

## COMMITTEE REPORT

**Date:** 10 December 2020      **Ward:** Hull Road  
**Team:** East Area                      **Parish:** Heslington Parish  
Council

**Reference:** 20/01473/FUL  
**Application at:** Electricity Sub Station Windmill Lane York  
**For:** Erection of 11kv substation with associated infrastructure and landscaping works  
**By:** University Of York  
**Application Type:** Full Application  
**Target Date:** 18 December 2020  
**Recommendation:** Approve

### 1.0 PROPOSAL

#### THE SITE

1.1 The application site is located to the west of Windmill Lane, Heslington in an area of mature woodland. The site comprises an existing Northern Power Grid (NPG) primary substation and an additional area of land to the south of the existing buildings and a strip of land to the east. The site forms a small part of a largely deciduous woodland running the full length of the west side of Windmill Lane from Hull Road in the north to Field Lane in the south. The woodland is protected by several group Tree Preservation Orders (TPOs). The application site is located within woodland TPO 15/1986-W2 which covers a mid-section. The cluster of trees to the west of the access road but within the application site area, falls outside the woodland TPO order.

1.2 Land to the east of Windmill Lane is Green Belt. The York Science Park is to the west and Heslington Village to the south. The University of York Campus West is beyond the Science Park to the west and the new University Campus East is c600m to the south-east. The site is in flood zone 1 (low risk of flooding) and is not in a conservation area.

1.3 The application has been called in for determination at planning sub-committee by Councillor Norman should the application be recommended for approval because of the adverse impact on the woodland.

## PROPOSAL

1.4 The application is for an extension to the primary electricity substation to provide a new 11kv connection for the University of York. It will serve the long-term energy requirements of the University as they continue the build-out of Campus East. It will also provide an electricity supply which operates independently from Campus West and thus improve resilience should there be a power failure. The University advise that the existing demand is near to capacity and the new connection and supply is urgently required.

1.5 The existing substation compound comprises a medium size substation and a brick-built switch room/control room located either side of a central access road. This access road continues up to a gas installation chamber on the northern side of the site. Cables and ducting for the existing plant run through the woodland area to the east and connect into the service infrastructure within Windmill Lane. From there they connect to large areas of parts of the south-east of the city including areas of Fulford, Heslington, the University and Naburn. The area of the existing cluster of substation buildings measures 48m by 21m (0.1ha).

1.6 The proposed extension is for replacement switch gear which will be housed in a pre-fabricated steel container measuring 13.3m (l) by 3.9m (w) by 3.0m (height) located to the south of the existing compound. Additional cables and ducting will be laid to the east, parallel with the compound, connecting to the existing service infrastructure on Windmill Lane. A new turning head will be created for access to the facility, as turning space for vehicles during and post development, and to provide space for a crane to lift in the container. This will be located adjacent to the boundary with the Science Park, to the west of the proposed new switchgear. A new palisade fence with access gates from the track is proposed to enclose the whole compound.

1.7 The proposals will require a temporary diversion of the Public Right of Way (PRoW) running through the woodland; approximately 9m to the east of its current route alongside the substation buildings. The proposals result in the loss of twenty-seven (27) trees of varying quality and age, as well as ground clearance of vegetation.

1.8 Since submission, plans have been received with additional information on the proposals, an arboricultural impact assessment, an arboricultural survey, a Tree Protection Plan, Method Statement and an Ecological Appraisal. A Landscape Plan setting out replacement planting has also been submitted and a statement further justifying the need for the substation extension and alternatives considered. A second period of consultation was undertaken.

## **RELEVANT PLANNING HISTORY**

1.9 On 19.10.2004, planning permission was granted for a flat roof extension to the existing electricity substation (04/03261/FUL). The extension was in an existing clearing and did not involve any loss of trees.

## **2.0 POLICY CONTEXT**

### **2.1 Allocations:**

Within settlement boundary

Woodland Tree Preservation Order 15/1986-W2

Flood zone 1 (low risk of flooding)

Public Right of Way (footpath code (7/16/10))

### **2.2 Policies:**

York Local Plan Publication Draft (2018)

DP3 Sustainable communities

ED1 University of York

D2 Landscape and setting

GI1 Green infrastructure

GI3 Green infrastructure network

GI4 Trees and hedgerows

Draft Local Plan adopted for development control purposes (2005)

GP1 Design

NE1 Trees, woodlands and hedgerows

Heslington Parish Neighbourhood Plan Submission Version (September 2019)

