded as unacceptable by the new residents and subject to enforcement action...."* . The band activities are not a business but their existing and future rights are relevant in this respect. The Guidance advises that when noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when noise is present, then



the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout. Such decisions must be made taking into account of the economic and social benefit of the activity causing the noise, but it is undesirable for such exposure to be caused. Where noise is likely to cause a material change in behaviour and /or attitude, e.g. avoiding certain activities during periods of intrusion or having to keep windows closed most of the time because of the noise this is classed as a Significant Observed Adverse Effect and should be avoided. The NPPF (paragraph 123) requires that planning decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

Although PPG 24 has been withdrawn the Noise Impact Assessment argues that the document made use of other guidance and British Standards that have not been withdrawn and remain relevant to the assessment of noise impact on a proposed residential development. They consider that the most appropriate assessment methodology for an assessment of noise impact is by comparing predicted internal noise levels within the properties against the criteria within BS8233:1999. The noise report also makes reference to the World Health Organisation standards for Community noise but makes no reference to BS 4142.

BS8233:2014 provides guidance and recommendations for the control of noise in and around buildings. Noise control in and around buildings is discussed in this British Standard guide on an objective and quantifiable basis as far as currently possible. For many common situations, this guide suggests criteria such as suitable sleeping/resting conditions, and proposes noise levels that normally satisfy these criteria for most people. However, it is necessary to remember that people vary widely in their sensitivity to noise, and the levels suggested might need to be adjusted to suit local circumstances. Moreover, noise levels refer only to the physical characteristics of sound and cannot differentiate between pleasant and unpleasant sounds. The Guidance provides advice in relation to Planning and Design (section 5). In this particular application the proposal is to site the housing directly opposite the bandroom.

In paragraph 5.3 of the Noise Impact Assessment dealing with external noise levels, the report quotes the guidance in BS 8233:2014 BS8233. that "*For traditional external areas that are used for amenity space, such as gardens and patios, it is desirable that the external noise level does not exceed 50 dB  $L_{Aeq,T}$ , with an upper guideline of 55 dB  $L_{Aeq,T}$ ....*" However these absolute levels are based on the WHO Guidelines for Community Noise and should be read in context to the text in which they appear, which relates to "*steady continuous noise*". The WHO guidance advises that, "*To protect the majority of people from being seriously annoyed during the daytime, the sound pressure level on balconies, terraces and outdoor living areas should not exceed 55dB LAeq for a steady, continuous noise. To protect the majority of people from being moderately annoyed during the daytime, the outdoor sound pressure level should not exceed 50dB LAeq. These values are based on annoyance studies, but most countries in Europe have adopted 40dB LAeq as*

*the maximum allowable level for new developments (Gottlob 1995). Indeed, the lower value should be considered the maximum allowable sound pressure level for all new developments whenever feasible*

The WHO guidance also refers to *"Indoor guideline values for bedrooms are 30dB LAeq for continuous noise and 45 dB LAmax for single sound events. Lower noise levels may be disturbing depending on the nature of the noise source"*. It is not considered that noise from a band room could be considered as steady continuous noise. In fact BS8233:2014 when referring to design guidance for indoor ambient noise levels for dwellings advises that in general it refers to steady external noise sources and applies to external noises as it affects the internal acoustic environment from sources without a specific character, i.e. an "anonymous noise". Occupants are usually more tolerant of noise without a specific character than, for example, that from neighbours which can trigger complex emotional reactions

BS4142:2014 describes a method of assessing whether noise from sources of an industrial nature is likely to give rise to complaints from residents. While it is not intended for rating and assessing music it provides a basis for a comparative method for assessing the likelihood of complaints, rather than utilising absolute levels. The basis of the method is to make a comparison of noise from the source under consideration - the specific noise level (either by calculation or measurement) - with the external background noise level at the noise sensitive receptor (NSR). The difference between these two parameters provides an indication of the likelihood that the noise will give rise to complaints. A difference of +10dB or more indicates that complaints are likely. The method is not suitable for assessing noise measured inside buildings. It should be noted that assessment of noise nuisance is beyond the scope of the BS4142. This means, for example, that a BS 4142 assessment indicating that the measured or calculated noise level from a particular source is likely to give rise to complaints does not show that the noise constitutes a statutory nuisance.

BS 4142 does stipulate that a correction of +3dB should be added to the specific noise level to give the overall rating level if the noise under consideration has intermittent characteristics and has identifiable on/off conditions, which would be the case with music from a bandroom.

