

COMMITTEE REPORT

Date: 12 March 2025 **Ward:** Rural West York
Team: West Area **Parish:** Parish Of Rufforth With Knapton

Reference: 23/01732/FULM
Application at: Yorwaste Harewood Whin Tinker Lane Rufforth York
For: Installation of a solar farm with associated infrastructure, access and security fencing.
By: Mr K Smith
Application Type: Major Full Application
Target Date: 20 March 2025
Recommendation: Approve after referral to Sec. of State

1.0 PROPOSAL

1.1 Planning permission is sought for the erection of a 16.5 MW solar farm covering some 16.5 hectares of the former landfill site at Harewood Whin. The site is accessed from the B1224 Wetherby Road via Tinker Lane and comprises a long term reclaimed section of the site towards its north and west. The proposed works include a range of ancillary structures including fencing, a transformer, a site compound, access tracks and a grid connection. The site is partially elevated in character and visible in shorter distance views from the west and longer distance views from the north and east. There are some small blocks of woodland adjoining the site boundaries. No landscape or habitat designations would be affected. Following the Adoption of the City of York Local Plan the site lies within the Adopted Green Belt boundary. The site has been divided up into three zones Areas A, B and C. The proposal has been amended since submission to address landscape and aviation safety concerns.

1.2 The pv arrays would be fixed to a lightweight frame in rows spaced between 3.2 and 4.8 metres apart with the frame sitting on foundations 1.5 metres into the ground which would sit in the upper levels of the clay capping. 2-metre-high deer proof mesh fencing would be provided around the exterior of the site. The arrays would feed into the existing transformer infrastructure associated with a former operation to generate electricity from landfill gas, towards the southeast of the site which would be upgraded. The site would be covered by externally monitored cctv. Construction would be over a period of five months to a year with a construction site compound provided at the southeastern edge of the site. The farm is envisaged to be in place for a period of 40 years before de-commissioning.

1.3 Harewood Whin was given planning permission in 1984 for disposal of waste by controlled landfill methods with restoration to a low intensity agricultural use with light industrial use in the central area ref:06/137/90/PA with a subsequent extension ref: 00/0268/FUL in 2001.

1.4 The development when complete would provide sufficient energy to power approximately 11,000 houses on an annual basis and would make a substantial contribution to atmospheric carbon reduction in the wider area.

Relevant Planning History

- 06/137/90/PA Disposal of waste by controlled landfill methods. Permitted 27/01/1984
- 00/02689/FUL Extension to existing waste treatment facility including area for treatment of liquid waste. Permitted 01/02/2001.

2.0 POLICY CONTEXT

2.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) Planning and Compulsory Purchase Act 2004).

Development Plan

The City of York Local Plan Adopted February 2025

The below policies are considered most relevant to this application.

- DP2 Sustainable Development
- SS2 The Role of York's Green Belt
- EC5 Rural Economy
- D2 Landscape and Setting
- GI2 Biodiversity and Access to Nature
- GI4 Trees and Hedgerows
- GB1 Development in Green Belt
- CC1 Renewable and Low Carbon Energy Generation and Storage
- ENV2 Managing Environmental Quality
- ENV3 Land Contamination
- ENV4 Flood Risk
- ENV5 Sustainable Drainage
- T1 Sustainable Access

The Rufforth with Knapton Neighbourhood Plan (adopted 2017)

2. 2 At Policy RwK 01 Draft Green Belt the general extent of the Green Belt within and around the settlement is highlighted on the Policies Map. It indicates that within the Green Belt inappropriate development would not be supported except in very special circumstances. It goes on to indicate that proposed developments for uses including engineering operations will be supported providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Policy RwK 17-CA Harewood Whin it is indicated that changes to the management and/or operation of the Harewood Whin site should first be brought forward through the Harewood Whin Liaison Committee.

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 Raise no objection in principle to the proposal to any planning permission being conditioned to restrict noise audible from outside of the site, to secure the remediation of land contamination and to secure the submission and approval of a Construction Environmental Management Plan (CEMP).

Highway Network Management

3.2 No response has been received at the time of writing.

Local Plan

3.3 Raise no objection to the proposal.

Design and Conservation (Trees and Landscape)

3.4 Raise no objection to the proposal as amended and supports the inclusion of additional amenity areas including a permissive footpath and viewing area subject to any permission being conditioned to require the submission and prior approval of a detailed landscape scheme.