HES:14 Green infrastructure

HES:18 Paths and other rights of way

## 3.0 CONSULTATIONS

### INTERNAL

#### Design, Conservation And Sustainable Development (Landscape Architect)

3.1 The trees within the woodland alongside Windmill Lane are subject to a woodland tree preservation order (ref: 15/1986-W2) which protects all the trees, regardless of their age. Natural regeneration and purposeful replacement planting has resulted in a reasonable woodland structure, which includes mature trees, young trees, and under-storey species. The proposals result in the loss of a significant number of trees at the rear of the woodland, which are not as publicly visible as the foreground trees from Windmill Lane. Despite the high number of trees that would be lost through the development, only a small number are category B trees that are desirable for retention due to their individual merit. There are 10 category C trees (within groups G2, G3, and G6) and most of these are tightly-spaced, young, spindly Sycamores of limited value that are competing with each other and also the better trees. Nonetheless there are two early-mature trees with reasonable long-term potential that would need to be removed to accommodate the development. There would also be some limited harm to the amenity of the well-trodden PRow footpath from the additional structure, an increased physical presence of the substation from Windmill Lane and potential harm to retained trees from excavations and compaction of ground, particularly Oak (T5).

3.2 The loss of these protected trees is not acceptable in itself because of their integral value to the woodland, and the amenity that they provide to the public right of way and Windmill Lane and alternative locations should be investigated. However if an alternative site is not feasible then the loss of trees would have to be weighed up in the planning balance. Should the application be approved, then conditions are advised to secure the tree protection and landscape mitigation measures.

#### Public Protection

3.3 The application site is approximately 80 metres from the nearest residential property. In order to ensure that noise from the substation will not cause any adverse impact to the occupiers of this dwelling or within the area further details were requested on the predicted noise levels from the substation prior to determination. The agent advised that the only new apparatus was replacement switch gear which will not generate any additional noise. It was concluded that the

principle of development in this location was acceptable. A condition was advised on providing details of all machinery and plant that will be audible outside of the site prior to development commencing.

### Highways Network Management

3.4 No objections to the proposed development. Part of the build includes trenching works to the adjacent Public Right of Way (PRoW), footpath code (7/16/10) and therefore the PRoW will be required to be closed and temporarily diverted (which is a separate legal process to planning). There are no objections to the reopening of the existing path alongside the new fence. If the temporary route is to be made permanent, as suggested in the applicant's Design and Access Statement, an application to divert the footpath will be required under Section 119 of the Highways Act (1980). An informative is advised, no conditions are necessary.

### Flood Risk Management

3.5 The applicant has not submitted any surface water drainage details, nor carried out soakaway testing or provided evidence of existing connected impermeable areas. The officer advised that they required the information prior to determination.

## **EXTERNAL**

### North Yorkshire County Council Ecologist

3.6 The development will result in the loss of a number of trees and associated woodland ground flora which is recognised to be of local wildlife value. The woodland as a whole provides important habitat for a number of species including bats, birds, mammals and invertebrates. The recommendations set out within the Ecological Appraisal are supported, in particular minimising the footprint of the development activities and ensuring that protective fencing is used to reduce the risk of damage to habitats outside of the working area. Translocation of ground flora and inclusion of suitable plug plants is also recommended to mitigate and compensate for impacts upon woodland ground flora. Further information is required and the ecological recommendations should be incorporated into the landscape plans. This can be secured by condition through the submission of a detailed Biodiversity Method Statement.

## Ouse and Derwent Internal Drainage Board

3.7 The applicant states they are proposing to discharge surface water to a mains sewer. Whilst the Board notes that they have no objection in principle, it is some distance away. If however they are intending to discharge directly or indirectly into a Board maintained watercourse, then consent would be needed. The applicant should however first consider a soakaway informed by a percolation test. If this is not an option, then any discharge to a Board maintained watercourse with appropriate discharge rates and flow control. A condition is advised.

## Heslington Parish Council

3.8 No comment.

## **4.0 REPRESENTATIONS**

### **PUBLICITY**

4.1 Councillor Norman has expressed strong concerns about the proposals, noting that this is a major development in a TPO woodland which will involve significant felling of protected trees. It is not believed that this work is essential to the expansion of the University and there is insufficient justification in the application that the development must take place in this location and not elsewhere (as previously advised by the University that it would). There is insufficient assessment of alternative sites even within the woodland to minimise tree loss. A large oak, many mature sycamores and other trees outside of the TPO area would be cut down in this scheme and another mature oak would have foundations dug into the root protection zone. This is a large loss of mature and canopy trees assessed as in good condition, with absolutely no planting mitigation proposals made by the applicant. At a time of climate crisis, to cut down twenty trees, including mature specimens, in order to burn more carbon is inexcusable for a modern university claiming any ecological credentials. Major housing developers in the area have committed to not cutting down healthy trees and the University should be doing the same. The PRow is hugely important to local residents and should be protected at all costs and the temporary diversion should not result in any further loss of trees. An independent assessment should ensure that there is no additional noise nuisance from the substation extension. These hastily written plans are not befitting this woodland and will deprive local residents of a valuable and shrinking amenity, for a substation that could easily be sited elsewhere.