It is appreciated that this is not noise from an industrial nature however the principle of comparing the specific noise level to the background levels that exist is a well recognised standard for assessing if complaints are likely, whatever the development. BS4142 is likely to be used as one of the indicators to assess statutory nuisance should complaints be received of nuisance due to noise. Paragraph 4.3 of the Noise Impact Assessment confirms that *"Once band practice had ended the noise level was very low with noise only from occasional passing vehicles"*

The Noise Impact Assessment advises (2.1) that the Senior Band practice normally occurs on a Thursday and Sunday evening from 19.30 to 21.15, The Community Band on Tuesday 20.00 to 21.30 on a Tuesday and the Beginner, Learner and Junior Band from 09.00 to 11.00am on a Sunday very day of the week for preparation for a competition, giving little respite to any future residents.

The Noise Impact Assessment in paragraph 4.3 advises the noise environment at the site is characterised as being predominantly noise from activities associated with the Band Hall during the period the band were practicing. The slight increases in noise levels during these periods is however due to musicians (and parents etc) arriving and departing the practice sessions.

The Noise Impact Assessment in Table 4.2 shows the survey results and clearly shows levels when the bands were playing (and half an hour each side for arriving and leaving of 54.3 dB  $L_{Aeq,T}$  for Sunday morning ( background 39.5 dB  $L_{A90}$ ) and 46.7 dB  $L_{Aeq,T}$  ( background 32 dB  $L_{A90}$ ) for Sunday evening. The previous quoted levels for measurements in a similar location in the previously submitted Noise Impact Assessment were higher than these levels but unfortunately the report did not indicate when the band was playing in relation to the noise levels indicated in the previous report.

Comparisons of levels in Table 4.2 relating to the band activity show LEQ levels of at least 14dB (A) higher than the  $L_{A90}$  background level . This is without taking account of a +3 dB to the level due to the intermittent nature of the noise. As the results indicate that that the difference between the two levels is significantly more that 10dB it is highly likely complaints would be received The tables in the annex provide information on levels that could be expected at the facades of dwellings when the bands are practicing.. The noise report confirms that *“Once band practice had ended the noise level was very low with noise only from occasional passing vehicles.”*(paragraph 4.3). The background level on a Sunday evening after 21.45 has background levels in the mid to low 20's dB  $L_{A90}$

### **Conclusion**

An application for housing on this site has previously been to appeal and the inspector refused it. The inspector was not persuaded that if double or triple glazing were to be effective at blocking out the music, the residents would be unable to have their windows open in warm weather and, in any case they would not be able to enjoy their gardens in the summer evenings without disturbance of the band.

The proposal as a block of houses provides better screening to the gardens than previous proposals, however despite the large size of the site, the proposal is for a block of houses directly opposite the existing band room. As the site is in a quarry there is the likelihood that any noise breakout will echo around the site.

Planning permission has been granted for a new concert hall dual scout hall on the site of the existing scout hut. The building has been designed to minimise any noise break out should planning permission be granted for housing on this site in the future. The concert hall has not yet been built, but if it is, it will lead to an intensification of use for the site.

The Noise Impact Assessment provides the existing timetable that the bandroom is used for routine practice. It maybe that this existing timetable may change in the future, and if intensified may cause conflict with any residents of the proposed housing. Allowing housing in such close proximity to the existing bandroom and proposed concert building may well cause

limitations on the usage they were originally designed for. The sound from bands or scouting activities is very subjective in nature and cannot be readily be assessed by numerical assessment alone. What is not in doubt is that at present particularly on an evening is that the background level after band practice is very quite.

Other than the improved screening of the gardens, I do not see any major difference to the previous appeal decision in that in terms of good planning and our own planning policy. It is not good practice to put such incompatible uses adjacent to each other and on balance I must object to the planning applications.

### **Contaminated Land**

Please find my comments below on the Geo Environmental Engineering Phase 2: Ground Investigation Report for the above site (Report Reference 2013 – 512 dated 26th September 2016 V3).

Please note, and as always, I can only comment on land contamination issues. For ground stability and geotechnical issues you will need to consult building control or a specialist in this area.

The Ground Investigation Report and its contents are limited to the boundaries of the site, as indicated by the blue line boundary identified in Appendix 1 of the report.

The results of the contamination assessment has identified elevated levels of generic and organic contaminants (i.e. PAH's) within soils that are considered to pose a potential risk to the proposed residential end users and elevated levels of generic and organic contaminants (i.e. PAH's and TPH's) within the soil leachate samples that are considered to pose a potential risk to controlled waters. At several locations visual and olfactory evidence of organic type contamination was identified within the made ground materials with some (rotten egg) odour, fuel/oil type staining/ odours and tar odours. As the site was historically used as a depot with bulk fuel storage there is the potential for some undiscovered " hot spots" of fuel type contamination.

Based on the above information, a number of contaminants have been identified at elevated levels and at various locations across the development area. When taking into consideration the spatial distribution of the results it would appear that the contamination is potentially widespread.