Design and Conservation (Ecology)

3.5 Raise no objection in principle to the proposal but seeks further clarification as to the lifespan of the project to that potential impact upon ecology through the demobilisation of the plant can be considered. Otherwise, detailed conditions covering a Construction Environmental Management Plan (CEMP) are sought for the period of commissioning and a Landscape Environmental Management Plan (LEMP) for the duration of the development as part of any permission.

Front Line Flood Risk Management

3.6 Raise no objection to the proposal subject to any permission being conditioned to require strict adherence to the submitted Flood Risk Assessment and drainage strategy.

EXTERNAL

Hessay Parish Council

3.7 Raise no objection to the proposal.

Rufforth with Knapton Parish Council

3.8 Raise no objection to the proposal.

Environment Agency

3.9 Raise no objection to the proposal.

Yorkshire Water Services

3.10 Raise no objection to the proposal subject to there being no alteration to the public foul sewer passing close to the north of the site.

Ainsty (2008) Internal Drainage Board

3.11 Raise no objection to the proposal subject to any permission being conditioned to require strict adherence to the submitted Flood Risk Assessment and drainage strategy.

York Gliding Centre

3.12 Raise no objection to the proposal as amended.

4.0 REPRESENTATIONS

4.1 A total of 23 letters of support have been received in respect of the proposal.

4.2 The operator of Rufforth East Airfield (powered aviation) initially objected to the proposal on the grounds of the relationship of a section of panels relative to the flight path into and out of the site. Following amendment of the scheme the objection has subsequently been withdrawn.

5.0 APPRAISAL

Key Issues

5.1 The key issues are as follows:

- Green Belt
- Landscape Character
- Biodiversity
- Efficient Use of Land
- Access and Transportation
- Aviation Safety
- Drainage & Flood Risk

PRINCIPAL

5.2 The application site was developed in the 1980s and subsequently by North Yorkshire County Council and then by Yorwaste as a waste disposal site primarily by means of landfill. Since the opening of the Allerton Park in 2018 landfill activity at the site has progressively ceased with restoration of tipped areas on-going.

The tipped areas have previously had an agricultural end use with recreational footpaths envisaged, with the central valley area developed for light industry. The central valley area remains in operational use with the waste bulking and transfer operation for Allerton Park, a materials recycling facility and a green waste to compost facility.

5.3 The proposed agricultural end use would only ever be very low intensity with the grassland suitable for grazing of a lower quality. The proposal which retains a network of recreational paths, and a viewing area and would provide a significant contribution towards renewable energy generation and carbon reduction within the wider area.

5.4 Policy CC1 of the Draft Local Plan indicates that the Council will work with developers to ensure that suitable sites are identified, and projects delivered. Proposals for renewable and low carbon energy development will be supported where impacts upon the following considerations can be demonstrated to be acceptable:

- Local Communities and residential amenity resulting from the development construction and operation
- The location in terms of scale of the proposal and associated grid connection lines
- Nature Conservation sites and features
- The road network, capacity and highway safety
- agriculture and other land-based industries.

5.5 Central Government Planning Policy as outlined in paragraph 165b) of the NPPF indicates that when determining planning applications for renewable and low carbon development local planning authorities should approve the application if its impacts are or could be made acceptable.

GREEN BELT

5.3 The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential characteristics of the Green Belt are its openness and permanence.

5.4 The relevant Local Plan Policy is GB1. This states that inappropriate development will not be permitted except in very special circumstances which will not exist unless any potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. New buildings and a range of other development not coming within a range of categories are defined as being inappropriate.

5.5 Paragraph 143 of the NPPF states that the Green Belt serves 5 purposes:

- * To check the unrestricted sprawl of large built-up areas.
- * To prevent neighbouring towns merging into one another.
- * To assist in safeguarding the countryside from encroachment.
- * To preserve the setting and special character of historic towns.
- * And to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.6 The site is located within the defined York Green Belt within the Local Plan (2018) It is also within the area of the made Rufforth with Knapton Neighbourhood Plan (2017) and covered by Policies RwK 01 and RwK 17-CA.

5.7 Additionally, when the site is assessed on its merits it is concluded that it serves two Green Belt purposes as set out in paragraphs 143(c) and (d) of the NPPF, namely assisting in safeguarding the countryside from encroachment and helping to preserve the setting and special character of York. As such, the application and should be assessed against policies GB1 and SS2 of the Local Plan as well as policies RwK 01 and RwK 17-CA of the Rufforth with Knapton Neighbourhood Plan.

