



**Notice of a public meeting of  
Planning Committee**

- To:** Councillors Reid (Chair), Boyce (Vice-Chair), Shepherd, Ayre, Carr, Cullwick, Cuthbertson, D'Agorne, Doughty, Funnell, Galvin, Looker, Richardson, K Taylor and Warters
- Date:** Thursday, 24 January 2019
- Time:** 5.00 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

**AGENDA**

**Site Visits**

Would Members please note that the mini-bus for the site visits for this meeting will depart from Memorial Gardens  
at **10:00am on Tuesday 22 January 2019**

**1. Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

**2. Minutes (Pages 5 - 20)**

To approve and sign the minutes of the last meeting of the Planning Committee held on 19 December 2018.

### 3. **Public Participation**

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5:00pm on Wednesday 23 January 2019**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the Committee.

To register, please contact the Democracy Officer for the meeting on the details at the foot of this agenda.

#### **Filming or Recording Meetings**

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting e.g. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at [http://www.york.gov.uk/download/downloads/id/11406/protocol\\_for\\_webcasting\\_filming\\_and\\_recording\\_of\\_council\\_meetings\\_20160809.pdf](http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf)

### 4. **Plans List**

This item invites Members to determine the following planning applications:

**a) Land Adjacent Sewage Works At Hessay Industrial Estate, New Road, Hessay, York [17/00670/FUL] (Pages 21 - 44)**

Erection of asphalt plant with associated infrastructure [Rural West York Ward]

**b) York Cemetery Trust Kiosk, York Cemetery, Cemetery Road [18/01620/FUL] (Pages 45 - 68)**

Single storey extension and alterations to building to form volunteers centre with associated facilities and tool store (resubmission) [Fishergate Ward] **[Site Visit]**

c) **York Cemetery Trust Kiosk, York Cemetery, Cemetery Road [18/01621/LBC]** (Pages 69 - 76)

Single storey extension and alterations to building to form volunteers centre with associated facilities and tool store (resubmission) [Fishergate Ward] **[Site Visit]**

d) **Spark York Piccadilly York YO1 9PB [18/02268/FUL]** (Pages 77 - 86)

Erection of a temporary stretch tent canopy over existing shipping containers (retrospective) [Guildhall Ward] **[Site Visit]**

## 5. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

### Democracy Officer

Angela Bielby

Contact details:

- Telephone: 01904 552599
- Email: a.bielby@york.gov.uk

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جا سکتی ہیں۔ (Urdu)

 **(01904) 551550**

This page is intentionally left blank

**PLANNING COMMITTEE****SITE VISITS****Tuesday 22 January 2019****The Councillors mini-bus will depart from Memorial Gardens at  
10.00am**

<b>TIME (Approx)</b>	<b>SITE</b>	<b>ITEM</b>
10:10	Spark York Piccadilly (meet Merchantgate end of site)	4b
10.40	York Cemetery, Cemetery Road	4c & 4d

This page is intentionally left blank

## **Abbreviations commonly used in Planning Reports**

(in alphabetical order)

AOD	above ordnance datum
BREEAM	building research establishment environmental assessment method
BS	British standard
CA	conservation area
CIL	Community Infrastructure Levy (Regulations)
CEMP	construction environmental management plan
CYC	City of York Council
DCLP	Draft Development Control Local Plan 2005
DCSD	Design Conservation and Sustainable Development team
dB	decibels
DEFRA	Department for Environment, Food and Rural Affairs
EA	Environment Agency
EDS	ecological design strategy
EIA	environmental impact assessment
EPU	Environment Protection Unit
FRA	flood risk assessment
FTE	full time equivalent
FULM	major full application
GCN	great crested newts
HGV	heavy goods vehicle
IDB	internal drainage board
IPS	interim planning statement
LBC	listed building consent
LGV	large goods vehicle
LPA	local planning authority
NERC	Natural Environment and Rural Communities Act (2006)
NHBC	National House Building Council

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
OAN	objectively assessed need
OUTM	major outline application
PROW	public right of way
RAM	reasonable avoidance measures
RTV	remedial target value
RSS	Regional Spatial Strategy
SHMA	Strategic Housing Market Assessment
SINC	Site of Interest for Nature Conservation
SHLAA	Strategic Housing Land Availability Assessment
SFRA	Strategic Flood Risk Assessment
SPD	Supplementary Planning Document
TPO	tree preservation order
TRO	Traffic Regulation Order
VDS	village design statement
WSI	written scheme of investigation
VAS	vehicle activated signage
VOA	Valuation Office Agency
WHO	World Health Organisation



City of York Council

Committee Minutes

---

Meeting	Planning Committee
Date	19 December 2018
Present	Councillors Reid (Chair), Boyce (Vice-Chair), Shepherd, Carr, Cullwick [for item 4c only], Cuthbertson, D'Agorne, Doughty, Funnell, Galvin, Richardson, K Taylor, Warters, Fenton (Substitute for Cllr Ayre) and Flinders [for item 4a only] (Substitute for Cllr Looker)
Apologies	Councillors Ayre and Looker

---

### Site Visits

Application	Reason	In attendance
York Dance Works, 11 Redeness Street	To allow Members to familiarise themselves with the site	Councillors Reid, Boyce, Carr, D'Agorne and Galvin
Plainville Lane, Wigginton	To allow Members to familiarise themselves with the site	Councillors Reid, Boyce, Carr, Cuthbertson and Galvin

#### 46. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda.

Cllr Flinders declared a personal non prejudicial interest in item 4a (Land To The South Of Field Lane, Heslington) due to him being a donor and alumnus to the University of York. Cllr K Taylor declared a personal interest non prejudicial in item 4a as he was an alumnus and was a former employee of the University of York (as Sabbatical Officer).

[Cllr Cullwick declared a personal and prejudicial interest in items 4a and 4b (York Dance Works, 11 Redeness Street, York)

and was therefore not present for consideration of those items. This was confirmed by the Chair at the beginning of item 4c].

There were no further declarations of interest.

**47. Minutes**

Resolved: That the minutes of the last meeting held on 15 November 2018 be approved and then signed by the chair as a correct record.

**48. Public Participation**

It was reported that there had been no registrations to speak at the meeting under the Council's Public Participation Scheme on general matters within the remit of the Planning Committee.

**49. Plans List**

Members considered a schedule of reports of the Assistant Director, Planning and Public Protection, relating to the following planning applications, outlining the proposals and relevant policy considerations and setting out the views of consultees and officers.

**50. Land To The South Of Field Lane, Heslington  
[18/01416/REMM]**

[Note: Councillor Cullwick withdrew from the meeting during consideration of this item and took no part in the debate or decision thereon.]

Members considered a Major Reserved Matters Application from the University Of York And Graham Construction Limited to approve the siting, design, external appearance and landscaping to provide student accommodation (providing 1,480 bed spaces) including the provision of two colleges and residential blocks within a central green space, the realignment of Lakeside Way following outline permissions 15/02923/OUT.

In their update, Officers advised that one letter of objection has been received from a resident of School Lane, Heslington. A summary of the objections raised by the resident was noted. Members were further advised of variations to Conditions 1 and 2. A Construction Environmental Management Plan (Biodiversity) had been submitted and agreed by officers and it was recommended that Condition 1 (plan references) be amended to include this. Condition 2 had been reworded following the submission of additional information. Officers advised that the additional information had been assessed and the planning balance and the recommendation remained unchanged from the published report.

In response to questions from Members, Officers confirmed that:

- Measures had been taken to negotiate on public access around parts of Cluster 4 with the Applicant.
- The University proposed that for the safety of students, it was proposed that access to both colleges would be through a central hub.
- Lakeside Way, the central green area and the pathway at the top of the site would be publicly accessible.
- With regard to the University guaranteeing accommodation to all first year and foundation year students (including overseas students), any remaining vacancies would be offered to returning students. The proposals will provide additional capacity for students to live on campus, rather than in private rented sector elsewhere in the City. The Council would want to see that accommodation was provided on campus as a first point of call.
- There were no Tree Preservation Orders (TPOs) and two oak trees would be removed. However, there was a substantial landscaping plan.
- The buildings had been moved further back and there would be a loss of grassland because of the nature of the buildings. Students would not be able to access the grassland and could only access the lakeside edge via the boardwalk. The detailed landscaping scheme was detailed in Condition 4.

Alan Richards spoke in objection to the application on behalf of a number of Badger Hill residents. He detailed the parking issues currently experienced by Badger Hill residents which had worsened over recent years. He noted that many vehicles were parked or badly parked by students and tutors, causing a safety risk. He suggested that this may be exacerbated by cars from

the new campus being parked in Badger Hill. He asked the Council to work with residents and noted that the residents group would report illegally parked cars.

Mr Richards was asked and explained that:

- In terms of liaison between the residents group and the University, two members of the residents group had rejoined the University's good neighbourhood group, which met 2-3 times a year.
- The residents parking zone covered half of Badger Hill and in his opinion having lived in the area for 30 years, the number and size of parked cars had increased.
- The University had not been specifically clear about who to contact about cars/parking and he did not agree that the new development would not have an adverse effect on parking in the area.

Stephen Talboys (Applicant - University of York) spoke in support of the application. He noted that the scheme aimed to reduce the number of students living off campus. He noted that the development had been given consent by the Secretary of State and that it was not possible to build at either end of campus. The aim of the accommodation was to close the gap between Campus East and Campus West. He explained that the University could take action on anti social behaviour and he added that the streetwise scheme had worked well. He noted the University was proud of its ecology and diversity and had green flag status. He noted the travel arrangements in place.

Mr Tallboys was asked and noted that:

- The University car parks were full most days
- The University would be happy to discuss the parking scheme in Badger Hill
- The vast majority of car parking was taken up by staff. Students were charged £35 per year and staff up to £400 a year for a parking permit. The permit allowed the holder to park anywhere on campus. The car parks were well used.
- There was no correlation between the number of beds in university accommodation and number of parked cars.
- Students did not have to declare to the university if they had a car.
- If the development did not go ahead, students would potentially live in the city.
- The good neighbourhood group had been in place since November 2016. The group began meeting again Summer

2018 and the University was hoping to reinstate another similar group that had previously met.

- If parking in Badger Hill was shown to be a problem, the University would be prepared to look at how this could be mitigated.
- There was a bus link between the two campuses and the 66 bus which ran between the university and city centre. There was a cycleway and University would be prepared to look at it.
- The good neighbourhood scheme was not the same as the Heslington East Forum and the University would like to see both groups meeting in the future.
- The 1480 bed spaces were not for additional students and it was explained how those spaces would be filled.
- Students were discouraged from using private vehicles to access the campus unless there was a medical or work placement reason.
- The three travel surveys had been undertaken annually and the results submitted to the case officer (this was confirmed by Janet O'Neill, Agent for the Applicant).

Julie White (Agent for the Applicant – Developer) spoke in support of the application. She advised that under the 2007 planning permission, the site had been allocated for development as part of the planning condition. The recently approved master plan had identified the site as a gateway to the other campuses, and the site provided an attractive space from the east when approached from the west. Ms White outlined the type of accommodation on offer and noted the biodiversity on the site which provided 5000 square metres of planting.

In response to Member questions, Ms White explained:

- The reason for the removal of the two oak trees. They were not specimen trees and it was not viable for them to be retained. If kept they would affect the location of the building and it was explained that the planting was in place to main the habitat value.
- The developer was confident that the biodiversity enhancements would replicate what was already there.

Cllr K Aspden (Fulford and Heslington Ward Councillor) spoke on behalf of Heslington Parish Council. He explained that the Parish Council objected to the siting of the accommodation and were concerned about Heslington residents' loss of amenity due to noise, litter and antisocial behaviour. He asked for a number

of conditions which included land mitigation regarding the parking nuisance, the continuation of the annual parking and travel survey and the continuation of the Heslington East Community Forum.

Cllr Aspden was asked and noted that:

- There was a consensus and disappointment that the accommodation and shops were not grouped together
- There was concern about low level anti social behaviour. There were schemes in place which occasionally made a difference but these needed to be all year round rather than term time only.
- There was a host of ongoing parking complaints in Fulford and Heslington village.
- With regard to biodiversity, Heslington village would like to see as much of a buffer around the site as possible.

Cllr Pavlovic (Ward Councillor) spoke on the application. He raised a number of points noting that the traffic survey would end in 2021, that the University's related parking exceeded thresholds in a number of areas, and that the parking restrictions in residents parking scheme only covered part of Badger Hill. He suggested that the impact of the existing scheme was that parking would get worse and he added that dealing with complaints about non residents parking constituted a large amount of time for Ward Councillors. He requested that the application be deferred.