#### 4.2 Twelve neighbour objections were received on the following grounds:

- Unnecessary and irreversible loss of healthy trees, including mature and young trees, in a protected woodland. The TPO should not be ignored.
- There are no planting mitigation proposals.
- Alternative sites should have been fully considered. The applicant has not provided sufficient evidence of 'absolutely no feasible alternatives' as required by Draft Local Plan Policy G14 relating to trees and hedgerows.
- The scheme is contrary to the climate emergency declared by CYC. The University are choosing the cheaper option involving destroying mature trees over a more expensive alternative.
- The significant undeveloped land owned by the University (Campus East) should be used for the development rather than the woodland. It was understood that the substation was to be decommissioned and moved to Campus East.
- The recent designation of the PRow footpath (2019) is clear evidence that the woodland and current route is of value to public amenity and should remain intact. The woodland is safe, quiet and enjoyed by many with many health benefits and for its access to nature. People do not want to walk alongside a brick wall.
- Objection to any additional noise from the substation.
- The temporary diversion of the PRow will further damage trees and ground cover.
- Loss of wildlife and disruption to the woodland ecosystem and wider wildlife corridor. There is no space for landscaping works as mitigation and saplings are not sufficient to mitigate the loss of mature trees.
- There has already been significant removal of mature trees around this area and the loss of these trees in conjunction with those in the wider area should be considered (including the housing development on St Johns Playing Fields).
- The Council has declared a climate emergency. This proposal removes mature trees and replacement planting will take decades to replace the carbon capture effect of mature trees.
- The proposals damage the local habitat, community relations and the image of the University. The woodland should be protected.

4.3 A second period of consultation was undertaken with interested parties following the submission of further information. No further comments were received.

## **5.0 APPRAISAL**

### **Legislation**

5.1 The Town and Country Planning Act 1990, Part VIII, Chapter 1 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out the legislation in relation to Tree Preservation Orders. The legislation prevents the cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of any trees protected by such an Order, except with the consent of the local planning authority.

### **Planning Policy**

#### National Planning Policy Framework (2019)

5.2 The National Planning Policy Framework was updated and republished in February 2019 (NPPF). It is a material consideration in the determination of this planning application.

5.3 The NPPF sets out the Government's overarching planning policies. Paragraphs 7-11 explain that the purpose of planning is to contribute to achieving sustainable development through three interdependent and overarching objectives; economic, social and environmental. Development proposals that accord with an up-to-date development plan should be approved without delay. Where there are no relevant development plan policies or where they are out of date, planning permission should be granted unless policies in the framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Permission should not be granted where any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole.

5.4 Section 6 states that significant weight should be placed on the need to support economic growth. Section 8 promotes healthy and safe communities including promoting social interaction and supporting healthy lifestyles and well-being. Section 8 further sets out that planning decisions should guard against the loss of valued facilities and protect and enhance public rights of way and access.

5.5 Section 15 protects the natural environment. Planning decisions should recognise the intrinsic character and beauty of the countryside and the benefits of



trees and woodland. If significant harm to biodiversity resulting from development cannot be avoided (such as being relocated on an alternative site), or adequately mitigated or compensated for, then planning permission should be refused.

### York Local Plan Publication Draft (February 2018)

5.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. Phase 1 of the hearings into the examination of the 2018 Draft Plan took place in December 2019. In accordance with paragraph 48 of the NPPF the 2018 Draft Plan policies can be afforded weight according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

5.7 Policy DP3 Sustainable communities sets general principles including respecting and enhancing York's green spaces and landscape and protecting and enhancing the natural environment. Policy ED1 generally supports the continuing development of the University of York.

5.8 Policy D2 requires development to conserve and enhance landscape quality and character and the public's experience of it, recognising significant landscape features such as mature trees. Policy GI1 protects landscape, biodiversity and the natural environment recognising the multifunctional role of green infrastructure in supporting healthy communities and resilience to climate change. GI3 seeks to protect and enhance the amenity, experience and surrounding biodiversity value of existing rights of way.