5.8 Paragraph 160 of the NPPF states that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development.

5.9 The relevant local policy is GB1 together with Policy RwK 01 of the Rufforth with Knapton Neighbourhood Plan. In terms of Policy GB1 of the Local Plan the outlined exceptions are not met.

5.10 Paragraph 155 of the NPPF indicates that development of land which is defined as “grey belt” for the purposes of housing or other forms of commercial or other development would not necessarily be inappropriate providing it does not undermine the purposes of Green Belt taken across the remaining area of the Plan. Grey Belt is defined as previously developed land or other land which does not strongly contribute to Green Belt purposes. As a landfill site subject to a formal restoration scheme the site does not fall within the definition of previously developed land and its landscape character presents it with a function in defining the setting of the Historic City thereby complying with a Green Belt purpose.

5.11 The development is considered inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and should not be approved except in very special circumstances. '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. Whether the harm to the Green Belt and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify inappropriate development is considered in paragraphs below.

5.12 Turning to the impact on the Green Belt and openness, Planning Policy Guidance refers to a number of matters that the courts have identified can be taken into account in assessing openness, which include spatial and visual aspects, duration of development and remediability and the degree of activity generated.

5.13 The proposal envisages the erection of a solar farm consisting of ground mounted tilted panels to a maximum height of 2.9 metres sitting within a lightweight frame together with a range of ancillary development including fencing, cctv and an upgraded transformer enabling the electricity to be generated to be circulated through the grid. The site comprises the capped and reclaimed slopes of the earlier phases of the landfill site which consists of three areas with a central valley centred on the line of the Foss Dyke watercourse. The surrounding landscape is largely flat with the partially landscaped slopes of the reclaimed landfill site highly prominent within the surrounding landscape. The proposal as amended envisages the location of the solar arrays along the western and northwestern slopes facing Tinker Lane and within the northern section of the central valley which is not readily visible in longer distance views. In both areas the landscape impact of the reclaimed site is softened by individual mature trees and wider blocks of planting.

5.14 In terms of openness the proposal would significantly alter the character of the surrounding landscape. The site is presently an informal open landscape with an approved agricultural after use but with no agricultural activity presently taking place. The site would take on a physically regimented, engineered character which would be visible in respect of short and medium distance views of Area A to the west and northwest from Tinker Lane and the surrounding landscape. They are also visible in a longer distance albeit glimpsed view from Rufforth village in the vicinity of the Church. The panels within Area B which would face into the internal valley within the site would be less visible and the removal of panels from Area C would also significantly reduce impact upon openness. The openness of the Green Belt would therefore clearly be harmed in both visual and spatial senses. The nature of the site boundary fencing would at least for the time that the landscape mitigation takes to mature appear alien and would itself give rise to some harm to openness.

5.15 Paragraph 143 of the NPPF identifies five Green Belt purposes which include safeguarding the open countryside from encroachment. Notwithstanding the purpose of the development, it would represent a clear encroachment of engineered built development into what is presently open countryside in terms of its physical form combined with associated fencing.

LANDSCAPE CHARACTER

5.16 Policy D2 of the Local Plan states that development proposals will be encouraged and supported where they conserve and enhance landscape quality and character and the public's experience of it and make a positive contribution to York's special qualities. Central Government Planning Policy as outlined in paragraph 187 b) of the NPPF indicates that planning decisions should recognise

the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services including the economic and other benefits from best and most versatile agricultural land and of trees and woodland.

5.17 The application site does not lie within any special landscape designations. However, as an artificial hill and partially reclaimed landfill site it is highly prominent in views over the short and middle distance across the surrounding landscape particularly from the north and east. Consideration is given to the visibility of Area A from Rufforth village in a glimpsed view above the existing tree canopy and the need to strengthen landscape planting along the west and southwest of the site. It would have a quite limited impact upon local landscape character although there is potential for cumulative impacts with other permitted developments in the wider area notably the previously approved Solar 2 proposal a short distance away at Hessay (23/00626/FULM). Impact is also heightened by the function of the site within the wider flat landscape to provide a degree of orientation and a sense of place. The degree of effect will also vary significantly by time of day, time of year and weather conditions.

5.18 The design of the development has been amended since submission to create a greater margin around the fringes of the development particularly to the north and northwest providing permissive footpaths as originally envisaged within the earlier restoration scheme for the site and also a viewing area across the wider landscape to the north and northwest. Existing planting along the southern and western edge of the site provides a significant degree of filtering of views into the site and with the enhancement of the landscaping proposed in that area would provide a high degree of screening particularly in the winter months.

