

## COMMITTEE REPORT

**Date:** 1 December 2022      **Ward:** Rural West York  
**Team:** West Area      **Parish:** Parish Of Rufforth With Knapton

**Reference:** 22/01844/FULM  
**Application at:** Land To The East Of Middlewood Close Rufforth York  
**For:** Erection of 21no. dwellings and associated works (resubmission)  
**By:** Mulgrave Developments Ltd  
**Application Type:** Major Full Application  
**Target Date:** 29 November 2022  
**Recommendation:** Approve subject to Section 106 Agreement

### 1.0 PROPOSAL

1.1. The application site consists of a parcel of land covering approximately 1 hectare located to the east of Middlewood Close, Rufforth. The northern section of the site sits to the rear of existing residential properties on Middlewood Close. The southern section abuts the boundary of the existing playing field associated with Rufforth Primary School. The land immediately to the east of the application site is open agricultural land.

1.2. Vehicular access to the site would be via Middlewood Close, which in turn provides access to the B1224 Wetherby Road. At the point where Middlewood Close currently terminates, a field track continues in an easterly direction to provide access to an existing agricultural building approximately 500m away. There are no existing public rights of way within the vicinity of the site.

1.3. Planning permission is sought for the erection of 21.no dwellings and associated works. The proposed dwellings would be a mix of 2, 3 and 4 bed properties, a proportion of which will be affordable homes. The proposed accommodation mix comprises:

2 Bed House: 5 (2 Market, 3 Affordable);

3 Bed House: 10 (8 Market, 2 Affordable);

4 Bed House: 6 (5 Market, 1 Affordable).

Total: 21 (15 Market, 6 Affordable).

## BACKGROUND AND RELEVANT SITE HISTORY

1.4. The application site has been identified as a housing allocation (site reference H38) within the Publication Draft Local Plan 2018, with an anticipated yield of 33 dwellings.

1.5. Application 21/02661/FULM is of relevance. This application was previously subject to refusal by Planning Committee B in August 2022 for the following reason:

*'The application site lies within the general extent of the Green Belt, as set out in saved policies Y1 and YH9 of The Yorkshire and Humber Plan - Regional Spatial Strategy. The proposed development is inappropriate development which, by definition, is harmful to the Green Belt. There would be harm to openness, the development would lead to encroachment into the countryside and would not encourage the recycling of derelict land. No very special circumstances exist which clearly outweigh the identified harm.'*

*The proposal conflicts with the National Planning Policy Framework 2021 Chapter 13 (Protecting Green Belt Land) in particular paragraphs 137, 138, 147, 148 and 149, policy GB1 of the Publication Draft Local Plan 2018 and policy GB1 of the Development Control Local Plan 2005, which seek to restrict development in order to maintain the openness of the Green Belt.'*

1.6. The proposals contained within this current application are substantively the same as those which were previously considered. The number of the proposed dwellings, layout and breakdown of affordable housing provision are the same as the general extent of the development proposed. One notable change is the submitted red line extent of the application site. In this current application a tract of land which is currently the existing field access track to the Northeast of the site is also included. This has been included for the purposes of providing greater certainty in respect of including land required to facilitate drainage of the site (in the previous application this was included within a blue line). It does not materially change the overall extent of development being proposed.

1.7. Members of the Committee should also be aware that we have received notification from the Planning Inspectorate that the applicant has submitted an appeal against the decision made under reference 21/02661/FULM. At the time of

writing, we are yet to receive formal notification from the Planning Inspectorate that the appeal has commenced or an indication as to the likely timetable or format the appeal will take.

1.8. Since consideration of the earlier planning application the Examination in Public (EIP) of the Local Plan has continued. Phase 4 of the EIP concluded in September 2022 and this phase of the examination, amongst other matters, dealt with the matter of Green Belt boundaries.

## **2.0 POLICY CONTEXT**

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

2.2. 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) (RSS) and any made Neighbourhood Plan.

2.3. Although the RSS has otherwise been revoked, its policies relating to the York Green Belt have been saved, together with the Key Diagram insofar as it illustrates the general extent of the Green Belt around York. Saved policy YH9 states ‘the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of levels of growth set out in the RSS and must also endure beyond the Plan period.’

2.4. The application site falls within the general extent of the Green Belt as shown on the Key Diagram of the saved RSS Green Belt policies.

### **THE RUFFORTH AND KNAPTON NEIGHBOURHOOD PLAN**

2.5. The Rufforth and Knapton Neighbourhood Plan was formally adopted in December 2018. Adoption of this plan followed a near three year period of preparation including public consultation. This culminated in a local referendum being held on whether to adopt the Neighbourhood Plan; where 93% of respondents voted yes.

The adopted Neighbourhood Plan now forms part of the statutory Development Plan for the City of York. It has the same legal status as a local plan. For the purposes of

s.38(6) Planning and Compulsory Purchase Act, the proposal should be assessed against the saved RSS Green Belt policies and the Neighbourhood Plan. Full weight can be given to the policies contained within the Neighbourhood Plan; which represents the most up to date part of the development plan at present.

2.6. Key relevant Neighbourhood Plan Policies are:

- RwK 03 – Heritage
- RwK 04 – Biodiversity
- RwK 05 – Footpaths and Cycle Ways
- RwK 06 – Traffic Management
- RwK 08 – Parking
- RwK 09 – Drainage
- RwK 10 – Design
- RwK 11 – Community Amenities
- RwK 12 – Housing Mix

PUBLICATION DRAFT LOCAL PLAN (DLP 2018)

2.7. The DLP was submitted for examination on 25<sup>th</sup> May 2018. Phase 3 of the hearings into the examination of the Local Plan took place in July 2022 with Phase 4 concluding in September 2022, which amongst other topics considered matters relating to the Green Belt and Green Belt boundaries. In accordance with paragraph 48 of the NPPF the 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. (N.B: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

2.8. Key relevant DLP 2018 policies are:

- DP2 – Sustainable Development
- DP3 – Sustainable Communities
- SS1 – Delivering Sustainable Growth for York

SS2 – The Role of York’s Green Belt  
H1 – Housing Allocations  
H2 – Density of Residential Development  
H3 – Balancing the Housing Market  
H10 – Affordable Housing  
HW2 – New Community Facilities  
HW4 – Childcare Provision  
HW7 – Healthy Places  
D1 – Place Making  
D2 – Landscape and Setting  
D6 – Archaeology  
GI6 – New Open Space Provision  
CC1 – Renewable and Low Carbon Energy Generation and Storage  
CC2 – Sustainable Design and Construction of New Development  
ENV1 – Air Quality  
ENV2 – Managing Environmental Quality  
ENV3 – Land Contamination  
ENV5 – Sustainable Drainage  
T1 – Sustainable Access  
T7 – Minimising and Accommodating Generated Trips  
DM1 – Infrastructure and Developer Contributions

### **Emerging Local Plan evidence base**

2.9. The evidence base that underpins the proposed emerging policies is a material consideration in the determination of this planning application. The directly relevant evidence base is:

- City of York Housing Needs Update (2020).
- Strategic Housing Land Availability Assessment Figure 6: Updated to 790 dwellings per annum Objectively Assessed Need (2019).
- Topic Paper 1: Approach to defining York’s Green Belt (2021).
- City of York Local Plan Viability Assessment Update (2018).
- Strategic Housing Land Availability Assessment and Appendices (2018).
- Strategic Housing Land Availability Assessment and Annexes (2017).
- City of York Strategic Housing Market Assessment Update (2017).
- City of York Strategic Housing Market Assessment (2016).
- City of York Strategic Housing Market Assessment Addendum (2016).
- City of York Site Selection Paper Addendum (2014).
- City of York Local Plan Viability Study (September 2014).
- City of York Site Selection Paper and Annexes (2013).
- City of York Historic Character and Setting Technical Paper Update (2013).

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- City of York Historic Character and Setting Technical Paper Update (2013).
- City of York Historic Character and Setting Technical Paper (2011).
- Approach to the Green Belt Appraisal and Maps (2003).

## DEVELOPMENT CONTROL LOCAL PLAN 2005 (DCLP)

2.10. The Development Control Local Plan (incorporating the Fourth Set of Changes) was approved for development management purposes in April 2005. The Plan does not form part of the statutory development plan for the purposes of S38 (6) of the Planning and Compulsory Purchase Act 2004. Its policies are, however, considered capable of being material considerations in the determination of planning application where policies relevant to the application are consistent with those in the NPPF although the weight that can be attached to them is very limited.

## NATIONAL PLANNING POLICY FRAMEWORK

2.11. The revised National Planning Policy Framework (NPPF) was updated and re-published in July 2021 and sets out the Government's overarching planning policies for England and how these are expected to be applied. The policies in the NPPF are material considerations.

2.12. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development which means, for decision taking:

- Approving development proposals that accord with an up-to-date development plan without delay; or
- Where there are no relevant development policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - (i) The application of policies within this framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - (ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole.

2.13. However, the presumption does not apply if the proposal conflicts with the more restrictive Green Belt policies as set out in the NPPF.

## 3.0 CONSULTATIONS

3.1. The application has been publicised by site notice, press notice and neighbour notification letter.

## INTERNAL

3.2. AFFORDABLE HOUSING OFFICER: No objections raised but suggests the layout is adjusted to accord with the definition of 'pepper-potting' within Policy H10. A commuted sum will also be required, to the value of 0.3 of a dwelling, to achieve the 30% affordable housing provision.

3.3. CITY ARCHAEOLOGIST: The application site has been subject to intrusive archaeological evaluation as part of application 21/02661/FULM. The results of the evaluation have confirmed the low archaeological potential of the site. No archaeology work or related conditions are required.

3.4. TREE AND LANDSCAPE OFFICER: No objections raised – recommends various conditions. The revised layout and the proposed highway works better with the existing oak tree and is acceptable. The two existing trees make a good terminating feature at the head of the northwest cul-de-sac. Unit 6 and to a lesser degree unit 7 do look to be uncomfortably shoe-horned into the northwest corner of the site in relation to the existing vegetation.

The location, scale and containment of the site and the linear format of the village, visual impact of the development from Main Street and public rights of way is unlikely to be significant.

3.5. ECOLOGIST: No objections raised subject to conditions relating to nesting birds, a biodiversity enhancement plan and lighting plan.

3.6. HIGHWAYS: Highways DC comments pertaining to the earlier application still apply. These advised: 'No objections raised subject to conditions regarding design and development of the access road and provision of cycle parking. The proposed layout of the development has been subject to various amendments throughout the process to make adjustments to the internal highway layout.'