5.9 Policy GI4 supports development that provides protection for overall tree cover and protects trees that are of value to general public amenity. Accompanying text at paragraph 9.13 underlines that only in exceptional circumstances, where the benefits of the development substantially outweighs the retention of significant trees within the site, and there are absolutely no feasible alternatives, then appropriate mitigation and compensatory tree planning will be required within the site boundary.

## City of York Draft Local Plan (incorporating 4th set of changes, April 2005)

5.10 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for development control purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF as revised in July 2018, although the weight that can be afforded to them is very limited.

5.11 Policy NE1 protects trees, woodlands and hedgerows which are of landscape, amenity, nature conservation or historical value through refusing development which will result in their loss or damage and requiring trees to be retained on development site to be adequately protected during any site works. Proposals to removed trees will require site surveys and any trees lost should be replaced with locally indigenous species.

5.12 Policy GP1 Design sets development principles. These include the need to respect or enhance the local environment, be of an appropriate design, avoid the loss of important vegetation and other features that contribute to the quality of the local environment, incorporate landscape proposals and ensure local residents are not unduly affected by noise arising from development.

## The Heslington Parish Neighbourhood Plan (HPNP) (September 2019)

5.13 The HPNP Submission Version was consulted upon for 6 weeks from 30<sup>th</sup> October 2019. Referencing paragraph 48 in the NPPF, at this time relevant draft policies carry only limited weight.

5.14 The draft policies map shows the site as 'white land' (unallocated) but does identify the PRoW running through the woodland. Draft policy HES:14 Green Infrastructure states that development proposals will be supported where they avoid significant harm to the environment, including trees, woods, hedges, flora and fauna. Where significant harm cannot be avoided, it must be adequately mitigated or as a last resort, compensated for. Policy HES:18 states that development proposals will be supported where they do not obstruct or impinge on public footpaths and preserve or enhance their distinctive character.

## National Planning Practice Guidance: Tree Preservation Orders and Trees in Conservation Areas (2014)

5.15 Orders covering a woodland protect the trees and saplings of whatever size within the identified area, including those planted or growing naturally after the Order was made. Where it is necessary to carry out work on trees subject of a TPO to implement a planning permission, there would be no requirement for any further consent (paragraph 60). Generally if a tree is lost, protected by a TPO, the requirement would be for a replacement tree of an appropriate size and species, planted at the same place. It may be also appropriate to plant a different species or two trees of a smaller species to replace one larger species (paragraph 153).

### **KEY ISSUES**

5.16 The key issues are considered to be:

- Need for substation extension
- Alternative locations
- Loss of trees
- Landscape impact
- Ecology
- Amenity
- Noise
- Drainage

### **APPRAISAL**

#### **The Need**

5.17 It is understood that the extension to the substation is required to facilitate a new electrical supply to the University of York. Currently, the energy requirement for the University is serviced by a combination of on-site heat and electricity generation supplemented by power from the grid. The overall energy requirement for both campuses is 23.8 MW, made up of 15.8 MW of heating demand and 8.0 MW of electrical demand. These are the peak recorded levels for campus east and campus west (combined) although the split between the new and original campus is approximately 25/75 for the electrical load and 35/65 for the heating load.

5.18 At present, the heating requirement is met by a 10 MW natural gas boiler located on Campus West to the north of Chemistry car park A, a 3 MW CHP in the

same location and the 0.85 MW biomass boiler on Campus East. Together, these facilities provide a heating capacity of 13.85 MW, which is 2 MW below the peak recorded levels. As a back-up, there is another natural gas boiler available at Campus West, which can be used in an emergency. In relation to electricity, the existing network supply has a capacity of 10 MW and the peak recorded demand stands at 8.0 MW. Of this, 3 MW is generated from the existing CHP and the balance is met through power from the grid, for which the University pays a premium to ensure that it is generated from a renewable source.

5.19 Over the next two years, the heating and electricity demand is expected to increase. The University recently obtained planning permission in April 2020 for a combined heat and power plant on Campus East (The Energy Centre, reference 20/00427/REM). They have also secured an additional 10MW electricity supply from NPG and it is this supply that requires the extension to the proposed substation. This supply will serve the long-term energy requirements of the University and will enable the build-out of Campus East. A reliable energy supply is necessary both for the existing campus and development of the new campus.