In response to questions Cllr Pavlovic explained that

- The deferment of the application would enable a detailed traffic survey to be undertaken
- He would like respark to cover all of Badger Hill and the Newland Park estate
- The university could be allowed to build extra car parks.

Members debated the application in detail. Councillor Shepherd then moved and Councillor Carr seconded deferment of the application on the grounds that an up to date traffic survey needed to be undertaken.

On being put to the vote the motion fell.

Resolved: That the application be approved subject to the Conditions listed in the report and the following two

additional informatives, amended Condition 4 and variations to Conditions 1 and 2:

Additional informative

The university shall to ensure that meaningful discussions are held with the two residents' groups.

Additional informative

The university to introduce a scheme similar to Nightsafe.

Amended Condition 4

Notwithstanding what is shown on the approved plans, prior to the construction above foundation level of:

- i. North college
- ii. South college
- iii. Blocks 21 and 22

a detailed landscaping scheme shall be submitted in writing to the Local Planning Authority. For each point part of the development (i-iii) the landscaping scheme shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants, seeding mix, sowing rate, hard landscaping materials, lighting, means of enclosure and street furniture, including the canopy walkways. The approved scheme shall be implemented within the first planting season prior to occupation of the college and/or blocks to which it relates and shall be for the lifetime of the scheme. Any trees or plants which within within the lifetime of the development from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Condition 1 (plan references) to include:

Construction Environmental Management Plan (Biodiversity) Ref R-3459-05 rev A.

Condition 2 amended to:

The submitted Construction Environmental Management Plan (Biodiversity) Ref R-3459-05 rev A shall be adhered to and implemented throughout the construction period of North and South Colleges and Gateway Green (including blocks 21 and 22).

Reason: The site is a constrained site in terms of its position adjacent to the Lake and Detention Basin edge which has an ecological value. The CEMP (Biodiversity) is required to minimise the impact of demolition, site preparation and construction on habitats and wildlife.

Reasons:

- i. The principle of the use of the site as part of a new campus was accepted when the Secretary of State granted outline consent in 2007 (and subsequently amended). The application will comply with the requirement for the developed footprint not to exceed 23% of the total area. This reserved matters application is also in line with the updated Design Brief including Masterplan and generally the buildings heights will be contained within the mature tree canopy and conform to the height parameters set out in plan C(iii) of the outline consent. The outline consent also imposed a number of conditions, relating to construction noise, plant and machinery, sustainability requirements whilst also establishing highways and drainage strategies, which this application will conform to.
- ii. The provision of student accommodation on campus is supported by emerging policies (Publication Draft Local Plan 2018) H7, ED1 and ED3 whilst also complying with policy ED10 of the DCLP2005.
- iii. Throughout the application, negotiations and discussions have been undertaken in order that the proposed development addresses the concerns in respect to mitigating harm to the biodiversity and ecology at the Lake. This has resulted in revisions



to the position and density of development at South College; the residential blocks have been removed from the Lake edge and this will allow increasing areas of specific ecological mitigation. Whilst concerns have been raised through the application in regards to restricting public access to the Lake, which they can currently do at the moment, this has had to be balanced with the ecological enhancements.

- iv. Wider development impacts are controlled via conditions imposed on the outline consent, with specific conditions to the development of student accommodation recommended. These include a construction environmental management plan (CEMP) to minimise construction impacts, hard and soft landscaping scheme including management of the biodiversity of the site.
- v. In conclusion, it is considered that the proposed scheme would not have adverse impact that would significantly and demonstrably outweigh its benefits when assessed against the policies in the NPPF taken as a whole, taking into account the details of the scheme and any material planning considerations. The proposal is thus sustainable development for which the NPPF carries a presumption in favour. As such, the proposal is considered to accord with national guidance in the NPPF and the Draft Development Control Local Plan Policies subject to other relevant conditions.

**51. York Dance Works, 11 Redeness Street, York  
[18/01935/FULM]**

[Note: Councillor Cullwick withdrew from the meeting during consideration of this item and took no part in the debate or decision thereon.]

Members considered a major full application from Maple Grove Developments for the erection of a 4-5 storey student accommodation building consisting of 98 bed spaces with car parking spaces, access, landscaping and associated works.

Officers asked Members to consider the application based on a number of updated conditions which were minor changes to the wording of existing conditions only. Members were advised that the additional information had been assessed and the planning balance and the recommendation remained unchanged from the published report. It was confirmed that the car parking spaces were for the use of York Motorfactors.

Richard Frudd (Agent for the Applicant) spoke in support of the application. He noted that there had been good positive engagement with officers and there had been no objections to the application.

Mr Frudd was asked and confirmed that:

- The accommodation was linked to other student accommodation schemes
- The units would be operated by IQ student accommodation, who also ran the student accommodation next to the site.
- The accommodation would be purely student accommodation.

Members debated the application. During debate officers were asked and advised that unauthorised advertising would be subject to enforcement action. It was also confirmed that a travel plan could be conditioned.

Resolved: That the application be approved subject to the conditions and informatives listed in the report, amended conditions 2, 3, 10, 12 and 13 and two additional conditions below:

Condition 2: Plans

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

Drawings 2015-037 -  
Location Plan 101  
Site Plan 102D  
Floor plans / roof plan - 200D, 201D, 202E, 203D  
Elevations - 210D, 211D  
Sections - 103C, 214D  
Site levels - 802H  
Landscape layout - 901F

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

Condition 3: CEMP

Prior to commencement of the development, a Construction Environmental 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.

All works on site shall be undertaken in accordance with the approved scheme, unless otherwise agreed in writing by the Local Planning Authority.

For noise details are required on the types of machinery to be used, including consideration of use of quieter/silenced machinery, use of acoustic barriers, prefabrication off site etc. Where particularly noisy activities are expected to take place then details should be provided on mitigation i.e. by limiting especially noisy events and their 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 are required on any activities which may results in excessive vibration, e.g. piling, and how the risk of vibration can be mitigated, including details of monitoring to be carried out. Where monitoring is necessary, locations of monitoring positions should also be provided along with details of standards used for determining the acceptability of any vibration undertaken.

With respect to dust mitigation, measures shall include, but would not be restricted to, means of keeping the highway clean, such as 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.

The CEMP shall 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)

Reason: The condition is required prior to commencement, considering NPPF paragraph 55, to manage and mitigate

the impact of the construction phase of development.

Condition: 10 Noise

Prior to construction of the building envelope a detailed scheme of noise insulation measures for protecting the approved residential areas from externally generated noise shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to first occupation.

INFORMATIVE: The building envelope of all residential accommodation shall be constructed so as to achieve internal noise levels in habitable rooms of no greater than 35 dB LAeq (16 hour) during the day (07:00-23:00 hrs) and 30 dB LAeq (8 hour) and LAFMax level during the night (23:00-07:00 hours) should not exceed 45dB(A) on more than 10 occasions in any night time period in bedrooms and should not regularly exceed 55dB(A). These noise levels shall be observed with adequate means of ventilation provided.

Reason: To ensure a satisfactory standard of residential amenity for future occupants. Such works are required prior to construction work as any such insulation will be integral to the structure of the building.

Condition 12 - Landscaping

The approved landscaping scheme (as shown on drawing 2015-037/901D) shall be implemented within a period of six months of the completion of the development *and shall be for the lifetime of the scheme*. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless alternatives are agreed in writing by the Local Planning Authority.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the site in the interests of the character and appearance of the area.

Condition 13: Cycle Parking

The cycle parking facilities as shown on the approved plans shall be provided prior to first use of the development hereby approved and retained for its intended use at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure adequate space for, and to encourage, cycle use, in accordance with the National Planning Policy Framework.

Additional Condition 1

A travel plan, developed and implemented in accordance with National Planning Policy Guidance, shall be prepared for the development hereby permitted prior to first opening. The plan shall be updated annually thereafter.

The development shall operate in accordance with the aims, measures and outcomes of said Travel Plan.

The travel plan shall identify specific required outcomes, targets and measures for promoting sustainable modes of travel, and shall set out clear future monitoring and management arrangements all of which should be proportionate. It shall also consider what additional measures may be required to offset unacceptable impacts if the targets should not be met.

Additional Condition 2

The vehicle parking within the application site shall be occupied only by the adjacent business (York Motor Factors, as stated in the submitted planning statement) unless alternative arrangements have otherwise been approved in writing by the Local Planning Authority.

Reason: There is adequate justification to allow the loss of employment land in this case. The proposed development will add to recent and anticipated future regeneration of the Layerthorpe area, be of appropriate design and would make a positive contribution towards meeting demonstrable student housing need. The use of conditions can ensure adequate levels of residential amenity and no increase in flood risk. Overall the scheme accords with the principles of sustainable development (economic, social and environmental) and does not unduly conflict with any local policies.

**51a Plainville Lane, Wigginton, York [18/02178/FUL]**

[Note: Councillor Cullwick returned to the meeting for the consideration of this item.]

Members considered a full application from Mr and Mrs Batty for the erection of a of horse walker on Os Field 351 at Plainville Lane, Wigginton, York.

There was no officer update and no registrations to speak in relation to the application.

Resolved: That the application be approved subject to the conditions and informatives listed in the report.

Reasons:

- i. The site lies within the general extent of the Green Belt as identified in the RSS to which S38 of the 1990 Act applies. Having regard to the purpose of the RSS policies it is considered appropriate and justified that the proposal is therefore assessed against the restrictive policies in the NPPF relating to protecting the Green Belt.
- ii. The NPPF indicates that very special circumstances necessary to justify inappropriate development in the Green Belt cannot exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The NPPF also states that in the

planning balance substantial weight should be given to any harm to the Green Belt. In this case, harm has been identified by way of inappropriateness of the proposed development. The presumption against inappropriate development in the Green Belt means that this harm alone attracts substantial weight. Additionally, the proposed development would reduce the openness of the Green Belt as a result of its scale and position in an open paddock when the most important attributes of Green Belts are their openness and permanence. The horse walker would also undermine one of the purposes of including land within the Green Belt by failing to preserve the setting and special character of the city. No other harm has been identified.

- iii. The applicant has put forward a number of factors to demonstrate very special circumstances to clearly outweigh these harms. Substantial weight has been given to the harm to the Green Belt through inappropriateness and additional harm though harm to openness and one of the purposes of including land within the Green Belt. It is considered however that the very special circumstances put forward by the applicant are sufficient to outweigh this harm and are unique and individual to the applicant.

Cllr A Reid, Chair

[The meeting started at 4.30 pm and finished at 7.00 pm].



**COMMITTEE REPORT**

Date: 24 January 2019      Ward: Rural West York  
Team: Major and      Parish: Hessay Parish Council  
Commercial Team

**Reference:** 17/00670/FUL  
**Application at:** Land Adjacent Sewage Works At Hessay Industrial Estate  
New Road Hessay York  
**For:** Erection of asphalt plant with associated infrastructure  
**By:** Anthea Tate  
**Application Type:** Full Application  
**Target Date:** 28 January 2019  
**Recommendation:** Refuse

**1.0 PROPOSAL**

1.1 Hessay Industrial Estate comprises a medium sized employment site of some long standing occupying a former MOD depot on land within the general extent of the York Green Belt to the north of Hessay village. The wider site was given planning permission in 1999 for a mix of B1/B2 and B8 uses. Planning permission is sought for erection of a coated aggregates manufacturing plant situated within a building incorporating a mixing tower with associated chimney to be located at the western edge of the site. The proposal has subsequently been amended to include a detailed scheme of off-site highway works to attempt to address concerns in respect of both the access to the Industrial Estate and the nearby junction of the A59 with New Lane approaching the site.

1.2 The site was granted a planning permission for erection of a fuel storage depot ref:- 10/00861/FUL dating to 2010 which was not implemented and has subsequently expired. A previous proposal incorporating an asphalt plant linked with the reinstatement of the rail head within a materially larger section of the site was submitted in 1999 but subsequently withdrawn.

1.3 The total application site comprises some 7,200 sq metres in area which sets it within Schedule 2 of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations for which the application has been screened. A further Screening Direction has been made by the Secretary of State for Communities and Local Government which identifies the potential for significant environmental effects in respect of noise impacts and impacts upon the setting of Designated Heritage Assets. A formal EIA covering these issues has been subsequently submitted and consulted upon on 26<sup>th</sup> June 2018.