3.7. PUBLIC PROTECTION (ENVIRONMENTAL HEALTH): No objections raised but recommends the use of conditions relating to the management of the site during the construction phase, potential land contamination issues and an informative regarding the provision of infrastructure relating to the provision of electric vehicle charging points (EVCP).

3.8. LEAD LOCAL FLOOD AUTHORITY (FLOOD RISK): No comments received in respect of this current application. However in respect of the earlier application 21/02661/FULM the following comments were received. 'No objections raised and accepts the proposed discharge rate. The drainage condition will include the requirement for approval of a topographical survey to ensure finished levels of the site are not raised above the level of the adjacent land.'

3.9. PLANNING POLICY TEAM: Update provided following the conclusion of Phase 4 of the Local Plan Examination in Public. Planning Policy can confirm that there are currently no outstanding objections in respect of the H38 allocation. As part of the Examination in Public we have also requested that the estimated yield for the site be reduced from the previously stated 33 units to 21 units. This change would form part of the proposed main modifications, to be consulted on in early 2023.

Comments provided at pre-application stage. The site is an allocation in the submitted City of York Local Plan (2018). It is against the NPPF 2021 and the saved RSS policies relating to the general extent of the York Green Belt that this proposal should be principally assessed along with policies in the adopted Rufforth and Knapton Neighbourhood Plan. Notwithstanding the site's allocation within the emerging Local Plan, the site is located within general extent of York's Green Belt (as per 'saved' RSS policy illustrating the Green Belt's extent); and should be assessed as such.

3.10. EDUCATION: At the time of writing Education were yet to confirm the exact amount of contributions they required as they were still being finalised to reflect inflation. However in the earlier application a request for Education contributions totalling £192,234 to contribute toward expansion and facilities at Rufforth Academy and expansion at Manor School.

3.11. LIFELONG LEARNING AND LEISURE (OPEN SPACE): No Comments received in respect of this application. However in respect of the earlier application 21/02661/FULM the following comments were received. No objections raised. It is noted that the proposals would not provide any on-site amenity, play or sports pitch open space. As such off-site contributions would be required. Amenity open space contributions would be used to improve a facility in the village such as the allotments at Heights Lane. Play space contributions to improve a facility in the village either the play area to the village hall and/or the facility at Rufforth Playing Fields. The Sports contribution would go to the nearest sports organisations and these would be clubs at Rufforth Playing Fields namely, Rufforth Football Club, Rufforth Cricket Club and Rufforth Tennis Club.

3.12. CARBON REDUCTION TEAM: No comments received in respect of this current application. However in respect of the earlier application 21/02661/FULM the following comments were received. No objections raised noting that the submitted energy statement and low / zero carbon technology feasibility study has been provided showing an intent to meet the standards set out in CC1 and CC2. Recommend the use of conditions to achieve these.

## EXTERNAL

3.13. RUFFORTH WITH KNAPTON PARISH COUNCIL: Objects in light of concerns raised by local residents and councillors. The objections are summarised as follows:

- Green Belt Status; the application site lies within the general extent of the green belt as set out in saved policies Y1 and YH9 of the Yorkshire and Humber Regional Spatial Strategy. There would be harm to openness, the development would lead to encroachment and would not encourage the recycling of derelict land. No very special circumstances exist to clearly outweigh the identified harm.
- The site clearly lies within the Green Belt as currently defined. We are aware the emerging York Local Plan is the vehicle for legally defining the extent of the Green Belt. Until such time the York Local Plan is adopted it is our understanding that decisions should be made based on the policies referred to above. Departure from this creates a potential precedent.
- Pedestrian Entrance to the School; a new pedestrian access to the rear of the school was always considered an essential condition of approval and was supported by Rufforth Primary School. Nearby residential streets experience severe parking congestion at school opening and closing times and rear entrance to the school, from the proposed development, would encourage parents to use this access away from the bust B1244 and spread parking over a wider area. This would allow children from the development to access the school. As such the road to the rear of the school should be adopted highway.
- Drainage and Sewerage; this is an area of major concern. Residents in this area of the village already experience severe problems with sewerage with frequent blockages and it is our contention that the current infrastructure is not fit for purpose.
- Shared Access Highways; the Parish notes with great concern that shared access highways are proposed. This represents a very serious safety risk and should not be countenanced. All highways on the site should be adopted roads with pedestrian pavements and must be a condition of approval.
- Section 106 monies; in the event of the proposed development being approved it is essential that such monies are used to fund projects within the Parish of Rufforth with Knapton, and in particular for the benefit of the Primary School.

- Construction hours should commence no earlier than 8:00am for the benefit of local residents. There should also be a commitment to avoid deliveries and movement of HGVs at school opening and closing times.
- The road surface of Middlewood Close is in poor condition and will need to be completely resurfaced at the conclusion of works.

3.14. AINSTY INTERNAL DRAINAGE BOARD: The application site sits within the Drainage Board's district. The Board has assets in the wider area in the form of various watercourses. These watercourses are known to be subject to high flows during storm events. No objections raised but does request the use of conditions in the event of permission being granted. These relate to ensuring that suitable and adequate drainage provision can be achieved on site.

3.15. YORKSHIRE WATER: No objections raised and request conditions to secure suitable drainage provision in the event of planning permission being granted.

#### 4.0 REPRESENTATIONS

4.1. A total of 22 no objections had been received at the time of writing, including representation from the Ward Councillor – Cllr Hook.

4.2. Summary of the objections received:

##### **Principle of Development:**

- Greenfields should be protected.
- The Local Plan has not been agreed and the land allocated to this development is still Green Belt. Until the plan has been approved there should be no development on the Greenbelt in accordance with the environmental credentials of the Council.
- This is Green Belt and must not be allowed to be built on, otherwise what is the point of Green Belt.
- This will be the starting pistol for speculative developments on similar Green Belt sites.
- The development would set a precedent that small rural cul-de-sacs are suitable access roads for large housing developments.
- Should this development proceed it will lay the ground for future developments in Rufforth's other small residential streets.
- The development is inappropriate and the supposed benefits do not outweigh the harm it will cause. There are no special circumstances in this case.
- The area of Green Belt was identified and put forward for development in the draft local plan, by unelected officials who may have conflicts of interest. It is

important that the draft plan is democratically approved by elected councillors before planning decisions are made about building on the green belt.

- Green Belt land should be protected space for our environment and wellbeing.
- It would be more beneficial to build on the brownfield sites adjacent to the airfield; which is derelict and an eyesore.

### **Traffic:**

- The existing road is narrow. The site should have its own access road.
- 21 houses will mean at least an extra 40 cars using this road.
- Middlewood Close road is severely damaged already by light traffic. This has not been inspected or considered in the process.
- Whilst a pedestrian footpath has been included as an afterthought by the developer, the increased traffic poses a threat to pedestrians in particular children due to the narrowness of the access.
- Middlewood Close is heavily congested with cars during pick up/drop off times. Typically 15 cars at a time.
- At peak times 550-650 vehicles per hour pass along Wetherby Rd in both directions.
- Large vehicles access the nearby pig unit the contents of these vehicles could pose a risk to residents living in and moving around the proposed development.
- There is currently no warning signage regarding agricultural traffic. Will the new residents be advised of this.
- Traffic through the village is already very busy.

### **Drainage:**

- Some properties have ongoing problems with blocked drains.
- Yorkshire Water has failed to properly disclose the issues surrounding the sewerage for Middlewood Close, it has not kept proper records of visits and have not disclosed a planned flushing of the sewer as a result of the frequent blockages. There needs to be a requirement on the developer or Yorkshire Water to take responsibility for any flooding caused by blocked sewers.
- During periods of heavy rain the drains in Middlewood Close are unable to cope resulting in the road flooding. Further development will exacerbate this situation.
- Yorkshire Water have again attended Middlewood Close (26/10/22) to pump sewage out of the drains in the street. This occurs frequently and the operative has informed me that the street is on a regular schedule to have this done each month.

### **Ecology:**

- If development were allowed we feel sure that the intrusion and subsequent light pollution would have a detrimental effect on the wildlife.
- Whilst this development is relatively small it is possible that further developments might be added in the future further destroying wildlife habitats.
- We are in a climate emergency and that we protect natural habitats.

### **General:**

- The school is too small to accommodate more children.
- The proposals have already been refused what has changed.
- The plans do not adequately take account of local residents and the school and will cause disruption to residence and schooling.
- The scale of development is unprecedented and the increase in traffic through the village on Wetherby Road.
- There is no provision for increased public transport from the village into York.
- The village is not set up for this additional development.
- Odour control from the pig unit has not be adequately assessed.
- There is no change in this proposal from the previous, the developer is simply arguing that the planning committee were wrong in their conclusions.
- The development would render the existing horse riding arena unusable given it would introduce residential properties so close.
- The proposed site is unsuitable for housing and will spoil the character of the village.
- The village has very limited public services to support further housing, including public transport which is very poor.
- Wetherby Rd either side of the village is covered with refuse, this is particularly acute around Harewood Whinn. This issue will only get worse with increased traffic.
- The No.412 bus service is very infrequent and unreliable the weekend service has been suspended due to driver shortages.
- With limited facilities in the village, this development will increase carbon emissions because a car will be needed for almost every journey made by residents.

## **5.0 APPRAISAL**

### **Key Issues**

5.1 The key issues are as follows:

- Principle of Development
- Highways and Access

- Design and Layout of the site
- Residential Amenity and Public Protection
- Affordable Housing
- Drainage & Flood Risk
- Archaeology
- Ecology
- Sustainable design and construction
- Planning obligations
- The case for very special circumstances

## **PRINCIPLE OF DEVELOPMENT**

5.2 For the purposes of s.38(6) Planning and Compulsory Purchase Act, the proposals should be assessed against the saved RSS Green Belt polices and the adopted Rufforth with Knapton Neighbourhood Plan. Polices contained within the National Planning Policy Framework are also material considerations.

5.3. The 2005 DCLP shows the village of Rufforth and the land surrounding it as being 'washed over' Green Belt, meaning that the whole of the village and the land which now forms the subject of this application would be located within the general extent of the Green Belt. In contrast, in the emerging 2018 Local Plan, the village would be excluded from the Green Belt and the defined settlement limits would incorporate both the existing developed extent of the village and the application site. Thus, the site would not fall within the Green Belt, and the resulting Green Belt boundary would abound the eastern and south eastern boundaries of the application site.

5.4. However, it is the Local Planning Authority's position that until a Local Plan for the City of York is adopted, development management decisions relating to proposals falling within the general extent of the Green Belt are made on the basis that the land should be treated as Green Belt. For this reason, NPPF Green Belt policies apply to the determination of development proposals.

