

## PLANNING COMMITTEE REPORT

**Date:** 10<sup>th</sup> December 2015    **Ward:** Wheldrake  
**Team:** Major and Commercial Team    **Parish:** Naburn Parish Council

**Reference:** 15/01845/FULM  
**Application at:** Sewage Works Naburn Lane Naburn York  
**For:** Installation of solar photovoltaic (PV) array with associated infrastructure including solar panels and frames, inverter kiosk, security fencing, cameras and poles, new internal access track and temporary construction compound  
**By:** Kelda Energy Services Limited  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 25 November 2015  
**Recommendation:** Refuse

### 1.0 PROPOSAL

#### THE SITE

1.1 The application site comprises a field, currently used for the grazing of horses, adjacent and immediately to the south of the Naburn Sewage Treatment Works (STW). It is 3.5ha in size. It lies to the west of the B1222 running to the south of York, connecting the village of Naburn with the suburb of Fulford to the north.

1.2 The site is 'boot shaped', bounded by post and rail fencing on its eastern edge. A well-used off-road local cycle route connecting Naburn and the elevated cycle to Fulford and the city centre runs alongside the eastern boundary of the site. It connects by ramp with the elevated National Cycle Network (NCN) Route 65 which defines the south-west boundary of the site. The local cycle route alongside the eastern boundary is separated from the road by a mixed deciduous hedgerow. The cycle route is outside the redline area being in the ownership of the Council. To the south-east corner, a gap in the hedgerow with pedestrian safety barrier allows users to cross the road onto the second cycle/pedestrian ramp up to the National cycle route or to carry along the B1222 to Naburn.

1.3 The south-western boundary of the site again is demarked by post and rail fencing. The land outside the site boundary rises approximately 3m upwards to the NCN Route 65 on the former railway embankment. The slope and top is wooded on either side of the track with deciduous trees (predominantly ash, poplar and willow) interspersed with conifers. The NCN Route 65 runs from Middlesbrough to Hornsea. This local section of the route connects the villages of Bishopthorpe and Naburn with York to the north and Selby to the south.

1.4 A series of pools associated with the sewage works define part of the western extent of the site and are only just visible from the site boundaries via a series of vertical blue columns extending from the pools and a steel palisade fence approximately 1.8m high. This steel fence continues along the north boundary of the site and then turns and continues north up the B1222, forming a boundary for the main STW.

1.5 The River Ouse is located approximately 115m west of the site at its nearest point. Approximately 50% of the site is within Flood Zone 3a (high probability of flooding) with a further 12% in Flood Zone 3b (functional floodplain) with the remainder in Flood Zone 2 (medium probability of flooding).

1.6 The River Ouse is a candidate Site of Importance for Nature Conservation (SINC) (ID 063) and the elevated NCN Route 65 cycle track to the south-east of the site is a SINC (ID 043) valued for its neutral grassland and scrub. Bishopthorpe Ings, on the opposite bank of the river, is also a SINC (ID 005) valued for its flood plain grassland. The site is located in the general extent of Grade 3 (good to moderate quality) agricultural land to the north of Naburn. The site has both been viewed in winter when much of the vegetation had died back and was muddy and water logged, and in summer when it was green with unmanaged grass, docks and thistles and red and white campion.

1.7 The site is located within the Green Belt and outside of the defined settlement limit of the village of Naburn. From the north, the B1222 dips below the railway embankment before continuing south past a cluster of dwellings and Naburn Marina before entering the village. To the north of the site, the B1222 passes the STW on its west with open countryside, fields and farms on the east and the wooded boundary of the Designer Outlet before joining the A19.

## **THE PROPOSAL**

1.8 The applicant is Kelda Energy Services Limited. The applicant does not own the STW, which is owned by Yorkshire Water. However they are both divisions of the overall Kelda Group, with separate land ownership interests, but working together to meet overall company objectives, including energy requirements of Yorkshire Water sites.

1.9 The applicant, is proposing to install a solar photovoltaic (PV) array in approximately 42 rows of solar panels known as strings, with associated infrastructure on the site (further reference as the 'solar farm'). . Each string of panels would be mounted on a rack comprising poles pile-driven to a depth of approximately 1.5m, without the need for excavation. The panels would be mounted at around 0.8m from the ground at the lowest point at the southern edge (being no more than 0.8m in height) rising to approximately 2.25m at the highest point, on the northern edge. The agent has since confirmed verbally that the panels would be no more than 2.5m in height. Each string of panels would be between 3m and 7m

apart. They would be tilted 22 to 35 degrees from the horizontal and orientated southwards.

1.10 An inverter kiosk measuring 6m in length by 2.44m in width and generally 2.59m in height, but no more than 4m in height is to be located in the centre of the site. Cables would be buried to connect the solar panels to the inverters and grid connection. Fifteen CCTV cameras would be mounted on 4m high poles and a perimeter deer fence of galvanised mesh fixed to wooden posts enclosing the site would be a maximum of 2m in height. A temporary construction compound would be located to the north of the site.

1.11 An existing access splay at the northern corner of the site would be retained. A new 3.5m wide internal access track would run within the eastern boundary before turning into the centre of the site and across to the western boundary.

1.12 Landscape enhancement measures are proposed, including a new hedgerow along the eastern boundary of approximately 1.25m in height. This hedge would include some new tree planting. There would also be additional trees in the southern corner of the site (although the landscape plan does not show trees that the photomontage illustrates along the south-west boundary). Ecological enhancements to the site are proposed through this new hedgerow and trees, with improved grassland beneath and between the arrays. Swales are also proposed to off-set the hardstanding areas and enable storage capacity and means of soakaways and infiltration.

1.13 The facility would have a capacity to generate approximately 1.4 megawatts peak. This energy would be used to directly provide power to the adjacent STW and would offset approximately 20-30% of the existing annual on-site demand. This equates to powering approximately 400 homes per annum with a saving of over 800 tonnes of CO<sub>2</sub> emissions a year.

1.14 The original Planning Statement and other documents submitted refer to the majority of the site as being located in Flood Zone 2 with just the western corner of the site being in Flood Zone 3. The original Flood Risk Assessment did not provide a map of the flood zones but commented that the site was in Flood Zone 2 and 3. As confirmed by the Environment Agency (EA) during consultation, Flood Zone 3 extends across a large proportion of the site. A revised Planning Statement and FRA with correct link to the EA on line map have since been received.

## **RELEVANT PLANNING HISTORY**

1.15 The applicant submitted an Environmental Impact Assessment screening opinion request for the proposed development in February 2015 (ref. 15/00303/EIASN). The screening opinion was carried out having regard to the relevant regulations (The Town and Country Planning (Environmental Impact Assessment) Regulations 2011) and the matters they require to be taken into

account in screening the proposal. . The development of 2.59ha of solar photovoltaic arrays and associated infrastructure, generating 1.17 megawatts peak electricity to help power the sewage treatment works, is not considered to be development of more than local importance. In terms of vulnerable locations, Church Ings Site of Special Scientific Interest is located close by, but the proposal will not have a significant impact on the designation as there are no comparable or connected habitats within the development site, the loss of which could have an indirect impact on the features for which the SSSI is designated. There are no non-statutory nature conservation sites on or immediately adjacent to the site. Finally the proposed solar photovoltaic development is not considered to be have unusually complex environmental effects. It was therefore determined an EIA was not required.

1.16 There have been numerous planning applications and permissions within the main sewage works boundary to the north of the site, but only the following two are considered of relevance r:

- 97/02171/FUL Planning application validated 23.10.1997 for the extension to site the area and boundary mound and fence and the provision of new sewage plant. This application was withdrawn.

1.17 The new sewage plant was proposed on the same land as the current application for the solar panels to the south of the existing STW. The proposals comprised the construction of eight new circular treatment tanks, 48m in diameter and 4m in height. A memorandum on the file notes that the Council requested an Environmental Impact Assessment for the application but 'because of the number of objectors and the fact that it lies within the Green Belt, the application was subsequently withdrawn.'

- 98/00746/FUL Planning application validated on 25.03.98 for the upgrade of existing works including provision of new secondary treatment units, modification of sludge handling and storage facilities, associated building and pipeworks, external works and landscaping.

1.18 This subsequent planning application was within the existing STW site to the north of the existing works (i.e. not within the current application site). As this application was within the existing STW it was to be recommended for approval by the case officer but the application was withdrawn before being determined. The reason(s) was not stated.

## **2.0 POLICY CONTEXT**

### **2.1 2005 Draft Development Plan Allocation:**

None

### **2.2 Policies (Also see Section4):**

#### **City of York Draft Local Plan incorporating the 4<sup>th</sup> set of changes (April 2005) (DCLP)**

CYSP2: The York Green Belt

CYSP3: Safeguarding the Historic Character and Setting of York

CYGP5: Renewable energy

CYGP15: Protection from flooding

CYNE2: Rivers and Stream Corridors, Ponds and Wetland Habitats

CYNE7: Habitat protection and creation

CYGB1: Development within the Green Belt

CYL4: Development adjacent to rivers

CYGP1: Design

#### **Emerging Local Plan Publication Draft (2014)**

Policy SS2: Green Belt

Policy CC1: Renewable and Low Carbon Energy Generation

Policy ENV4: Flood Risk

Policy ENV5 : Sustainable Drainage

Policy GB1: Development in the Green Belt

## **3.0 CONSULTATIONS**

### **INTERNAL**

#### **Planning and Environmental Management (Forward Planning)**

3.1 Forward Planning note that the presumption in favour of sustainable development established in the NPPF does not apply to this site as it is located within the general extent of the Green Belt and within a high flood risk area (Flood zones 3a and 3b). It states the development is in the Green Belt and should not be approved except in very special circumstances. The VSC presented include the need for co-location with the STW and the reduction in non-renewable energy consumption of 20-30% and these factors should be given some weight. Overall however the VSC need to be balanced against the site's location in the green wedge and impact on the historic character and setting of York and its visual impact on the

openness of the Green Belt within the context of the STW and any screening proposed.

3.2 The Publication Draft (2014) identifies at Policy CC1 potential locations for solar farms. The application site is not one of these locations. However the policy supports renewable energy generation within the context of sustainable development.

3.3 Regarding the evidence base to the Local Plan, The Renewable Energy Study (2014) identified that solar PV energy generation had the most potential out of the renewable energy generating options for York and that the emerging local plan should positively support such schemes.

3.4 The Historic Character and Setting evidence base identifies swathes of land across the city which are important for preserving York's historic character and setting. These areas help shape patterns of growth within the emerging Local Plan Spatial Strategy. The site is within an 'extended green wedge' (Area D4: Naburn and Bishopthorpe Ings) which are identified as being a characteristic feature of York. They help define local distinctiveness and provide an extended interface between the urban edge and surrounding countryside. Specifically Area D4 in which the site is located retains an open area of river valley east of Bishopthorpe and west of the Designer Outlet, and continues south to include Naburn and Acaster Malbis with the aim of continuing the 'open approach to the city along the river valley'. Forward Planning consider the openness of the site as being important for this designation as it contributes to the overall setting of York. The development will be visible from various locations within the immediate vicinity and possibly in long-range views. The development is distinctively different from the established countryside and village character and therefore comprises infill of an existing countryside gap between Naburn and the sewage works. The development will change the perception of the countryside and cause harm to the openness of the Green Belt for the duration of the development which in this case still represents a long-term effect despite a 'temporary' development of 25 years.