1.4 The proposal was further deferred from consideration at the 15<sup>th</sup> November 2018 Planning Committee following receipt of a detailed Counsel's opinion submitted on behalf of the applicant, in order that the matters raised could be

considered in detail by officers .

## **2.0 POLICY CONTEXT**

### National Planning Policy Framework :-

2.1 In the absence of a formally adopted local plan the most up-to date representation of relevant policy is the National Planning Policy Framework (NPPF). It sets out government's planning policies and is material to the determination of planning applications. The NPPF is the most up-to date representation of key relevant policy issues (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed.

### Development Plan

2.2 Section 38(6) of the Planning and Compensation Act requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the saved policies of the Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt, saved in 2013. These policies are YH9(C) and Y1 (C1 and C2) and the key diagram insofar as it illustrates the general extent of the Green Belt. It is for the local plan process to identify the precise boundaries of the Green Belt around York but the application site lies within the general extent of the Green Belt as shown on the Key Diagram of the RSS.

### Local Plan:-

2.3 Although there is no formally adopted local plan the City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Management purposes in April 2005. ('DCLP 2005'). Whilst the draft Plan does not form part of the statutory development plan for the purposes of s.38(6), its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF. Such policies carry very limited weight. The main draft policies that are relevant to matters raised by this application are:-

CGP15A Development and Flood Risk

CYE3B Existing and Proposed Employment Sites

CYGB10 Major development sites in GB

CYGP1 Design

CYGP9 Landscaping

Application Reference Number: 17/00670/FUL

Item No: 4a

2.4 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

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

The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications. The main draft policies of relevance to this application are:-

D1 Place Making

D2 Landscape and Setting

GB1 Development in the Green Belt

SS1 Delivering Sustainable Growth

Publication Draft North Yorkshire and York Joint Minerals and Waste Local Plan:-

2.5 Was examined in public at a series of hearings in Spring 2018. Policy IO2 (Ancillary Minerals Infrastructure) is of particular relevance. This supports the development of ancillary minerals processing facilities providing development would not compromise Green Belt policy, the site would be located on employment or industrial land, it would not have a significant adverse impact upon the local community and environment and would not unacceptably increase the volume of traffic by road. The Plan was considered in detail at an Examination in Public in Spring 2018 and so officers consider that the Policy may be afforded moderate weight in consideration.

### **3.0 CONSULTATIONS**

INTERNAL:-

Public Protection:-

3.1 Raise no objection in principle to the scheme as amended subject to the imposition of detailed conditions in respect of controlling noise from later working along with the potential for light pollution. It is also recommended that any permission be conditioned to secure remediation in the event of potential land contamination.

Highway Network Management:-

3.2 Objected to the proposals on the grounds that they would give rise to significant harm to highway safety at the junction of New Lane with the A59 due to a material increase in large and slow moving vehicles seeking to turn in and out across the usual flow of traffic at peak hours. Extensive negotiations have subsequently taken place in order to address the concerns. The local highway authority has sought a robust demonstration that the tendered highway works are wholly achievable within the boundary of the public highway. The developer has provided very detailed surveys of the highway, together with highway engineering, construction and drainage submissions with additional reference to public utility apparatus. Such details are more extensive than would normally be required for planning purposes but have been deemed necessary given the constraints existing. These submissions have demonstrated to officers that the highway improvements are physically deliverable within the confines of the current highway boundary.

Whilst on balance it is the officer opinion that such works fall within the highway and would therefore be acceptable, it is the proximity on the western side of New Road to the adjacent boundary hedge which remains an issue which has not been satisfactorily addressed by the developer/agent. Arboricultural surveys and trial excavations have been undertaken to seek to assess the impact that the construction of the highway works may have on the adjacent hedgerow. It is the view of highway officers that the nature and extent of any harms in such circumstances may not become clear until works have commenced on site and there is potential for significant harm to a feature of importance in the local landscape which of itself would help to mitigate the visual harm caused by the development.

In respect of the Industrial Estate access itself the existing situation gives rise to a number of concerns with clear evidence of heavy goods vehicle traffic crossing to the opposite side of the carriageway and mounting the verge and pavement in order to leave and gain access to the site. It is felt that the submitted off site works would satisfactorily address this situation.

Flood Risk Management:-

3.3 Raise no objection in principle to the proposal subject to any permission being conditioned to require submission and approval of a surface water drainage scheme and subject to the appropriate soakaway tests being undertaken to demonstrate that

that would be the most appropriate surface water treatment method.

Design, Conservation and Sustainable Development (Ecology):-

3.4 Raise no objection in principle to the proposal subject to adequate measures being put in place to deal with newt mitigation.

Design, Conservation and Sustainable Development (Landscape Architect):-

3.5 The potential loss of the hedges, in particular Hedgerow 1 would cause harm to the character of New Road and the approach to Hessay village; and would also be contrary to the recommendations within the York Landscape Appraisal. It would open up views across flat arable fields to the application site. A replacement hedge would take several years to establish and would take many years to acquire the character of an 'old' hedge.

EXTERNAL:-

Network Rail:-

3.6 Raise no objections in principle subject to the operation of the nearby manual level crossing not being compromised by the vehicle movements too and from the site and the construction and operation of the plant not compromising the operational requirements of the railway where it passes the site in close proximity.

Environment Agency:-

3.7 Raise no objection to the proposal identifying no harm in respect of contaminated land or the underlying aquifer. They further draw attention to the fact that it would be subject to regulation under the Environmental Permitting Regulations.

The Ainsty (2008) Internal Drainage Board:-

3.8 Raise no objection to the proposal subject to a detailed surface water drainage scheme being agreed by condition as part of any permission.

Council for the Protection of Rural England:-

3.9 Object to the proposal on the grounds that:-

i) The impact of the proposed industrial structures on the openness of the Green Belt including the adverse impact viewed from the A59 road and passenger trains with respect to the setting on the approach to the City outskirts from the west.

ii) The heights of some proposed structures will be significantly above the existing

buildings located on the industrial estate and nearby farm properties.

iii) The proposed development is out of keeping with existing activities on the industrial estate which are largely enclosed and are unlikely to be producing significant emissions to the adjacent green field areas, settlements and other adjacent commercial occupiers.

iv) The highway infrastructure including the estate access, New Road and the access to the A59 are inadequate and do not comply with the required standards for their proposed use by HGVs associated with the development.

v) There is a projected significant addition to vehicle movements to and from the proposed site to New Road and the A59.

vi) Noise from late evening/night period activities are likely to cause disturbance to local residents and farm stock.

vii) Mobile plant reversing alarms may cause annoyance to local residents.

Rufforth with Knapton Parish Council:-

3.10 Object to the proposal on the grounds that there would be a significant increase in HGV traffic through a potentially dangerous junction, it would give rise to a significant risk of noise and air pollution and it would cause serious detrimental harm to the open character of the Green Belt.

Hessay Parish Council:-

3.11 Object to the proposal on both Highway Safety and Planning Grounds.

- The width and geometry of the access to the site and the adjacent New Road fall well below accepted standards in terms of regular use by the types of HGV traffic envisaged and notwithstanding the present day low level accident risk the development would give rise to conditions substantially prejudicial to highway safety;
- The width and geometry of the access from New Road on to the A59 fall well below accepted standards in terms of regular use by the types of HGV traffic envisaged and notwithstanding the present day low level accident risk the development would give rise to conditions substantially prejudicial to highway safety.
- Concern that the proposal amounts to inappropriate development in the Green Belt and that a case for "very special circumstances" to justify the proposal as required by paragraphs 143 and 144 of the NPPF have not been forthcoming;
- Concern in respect of the impact of light pollution from the site upon the pleasant rural ambience of the surroundings;

- Concern in respect of the impact of the proposed mixing tower and chimney on the wider setting of York Minster;
- Concern in respect of the impact of noise from the proposal particularly at night time and weekends upon the pleasant rural ambience of the surrounding;
- Concern in respect of the impact of dust emissions from the site upon the operation of neighbouring rural businesses and the openness of the Green Belt;
- Concern in respect of a lack of engagement with the local community by the applicant contrary to the Authority's Adopted Statement of Community Involvement (SCI).

### Julian Sturdy MP

3.12 Objects to the proposal on the grounds of it being inappropriate development within the Green Belt without a case for "very special circumstances" in addition to concerns in respect of the creation of conditions prejudicial to highway safety at the access to the Hessay Industrial Estate as well as the junction of New Lane and the A59.

### Historic England

3.13 Raise no objection to the proposals as the submitted EIA clearly demonstrates that there would not be any material impact arising from the proposal upon the setting of designated Heritage Assets.

### Publicity and Neighbour Notification:-

3.14 224 Letters of objection have been received in respect of the proposal the following is a summary of their contents:-

- Concern that traffic movements arising from the proposal would give rise to conditions substantially prejudicial to Highway safety both at the access from Hessay Industrial Estate to New Road and the junction of New Road and the A59;
- Concern that the proposal would give rise to substantial harm to the habitat of the Great Crested Newt and the badger both species protected by law;
- Concern that the proposal would give rise to substantial harm to the setting of York Minster;
- Concern that the proposal is inappropriate development in the Green Belt and that a detailed case for "very special circumstances" to justify otherwise inappropriate development in the Green Belt as required by the NPPF has not been forthcoming;
- Concern that the applicant has not engaged constructively with the Local Community to discuss the proposal;

- Concern that the proposal would give rise to substantial harm to farming activities in the surrounding locality by virtue of odour, noise and dust emissions;
- Concern that noise and light pollution from the late night activity of the plant would give rise to substantial harm to the residential amenity of neighbouring properties;
- Concern that dust and other emissions would give rise to serious harm to the health and well-being of residents in the locality;
- Concern that noise, disturbance and increased traffic flows would disrupt services at the Methodist and Anglican Churches within Hessay village;
- \*Concern that the proposal would represent a serious departure from the previous light industrial activities which have taken place at the site;
- Concern that the proposal would give rise to a precedent for other similar damaging developments in the locality;
- Concern that the proposal is grossly premature pending final consultation on and adoption of the Joint Minerals and Waste Local Plan;
- Concern that the proposed off-site junction improvements would be insufficient to address the clear capacity problems at the A59/New Lane junction with clear implications for the safety and convenience of highway users within the surrounding network;
- Concern that the proposed amended highway layout off-site would encourage rat-running through Hessay village

3.15 Subsequent to the receipt of the EIA Screening Direction from the Secretary of State for Communities and Local Government a full re-consultation was undertaken in respect of the proposal in accordance with the requirements of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations. A further 88 letters of objection have been received, the following is a summary of their contents:-

- Concern that the landscape and visual analysis submitted within the EIA has been provided in wide angle format which has the result of distorting the visual perspective of the proposed development making it appear smaller than it actually is;
- Concern that measurements of noise impact contained within the EIA have not been arrived at by precisely the same methodology as previously submitted and therefore appear misleading;
- Objection to the significant impact upon the open character of the Green Belt caused by the height of important elements of the plant;
- Concern that the submitted case for “very special circumstances” relates purely to commercial and competition considerations and does not fulfil the test of outweighing any harm by reason of inappropriateness or any other harm as required by paragraph 144 of the NPPF.
- Objection that the nature and volumes of traffic entering and existing the site via the A59/New Lane junction notably at peak times would give rise to



conditions substantially prejudicial to highway safety.

- Concern that the plant would result in the release of dust and other pollutants substantially prejudicial to human health.
- Concern that the application site is not “previously developed land” within the standard definition.

## 4.0 APPRAISAL

### 4.1 KEY CONSIDERATIONS INCLUDE:-

- Impact upon the open character and purposes of designation of the York Green Belt;
- Impact upon landscape;
- Impact upon the safety and convenience of highway users on the local network;
- Impact upon the habitat of the Great Crested Newt, a protected species;
- Impact upon strategic views of York Minster;
- Impact upon residential amenity by virtue of noise and light pollution through late working;
- Impact upon human and animal health by virtue of odour, dust and other emissions.
- Impact upon Designated Heritage Assets.
- Off-site highway works.

## PLANNING POLICY

4.1 GREEN BELT:- As noted above, the general extent of the York Green Belt is defined within saved Yorkshire and Humber RSS Policies YH9C and Y1C as such Central Government Policy in respect of Green Belts as outlined in the National Planning Policy Framework applies. Central Government Planning Policy as outlined in paragraph 143 of the National Planning Policy Framework indicates that inappropriate development within the Green Belt is by definition harmful to the Green Belt and should not therefore be approved other than in very special circumstances. Paragraph 144 states that when considering a 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 are clearly outweighed by other considerations.