5.5. Paragraph 147 of the NPPF states: 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. Paragraph 148 goes on to state: 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations'.

5.6. Paragraphs 149 and 150 of the NPPF lists exceptions where new buildings are not inappropriate in the Green Belt. The proposed development would not meet any of the defined exceptions set out within paragraphs 149 and 150 of the NPPF. As a result, the proposals would in this context be considered to amount to inappropriate development within the Green Belt. As outlined earlier in this report, the Rufforth with Knapton Neighbourhood Plan has been adopted. Policy RwK01 – Draft Green Belt is of relevance here. Policy RwK01 sets out the same general parameters to those now contained within Paragraphs 149 and 150 of the NPPF.

## IMPACT UPON THE OPENESS OF THE GREEN BELT

As set in paragraph 137 of the NPPF, the essential characteristics of Green Belts are their openness and their permanence. There is no definition of ‘openness’ in the NPPF. However, it is commonly taken to mean the state of being free from development and relates to the quantum and extent of development and its physical effect on the site.

5.7. Policy GB1 of the 2018 Draft Plan states that permission will only be granted for development where:

- i. The scale, location and design of development would not detract from the openness of the Green Belt;
- ii. It would not conflict with the purposes of including land within the Green Belt; and
- iii. It would not prejudice or harm those elements which contribute to the special character and setting of York.

5.8. There are unresolved objections to Policy GB1 that will be considered through the examination in public of the Local Plan and therefore it should only be afforded limited weight in the decision-making process for the purposes of this application. Although it should be noted that matters relating to the Green Belt and the setting of the Green Belt boundaries were items covered in Phase 4 of the Local Plan Examination in Public which concluded in September, however this does not materially change the weight currently afforded to GB1 in the decision-making process.

5.9. The application site comprises of a broadly rectangular parcel of land which is currently grassland. The land is bisected by a track which provides access from Middlewood Close to an agricultural unit located to the northeast of the site. The proposals would, due to their nature, reduce the openness within this

part of the Green Belt. However, the extent of any such impact upon the overall openness of the Green Belt is considered to be limited.

5.10. The visual impact of the proposed development would be most noticeable in close proximity to the site and the surrounding roads, lanes and footpaths within the immediate vicinity of the site, creating a localised loss of openness. This impact will diminish further away from the site as the wider visual context provided by the existing built form and extent of Rufforth will begin to contribute to the wider setting of the development. The proposed development would lead to a degree of harm to the openness of the Green Belt.

## IMPACT ON THE GREEN BELT PURPOSES

5.11. Paragraph 138 of the NPPF sets out the five purposes of the Green Belt. These are:

- a) To check the unrestricted sprawl of large built up areas;
- b) To prevent neighbouring towns margining into one another;
- c) To assist in safeguarding the countryside from encroachment;
- d) To preserve the setting and special character of historic towns; and
- e) To assist in urban regeneration, by encouraging the recycling of derelict land and other urban land.

5.12. The primary purpose of the York Green Belt is to safeguard the special character and setting of the historic city as referred to in Policy YH9C of the RSS and Policy SS2 of the 2018 DLP, although moderate weight can only be attached to the latter.

5.13. The proposals would be situated to the east of Wetherby Road and continue the existing pattern of development that characterises the village, consisting of cul-de-sacs and side streets forming extensions of the main ribbon of development fronting onto Wetherby Road. The proposals would also preserve the setting and special character of the city of York, in this regard. The design and layout would be in keeping with the existing grain of the village and allow the village to retain the character of a rural village surrounded by open countryside. It is therefore considered that the proposals would not conflict with 4 out of the 5 purposes of the Green Belt, namely a,b,d and e above of NPPF paragraph 138. With regard to Paragraph 138 e) and the Green Belt purpose of encouraging the recycling of derelict land and other urban land (brownfield land). This purpose was referenced in the reason for refusal in the earlier application (21/02661/FULM). However, it is not considered that the proposals would prejudice this purpose of the Green Belt.

Approval of this current proposal would not discourage the recycling of derelict land. This is because, as is demonstrated by the evidence base of the DLP (which is material and can be afforded significant weight), in order to achieve the required level of sustainable growth and deliver the housing and employment development needs of the DLP there is a requirement to release land from the Green Belt to achieve these. This process has been well documented within the Strategic Housing Land Availability Assessment (SHLAA) and Local Plan viability work (LP documents SD049, SD054 and SD018) and by extensive Sustainability Appraisal. The development needs of the 2018 DLP cannot be accommodated exclusively on brownfield land; therefore these proposals would not be contrary or prejudicial to purpose e) of NPPF paragraph 138.

5.14. The site is at the edge of the existing settlement, in agricultural use and not previously developed. As such the proposals would lead to a degree of encroachment into the countryside and would therefore be in conflict with purpose c) of NPPF Paragraph 138. However in considering the extent to which there is an adverse effect, the proposed Green Belt boundaries in the 2018 DLP are relevant. The boundaries are informed by the Local Plan Green Belt Topic Paper (2021). In applying the methodology within the topic paper, analysis has arrived at the conclusion that the land in question can form part of the settlement and accommodate development in the form of the H38 Housing Allocation. The site can accommodate development without detrimental impact on the most important components of the York Green Belt, landscape character and role the countryside has in preserving the setting and special character of York, including the village of Rufforth.

## **HIGHWAYS & ACCESS**

5.15. The access to the site would form an extension of Middlewood Close, which itself is accessed directly from Wetherby Road. At present, Middlewood Close terminates at a field gate which provides access via a track to an agricultural unit to the east of the application site. As part of the development, it is proposed that this access will be maintained with the field gate being relocated to the eastern boundary of the application site.

5.16. Policy T1 of the 2018 Draft Local Plan states that development will be supported where it minimises the need to travel and provides a safe, suitable and attractive access for all transport users to and within it.

- 5.17. During the assessment of the first application (21/02661/FULM), the layout was subject to various amendments which have included revisions to parking provision within the site and the provision of features such as cycle storage; these have been carried forward into this application.
- 5.18. Connectivity into the existing highway network will be achieved by linking the site to Middlewood Close which in turn has direct access to Wetherby Road. Highways officers have not raised objections to the proposals. Given the overall scale of the proposals, it is not anticipated that the increase in traffic would result in highway capacity or highway safety issues on the surrounding network.
- 5.19. Each of the dwellings within the development will as a minimum be provided with off-street parking commensurate with the size of the dwelling it would serve; these would consist of a mixture of in-curtilage driveways and garages and some detached parking spaces. Visitor spaces will be provided within the development. The level of parking to be provided is considered acceptable in this case, with a degree of overprovision for some dwellings. Amongst comments received concerns have been raised about needing to ensure that adequate parking is provided and reflects the fact that the village is not served by a high frequency bus service. Cycle storage is to be provided at each dwelling. This will allow residents to suitably store cycles at the properties.
- 5.20. The details submitted to date indicate that the development would utilise a 6.5m wide shared surface road. In this scenario, rather than there being a traditional kerbed footway alongside a roadway, a shared surface would serve the needs of both vehicles and pedestrians. Separate space within the highway is not allocated to vehicles and pedestrians, and a varying pallet of materials and surfacing finishes are used in order to offer an element of demarcation between footway and roadway. Given the overall scale of this development, highways officers have advised that this approach would be acceptable under current highway design guidance, however further detail and clarification on certain matters is still required. Therefore, in the event of planning permission being granted, the final layout and design of the highway, in addition to the materials to be used, would be subject to a condition.
- 5.21. Highways officers have also recommended that a number of other conditions be imposed. These include full details of the vehicle access to be submitted and approved, details of the surfacing materials to be used, details of cycle parking to be agreed, a condition ensuring that the agreed car and cycle parking is laid out in accordance with the approved details prior to occupation, and details of the internal road layout to be agreed, including any areas which

may be put forward for adoption by the Local Highway Authority. A condition requiring a construction traffic management plan is also recommended.

5.22. Collectively these conditions will also ensure that adequate parking, servicing and access arrangements are achieved without giving rise to highway safety concerns. The provision of a construction traffic management plan is considered necessary in this case given the close proximity of the site to an existing school. The proposed development meets the policy tests set by the NPPF.

#### Provision of a secondary access to Rufforth Primary School

5.23. Within the representations received, including those from the Parish Council, the issue of the provision of an additional means of access to the existing school site has been raised. As can often be the case with school premises there is a significant peak in traffic in and around the school when pupils are dropped off and collected from the school. This leads to busier periods of traffic and parking on the roads and streets within the vicinity of the school. This issue is perhaps exacerbated to a degree, in this case, by a higher proportion of pupils attending the school from outside of the village leading to a higher prevalence in the use of private cars. The provision of an additional rear access to the school, it is argued, would encourage the parking of vehicles over a wider area and thus reduce the pressures upon Middlewood Close. Such an access would also avoid the need for pupils to negotiate the footpath along the B1224, Wetherby Road.

5.24. The section of Wetherby Road outside of the primary school is a 30mph section with chicanes located on both sides of the road. A Zebra crossing is also situated immediately outside the main pedestrian entrance to the school.

5.25. It is not considered reasonable, or desirable in place-making terms for this residential scheme to be designed to accommodate car parking for the school. Considering this matter in closer detail it becomes apparent that there are also several other matters and considerations which would be relevant. It is not a simple case of providing an additional access to the serve the school. Firstly, there is the issue of the location of such an access. The Parish Council and the School Governors, in the earlier application stated a preference for the additional access to be located somewhere along the south western boundary of the application site, as this would provide a direct line of sight between the access and the main school building. However, in this location the access would need to be taken from an area of the development which is shown to be private driveway, which presents potential issues around rights of access and

ultimately ongoing maintenance. Furthermore, the space within the development for the parking of additional or visiting vehicles and the layout of the space does not appear conducive to such uses. The access would then, within the school site, either need to cut directly across the existing playing fields which would be problematic in the context of impacting upon an existing playing field (which would likely be an issue of concern or objection from national bodies such as Sport England) or navigate the perimeter of the school site to avoid bisecting the playing field; this would require more resources to construct and may not achieve the direct line of sight principle.

5.26. An alternative location could be adjacent to the proposed access to the development within the vicinity of No.11 Middlewood Close. The obvious advantage to this location is that it could be taken directly from the extent of the existing adopted highway, mitigating issues around ongoing and future maintenance. However, this location would be outside of the extent of the application site, is unlikely to satisfactorily address concerns around peak time parking on Middlewood Close and would disproportionately impact upon the amenity of the occupants of No.11. This location would also not meet the criteria applied by the Parish Council and the School Governors of providing a direct line of sight between the access and the school building.

