

COMMITTEE REPORT

Date: 5 September 2024

Ward: Rural West York

Team: West Area

Parish: Nether Poppleton Parish
Council

Reference: 23/02254/FULM

Application at: Land To the South Of New Farm Lords Lane Nether Poppleton
York

For: Installation of a solar farm with associated infrastructure, access,
security fencing and landscaping

By: Mark Wood

Application Type: Major Full Application

Target Date: 8 July 2024

Recommendation: Approve after referral to Sec. of State

1.0 PROPOSAL

1.1 Planning permission is sought for erection of a solar farm covering some 55.9 hectares over two sites set to either side of Lords Lane to the west of Nether and Upper Poppleton villages. The site to the south of Lords Lane and to the west of Nether Poppleton village is slightly smaller and is identified as Area A. The site to the north and to the northwest of Nether Poppleton village is identified as Area B. The land is presently in a mix of arable cultivation on Grade 3b) (medium quality) with barley and potato cultivation predominating. The proposed works include a range of ancillary structures including fencing, inverters, a substation, access tracks and a grid connection. Access to the site would be via Lord's Lane, Common Croft Lane and Broad Lane Upper Poppleton. The site is gently rolling in character and divided up into a regular pattern of fields with mature hedges in native species interspersed with individual mature trees with few longer distance views across the site. There are some small blocks of woodland adjoining the site boundaries. No landscape or habitat designations would be affected. The site lies within the general extent of the York Green Belt.

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. A substation would be located within a timber clad building to the west of the southern area A with inverters to convert the electricity into a form readily transmissible through the grid associated with each bank of solar panels. 2-metre-high deer proof mesh fencing would be provided around the exterior of the site. The access points, substation building, and inverters would be covered by externally monitored cctv. Construction would be over a period of eight months to a year with a construction site compound provided at the eastern edge of the site. The farm is envisaged to be in place for a period of 30 years before de-commissioning. The proposal is not EIA development as identified in the previous EIA screening opinion 22/01895/EIASN.

1.3 The application has been amended since submission to allow for an easement for National Grid overhead line improvement works at the northwestern edge of area B. The development when fully operational would allow for the input of an additional 32.6 MW of electricity to the Grid which would power up to 13,000 houses on an annual basis. This would represent a reduction of 12,500 tonnes of carbon dioxide to the atmosphere during the first year of operation.

Relevant Planning History

1.4 22/01895/EIASN Screening Opinion in respect of erection of a solar farm at Lords Lane Nether Poppleton. The proposal was found not to be EIA development by virtue of its impacts including cumulative impacts with other proposals.

2.0 POLICY CONTEXT

NATIONAL PLANNING POLICY FRAMEWORK

2.1. The NPPF sets out the government's planning policies for England and how these are expected to be applied. Its planning policies are material to the determination of planning applications. The Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development (Paragraph 7). To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways (paragraph 8).

2.2. 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).

2.3. The statutory Development Plan for the City of York comprises the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) and any made Neighbourhood Plan, in this case the Upper and Nether Poppleton Neighbourhood Plan (2016).

NEIGHBOURHOOD PLAN

2.4 The Upper and Nether Poppleton Neighbourhood Plan was formally made (adopted) in July 2016 and forms part of the statutory Development Plan for the area. At Policy PNP1 (Green Belt Policy) the general extent of the Green Belt within and around the settlement is highlighted on the Policies Map. It indicates that within the general extent of 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.

DRAFT LOCAL PLAN (DLP 2018)

2.5 The Draft Local Plan 2018 was submitted for examination on 25 May 2018. Formal examination hearings have now taken place and a response from the Inspector is awaited. The Draft Plan policies can be afforded weight in accordance with paragraph 48 of the NPPF. Draft policies relevant to the determination of this application are:

- 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
- ENV5 Sustainable Drainage
- T1 Sustainable Access

3.0 CONSULTATIONS

3.1. The application has been publicised via Site Notice on 17th January 2024, local press notice and neighbour notification letter at the same time.

INTERNAL

Public Protection

3.2 Raise no objection to the proposal subject to any permission being conditioned to secure remediation of any unexpected contamination and the hours of any noisy construction works being controlled.