4.2 SAFEGUARDING OF PROTECTED SPECIES AND HABITATS:- Central Government Planning Policy in respect of biodiversity as outlined in paragraph 175 of the National Planning Policy Framework states that Local Planning Authorities should refuse planning permission for new development which would give rise to significant harm to a rare species and or its habitat which can not be mitigated, avoided or as a last resort compensated for and at the same time it is clearly

indicated in the NPPF that the presumption in favour of sustainable economic development outlined in paragraph 11 does not apply in such cases.

4.3 IMPACT UPON RESIDENTIAL AMENITY: - Central Government Planning Policy in respect of amenity as outlined in paragraph 127f) of the National Planning Policy Framework "Key Planning Principles" states that Local Planning Authorities should give significant weight to the need to secure a good standard of amenity for all new and existing occupants of land and buildings.

4.4 POLLUTION CONTROL AND MITIGATION: - Central Government Planning Policy in respect of planning and pollution control as identified in paragraphs 120-123 indicates that Local Planning Authorities should ensure that new development is appropriate for its location. The effects including cumulative effects of pollution on health or general amenity and the potential sensitivity of the area to adverse effects from pollution should be taken into account. Furthermore Local Planning Authorities should focus on whether the development itself is an acceptable use for the land rather than control the processes or emissions themselves where these are subject to approval under different pollution control regimes. Local Planning Authorities should assume that these regimes will work effectively.

#### IMPACT UPON THE YORK GREEN BELT:-

4.5 Policy GB1 of the 2018 Draft Plan sets out a clear policy presumption that planning permission for development within the Green Belt will only be forthcoming where the scale, location and design of such development would not detract from the open character of the Green Belt, it would not conflict with the purposes of including land within the Green Belt and it is for one of a number of purposes identified as being appropriate within the Green Belt.

4.6 Central Government Policy as outlined in paragraph 133 of the National Planning Policy Framework establishes the essential characteristics of the Green Belt as being their openness and permanence and the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 134 of the Framework identifies that the Green Belt serves 5 purposes:

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

Paragraph 143 of the Framework further indicates that inappropriate development is by definition harmful to the Green Belt and may only be permitted in very special circumstances. Paragraph 144 indicates that very special circumstances will not exist unless any harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal are clearly outweighed by other

considerations. Paragraph 145 indicates that new buildings would automatically be inappropriate development within the Green Belt unless it comes within one of a number of specific categories which includes (g) the limited infilling or re-development of previously developed land provided that the new development does not have a greater impact on the openness of the Green Belt than the existing development.

#### PRINCIPLE OF THE DEVELOPMENT:-

4.7 In terms of the principle of the development, it consists of the erection of a chimney of 21.5 metres in height together with a mixing tower of 20 metres in height. Associated with that would be an area of storage bins, a modular single storey office building and a weigh bridge. with associated vehicle parking. The site comprises a former marshalling yard associated with a military depot use that ceased operation in the early 1990s. A lighting tower associated with the former use survives at the north eastern edge of the site and the ballast covering of the former marshalling yard survives with only limited over-growth by vegetation. The site is therefore felt to be previously developed land within the definition of the NPPF which indicates land which is or was previously occupied by a permanent structure or fixed surface structure including any associated curtilage. Directly to the east and south east lie a series of Nissan Hut and much larger hanger type structures presently under a variety of storage and processing type uses . The application site was previously subject to a proposal for an asphalt plant in the late 1990s, which was significantly larger in scale and involved the reconstruction of the marshalling yard and rail head for the purposes of rail borne transport of the finished product. The proposal was subsequently withdrawn due to concerns in respect of its impact upon the open character of the Green Belt.

4.8 It is felt that the application site comprises previously developed land having been laid out within the clearly defined curtilage of the military depot to fulfil a clearly ancillary use. Despite the use having been ceased for a considerable period of time the previous physical relationship remains clear. The ballast bedding of the marshalling yard remains intact and other features from the previous use including gates on to the operating railway and a lighting tower remain. The site as originally laid out in the early 1950s did not include the area of the proposal but map evidence indicates that the site was subsequently reconfigured to include it.

#### GREEN BELT HARMS:-

##### OPENNESS:-

4.9 Paragraph 133 of the NPPF is clear that Green Belts are defined by their openness and their permanence. Openness may be defined as an absence of development which has both a visual and a spatial aspect. The proposed development notwithstanding the previous use as a marshalling yard would extend

the built footprint of development to the west of the former military depot buildings whose broad configuration has been followed by subsequent development. More fundamentally the proposed chimney and mixing tower whilst relatively tall and narrow in form would give rise to significant visual harm to openness notably in views west to east along the line of the Harrogate to York Railway, north west from the churchyard of St Edwards Church New Lane and north from Hessay village in the vicinity of Hessay Methodist Chapel. The harm to openness is to an extent tempered by the structures being viewed against a background of mature trees and other landscaping lying directly to the north of the railway together with the medium rise hanger type buildings surviving from the previous depot use directly to the east which define the skyline of the industrial estate. However harm to the openness of the Green Belt can be defined as substantial and the degree of harm caused by the scale and height of the chimney and mixing towers would have a greater impact on the openness of the Green Belt than the existing development. As such exception contained within paragraph 145 of the Framework does not therefore apply.

#### PURPOSES OF DESIGNATION:-

4.10 In addition to the substantial harm caused to the openness of the Green Belt caused by the proposal, harm in respect of the purposes of designation of the Green Belt also needs to be assessed. Two of the five defined purposes; the prevention of encroachment into open countryside and the safeguarding of the setting of historic towns and cities are of relevance in the consideration of the proposal. The application site lies within the defined curtilage of the former military depot and whilst it would extend the formally developed built footprint it would not lead to an extension of the pattern of development into what is at present open countryside. In terms of safeguarding the setting of the historic City its significance is largely defined by its skyline and associated views into it from surrounding areas. A detailed landscape and visual impact assessment has been submitted with the proposal which clearly demonstrates that the proposal would not harm key strategic views of the Minster. However, the clearly vertical and engineered character of the development would clearly give rise to some harm to the presently uncluttered nature of the wider skyline and the largely rural character of its immediate surroundings. This would clearly give rise to an encroachment into open countryside contrary to the purposes of designation.

4.11 The proposal constitutes inappropriate development within the Green Belt by virtue of harm to openness. It also conflicts with one of the purposes of including land within the Green Belt. This creates a requirement for the submission of a case for very special circumstances that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harms as required by paragraphs 143 and 144 of the NPPF. The applicant has submitted a case for very special circumstances which will be examined in detail in paragraphs 4.17 to 4.24 below.

#### ALTERNATIVE SITES:-

4.12 To support the proposal the applicant has submitted details of 6 alternative sites both within and outside of the Green Belt which have been assessed against a range of criteria including a minimum site area of 0.6 hectares, an established employment land use away from other incompatible uses , close proximity to major transport routes and availability at the time of search. It is the view of the applicant that none of the other sites are suitable for the proposal notably those outside of the Green Belt. However, the situation in respect of each of the sites will be examined in detail below.

4.13 RUFFORTH AIRFIELD:- The applicant considers that the site is suitable by virtue of its accessibility , availability and overall site area. The site is however within the Green Belt with a predominant recreational aviation use which would be fundamentally incompatible with the proposal. There are a number of employment uses taking place within the wider curtilage some authorised and some not including a haulage use adjacent to the B1224 Wetherby Road and a waste recycling use at the former control tower. In each case the development involves the reuse of buildings associated with the earlier airfield use with no new structures. In each case the uses are of a low intensity and fall within the generality of Use Classes B1 and B8. Substantial harm would also be caused to the open character of the Green Belt in that location. It is the view of the Local Planning Authority that the site would not be suitable for the proposal.

4.14 HANSON AGGREGATES SITE OUTGANG LANE OSBALDWICK:- The site comprises a concrete batching plant which is close in terms of its basic land use characteristics to the proposal and which lies within an existing industrial estate with a mix of B1/B2 and B8 uses. The applicant considers that the site is suitable in all respects to accommodate the proposal however it is not available as it is still in use and has poor accessibility from the strategic highway network. It is however it is within a 10 minute drive time from the York Outer Ring Road via suitable roads for heavy goods vehicle traffic and lies outside of the Green Belt. It is the view of the Local Planning Authority that the site is therefore not suitable for the proposal.

4.15 MOOR LANE INDUSTRIAL ESTATE THOLTHORPE:- The applicant considers the site suitable in land use terms and is available. The site is however physically remote from the strategic highway network and not a formal employment site but a loose collection of uses occupying buildings associated with a former airfield operation. The mix of uses fall within the generality of Use Classes B1 and B8 and do not replicate the characteristic of the proposed development. There are furthermore a number of residential properties in close proximity to the site. The site is not therefore felt to be suitable for the proposal.

4.16 MARTIN'S SITE OSBALDWICK LANE:- The applicant considers the site suitable in terms of its area, its availability and its land use status but not suitable in terms of its access and proximity to the strategic highway network. It is however in

close proximity to the York Outer Ring Road and lies outside of the Green Belt. The existing use is a waste storage and recycling use and so not therefore strictly comparable to the proposal. It does not have a B2 General Industrial Use and there is residential property in close proximity. The road network linking the site to the surrounding strategic highway network would not however be suitable for the volumes and type of traffic involved in the proposal. The site is not therefore felt to be suitable for the proposal.

**4.17 FULL SUTTON INDUSTRIAL ESTATE:-** The applicant considers the site is otherwise suitable however it is not readily accessible from the strategic highway network and is not readily available. The site comprises a major employment area based at a former military airfield with a mix of new uses and conversion of existing buildings. There is a mix of B1/B2 and B8 uses at the site. The site is located outside of the Green Belt. East Riding of Yorkshire Council identifies in the region of 5.8 hectares of land with a B2 General Industrial use as presently available and whilst the East Yorkshire Employment Land Availability study indicates that there is not a direct road link to York it lies within a 20 minute drive time of the Outer Ring Road. Whilst its suitability for meeting local needs is highlighted road links to the site are generally of a reasonable quality and a development of the type suggested by the proposal is not precluded. The applicant has furthermore not indicated a critical shortage of production capacity whereby distance and travel time are a fundamental issue. The site is therefore felt to be both suitable and available to accommodate the proposal on a non-Green Belt site.

**4.18 PIDGEON COTE FARM HUNTINGTON:-** The applicant considers that the site is suitable in terms of its access and proximity to the strategic highway network. It would not be suitable in terms of its site area and layout, it does not have a B2 General Industrial Use and it is not presently available. The site is however presently occupied by a concrete batching plant of some age which is a closely similar use to that applied for in terms of its fundamental land use characteristics. Public Protection furthermore confirms that the plant has not historically been the subject of any complaint in respect of impact upon the amenity of surrounding land uses. The applicant has indicated that an asphalt plant would not be suitable for the site because of the presence of food and drink uses within the wider vicinity. Public Protection indicate that the site would be subject to the Environmental Permitting Regulations and that providing the requirements in terms of impacts at the site boundary are complied with then the two uses are not fundamentally incompatible. It covers a site area of 1.04 hectares significantly above the minimum threshold. It lies outside of the York Green Belt. It has an extant planning permission for a mixed B1, B2 and B8 General Industrial Use as part of a wider development of industrial units along with a self-storage development on the site frontage and it is presently available. The area surrounding the site has been developed away from a strict range of employment uses towards more leisure and retail based development but in view of the historic land use of the site it is felt to be suitable for the proposal in default of other suitable non-Green Belt sites being available.

4.19 The submitted site evaluation exercise therefore fails to demonstrate that other suitable non-Green Belt sites are not available.

#### IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS ON THE LOCAL NETWORK:-

4.20 Serious concern has been expressed by objectors in relation to the impact of the proposal on the safety and convenience of highway users at the access to the Industrial Estate with New Road and more significantly the junction of New Road with the A59 which the application details indicate would be the feeder route for traffic to and from the site. The Highway Authority has further raised objection to the development on the basis of a risk of road traffic accidents taking place at the New Lane/A59 junction involving heavy commercial vehicles associated with the development entering and leaving whilst having to accommodate for the existing sub-standard layout which is deficient in terms of width and geometry. Policy IO2 of the Publication Draft Joint Minerals and Waste Local Plan indicates that proposals for ancillary production facilities such as asphalt plants will only be supported where they would not unacceptably increase traffic by road. There would be a particular risk at peak times when vehicles are leaving and returning to the site to deliver the produced asphalt. The available accident statistics indicate a series of four minor collisions since 2013 at or in close proximity to the junction of the A59 and New Road with no recent recorded accidents at the site access with New Road. In each case the cause has been established as driver error rather than through the nature of the traffic involved.