The report recommends the following

- A further Detailed Quantitative Risk Assessment (DQRA) for both the risk to human health and controlled waters or remediation or protection measures.
- Supplementary investigation works and risk assessment to further assess the site following demolition of current site structures and the removal of hard standings, foundations and buried structures. It recommends a contingency sum to deal with the disposal of potential additional fuel/oil contamination, particularly where the existing UST and drainage is to be removed as additional

areas of contamination are likely that have not been encountered during these brief investigation works

- Information on fuel storage on site be sought from the PLO
- Hydrocarbon barrier protection in dwellings for any potential volatile contaminants
- it is likely that non-standard (i.e. protect-a-line) pipes will be required that are resistant to aggression and degradation from organic contaminants.
- Confirmation requirements with the relevant authorities to determine if any reassessments have taken place
- That appropriate measures be put in place during any site works to ensure that any potentially contaminated water is contained and correctly disposed of.
- Appropriate measures are put in place to ensure that any contaminated soil not detailed in the report is contained and disposed of appropriately.

I agree with the above and as such, would recommend that should the application be approved the following conditions are imposed:

*1. Unless otherwise agreed in writing with the Local Planning Authority, development shall not commence until actual or potential land contamination at the site has been investigated and a Detailed Quantitative Risk Assessment (to follow the Geo Environmental Engineering Phase 2: Ground Investigation Report (Report Reference 2013 – 512 dated 26 September, 2016. V3)) has been submitted to and approved in writing by the Local Planning Authority.*

*2. Where land affected by contamination is found which poses risks identified as unacceptable, no development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use has been submitted to and approved in writing by the local planning authority. The scheme must include proposed remediation objectives and remediation criteria, an appraisal of remediation options and proposal of the preferred option(s), all work to be undertaken, and a description and programme of the works to be including the verification plan. Reports shall be prepared in accordance with Contaminated Land Report 11 and BS 10175(2013) Code of Practice for the Investigation of Potential Contaminated Sites.*

*3. Unless otherwise agreed in writing by the local planning authority, non of the dwellings shall be occupied until the approved scheme of remediation has been completed, and a verification report demonstrating the effectiveness of the remediation carried out has been submitted to and approved in writing by the local planning authority. The verification report shall include a description of the works undertaken and a photographic record where appropriate, the results of any additional monitoring or sampling, evidence that any imported soil is from a suitable source, and copies of relevant waste documentation for any contaminated material removed from the site.*