### **Alternatives Considered**

5.20 The existing substation in the woodland on Windmill Lane is a 'primary substation'. From power generation, to supply to individual properties, electricity supply is transmitted from large, to primary, then distribution substations, with corresponding drop in energy, before connections are made to consumers. This substation provides power to various parts of south-east York. There is no other primary substation in the vicinity of the University from which an alternative connection can be made. Officers have been advised that the development of a new primary substation, to avoid the extension of the existing, would be at a cost of £4.8m, before land purchase, cabling, networking etc. The applicant and NPG advise that due to this high cost, it is just not an option.

5.21 NPG have determined that there is sufficient capacity to take the new supply from its primary substation off Windmill Lane. However the original 11kv switch gear is over 50 years old and approaching the end of its serviceable life. To maintain supply to all customers benefitting from connections from the substation, this switch-gear must be replaced through the proposed extension in this application. The proposal to provide the switch-gear in a new building is necessary for security of electricity supply to all the existing customers. Replacing switchgear in situ has the greatest risk over the longest period of time (several months) and in this instance,

would risk power supply to over 4,300 existing customers. Providing the replacement switch-gear in a new building as proposed in this application minimises risk in supply for all customers.

5.22 Various other locations for the proposed extension have been considered. The substation extension cannot be positioned to the north of the existing buildings, in an area with fewer trees as it would be too close to the gas chamber and existing service runs. To the west of the woodland is the former Smith and Nephew offices, recently granted permission on 22.01.2020 for use by the University for its York Management School and the Department of Electronic Engineering (19/02011/FULM). The site is currently being developed. Consideration was given as to whether a section of the car park, which abuts the substation, could be used for the extension. However there is a Yorkshire Water Main with easement running along this boundary. The substantial cost and time delays that would result, even should it be agreed with Yorkshire Water, make consideration of this site in the former Smith and Nephew car park not a viable alternative.

5.23 Land to the east of the woodland is Green Belt land and has been discounted as it would be considered 'inappropriate development' to place the substation extension here.

## **Trees and Landscape**

5.24 The current location for the proposed extension has been informed by the arboricultural survey and has sought to minimise damage to the most valuable trees.

5.28 During construction, the route of the existing PRow in the vicinity of the substation will be diverted 9m to the east. The submitted method statement confirms that the temporary route will not involve any loss of trees. A 1m wide strip of herbaceous vegetation will be removed, it will be edged with branches and mulched with bark. Some low hanging branches will be pruned back. Temporary fencing around the complex, tree protection fencing, trunk protection fencing, ground protection and hand excavation of ground will minimise damage to and protect the retained woodland.

5.29 An extended Arboricultural Survey Report, supported by an Arboricultural Impact Assessment Plan has confirmed the full impact of the proposals on the woodland. Trees are classified as follows (in accordance with BS 5837:2012):

- Tree retention category A – high quality with an estimated life expectancy of at least 40 years.
- Tree retention category B – moderate quality with an estimated life expectancy of at least 20 years.
- Tree retention category C – low quality with an estimated life expectancy of at least 10 years or young tree with a stem diameter of below 150mm.
- Tree removal category U – poor condition with an estimated life expectancy of less than 10 years.

5.30 The proposals result in the loss of 27 trees; 22 of these are protected by the woodland TPO, 5 are to the immediate west of the access road and outside the woodland TPO. However, whilst CYC's landscape architect, underlines the need to justify any loss of trees, they concur that despite the high number of trees that would be lost through the development, only a small number (3) are category B trees that are desirable for retention due to their individual merit. These are two early-mature trees, T1 Oak and T4 Sycamore (category B, medium quality) with reasonable long-term potential and T14 Pine (outside the TPO, also category B). Ten of the trees proposed to be removed are within groups G2, G3, and G6 and are all category C (low quality). Most of these are tightly-spaced, young, spindly Sycamores of limited value that are competing with each other and also the better trees.

5.31 A further ten young trees (category C) are needed to be removed for the new underground electricity runs, including a couple of good young Lime trees, but they are relatively small and more easily replaced. A further four category C trees need to be removed for the turning head in addition to the Pine. The applicant has advised that it is not possible to relocate the turning head to avoid the loss of the Pine; NPG met with the installation team to assess whether there was an alternative method of installation that could lead to the retention of the pine tree. However, if the crane was to be sited to the south of this tree then the need to swing the unit into the site would have a severe impact on the T5 Oak tree, which was given precedence as it is covered by the TPO and is a category A tree. The hedgerow along the access road will have to be reduced in order to facilitate the installation. An additional three (3) trees in poor condition close to the substation will be removed whilst the work is undertaken.