4.21 Detailed assessment by Highway Network Management which indicates that both New Road and the existing site access fall below the accepted standard in terms of the design and layout of new industrial estate roads and access points .Evidence from objectors which may be given some limited weight has also been brought forward in respect of near misses involving vehicles entering and leaving the site with buses and agricultural traffic accessing the village. In order to address the detailed concerns in respect of the impact of the proposal upon the local highway network the applicant has come forward with a package of measures involving offsite works which involve junction improvements to the New Lane and A59 junction which will be considered in more detail in paragraph 4.27 below and their effectiveness assessed. The section of New Road to the south of the site access into Hessay village is subject to a 7.5 tonne weight restriction and as such heavy vehicles seeking to access the strategic highway network via Hessay village may be committing an offence.

4.22 A detailed and protracted process of negotiation has taken place between the applicant and the Highway Authority in respect of a scheme of off-site works to address the identified concerns in respect of both the site entrance and the junction of the A59 with New Lane. In terms of the proposed works at the site entrance it is

felt that an acceptable scheme can be achieved within the existing highway boundary that will reduce risk to pedestrians whilst enabling vehicles to enter and leave within the confines of the carriageway by delivering material improvements to both width and geometry. The scheme could be secured by means of a Grampian type condition attached to any planning permission.

4.23 In terms of the works to the junction of New Road with the A59 a further scheme has been submitted involving the widening and re-configuring of the junction layout. The scheme would however involve cutting back, excavation and likely accommodation of services close to the root of hedge on the western side of the road. If root damage were excessive, hedging plants would suffer and could go into rapid early decline; or direct damage to the plants could even cause immediate death or removal. The hedge has significant amenity value and its retention is desirable. A replacement hedge would take several years to establish and acquire the character of the "old" hedge.

4.24 Concern has also been expressed by objectors in relation to the impact of increased traffic on the existing manually operated level crossing. The applicant has agreed to carry out a dilapidation survey in respect of the level crossing and to make good any damage identified. The proposals are felt not to give rise to any harmful impact to the operation of the level crossing and that is accepted by Network Rail subject to any permission being strictly conditioned to secure the operational integrity of the railway..

#### IMPACT UPON THE HABITAT OF PROTECTED SPECIES:-

4.25 The application site falls partially within a Great Crested Newt habitat and a series of surveys have identified Great Crested Newt activity taking place within the site. The applicant has agreed to secure the provision of a suitable pond with wet grassland habitat directly to the west of the site which would be the subject of a licence from Natural England. The newts within the site would be trans-located and suitable fencing to the site provided prior to construction being undertaken. It is felt that the proposals would comply with the requirements of paragraph 175 of the NPPF and are therefore acceptable for the purposes of complying with that paragraph.

#### IMPACT UPON STRATEGIC VIEWS OF YORK MINSTER AND OTHER DESIGNATED HERITAGE ASSETS :-

4.26 The clear skyline and views along key transport corridors of York Minster form an important element of the setting of the historic city. The proposal envisages the erection of a mixing tower and chimney up to 23 metres in height as an integral element of the scheme. Concern has been expressed by objectors in terms of the impact of the structures on views of the Minster for vehicles travelling from the Harrogate direction to the west. The proposed plant would be clearly visible in



glimpsed views from the A59 to the west along with longer views from the Railway. It would not however be readily visible in the same viewing plane as the Minster and its scale, notwithstanding the height of the tower and associated stack would not create a visually competing structure within the wider sky line over the associated distance.. It furthermore does not lie within any of the viewing corridors for the Minster identified in the Central Historic Core Conservation Area Character Assessment.

4.27 Central Government Planning Policy as outlined in paragraph 189 of the NPPF indicates that Local Planning Authorities should require an applicant to describe the significance of any heritage assets affected by the proposal including any contribution made by its setting. The submitted EIA examines in detail the significance of a range of Designated Heritage Assets within the wider vicinity of the site including the Marston Moor Battlefield, St Everilda's Church Nether Poppleton and Beningbrough Hall. The illustrative material with the submission indicates that the proposal would not give rise to any harm to the setting of the identified Designated Heritage Assets within the wider area. The requirements of paragraph 189 of the NPPF would therefore be complied with.

#### IMPACT UPON SURROUNDING LANDSCAPE:-

4.28 The site lies within open countryside to the north of Hessay village forming part of a former military depot which was densely developed with Nissan Huts and hanger type structures. The surrounding countryside is largely flat partially broken up by the characteristic local boundary treatment of mature trees and lengths of hedgerow. The site would be principally viewed from Hessay village to the south and from the A59 approaching York to the north west. It would be seen within the context of the adjacent substantial hanger type structures directly to the east.

4.29 The majority of the plant would be lower than and in proportion to the surviving hanger type structures. The mixing tower and associated stack would however be appreciably higher and would notably impact upon local landscape character when viewed from the south. The applicant has agreed to paint the cladding of the mixing tower in order to enable it to blend in with the surrounding landscape. In terms of views from the A59 the site would be visible to the south east heading eastwards towards the City and any visual harm from that direction would be modest. It is acknowledged that there will be some harm to landscape character particularly in views from the south but it is felt that because of the pattern of development of the site, and the location of the principal view points that this harm would on balance be acceptable.

4.30 In terms of the proposed off-site highway works there is potential for the works to harm or result in removal of the boundary hedge lying directly to the west of the A59/New Lane junction. This hedge is mature and is of significant amenity value being representative of the characteristic boundary treatment of the Vale of York

contributing to the pleasant rural ambience of its surroundings. If the hedge can be retained after the works, its current attractive appearance would be reduced, both initially and in the longer term, because it would have to be maintained to tighter dimensions to avoid overhanging the highway. If the hedge is removed or dies a replacement hedge could be provided, secured by condition, although a replacement hedge would take several years to establish and, as above, would not reach the amenity value of the current hedge.. Paragraph 127c) of the NPPF states that planning decisions should ensure that developments are sympathetic to local character and history including the local built environment and landscape setting. Policy D2 of the Publication Draft City of York Local Plan further indicates that development proposals will be encouraged and supported where they conserve and enhance landscape quality and character and recognise the significance of landscape features such as mature trees and hedgerows and retain them in a respectful context where they can be suitably managed and sustained. The applicant has indicated a willingness to re-provide a hedge further from the carriageway edge. However there appears little prospect that it could be provided as it involves work on third party land, the applicant has not provided information which suggests that the landowner is willing to accommodate a new hedge..

#### IMPACT UPON THE AMENITY OF NEIGHBOURING PROPERTIES:-

4.31 Central Government Planning Policy as outlined in paragraph 127f) of the NPPF indicates that planning decisions should create places with a high standard of amenity for all new and existing users. Hessay village lies some 600 metres to the south with several isolated dwellings much closer. The closest properties are New Moor Farm at 270 metres and the Old Station at 460 metres. Objections have been received in terms of the impact upon residential amenity from noise and light pollution arising from the suggested night time working. The applicant has indicated that the same type of low level flood lighting used elsewhere on the Industrial Estate would be adopted and further details have been supplied. It is felt that subject to any permission being conditioned to require the submission and prior approval of a detailed lighting scheme then the proposal would be acceptable.

4.32 A detailed noise survey has been submitted with the proposal and subsequently re-calibrated to match the standard methodology adopted by Public Protection. This was taken from three locations in the vicinity, one in the village and two at the closest residential properties. The survey clearly shows an on-going level of background noise emanating from the railway and from the A59 which is audible over a fairly wide area. Some additional noise has been identified as being generated by the plant but the detail of the survey suggests that its impact would be largely masked by the background noise levels and would on balance be acceptable during normal day time working hours. It is acknowledged that during the proposed evening and occasional night time working sessions that there would be adverse impacts by virtue of the level of background noise being appreciably lower. It is therefore recommended that any permission be conditioned to prohibit later working

in accordance with the recommendations of Public Protection. Concern has been expressed in respect of a 2db) difference from the now withdrawn Minerals Planning Guidance on noise in respect of Low Moor Farm. Background noise levels are however themselves noticeably higher at that location as a consequence of its closer proximity to the A59 and the operational York to Harrogate Railway..

4.33 The EIA submitted in response to the Screening Opinion by the Secretary of State incorporates the results of further detailed noise surveys covering the impact of the proposal during the normal working time period. Whilst some concern has been expressed by objectors in terms of differences in methodology and small differences in results it is felt that there would not be a material impact upon the amenity of the surrounding area by virtue of increased levels of noise pollution.

#### IMPACT UPON AMENITY CAUSED BY DUST, EMISSIONS AND POLLUTION.

4.34 Serious concern has been expressed by objectors in terms of the levels of dust, emissions and pollution generated by the proposal and its impact upon the amenity of neighbours and farming activities in the locality. The emissions from the site are however subject to control under Part B of the Environmental Permitting Regulations and whilst the issue of potential harm is one of considerable significance paragraph 122 of the National Planning Policy Framework makes clear that it would be inappropriate for the planning system to seek to regulate the details of the process when another form of regulatory control exists. Furthermore breaches of the Environmental Permitting Regulations are of themselves a criminal offence and so a robust regulatory framework is in place in the current context.

#### OTHER CONSIDERATIONS:- CASE FOR VERY SPECIAL CIRCUMSTANCES:-

4.35 In summary, the proposal would involve inappropriate development in Green Belt as it would have a greater impact on the openness of the Green Belt than the existing development, which is by definition harmful to the Green Belt.. It would result in harm to the openness and one of the purposes of designation of the Green Belt. Paragraphs 143 -144 of the NPPF advise that permission should be refused for inappropriate development unless other considerations exist that clearly outweigh identified harm to the Green Belt, and any other harm, which would amount to 'very special circumstances'. Substantial weight is to be given to the harm to the Green Belt.

#### APPLICANT'S CASE FOR VERY SPECIAL CIRCUMSTANCES:-

4.36 The applicant argues based upon a standard 35 mile travel distance that there is a shortage of capacity to meet needs in the locality both quantitatively and qualitatively in terms of asphalt production with resulting increases in costs and supply difficulties. A range of plants lie to the north west within quarries at the edge of the Yorkshire Dales with further plants at Selby, at the eastern edge of Leeds and

at an isolated site at Fridaythorpe in the Yorkshire Wolds. In terms of travel distance there is some evidence of need demonstrated for further capacity to supply asphalt to developments taking place within the City and the rural area directly to the north. No evidence has been put forward to demonstrate a critical lack of production capacity. All that has been put forward is that there is a gap in existing provision which leads to a less than ideal situation in terms of availability, costs and travel time but not that any significant harm results. This consideration would not therefore of itself clearly outweigh the harm to the openness of the Green Belt and the other identified harms resulting from the proposal.

4.37 A series of hypothetical delivery times have been submitted by the applicant in terms of the proposed plant and other plants within the wider area to establish the need for the proposal and to demonstrate how it would reduce costs and facilitate development.

4.38 The proposal does give rise to significant harm to openness of the Green Belt by extending the visible area of development within the industrial estate both in terms of its overall height and physical location. Whilst the degree of harm is to an extent ameliorated by the plant being viewed against the visual bulk of the pre-existing units directly to the east and the mature landscaping to the north of the railway line that harm remains substantial. Some harm may at the same time be identified to the visual character of the skyline and presently rural ambience of the site particularly in views from St Edward's Churchyard to the south east. That is to an extent to be balanced against the current nature and pattern of development at the site and the case which has been put forward to demonstrate a need for additional capacity to meet the needs of development. In order for a clear case to be made for the provision of additional asphalt production capacity for "very special circumstances" to be demonstrated, then a clear case should be established that the Green Belt site in question is the only one readily suitable and available to accommodate that development. "Very special circumstances" should by nature be unique to the site.

4.39 The submitted site identification exercise fails to identify a lack of suitable alternative non-Green Belt sites where the proposed development could be located. The site identified at Full Sutton Industrial Estate lies outside of the Green Belt and notwithstanding the lack of a direct road link to the City is otherwise suitable in land use and access terms for the proposed development. The applicant has furthermore not identified the distance and travel time involved as being fundamental to the deliverability of the scheme. Even if critical need could be demonstrated the availability of alternative non-Green Belt sites that are suitable means that the proposal does not meet the test outlined in paragraph 144 of the NPPF that "very special circumstances" shall only exist when other considerations clearly outweigh any harm by reason of inappropriateness to the Green Belt and any other harm. "Very special circumstances" do not therefore exist to justify the inappropriate development in the Green Belt.