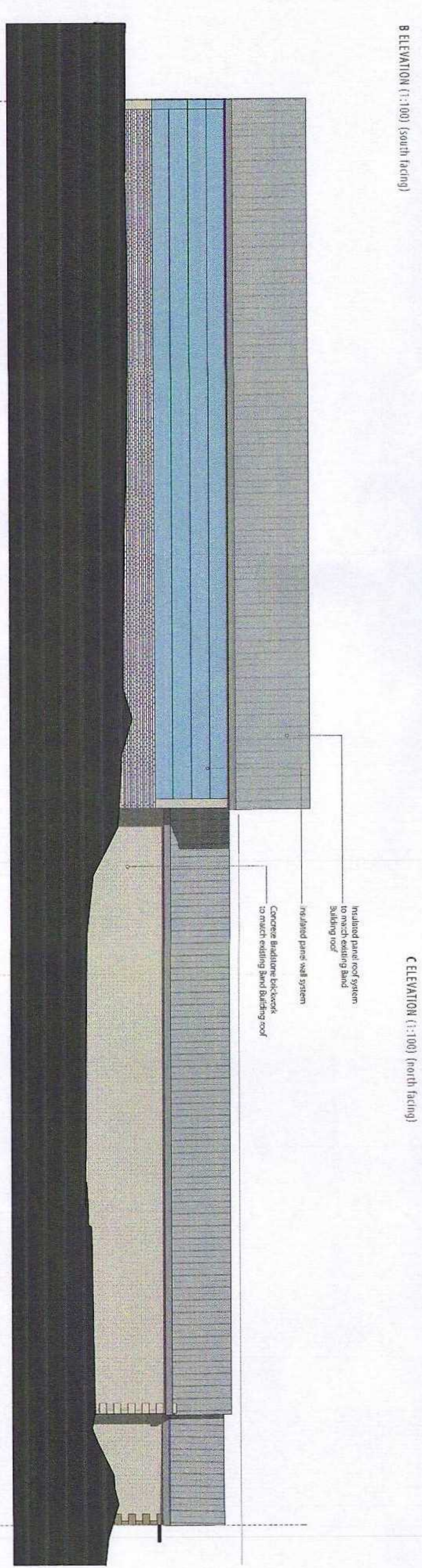
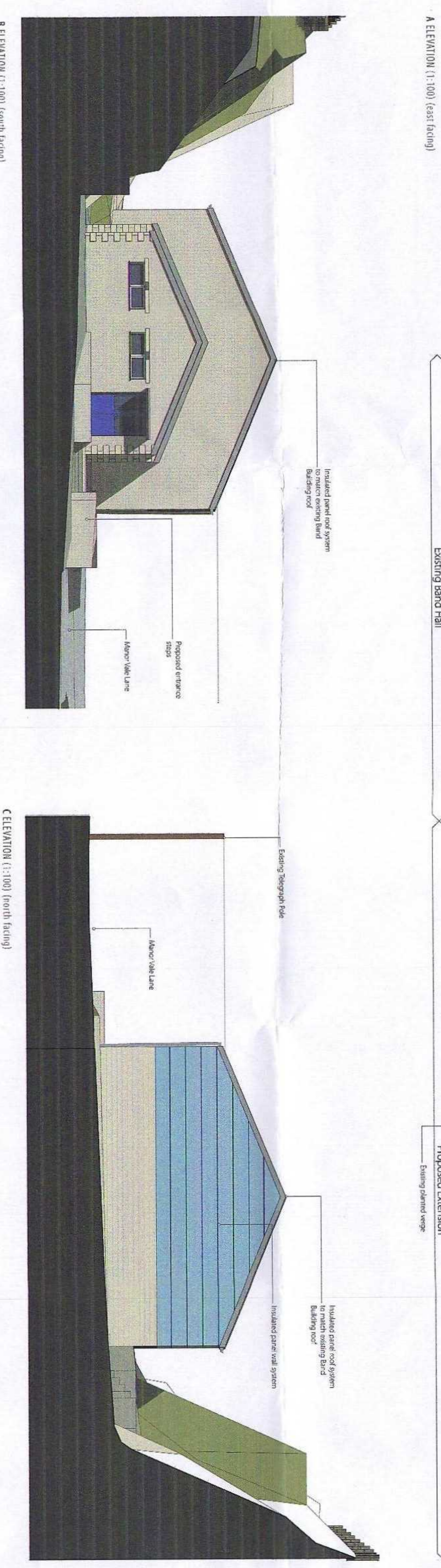
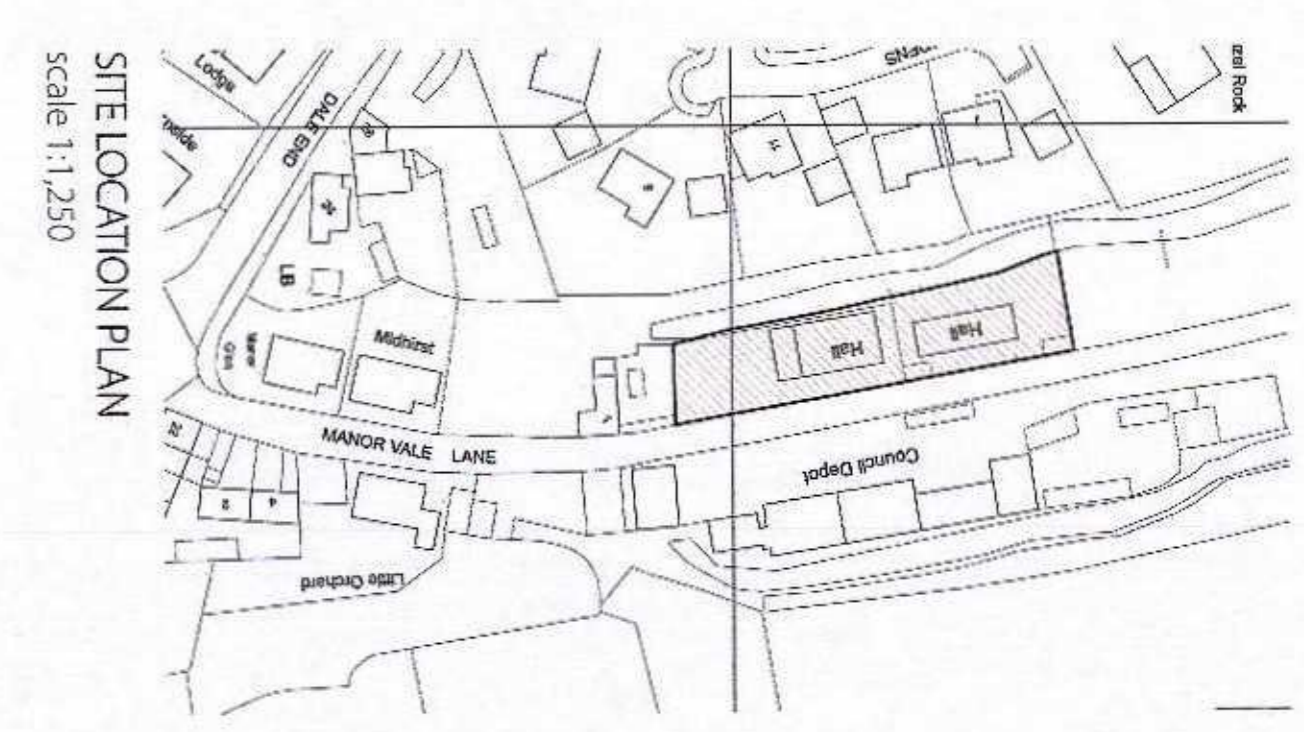
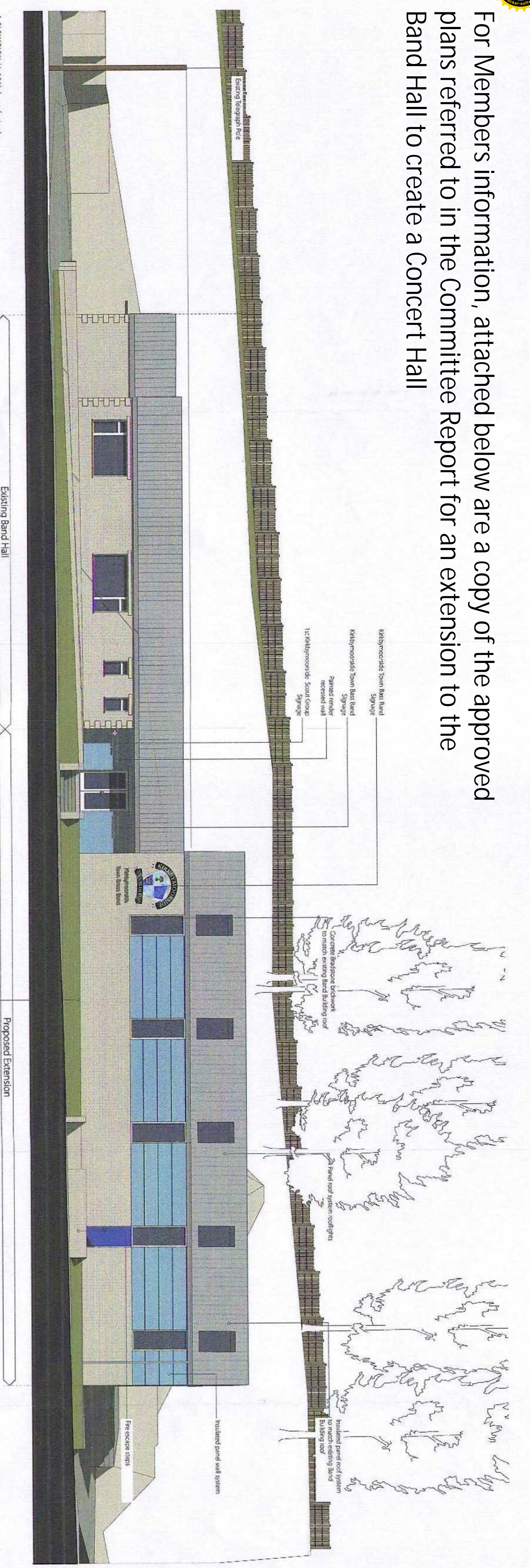
*4. In the event that contamination is found at any time when carrying out the approved development, that was not previously identified in the Geo Environmental Engineering Phase 2: Ground Investigation Report (Report Reference 2013 – 512, 26 September 2016 V3), it must be reported in writing immediately to the local planning authority and work cease until an appropriate investigation and risk assessment is undertaken. Where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the local planning authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.*