Carbon Reduction Team

3.3 Raise no objection to the proposal on the grounds that of itself and in combination with other schemes secure compliance with the renewable energy generation requirements of Policy CC1 of the Draft Local Plan.

Design, Conservation and Sustainable Development (Archaeology)

3.4 Raise no objection to the proposal subject to any permission being conditioned to secure a scheme of post determination archaeological evaluation.

Design, Conservation and Sustainable Development (Ecology)

3.5 Raise no objection to the proposal. Some concern in respect of the potential impact of the proposal upon ground nesting birds specifically skylarks who are known to nest in the wider locality was initially expressed. That concern was subsequently resolved following on from the submission of supplementary information. Conditions are recommended to be attached to any planning permission in respect of the submission and prior approval of a Landscape and Ecological Management Plan (LEMP), to secure the habitat of great crested newts and the submission and prior approval of a Construction Environmental Management Plan (Biodiversity).

Design, Conservation and Sustainable Development (Trees and Landscape)

3.6 Raise no objection in principle to the proposal but express concern in respect of the impact of the proposal on the landscape character of the site particularly in the short-term following establishment of the site and in its direct environs.

Consideration should be given to enhanced landscape mitigation at the site boundaries, and it is felt that in the long term as the proposed landscape mitigation matures then the impact would be lessened. There is also a lower risk of cumulative impacts arising out of interaction with the other solar developments proposed in the wider area at Hessay and Harewood Whin because of the degree of physical separation.

Public Rights of Way (PROW)

3.7 Raise no objection to the proposal subject to a dilapidation survey being undertaken in respect of the impact of construction works on the Public Rights of Way adjacent to or crossing the site together with any permission controlling details of fencing adjoining the network.

Highway Network Management

3.8 Raise no objection in principle to the proposal but raise concerns in respect of potential interaction between the proposal and the National Grid upgrade works. Concern is also expressed in respect of the impact upon the PROW network of the potential use of a haul road as a means of access. Any permission would need to be conditioned to secure submission and prior approval of a Method of Works statement together with detail of the junction of the access with the adopted highway and the internal site layout.

Front Line Flood Risk Management

3.9 Raise no objection in principle to the proposal subject to any permission be conditioned to secure compliance with the submitted drainage and flood risk mitigation strategy along with the provision of an appropriate easement to allow for maintenance of the IDB managed watercourse crossing the site.

EXTERNAL

Nether Poppleton Parish Council

3.10 Raise no objection to the proposal.

Environment Agency

3.11 Raise no objection to the proposal.

Ainsty (2008) Internal Drainage Board

3.12 Raise no objection to the proposal subject to any permission being conditioned to strictly comply with the submitted flood risk and drainage strategy.

National Grid

3.13 Raise no objection in principle to the proposal subject to a sufficient easement being provided to allow for the projected overhead line maintenance/improvement project being undertaken across the site.

Yorkshire Wildlife Trust

3.14 Object to the proposal on the grounds of lack of information surrounding the impact of the proposal upon ground nesting birds and the biodiversity of plant species in the locality.

CPRE (North and East Yorkshire)

3.15 Object to the proposal on the grounds of impact upon the openness of the Green Belt, the loss of productive agricultural land, detrimental impact upon users of the PROW network and detrimental impact upon local soil quality.

4.0 REPRESENTATIONS

4.1 A total of 2.no objections and 1 letter of support been received at the time of writing.

4.2 Summary of the objections received:

- Objection to the loss of the open character of the Green Belt
- Loss of arable land suitable for food production
- The proposed development is felt to be unnecessary when alternative brownfield land is available elsewhere.

4.3 Summary of the letter of support:

- The proposed development would significantly boost the production of renewable energy within the wider area.
- Visual impact arising from the proposal would be modest.
- The proposed form of generation would have a lesser impact upon the openness of the Green Belt and wider landscape character than wind turbines or Hydro Electricity.

5.0 APPRAISAL

Key Issues

5.1 The key issues are as follows:

- Principle and Green Belt
- Impact upon Openness
- Landscape Character
- Biodiversity
- Loss of Agricultural Land
- Drainage and Flood Risk
- Access and Transportation

PRINCIPLE AND GREEN BELT

Policy

5.2 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.

5.3 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.