## 5.0 CONCLUSION

5.1 The development comprises inappropriate development within the Green Belt by virtue of the substantial harm to openness caused by the height of the associated structures even notwithstanding their relationship to the buildings of the former depot complex and the landscaping directly to the north of the adjacent railway line. The development would have a greater impact on the openness of the Green Belt than the existing development.

5.2 A scheme has been submitted to address the layout of the junction of the A59 and New Road Hessay junction which would accommodate the increase in heavy slow moving vehicles entering and leaving the junction at peak times.. Landscape harm would on balance be acceptable. The proposal would not result in significant harm to residential amenity.

5.3 In order to support the proposal the applicant has provided a case for “very special circumstances” as required by paragraphs 143 and 144 of the NPPF. Very special circumstances would have to clearly outweigh Green Belt harm and any other harm. The case, based upon a shortage of production capacity within the standard 35 mile travel distance, does demonstrate some lack of capacity within the area of the City and the rural area directly to the north with may impact upon the delivery of construction projects. As “very special circumstances” should be unique to the site it, should be read in the context of the submitted alternative sites exercise. This argues that no suitable non-Green Belt sites are available for the proposal. However, it is considered that a site at Full Sutton Industrial Estate which lies outside of the Green Belt is both suitable and available. Attaching substantial weight to the harms identified to the Green Belt it is considered that the harm to the openness of the Green Belt is not clearly outweighed by the other considerations put forward by the developer and that a case for very special circumstances necessary to justify the inappropriate development in the Green Belt have not been demonstrated. Planning permission should therefore be refused.

## 6.0 RECOMMENDATION: Refuse

1 The application site lies within the general extent of York's Green Belt, as defined in the Yorkshire and The Humber Regional Spatial Strategy. The proposal would result in substantial harm to openness as a result of by the height of the associated structures and would have a greater impact on the openness of the Green Belt than the existing development. As such, it is considered that the proposal would constitute inappropriate development within the Green Belt, resulting in harm to its openness and purpose. The considerations put forward by the applicant are not considered to amount to the very special circumstances that are

required to clearly outweigh the substantial definitional harm. The proposal is therefore considered to be contrary to paragraphs 143 and 144 of the National Planning Policy Framework.

## 7.0 INFORMATIVES:

### Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

- i) Details of the Proposed Lighting Arrangements
- ii) Details of vehicle movements to and from the site
- iii) Detail of the proposed means of Great Crested Newt mitigation.
- iv) Sought the submission of a detailed scheme of off-site highway works in respect of both the site entrance and the junction of the A59 and New Lane Hessay.

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

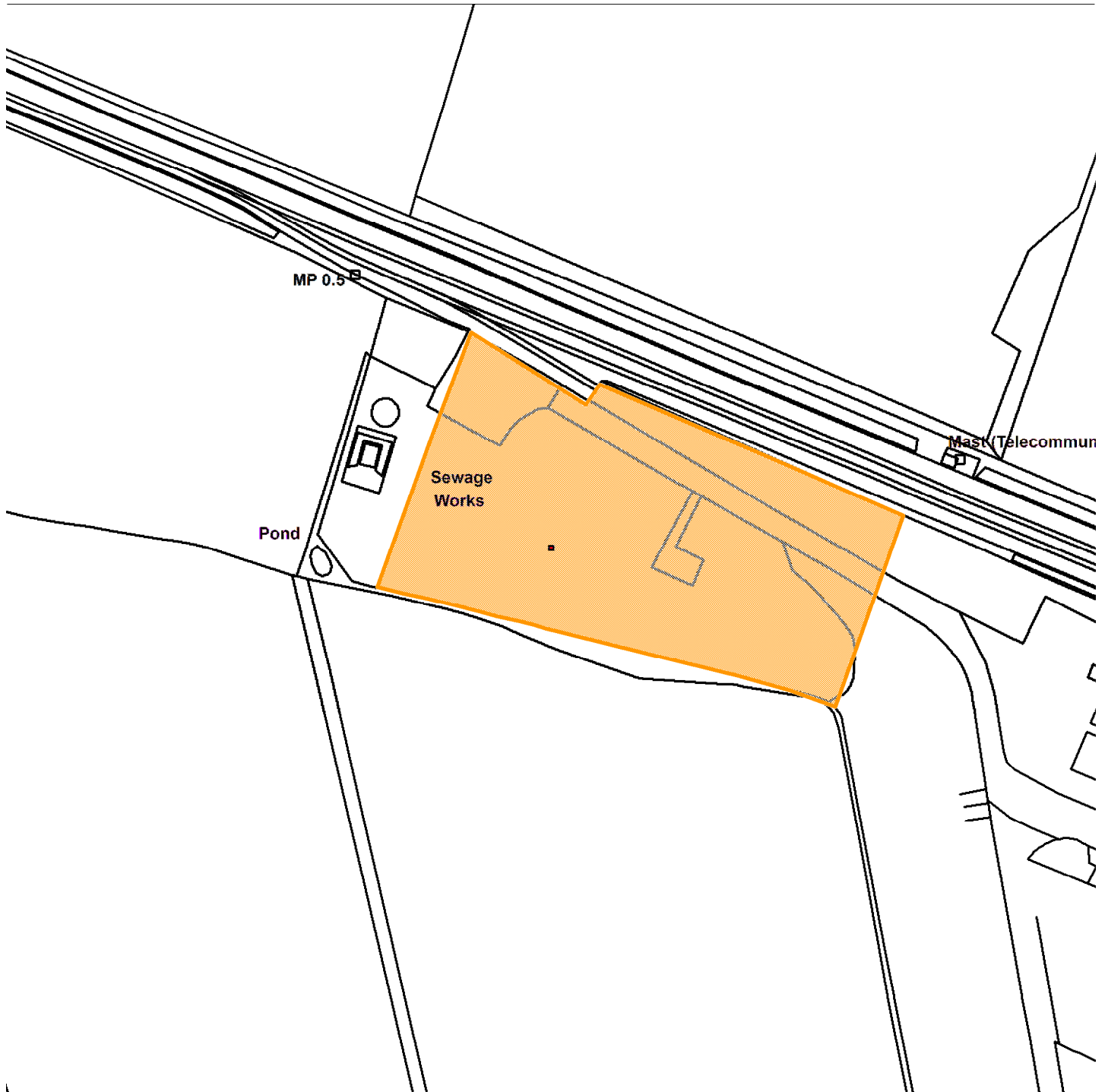
#### Contact details:

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416

17/00670/FUL

Land Adjacent Sewage Works At Hessay Industrial Estate New Road Hessay



Scale : 1:1510

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	14 January 2019
<b>SLA Number</b>	Not Set

This page is intentionally left blank



**COMMITTEE REPORT**

**Date:** 24 January 2019      **Ward:** Fishergate  
**Team:** Major and      **Parish:** Fishergate Planning  
Commercial Team      Panel

**Reference:** 18/01620/FUL  
**Application at:** York Cemetery Trust Kiosk, York Cemetery, Cemetery Road  
**For:** Single storey extension and alterations to building to form  
volunteers centre with associated facilities and tool store  
(resubmission).  
**By:** Dr. Richard Keesing  
**Application Type:** Full Application  
**Target Date:** 29 January 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site is York Cemetery, located to the south of York city centre, accessed off Cemetery Road, from Barbican Road (A19). The Cemetery was established in 1836-7 and covers 24.25 acres. To the north, west and south the Cemetery backs on onto residential gardens and to the east, the Cemetery leads into Low Moor Allotments.

1.2 The cemetery grounds are included on the Register of Parks and Gardens at Grade II\* by Historic England for their special historic interest. The emphasis of the register is on 'designed' landscapes rather than on planting or botanical importance. Within the Cemetery, there is the listed Chapel (Grade II\*) and Cemetery Lodge (also referred to as the Gatehouse) (Grade II) as well as a number of individually listed monuments. The Cemetery is bounded to the west by a listed wall, railings, gates and piers (Grade II). In 1837 James Pigott Pritchett, who has a long-established connection with York, prepared plans for the chapel, lodge, and fences in Greek Revival style and the formal layout of the grounds shortly after.

1.3 The site is located outside of any conservation area and any area of archaeological importance however it lies within the general extent of the Green Belt. The site is located within Flood Zone 1, meaning there is a low risk of flooding.

1.4 There is an existing single storey brick built building identified as 'the potting shed' on the plans which provides a tool shed, workshop, toilets and flower stall.

1.5 Planning permission is sought for extensions and alterations to the existing potting shed to form a 'volunteer's centre' with associated facilities and tool store. The application is a resubmission of a withdrawn scheme following concerns the building

was too large and in close proximity to the listed railings. This design of the current application has undergone some amendments since its original submission.

1.6 The toilet area of the existing potting shed will be retained; however there will be some internal re-arrangement of the toilets. The flower shop will be removed from the building in its entirety. The building will be extended primarily to the west (rear) and will provide a volunteers centre, tool store (including volunteer's tool store) and a table store. In addition there will be an entrance lobby/porch to the front of the building and cycle racks. The building, at its closest point will be positioned 2m from the boundary railings on Cemetery Road and the application now involves the retention of an existing willow tree and an additional cherry tree (to replace a Rowan tree) between the rear (western) elevation of the building and the railings.

1.7 Additionally, the application seeks consent for gates to restrict access between the proposed building and the Lodge and gates on the other side, between the building and the pond area.

1.8 The cemetery is open between 08:30 to 16:15 Monday to Friday and 10:00 to 16:00 Saturday and Sundays during the winter and 10:00 to 18:00 during the summer.

1.9 The application is accompanied by an application for Listed Building Consent Ref: 18/01621/LBC

### Planning History

1.10 18/00383/FUL & 18/00384/LBC Single storey extension to form visitors centre with associated facilities and tool store; Application withdrawn

## **2.0 POLICY CONTEXT**

### 2.1 PUBLICATION DRAFT LOCAL PLAN 2008

DP3	Sustainable Communities
SS2	The Role of York's Green Belt
D1	Placemaking
D2	Landscape and Setting
D5	Listed Buildings
D8	Historic Parks and Gardens
GI4	Trees and Hedgerows
GB1	Development in the Green Belt

### 2.2 DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

GP1	Design
GP9	Landscaping
NE1	Trees, Woodlands and Hedgerows

HE4	Listed Buildings
HE11	Trees and Landscape
HE12	Historic Parks and Gardens
GB1	Development in the Green Belt

### **3.0 CONSULTATIONS**

#### INTERNAL

##### Design, Conservation and Sustainable Development (Conservation)

3.1 The revised application addresses many previous concerns however amendments have been sought in respect to detailed design aspects of the scheme, including improvements to the solid flank (west) wall, clarification of gate designs and doors including the garage doors, materials including brickwork as well as the glass canopy detail.

3.2 In respect to the glass canopy, this feature is considered to detract from the modest character of the existing building and as a virtually flat form and transparency could be difficult to maintain. This was suggested to be omitted. Whilst the applicant has omitted the glass canopy, it is replaced with an enclosed porch which looks ;'busy' and detracts from the simple form of the potting shed due to the amount of framing and the dual pitch roof extending in front of the pitched roof of the existing building. Alternative design options have been suggested to the applicant, however amended plans have not been forthcoming.

3.3 Whilst the plans have not been revised, the design, on balance is considered acceptable. Following an assessment made against the impact of the proposals upon the heritage significance of the Cemetery, the individually listed buildings contained within the Cemetery and it is not considered that the Cemetery or setting of listed buildings would be harmed by the proposals.

##### Design, Conservation and Sustainable Development - Ecology

3.4 A bat survey is not required, however small trees will be removed which could support nesting birds. An informative is recommended to ensure that these are removed outside of nesting season.

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

3.5 The two existing trees along the frontage contribute to the screening of the existing potting shed, which is set back from the roadside. They are directly visible from Cemetery Road and add to the general amenity of the area and the frontage of the Cemetery grounds. It is important that the proposed building is set back sufficiently to allow foreground vegetation in the form of trees and /or shrubs to screen it from the road.