3.5 The Strategic Flood Risk Assessment (2013) identifies the site within Flood Zones 3a, 3b (high risk) and 2 (medium risk) of flooding. Wind turbines are identified as 'essential infrastructure' and using this proxy, solar farms will need to pass the exception test when located in Flood Zone 3.

3.6 The Biodiversity Action Plan identifies the site as within the River Ouse Regional Green Corridor which is identified for nature conservation and flood alleviation. It notes that it is of value not only for wildlife but recreation as well, including both the river and its extensive floodplain. This value includes wildlife, water borne and bankside recreation, transport, agriculture, culture, history, water supply and flood alleviation. The river is a SINC and various meadows adjacent to it are designated SSSI and SINC. However, despite the Green Corridor classification,

development should not be precluded if any effects can be mitigated and the location enhanced. The proposed biodiversity enhancements are supported.

The Agricultural Land Classification identifies the site as within an area of Grade 3 agricultural land which is 'good to moderate' in quality terms. The rating of the site reflects the high flood risk potential.

## **Planning and Environmental Management (Landscape)**

3.7 States the development's greatest and most significant visual impact would be from Naburn Lane B1222 and from the popular cycle route that follows the line of the disused railway from Selby to York. The Sustrans National Cycle Network Route 65 is used as a local and long distance recreational route available to walkers, cyclists, and equestrians, and a means of commuting by bicycle. Thus it has a high status as a public right of way.

3.8 The development would have a localised but significant impact on the open character of the green belt, of greatest concern being the substantial impact on significant section of the NCN Route 65 for cyclists and walkers alike, both as a recreational route and a means of sustainable travel. However, due to the relatively low height of the solar panels and the limited amount of infrastructure and lighting associated with the development, it is not significantly visible within the wider landscape.

### *Landscape context and views*

3.9 The proposal would have an impact on the landscape context of the village, which, despite the presence of the sewage works between Naburn Lane and the river Ouse, is of open arable fields, interspersed with farmsteads to the north east and small woodlands to the south, with the river Ouse corridor running through it.

3.10 The context of the village is experienced by way of movement along the surrounding road and footpath network. To this end, the open field of the site provides separation between the sewage works and Naburn village. Due to the elevated nature of the NCN route 65, the site is also viewed in the context of far reaching views across arable fields, copses, farmsteads and as far afield as the Wolds.

3.11 The wider views of the site in the area of Howden Lane bridge include the central tower of York Minster within the same view. (This is not however identified as a key view of the Minster; the development would not interfere with the view of the Minster itself). The hedge alongside Naburn Lane would serve to screen much of the development (though less effective in the winter months), which in turn would be seen in the context of the sewage works as a backdrop from this perspective.

### *Landscape quality*

3.12 The landscape quality of the site alone is relatively poor, due to the unmanaged nature of the grassland and the poaching caused by horses and rutting by vehicles. Docks, nettles and thistles were all present (though so were Red campion and White campion). The sewage works are a detractor in the landscape; and often forms part of the immediate context in the views of the site. Nonetheless the application site's green openness is of value within the surrounding views.

### *Pedestrian users of B1222*

3.13 The existing footpath that runs along the eastern boundary of the site is comfortably separated from the road by a dense, mixed, native hedge. From here the openness of the site is fully appreciated. This allows views over the grassland, and in part, beyond the southern part of the sewage works, to the distinctive and attractive backdrop of trees. Large willow trees mark the course of the river Ouse. The mixed deciduous trees of the railway embankment and area of wetland form a continuation of these. The introduction of banks of solar panels would have a significant visual impact on the footpath.

3.14 The proposed maintenance access track would also be a significant construction within the views, although this could green over and dull with time; furthermore the proposed hedging on the inside of the proposed new fence would provide some additional screening. However this in turn would serve to hem the footpath in to a corridor of high fencing and hedging, thus significantly detracting from the existing open aspect.

### *Car users views from B1222*

3.15 The site is exposed to view at the point where the sewage works steps back from the road before the roadside hedge begins; however as a car driver the experience of the site would be fairly fleeting, since the existing hedge and proposed hedge would provide significant screening for much of the year.

### *Pedestrian/cycle/equestrian users of Sustrans route*

3.16 The cycle way runs along the western side of Bishopthorpe. There are filtered views of the site through the trees that adorn the railway embankment. The site's current character is largely appreciated as a green back cloth between the tracery of the branches. Views of the site will be markedly less obscured in the winter months. For users of the cycle way the site is most exposed at the tops of the slopes leading from the cycleway down to the B1222.

3.17 The site is generally most exposed at its southern tip. From this angle the solar panels would be viewed head on, i.e. with the greatest surface area. There is spacing of approximately 4m between the rows of panels. Thus the direct visual

impact of the panels will vary depending on the direction of travel, viewing height, and angle of view. Views of the site from the bridge over the Ouse are limited but will be more visible in the winter months.

### *Proposed planting*

3.18 The proposed landscape mitigation is fairly minimal but in keeping with the nature of the surrounding vegetation. The proposed planting, particularly in the southern tip of the site, would reduce the exposure of the development from some key points.

### *General comments*

3.19 Overall the development would have a localised but significant impact on the open character of the greenbelt, of greatest concern being the substantial impact on a significant section of the elevated NCN Route 65 for cyclists and walkers alike, both as a recreational route and a means of sustainable transport. The effects of the development on the wider landscape character would be very limited. Thus the degree of harm must be weighed up against other factors such as the benefits of renewable energy.

## **Planning and Environmental Management (Countryside and Ecology)**

3.20 It is not considered that the proposed development would impact on the several Sites of Importance for Nature Conservation (SINC) in proximity to the site including the River Ouse candidate SINC, Bishopthorpe Ings SINC and York to Selby Cycle Track SINC.

3.21 The site falls within Natural England's SSSI Risk Impact Zone for Church Ings which includes solar schemes with a footprint > 0.5ha. This highlights the need to consult with Natural England on the likely impacts of development. Church Ings is designated for its grassland habitat of unimproved alluvial flood meadows. It is considered that there are no comparable or connected habitats within the development site, the loss of which could have an indirect impact on the features for which the SSSI is designated.

3.22 The site is not recorded as containing Priority Habitats as defined in Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 and recorded by the National Priority Habitat Inventory.

3.23 The Local Plan supporting document 'Green Corridors' January 2011 locates the site within 'Regional Green Corridor No.1 The River Ouse'. It is a significant multifunctional corridor for both wildlife and recreation. Priorities for wildlife enhancement include; wet and flood meadow grasslands, riverine habitats (fens and marshes), wet woodland, ponds, tansy beetle, bats and otter.

## *Ecological Appraisal*

3.24 The main habitat on site which will be impacted by the proposals is improved grassland which has been heavily grazed by horses. This is considered to be of low ecological value.

3.25 Construction mitigation and post-construction enhancements have been proposed through a Biodiversity Management Plan, including the creation of habitat for tansy beetle, a rare and Local Biodiversity Action Plan species. If this application is approved these measures should be secured through a condition relating to the implementation of all ecological measures and works contained in the Biodiversity Management Plan produced by Arcus Consultancy Services Ltd.

## **Planning and Environmental Management (Archaeology)**

3.26 A desk based assessment has been submitted for this site. It revealed that development is only likely to directly affect archaeological remains surviving in the eastern section of the site. It is considered, given the stratigraphy on site, that archaeological mitigation consisting of strip, map and sample is adequate on the very eastern portion of the site. This combined with a watching brief on structural elements such as access tracks and other ancillary infrastructure over the rest of the development site, leading to preservation by record, is acceptable. Both of these measures will be subject to a review and appropriate curtailment in agreement with the Archaeologist for York City Council if certain areas of the site prove archaeologically sterile.

3.27 Should the application be recommended for approval, condition ARCH1 for groundworks within the eastern portion of the site and ARCH2 for the remaining works should be attached to any consent that is granted for this application.

## **Flood Risk Management (FRM)**

3.28 The proposed development is in medium and high risk Flood Zone 2, 3a and 3b (functional floodplain), and therefore a Flood Risk Assessment should be submitted for approval to the Environment Agency's (EA). FRM refer to the EA's response and support their approach in defining the proposed development as 'essential infrastructure' and agree with the EA that the solar farm is located in part in the functional floodplain.

3.29 FRM advise that the LPA should be clear that the information provided within the FRA has demonstrated that the sequential and exceptions tests have been passed.

3.30 Following submission of the revised sequential and exceptions tests, FRM comment that the Council's Strategic Flood Risk Assessment identifies the site is in Flood Zones 2, 3a and 3b (functional floodplain) and although not tabled as

Essential Infrastructure within table ES2, it has to remain operational in times of flood. The area of the site within Flood Zone 3a and 3b (approximately 60% of the site) may be under water or subject to damage by floating debris and therefore will not remain operational in times of flood.

3.31 Regarding the sequential test, for sites to be 'reasonably available' then sites do not need to be within the applicant's landownership. Land within the STW is within lower risk zones, in particular the land to the north east which is in flood zone 1, although according to submitted information it is used as a storage area and is identified as an area of possible expansion of the STW. As landownership cannot discount sites in lower flood risk, then there is also land around the site in flood zone 1 that could be negotiated with the relevant land owners and used for this 'essential infrastructure'.

3.32 The flood risk management team has no objections to the proposed surface water disposal from the development in principle. They recommend that a relevant condition is attached to any approval to agree surface water drainage works. An informative is also proposed relating to surface water drainage.

### **Public Protection (PP)**

3.33 Details have been submitted on noise generation during and post construction. The only noise generated by the development would be from the inverters with noise being no more than a low hum. This is highly unlikely to be audible outside the boundaries of the site as the inverters would be located in a kiosk in the middle of the site, buffered by the STW, and will only operate during daylight hours.

3.34 The proposed inverters will be located at a distance of c230m from the nearest residential properties to the south east, with a bridge in between, and 400m from properties on the west side of the River Ouse. Public Protection is therefore satisfied that over such a distance any noise is unlikely to result in loss of amenity.

3.35 Following concerns raised by PP during the EIA screening over the potential for glare from the reflection of sunlight on the photovoltaic cells which may cause loss of amenity, the applicant has submitted a glint and glare statement. This statement explains that the panels are designed to absorb maximum daylight and therefore have low levels of reflectivity and elsewhere glare has not arisen as a concern. As the site benefits from some screening PP are satisfied that glare is unlikely to result in loss of residential amenity.

3.36 PP states if planning permission were granted then it would be for the operator to ensure that any installation was suitable for an area of high flood risk and not pose a health and safety risk. If the installation is not suitable for such sites then it is expected that an alternative option is considered.

## Highways Network Management

3.37 Highways Network Management has responded requesting the application is deferred for further consideration of the following issues:

- Proposed boundary treatment – the mix of hawthorne and blackthorne on the eastern boundary adjacent to the local well used off-road cycle track raises concerns for potential punctures to bikes using the track, especially following maintenance. Alternative species should be examined and additional information on maintenance is requested.
- Site access and conflict between the off-road cycle track users and construction/maintenance vehicles. The entrance should be set back 10m and this could be conditioned.
- No turning areas are shown for vehicles. Plans should either be amended or a suitable condition attached.
- Construction – A Sustrans cycleway and local route run alongside the development and the applicant should demonstrate how during construction the free flow of traffic (including pedestrians and cyclists) will be retained and amenity protected. Sustrans should be consulted on the application.