5.27. Another key aspect of assessment as to whether a secondary access to the school should be secured is the scale of the development that is proposed. As is noted elsewhere in this report, the proposals are not anticipated to bring a material increase in the number of children attending the school. Furthermore, the provisions of paragraphs 56 and 57 of the NPPF are of relevance. Paragraph 56 states that planning conditions should be 'only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in other respects. Paragraph 57 then goes on to state, in relation to planning obligations, that they must only be sought where they meet all of the following tests (which are also statutory tests in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010):

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development; and
- c) Fairly and reasonably related in scale and kind to the development.

5.28. The potential provision of a secondary pedestrian access to the school is not without its merits. The issue, within the context of assessing this particular planning application, is whether there are reasonable and justified grounds to require such works as part of this development and whether such works are

required in order to make the proposed development acceptable in planning terms. In this case, it would not be reasonable to require the provision of such infrastructure, nor would the absence of such works likely make the development unacceptable in planning terms. Therefore, it would not satisfy the statutory and policy tests for planning obligations.

## **DESIGN AND LAYOUT OF SITE**

5.31 Paragraph 130 of the NPPF states that planning policies and decisions should ensure that developments:

- a) Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
- b) Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping.
- c) Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increase densities).
- d) Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- e) Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks.
- f) Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of community cohesion and resilience.

5.29. National Planning Practice Guidance refers to the National Design Guide, which sets out the characteristics of well-designed places and illustrates what good design means in practice. The document can be used for decision-making. Policies D1 (Placemaking) and D2 (Landscape) of the emerging plan also cover design principles.

5.30. Many of the villages surrounding York show patterns of incremental growth from an original historic centre. Rufforth is no different in this regard. However it has perhaps retained a higher degree of its original 'ribbon development' characteristic than other settlements. This is also reflected in its general overall size and scale as a settlement. The oldest buildings within the village typically front Wetherby Road. Later developments have then taken place to the rear of these properties and as former farmyards have been developed.

The result is a series of cul-de-sac type developments, typically of relatively modest scale, all accessed from Wetherby Road. However the historic ribbon character of the village is still clearly discernible.

- 5.31. The proposed development is considered to respect local character in terms of layout, scale and density. The proposed development consists of a mixture of 2, 3, and 4 bed dwellings, all of which are two storey units and predominantly detached or semi-detached. A single terrace of three units is proposed toward the southwestern boundary of the site. The exact specification of external materials and finishes to be used in the development has not been specified. However, the submitted details indicate that a mix of red-multi brick, stone and cream render would be utilised to achieve a cohesive appearance. Roofs are to be finished with slates or pantiles. In the absence of exact specifications being provided, in the event of planning permission being granted, it would be appropriate to attach a condition requiring details of exterior materials and finishes to be submitted for the approval by the local planning authority.
- 5.32. Within the details submitted, the proposed boundary treatments have been specified. These include the use of 1.8m high timber fences and walls. The timber fences would typically be used between the residential units to divide and demarcate private amenity spaces. Walls will be utilised in instances where the boundary faces what would be the public realm areas of the development (plots 1 & 16). Brick screens with piers and brick piers with knee high rails will be utilised to demarcate the transition between areas of highway and areas of private driveways. Some units will also benefit from 1.2m high 'estate railings' to enclose their front gardens. The proposed boundary treatments are considered to be acceptable in striking a balance between creating a visually cohesive appearance and also ensuring each dwelling is afforded suitable levels of privacy and security.
- 5.33. The design of the proposed dwellings is such that they would have a rural character; plots 19-21 have been designed as barn conversions utilising large ground floor openings with simpler, more subservient openings at first floor level with some use of small dormer type structures cut into the roof form. Overall, the general design and character of the proposals is considered to be in keeping with the existing wider built environment.
- 5.34. The site in its totality measures approximately 1 hectare. Policy H1 of the emerging plan specifies that the application site is anticipated to have yield of 33 dwellings. However, as is noted within the comments provided the Councils Forward Planning section, the yields set out within policy H1 do not reflect a detailed site assessment, instead they are a guide to potential deliverability

based on a standard calculation of 35 dwellings per hectare (dph) across 90% of the developable area of the site.

- 5.35. Whilst acknowledging the importance of the site in delivering against the Plan's housing trajectory, negotiation should allow for reduced housing delivery to accommodate identified constraints, and to deliver against other stated policy principles, including affordable housing provision and housing mix.
- 5.36. Following the conclusion of Phase 4 of the Local Plan Examination in Public (September 22) it should be noted that as part of the main modifications process it is to be requested that the anticipated yield for this allocation (H38) be reduced from the previously published 33 units to 21 units. It is intended that the main modifications would be consulted upon in early 2023. As such the proposal as submitted would achieve a yield that would be compliant with the proposed revisions to Policy H1.
- 5.37. The proposal for a total of 21 no. dwellings would equate to a development density of 21 dph. This would be approximately 40% below the target development density set out within Policy H2 of the emerging plan. However, in this case it is proposed that the existing trees and hedgerows on the site would be retained, save for some minor pruning. When this is factored in along with need for access and general landscaping to be provided the net developable area of the site is approximately 0.69 hectares. This equates to a development density of approximately 30.4 dph.
- 5.38. The development density that would be achieved on this development (30.4dph) is below the target figure set out within Policy H2 of 35dph. However, as is set out in this report, the development would deliver the required proportion of affordable housing units in an appropriate housing mix and achieve the proposed revised unit yield. The proposals also allow for much of the existing mature vegetation and trees around the perimeter of the site to be retained, which will assist with softening the transition from the built extent of the settlement into the more sparsely developed agricultural land that surrounds the village and which forms part of the general extent of the Green Belt. It is also considered that the proposals respond to the existing character of development within the village.
- 5.39. The NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or

community cohesion and resilience. The proposed layout provides a number of opportunities for natural surveillance, with all units fronting the main access route into the site. All units will benefit from external access to private amenity spaces and these spaces will be enclosed by fences and gates.

5.40. A proposed landscaping plan has been submitted. This will provide additional tree planting to be incorporated into the development which will add to the existing trees and vegetation which already provide a setting to the site. In order to ensure that this landscaping is secured along with providing an adequate time period within which to allow the planting to mature it would be necessary to condition implementation of the proposed landscaping. In addition to this it would also be appropriate to condition tree protection measures are utilised during the construction phase of development to ensure that the trees to be retained are afforded suitable protection.

5.41. Overall, it is considered that the proposals would provide a suitable layout which facilitates development whilst also accommodating the more detailed constraints of the site. The proposals are therefore considered to accord with policies D1 and D2 of the 2018 DLP.

## **RESIDENTIAL AMENITY & PUBLIC PROTECTION**

5.42. The internal layout of the development is such that the proposed dwellings would be arranged in a manner to ensure that future occupants do not experience unacceptable levels of overlooking or overshadowing which would be harmful to amenity.

5.43. With regard to the existing properties and land uses which surround the site, the closest neighbouring residential properties to the proposed development are those situated to the southwest of the site on Middlewood Close, approximately 40m away, and the property known as Woodlands which is situated beyond the northern boundary of the site at a distance of approximately 33m. As a reference, a 21m rear-to-rear separation distance between two storey dwellings is generally considered to be appropriate and is the recommendation set out within the Council's Supplementary Planning Document on Extensions and Alterations to dwellings. Given the separation distances that would be achieved to existing properties it is not considered that the proposals would give rise to issues of overlooking or overshadowing which could be detrimental to the residential amenity of the existing residents. Nor is it considered that the proposals would have a particularly overbearing impact upon existing properties.

5.44. The Council's Public Protection Team have reviewed the proposals and have not raised any objections. They have however requested that a series of conditions be attached to any planning permission, and these are set out in greater detail below.

5.45. With regard to noise there are existing uses close to the application site, namely the agricultural building (pig unit) to the northeast and horse riding arena to the south; along with the existing school. These existing uses have the potential to give rise to noise disturbance that could impact upon future residents of the proposed development; albeit to varying degrees. The applicant has provided details on the current usage of the pig unit. The unit is used as a temporary isolation unit for the purposes of disease control away from the breeding stock held at the main farm, and is semi-automated and requires minimal daily input. Active operation of the site is therefore minimal. Vehicle movements are limited to a tele-handler for moving bales. Animals are transported in a trailer pulled by a pickup truck and movements to and from the facility are every two months.

5.46. The neighbouring horse riding facility is used for domestic purposes only. This use is restricted via a condition attached to the associated planning permission for the premises (Ref: 09/00548/FUL). As such the use of this facility is significantly less intense than a commercial livery type operation. Amongst the objections received to the proposals, concerns have been raised with regard to the potential noise impact the development may bring upon the existing stables and riding area. As with any construction work, there is the potential for a degree of disturbance and disruption to be caused. However, in this case it is considered that any such disruption can be suitably managed. Regarding the potential for disturbance post-construction, the relationship of the two closest dwellings, whilst closer than the existing dwellings on Yew Tree Close and the existing primary school, is not considered to significantly change the existing situation to such an extent that would warrant the refusal of planning permission on such grounds. Public Protection have therefore concluded that in this case there is no requirement for a noise assessment to be undertaken, nor is there a requirement for any conditions pertaining to noise control post construction.

5.47. Also, of note with regard to possible noise disturbances post construction, during assessment of the first planning application reference was made to the provisions of Paragraph 187 of the NPPF. Paragraph 187 requires planning policies and decisions to 'ensure that new development can be integrated effectively with existing businesses and community facilities'. Paragraph 187 continues 'Existing businesses and facilities should not have unreasonable

restrictions placed upon as a result of development permitted after they were established.' Paragraph 187 is clear in that its provisions relate only to existing businesses and community facilities. In this instance there no such facilities which would be at risk as a result of this development.