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

**Informative**

Technical guidance for developers, landowners and consultants is available in the Yorkshire and Humberside Pollution Advisory Council document Development on Land Affected by Contamination and Verification Requirements for Gas Protection Systems are available on the Ryedale District Council website.

For Members information, attached below are a copy of the approved plans referred to in the Committee Report for an extension to the Band Hall to create a Concert Hall



THIS COPY IS THE OFFICIAL RECORD OF THE DEVELOPMENT. IT IS VALID FOR 12 MONTHS FROM THE DATE OF ISSUE. ANY ALTERATIONS TO THE DEVELOPMENT MUST BE APPROVED BY THE LOCAL AUTHORITY. THE LOCAL AUTHORITY WILL NOT BE RESPONSIBLE FOR ANY DAMAGE TO THE PROPERTY OR PERSONS ARISING FROM THE USE OF THIS COPY.

**RYDALE DM**  
17 JUN 2015  
15/00064/FUL  
DEVELOPMENT  
MANAGEMENT

**PLANNING**  
bramhall blenkharn

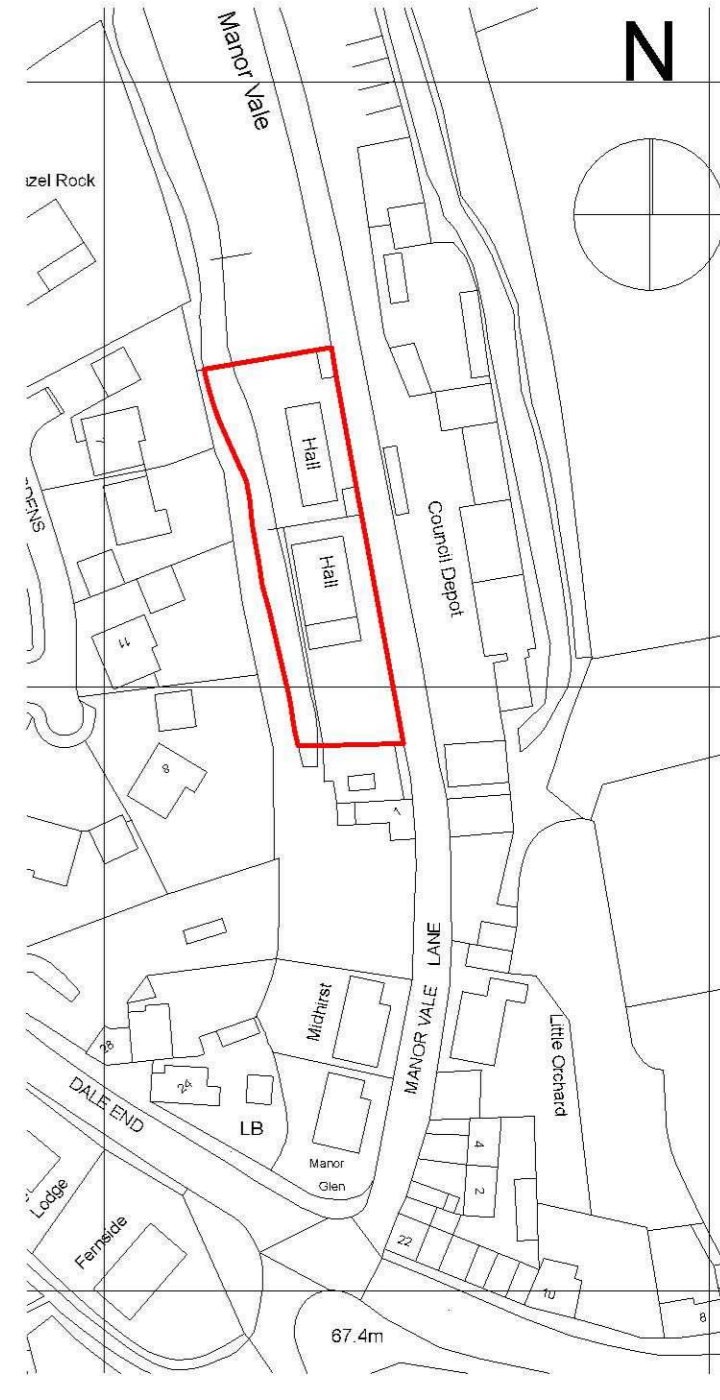
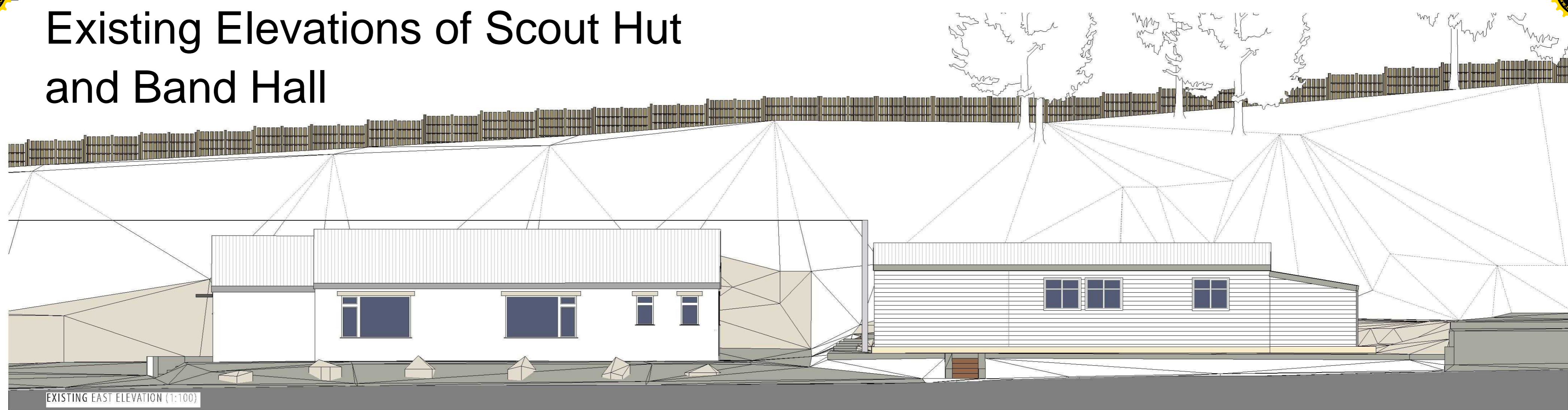
RIBA Chartered Practice  
The Maltings, Manor North, Knebworth, YO17 7DP  
191633 943333  
191633 839905  
www.bramhall.com