3.38 Subject to the above, a condition is proposed to provide a detailed method of works statement for the programming of site clearance and construction.

## EXTERNAL

### Environment Agency (EA)

3.39 States whilst the applicant suggests otherwise, the development is likely to be located in functional floodplain (land which floods with an annual probability of 1 in 20 or greater every year) and the only development permitted in functional floodplain is 'essential infrastructure'. Whilst there is no official guidance stating that solar farms are to be considered 'essential infrastructure', their similarities to wind turbines would suggest that they should. The EA has no major concerns from a flooding perspective although they note that the inverter kiosk was in Flood Zone 3 (high risk). EA advise a sequential approach to the placement of development is taken, by locating all flood sensitive equipment in flood zone 1 (low risk). If, for operational reasons the structure has to be placed within the higher risk flood zone, the floor level should be raised a minimum of 600mm above existing ground level.

3.40 Following dialogue with the applicant's agent, who explained the proposed location of the inverter kiosk was to minimise visual impact, the EA confirmed they had no objections to the proposed location of the inverter.

## **Natural England (NE)**

3.41 NE raises no objections in relation to statutory nature conservation sites and has assessed the application using the Impact Risk Zones data (IRZs). The proposal, if undertaken in strict accordance with the details submitted, is unlikely to have a significant effect on the interest features for which Lower Derwent Valley SAC, Lower Derwent Valley Ramsar, Lower Derwent SPA and River Derwent SAC has been classified. Similarly it would not damage or destroy the interest features for which the Derwent Ings SSSI and River Derwent SSSI has been notified.

3.42 The proposed development is unlikely to lead to significant and irreversible long term loss of best and most versatile agricultural land, as a resource for future generations, because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur (provided the development is undertaken to high standards). Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas. NE raises no objections to the short-term loss of agricultural land considering economic and other benefits.

## **Yorkshire Wildlife Trust**

3.43 States the site proposed for the solar farm is within the Yorkshire Wildlife Trust Living Landscape for the Wharfe/ Ouse corridor and close to a number of areas which are important for wildlife. Although the Phase 1 survey was not done at an ideal time of year it is a thorough report and the Trust concurs that the site has very low botanical value. Mitigation measures could be beneficial for biodiversity.

3.44 The Yorkshire Wildlife Trust suggested to the applicant that a monitoring scheme to examine the impacts of the solar farm and the effects of mitigation should be developed and this should be sought. A monitoring report on biodiversity would be useful.

## **Naburn Parish Council**

3.45 The Parish Council objects to the proposals as the site is within the Green Belt. Whilst the parish council is not averse to renewable energy development, it states the site is the last green field between Fulford Parish boundary and Naburn village on the approach along the B1222 and the river. The site is a very important 'open' buffer between the treatment works and the old railway cycle track. Use of the NCN Route 65 plays an important role in the well-being and economy of the village. Should the development proceed, this view will be transformed into an industrial landscape right up to the cycle track which, as it has an elevated position and runs south of the site, would not be mitigated by any landscape screening. This will cause the loss of an open, predominately rural aspect. Such loss of overall visual amenity

is important, and the proposal should be considered as inappropriate development within the Green Belt.

3.46 Whilst the applicant has confirmed the site will revert to a green field site, there is no guarantee that, as technology advances, more efficient solar gain infrastructure could be installed on the site which could be difficult and therefore the Green Belt site would be effectively lost to development over time.

3.47 Within the NPPF there is no automatic presumption in favour of renewable energy development within the Green Belt. There has to be exceptional circumstances clearly put forward. The applicant has described the proposal as being wholly to support the energy needs of the existing treatment works and therefore may be looked at as being for operational purposes rather than electricity generation for export. However, no consideration appears to have been given to install the solar farm on redundant areas within the existing complex which the parish council would prefer and would be in accordance with the NPPF. Whilst the applicant states that this land needs to be safeguarded for future operational needs, this application could well be considered in a similar vein.

**Site notice expired: 15.10.2015**

## **Neighbours**

3.48 A total of four neighbours have objected to the scheme; one individual has submitted two objections following additional information supplied by the applicant. The following issues have been raised:

- The development of a solar farm should be considered as inappropriate development in the Green Belt and by definition, it is harmful to the Green Belt and should not be approved except in very special circumstances. The then Minister of State for Energy & Climate Change, Gregory Barker MP explained in his letter to Local Authorities dated 22 April 2014 that "The need for renewable energy does not automatically override environmental protections."
- The proposals are contrary to the fundamental principles of Green Belt policy, of keeping land permanently open. Development of the Green Belt may set precedents.
- Loss of green buffer between Naburn and Fulford and the last gap in a ribbon of development along the B1222.
- The proposals are contrary to key principles in the NPPF including that planning "should take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it."

- This land forms part of the River Floodplain identified in the North Yorkshire and York Landscape Characterisation Project (NYYLCP); it carries an identified high sensitivity to change - high visual, high ecological, and high landscape and cultural sensitivity.
- The land was the subject of an earlier application by Yorkshire Water to expand its facilities and it was decided that, as the land was in Green Belt and forms a key buffer between Naburn village and the STW (STW) it was more appropriate to expand the works on land also owned by Yorkshire Water to the north.
- The development would not be a natural "rounding off" of the STW.
- Referencing the NPPF, the proposals will not enhance and improve the places in which people live their lives, as fundamentally it is an industrial installation.
- Whilst it is convenient and cheaper for Kelda to develop flat greenfield land in its ownership, the solar panels should be directed to brownfield land or above existing infrastructure including roof space (objector references the Minister of State for Energy & Climate Change, 22 April 2014).
- Solar PV proposals should be appropriately sited, giving proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and provide opportunities for local communities to influence decisions that affect them.
- The applicant has not had any meaningful consultation with the local community.
- The proposals harm the setting of the cycle path which is enjoyed by thousands of visitors and local people each year. The raised nature of the path means that these people would have a direct view into the solar farm which would have an unacceptable visual impact upon the enjoyment of this local public right of way.
- York Marina represents an asset to the local economy as well as an enjoyable facility for boat-owners and villagers alike. The addition of a solar farm in close proximity to the Marina will not encourage further growth in visitor numbers or enhance the setting of this valuable leisure amenity.
- Solar farms are unsightly.
- Solar farms do not generate as much electricity as other renewable energy sources.

3.49 Two individuals have provided comments in support of the application stating in summary that the proposals for renewable energy should be supported and that the site is not particularly scenic and has no agricultural value. The solar farm is not considered to have any negative impact on the local area. Views from the cycle track consist of the STW. The village suffers from flooding, and any proposals that would seek to minimise climate change through the production of renewable energy should be supported. The proposed belt of indigenous woodland would benefit the ambiance of the area and might help screen some of the bad smells from the sewage works.

## **4.0 APPRAISAL**

### **KEY ISSUES**

4.1 The key issues are considered to be:

- Principle of renewable energy development
- Green Belt
- Flooding and drainage
- Visual amenity
- Landscape
- Glint and glare
- Ecology
- Archaeology
- Transport

### **PLANNING POLICY CONTEXT**

#### **National Planning Policy Framework**

4.2 The National Planning Policy Framework sets a presumption in favour of sustainable development which, for decision-taking, means approving without delay development proposals that accord with the development plan (paragraph 14). Where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or if specific policies in the NPPF indicate development should be restricted. Foot note 9 reference to paragraph 14 indicates restrictions to include Green Belt locations and flood risk.

4.3 There are three mutually dependent dimensions to sustainable development: economic, social and environmental. The NPPF at paragraph 9 explains that pursuing sustainable development, amongst other objectives, involves seeking positive improvements in the quality of the built, natural and historic environment in addition to people's quality of life.

4.4 Twelve core planning principles are set out at paragraph 17 for both plan-making and decision-taking. These include that planning should take account of the different roles and character of areas, promoting the vitality of urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Planning should support the transition to a low carbon future in a changing climate, including encouraging the use of renewable resources (including the development of renewable energy). Planning should contribute to conserving and enhancing the

natural environment and reducing pollution. Planning should encourage the reuse of previously development land. Heritage assets should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations.

4.5 Within section 8 'Promoting healthy communities', the NPPF explains that planning has an important role in facilitating social interaction and creating healthy, inclusive communities. Paragraph 75 states that planning should protect public rights of way and access, and seek opportunities to provide better facilities for users. Paragraph 109 states that the planning should protect and enhance valued landscapes.

4.6 Section 9 on 'Protecting Green Belt Land' explains that the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Included in the five purposes of the Green Belt is to check the unrestricted sprawl of urban areas and to assist in safeguarding the countryside from encroachment. Paragraph 87 continues stating that 'inappropriate development' is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

4.7 The construction of new buildings is considered inappropriate development in the Green Belt. Paragraph 91 states that elements of many renewable energy projects in the Green Belt will comprise inappropriate development. Developers will need to demonstrate very special circumstances if projects are to proceed, and these may include the wider environmental benefits associated with increased production of energy from renewable sources.

4.8 Section 10 on climate change and flooding explains planning has a key role in shaping places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, which includes the delivery of renewable energy. This is central to the three dimensions of sustainable development. All communities have responsibility to contribute to energy generation from renewable or low carbon sources. When determining applications, local planning authorities should approve the application, unless material considerations indicate otherwise, if its impacts are (or can be made) acceptable.

4.9 Regarding flooding, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The aim of the Sequential Test is to steer new development to areas

with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. If the development cannot be located in zones with a lower probability of flooding, the Exception Test can be applied if appropriate. For the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits that outweigh flood risk and a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere. Both elements of the test will have to be passed (paragraphs 100-102).

4.10 When determining planning applications, flood risk should not be increased elsewhere. Development is only appropriate in areas at risk of flooding where, informed by a site specific flood risk assessment following the Sequential Test, and if required the Exception Test, it can be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk unless there are over-riding reasons to prefer a different location. Development must be appropriately flood resilient and resistant. Priority should be given to the use of sustainable drainage systems (paragraph 103).

4.11 Section 11 states that valued landscapes should be protected and enhanced, recognising the wider benefits of ecosystem services and providing net gains in biodiversity where possible (paragraph 109). Local authorities should take account of the economic and other benefits of the best and most versatile agricultural land. Poorer quality land should be used in preference to that of a higher quality.

## **Planning Practice Guidance**

### ***Flood Risk and Coastal Change (updated 15.04.2015)***

4.12 Planning practice guidance elaborates on policies within the NPPF. Of particular note in this PPG, is the guidance on sequential testing. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The Test does not need to be applied for individual developments on sites which have been allocated in development plans through the Sequential Test, or for applications for minor development or change of use. However, for individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. The developer should justify with evidence to the local planning authority what area of search has been used when making the application.

4.13 A pragmatic approach on the availability of alternatives should be taken. It is for local planning authorities to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case.

4.14 Where there are no reasonably available sites in Flood Zone 1, the flood risk vulnerability of land uses should be taken into account and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, again taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.