5.19 Area C was the most prominent area in terms of potential landscape impact giving rise to particular concerns from the Landscape Architect and the removal of panels to address aviation safety concerns would at the same time significantly lessen visual harm.

5.20 Even with the proposed replacement planting there would be some moderate landscape harm arising from the change to the landscape character of the artificial hill at its western and north western section. Any visual harm from fencing can to an extent be mitigated by means of a detailed condition as part of any permission. Landscape harm from the proposal needs to be weighed within the planning balance against the positive benefits of the scheme. Further mitigation may be achieved by means of a detailed landscape scheme which may be conditioned as part of any permission.

BIODIVERSITY

5.21 Policy GI2 of the Local Plan states that any development should ensure the retention, enhancement and appropriate management of features of biological interest. Central Government Planning Policy as outlined in paragraph 193a) of the NPPF indicates that when determining planning applications local planning authorities should ensure that if significant harm to biodiversity resulting from a development cannot be avoided adequately mitigated or as a last resort compensated for then planning permission should be refused.

5.22 The application site does not impact upon any specific protected habitats and the submitted application was supported by a series of detailed surveys contained within an overall ecological impact assessment. The survey work has identified the presence of ground nesting bird species over areas of the site principally skylark, who are present within the wider area, and meadow pipit. The scheme has been amended to allow for the safeguarding of existing nesting site and to allow them to forage. There was also some evidence of wetland species such as snipe and reed bunting within Area B and areas have been left clear of panels to enable them to continue to nest and to forage. Similarly, panels have been located to avoid known bat nesting and foraging areas.

5.23 Construction and subsequent maintenance of the site has been designed to safeguard and enhance the habitat of a range of species notably bats and tree nesting birds known to be present within the wider area with the site lighting designed to minimise harm to known foraging routes. Mature trees within the site will be fitted with nesting boxes suitable for tree nesting birds and bats. The proposed landscape planting will be designed to incorporate plants bearing flowers, fruits and nectar which would encourage invertebrate life. The presence of Himalayan Balsam an invasive species will be strictly controlled, and the existing wildflower grassland would be enhanced to increase species diversity. Hibernicula or habitat piles would be provided at strategic locations to encourage settlement of hedgehogs and amphibian species.

5.24 The proposal would be able to provide a 20% Biodiversity Net Gain (although the statutory minimum 10% is not mandatory in respect of the proposal due to when it was submitted). In order to secure the proposed improvements in accordance with Local Plan policy, it is recommended that any permission be conditioned to require the submission and prior approval of a Construction Environmental Management Plan (Biodiversity) to secure the protection of the habitat during construction and to mitigate any potential harms and a Landscape and Ecological Management Plan (LEMP) to secure the long-term biodiversity improvements to the site. The longer-

term future of the site may also be secured by means of a de-commissioning management plan secured by condition as part of any permission. The proposal therefore complies with the requirements of Policy GI2 of the Local Plan and paragraph 193a) of the NPPF.

ACCESS AND TRANSPORTATION

5.25 Policy T1 of the Local Plan indicates that development will be supported where it minimises the need to travel and provides safe, suitable and convenient access for all transport users to and within it. Development proposals will be required to demonstrate that there is safe and appropriate access to the adjacent adopted highway. Central Government planning policy as outlined in paragraph 116 of the NPPF indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact upon highway safety or the residual cumulative impact upon the road network would be severe.

5.26 The proposal would be constructed over a period of five months with traffic accessing the site from the A1237 York Outer Ring Road and then the B1224 Wetherby Road giving onto Heightlands Lane and Tinker Lane to access the site. The existing access from the adopted highway has been designed previously to accommodate the types of vehicles used through the previous waste disposal use. Construction activities would take place between 08:00am and 17:00pm Monday to Friday with 08:00 to 13:00 on Saturdays with no working on Sundays or Bank Holidays. It is estimated that there would be 6 to 8 HGV movements per day with a construction site compound located within the operational valley area within the site. Once operational the site would only be visited on an occasional basis for the purposes of maintenance. Overall traffic generation would be low and subject to the imposition of appropriate conditions within any planning permission the proposed highways and access provisions are felt to be acceptable. The requirements of Policy T1 of the Local Plan and paragraph 116 of the NPPF would therefore be complied with.

5.27 There are no established Public Rights of Way crossing the site although one passes the site boundary to the north /northwest. Subject to any permission being conditioned to safeguard the amenity of users during the period of construction then the impact of the proposal is felt to be acceptable.