- 5.48. As part of the supporting documentation submitted by the applicant an odour assessment has been provided. This assessment has concluded that the neighbouring land uses of the pig unit and the equine facility will not have a significant impact upon the proposed residential development in respect of odour.
- 5.49. As with any construction works there is the potential for a degree of disruption to be caused during the construction phase. However, given the overall scale of the development, any such disruption would, within the context of the lifetime of the development, be relatively short lived. Nevertheless, it is still necessary to ensure that this construction phase is appropriately managed so as not to cause undue disruption or safety issues to the surrounding area, as is required by policy ENV2 of the emerging 2018 DLP.
- 5.50. The applicant has, as part of the submission, provided a Construction Environmental Management Plan (CEMP). However, colleagues in Public Protection advise that this submission is deficient in certain aspects, namely that the proposed construction hours do not accord with those normally imposed by the local planning authority and that the submitted CEMP does not consider any piling works that may be undertaken. As such Public Protection have advised that, in the event of granting planning permission, it would be necessary to condition that an amended CEMP be submitted to the local planning authority, for approval, prior to the commencement of development.
- 5.51. As part of the development the applicant is proposing the provision of electric vehicle (EV) charge points. All dwellings will either have an in-curtilage EV charge point or will have access to a remote EV charge point (via combined charger/bollard light). However, at this stage no precise details of this infrastructure have been provided. Changes to Building Regulation requirements since the last application mean that it would not be necessary to secure EVCP via condition as it will be a requirement of Building Regulation approval. In any event this would still promote the objectives of CYC's Low Emissions Strategy and also accord with the provisions of Paragraph 112 of the NPPF; both of which aim to promote the uptake of EVs and other low/ultra low emission vehicles.

5.52. The application is supported by a Geo-environmental Investigation report. This report has demonstrated that the site is suitable for the proposed development and that the site does not present significant potential contaminant linkages. Notwithstanding this, there remains a potential for unexpected land contamination issues to be discovered on site during construction. It would therefore be appropriate to include a condition covering unexpected land contamination. This would provide a suitable mechanism by which any unexpected land contamination that is encountered at the site can be recorded and where necessary be remediated. This condition will provide suitable safeguards to the health and well-being of future occupants and ensure suitable environmental protections are secured should there be any land contamination issues.

## **AFFORDABLE HOUSING**

5.53. Policy H10 of the emerging Local Plan sets affordable housing thresholds. These vary depending upon the category of site involved. In this particular case, the site is a greenfield site where more than 15 units are proposed. As a result, the relevant threshold in this case is 30%. Given that the proposal is for 21.no units a 30% affordable housing provision would equate to 6.3 units.

5.54. The development will include the provision of 6.no affordable units. These would comprise of 3 no. two bed units, 2 no. three bed units and 1 no. four bed unit. Two of the units (1x 3 bed and 1x 4 bed) would be available via shared ownership with the remainder being rented.

5.55. The 6.no affordable units on the development would equate to an on-site affordable housing provision of 28.57%. To achieve 30% affordable housing provision, the payment of a commuted sum would be necessary. This payment would be secured by means of a Section 106 Agreement and be used toward the provision of affordable housing within the CYC authority area. The exact figure for this commuted sum would be calculated using a standardised calculation methodology.

5.56. Policy H10 (v) states that affordable housing provision should: 'fully integrate, by pepper potting throughout the development with no more than two affordable dwellings placed next to each other. The size and type of homes should be a pro-rata mix of the total homes provided on site, taking into account current assessments of local need where on-site provision is required.

The affordable housing should be visually indistinguishable from the open market dwellings’.

5.57. From a visual perspective the design of the proposed affordable units would be in keeping with those on the wider development. The proposed layout of the units consists of a row of three dwellings (plots 1-3), 1 detached dwelling (plot 7) and a pair of semi-detached dwellings (plots 8 & 9). This layout would result in two instances of 3 affordable units being located next to one another. Whilst this layout would not strictly accord with the provisions of Policy H10 (v), it is considered acceptable in this instance. Securing strict adherence to such a layout requirement would be likely, given the relatively modest scale of the site, to give rise to other impacts elsewhere such as having to remove existing landscaping features or other infrastructure which is required as part of the development. As such the proposed dispersal of affordable housing units is considered to be acceptable.

5.58. Overall, the proposed affordable housing provision is considered to accord with the provisions of Policy H10 of the emerging local plan. The provision of affordable units will make a contribution to the affordable housing stock within the city. It will be necessary to include provision of these units through an associated Section 106 agreement to ensure that they are delivered and set out the necessary frameworks and mechanisms for the units to be transferred to a suitable registered provider.

## **DRAINAGE & FLOOD RISK**

5.59. The application site is located within flood zone 1 (low risk) as defined by the Environment Agency. In flood risk terms the development is (sequentially) appropriate in this location. The general objective of the NPPF with regard to flood risk is that development should not increase flood risk elsewhere. Policy ENV5 of the 2018 DLP advises that sustainable drainage should be implemented unless this is not feasible. Detailed local requirements are set out within the Sustainable Drainage Systems Guidance for Developers (2018).

5.60. Amongst the objections received, concerns have been raised about continued and historic issues relating to the existing sewerage infrastructure in the immediate area, with reports that technicians from Yorkshire Water have had to attend to issues in the locality on numerous occasions. The site at present is greenfield (undeveloped) and as such does not benefit from any active drainage infrastructure.

- 5.61. As part of the development a pumping station is proposed. The submitted topographical survey shows that the site is relatively flat with existing ground levels varying from approximately 16.37m AOD to 15.5m AOD. The surface water run-off rate for the site is agreed.
- 5.62. Site investigations have already confirmed that soakaways as a means of surface water disposal are not suitable on this site. This is due the existing subsoil conditions which are predominantly overlaid with dense clay. Foul water waste is proposed to be discharged to the existing sewer located to the west of the site. The submitted Flood Risk and Drainage Assessment acknowledges that a gravity discharge to the public sewer will not be achieved, hence the inclusion of pumping station within the proposals.
- 5.63. It will be possible to achieve an acceptable technical solution with regard to the drainage of the proposed development without giving rise to increasing flood risk within the vicinity of the site. However, to ensure that this is the case it would be necessary to secure such infrastructure by condition. The conditions will require that the site is development with separate systems of drainage for foul and surface water on and off site. A second condition will also require that full details of the proposed means foul and surface water drainage, including any balancing works, be submitted to and approved in writing by the local planning authority prior to the commencement of any development on site.
- 5.64. Neither Yorkshire Water nor the Ainsty Internal Drainage Board (IDB) have raised objections to the proposals but have requested that in the event of planning permission being granted conditions are imposed to secure suitable drainage provision. In both cases the requested conditions would achieve the same outcomes as set out above. It should be noted that these conditions would not negate the need for the applicant to secure other relevant approvals and consents from both Yorkshire Water and the IDB.
- 5.65. Subject to the use of the suggested conditions it is considered that the proposals would accord with the provisions of the NPPF and Policy ENV5 of the DLP 2018.

## **ARCHEOLOGY**

- 5.66. At the time of submission the application was accompanied by a desk based assessment and geophysical survey of the site. The site has not been subjected to any development in the past. As such the archaeological potential of the site is considered to be low and, if present, is likely to be relatively

shallow and date to the late prehistoric and/or Romano-British periods. The land has been in agricultural use since the medieval period.

5.67. The submitted geophysical survey suggested that the majority of anomalies highlighted relate to modern material and geological variations. Based on this information the Council's Archaeologist had recommended that a series of intrusive evaluations be undertaken prior to any development commencing on site.

5.68. In total 5 no trenches were excavated. The aim of this trenching was to determine the presence or absence, nature, date and quality of survival and importance of archaeological deposits to enable an assessment of the potential and significance of the archaeology to be made. Four of the trenches measured 30m x 2m and a fifth trench was dug at the request of the Archaeologist. The location of the trenches was informed by the earlier geophysical survey of the site.

5.69. The archaeological evaluation has concluded an absence of significant archaeological finds and features on the site. Trenches 1 and 5 correspond with an anomaly identified in the geophysical survey. No archaeological material was recovered to aid the understanding of the site. The presence of plough furrows identified on the site suggest the land has been utilised for agricultural purposes since at least the medieval period.

5.70. The Archaeologist had originally requested that the investigation works and evaluation of those results be secured by condition in the event of granting planning permission. However, as the applicant has now undertaken these works and the outcome is satisfactory, the originally requested conditions are no longer necessary.

5.71. The proposed development is therefore considered to accord with Section 16 of the NPPF and policy D6 of the DLP 2018.

## **ECOLOGY**

5.72. Section 15 of the NPPF covers the conservation and enhancement of the natural environment. It states that planning policies and decisions should contribute to and enhance the natural and local environment; by minimising impacts upon on an providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. In the context of determining planning applications (Para 180, c)) states that 'opportunities to improve biodiversity in and around

developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. Policy GI2 of the emerging Local Plan also seeks to achieve similar objectives; with the overarching aim of conserving and enhancing York's biodiversity. Policy GI2 (iv) specifically requires development to result in a net gain to, and help improve, biodiversity.

- 5.73. Policy RwK 04 of the adopted Neighbourhood Plan states: *'Development proposals that conserve or enhance wildlife, wild flowers, hedgerows and trees will be supported'*.
- 5.74. The proposed development is to be located within the existing confines of the site. Much of the existing perimeter hedging is to be retained and only subjected to minor management and tidying works. Existing trees within and adjacent to the site are to be retained.
- 5.75. The submitted Preliminary Ecological Appraisal utilises a High, Moderate and Low classification criteria; each category then uses an inflection (+/-) to denote whether the feature has been assessed as being at the higher or lower end of that category. The assessment has concluded that the site is generally of Moderate (M-) classification with an area of Low (L+) in the northern field. The site has been predicated to show a Biodiversity Net Gain from M- to M as a result of the development. The assessment has also concluded that no further assessments or surveys are recommended, unless works to the surrounding hedgerows is planned during bird nesting season.
- 5.76. The survey has noted that the application site offers suitable habitat for nesting birds. Bats are also likely to use the site for foraging but are unlikely to find opportunities for roosting. No evidence of other species on site were detected.
- 5.77. The council's Ecologist has not raised any objections to the proposed development, subject to a series of conditions upon the granting of any planning permission. The recommended conditions relate to nesting birds, biodiversity enhancements and the submission of a lighting plan. Cumulatively these conditions will ensure that a precautionary approach during the construction phase ensuring existing species can be safeguarded. They will also secure enhancements which will co-exist with the development post construction.

5.78. A condition requiring the submission of a Landscape and Ecological Management Plan (LEMP) has also been recommended. The purpose of this condition would be to ensure wildlife mitigation and enhancement measures are managed and maintained. However in this instance this condition is not considered necessary. It is considered there would be overlaps with the other conditions namely landscaping. Furthermore with regard to the on-going maintenance of any other enhancements secured via the Biodiversity Enhancements condition these would fall to the owners of the dwellings in which they would be installed. The need to reinstate any land used for the purposes of a construction compound is however appropriate so a condition securing this would be recommended. It should also be noted that the requirement to provide a LEMP was not part of the previous application.