4.15 The Exception Test should only be applied following application of the Sequential Test. An applicant will need to show that both elements of the Test can be satisfied. The PPG at Table 3: Flood risk vulnerability and flood zone 'compatibility' identifies essential infrastructure proposed in Flood Zones 3a and 3b as needing to pass the Exception Test. The Exception Test, as set out in paragraph 102 of the Framework, is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. It must be shown that the development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

4.16 In Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood. In Flood Zone 3b (functional floodplain) essential infrastructure that has to be there and has passed the Exception Test, and water-compatible uses, should be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

### ***Renewable and low carbon energy (updated 18.06.2015)***

4.17 The PPG sets out the Government's commitment to increasing the amount of energy from renewable and low carbon technologies. It explains that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

4.18 Paragraph 10 explains that renewable energy developments should be acceptable for their proposed location. However, the PPG states that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. It sets out guidance for a LPA in considering large-scale solar farms including:

- focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;
- where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays;
- that solar farms are normally temporary structures which can be limited in duration by condition and land subsequently restored;
- assessing visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;
- the need for, and impact of, security measures such as lights and fencing;
- conserving heritage assets;
- the potential to mitigate landscape and visual impacts through, for example, screening with native hedges (with effective screening, the visual impact of solar farms could be zero; and
- the energy generating potential.

4.19 Cumulative landscape impacts and cumulative visual impacts are best considered separately. The cumulative landscape impacts are the effects of a proposed development on the fabric, character and quality of the landscape; it is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape. However, cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views.

### **Saved policies from the Regional Spatial Strategy**

4.20 The development plan for York comprises the retained policies in the Yorkshire and Humber Regional Spatial Strategy ("RSS") saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013. These policies are YH9(C) and Y1(C1 and C2), which relate to York's Green Belt and the key diagram on page 69 insofar as it illustrates the general extent of the Green Belt (figure 6.2). The policies protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas. The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

### **Draft Local Plan adopted for Development Control Purposes (2005)**

4.21 The City of York Draft Local Plan incorporating the 4th set of changes, April 2005, (DCLP) has been adopted for development control purposes. Its policies carry some weight where they accord with the NPPF.

4.22 Policy SP2 explains that the primary purpose of the York Green Belt is to safeguard the setting and historic character of the city. Policy SP3 relates to safeguarding the historic character and setting of York. It notes the Minster's dominance at a distance on the York skyline. It seeks to protect landscape features which enhance the historic character and setting of the city which includes the river corridors, and areas of open countryside that provide the setting for the historic city. The proposals map shows the site within the Green Belt. Policy GB1 states that within the Green Belt, planning permission for development will only be granted where the scale, location and design of such development would not detract from the open character of the Green Belt; and it would not conflict with the purposes of the Green Belt and it would not prejudice the setting and special character of York, and providing it is for a range of uses (which does not include renewable energy production). All other forms of development are considered inappropriate and very special circumstances need to be demonstrated to justify the presumption against development.

4.23 Policy GP5 encourages renewable energy development providing that there is no significant adverse impact on the existing landscape, air quality, biodiversity, water resources, grades 1, 2 or 3a agricultural land or sites of archaeological or historic importance. Proposals within the Green Belt will need to show very special circumstances why they should be located here rather than elsewhere in the city.

4.24 Policy GP15a on development and flood risk has generally been superseded by policies in the NPPF which require the sequential and exception testing of sites. However policy GP15a also explains that there will be a presumption against built development (except for essential infrastructure) within the functional floodplain outside existing settlement limits and this still applies. Proposals for new built development on greenfield sites outside settlement limits will only be granted where it can be demonstrated that the development will not result in the net loss of floodplain storage capacity, not impede water flows and not increase flood risk elsewhere. An FRA is required for development in flood zones 2 and 3.

4.25 Policy NE2 seeks to protect river and stream corridors, development should be resisted that would have an adverse impact on their landscape character. The policy continues further stating that river corridors and wetland habitats' environmental and amenity value should be conserved and enhanced. The design of structures and engineering works should be appropriate in form and scale to their setting. Policy NE7 encourages the establishment of new habitats.

4.26 For development proposals adjacent to rivers, planning permission will only be granted where there would be no loss to established and thriving recreation interests. Proposals should complement the existing character of the area. Existing walkways and cycleways along the river banks should be enhanced where possible (Policy L4). Supporting text explains that river corridors are important for amenity and recreation uses.

## Emerging Local Plan - Publication Draft (2014)

4.27 Following the motion agreed at Full Council in October 2014, the Publication Draft of the York Local Plan is currently not progressing through its statutory consultation pending further consideration of the Council's housing requirements and how it should meet those requirements. The emerging Local Plan policies can only be afforded weight in accordance with paragraph 216 of the NPPF and at the present early stage in the statutory process such weight will be limited. However, the evidence base that underpins the proposed emerging policies is a material consideration in the determination of the planning application.

4.28 The site is shown to be wholly within the Green Belt on the Proposals Map South. Policy SS2 :The role of York's Green Belt states that the primary purpose of the Green Belt is to preserve the setting and the special character of York. Policy GB1 continues stating within the Green Belt, planning permission for development will only be granted where the scale, location and design of development would not detract from the openness of the Green Belt; it would not conflict with the purposes of including land within the Green Belt; and it would not prejudice harm those elements which contribute to the special character and setting of York AND it is for one of the following purposes, which includes renewable energy schemes, where it can be proved that the location is necessary for technical reasons and wider environmental benefits can be demonstrated. All other forms of development within the Green Belt are considered inappropriate. Very special circumstances will be required to justify instances where this presumption against development should not apply. (It is considered that this policy is not strictly in accordance with the NPPF which continues to identify renewable energy generation as inappropriate development within the Green Belt for which 'very special circumstances' need to be demonstrated and any other harm considered).

4.29 Policy CC1 Renewable and low carbon energy generation supports and encourages such development. Significant weight will be given to the wider environmental, economic and social benefits arising from renewable energy schemes together with their effects on, amongst others, the scale of the proposals, the visual impact on York's historic character and setting, the sensitivity of the surrounding landscape and proximity to air fields and other sensitive land use; nature conservation sites and features, the road network and other land based activities.

4.30 Policy ENV4 Flood risk states that new development shall not be subject to unacceptable flood risk and where flood risk is present, development will only be permitted the local planning authority is satisfied that any flood risk within the catchment will be successfully managed.

## **Background documents to the emerging Local Plan**

### ***Heritage Topic Paper Update (June 2013)***

4.31 The paper explains that the historic environment of the City of York is internationally, nationally, regionally and locally significant. It recognises the special position of the city in a vale, low lying landscape in which views of York, and the Minster in particular, can be seen from particular vantage points.

4.32 The paper sets out six principle characteristics which defines the special character and setting of York, one of which is 'landscape and setting'. It includes a range of features of natural, historical, and cultural significance that contribute to the special qualities of the local landscape. The landscape provides the city and its outlying villages with a rural setting and direct access to the countryside, and thus has a value/status that reaches beyond the relative quality of the aesthetic landscape.

4.33 At paragraph 6.30, a table analysing 'landscape and setting' is presented, which under the subheading of character elements 'open countryside and Green Belt', the York to Selby disused railway line is identified as an example where these elements can be specifically appreciated.

### ***Naburn Village Design Statement***

4.34 A Village Design Statement (VDS) is currently being prepared in Naburn, and has undergone local consultation to inform the content of the document. A draft has been prepared but has not been to subject to statutory consultation yet ahead of adoption. It therefore carries limited material weight. It sets the community's aspirations for the development of the village.

4.35 The Draft VDS identifies the village as being set in a largely rural landscape surrounded by open country and highly fertile arable land. It states the Sustrans national cycle route 65 on the former railway embankment "has become a much loved and much used leisure facility for walkers and cyclists" (page 6). Any intrusion anywhere in the Parish into the green belt should be resisted with a passion" (page 8). The document recognises the tourism and recreational assets of the village provided by the marina and national cycle route.

### **BRE Planning guidance for the development of large scale ground mounted solar PV systems**

4.36 The report supports the NPPF principles and continues stating that ground mounted solar PV projects, be directed to previously developed land, brownfield land, contaminated land, industrial land or agricultural land preferably of classification 3b, 4, and 5 (avoiding the use of "Best and Most Versatile" cropland where possible). Land selected should aim to avoid affecting the visual aspect of

landscapes, maintain their natural beauty and should be predominantly flat, well screened by hedges, tree lines, etc and not cause undue impact to nearby domestic properties or roads.

4.37 The development of a large scale solar array will require a temporary construction compound for the delivery of and storage of construction materials, plant, machinery and office/ welfare accommodation. Topsoil and subsoil should be stripped from such areas and stored on site for replacement following the completion of construction works. Excavation of soils will be necessary for access roads and cabling also. Any planning application should contain a methodology for soil stripping, storage and replacement and this methodology should subsequently be adhered to during site development.

4.38 Applicants will be expected to direct considerable effort towards minimising the landscape/visual impact of solar PV arrays and associated infrastructure, fencing, lighting and CCTV and any other security measures.

4.39 To minimise ground disturbance enable land to be returned to agricultural use and to minimise noise impacts during construction, pile or screw driven foundations is preferred over concrete trenches and foundations.

4.40 The landscape / visual impact of a solar PV farm is likely to be one of the most significant impacts of such development and developers are usually attracted to south facing sites. Existing hedges and established vegetation, including mature trees, should be retained wherever possible and be protected during construction. Any buildings required in order to house electrical switchgear, inverters etc should be designed and constructed in order to minimise their landscape and visual impact and construction materials should be selected to reflect the local landscape context.

4.41 Regarding ecological impacts, solar PV arrays could have implications for habitat loss, fragmentation and modification and for displacement of species but may also create habitats through undisturbed grassland for many years, wildflower meadows, taller hedges and woodland etc. Security lighting may affect bats. Pile driving may affect any badgers nearby; this will need to be informed by a badger survey and a licence may be necessary. It is advised that large buffer strips (at least 4-5m) are left between perimeter fencing and hedges. The fencing must allow badgers, reptiles and other fauna access into the site.

4.42 Solar farms can generate both glint and glare. Glint may be produced as a direct reflection of the sun in the surface of the solar PV panel. It may be the source of the visual issues regarding viewer distraction. Glare is a continuous source of brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint. Solar PV panels are designed to absorb, not reflect, irradiation. However the sensitivities associated with glint and glare and impact on the landscape is a consideration. Frames and supports can also have impact on glint and glare.

## CONSIDERATION

### Principle of Renewable Energy Development

4.43 Whilst 'sustainable development' may be considered to include renewable energy generation sustainable development as defined by the NPPF comprises three mutually dependent dimensions; economic, social and environmental. Sustainable development, amongst other objectives, involves seeking positive improvements in the quality of the built, natural and historic environment, and to people's quality of life. Simply because the proposal generates energy from renewable sources (solar) does not mean it is automatically 'sustainable' development and the wider impacts (including harm) and benefits (including enhancements) need to be considered.

4.44 There is a presumption in favour of renewable energy development in the NPPF and accompanying PPG unless material factors indicate otherwise. The application raises a number of other considerations, which are material factors, which are assessed in this report. However, the presumption in favour of granting planning permission for renewable energy development does not apply in this case as the site lies within the Green Belt and is therefore subject to restrictive NPPF policies that require very special circumstances to be evidenced. Further the site is at risk of flooding and again restrictive NPPF policies apply that require sequential and exception tests to be passed.