AVIATION SAFETY

5.28 The application site lies a short distance away from the operational runways to both Rufforth North (operated by York Gliding Club) and Rufforth East airfields involving small scale powered aviation including helicopters and microlights. A

detailed Glint and Glare Assessment has been prepared to accompany the proposal which was accepted in respect of the operation of Rufforth North Airfield with the inward and outward flight path running to the southwest of the application site directly to the West of Tinker Lane.

5.29 In terms of the flight path into and out of Rufforth East the operator objected to the potential impact of Glint and Glare from the panels proposed to be mounted on Area C and which would be aligned on a sloping surface in the direction of aircraft ascending from and descending into the airfield. Following detailed negotiations with the applicant it was decided to remove the area of panels from Area C. Expansion into that area would be subject to further detailed design and specialist modelling and would be subject to a separate planning application. The proposal as amended is therefore felt to be acceptable in aviation safety terms.

DRAINAGE AND FLOOD RISK

5.30 Policy ENV4 of the Local Plan indicates that new development should not be subject to unacceptable flood risk and shall be designed and constructed in such a way that mitigates against current and future flooding events. At the same time Policy ENV5 of the Local Plan indicates that surface water drainage should be restricted to 70% of the existing rate. The application site lies predominantly within Flood Zone 1 which signifies the lowest risk in terms of flooding from riparian sources however, the eastern boundary of Area B and a small area of Area C lie within Flood Zone 3 with the highest risk of flooding from riparian sources, in this case the Foss Dyke watercourse. The Ainsty (2008) Internal Drainage Board initially expressed concerns in terms of the impact of placing panels within Area C in respect of the network of surface water drainage channels crossing the site and feeding into the Foss Dyke.

5.31 The proposal has been accompanied by a detailed Site-Specific Flood Risk Assessment and Surface Water Drainage Strategy. This was prepared to include the erection of panels within Area C, that is however severable from the remainder of the Strategy and the applicant has confirmed an intention to implement the Strategy in respect of the remainder of the site with an identical surface water discharge rate. Earlier concerns in respect of the erection of panels within Area C would also be addressed. This may be secured by condition as part of any planning permission and would secure compliance with Policy ENV5 of the Local Plan.

5.32 The proposal envisages the layout of a site compound within the operational area to the south of the site to allow for construction and to prepare for future site maintenance. In terms of the submitted detail it is unclear how that would impact

upon existing surface water drainage arrangements in that area and the degree to which it would take up existing permeable areas. It is therefore recommended that any planning permission be conditioned to require the submission and prior approval of the surface water drainage arrangements for the proposed site compound. The proposal is therefore felt to secure compliance with the requirements of Policies ENV4 and ENV5 of the Local Plan.

CONTAMINATED LAND

5.33 Local Plan Policy ENV3 indicates that where there is evidence that land is contaminated, or a proposed use is vulnerable to previous contamination then development will not be permitted unless the contamination is remediated. Public Protection have raised concerns and requested conditions as part of any planning permission in respect of the remediation of contaminated land. However, the application site lies within the reclaimed area of the former landfill and the applicant has confirmed that the panels and associated infrastructure would sit at or a short distance below the ground surface and above the substantial clay capping layer to the landfilled material. A requirement for remediation of contaminated land would therefore be unnecessary. Within the more recently restored areas of the site there are areas where the landfill gas is vented to the surface and the site since the early 2000s has hosted a small operation to harvest landfill gas for the purposes of energy generation. The proposed layout avoids siting panels around where the gas is vented to air.

5.34 The energy from landfill gas operation has an infrastructure of inverters and a transformer associated with that. The applicant has confirmed that that infrastructure would be upgraded to facilitate transmission of the solar generated electricity to the national grid.

PLANNING BALANCE AND CASE FOR VERY SPECIAL CIRCUMSTANCES

5.35 The proposed development is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. There is also harm to its openness both in the visual and spatial senses and to one of the purposes of including land within the Green Belt in respect of encroachment into open countryside. Policy GB1 of the Local Plan indicates that inappropriate development should only be approved in very special circumstances. Very special circumstances will only apply where the potential harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations.

5.36 Policy GB1 of the Local Plan alongside the NPPF indicates that substantial weight should be afforded all harms to the Green Belt in the planning balance. In terms of other harms, the proposal would give rise to moderate landscape harm during its lifetime particularly in terms of views across what is presently a prominent agricultural landscape from the direction of Rufforth village to the west and northwest. This harm would to an extent be increased by virtue of cumulative impact with the previously approved Solar 2 Scheme at Hessay which lies a short distance to the west beyond Tinker Lane. This harm should be afforded significant weight.