5.32 Concerns had been raised about the impact of the development and construction activities in terms of soil compaction and installation of fencing on the root protection area of the retained T5 Oak (the only category A tree affected) but

providing the works are carried out in strict compliance with the method statement, the risk of harm would be reduced to an acceptable level.

5.33 In terms of mitigation, the plans and method statement confirm proposed tree and understorey planting within the area of the proposed temporary footpath. As these trees and shrubs become established, they will provide some replacement screening of the substation from Windmill Lane, although it is noted that when in leaf, the trees currently prevent views of the substation from Windmill Lane. In total, 10no. new canopy trees are proposed (field maple, common oak, lime) and 10no. transplanted hazel or hawthorne trees. Further yew and holly shrubs are proposed. Considering the tight nature of the woodland, this level of mitigation is reasonable and thus supportable.

## **Ecology**

5.34 The development will result in the loss of a number of trees and associated woodland ground flora which is recognised to be of local wildlife value. The woodland as a whole provides important habitat for connectivity for a number of species including bats, birds mammals and invertebrates. The applicant's Ecology Appraisal set out a series of recommendations for minimising the footprint of the development and ensuring protective fencing is used to minimise the risk of damage to habitats outside the working area. An emergence survey confirmed that the only tree to be removed which had potential as a bat roost (Sycamore T4) does not currently support roosting bats. Site clearance works should be undertaken outside the bird nesting season (March to August inclusive) or following a site check to establish the absence of active nests. There is potential for badger and hedgehog to be present within the site but precautionary measures will be acceptable.

5.35 NYCC's ecologist, as advisor to CYC, agrees with the report and recommends a detailed Biodiversity Method Statement to ensure the mitigation is secured. Bat roosting features, bird nesting boxes and features for hedgehogs should be included within the development but these can be secured by condition.

## **Amenity**

5.36 In addition to the loss of trees, objections have been received regarding the impact of the proposals on the enjoyment of the woodland as a recreational resource for the local community. The woodland runs from Hull Road along the full length of Windmill Lane to where it joins Field Lane to the south. Within the

woodland, the PRow runs from close to Hull Road all the way south to Church Lane. A footpath halfway along links Windmill Lane to the Science Park.

5.37 The extension to the substation will affect only a very small section of the PRow; 16m of its approximate 650m length route through the woodland. Already the PRow runs directly alongside the brick wall of the existing substation. The new switchgear will be set back behind the new palisade fence. Therefore, already the character of this stretch of woodland is defined by the substation and its position adjacent to the path and thus the small extension, set 2m away is not considered to significantly further change the existing stretch of the path within the wider context of the full stretch of woodland. The addition of the fencing to secure the compound from trespass and anti-social activity can be seen as a benefit arising from the development. The applicant has advised that the switchgear will not generate any additional noise, but a precautionary condition requiring details of any audible noise from the development and mitigation measures is advised to sustain the tranquillity of this part of the woodland.

5.38 Windmill Lane only benefits from a footpath on the east side and at the time of the site visit, in October when the trees were in leaf, the substation could not be seen from either the road nor the footpath. Whilst in winter it may become more visible, it would not be of the scale that would warrant refusal bearing in mind that the existing substation is already there. A condition is recommended to agree a suitable colour of the steel container and palisade fencing. The temporary diversion of the footpath is not considered to be significant and is of a similar length to the existing.

## **Drainage**

5.39 No drainage details have been supplied. Taking into consideration that a radar survey is required to locate buried cabling prior to any digging down for a percolation test and the reported urgency for the works to commence, in this instance, it is considered that a drainage scheme and details can be conditioned. The footprint of the development is relatively small at 50 sq.m. It is considered likely that a suitable scheme can be agreed post decision via condition but that it should be supported by further arboricultural survey and methodology should further pipe runs be necessary should it be found that a soakaway would not be suitable.



## 6.0 CONCLUSION

6.1 In considering this application, the presumption in favour of sustainable development does not apply as the scheme involves harm to the woodland TPO through the loss of trees. The University have justified the need for the development through existing supplies being at capacity and to support the further build out of Campus East. Officers are satisfied that the primary substation cannot be relocated elsewhere, because of the significant cost, or the Yorkshire Water pipe and easement to the immediate west. The switchroom will be located in the woodland adjacent to the existing facility and positioned to cause least harm to those trees of value. The minimum number of trees of value would be lost and there are adequate mitigation measures in terms of protecting the surrounding woodland habitat, replanting and ecological mitigation such that the least harm is caused. Therefore giving significant weight to supporting economic growth (Section 6 of the NPPF) and the continued development of the University of York (Policy ED1 of the Publication Draft Local Plan), on balance, the need for the substation extension, and the small degree of harm overall to the woodland, with no loss of amenity for users of the PRoW, it is concluded that planning permission should be granted.