4.45 The PPG on renewable and low carbon energy, further supported by BRE guidance, advises that solar farms should be focussed on previously developed and non-agricultural land; should development on green field sites be necessary, poorer quality land should be used in preference to higher quality land and where possible continued agricultural use of the site, or biodiversity enhancements should be sought.

4.46 Reference to Natural England's Yorkshire and The Humber Region, 1:250 000 Series Agricultural Land Classification map (2010) shows the general area of the site as being Grade 2 Agricultural Land (very good). However this classification has been updated at a local level by the Council to reduce the classification to Grade 3 (good to moderate quality). Specifically in relation to this site, Natural England have advised that the proposed development is unlikely however to lead to significant and irreversible long term loss of best and most versatile agricultural land, as a resource for future generations due to the nature of the development and its temporary and reversible nature.

4.47 The applicant has advised that the solar panels would provide approximately 20-30% of the existing annual on-site energy demand, providing renewable energy of 1.4MWp, equivalent to powering approximately 400 homes with a saving of 800 tonnes of CO2 emissions per year. Appropriate weight must be given to the

ambitions of the company to turn to renewable energy and reduce CO2 emissions and the impact of climate change. However, this weight must be balanced with other material considerations. It should also be noted that the applicant has not provided evidence that they have sought and employed measures to reduce energy requirements in the first instance. Further, the renewable energy produced will be for the STW rather than to provide power to the local community. Therefore the environmental benefits are indirect and focussed on the overall reduction in carbon emissions.

4.48 The submitted Planning Statement sets out a summary of their site selection process explaining only land in Kelda Group's landownership was considered to offset Yorkshire Water's energy demand. The solar farm and STW needed to be co-located. During the site search, those sites that were within national or European designated sites, that had an agricultural land classification of Grade 1 or 2, were of a minimum 1.87ha and on north-facing slopes were discounted. Further work then assessed other criteria including flood risk, topography, planning designations and visual receptors. These assessments did not lead to the application site being discounted.

4.49 Following advice from Natural England, no objections can therefore be raised on the specific use of the agricultural land but it is not considered to be the first preference as in the first instance, the solar farm should have been directed to previously development land. Desk-top review of aerial photographs indicates that there are areas of brownfield land within the STW site particularly to the north-east which are reserved for possible future expansion of the works. This may provide a more suitable location for the solar farm.

4.50 As such the proposals are found to be contrary to the core principles of the NPPF which directs development to previously developed site when they are not of high environmental value (paragraph 17) and the guidance within the PPG on renewable energy at paragraph 13.

## **Green Belt**

### ***Inappropriate development***

4.51 Saved policies from the RSS, together with the proposals map from the DCLP (2005), confirm that the site is located within the Green Belt. Renewable energy development does not fall within the 'exception' definitions of inappropriate development within the Green Belt and the NPPF at paragraph 91 states elements of renewable energy projects will comprise inappropriate development. Reference to applications for solar farms in other authorities confirms that local planning authorities have started with the assumption that solar farms comprise 'inappropriate development' in the Green Belt and this is the approach adopted here.

4.52 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The purpose of the Green Belt is to check the unrestricted sprawl or urban areas and to safeguard the countryside from encroachment. Paragraph 87 of the NPPF continues stating that 'inappropriate development' is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations

### ***Purposes of the Green Belt: Harm to openness and permanence***

4.53 Openness is generally defined as the absence of built form and does not depend on visibility. The site is considered to form an open buffer of countryside between the linear sewage works to the north and Naburn village to the south. The site is open in aspect, devoid of buildings and surrounded in the southern part of the site by natural features including the river and wooded bank to the west and the open countryside beyond, the green embankment and line of trees and shrubs along the cycleway to the south and open countryside to the east. It is acknowledged that the sewage works are to the north and extend along the west boundary but in this location they comprise pools at ground level with steel poles extending vertically 3m in height, and a palisade fence 1.8m in height, over which the mature willows lining the river bank provide a green back drop. The site is therefore assessed as being open and any development would be considered to encroach into the countryside by clearly rendering the site less open and therefore is harmful to the Green Belt.

4.54 The applicant has argued that the site is enclosed by the STW to the north, the river and Bishopthorpe to the west, the former railway embankment to the south and a hedgerow and the road to the east. Bishopthorpe village is at a distance of 400m at its nearest point beyond the river. The embankment does provide a visual screen, it is not considered to sufficiently 'enclose' the site such that the proposals comprise 'infill' or have no impact on openness as a key purpose of Green Belt policy. The low pools to the west of the site do not enclose the site and the hedgerow is a natural feature. We do not agree therefore that the site is 'enclosed' nor the development comprises infill or a 'natural rounding off' of the STW.

4.55 The NPPF states that the construction of new buildings is considered inappropriate. The proposed inverter kiosk is 6.1m in length, 2.6m in height and 2.4m deep. Arguably it is a rectangular structure rather than a building as it is for electrical infrastructure but in itself it would impact on openness. The proposed strings of solar arrays cover the majority of the red line application site, albeit in parallel lines between 4m and 7m apart. They range from 0.8m above ground in the south of the site to 2.5m in height in the north. The panels are static and set at a 22 to 35 degree angle from horizontal, orientated south. When viewed end on, at set specific locations around the site, the parallel banks of panels would allow very

restricted views between panels to the countryside at the end. In places, the countryside and trees lining the river would be viewed above the panels. The development is enclosed by a 2m high deer fence and fifteen 4m high poles with CCTV cameras. A 3.5m wide access track runs through the centre of the site. However, overall the solar farm will appear as solid manmade infrastructure to a height of a single storey building at 2.5m. Clearly, the development including the solar panels and associated infrastructure has an impact on openness and it does not safeguard the countryside from encroaching development.

4.56 The applicant has argued that the proposals would not impact on the setting of York. Viewed from the elevated cycle track and ramps to the immediate south of the site and also from the south east, by the old station cafe and towards Howden Bridge, the development would be visible in the foreground of views over and across open countryside, and including the central tower of the Minster. Such views are not specifically referenced in policy but the open countryside aspect is noted as an example of where the 'setting of York' can be appreciated in the background documents for the emerging Local Plan (Heritage Topic Paper Update (June 2013)) and within an 'extended green wedge' which has been identified as contributing towards the open approach to the city along the river valley (Historic character and setting evidence base) which do carry some material weight. Therefore the proposals are considered to cause harm, in this specific elevated location, to the landscape setting of York.

4.57 Regarding the applicants' argument presented that the development is for a temporary period of 25 years, we have considered whether this is materially considered to be temporary in terms of Green Belt policy and aims. 25 years is a substantial length of time. Moreover, should the development be permitted, the principle of development of the site for renewable energy (assuming very special circumstances are accepted on this basis) would be set. It is therefore considered that the development would be established for a length of time to be considered to have a permanent impact on the Green Belt due to the length of any permission and the strong precedent it would set for continued use of the site for renewable energy generation.

### ***Any other harm***

4.58 The site is positioned on three sides by publically accessible recreational routes being the Sustrans NCN Route 65 on the elevated embankment, the off-road local cycle route alongside the eastern boundary and the river at a distance of 115m (itself used by boats for recreation). From the B1222 the tops of the panels will be seen above the hedge in the north of the site, from the vehicle access point in the northern corner, and from the popular cycle routes. The elevated portion of the cycle track particularly affords vantage points above and over the full site at the site boundary. At its nearest points, the panels will be positioned at a distance of c20m from the ramp to the south of the site and c25m from the elevated cycle track, and c10m from the local route to Fulford. Viewed from these publically accessible

vantage points and well used recreational routes, the development will be industrial in appearance, have a significant impact on openness and encroach the countryside.

4.59 It is this nearness, and full visibility of the site from key points that make the development particularly harmful to the Green Belt, significantly impacting on openness and the purpose of protecting the countryside from encroachment. The current view of the site is of a green field within an open countryside setting with long distance views experienced across the open countryside, interspersed with farmhouses, copses, fields and hedgerows as far as the Wolds. The STW is experienced as a cluster of buildings and works in the middle distance. The proposed development will bring significant industrial structures and development into the foreground and immediate proximity. In other locations, the harm to the Green Belt could be diminished by being set, for example two fields distance away from public vantage points, bringing it into the middle ground. In a flat landscape, the visual zone of influence could be minimal or even zero. In such situations, the harm to the Green Belt could be outweighed by very special circumstances and outweighed by other positive considerations.

### ***Other Considerations and Very Special Circumstances***

4.60 Having established that the development causes significant harm to the Green Belt and that it is inappropriate through its impact on openness and permanence, and to the purposes of the Green Belt, significant weight is attached to the harm to the Green Belt, 'very special circumstances' would need to be demonstrated to clearly outweigh this harm and any other harm identified if the application were to be considered acceptable.

4.61 The considerations presented by the applicant as amounting to very special circumstances focus on renewable energy generation which would offset 20-30% of the STW energy requirements, resulting in a reduction of carbon emissions of over 800 tonnes per year. This reduces the STW reliance on non-renewable energy and provide a more reliable energy source less subject to price fluctuations. The STW provides essential infrastructure to the residents of York. The co-location of the solar array with the STW is essential for the proposal to be viable. The applicant refers to a range of solar farms from around the country that are located within the Green Belt. . Additional positive benefits of the proposal include enhancements for biodiversity (which is discussed further below). The applicant also considers the proposals to be in broad compliance with the purposes of the Green Belt.

4.62 It should be noted that the renewable energy generation is for the STW use only, which is a public utility, rather than for the national grid or to provide power for the local community. It is recognised that the STW provides essential infrastructure for York and that it is energy intensive. In principle, the generation of renewable energy is, and should be, strongly supported in line with Government advice, but

whether this comprises 'very special circumstances' to outweigh the harm to the Green Belt, requires the application of planning judgment..

4.63 The applicant in presenting additional information in support of the application has referenced a number of applications for solar farms which have been granted permission in the Green Belt. Reference has been made to examples (Burton Farm near Stratford upon Avon, land at the former colliery, Campsall Road and Land at Rowles Farm, Bletchington) and in each case, the solar farms have been identified as inappropriate development in the Green Belt due to their impact on openness, but in the balancing exercise, which is of course specific to each site, the overall harm was outweighed by the generation of significant renewable energy to power between 973 and 1,850 homes following consideration of all other issues. Discussion was presented in the consideration of the application notably on visual impact and prominence and generally these three applications were not visually prominent in the landscape, and where public rights of way passed close to the sites, they were not well used. Positive weight was given however to the temporary and reversible nature of the solar farms.

### ***Green Belt conclusion***

4.64 In summary, substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. From the above analysis there is considered to be substantial harm to the Green Belt from the proposals by reason of inappropriate development within the Green Belt and on the purposes of the Green Belt, specifically to check the unrestricted sprawl of urban areas and in safeguarding the countryside from encroachment. The proposals are considered inappropriate development when assessed against NPPF principles.

4.65 The proposals are also found to be contrary to DCLP Policy SP2 which explains the primary purpose of York's Green Belt is to safeguard the setting of the city, including river corridors and open countryside and Policy GB1 states development should not detract from the open character of the Green Belt. The Heritage Topic Paper (2013) and 'historic character and setting' documents (evidence base for the emerging Local Plan and therefore carries some material but limited weight) specifically refers to the York to Selby disused railway line (i.e. elevated NCN Route 65) as an example where the open countryside and Green Belt surrounding York can be appreciated and for its contribution to an 'extended green wedge' which are characteristic features in the city and are defined for their open character. The visual prominence of the development would be particularly harmful to these objectives.