5.3 In line with the decision of the Court in *Wedgewood v City of York Council* [2020], and in advance of the adoption of a Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes may take into account the RSS general extent of the Green Belt, the 2005 DCLP, the 2018 Draft Plan, insofar as can be considered against paragraph 48 of the NPPF and should have regard to site specific features in deciding whether land should be regarded as Green Belt.

5.4 The site is located within the general extent of the York Green Belt as described in the RSS. In addition to the saved policies YH9(C) and Y1 (C1 and C2) of the Regional Spatial Strategy which relate to York's Green Belt, the site is identified as falling within greenbelt in the proposals maps of the Development Control Local Plan (2005) and Draft Local Plan (2018) It is also within the area of the "made" Poppleton Neighbourhood Plan (2016) and covered by Policy PNP1 Green Belt Policy.

5.5 The site is identified in the City of York Local-Plan - The Approach to the Green Belt Appraisal (2003) which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open as being of importance in securing the openness of the Green Belt.

5.6 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 site should be treated as lying within the general extent of the York Green Belt and the

proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF and within policies PNP1 of the Upper and Nether Poppleton Neighbourhood Plan and GB1 of the Draft Local Plan (2018).

Assessment

5.7 The relevant local policy is GB1 together with Policy PNP 1 of the Poppleton Neighbourhood Plan. The relevant paragraphs of the NPPF are 152 and 155. A Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt unless it meets one of the exceptions set out in paragraph 154 of the NPPF. The proposal does not meet any exceptions set out in paragraph 154 of the Framework.

5.8 Certain other forms of development are not inappropriate in the Green Belt including engineering operations provided they preserve its openness and do not conflict with the purposes of including land within it as set out in paragraph 155 of the NPPF. The proposal does not meet any exception set out in paragraph 155.

5.9 The development is classed as 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 5.34 to 5.37 below.

5.10 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.

5.11 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 inverters and a sub-station enabling the electricity to be generated to be circulated through the grid. The sites are both middle grade agricultural land presently in use for a mix of growing of barley and root crops. The surrounding landscape gently undulates with a mix of small and medium sized fields surrounded by the predominant boundary treatment characteristic of the wider locality comprising mature trees and lengths of hedgerow. These are interspersed with small blocks of mature natural woodland.

IMPACT UPON OPENNESS

5.12 In terms of impact upon openness the proposal would fundamentally alter the character of the surrounding landscape. This is notwithstanding the intention to reinstate the site to its former character at the end of the period of operation which creates a different degree and form of harm to a permanent building. From being an area in a mix of agricultural uses; the site would take on a physically regimented, engineered character which would only be partially mitigated by the development being divided up into two blocks. The openness of the Green Belt would therefore clearly be harmed in both visual and spatial senses. An appearance of physical development would be created in two significant areas of what is presently natural landscape to the west and northwest of Nether Poppleton village. That is notwithstanding the degree of reinforcement of existing landscape planting at the site boundaries and around retained field boundaries and the retention of sheep grazing between the panels. 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.

5.13 Paragraph 143 of the Framework 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

5.13 Central Government Planning Policy as outlined in paragraph 180 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. At the same time Policy D2 of the Draft Local Plan indicates 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.

5.14 The application site does not lie within any special landscape designations with only limited visibility of Area B which lies to the north west of Nether Poppleton village from the direction of Overton to the northeast. Area B however falls within a different landscape character area associated with the wider Vale of York with its Ings landscape where historic settlement is concentrated and where greater harm may arise from cumulative impacts from other schemes within the wider locality. It is

however proposed to set back the panels between 10 and 15 metres from the existing hedgerows with reinforcement planting taking place around the outer boundaries and the retained field boundaries within the site. When mature the cumulative effect of the existing together with the additional planting would be to filter the visual impact of the site in the winter months and effectively screen it during the period of maximum leaf growth in the summer. Impact is therefore felt on balance to be acceptable.