5.37 Paragraph 160 of the NPPF acknowledges that when located in the Green Belt elements of many renewable energy projects will comprise inappropriate development. In such cases the required case for very special circumstances may include the environmental benefits of the production of energy from renewable sources. National Energy emphasises the need to substantially reduce carbon emissions through energy generation in order to address Climate Change. This commenced with the 2008 Climate Change Act which sought a reduction of 80% in carbon emissions by 2050 which was amended by means of secondary legislation in 2019 to 100% by 2050. To achieve this the December 2020 Energy White Paper indicated an acceleration of deployment of clean energy generation through the 2020s in the face of growing demand for electricity of 40 to 60%. A target of all electricity generation coming from low carbon sources by 2035 was established and reinforced through the UK Net Zero Strategy (October 2021) and the British Energy Security Strategy (April 2022).

5.38 The proposed development would make a significant contribution in the local area to meeting these national energy provision imperatives, as such it should be afforded substantial weight in the planning balance.

5.39 The City itself declared a Climate Emergency in 2019 with the overall goal of being carbon neutral by 2030. An important element of the aspiration contained within the Draft Climate Change Strategy 2022-2032 has been the adoption of electricity as the preferred source of energy as that can be produced without resort to sources which release carbon emissions. This can be afforded moderate weight in the planning balance. Solar forms a very important element of the mix of potential renewable sources with large scale wind being less appropriate due to the potential impact upon the Historic City skyline. Suitable sites for solar need to be brought forward which have a lesser impact upon food production, highway and access conditions and local amenity.

5.40 The proposal further seeks to bring a greater degree of management to the site to enhance biodiversity with specific provision for both ground nesting and aquatic

birds with encouragement to other species associated with species rich grassland. This would give rise to a BNG figure of 20%, significantly above that required by national and local planning policy. That should also be given weight in the planning balance.

5.41 In considering the application substantial weight is given to harm to the Green Belt. The application is otherwise acceptable in planning terms. The accumulation of considerations outlined above namely the significantly improved range of biodiversity providing a 20% net gain and the provision of a significant increase in renewable energy generation capacity of 16.5 MW, clearly outweigh the identified harm to the Green Belt and landscape harm. Consequently, it is felt that the proposal when fully operational would fulfil the test of “very special circumstances” justifying inappropriate development.

PUBLIC SECTOR EQUALITIES DUTY

5.42 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- c) Foster good relations between persons who share relevant protected characteristic and persons who do not share it.

5.43 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to the characteristic.
- b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.44 The PSED does not specify a particular substantive outcome but ensures that the decision made has been taken with “due regard” to its equality implications.

5.45 Officers have given due regard to the equality implications of the proposals in making this recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

6.0 CONCLUSION

6.1 The proposal for the construction of a solar farm is acknowledged to be inappropriate development within the Green Belt and to give rise to landscape harm. However, subject to appropriate conditions the proposal is felt to be acceptable in terms of flood risk and drainage, biodiversity, loss of agricultural land, and transportation and access. It is felt that the clear environmental benefits when put in the context of the declared climate emergency, of generation of a significant quantity of renewable energy clearly outweighs the harm to the Green Belt and the localised harm to the adjoining landscape character. The proposal is therefore considered to be acceptable in planning terms and approval is recommended subject to referral to the Secretary of State, on the basis that it falls within the thresholds in respect of development in the Green Belt contained within the 2024 Town and Country Planning (Consultation) England Direction.

7.0 RECOMMENDATION: Approve subject to referral to Sec. of State and it not being called in

1 TIME2 Development start within three years

2 The development hereby permitted shall be carried out in accordance with the following plans: -

0004116-1150 Solar Panels Typical Details

0000 P02 Location Plan

Landscape and Visual Appraisal Rev B

1435_150 Rev B Landscape Strategy

0004116-1100-P07 Indicative Site Plan

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 No development shall take place (including enabling works) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority.

The CEMP: Biodiversity shall include, but not be limited to the following:

a) Risk assessment of potentially damaging construction activities.