4.66 In this instance, it is not considered that the level of wider benefits of renewable energy generation and the reduction in carbon emissions would clearly outweigh the inappropriate development and specific harm to the Green Belt and therefore do not amount to very special circumstances. The proposals are therefore contrary to the NPPF core principles and guidance in Section 9 and DCLP policies SP2 and GB1.

### **Flooding and drainage**

4.67 The applicant originally submitted a Flood Risk Assessment in support of the application, with a brief Sequential Test at section 10.1 and Exception Test at 10.2 which was not deemed to have met the requirements of the NPPF and accompanying PPG and more comprehensive, robust Tests were requested. It should also be noted that a revised FRA was also requested following the original submission documents, which identified only a small part of the western edge of the site in Flood Zone 3. EA mapping showed a much larger extent in Flood Zone 3 and a revised Planning Statement and FRA was submitted recognising the error and confirming that this had been known when preparing the proposals.

4.68 The applicant submitted a revised Sequential and Exception Test on 13th November 2015. These assessments should have been undertaken and reviewed before any site specific Flood Risk Assessment was considered. The EA approval of the FRA is only on the basis that the Sequential Test and Exception Tests have already been applied.

### ***Sequential Test***

4.69 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. A pragmatic approach on the availability of alternatives should be taken.

4.70 The applicant, in accordance with the Council's advice, with no adopted plan in place which has been subject to the allocation of sites for renewable energy generation, has taken the local authority area as the area of search. However, taking a pragmatic approach, as the development is to provide electricity for the STW, and therefore needs to be co-located, the three sites identified in the Publication Draft (2014) version of the emerging Local Plan have been quickly discounted as not being reasonably available for the development as they are between 5.5km and 12km from the proposed site in Naburn.

4.71 Analysis has been presented on land within Yorkshire Water's ownership to the north of the application site. Land immediately to the north of the application site, within the STW is within Flood Zone 2 but contains plan and structures associated with sewage treatment so is not available for development. Land on the Naburn

Lane frontage, whilst in Flood Zones 1 and 2, contains buildings, plant and structures associated with sewage treatment so is not available. Other land within the sewage treatment plan adjacent to the river is in Flood Zone 3 so is not sequentially preferable.

4.72 Finally land in the north east part of the STW, adjacent to Naburn Lane is in Flood Zone 1. However part of the land is used for storage purposes associated with the STW, provides land for further expansion of the sewage works associated with the growing population of York and legislative requirements and contains underground tanks and former reed beds that were used by the STW. It also provides a buffer from the STW to the residential properties to the north and the applicant advises it is less enclosed than the application site with a greater impact on the openness of the Green Belt.

4.73 However, given this limited analysis of the land in the north east, within the STW, it is considered that sufficient robust evidence has not been provided to be confident that this area of land can be discounted. An area of land of similar size to the application site is within Flood Zone 1. Whilst also in the Green Belt, should the principle of the generation of renewable energy for use by the public utility be determined to be 'very special circumstances' balanced with any other harm, this could be a sequentially preferable site. Whilst only a brief desk top review, aerial photos appear to show quite substantial areas of previously developed land within this part of the site. The land is available now, and whilst the applicant may wish to safeguard it for future development of the sewage facility, the solar panels are it is argued for a temporary period of time (25 years) and the impact reversible. There is also no guarantee that the planning permission would be granted for the expansion of the STW in this location. The impact and analysis on the Green Belt by the Council has not been undertaken for this area of land, but it should be noted that it may be more effectively screened and be less visible from well-used public rights of way than the proposed site.

4.74 Moreover, such analysis of aerial photography shows that there are a number of substantial buildings within the STW and it is widely accepted that solar panels can be located on such roofs and could provide a source of energy generation. This may however be more costly and would need to be combined with land based panels to generate the same amount of electricity.

4.75 Regarding the analysis of sites outside the application site and STW, discounting of sites because they are outside of the applicant's landownership is not accepted in relation to the sequential test. They cannot therefore be simply discounted as 'not reasonably available' as they could potentially be bought by the applicant.

4.76 Reference is made to parcels of land to the west of the B1222 up to the A64. There is also a large tract of land to the east of the B1222 Naburn Lane and immediately south of the Designer Outlet, running most of the full length of the STW in Flood Zone 1. Similarly full analysis of the sites and by the Council have not been undertaken and the onus is on the applicant to undertake such analysis. The greater impact on the Green Belt is noted in each case as well as proximity of dwellings and rights of way.

4.77 Generally, the Council's view is that in considering the application, the impact on the openness and permanence of the Green Belt, and its contribution to other Green Belt objectives must be given significant weight but could be balanced with the environmental benefits of renewable energy generation in addition to any other identified harm. In other respects, these sites, further from an elevated National Cycle Route and public rights of way, may be more appropriate and certainly easier to screen to protect visual amenity from well used public rights of way. With the proximity of the Designer Outlet to some of these areas of land, they could arguably have a reduced impact on openness by the proximity of quite substantial development on one side.

4.78 The Council does not consider that the sequential test has been passed.

### ***Exception Test***

4.79 As noted above, it would appear there are reasonably available sites in Flood Zone 1 very close to and even within the STW.

4.80 For the Exception Test to be passed it must be demonstrated firstly that the development provides wider sustainability benefits that outweigh flood risk and secondly a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime without increasing flood risk elsewhere. Both elements of the test will have to be passed.

4.81 The wider sustainable benefits of the proposal are identified as being the contribution to the need for renewable energy to assist in combating climate change and reducing carbon emissions. Reducing the impact of climate change actually reduces flood risk. This analysis is supported although the argument could be stronger if the applicant had demonstrated measures to reduce energy requirements which have/or not been possible to implement. They also explain that the energy generated from renewable sources is more secure and avoids price fluctuation but these are not considered key arguments for sustainable development but an economic driver for the company. Nevertheless this contribution to renewable energy together with landscape and ecological enhancements enables the first part of the exception test to be passed.

4.82 The submitted revised FRA has raised no objections from the Environment Agency nor initially the Flood Risk Management Team. However, further response from the latter raised some concerns. As noted in the PPG, in Flood Zone 3a essential infrastructure should be designed and constructed to remain operational and safe in times of flood. In Flood Zone 3b (functional floodplain) essential infrastructure that has to be there and has passed the Exception Test, and water-compatible uses, should be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

4.83 The Council's Flood Risk Management officer has commented that the Council's SFRA (evidence based document) identifies the site is in flood zones 2, 3a and 3b (functional floodplain) and although not tabled as Essential Infrastructure within table ES2, the development has to remain operational in times of flood. The area of the site within Flood Zone 3a and 3b (approximately 60% of the site) may be under water or subject to damage by floating debris therefore will not remain operational in times of flood. Further the development should not impede water flows. The southern part of the site containing strings of panels is within the functional flood plan (12% of the site). It is also where the panels are positioned closest to the ground being just a maximum of 0.8m in height in this location. The panels in this location in particular, but potentially across 60% of the site would therefore not remain operational when submerged under water and potentially damaged by floating debris, including possibly displaced when only pile driven into water logged ground, and again not be operational. The panels, when submerged would also impede water flows. This part of the test has not been passed.

4.84 Overall therefore, the Council considers that the information submitted does not enable the Sequential Test to be passed, which must be passed in any instance. The Exception Test has not been passed either. Therefore the proposals are found to be contrary to paragraphs 100-103 of the NPPF and sections 11 to 14 of PPG on Flood Risk and Coastal Change (2015).

### **Impact on Visual Amenity and Landscape**

4.85 A detailed Landscape and Visual Appraisal (LVA) has been submitted by the applicant. It highlights how there is an important difference between the impacts upon landscape character (e.g. features of the landscape such as trees and hedges and features such as tree clumps, church towers or wooded skylines) and visual amenity which is the quality of views of the landscape experienced by people.

4.86 The Council's Landscape Architect has assessed the LVA and broadly supports the approach undertaken and analysis. The LVA follows a recognised methodology and clearly sets out the criteria for the assessment. The LVA makes a

fair assessment of the impact of the development on visual amenity and landscape character, which also recognises that in certain locations the magnitude of change would be 'high' to highly sensitive users of the cycle route and footpath on the southern and eastern boundaries of the site. Whilst the appraisal notes this does not necessarily mean that the development causes harm, the officers' overall assessment is that it does cause significant harm to visual amenity in specific locations.

### ***Visual Amenity***

4.87 The applicant's appraisal recognises the 'high' sensitivity of residents, and the high sensitivity of the users of the National Cycle Route No. 65 and users of the path along the eastern boundary of the site. 'Views of the landscape are likely intrinsic to their enjoyment of the activity be that walking or cycling'. The sensitivity of motorists on the B1222 and Howden lane is identified as 'medium'. This assessment is agreed.

4.88 The appraisal recognises that the magnitude of change would be medium. The effect on visual amenity for users of the raised cycleway would be substantial albeit over a limited stretch of approximately 220m. 'There will be substantial effects on the local cycle path to Fulford that runs parallel with the eastern boundary of the Development site'. The overall effect for motorists on the B1222 would not be substantial. Motorists using 'B' class roads are identified as more likely to be residents of the area (as opposed to users of 'A' roads) and use the roads frequently, therefore generally having a medium visual sensitivity.

4.89 Views are from elevated locations, which increases exposure of the site but also allows views over the site to the rural landscape beyond to the east and north. From the elevated cycle route, the site is thus viewed in the foreground and in far reaching panoramic views across arable fields, copses and farmsteads to the Wolds, although it does not disrupt these views. Close to Howden Bridge, views include the central tower of the Minster. The impact on this view would be very limited due to the intervening presence of hedges and the STW, and the site is not within the actual line of sight of The Minster.

4.90 From the National Cycle Route No. 65, eastbound users will first experience views of the solar farm east of Naburn Bridge but these will be heavily filtered and glimpsed until opposite the southern boundary to the development. Along a 150m section to the junctions with the local cycle path, the development will be a noticeable new feature, the magnitude of change will be medium and the effects substantial. Further east of this junction with the local path, there is less screening vegetation and the magnitude of change will be high and the effect substantial along a 70m section of route. Westbound users will have a similar impact of change. Photomontages have been submitted providing evidence that the magnitude of change will be high and the overall effect substantial at year one. Mitigating planting

proposed at year 5 will not have changed this assessment with the magnitude of change remaining high and the effect substantial.

4.91 From the cycle path to Fulford, the sensitivity of the receptor is high with the rear of the solar panels visible as an ordered array. The panels do not break the skyline and the route of the cycle track is visible on the skyline. The deer fence, CCTV cameras, access track, inverter cabin are all visible. The magnitude of change is considered to be medium and the effect substantial.

4.92 The open field provides separation between the Naburn STW and Naburn village. The installation of the solar panels will bring industrial style development to the forefront of views and therefore undermine the appreciation of the countryside and these panoramic views by users of this popular cycle track. Whilst at particular locations this will be 'head-on' presenting apparently continuous panelling dark in hue, this will not be 'natural' in appearance, clearly altering the natural backcloth through the trees lining sections of the route. It is this immediate presence of the panels, industrial in appearance and just 25m from the elevated cycle track, 15m from the ramp and 10m from the cycle track to Fulford that is particularly relevant, significant and sensitive in this location as compared to other locations for solar farms.