5.15 In terms of Area A which lies to the west of Nether Poppleton village and the southern section of Area B, the scheme borders both Lord's Lane and Broad Lane with their associated footpath network which allow residents of both Nether and Upper Poppleton to access the open countryside to the west and north of both settlements. Broad Lane in particular is used extensively for dog walking. Notwithstanding the degree of setback from the hedge line and the proposed reinforcement planting there would be a fundamental change to the character of the local landscape with the panels being highly visible in that direction during the winter as a result of the local topography. There would also be significant visibility of the proposal from the footpath which is due to be partially relocated linking into Lord's Lane as a result of the topography sloping gently north and north westwards towards the Ouse riverbank.

5.16 Harm would to a significant extent be mitigated by the proposed reinforcement planting which would lead to a filtering of views even in winter. However, that would not override the fact that the character of the landscape would change with the area being taken out of arable production which would be replaced by manmade engineered structures. Over the course of processing the application the design of the boundary fencing has been amended to a two-metre-high timber post and wire fencing which is felt to be more visually appropriate within the rural landscape. Landscape harm from the proposal is still though felt to be significant and needs to be weighed within the planning balance against the positive benefits of the scheme. Some further mitigation may be achieved by means of a detailed landscape scheme which may be conditioned as part of any permission.

BIODIVERSITY

5.17 Central Government Planning Policy as outlined in paragraph 186a) 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. Policy GI2 of the Draft Local Plan indicates that any development should ensure the retention, enhancement and appropriate management of features of biological interest.

5.18 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. Concern has initially been expressed by consultees in respect of the lack of consideration of the impact of taking the land out of cultivation upon ground nesting birds. That has however been addressed in subsequent submitted information. This shows the areas used for barley cultivation as being unsuitable for ground nesting birds with the baseline ecological surveys undertaken in May 2023 failing to identify evidence of lapwing or curlew with potentially a single failed attempt by skylarks to nest. Barley cultivation with associated husbandry and harvesting activities is not conducive to ground nesting bird activity due to the timing of principal harvest in mid-summer at the peak of the nesting season. The applicant has agreed to plant a native wildflower and grass mix that would encourage ground nesting birds into the site. The experience of other similar sites has been that when arable cultivation is withdrawn then badgers known to be in the surrounding area are likely to re-colonise the site.

5.19 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. Single mature trees within the site will be fitted with nesting boxes suitable for species suitable for the coal tit and the barn owl. Specialist invertebrate boxes will also be located in close proximity to the areas of new wildflower and grass planting to encourage the settlement or pollinating species.

5.20 The submitted Ecological Assessment indicates that the proposal would be able to clearly comply with the requirement for Biodiversity Net Gain with the removal of a barley monoculture with a 175% improvement in habitat using the standard method of assessment. It should be noted the requirement is not mandatory in respect of the development due to when the proposal was submitted. In order to properly secure the proposed improvements, 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.

5.21 Concern has been expressed by the Yorkshire Wildlife Trust in respect of the future of the site following on from its 30-year design life and any potential harm that might arise to the planting and other biodiversity which may have grown up during the interim as a result of the decommissioning process. In order to address the concerns, it is recommended that any permission be conditioned to secure the submission and prior approval of a decommissioning management plan which would secure the return of the site to an appropriate after use. Subject to such a condition being in place the proposal is felt to be acceptable in ecological and biodiversity terms.

LOSS OF AGRICULTURAL LAND

5.22 Central Government Planning Policy as outlined in paragraph 180b) of the NPPF indicates that planning decisions should contribute to and enhance the local and natural environment by recognising the intrinsic character of the countryside including the economic benefits of best and most versatile agricultural land. The Agricultural Land Survey indicates the application site to be largely within Class 3b) and of moderate quality reflecting its use for arable cultivation and the growth of barley. Some concern has been expressed by objectors notably the CPRE in respect of the loss of the area of arable cultivation with potential impacts upon UK food security.

5.23 Agricultural land classified as being Grade 3b) is not however included anymore as being within the accepted definition of being best and most versatile. It is instead taken as being more general-purpose agricultural land with arable cultivation more suitable and favoured on the higher grades. Furthermore, the removal of arable cultivation would act to enhance biodiversity by encouraging the re-settlement of the area by small mammals such as badgers currently known to be present within the wider area. The layout of the solar farm has also been designed to enable grazing of the area between the panels by sheep throughout the design life of the development and so agricultural activity would not cease. The CPRE has suggested that the proposed development may lead to harm to the character of the soil and inhibit future husbandry activities at the site. The site is however not high-grade agricultural land most suitable for growing crops in any case although it has done so previously. The proposal would also not inhibit the use of appropriate methods to return the site to cultivation when it is decommissioned. Any potential harm is not therefore felt to be material.