5.79. Overall, the proposals would accord with the provisions of Section 15 of the NPPF and the proposals would achieve a Biodiversity Net Gain. The proposals would also accord with Policy GI2 of the DLP 2018 and Policy Rwk 04 of the adopted neighbourhood plan. The potential risks to protected species and existing habitats can be suitably managed via a series of mitigation measures which can be secured by planning condition.

## **SUSTAINABLE DESIGN AND CONSTRUCTION**

5.80. Policy CC1 and CC2 of the DLP 2018 establish local requirements on sustainable construction. They require that, compared to Building Regulation targets, new buildings achieve a reduction in carbon emissions of at least 28% unless it can be demonstrated that this is not viable (CC1). At least 19% of such should be from building fabric efficiency (CC2). It should be noted that forthcoming changes to Building Regulations will impose more stringent reductions. As a result, depending upon the timing of the building works relative to prevailing Building Regulation requirements and any transitional arrangements, Building Regulations may impose measures that exceed the requirements of policies CC1 and CC2.

5.81. The provisions of Policy CC1 and CC2 have been noted within the Energy Statement that has been submitted with the application. The submitted Energy Statement also sets out a series of measures that the developer intends to implement as part of the development to ensure that the proposals accord with the provisions of CC1 and CC2. The measures set out within the Energy Statement cover two main areas; the fabric of the buildings to be built and the specification of any mechanical equipment to be utilised in the dwellings. The proposed measures include a focus upon the fabric specification of the dwelling units utilising materials with a low thermal conductivity rating,

meaning that they do not conduct and therefore lose heat easily. In addition to this the Energy Statement indicates that the dwellings are to be heated using air source heat pumps and utilise energy efficient lighting throughout. Water efficient fixtures and fittings will also be used where they are fitted by the developer.

5.82. Combining these measures, according to the submitted Energy Statement, the development should achieve the carbon reduction requirements specified within policies CC1 and CC2.

5.83. Notwithstanding the above, the exact location and specification of the mechanical measures to be utilised have not been provided. It would be anticipated that the air source heat pumps would be positioned on the ground to the exterior of the building with sufficient space around them to allow for their efficient operation. Visually such units have a similar size and appearance to an air conditioning fan unit. In addition to this the calculations provided within the Energy Statement will likely be formulated on the basis of the fabric of the building and the specification of the mechanical measures to be used achieving either a known and modelled reduction in emissions. Such calculations may be liable to change in the event of the specification of materials or equipment changing.

5.84. Therefore, whilst the submitted information indicates that the requirements of Policy CC1 and CC2 should be capable of being achieved, in order to ensure that this remains the case, but to also provide a degree of flexibility in terms of how that is achieved, it is considered necessary and appropriate to impose conditions which will require each dwelling to achieve a reduction in carbon emissions to a level that is stated within Policies CC1 and CC2.

## **PLANNING OBLIGATIONS**

### **Education**

5.85. Policy DM1 of the draft local plan states that the Council will seek financial contributions from developers to ensure that the necessary infrastructure is in place to support future development in York. In terms of education provision, the Councils supplementary planning guidance note sets out the methodology.

5.86. The need arising from the development and how this would be accommodated is as follows:

- Early Years – none requested, as there is no childcare within Rufforth or within 2 mile radius to expand. It is anticipated that places are available elsewhere chosen for proximity to work.
- Primary - £113,856 toward expansion and facilities at Rufforth Academy.
- Secondary - £78,378 toward Phase 1 expansion at Manor School.

## **Affordable Housing**

5.87. The proposed development would achieve an on-site the affordable housing provision of 28.57% (6 Units). In order to achieve the threshold of 30% affordable housing provision, the payment of a commuted sum would be necessary. The provision of these units and the required commuted sum, and the mechanisms and frameworks by which they are delivered and then transferred to an appointed registered provider, need to be secured within a Section 106 agreement.

## **Open Space**

5.88. All residential development proposals are expected to contribute to the provision of open space for recreation and amenity in line with Policy GI6. Each of the proposed dwellings would benefit from private amenity spaces. However, the proposals, in this case, do not propose any substantive open space within the development other than for general landscaping.

5.89. Due to the size of the site, on-site provision would be likely to prove problematic and in this case a financial contribution for off-site provision would be more appropriate. Based on the number of dwellings and number of bedrooms proposed the required contributions would total £33,940. This would be broken down as £7,097 toward amenity space, £16,832 toward play space and £10,011 toward sports provision. The contributions would support existing facilities and/or clubs in the village. The amenity and play space contributions would be distributed in consultation with the Parish Council.

5.90. With regard to the future ongoing maintenance of the land toward the south western side of the site which would not naturally fall within the ownership of the proposed plots, the applicant has stated that this could be carried out by a management company. This can also be secured through a Section 106 Agreement.

5.91. It is considered that the above mentioned planning obligations would satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the NPPF.

### **The case for very special circumstances**

5.92. The proposed residential development represents inappropriate development in the Green Belt; as set out in an earlier section of this report. Paragraph 147 of the NPPF explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there is limited harm to the openness of the Green Belt. Paragraph 148 also says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations. The harms have been set out earlier in this report namely; harm to openness and encroachment into the countryside. The previous reason for refusal also referenced discouraging the use of Brownfield Land; however, this matter has been covered in paragraph 5.13. The following considerations have been put forward to justify the proposal:

### **Draft Allocation**

5.93. Site H38 is allocated for development through Policy H1 in the emerging Local Plan. A number of main modifications are proposed to this policy, some of which have not yet been subject to formal consultation. Given this, the policy as a whole can carry only limited weight in decision making. However, it should be noted that most of the modifications to Policy H1 do not impact directly upon site H38 and the application that is now before the Council; it is only a change to the site's capacity (reduced to 21 to align with the scheme previously submitted) and deletion of indicative phasing that is affected. Furthermore the evidence upon which the allocation relies is material and can be afforded significant weight. The site selection process is well documented through the Strategic Housing Land Availability Assessment (SHLAA) and Local Plan viability work (local plan documents SD049, SD054 and SD018) and is supported by extensive Sustainability Appraisal.

5.94. There are no outstanding objections to the principle of the site's allocation, including the associated Green Belt boundaries (addressed specifically in evidence at Annex 4 of the Green Belt Addendum EX/CYC/59f at pA4:205).

Indeed, the site has long been identified by the Council as a potential residential allocation, having been included in previous draft Local Plans.

## **Neighbourhood Plan**

5.95. The site was identified as a suitable location for housing within the Neighbourhood Plan. However, this was not formally allocated in the 'made' version of the plan, owing to the fact that the Draft Local Plan had yet to be adopted and Green Belt boundaries established. However, there is a clear resolution in the appendices of the Neighbourhood Plan, confirming that the Neighbourhood Plan will be subject of a review following adoption of the draft local plan; and that the allocation of this site for housing had local support. At paragraph 8.13.11 of the adopted Rufforth with Knapton Neighbourhood Plan it is stated:

'The Plan does not allocate sites for housing as it is the role of the emerging City of York Local Plan to modify and define the boundaries of the Green Belt. By implication, as all the potential housing sites considered are within the general extent of the Green Belt as currently defined (Fourth Set of Changes Development Control Local Plan 2005) none can be allocated until, or if, those boundaries are modified in the adopted City of York Local Plan. In particular there is local support for the defined Green Belt boundaries and the two housing allocations in the submitted Local Plan in the neighbourhood area. These are for land at the junction of Main Street and Back Lane in Knapton and at the end of Middlewood Close in Rufforth. It is the intention of the Parish Council that these matters would form the basis of an immediate review of the Neighbourhood Plan should the submitted Local Plan be adopted.'

## **Unmet Housing Need**

5.96. At the present time, the Council cannot currently demonstrate an NPPF compliant 5 year housing supply on deliverable sites on land that is outside of the general extent of the Green Belt, i.e. the site allocations in the emerging Local Plan are required.. Whilst this position differs from the one presented through the Local Plan examination (a result of transitional arrangements applying to this calculation), it is the case that until the Local Plan is adopted the Council is unlikely to achieve a 5 year land supply.

5.97. The land supply is expected to fall notably short of the minimum 5 years required by the NPPF and substantial weight should be attached to the delivery of market and affordable homes in this context. These benefits along with the contribution of the scheme to the Government's objective of

significantly boosting the supply of homes (NPPF para 60) must be weighed in the balance and would support the case for very special circumstances on this site.

5.98. The Council has concluded that changes to the general extent of the York Green Belt are required to meet the development needs for housing, employment land and education, which cannot be solely provided in urban areas or villages (outside of the Green Belt) or by other means such as brownfield land. It is recognised that an undersupply of homes or employment land would exacerbate housing affordability issues, increase unsustainable commuting patterns and adversely impact on building a strong, competitive economy. The application site is proposed to be allocated to help meet the overall needs of the city within the general extent of the Green Belt following an extensive exercise to identify suitable sites which minimise harm on York's environmental assets and the purposes of the Green Belt.

### **Provision of Affordable Housing**

5.99. The proposals would give rise to a policy compliant level of affordable housing thus contributing to the delivery of affordable housing within the City of York Council area. This is a material consideration to which significant weight can be attached.

### **Whether the site serves any of the five purposes of the Green Belt**

5.100. The five purposes of the Green Belt are set out at Paragraph 138 of the NPPF and these are:

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

5.101. The application site is a housing allocation within the emerging Local Plan (H38) which was defined as Green Belt in the 2005 DLP. Topic Paper 1: Approach to defining Green Belt Addendum 2021 provides detailed information about the York Green Belt and the emerging Local Plan, including an explanation of how and where detailed inner and outer Green Belt boundaries have been defined to inform the Local Plan. Criteria to inform the delineation of the detailed boundaries are set out within Section 5 of the Topic

Paper and have been identified on the basis of consideration of national guidance, the strategic approach undertaken in the local plan core strategy and an appraisal of the essential characteristics of openness and permanence in York. The detailed boundaries have then been assessed in the context of the existing built environment and landscape, without taking account of the potential need for growth and expansion of the built up area and settlements. Annexes 2, 3 and 4 present the potential boundary to the Green Belt should there be no unmet identified need.