4.93 As the panels are all orientated southwards, they will be viewed 'head on' from a short stretch of elevated footpath at the very southern tip of the site and when travelling in a northwards direction along the local cycle track to Fulford. Elsewhere, including particularly when travelling southwards along this track and from the western ends of the elevated cycle track, the rear and sides of the panels will be presented which are clearly industrial in appearance and more visually harmful. Deer fencing of 2m in height, 4m tall CCTV poles (fifteen in number are shown on the plans), the access track and the inverter station will also all be visible.

4.94 There will be no views of the development from the PRow on the west bank of the river and landform, mature hedges and hedge trees will prevent views of the development from residents on Acaster Lane in Bishopthorpe. From Howden Lane, hedges along the B1222 and other boundaries will screen the majority of the development from view. The tops of panels may be viewed at a distance of 350m thus the magnitude of change is considered negligible and the effect not substantial.

4.95 The sensitivity of the site itself is deemed to be 'medium'. The development would affect the openness of the field and change its appearance. There would be a degree of association with the adjacent STW. The magnitude of change at the actual development site is considered to be high and the overall effects substantial in the localised area within the development site boundary.

4.96 Regarding the receptors, the elevated cycle route is well used by longer distance recreational and leisure users for cycling, walking (including dog walking) and horse riding, in addition to its use as a local route for the villagers of Naburn

and Bishopthorpe and people in the residential suburbs in the south of the city. From Bishopthorpe, the cycle route passes from the edge of the village, through the arable landscape up and over the River Ouse. Attractive, long distance views along the river and river banks and Naburn Marina present a unique and valued landscape which those moving at this walking/cycling speed stop to appreciate. Continuing east, the cycleway in the summer, is curtailed on both sides by mature tree belts, through which glimpsed views of wetlands, middle range views of the arable landscape and green back cloth are appreciated. In the middle distance the Naburn STW are noted, but they do not detract from the views from the elevated position. The views then open out to full panoramic views of the Wolds. The special character and location of the panorama is recognised in the Heritage Topic Paper Update (June 2013) which identifies the elevated cycle path as a location to appreciate the landscape setting and Green Belt surrounding York. As mentioned this document is material but has limited weight.

4.97 The NPPF recognises and seeks to protect the intrinsic beauty of the countryside. This is clearly one such location where this beautiful aspect of the countryside can and is appreciated by tourists, visitors, and local residents as a recreational and amenity resource. It is a unique location in York where the landscape can be appreciated from a height. The development will negatively impact on this valued landscape.

4.98 Whilst the proposed solar panels are for a 'temporary period of time' of 25 years this also equates to a generation and thus whilst it is recognised as being localised harm to visual amenity it is for a relatively long period of time for existing residents and users of the tracks. This harm must be balanced with other considerations.

4.99 The harm caused to visual amenity for the specific sensitive users of the NCN Route 65 on the elevated route and at ground level along the local cycle track are found to be contrary to core principles in the NPPF at paragraph 17 which seek to enhance the natural environment, and recognise the intrinsic character and beauty of the countryside and at paragraph 109 which states planning should protect and enhance valued landscapes. Similarly the harm to visual amenity is contrary to policy SP3 of the DCLP which protects landscape features which enhance the character and setting of the city including river corridors and open countryside and Policy L4 which seeks enhancements to existing walkways and cycleways within river corridors which are important for amenity and recreation.

### ***Landscape Impact***

4.100 The LVA states that the development will have limited potential to affect landscape character. The site is within a unit of River Floodplain Landscape Character Type (LCT) which is a linear area following the River Ouse Valley and extending from the south of York to Selby and Goole. The site is also within the Plantation Woodland and Heathland LCT which covers a wide area and the River

Ouse Floodplain LCT and adjacent to the Low Lying Arable Plain LCT. Notable features in the landscape immediately adjacent to the site include the Naburn STW which is large scale and semi-industrial feature giving the landscape an urban fringe quality, the River Ouse and its floodplain is a key natural linear feature and the Sustrans National Cycle Route (Route 65) running parallel to the southern boundary. Otherwise, the landscape of the development site and surrounding area is fairly typical of the landscape character areas.

4.101 The open nature of the site allows the landscape to be read, with views across the field to the river and the attractive backdrop of trees with large willows on the river bank and the mixed deciduous trees on the embankment of the elevated cycle track. The site's green openness is therefore of value within surrounding views.

4.102 The appraisal therefore recognises that the landscape character type within which the site sits is transitional. The appraisal references the 'urban fringe character' of the surrounding area which is valid (although the appraisal maybe overplays a little the 'muddy' quality of the field). The influence of this is somewhat reduced by the long views and context of the open, rural, agricultural landscape to the east of the site, and northwards beyond the STW.

4.103 Landscape enhancement measures are proposed as there will be gaps between the panels and around the edge of the site. These gaps present opportunity for improving the grassland sward, diversifying habitats and providing foraging and shelter for birds, small mammals and invertebrates. New deciduous mixed hedge, 340 m in length and managed at 1.25m in height with tree planting including alder and oak. Additional tree planting is also proposed in the southern corner to include oak, holly and dog rose.

4.104 During construction, site access is via the existing entrance, there will be minimal earthworks as the panels will be driven into the ground. Existing trees will be protected. The effects on landscape will therefore be very limited. During operation, the landscape effects will be to change the site from pasture land to pasture land with habitat enhancement, solar panels and ancillary development. It will have an effect on aesthetic and perceptual aspects of landscape character where visible from the surrounding landscape.

4.105 Within the development site boundary the majority of the field will be changed to an ordered and uniform linear arrangement of panels mounted on metal alloy frames. The top of the inverter cabin will be visible above the panels and CCTV cameras will be noticeable. The magnitude of change is considered to be high and the overall effects substantial in the localised area within the development site boundary. The new and existing hedge planting and trees will reduce the amount of development visible although the tops of the solar panels will be visible.

4.106 Overall the development is not considered to have a significant impact specifically on landscape character and the proposed landscaping and screening fit within the established elements of the river floodplain and low lying arable plain character areas. The proposals are therefore in accordance with relevant principles in the NPPF.

### **Glint and Glare**

4.107 The applicants have submitted a Glint and Glare Statement to support the application. It explains that glint and glare is the effect of sunlight reflecting off a solar PV panel or set of panels to cause harm or discomfort to a sensitive receptor. A glint is momentary receipt of a bright light and glare is the receipt of a bright light over an extended or continuous period of time.

4.108 As solar panels are tilted at an angle of approximately 30 degrees from the sunlight, any glint or glare is redirected upwards. Reflections at ground level only become possible during the mornings and evenings of late Spring, summer and early Autumn the report states. As the panels accumulate particles and the condition of the panels decrease, so does the ability to reflect light. Glint and glare is described as similar to that appreciated from glass or water. Solar panels are however designed to absorb light rather than reflect it. The report states that in this location, on average, direct sunshine which may cause glint or glare, would be approximately 17% of the time.

4.109 Dealing with glint and glare is described as an everyday occurrence with solar panels having been located close to airports and residential properties.

### **Consideration**

4.110 Public Protection have not expressed any concerns about the impact of any glint and glare on occupants of nearby residential properties, which is their area of concern and this is accepted.

4.111 However, the report does acknowledge that at certain times of the day and within the year, there may be some impact from glint and glare for sensitive receptors at ground level, depending on weather conditions. Presumably these will be the recreational and leisure users of the cycle paths. Whilst this is not considered likely to have an impact on safety of the users (noting the example of locating the solar panels by road sides and runways), it is considered reasonable that glint and glare would have an impact on amenity and pleasure of the users of these footpaths/cycleways. Further, it would presumably have a greater impact on those using the elevated National cycle path as the panels are orientated southwards, at an angle towards where the best location is of a panoramic view across the landscape. This would negatively impact on such a view and draw attention to the development itself. Further, this potential for glint and glare would be maximised in terms of duration as the panels are south facing.

4.112 The applicant has not presented any analysis of the impact on the users of the elevated cycle path and this was highlighted to them. No further information has been presented. It is therefore concluded that glint and glare may be increasingly appreciated by the sensitive users of the track at height with panels directly orientated to the location with the best panoramic view. Whilst this in itself would not warrant refusal, it is considered to be additionally harmful to visual amenity as discussed above.

## **Ecology**

4.113 The applicant has submitted an ecological appraisal and biodiversity management plan in support of their application. The site was identified as comprising a horse paddock in which the dominant habitat was improved grassland which was heavily disturbed at the site visit by the horses. A partially wet ditch runs along the southern boundary. The embankments of the railway were dominated by ash plantation woodland with understorey. Broad-leaved plantation woodland runs along the western boundary of the site.

4.114 It was considered that the ditch was ephemeral and very unlikely to support breeding populations of amphibians. There are no records of great crested newt within 2km of the site. No badger setts or evidence of badger were recorded during the survey although there were two records of badger within 2km of the site. The report stated that the railway embankment, broadleaved woodland and land within the Naburn STW had potential however to support badgers if they were present in the area and that they may forage in the site and surrounding hedgerows. There was no evidence of water vole and one historical record 700m from the site. There was similarly no evidence of otter and only two historical records (1996). The ditch was unlikely to support otter.

4.115 The site has no potential to support either roosting or hibernating bats. There were 10 bat records within 2km of the site, but no records of roosts. The habitats within the site have negligible potential to support roosting birds although it then continued stating once the grassland sward had developed there would be potential for species such as skylark, grey partridge, lapwing and oystercatcher and foraging habitat for wading birds of conservation concern such as lapwing, oyster catcher and little ringed plover. There was evidence of barn owl at the STW 80m from the site. There was evidence of rabbits and moles within the site but they do not present constraints to development.

4.116 The report concludes that the development is entirely within heavily degraded improved grassland habitat which has limited ecological value. Potential impacts on ecology have therefore been avoided. The development will not directly or indirectly impact any nearby designated sites. It is extremely unlikely that the development will have any adverse effects on bird population of statutory designated sites.

4.117 The development will result in the permanent loss of a small amount of improved grassland. However the majority of the grassland beneath the panels will be retained. It is likely that the composition of the grassland will slowly change due to the altered microclimate and cessation of grazing resulting in greater species variety and value to wildlife. No other habitats will be directly affected and no hedgerows removed. Overall there will be net gain in ecological value of the site. Nonetheless construction mitigation measures and post-construction enhancements are set out in the Biodiversity Management Plan.

4.118 Fence underpasses or small openings will be installed in the perimeter fence to enable badger and other mammals to access the site and retain current use of the site, if they are at present. There is a low risk of the development harming or disturbing badger. Deep excavations will be securely covered or fenced at night where possible and will be checked by the workforce before work recommences.

4.119 To minimise impact on bats, night time lighting should be limited and directed into the works area. The improved grassland will provide improved foraging resource for bats. Grassland seed should be applied to the site.

4.120 There is no scientific evidence of fatality risks to birds associated with solar PV development. However they may result in the displacement of some species and thus a loss in the grassland as a foraging or breeding resource. However improved grassland is relatively common in the surrounding landscape so the development is unlikely to have a detrimental impact overall on birds. A more diverse grassland will provide more valuable habitat. Any vegetation clearance/construction works should be undertaken outside bird breeding season (March to August). It is unlikely that barn owls forage within the site due to its degraded nature and suitable other sites within the STW. The owls may however be disturbed during construction activities and thus again construction is advised outside core barn owl nesting season. All construction work should be preceded by a nesting bird survey.