DRAINAGE AND FLOOD RISK

5.24 Central Government Planning Policy as outlined in paragraph 173 of the NPPF indicates that when determining planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere. The application site lies predominantly within Flood Zone 1 which carries the lowest risk of flooding from riparian sources. However, a section of the northern is within Flood Zone 2 giving a medium risk of flooding from riparian sources. Given the “more vulnerable” category of the development a site-specific flood risk assessment has been submitted to accompany the proposal which has been revised to address the concerns of the Environment Agency during the course of processing. The Assessment indicates that the panel apparatus would site above the level of the highest recorded flood with no flood sensitive equipment being located within the more sensitive area.

5.25 It is envisaged that surface water drainage would be by means of a network of swales connecting in with the IDB maintained watercourse network to a design previously agreed with the IDB and the Front-Line Flood Risk Management Authority. Subject to the standard 9 metre offset being provided clear of physical structures and planting to the water courses across the site to allow for maintenance then the proposal is felt to be acceptable in terms of surface water drainage and flood risk.

ACCESS AND TRANSPORTATION

5.26 Central Government planning policy as outlined in paragraph 115 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. At the same time Policy T1 of the Draft 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.

5.27 It is proposed that access for construction of the solar farm together with subsequent maintenance visits would be in the case of Area A via a track leading from Common Croft Lane with vehicles approaching from the direction of Nether Poppleton village. Access for Area B would be via Lord’s Lane and would parallel that chosen by National Grid for the line maintenance and improvement work to the north and to a more limited extent crossing Area A. The applicant has indicated that

works will be scheduled to take place following on from the National Grid works to avoid conflict between the two operations. Lord's Lane is part byway open to all traffic and part private access drive to Woodhouse Farm and is of an adoptable standard with good forward visibility. Access directly into Area B would be via a track on the alignment of an existing bridleway from Common Croft Lane closer to Nether Poppleton village. Details of the access and how it would be managed by means of a Construction Traffic Management Plan as part of any permission.

5.28 In terms of impact upon the Public Right of Way crossing Area B the applicant has indicated that a diversion order would be separately applied for. In the event of that being unsuccessful the Right of Way would cross the active application site. Recommendations as to how such access would be managed have been put forward by Public Rights of Way and maybe subject to condition as part of any planning permission.

5.29 Both Area A and Area B would have separate construction site compounds within each area. The usage and management of both may be controlled by condition as part of any permission. 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.

OTHER ISSUES

5.30 Objection has been made to the lack of consideration of alternative sites on brownfield land. Central Government Planning Policy outlined within paragraphs 162 and 163 of the NPPF does not require a sequential approach to site selection for renewable energy generation and neither does Policy CC1 of the Draft Local Plan in its up-to-date form. In the context of a critical need for renewable energy and the lack of any specific landscape or amenity designation or overriding amenity harm the suitability of the site needs to be assessed on its own merits.

PLANNING BALANCE AND CASE FOR VERY SPECIAL CIRCUMSTANCES

5.31 The proposed development is inappropriate 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. Paragraphs 152 and 153 of the Framework indicate that inappropriate development is by definition harmful to the Green Belt and 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.

5.32 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 as outlined above give rise to significant landscape harm during its lifetime particularly in terms of views across what is presently a prominent agricultural landscape in the case of Area A visible from Broad Lane notably in the Winter months when trees and other vegetation are not in leaf and in respect of Area B from the present alignment of the bridleway leading on to Lord's Lane looking northwards towards the River Ouse. That harm should thus be afforded substantial weight.

5.33 Central Government Planning Policy as outlined in paragraph 163b) of the NPPF indicates that when determining applications for renewable and low carbon development local planning authorities should approve the application if its impacts are or could be made acceptable. Policy CC1 of the Draft Local Plan in its modified form 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.

5.34 Paragraph 156 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 Policy over a significant period of time 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). The proposed development would make a contribution in the local area to meeting these national energy provision imperatives which should be given moderate weight in the planning balance.

5.35 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.