- b) Identification of 'biodiversity protection zones' (additional plans/drawings could be provided to highlight areas to be avoided).
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) Programme of pre-commencement checking surveys.
- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) Use of directional lighting during construction, which will not shine upon the site boundaries, hedgerows, or trees within the site.
- g) The location of all storage of materials and parking and manoeuvring of vehicles during works.
- h) Details of pollution prevention measures to avoid harm to watercourses/water bodies.
- i) Measures to protect deer, badgers, foxes and hedgehogs who might otherwise access the site for foraging and commuting purposes including and not limited to, precautionary working methods to prevent accidental harm or injury to animals, removal of tree or shrub cuttings from the site and the covering of trenches and capping of any open pipes.
- j) Measures to protect amphibians and reptiles.
- k) Details of biosecurity measures to stop the spread of Invasive Non-Native Species.
- l) The times during construction when specialist ecologists need to be present on site to oversee works.
- m) Responsible persons and lines of communication.
- n) The roles and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- o) Use of protective fences, exclusion barriers and warning signs (including watercourse, trees, woodlands and hedgerow protection).

Reason: To facilitate the protection of notable/sensitive ecological features and habitats on the application site and within the local area and to secure compliance with Policy GI2 of the City of York Local Plan.

4 A landscape and ecological management plan (LEMP) with supporting biodiversity enhancement plan/drawing(s), shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of the development.

The content of the LEMP shall include, but not be limited to the following:

- a) Description and evaluation of features to be managed, including all newly created habitat and enhancement features (i.e. bat and bird boxes, invertebrate, amphibian and reptile hibernacula).
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.

- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions, including reinstatement/enhancement of work areas, haulage/access roads and site compounds.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward for a minimum of a 30-year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.
- i) Establish BNG monitoring and reporting programme - to be submitted to the LPA. As a minimum, the monitoring programme should include:
 - Confirmation of the number of Biodiversity Units present based on a survey at an appropriate time of year and how this compares to the target units.
 - Where target conditions for habitats/units are not yet met provide an assessment of time to target condition for each habitat and any changes to management that are required.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Policy GI2 of the City of York Local Plan to contribute to and enhance the natural and local environment by minimising impacts on, and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. To ensure wildlife mitigation, compensation and enhancements measure are managed and maintained appropriately

5 Prior to the installation of any new external lighting, a 'lighting design plan' shall be submitted to and approved in writing by the local planning authority. The plan shall:

- i) Specify lighting in-line with current guidance - Bat Conservation Trust (2023) Bats and Artificial Lighting at Night: <https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>
- ii) Demonstrate how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications), clearly demonstrating where light spill will occur, both within and outside the site boundary.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external

lighting be installed without prior consent from the local planning authority.

Reason: To maintain the favourable conservation status of bats and protect the habitats used by European Protected Species where there might be changes on site in accordance with Policy GI2 of the City of York Local Plan.

6 Before the development hereby authorised is first brought into use a detailed decommissioning management plan shall be submitted to and approved in writing by the Local Planning Authority. Such plan shall include:

- i) Details of phasing
- ii) Landscape planting and habitat protection measures
- iii) Details of the method for decommissioning, dismantling and removal of all plant, machinery, fencing and associated apparatus
- iv) Details of the point of access to be used.
- v) Details of aftercare for the site and the method for restoring it to landscape use. Management of traffic during the decommissioning process]
- vii) Timescales by which decommissioning, removal and reinstatement of the land shall be fully completed if the solar farm ceases to be operational.

The development shall thenceforth be decommissioned, and the land restored to its former landscape use in accordance with the details and timescales thereby approved and the timescales as set out in the approved decommissioning management plan shall be strictly adhered to unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To safeguard the biodiversity value of the site and to secure compliance with Policy GI2 of the City of York Local Plan.

7 A Construction Traffic Management Plan identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The statement shall include at least the following information:

- measures to prevent the egress of mud and other detritus onto the adjacent public highway.
- the routing for construction traffic that will be promoted.
- a scheme for signing the promoted construction traffic routing.
- where contractors will park; and
- where materials will be stored within the site,
- location of the construction site compound for each element of the development.
- hours of operation including deliveries
- volumes of construction and delivery traffic

The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To safeguard the amenity of neighbouring properties, to secure the safety and convenience of highway users and to secure compliance with Policy T1 of the 2018 City of York Local Plan

8 Prior to the commencement of the development hereby authorised a detailed Outline Access Management Plan indicating how construction activities will impact upon the usage of the PROW network adjacent to the site and the usage of other neighbouring paths together with how those construction impacts can be managed for those users during the duration of construction works shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved.

Reason: To safeguard the safety and amenity of users of the PROW network and to secure compliance with Policy T1 of the 2018 City of York Local Plan.

9 Details of all machinery, plant and equipment to be installed in or located on the premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014+ A1 2019, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area and to secure compliance with Policy ENV2 of the City of York Local Plan.