4.121 The submitted Biodiversity Management Plan seeks to ensure that biodiversity resources are protected during construction and that adequate enhancement measures are implemented at the beginning of the operational phase.

4.122 It was confirmed during the EIA scoping exercise that an EIA was not required on ecological grounds. The Council's Countryside and Ecology Officer, Natural England and the Yorkshire Wildlife Trust do not raise any objections or concerns relating to the proposed development on ecological grounds. The Council's officer has recommended the Biodiversity Management Plan is conditioned to ensure proposed ecological enhancements are implemented and this would be recommended, should the application be approved.

4.123 Due to the enhancements proposed and lack of objection from specialist sources, the ecological improvements can be seen to mitigate some of the other

harm and issues raised by the development. However, as it does not specifically seek to enhance or create habitats for rare and endangered species, the ecological enhancements can be given only low to moderate weight overall.

## **Archaeology**

4.124 A historic environment desk-based assessment has been undertaken by the agent to provide information on any potential cultural heritage and archaeological effects of the development.

4.125 The report identifies that within the wider study area there is substantial evidence for later prehistoric activity. There is evidence of a high level of late prehistoric Romano-British occupation in the local area. Overall there is potential for archaeological remains to be found within the site from the prehistoric to most medieval period.

4.126 As flood deposits cover much of the site, some archaeological remains will have been lost. However, in the eastern part of the site, some remains have been found and that these may still be present within 0.5m of the ground surface. Overall there is moderate potential for unknown buried archaeological remains to survive in truncated form across the site. Archaeological mitigation consisting of strip, map and sample is adequate on the eastern portion of the site with a watching brief on structural elements of the development, supported by preservation by record.

4.127 Regarding heritage assets, the proposed development will not affect their setting.

4.128 The above analysis and recommendations can be supported. Should the application be approved, two conditions are recommended which should be attached to any permission. Reference should be made to the applicant's submitted Archaeological and Cultural Heritage Desk-Based Assessment.

## **Transport**

4.129 The proposed solar farm would generate low numbers of vehicle movements and is therefore unlikely to have a significant effect on the existing road network at construction and operational stages that would require mitigation.

4.130 Construction of the development would occur over a period of two months. As well as the development's components being delivered to site quarry material would also be imported to form unbound surfaces within the site including a 3.5m wide track.

4.131 Trip generation for HGV would average two 2-way trips per day, with most intense period of HGV movement will be eight 2-way trips per day. LGVs or cars used to transport operatives would not exceed twelve 2-way trips per day with

sufficient parking on site. These movements would not affect the operation of existing roads, amenity or general road safety.

4.132 Operationally, it is anticipated that there would be inspections, monitoring and general up-keep of the site amounting to between 10 and 20 trips per year. Overall therefore the operation of the development and construction period will have negligible impact on the highway network.

4.133 Highways have requested amendments to plans to address concerns raised about proposed thorny hedgerow species as boundary treatment alongside cycle routes, conflict with site access and cycle users, the lack of turning areas for vehicles and impact of site clearance and construction works on the local highway network and cycle routes. As the application is recommended for refusal, amendments to plans have not been sought and other issues could be secured by condition in the event that Members are minded to approve the application.

## **5.0 CONCLUSION**

5.1 It is considered that there are a number of strategic and significant issues with the chosen site. The key consideration is whether the production of renewable energy overrides other material issues and the degree of weight, and level of harm, attached to each, balanced against other benefits of the proposals.

5.2 The applicant has not submitted a sufficiently robust and detailed argument that land to the north east of the STW, in Flood Zone 1, nor land to the east of the B1222, albeit not in their landownership, but also in Flood Zone 1 is not sequentially preferable to the application site. The sequential test has therefore not been passed. Whilst the exception test's flood risk assessment has been accepted by the Environment Agency, the local planning authority does not accept that the requirement that the 'essential infrastructure' remains operational in Flood Zone 3b will be passed with the solar panels under water and potentially dislodged by the moving water and debris in times of flood. Therefore neither the Sequential or Exception Tests have been passed and this is the first reason for refusal.

5.3 In assessing the significant harm to the Green Belt by reason of inappropriate development and other harm, including harming the purposes of the Green Belt in this location further harm has also been identified. This has included the harm to visual amenity and for the appreciation of the open countryside setting to York from the elevated NCN Route 65 and ground level off-road cycle route on the eastern boundary as recreational routes and means of sustainable transport at key positions where far-reaching panoramas to the Wolds and towards the city of York are valued. The solar farm would have a significant harmful impact on visual amenity by bringing industrial development to the foreground of these panoramas and open vistas across the countryside. These impacts would be felt for a generation, despite the 'temporary' nature of the proposal as the permission would run for 25 years.

5.4 The proposed solar farm would be located on green field land and on Grade 3 (good to moderate quality) agricultural land. Existing and proposed screening would not reduce the visual impact to zero for specific local users of the cycle tracks although it is accepted that the visual impact will not be significant for vehicles using the B1222 nor from the properties in Bishopthorpe and Naburn villages themselves. However these users are less sensitive to the proposed development than pedestrians, cyclists, equestrians and tourists.

5.5 The applicant has highlighted the contribution to reducing carbon emissions through the generation of renewable energy and the ecological enhancements proposed to the site. However the renewable energy produced will be for the STW rather than to provide power to the local community. Therefore the environmental benefits are indirect. Furthermore, as 60% of the solar farm is within Flood Zone 3, the flooding potential means that the development will not remain operable at times of flood. . Therefore it cannot provide a reliable source of energy and it is profit driven for the STW who charge for customers for the service rather than being solely funded by Government.

5.6 In presenting their case, the applicant has not sufficiently demonstrated that alternative land within the STW is not preferable. Some criteria are presented for the discounting of alternative sites but they do not seem to follow planning principles and appear economically driven. In considering alternative sites, which is a valid consideration for development deemed to be inappropriate in the Green Belt, there appears to be preferable sites available within the STW.

5.7 In conclusion, in balancing the totality of harm and giving significant weight to the specific harm to the Green Belt in this location, the development is considered to be inappropriate development in the Green Belt, for which 'very special circumstances' for the inappropriate development have not been demonstrated.

5.8 Notwithstanding the above, should Members be minded to approve the application, officers would recommend deferral to formulate appropriately worded conditions, and to negotiate improvements to the scheme in terms landscaping and siting of the panels. In addition, because of the potentially significant impact on the openness of the Green Belt the application would also need to be referred to the Secretary to State before an approval could be granted.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Refuse**

1 Policies YH9 and Y1 of the Yorkshire and Humber Plan Regional Spatial Strategy to 2026 defines the general extent of the Green Belt around York with an outer boundary about 6 miles from the city centre. The application site, south of the sewage treatment works in Naburn is located within the general extent of the York Green Belt. The site is also within the Green Belt as identified in the City of York

Draft Development Control Local Plan (April 2005). It is considered that the proposed development consisting of a solar photovoltaic (PV) array with associated infrastructure constitutes inappropriate development in the Green Belt as set out in Section 9 of the National Planning Policy Framework and particularly paragraph 91. As such, the proposal results in harm to the Green Belt, by definition, and by reason of any other harm, including the impact on the openness of the Green Belt and conflict with the purposes of including land within it. Whilst 'very special circumstances' have been put forward by the applicant being the generation of renewable energy, this does not clearly outweigh this harm. The proposal is, therefore, considered contrary to advice within the National Planning Policy Framework, in particular section 9 'Protecting Green Belt land' and City of York Draft Development Control Local Plan polices SP2 and GB1.

2 Circa 62% of the application site is located within the Environment Agency's Flood Zone 3 (12% of the total is within Flood Zone 3b and 50% in Flood Zone 3a) and the remainder within Flood Zone 2. Paragraphs 100-103 of the National Planning Policy Framework supported by Planning Policy Guidance on Flood Risk and Coastal Change are clear that development should be directed away from areas at highest risk. A Sequential Test should be applied for applications on sites that have not been allocated in the Local Plan and been subject to the sequential test. For essential infrastructure in Flood Zone 3, the Exception Test must also be passed. The Environment Agency has advised the LPA to consider the solar farm as 'essential infrastructure'.

The applicant has submitted a revised sequential and exception test and it has been deemed that neither test has been satisfied. There is insufficient robust evidence to show that alternative sequentially preferable sites were not reasonably available. Further, the essential infrastructure in flood zone 3 a and 3b would potentially be underwater and therefore would not remain operational in times of flood and subject to damage by floating debris, and so the exception test has not been met.

Therefore the proposals are found to be contrary to Section 10 of the NPPF, particularly paragraphs 100-103 and to guidance in Planning Practice Guidance Flood Risk and Coastal Change.

3 The harm caused to visual amenity for the specific sensitive users of the popular National Cycle Network Route 65 on the elevated route and the off-road local cycle route at ground level along the eastern boundary is found to be contrary to core principles in the NPPF at paragraph 17 which seek to enhance the natural environment, and recognise the intrinsic character and beauty of the countryside and at paragraph 109 which states planning should protect and enhance valued landscapes. Similarly the harm to visual amenity is contrary to policy SP3 of the City of York Draft Development Control Local Plan (April 2005) which protects landscape features which enhance the character and setting of the city including river corridors and open countryside and Policy L4 which seeks enhancements to existing walkways and cycleways within river corridors which are important for amenity and

recreation.

The specific and localised visual impact of the solar farm from the popular National Cycle Network Route 65 on the elevated embankment to the south of the site and the local cycle route to the east are particularly sensitive to the substantial magnitude of change. The proposals therefore neither enhance the local environment from a visual perspective, protect the intrinsic beauty of the panoramic far-reaching views nor respect and enhance local views of the site. The proposals are therefore contrary to the above policies and harmful to visual amenity.

4 Sufficient evidence has not been supplied by the applicant that the solar farm could not be directed to previously developed land of lesser value and which may be available for the temporary construction of the solar farm. Particularly it appears that land within the north-east of the STW, identified as being for the future potential expansion of the STW, is a reasonable alternative location for the solar farm in addition to potential options of locating the panels above existing structures and buildings. Operating for a time period of 25 years, and reversible in nature, it would not conflict with medium and long-term requirements to expand the STW (assuming planning permission was granted).

These should have been considered and presented as unviable options considering the overall harm caused by the proposed development. As such the proposals are contrary to the core principles of the NPPF which directs development to previously developed site when they are not of high environmental value (paragraph 17) and the guidance within the PPG on renewable energy at paragraph 13.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

#### **1. STATEMENT OF THE COUNCIL`S POSITIVE AND PROACTIVE APPROACH**

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in an attempt to achieve a positive outcome:

- Highlighted the errors in the initial submitted reports regarding the alleged Flood Zoning and that in fact c62% of the site was in Flood Zone 3 and the remainder in Flood Zone 2, confirming with the applicant they wished to continue with determination of the application. Amended reports were duly submitted.

- Requested more sequential and exception testing in line with national planning policy and guidance on flooding.

Notwithstanding the above, it was not possible to achieve a positive outcome, resulting in planning permission being refused for the reasons stated.

It should be noted, that should the planning application have been recommended for approval, revisions and amendments to plans would have been sought to address flood risk and landscaping proposals.

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