- 5.102. The addendum sets out a methodology based on a local definition of openness and permanence and evidence which describes the purposes of land within the Green Belt, which is used to define the detailed Green Belt boundary. The key role of the boundary is to establish long term development limits to the built up area and existing settlements, and distinguish land that needs to be kept permanently open to meet the purposes of Green Belt including safeguarding the special character and setting of the historic city.
- 5.103. The main element of the appraisal of the location of Green Belt boundaries around the village of Rufforth is set out in Annex 4 (Other densely developed Areas in the General Extent of the Green Belt) to the addendum. A total of 4 boundaries are identified around the village. Boundary 1 runs along northern and eastern side of the village and includes the land that forms the subject of this application.
- 5.104. Allowing the village to grow significantly would result in it becoming out of proportion with the settlement pattern of York, an important feature identified in the Heritage Topic Paper. Increasing the distance of residential areas away from the village core can cause harm to the compactness of the village. Rufforth is typical of York's outlying linear villages, surrounded by mostly flat, open, agricultural land with many large fields. While there has been some ribbon development to the north and south beyond the original village core, development tends to have infilled rather than extended beyond Main Street. Small housing development in farmyards and paddocks, once adjacent to the road, have created a number of cul-de-sacs.
- 5.105. It is considered that the form and character of Rufforth offers an opportunity, via a modest expansion of the village, for focusing development towards built up areas within the Green Belt in order to contribute to the long term permanence of the York Green Belt.
- 5.106. Whilst a number of proposed sites in and around the existing village were put forward as part of the Local Plan process, only the application site

was included in the Local Plan as a housing allocation. This was determined as the most appropriate location for development in the village as it would follow a combination of historic field boundaries and more recent 20<sup>th</sup> century development boundaries of properties off Wetherby Road, or small groups of properties and cul-de-sacs. The new boundary offers a degree of permanence. The development is located to the north side of the village minimising the perception of development from open approaches.

5.107. The site selection process and Topic Paper 1 Approach to defining York's Green Belt addendum 2021 have informed the housing allocations in the 2018 DLP. It has been determined that this site, due to its performance against Green Belt purposes specific to York, the spatial strategy for sustainable growth and taking into account NPPF policy on setting Green Belt boundaries can be within the Rufforth settlement and excluded from the Green Belt.

5.108. The proposed development would be inappropriate development in the Green Belt and it would lead to limited harm in respect to openness and encroachment into the countryside. The adverse effect upon the Green Belt is significantly less than site ST31 (land at Tadcaster Road, Copmanthorpe) which was considered at Planning Committee A 11 July 2022 and where very special circumstances were determined to exist. Even when substantial weight is attached to the harm to the Green Belt, cumulatively there are considerations which clearly outweigh the potential harm to the Green Belt and any other harm as a result of development so as to amount to the very special circumstances which are required by the NPPF.

- The existing village is a densely developed area which exhibits a low degree of openness, and does not contribute to the openness of the Green Belt; as a result Rufforth is therefore inset within the Green Belt.
- Unmet housing need cannot be accommodated on deliverable sites on land that is outside of the general extent of Green Belt – there has to be some degree of land release from the Green Belt to meet the development needs for housing, employment land and education, which cannot be solely provided in urban areas or villages, outside of the Green Belt or on brownfield land.
- Given the location of the site at the edge of an existing settlement the site is sustainably located.
- Aside from the issue of Green Belt there are no objections to the scheme considering other material considerations which cannot be addressed through either planning conditions or S106 agreement.

- Overall the application would represent sustainable development that will conform to the Government's objective of significantly boosting the supply of homes.

5.109. Policy SS2 of the Draft Local Plan sets out the role of the York Green Belt. The boundary of the Green Belt is the consequence of decisions taken about which land serves a Green Belt purpose and which can be allocated for development. The Plan seeks to identify sufficient land to accommodate York's development needs across the plan period. In addition, it provides additional development land to 2038 beyond the plan period, the purpose of which is to ensure that in defining the boundaries of the Green Belt they can then endure and support the prime purpose of the Green Belt of preserving the setting and special character of York

### **Whether prematurity is grounds to refuse the application**

5.110. Paragraph 49 of the NPPF states that "in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where:

- a) The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location, or phasing of new development that are central to the emerging plan; and
- b) The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area".

5.111. Paragraph 50 of the NPPF states: "Refusal of planning permission on the grounds of prematurity will seldom be justified where a draft local plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on the grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan making process".

5.112. It is considered that to grant planning permission for this scheme would not undermine the plan-making process because the Council's assessment of the Green Belt to inform the emerging plan (as detailed within Topic Paper 1: Approach to defining the Green Belt Addendum 2021) concluded that the site can accommodate development without harm to the Green Belt purposes

specific to York. Given the scale of the development proposed (21 dwellings) as the emerging Local Plan has been submitted for examination and promotes this as a housing site, to be delivered within the short term (1-5 years) of the plan, there are no clear grounds (as is required by the NPPF) to refuse this particular application on the basis that it would prejudice the plan-making process. Furthermore, to grant planning permission, to a site which is identified as an allocation within the DLP 2018 would be consistent with decisions made on other similar sites (both housing and employment allocations) elsewhere in the city. These include ST31 at Copmanthorpe (18/00680/OUTM), H31 at Dunnington (20/01626/FULM) both housing allocations and ST19 at Northminster Business Park (21/00796/FULM (DPD)) which related to employment land.

5.113. There are outstanding objections to the removal of land from the general extent of the Green Belt and the delineation for Green Belt boundaries. Such objections reduce the weight that can be attributed to the emerging plan. However, even taking this into account and recognising that it is a matter of planning judgement it is considered that there are very special circumstances as set out in paragraph 5.106 and this report as a whole which justify the development at this particular time. Also of note is that the site was put forward as a potential development site as part of the Neighbourhood Plan process. However, this was ultimately removed from the NHP as the identification and modification of Green Belt boundaries, and by extension the allocation of housing sites, are matters for the local planning authority via the Local Plan process rather than through the Neighbourhood Plan. The Neighbourhood Plan process demonstrated that there is local support toward the development of this site initially identified in the NHP for housing.

## **6.0 CONCLUSION**

6.1. The above report outlines that the proposed development, subject to conditions, would be compliant with the NPPF and relevant technical policies within the adopted Neighbourhood Plan and the 2018 Draft Local Plan with regard to the impact on the highway network, residential amenity, archaeology, biodiversity, flood risk and drainage. In addition to this there are considered to be suitable mechanisms to ensure that the infrastructure required to support the development can be secured.

6.2. At present the site is considered to remain within the general extent of the Green Belt. However, the site is allocated for housing development in the 2018 DLP. It has been determined, as part of the formulation of the DLP 2018, that the site, due to its performance against Green Belt purposes specific to York, the spatial strategy

for sustainable growth and taking into account NPPF policy on setting Green Belt boundaries can be within the Rufforth settlement and not in the Green Belt. It is considered that there are very special circumstances as set out in paragraphs 5.93 to 5.107 above that cumulatively clearly outweigh the potential harm to the Green Belt by reason of inappropriateness and the limited adverse impact on the openness of the Green Belt and any other harms as identified above, even when giving substantial weight to the Green Belt harms. Further, there is no case for refusing the scheme on prematurity grounds.

6.3. Based on the merits of this case the following recommendation is made:

6.4. That the application be referred to the Secretary of State in accordance with the provisions of The Town and Country Planning (Consultation) (England) Direction 2021; and that in the event of the Secretary of State confirming that they do not wish to call the application in, planning permission be granted, subject to conditions and the completion of a Section 106 Agreement to secure necessary planning obligations referred to in paragraphs 5.85 to 5.91 above.

**7.0 RECOMMENDATION:** Approval subject to:

Referral of the application to the Secretary of State under the requirements of The Town and Country Planning (Consultation) (England) Direction 2021, and should the application not be called in by the Secretary of State then:

Approve the application subject to the planning obligations and conditions set out below; and

The Head of Planning and Development Services to be given delegated authority to finalise the terms and details of the Section 106 obligations and conditions.

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 Layout Plan: Drawing No. 3921/PD/100 Revision J;

Landscape Plan Titled Hawthorn Fields, Rufforth: Drawing No. 3809/1;

H4 Terrace Plans: Panning Drawing Plots 1,2 and 3: Drawing No. 3921-PD-01 Rev

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A;  
H4 Terrace Elevations: Planning Drawing Plots 1,2 and 3: Drawing No. 3921-PD-02 Rev A;  
Ashby Semi: Planning Drawing – Plots 4 & 5: Drawing No. 3921-PD-10 Rev A;  
Newton: Planning Drawing (as) Plots 6, 10 Drawing No. 3921-PD-07 Rev B;  
Farnham Type: Planning Drawing (as) Plots 7 Drawing No. 3921-PD-22 Rev A;  
A3 Semi Plans: Planning Drawing Plots 8 and 9 Drawing No. 3921-PD-03 Rev B;  
A3 Semi Elevations: Planning Drawing Plots 8 and 9 Drawing No.3921-PD-04 Rev B;  
Banbury: Planning Drawing (as) Plot 11 Drawing No. 3921-PD-11 Rev A;  
The Chatsworth: Planning Drawing (as) Plot 12: Drawing No. 3912-PD-24;  
Newton: Planning Drawing (op) – Plot 13: Drawing No. 3912-PD-08 Rev A;  
Farnham Type Planning Drawing (as) – Plot 14: Drawing No. 3921-PD-23;  
Ashby and Hawthorn Semi: Planning Drawing (as) Plots 15, 16, 17 and 18 Drawing No. 3921-PD-05 Rev B;  
TLB Barn: Planning Drawing (as) Plot 19 Drawing No. 3921-PD-13 Rev A;  
TCB Barn Floor Plans: Planning Drawing (as) Plot 20 Drawing No. 3921-PD-14 Rev B;  
TCB Barn Elevations and Sections Planning Drawing (as) Plot 20 Drawing No. 3921-PD-15 Rev A;  
TCB Barn Floor Plans: Planning Drawing (op) Plot 21 Drawing No. 3921-PD-16 Rev B;  
TCB Barn Elevations and Sections: Planning Drawing (op) Drawing No. 3921-PD-17 Rev A  
Streetscenes: Drawing No. 3921-PD-20 Rev D;  
Garage: Planning Drawing (as) Plots 6,11,12,13 and 14 Drawing No. 3921-PD-19 Rev B;

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

3 Notwithstanding the details submitted, prior to commencement of the development a Construction Environment Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the demolition, site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority. The CEMP must include a site-specific risk assessment of dust impacts in line with the guidance provided by IAQM (see <http://iaqm.co.uk/guidance/>) and include a package of mitigation measures commensurate with the risk identified in the assessment. All works on site shall be undertaken in accordance with the approved CEMP, unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the locality in accordance with Policy ENV2 of the Draft Local Plan 2018

NOTE: For noise details on hours of construction, deliveries, types of machinery to be used, use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc, should be detailed within the CEMP. Where particularly noisy activities are expected to take place then details should be provided on how they intend to lessen the impact i.e. by limiting especially noisy events to no more than 2 hours in duration. Details of any monitoring may also be required, in certain situation, including the location of positions, recording of results and identification of mitigation measures required.