**Kirkymoorside Band Building**  
Manor Vale, Kirkymoorside  
Mr Holl

Proposed KMS Band Building  
ELEVATIONS  
1:100

1174\_01\_AR30\_01A

# Existing Elevations of Scout Hut and Band Hall



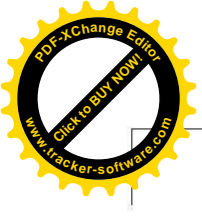
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**bramhall blenkarn**  
 RIBA Chartered Practice  
 The Maltings Malton North Yorkshire YO17 7DP  
 t 01653 693333  
 f 01653 693605  
 e mail@bramble.com  
 www.bramble.com

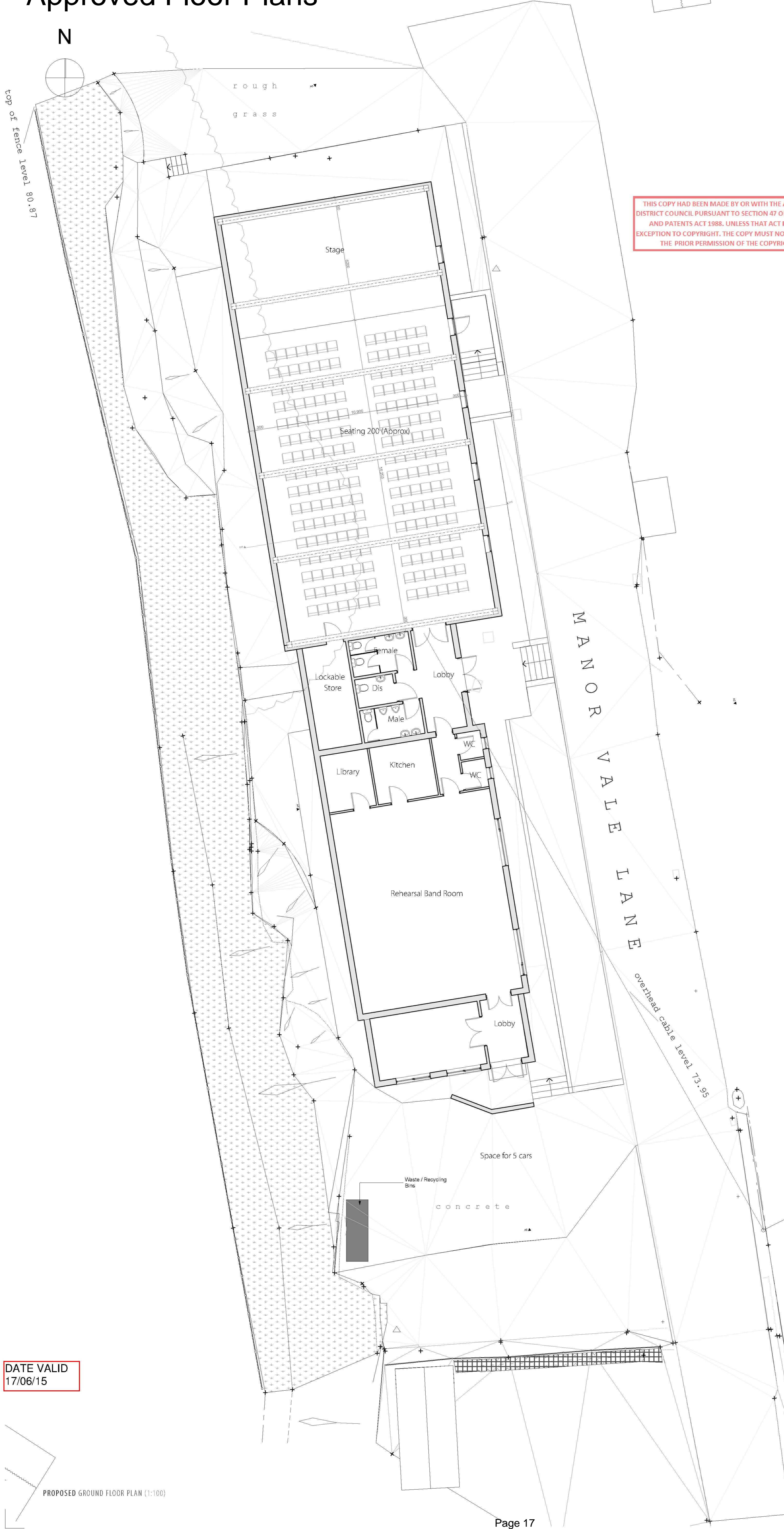
Project: Kirkbymoorside Band Building  
 Address: Manor Vale, Kirkbymoorside  
 Client: Mr Holt  
 Drawing: Proposed KMS Band Building Existing site  
 Scale: 1:100 MB  
 Drawing No: 1174\_EX50\_01