## 7.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Site location plan, SLP rev. A

Planning drawing (Proposed site plan and elevations), N215A5102 rev. C

Landscape proposals, LP01 rev. A

Arboricultural Impact Assessment Plan, AIA01 rev. B

Tree Protection Plan and Method Statement, TPP01 rev. B

Proposed Public Right of Way, PROW01

Arboricultural Survey Report BS 5837:2012 Revision B, October 2020

Ecological Appraisal, October 2020

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

3 Details of any machinery, plant and equipment to be installed in or located within the site, which is audible outside of the site, shall be submitted to the local planning authority for approval in writing prior to development commencing. These

details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures as appropriate. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the new apparatus comes into first use and shall be maintained thereafter for its lifetime.

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, 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.

4 The approved 'Landscape Proposals' shown on drawing LP01 rev. A shall be implemented within a period of six months of the completion of the development. Any trees or plants which are removed or become seriously damaged or diseased during the lifetime of the development, shall be replaced before the end of the most immediate planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: To mitigate the loss of trees resulting from the development.

5 Protection of existing trees shown to be retained on the approved plans shall be carried out in strict accordance with the content of the approved 'Tree Protection Plan and Method Statement', TPP01 Rev. B. A copy of the document will be available for reference and inspection on site at all times. A qualified arboriculturalist shall carry out regular inspections during the development, especially during site preparation and excavations. Before works start on site, the name and address of the appointed arboricultural consultant shall be supplied to the local planning authority.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area.

6 No development shall take place (including any demolition, ground works or site clearance) until a detailed Biodiversity Method Statement for the removal of woodland habitat (including soils and ground flora) has been submitted to and approved in writing by the local planning authority. It shall incorporate the recommendations from the applicant's ecological appraisal and shall include:

- a) Objectives of the proposed works.
- b) Detailed design and /or working methods necessary to achieve the desired

objectives including the translocation of ground flora and inclusion of plug plants, woodland protection measures and the inclusion of appropriate native species. Bat roosting features, bird nesting boxes and features for hedgehogs should be included within the development area.

c) Extent and location of proposed works shown on appropriate scale maps and plans.

d) Any lighting proposed during and post construction including information on illumination, angle of beam, spill and hours of operation.

e) A timetable for implementation (to align with the timescales for construction).

f) Persons responsible for implementing the works.

g) Initial aftercare and long term maintenance.

The works will be carried out strictly in accordance with the approved details and shall be retained in that manner in perpetuity.

Reason: To protect the ecological value of the woodland habitat.

7 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the colour and finish for the steel container of the substation extension and for the palisade fencing shall be submitted to and approved in writing by the Local Planning Authority prior to the development coming into first use. The development shall be carried out using the approved colour and retained as such for the lifetime of the development.

Note: Because of limited storage space at our offices it would be appreciated if sample materials could be made available for inspection at the site. Please make it clear in your approval of details application when the sample will be available for inspection and where they are located.

Reason: So as to minimise the visual impact of the development on the woodland and from the public highway.

8 Prior to the commencement of development, details of the proposed means of surface water drainage, including details of any balancing works and off site works, shall be submitted to and approved in writing by the local planning authority. Thereafter the drainage shall be provided in accordance with these approved details prior to the development first coming into use.

Following a percolation test, should a soakaway be deemed unsuitable, and new surface water drainage runs be necessary, such works shall be shown on a site plan and they shall be accompanied by an arboricultural impact assessment and method statement for the additional works. These shall also be submitted for approval in writing by the local planning authority and implemented in accordance with the approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site and to ensure no further harm to the woodland.

## **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:

Agreed a new red line area to include all the area of works.

Requested details on plans showing the location of all the trees proposed to be removed and the route of the diverted public right of way.

Requested a method of works and landscape mitigation measures.

Requested further justification for the extension and an assessment of alternative locations considered.

Agreed precommencement of development conditions with the applicant.

### **2. PUBLIC RIGHT OF WAY**

You are advised that the development will have an effect on the adjacent Public Footpath (code 7/16/10).