5.36 The majority of the land forming the site of the proposal is cultivated within a barley mono culture form of cultivation which allows for a relatively low level of biodiversity plant and wildlife species. The proposals to return to a species rich grass land with enhanced woodland planting would substantially enhance the biodiversity value of the site with greater potential for ground nesting birds, badgers and insects which thrive on native grassland. The result is a BNG figure substantially above that required by National and Local Planning Policy. That should also be given substantial weight in the planning balance.

5.37 Notwithstanding the landscape harm caused by the current proposal in two specific areas it is felt that it is otherwise acceptable in planning terms and that the accumulation of considerations outlined above namely the significantly improved range of biodiversity for both sites and the provision of a significant increase in renewable energy generation capacity clearly outweigh the identified harm to the Green Belt and landscape harm. It is felt that the proposal when fully operational would fulfil the test of “very special circumstances” justifying inappropriate development whilst securing compliance with Policy CC1 of the Draft Local Plan as well as paragraph 163b) of the NPPF.”

Public Sector Equalities Duty

5.38 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.

5.39 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.

5.40 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.

5.41 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 to produce 32.6 MW of electricity per annum over a 55.9-hectare site in two portions lying to the northwest of Nether Poppleton village is acknowledged to be inappropriate development within the Green Belt. However, subject to appropriate conditions the proposal is felt to be acceptable in terms of flood risk and drainage, biodiversity, loss of agricultural land, landscape impact 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 felt to be acceptable in planning terms and approval is recommended following 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 after referral to Sec. of State

1 TIME2 Development start within three years

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

Drawing Refs: Conceptual Elevation Details AMPYR-Poppleton-DWG-AL-002

Site Layout Plan Fig 4.1a)

Solar Panel Cross Section and Elevation. Drawing 1

MV Station Elevation Fig 4.3

CCTV Security Camera Elevation Fig 4.8

Submission Design with Grid Connection Rev 1

PROW footpath diversion Rev 1

Distance to Drains/Watercourses FRDA-XXX-01

Landscape Mitigation Plan 0562_Fig 5 Rev 5

Fencing Detail Fig 4.5 Rev R0

Access Gate Elevations Fig 4.6 Rev R0

Location Plan Drawing 3.1

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 development shall thereafter take place in accordance with the CEMP: Biodiversity as so approved.

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.

- d) Programme of pre-commencement checking surveys (e.g., Badgers, Otters, nesting birds, etc.).
- 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, Brown hares, 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.

4 Construction works, including ground clearance and enabling works, shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) A licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the specified activity/development to go ahead; or b) A statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence; or
- c) Confirmation that the site is registered on a Low Impact Class Licence issued by Natural England; or
- d) A countersigned IACPC certificate issued by Natural England is provided, stating the site is eligible for District Level Licencing.

Reason: To ensure Great crested newts and their habitat are protected during the proposed works. Great crested newts and their habitat are protected by the Wildlife

and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended).

5 An updated Landscape and Ecological Management Plan (LEMP), 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 hibernacula, etc.).
- 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, to include the lifespan of the solar farm).
- g) Programme of ecological surveying, management and protection measures to support decommissioning works.
- h) Details of the body or organisation responsible for implementation of the plan.
- i) Ongoing monitoring and remedial measures.
- j) Establish BNG monitoring and reporting programme - to be submitted to the LPA. As a minimum, the monitoring programme should include:
 - o 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.
 - o 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 LEMP will be implemented in accordance with its terms.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 180 (d) of the NPPF 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.

6 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a detailed landscape scheme which shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; and seeding mix and sowing rate where applicable. It will also include details of tree pits and ground preparation. This scheme shall be implemented within a period of six months of the start of on-site development operations and shall be completed by the end of the next planting season. Any trees or plants which within the lifetime of development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme.

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 landscape character and visual mitigation associated with the development.

7 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 agricultural use. Management of traffic during the decommissioning process]
- vii) Timescales by which decommissioning, removal and reinstatement of the land shall be fully completed [following cessation of use of the development] [if the solar farm ceases to be operational].

The development shall thenceforth be decommissioned and the land restored to its former agricultural 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 paragraph 180b) of the NPPF.