10 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed landscape scheme in accordance with Landscape Strategy 1435_150 Rev B Dated 28/02/2025. The landscape scheme shall include the species, stock size, density(spacing) and position of trees, shrubs and other plants and seeding mixes and sowing rate where

applicable. It will also include details of tree pits and ground preparation. The scheme shall be implemented within a period of six months of the completion of the development. Any tree or plants which within the lifetime of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority agrees alternatives in writing.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species across the site since the landscape scheme is integral to the landscape and visual mitigation for the development and to secure compliance with Policy D2 of the York Local Plan.

11 A strip of land 9 metres wide adjacent to the top of the embankment of any watercourse which is maintained by Ainsty (2008) Internal Drainage Board under the Land Drainage Act 1991 shall be kept clear of all new buildings, structures, walls, fencing, hard paving and planting unless first agreed otherwise in writing with the Drainage Board on the basis:

- i) Ground levels must also remain the same within this area, and
- ii) Access arrangements should also be agreed with Ainsty (2008) Internal Drainage Board.

Reason: to ensure adequate space is available to maintain the watercourse at all times.

12 No development approved by this permission shall be commenced until the Local Planning Authority, has approved a scheme for the disposal of surface water from the Site Compound Area. Any such scheme shall be implemented to the reasonable satisfaction of the Local Planning Authority before the development is brought into use.

The following criteria should be considered for the disposal of surface water:

- a) The discharge rate shall not exceed 1 litre per second, and
- b) Storage volume should accommodate a 1:30 year event with no surface flooding and no overland discharge off the site in a 1:100-year event. A 30% allowance for climate change should be included in all calculations. A range of durations should be used to establish the worst-case scenario.

Reason: To ensure that the site compound is safely and securely drained.

13 Unless otherwise agreed in writing by the Local Planning Authority the surface water drainage of the solar panel development shall be undertaken in accordance with Drawing 248/01/04 "Indicative Contour Drainage Arrangement"-Revision 1

within the SM Foster Ltd Flood Risk Assessment and Surface Water Drainage Strategy and Surface Water Drainage Strategy Addendum 1 dated November 2023 in respect of operational areas A and B identified on Indicative Site Plan 1100 Rev PO7.

Reason: To ensure that the site is safely and satisfactorily drained and to secure compliance with Policy ENV4 of the City of York Local Plan.

14 Precise details of the deer and security fencing to be used within the development including design, finish and location shall be submitted to and approved in writing by the Local Planning Authority before the construction of the development commences beyond site clearance and shall be provided in accordance with the approved details before the development is occupied.

Reason: In the interests of the visual amenities of the area and the amenities of neighbouring properties and to secure compliance with Policy D2 of City of York Local Plan.

15 LC4 Land contamination - unexpected contamination

8.0 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 (paragraph 39) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- i) Sought amendment of the submitted Landscape Strategy to address the visual impact of the proposal from the north and east
- ii) Sought amendment of the proposal to address the relationship of the proposal to the flight path into and out of Rufforth (East) Airfield

2. HEDGEHOGS

The applicant is advised to consider using permeable fencing or leaving occasional gaps suitable to allow passage of hedgehogs. Any potential hibernation sites including log piles should be removed outside the hibernation period (which is between November and March inclusive) in order to avoid killing or injuring hedgehogs.

Hedgehogs are of priority conservation concern and are a Species of Principal Importance under section 41 of the NERC Act (2006). An important factor in their recent population decline is that fencing, and walls are becoming more secure, reducing their movements and the amount of land available to them. Small gaps of approximately 13x13cm can be left at the base of fencing to allow hedgehogs to pass through. Habitat enhancement for hedgehogs can easily be incorporated into developments, for example through provision of purpose-built hedgehog shelters or log piles. <https://www.britishhedgehogs.org.uk/wp-content/uploads/2019/05/developers-1.pdf>

3. NESTING BIRDS:

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Buildings, trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Suitable habitat is present on the application site and is to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess nesting bird activity.

4. CONSENT TO DISCHARGE TO A WATER COURSE:

The written consent of the Ainsty(2008) Internal Drainage Board is required prior to any discharge or increase in the rate of discharge into any watercourse(directly or indirectly within the Board's District.

5. WORKS CLOSE TO A WATERCOURSE:

The prior written consent of the Ainsty(2008) Internal Drainage Board is required for any proposed works or structures in, under, over or within 9 metres of the top of the bank of any watercourse within the Board's district.

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