The granting of planning permission does not give authority to temporarily divert or stop up a public footpath or bridleway. The diversion or stopping up of footpaths and bridleways (temporary or permanent) are subject to separate processes which must be carried out before the paths are affected by the development. Please contact: [rightsofway@york.gov.uk](mailto:rightsofway@york.gov.uk)

For information it is noted that the survey plans of the existing path show the PROW leading from the substation to the substation access gate. This is not the recorded route; which continues parallel to Windmill Lane beyond the access road roughly in the middle of the tree belt. However, the path shown may be a worn path which has been picked up on the survey but does not have recorded PROW status. Please note that the true route as indicated on the enclosed plan should be open to the public throughout the construction and thereafter, unless officially diverted.

### **3. LIGHTING**

Lighting should be kept to a minimum and as recommended in the Ecological Appraisal it should follow guidelines set out in the Bat Conservation Trust publications 'Artificial Lighting and Wildlife' (2014) and 'Bats and Artificial Lighting in the UK' (2018).

#### 4. BREEDING 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. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates, unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present.

#### 5. BATS

In the UK, due to the decline in bat numbers in the last century, all species of bat are protected by the Wildlife & Countryside Act (1981) as amended, Countryside and Rights of Way Act (2000) and the Conservation of Habitats and Species Regulations 2017 (as amended). Planning consent for a development does not provide a defence against prosecution under this act. Because of their protected status, it should be noted that if bats are discovered during the course of the work, all works must cease and Natural England must be informed immediately. It is an offence for anyone to disturb or handle a bat without the appropriate licences. This may cause some delay but should not prevent the work continuing, provided that due account is taken of their presence.

#### 6. DRAINAGE DETAILS - DESIGN CONSIDERATIONS

The developer's attention is drawn to Requirement H3 of the Building Regulations 2000 with regards to hierarchy for surface water dispersal and the use of Sustainable Drainage Systems (SuD's). Consideration should be given to discharge to soakaway, infiltration system and watercourse in that priority order. Surface water discharge to the existing public sewer network must only be as a last resort therefore sufficient evidence should be provided (i.e. witnessed by CYC infiltration tests to BRE Digest 365) to discount the use of SuD's.

If SuDs methods can be proven to be unsuitable then in accordance with City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018), peak run-off from brownfield developments must be attenuated to 70% of the existing rate (based on 140 l/s/ha of proven by way of CCTV drainage survey

connected impermeable areas). Storage volume calculations, using computer modelling, must accommodate a 1:30 year storm with no surface flooding, along with no internal flooding of buildings or surface run-off from the site in a 1:100 year storm. Proposed areas within the model must also include an additional 30% allowance for climate change. The modelling must use a range of storm durations, with both summer and winter profiles, to find the worst-case volume required.

If existing connected impermeable areas are not proven then greenfield sites are to limit the discharge rate to the pre-developed run off rate. The pre-development run off rate should be calculated using either IOH 124 or FEH methods (depending on catchment size) based on the 1 in 1 year event.

Where calculated runoff rates are not available the widely used 1.4l/s/ha rate can be used as a proxy, however, if the developer can demonstrate that the existing site discharges more than 1.4l/s/ha a higher existing runoff rate may be agreed and used as the discharge limit for the proposed development.

Surface water shall not be connected to any foul / combined sewer, if a suitable surface water sewer is available.

## 7. DEVELOPMENT INFORMATIVE

The developer's attention is drawn to the various requirements for the control of noise on construction sites laid down in the Control of Pollution Act 1974. In order to ensure that residents are not adversely affected by air pollution and noise, the following guidance should be adhered to, failure to do so could result in formal action being taken under the Control of Pollution Act 1974:

(a) All demolition and construction works and ancillary operations, including deliveries to and despatch from the site shall be confined to the following hours:

Monday to Friday 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

(b) The work shall be carried out in such a manner so as to comply with the general recommendations of British Standards BS 5228: Part 1: 1997, a code of practice for "Noise and Vibration Control on Construction and Open Sites" and in particular Section 10 of Part 1 of the code entitled "Control of noise and vibration".

(c) All plant and machinery to be operated, sited and maintained in order to minimise disturbance. All items of machinery powered by internal combustion engines must be properly silenced and/or fitted with effective and well-maintained mufflers in accordance with manufacturers instructions.

(d) The best practicable means, as defined by Section 72 of the Control of Pollution Act 1974, shall be employed at all times, in order to minimise noise emissions.

(e) All reasonable measures shall be employed in order to control and minimise dust emissions, including sheeting of vehicles and use of water for dust suppression.

(f) There shall be no bonfires on the site

**Contact details:**

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