8 A programme of post-determination archaeological evaluation is required on this site.

The archaeological scheme comprises 3-4 stages of work. Each stage shall be completed and agreed by the Local Planning Authority (LPA) before it can be approved.

A) Archaeological investigation and post-investigation assessment shall be completed in accordance with the programme set out in the approved Written Scheme of Investigation (WSI) (AOC Archaeology 2023). Provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

B) A copy of a report on the evaluation and an assessment of the impact of the proposed development on any of the archaeological remains identified in the evaluation shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 6 weeks of completion or such other period as may be agreed in writing with the Local Planning Authority.

C) Where archaeological features and deposits are identified proposals for the preservation in-situ, or for the investigation, recording and recovery of archaeological remains and the publishing of findings shall be submitted as an amendment to the original WSI. It should be understood that there shall be presumption in favour of preservation in-situ wherever feasible.

D) No development shall take place until:

- details in C have been approved and implemented on site where necessary

- provision has been made for analysis, dissemination of results and archive deposition has been secured

- a copy of a report on the archaeological works detailed in Part C should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

This condition is imposed in accordance with Section 16 of NPPF.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ.

9 Prior to the site being first brought into use the substations, storage buildings and other ancillary structures associated with the development shall be painted in dark colour previously agreed in writing by the Local Planning Authority.

Reason: To safeguard the character of the local landscape and to secure compliance with paragraph 180b) of the NPPF.

10 LC4 Land contamination - unexpected contam

11 The hours of construction involving noisy operations, loading or unloading on the site shall be confined to 8:00 to 18:00 Monday to Friday, 9:00 to 13:00 Saturday and no working on Sundays or public holidays.

Reason: To protect the amenities of adjacent residents.

12 The development shall be carried out in accordance with the details shown on the submitted Flood Risk & Drainage Assessment Report - Version 2 - dated 18 March 2024, Drawing "Distance to Drains / Watercourses" - FRDA-XXX - Revision 01 dated April 2024 and Drawing "Landscape Mitigation Plan" - Fig 5 - Revision 5 - dated 21 June 2024, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: In the interest of satisfactory and sustainable drainage

13 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.

Drainage notes

a) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal, and

b) The applicant should be advised that the York Consortium of Drainage Board's prior consent is required (outside and as well as planning permission) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge (either directly or indirectly) to the watercourse will also require the Board's prior consent.

14 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 the 2018 City of York Draft Local Plan

15 The development shall not be begun until details of the junction between the internal access road to areas A and B and the highway have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

16 No part of the site shall come into use until turning areas have been provided in accordance with details which shall have been previously submitted to and approved in writing by the Local Planning Authority. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

Reason: To enable vehicles to enter and leave the site in a forward gear thereby ensuring the safe and free passage of traffic on the public highway.

17 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 crossing 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.

18 Prior to the development being first brought into use all tracks, roads and other hard surfaced areas shall be surfaced in a Type 3 permeable aggregate to the satisfaction of the Local Planning Authority.

Reason: To ensure that the site drains satisfactorily and to secure compliance with paragraph 173 of the NPPF

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 38) 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 to the proposed boundary fencing scheme
- ii) Sought amendment to the proposed landscape mitigation strategy
- iii) Sought amendment to the proposed surface water drainage scheme
- iv) Sought clarification of the proposed access arrangements to Area 2
- vi) Sought provision of an easement through Area 2 to allow the proposed National Grid improvement works to take place.

2. GREAT CRESTED NEWTS

Great crested newts are afforded protection under the Wildlife & Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 (as amended), under which it is an offence to:

Capture, kill, disturb or injure Great crested newts deliberately.

- o Damage or destroy a breeding or resting place.
- o Obstruct access to their resting or sheltering places (deliberately or by not taking enough care).
- o Possess, sell, control or transport live or dead newts, or parts of them.
- o Take great crested newt eggs.

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. WILDLIFE AND LIGHTING

When designing external lighting its potential impacts on light sensitive species should be considered. Direct lighting and light spill should be avoided where new bat roosting and bird nesting features are installed, on trees, and 'green' linear features, such as hedgerows. Advice on lighting design for light sensitive species is available from the Bat Conservation Trust (2023) Bats and Artificial Lighting at Night: <https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>

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