3.6 The applicant sought the removal of both these trees and whilst the application has been supported by a tree report, this does not provide any evidence that the trees are required to be removed for arboricultural reasons. Along with the removal of these trees, the applicant had suggested that they were not going to replace these trees due to the 'potential' effect on the wall. This is not accepted as a reason not to replace the trees.

3.7 However, following negotiation the applicant has revised the proposals, which now seeks to retain the willow tree and replace the Rowan tree with a cherry. The cherry tree is considered to be of a suitable species and along with the retained Rowan, they will mitigate the impact on the amenity of the cemetery grounds.

#### Highways Network Management

3.8 No highway implications arise from this development and therefore no objections are raised.

#### Flood Risk Management Team

3.9 No response received to date.

#### Fishergate Planning Panel

3.10 No response received to date.

#### Historic England

3.11 The cemetery has historic value as an early garden cemetery, of which the Chapel and lodge are an integral part. The cemetery also has aesthetic value for its landscape design and the buildings have aesthetic for their design. The site and buildings also have value to the community as a cemetery long in use and as a green open space, latterly expressed through the York Cemetery Trust constituted in 1986.

3.12 No objections on heritage grounds. Revisions have been made to the scheme and the revisions to the shape, size and architectural articulation of the tool store and the greater space between the new building and cemetery railings are welcomed.

3.13 Conditions are recommended to ensure the removal of the concrete garage/store to the north as soon as the new extension is completed, and the securing of appropriate planting along the boundary.

#### Garden History Society (Yorkshire Gardens Trust)

3.14 Yorkshire Gardens Trust is a member organisation of the Gardens Trust and works in partnership with it in respect of the protection and conservation of registered

sites, and is organised by the Gardens Trust to respond on the Gardens Trust's behalf in respect of such consultations.

3.15 In principle, the new buildings seem of a scale which will not impose too much on the adjacent listed Lodge. However concerns are raised that when viewed from within the cemetery and the proposed gates into the service yard are shut, the whole composition would appear as a linked group and result in substantial massing, detracting from the historic integrity of the cemetery. The setting to the adjacent Lodge does not appear to have been fully considered and are required by the NPPF (para 190). In addition, of concern is the view within the cemetery from the steps of the Grade II\* listed Chapel. The Chapel and Lodge are linked in terms of style and materials and physically linked by a serpentine drive which was part of the original landscape design. The location of the new building may draw the eye away from the lodge and impeded on the natural tension between the two buildings.

3.16 Furthermore, of concern are the glimpsed views to the Grade II\* Chapel between the railings, when walking along Cemetery Road. Additionally, the application does not seem to provide landscaping proposals for the area between the railings and the new building, following removal of a belt of trees adjacent to the railings. A planting scheme could soften the impact of the building and should use a range of plants sympathetic to the Victorian character of the Cemetery.

3.17 This area of the cemetery has historically been a utilitarian one and formerly housed the greenhouses for the cemetery. The removal of the pebble dash/concrete garage/store building which sits amid a very messy area strewn with bins and redundant materials is welcomed. It would be a great improvement if the area adjacent to the railings and behind the current store could be required to be cleaned up as a condition.

#### Publicity and neighbour notification

3.18 The application has been advertised via site and press notice and neighbour notification. No letters of representation have been received.

## **4.0 APPRAISAL**

### 4.1 Key Issues:

- Principle of the development- assessment of harm to the Green Belt
  - Whether the proposal is inappropriate development within the Green Belt
  - The effect of the proposal on the openness of the Green Belt
  - Very special circumstances
- Heritage- Impact on Listed Buildings, and Park and Garden
- Design
- Landscape
- Ecology

## **Planning Legislation**

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires determinations be made in accordance with the development plan unless material considerations indicate otherwise. In this area, the development plan comprises of the retained policies in the Yorkshire and Humber regional Spatial Strategy (RSS), saved under the Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013.

4.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

4.4 In the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area.

## **National Planning Policy Framework (2018)**

4.5 The revised National Planning Policy Framework (NPPF) (2018) was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. Paragraph 7 states that the planning system should contribute to the achievement of sustainable development. To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental.

4.6 In the absence of a formally adopted Local Plan the most up-to date representation of key relevant policy issues is the NPPF (other than the Saved RSS Policies relating to the general extent of the York Green Belt) and it is against this policy Framework that the proposal should principally be addressed. The NPPF sets out the presumption in favour of sustainable development unless the application of specific policies in the NPPF indicate development should be restricted.

## **Green Belt**

4.7 Section 13 of the NPPF relates to protecting Green Belt land. Paragraph 133 states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and permanence.

4.8 Paragraph 144 of the NPPF establishes that substantial weight should be given to any harm to the Green Belt. Paragraph 143 states that inappropriate development that is, by definition, harmful to the Green Belt, should not be approved except in very

special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

4.9 Paragraph 145 continues stating that the construction of new buildings in the Green Belt should be regarded as inappropriate. There are specified exceptions to this and part b) is relevant to the assessment of this application, stating that:

*“the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including within it.”*

### Heritage

4.10 Section 16 of the NPPF considers the conservation and enhancement of the historic environment. Paragraph 190 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal. Paragraph 192(c) of the NPPF requires local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness. Paragraph 193 requires consideration to be given to the significance of a designated heritage asset with great weight given to the asset's conservation; the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

4.11 Continuing, paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.

### Achieving well designed places

4.12 Section 12 of the NPPF seeks to ensure that development 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. Paragraph 127 seeks to ensure that developments:

- a) will function well and add to the overall quality of the area;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, whilst not preventing or discouraging appropriate innovation or change;

- 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 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 life or community cohesion and resilience.

### **Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013**

4.13 Policies, YH9(C) and Y1(C1 and C2), relate to York's Green Belt and the key diagram, Figure 6.2, insofar as it illustrates the general extent of the Green Belt. The policies state that the detailed inner and rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.

### **Publication Draft Local Plan 2018**

4.14 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. 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. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.15 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

4.16 Policy GB1 will permit development on the Green Belt 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;*
- and it is for one of the purposes, which includes appropriate facilities for cemeteries. All other forms of development within the Green Belt are considered inappropriate. Very special circumstances will be required to justify."*



4.17 Policy D8 Historic Parks and Gardens will support development proposals where they:

*“i. do not harm the layout, design, character, appearance or setting of the park or garden, key views into or out from the park;*

*ii. are sensitive to the original design intention and subsequent layers of design and the functional evolution of the park or garden and do not prejudice any future restoration.*

*iii. would enhance or better reveal the significance of the Historic Park and garden or would help to secure a sustainable future for a feature within it.”*

### **Development Control Local Plan (2005)**

4.18 The Development Control Local Plan (DCLP) was approved for development management purposes in April 2005. Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations and can be afforded very little weight in the determination of planning applications where policies relevant to the application are consistent with those in the NPPF.

### **PRINCIPLE OF DEVELOPMENT – ASSESSMENT OF HARM TO THE GREEN BELT**

#### Whether the development represents appropriate facilities

4.19 Paragraph 145 b) of the NPPF establishes that the construction of new buildings is inappropriate in the Green Belt unless one of a limited number of specific exceptions applies. One of those, excepts the provision of “appropriate facilities” for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The proposal relates to an extension and alteration to an existing ‘potting shed’ to form a building that would provide a volunteer’s centre, tool shed and toilets. The existing potting shed is positioned between the Lodge and pond area, which is acknowledged to be the only reasonable siting for such a building; it is the only area not occupied with graves and takes into account the general open nature of the wider Cemetery. The volunteers centre can be described as a multi-purpose room to allow for refreshment for the volunteers who are undertaking work at the Cemetery, as well as providing an area to provide an educational programme and a place for groups to convene prior to and after visits to the cemetery and enable health and safety briefings. Currently, there are limited facilities on-site to provide these and any talks, briefings or training sessions subject to number, could be conducted outside.

4.20 What constitutes “appropriate facilities” in connection with the operation and maintenance of York Cemetery is a matter of fact and degree. There is little case law that governs this issue in respect to existing cemeteries. The test is not one of being ‘essential’ but rather that the facilities, would be appropriate. There are existing facilities on site in the Lodge. The Lodge provides an office and it is usually the first

information point for visitors to the Cemetery. The applicant also explains that within the Lodge the top floor and one ground floor room are let to provide income to pay salaries of staff. The remaining three ground floor rooms are used for administration purposes in connection with the cemetery business with two basement rooms used for general purpose meeting room and staff refreshment.

4.21 It is unlikely, given that these buildings are heritage assets in their own right (the Chapel is Grade II\* and the Cemetery Lodge is Grade II) that they could be adapted or extended to provide a multi-purpose room of a suitable size to accommodate the facilities required by the Cemetery Trust to continue the work they do without causing significant harm. No information has been presented to determine whether this had been explored however it is evident that there are significant heritage constraints prior to any investigation.

4.22 It is acknowledged that the maintenance of an area as large as 24 acres (9.7 hectares) requires sustainable mechanical equipment, on a scale similar to that of an agricultural farm. The applicant has provided a list of the types of machinery and other associated storage requirements (such as chemicals and fuel) required for the maintenance of the grounds and monuments/buildings. There will also be a smaller tool store for the volunteers to access their gardening equipment, independently of the larger tool store. It is not disputed that the provision of a tool store to securely store such equipment is appropriate. Furthermore, the provision of public toilets, which can be independently accessed (without having to access the volunteer's centre) by the public, is also deemed to be appropriate, and a facility that is already required.

4.23 In respect to the volunteer's centre, this is intended to provide a multi-purpose teaching and refreshment area for volunteers in connection with the management and maintenance of the cemetery. The requirement to provide teaching space is part of the Trust's objectives set out when they took over the freehold from the Crown.

4.24 Whilst the extension to an existing tool stores and toilet provision are considered to be appropriate facilities for the cemetery in principle, the second limb of paragraph 145b of the NPPF states that to fall within the exception, the proposal must preserve the openness of the Green Belt and not conflict with the purposes of including land within it.

#### Harm to openness and purposes of the Green Belt

4.25 The NPPF states that openness is an essential characteristic of Green Belts. The site is screened by trees from Cemetery Road; however it is not dense for its full length, it does provide a reasonable level of screening. The nature of the development would mean that the development would add to a building that is already in situ, and surrounded by existing development, including the Lodge to the north and a pond and ecological area to the south. However, whilst the building is single storey and would be retained as such, the extensions and additions/alterations to the

existing building would represent significantly large additions, doubling the size of the building, and further compromising the open aspect along Cemetery Road and would result in a significant visual impact on openness.

4.26 York Cemetery abuts Walmgate Stray (commonly known as Low Moor) to the south; however the Cemetery itself appears to be identified as a 'Green Wedge' in the City of York Local Plan - The Approach to the Green Belt Appraisal (2003) which the Council produced to aid in the identification of those areas surrounding the City that should be kept permanently open. It is also identified as such in figure 3.1 Historic Character and Setting of York in the City of York Local Plan- Publication Draft (February 2018). Green Wedges are broad areas of undeveloped land usually bounded on three sides by urban development part of which may comprise of the historic strays and 'ings' and river floodplains. They are important for the following reasons;

- i) undeveloped open space with a rural feel reaching close to the centre of the city.
- ii) allow an open aspect and views towards important city landmarks including the Minster.
- iii) physical separation between urban form of a different character.
- iv) open areas which build upon the presence of the strays and form a more pronounced separation between areas of different urban form, character and history.

4.27 The fundamental purpose of Green Belt policy is keep land permanently open. The concept of 'openness' in this context means the state of being free from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site. The enlarged footprint as a result of the extensions would result in increased urban form along the eastern side of Cemetery Road, which would reflect the development that is present on the western side of Cemetery Road. The proposed development of the volunteer's centre would be unduly prominent in the context of the general open space provide by the Cemetery. This would result in harm to the openness and permanence of the greenbelt and is therefore considered to be inappropriate development in the Green Belt. As the site is identified as a 'Green Wedge', the proposal is considered to harm two of the five purposes of Green Belts outlined in paragraph 134 of the NPPF. Specifically, part C which relates to the purpose of assisting in safeguarding the countryside from encroachment and part D which sets out to preserve the setting and special character of historic towns. The proposal gives rise to harm to the Green Belt by reason of inappropriateness which should not be approved except in very special circumstances. The NPPF states that 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, is clearly outweighed by other considerations.

## HERITAGE- IMPACT ON THE HISTORIC PARK AND GARDEN, AND LISTED BUILDINGS WITHIN THE CEMETERY

4.28 The relationship of the building to the railing and Cemetery Road have improved following revisions to the shape, size and architectural articulation of the tool store to the rear of the volunteer's centre. There would be greater space between the new building and cemetery railings. Historic England welcome these revisions.