DATE VALID  
 17/06/15





# Approved Floor Plans



PROPOSED MODEL VIEW (viewing north)

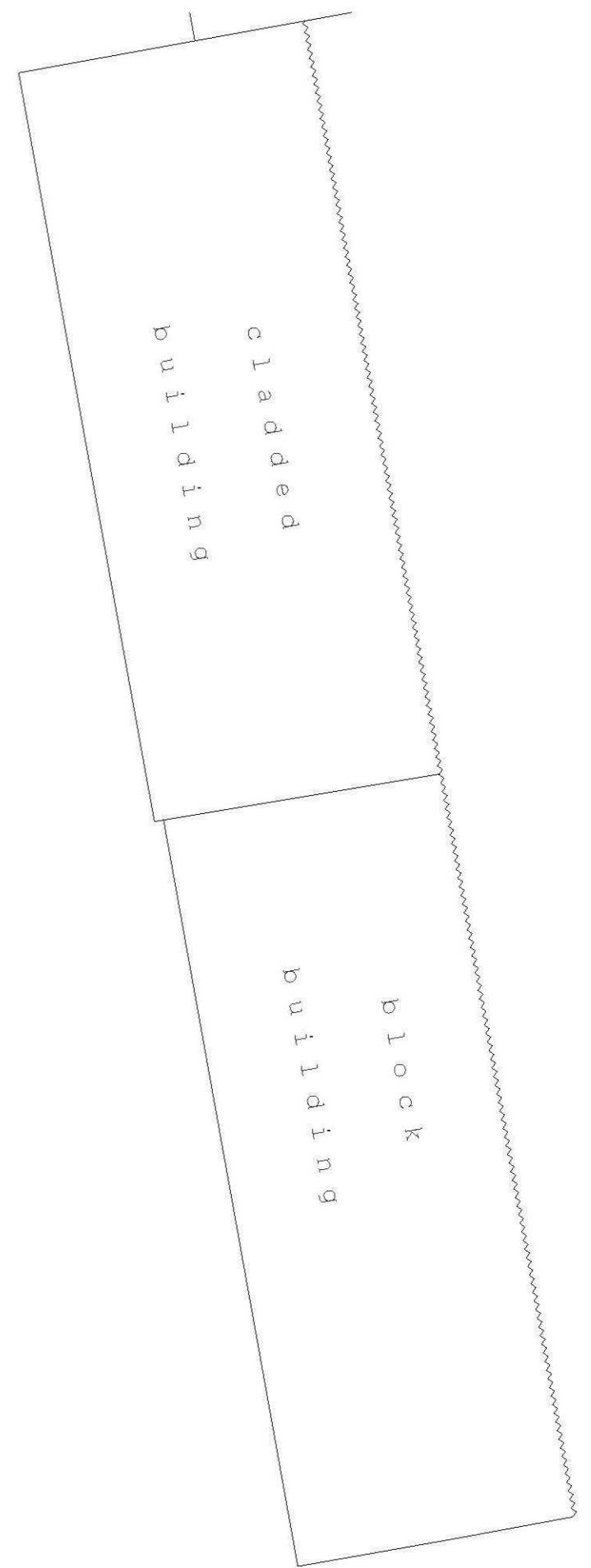
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PROPOSED MODEL VIEW (viewing south)



PROPOSED MODEL VIEW (birdseye view)



# PLANNING

DATE VALID  
17/06/15

Rev	Date	Drawn	CHK'd	Description
A	13.06.15	JD		External ramp omitted

## bramhall blenkarn

RIBA Chartered Practice  
The Matings Malton North Yorkshire YO17 7DP  
t 01653 893333  
f 01653 893805  
e mail@bramble.com  
www.bramble.com

Project: Kirkbymoorside Band Building  
Address: Manor Vale, Kirkbymoorside  
Client: Mr Holt

Drawing: Proposed KMS Band Building  
PROPOSED GROUND FLOOR PLAN

Sheet Size	Drawn	First Issue Date
A1	JD	05.11.14
Scale	Checked	Drawing No.
1:100	MB	1174_01_AR20_01A

PROPOSED GROUND FLOOR PLAN (1:100)