For vibration details should be provided on any activities which may results in excessive vibration, e.g., piling, and details of monitoring to be carried out. Locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken. In the event that excess vibration occurs then details should be provided on how the developer will deal with this, i.e., substitution of driven pile foundations with auger pile foundations. Ideally all monitoring results should be recorded and include what was found and mitigation measures employed (if any).

With respect to dust mitigation, measures may include, but would not be restricted to, on site wheel washing, restrictions on use of unmade roads, agreement on the routes to be used by construction traffic, restriction of stockpile size (also covering or spraying them to reduce possible dust), targeting sweeping of roads, minimisation of evaporative emissions and prompt clean-up of liquid spills, prohibition of intentional on-site fires and avoidance of accidental ones, control of construction equipment emissions and proactive monitoring of dust. Further information on suitable measures can be found in the dust guidance note produced by the Institute of Air Quality Management, see <http://iaqm.co.uk/guidance/>. The CEMP must include a site-specific risk assessment of dust impacts in line with the IAQM guidance note and include mitigation commensurate with the scale of the risks identified.

For lighting details should be provided on artificial lighting to be provided on site, along with details of measures which will be used to minimise impact, such as restrictions in hours of operation, location and angling of lighting.

In addition to the above the CEMP should provide a complaints procedure, so that in the event of any complaint from a member of the public about noise, dust, vibration or lighting the site manager has a clear understanding of how to respond to complaints received. The procedure should detail how a contact number will be advertised to the public, what will happen once a complaint had been received (i.e., investigation), any monitoring to be carried out, how they intend to update the complainant, and what will happen in the event that the complaint is not resolved. Written records of any complaints received, and actions taken should be kept and details forwarded to the Local Authority every month during construction works by email to the following addresses [public.protection@york.gov.uk](mailto:public.protection@york.gov.uk) and [planning.enforcement@york.gov.uk](mailto:planning.enforcement@york.gov.uk)

4 Prior to the commencement of development, details of the proposed means of foul and 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. The development shall be carried out in accordance with the approved 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 (SuDS). 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 SuDS.

As SuDS methods have been proven to be unsuitable then a suitable watercourse must be considered in accordance with the following criteria; In accordance with City of York Councils City of York Councils Sustainable Drainage Systems Guidance for Developers (August 2018) and in agreement with the Environment Agency and the York Consortium of Internal Drainage Boards, 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 during the 1 in 1 year event). 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.

As there are no existing connected impermeable areas this Greenfield site must be limited to 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) during a 1 in 1 year event. Please be advised as the watercourse appears to be nearby and any discharge will be new/additional therefore only the proposed developed areas (i.e. hard paving and roof areas) can be used to calculate this rate. It is recommend discussing and agreeing the permitted discharge rate with the Councils Flood Risk Management Team at an early stage.

The applicant should provide a topographical survey showing the existing and proposed ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties.

Details of the future management and maintenance of the proposed drainage scheme must be provided.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper and sustainable drainage of the site.

5 The development hereby permitted shall achieve a reduction in carbon emissions of at least 28% compared to the target emission rate as required under Part L of the Building Regulations. Prior to the commencement of development above slab level details of the measures undertaken to secure compliance with this condition shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To fulfil the environmental objectives of the NPPF and support the transition to a low carbon future, and in accordance with policies CC1 and CC2 of the Publication Draft Local Plan 2018

6 A biodiversity enhancement plan/drawing shall be submitted to, and be approved in writing by, the local planning authority prior to the commencement of development. The plan should include a minimum of six bat boxes, suitable for crevice dwelling species and six boxes for nesting birds. The measures contained in the approved plan shall be implemented in accordance with the approved details prior to first occupation of the relevant building.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and to be in accordance with Paragraph 174 d) of the NPPF (2021) 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.

7 Vehicular access shall be from Middlewood Close and details of the design of this access, together with associated sightlines, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason: In the interests of highway safety.

8 HWAY10 Vehicular areas surfaced, details reqd

9 HWAY18 Cycle parking details to be agreed

10 HWAY19 Car and cycle parking laid out

11 The development shall not commence until details of the internal road layout

including any areas to be put forward for adoption by the Local Highway Authority have been submitted to, and approved in writing, by the Local Planning Authority. No building/dwelling shall be occupied until the internal road has been provided, up to base-course level, in accordance with such approved plans. The wearing course shall be laid within two years of the base-course being laid or prior to the occupation of the penultimate house, whichever is the sooner.

Reason: In the interests of road safety.

12 Prior to the commencement of development a detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be submitted to and approved in writing. The a statement shall include at least the following information;

- measures to prevent the egress of mud and other detritus onto the adjacent public highway
- a dilapidation survey jointly undertaken with the local highway authority
- the routing for construction traffic that will be promoted
- a scheme for signing the promoted construction traffic routing
- the management of construction traffic and contractor parking
- hours of operation (including deliveries) which must include a statement indicating that deliveries to and from the site will take place outside of school drop-off/pick up times.
- where materials are to be stored within the site

The measures set out in the statement shall be implemented at all times during the clearance/preparatory and construction works of the development.

Reason: To ensure that the development can be carried out in a manner that will not be to the detriment of amenity of local residents, free flow of traffic or safety of highway users.

13 In the event that unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and, if remediation is necessary, a remediation strategy must be prepared, which is subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation strategy, a verification report must be submitted to and approved by the Local Planning Authority. It is strongly recommended that all reports are prepared by a suitably qualified and competent person.

Reason: To ensure that the site is suitable for its proposed use taking account of ground conditions and any risks arising from land contamination and to accord with Policy ENV2 of the Draft Local Plan 2018 and Section 15 of the National Planning Policy Framework

14 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials and details of all boundary treatments and means of enclosure to be used shall be submitted to and approved in writing by the Local Planning Authority prior to their use in the development. The development shall be carried out using the approved materials.

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 materials will be available for inspection and where they are located.

Reason: So as to achieve a visually cohesive appearance.

15 No tree works or vegetation clearance shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of suitable habitat for active birds' nests immediately before the works and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.

Reason: To ensure that breeding birds are protected from harm during construction. All British birds, their nests and eggs (with certain limited exceptions) are protected by Section 1 of the Wildlife and Countryside Act 1981, as amended.

16 All demolition, construction works and ancillary operations, including deliveries to and dispatch from the site shall be confined to the following hours:

Monday to Friday 0800 to 1800 hours

Saturdays 0900 to 1300 hours

Not at all on Sundays and Bank Holidays

Reason: To protect the residential amenity of neighbouring residents in accordance with Policy ENV2 of the Publication Draft Local Plan 2018.

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

Details of the height, type, position, angle and spread of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed and operational prior to the development hereby permitted being brought into use. The external lighting shall be erected and maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

Reason: To maintain the favourable conservation status of protected species. To protect residential amenity. To protect visual amenity and character of the area

18 Unless otherwise approved in writing by the local planning authority, there shall be no piped discharge of surface water from the development prior to the completion of the approved surface water drainage works and no buildings shall be occupied or brought into use prior to completion of the approved foul drainage works.

Reason: So that the Local Planning Authority may be satisfied that no foul and surface water discharges take place until proper provision has been made for their disposal.

19 The site shall be developed with separate systems of drainage for foul and surface water on and off site.

Reason: In the interests of satisfactory and sustainable drainage

20 Before the commencement of development, a complete and detailed Arboricultural Method Statement and scheme of arboricultural supervision regarding protection measures for existing trees and hedges within and adjacent to the application site shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. Amongst other information, this statement shall include details and locations of protective fencing, ground protection, a schedule of tree works if applicable, site rules and prohibitions, phasing of protection measures, types of construction machinery/vehicles to be used, specialist construction techniques where applicable, locations and means of installing utilities, and location of site compound. The document shall also include methodology and construction details where a boundary treatments is proposed within the root protection area of existing trees. A copy of the document will be available for reference and inspection on site at all times.

Reason: To protect existing trees that are considered to make a significant contribution to the landscape character and amenity of the area and the development.

21 The approved landscaping scheme, as shown on drawing Hawthorn Fields, Rufforth (Drawing No. 3809/1) shall be implemented no later than 6 months of the practical completion of the last dwelling. Any trees or plants which within 5 years of planting die, are removed or become seriously damaged or diseased in the opinion of the Local Authority shall be replaced in the next planting season with others of a similar size and species.

Reason: In the interests of amenity and good design and to afford suitable time for the landscaping scheme to established itself in the development.

22 No later than a period of 3 months after the completion of the development

any land used for the purposes of a construction compound shall be cleared from the site and the land in question reinstated to its pre-development state.

Reason: To safeguard the visual amenity of the development and the wider countryside.

## **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) and having taken account of all relevant national guidance and local policies, considers the proposal to be satisfactory. For this reason, no amendments were sought during the processing of the application, and it was not necessary to work with the applicant/agent in order to achieve a positive outcome.

2. In line with paragraph 112 of the National Planning Policy Framework, developments should be designed to 'enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations'.

In line with Building Regulations, Electric Vehicle (EV) charge point provision ('active provision') is required for all residential developments in York, unless the development has no parking. To prepare for increased demand for charging points in future years, appropriate cable routes ('passive provision') should also be included in the scheme design and development.

Approved Document S: infrastructure for charging electric vehicles outlines the required standards and provides technical guidance regarding the provision of EV charge points and cable routes.

From 15th June 2022, Approved Document S applies to new residential and non-residential buildings; buildings undergoing a material change of use to dwellings; residential and non-residential buildings undergoing major renovation; and mixed use buildings that are either new or undergoing major renovation. CYC Building Control should be consulted on all proposals for EV charge point provision (active and passive) to ensure compliance with current Building Regulations.

3. Under the Land Drainage Act 1991 and the Boards' byelaws, the Board's prior written consent (outside of the planning process) is needed for:-

a. any connection into a Board maintained watercourse, or any ordinary watercourse in the Board's district.

b. any discharge, or change in the rate of discharge, into a Board maintained watercourse, or any ordinary watercourse in the Board's district. This applies

whether the discharge enters the watercourse either directly or indirectly (i.e. via a third party asset such as a mains sewer).

c. works within or over a Board maintained watercourse, or any ordinary watercourse in the Board's district - for example, land drainage, an outfall structure, bridges, culverting etc.

4. 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 nesting 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 the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present.

**Contact details:**

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