### Impact on historic park and garden

4.29 The heritage significance of the Cemetery, as a registered Historic Park and Garden, lies in its origins as a cohesive designed landscape. The registered park and garden designation applies to the northern portion of the current Cemetery site, including the cholera burial ground lying to the immediate south of the Chapel and following the east-west avenue of trees to the immediate south eastern corner of the Chapel. JP Pritchett designed the Lodge, Chapel and the layout of the eastern portion of the site in 1837, dividing the area into two. To the east of the axial path to the front of the Chapel a formal layout of concentric circles was adopted and consecrated for burials; to the west a more informal layout of unconsecrated ground. Further to the east, the first in a succession of Cemetery extensions took place in 1848.

4.30 As a grade II\* listed heritage asset, the registered landscape has exceptionally high significance in terms of its aesthetic design values and historical illustrative and associative values. The list description identifies the following elements of significance which contribute to its high level designation: as an early garden cemetery (1836-37) for a provincial city; for the interest of the landscape design by James Pigott Pritchett, a renowned local architect who later contributed to several other cemetery designs; for the Grade II\* Greek Revival chapel which forms the focus of the layout, between the formally laid out consecrated section and the more informal unconsecrated area; for the surviving C19 structural planting; because the site survives largely complete; for the local and national social interest expressed in burials and a variety of artistically notable monuments including that of the Terry family, confectioners of York.

4.31 Historic maps and images reveal that the particular application site has a long history of ancillary utilitarian use in connection with the functional operation of the Cemetery. From the O/S map of 1891 onwards, various iterations of ancillary buildings occupied the site, including solid structures and greenhouses, becoming more extensive in area until the 1962 map which depicts four structures in the vicinity of the site. Both the 1852 and 1891 editions show extensive vegetation on the western boundary which would have screened the buildings from Cemetery Road.

4.32 The proposed scheme would therefore occupy a site which has historically served ancillary utilitarian functions and would not intrude into the surviving formal or informal elements of Pritchett's original design. The scale and form of the proposal is subservient to the Lodge, low-rise and incorporates glass, brick and slate, and can be

considered to have an affinity with the form of development which has occupied the site since at least the late 19<sup>th</sup> century. Consequently, it is considered that the siting of the proposed building would not harm the landscape and design heritage significances of the garden cemetery.

#### Views within Cemetery/from Chapel and relationship with the Lodge

4.33 The Yorkshire Gardens Trust express concerns that the additions and extensions to the building, along with the gates attached to the Lodge, would result in the effect of a linked extension to the adjacent Lodge, and would constitute a scale of building which would detract from the setting of the Chapel by diminishing the 'tension' between the two buildings in views down the drive from the steps of the Chapel. Whilst these concerns are acknowledged, the proposals involve extensions and alterations to the existing tool store and toilet building, predominantly on the eastern (front), southern (side) and western (rear) of the building. There are no proposed extensions to the northern elevation or re-siting of the existing tool store and toilet building and therefore the distance and spatial relationship between the existing building and Lodge would be maintained as existing. The proposed development would not intervene between the Chapel and the Lodge in views down the drive. The application initially proposed solid timber gates between the front corner of the existing building and the Lodge. Following negotiation, this has been replaced with gates of a traditional rail design set back from the facade of the existing building, which is considered to better preserve visual permeability between the two buildings, respecting their separate architectural identities.

4.34 With regards to the effect of the proposals on the relative scale of the respective buildings, the extended building would remain one of single storey, of the same height as the existing, and be constructed using brick and glass, with slate and zinc to the roof differentiating between the forms of the three distinct elements: toilets, volunteers' centre and tool store. The tool store constitutes a building of comparable scale to the existing block, the two elements linked with a transverse structure of aluminium frame and plate glass construction, which would have a comparably lightweight appearance with something of a 'pavilion' character in views from within the Cemetery. This design approach is considered to have an affinity with the scale, character and materials of development historically present on the site.

4.35 There has been a reduction to the size of the proposed extensions since the withdrawn application. Whilst further reductions, particularly in relation to the large porch, have been requested, these have been resisted by the applicant. On balance, it is considered that the extensions and alterations to provide a volunteer's centre, tool store and toilets would result in a building of cohesive form, scale and character that would continue to constitute a subordinate building to the larger two-storey and more architecturally and historically significant Lodge. Consequently, it is not considered that that setting of the Lodge would be harmed as a result of the current proposals.

View from Cemetery Road

4.36 The Yorkshire Garden Trust also raises concerns about the visual impact of the new building when viewed from Cemetery Road, citing that currently there are glimpses of the listed Chapel between the railings, which will be obscured following the proposed development. Officers consider that existing views from Cemetery Road in the vicinity of the application site are extremely limited as a result of the existing building and the vegetation bounding the site, in addition to the Chapel being positioned approximately 100m into the cemetery. The proposed Tool Store extends only a short distance south of the existing building, the Volunteers' Centre is a transverse building ranged between the two, and the height of new buildings matches that of the existing. Therefore the effect of the proposed scheme on views from Cemetery Road towards the Chapel would be marginal.

4.37 In addition, the historical utilitarian function of this site and the evidence for historical planting on the adjacent boundary would suggest that designed views of the Chapel were not intended from Cemetery Road in this location. Glimpsed views of the Chapel from the main gateway north of the Lodge are significant and would be unaffected by the proposed development.

4.38 The replacement building is of a size to provide a functional space to allow activities that assist with the maintenance and upkeep of the Cemetery to take place. There has been some reduction to the footprint of the building from the previous application. It is also acknowledged that space within the Cemetery is at a premium and this is the most reasonable siting for a building of this use without compromising further harm to the Green Belt, listed buildings (including the railings) and the character and appearance and setting of the Historic Park and Garden as a whole. The applicant has also provided evidence to suggest that buildings in some form (greenhouses and subsidiary buildings) have been positioned in this part of the Cemetery, however it is acknowledged that the form, size and permanence of these buildings does vary greatly to the proposed building. Therefore, it is considered that the siting of the proposed building would not harm the landscape and design heritage significances of the garden cemetery and the setting of the Lodge would not be harmed as a result of the current proposals. The proposal does not result in harm to any of the heritage assets identified.

DESIGN

4.39 The design has been revised, during the course of this application and has also evolved following the withdrawn application. The main change has been the greater space between the new building and the cemetery railings, along Cemetery Road. In addition there have been revisions to the shape, size and architectural articulation of the tool store.

4.40 Design changes also include the addition of paired buttresses to the western blank wall, which faces Cemetery Road. The design and conservation officer had suggested the addition of high level clerestory windows and omitting the number of buttresses, however the applicant do not consider that these alterations would be of benefit to the scheme as a whole and result in additional cost. They further consider that these alterations satisfy Historic England's previous concerns.

4.41 There has been much discussion in respect to the provision of a canopy/entrance lobby. This originally took the form of a flat, transparent feature. Concerns were raised that the feature would detract from the modest character of the existing building, in addition to being difficult to maintain and shabby if not regularly cleaned. Officers had suggested that a glazed lobby could be including within the immediate entrance area of the volunteer centre or as an alternative a metal clad roof canopy over the entrance door. In response, the applicants advise that the glass canopy is an important feature of the volunteers centre and also provides a functional element including allowing access to the toilets without going outside during periods of incremental weather. They further advise that there are security risks and potential for odour issues to providing a connecting door from the main volunteer's room to the toilet area.

## LANDSCAPE

4.42 The Council's Landscape Architect has considers that the two trees (willow and Rowan tree species) within the site and visible from Cemetery Road contribute to the general amenity of the area and the frontage of the cemetery grounds. These trees contribute to the screening of the existing tool shed and more importantly the setting of the Lodge. One of the trees, the Rowan is considered to be worthy of a tree preservation order because of its public visibility and the contribution it makes to the attractive cemetery grounds. The Gardens Trust also raises concerns in respect to the landscaping proposals, stating that a planting scheme could soften the building from all elevations and would assist in preserving the setting of the new building and adjacent Lodge.

4.43 In respect to the landscaping proposals, the applicant has reconsidered their proposal to remove both trees but without any replacement planting. They have now stated that it is their intention to retain the willow tree and replace the Rowan tree with a cherry. This is satisfactory in terms of retaining tree coverage to Cemetery Road and does not raise any objections from the Council's Landscape Architect. Subject to conditions to secure landscaping proposals; it is considered that the application in respect to landscaping is acceptable and would preserve the general amenity of the area.

## ECOLOGY

4.44 The Council's ecologist does not raise any objections to the proposed development stating that a bat survey is not required. The loss of the trees however

could support nesting birds and an informative is recommended to ensure that any trees are removed outside of nesting season.

## THE APPLICANT'S CASE FOR VERY SPECIAL CIRCUMSTANCES

4.45 The proposed extensions to the existing building to provide a multi-purpose room along with the re-provision and extension of a tool shed and toilets would provide appropriate facilities for the Cemetery, however the extensions and alterations would have a harmful effect on the openness and permanence of the Green Belt. It is therefore inappropriate development in the Green Belt. In accordance with the Framework, inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Substantial weight is to be given to any harm to the Green Belt.

4.46 The applicant is the York Cemetery Trust who took over the ownership, management and running of York Cemetery in 1987, after the Cemetery was devolved to the Crown in 1979. The objectives of the Trust are to operate and maintain the cemetery for the public benefit; development, conservation and management of the graves, monuments, buildings, grounds and landscape including the plants and natural life and to advance the education of the public for the study of the lives and significance of those buried in the cemetery. When the Trust was granted a new freehold of the site, it was agreed with The Crown Commissioners that emphasise should be placed on running educational activities from the site. These activities have been running for the past 30 years with limited facilities, that only being the public toilet provision.

4.47 Prior to York Cemetery Trust taking over, the previous owners and managers, York Cemetery Company had a financial model that was based upon dividends that were paid from the sale of burial land. As the land is a non-renewable resource, when the land ran out, so did the profits. The Trust therefore had to develop a completely different and unique model for running the cemetery; the money from the sale of 99 year leases on the remaining burial plots are put into reserves, with the income to pay the salary and expenses of a full time warden, who will organise teams of volunteers to maintain the cemetery. This position has not yet been achieved and the role of volunteers and community involvement remain critical to the success of running the cemetery.

4.48 The applicant has provided details of the volunteer involvement in running/maintaining the Cemetery. Volunteer help is received in gardening and physical work on site, guided walks, provision of refreshments accompanying activities and events organised in the Chapel and is mostly organised by the Trust's sister charity, Friends of York Cemetery. Volunteer numbers for each of the tasks can vary and fluctuate from 1 or 2 for walking tours to up to 40 or 50 for gardener groups. In 2017 volunteers worked 3447 hours. Currently all voluntary activity is based in the Chapel, although



this has no facilities for catering for the needs of the volunteers and unsuitable for the running of the Trust's voluntary activity programme. The attempts by the Trust to run educational programmes have been frustrated by the lack of facilities to provide classroom facilities, which are currently undertaken outside and are subjected to incremental weather.

4.49 The additional space, particularly in relation to volunteer's centre would provide a multi-functional space, to carry out an educational programme, allow for health and safety briefings prior to groups and volunteers visiting the Cemetery and provide refreshment for volunteers and visitors. The ability to provide an educational programme would be a significant improvement on the existing limited facilities and enable the Trust to achieve their objectives outlined and agreed by the Crown Commission, when granting a freehold. The educational programme and the volunteers are key to the continuing operation of the Cemetery and have been outlined above.

## ASSESSMENT OF THE APPLICANT'S CASE FOR VERY SPECIAL CIRCUMSTANCES

4.50 In terms of the above case that is relevant to this particular development, the applicant had demonstrated how volunteers are critical to the maintenance and upkeep of the Cemetery. The existing facilities currently provided are limited and have an impact upon the ability of the volunteers to continue their work. York Cemetery Trust have set objectives, agreed with the Crown Commission when they undertook a new freehold for the site. The volunteers centre will be a multi-functional space that will enable the Trust to develop, conserve and manage the graves, monuments, buildings, grounds and landscape including the plants and natural life and to advance the education of the public for the study of the lives and significance of those buried in the cemetery with the overriding objection of operating and maintaining the cemetery for the public benefit. The building will help to continue the existing work that the volunteers are doing and also allow to introduce an educational programmes, which has been an aspiration of the Trust. The proposed facilities are specific to the Cemetery and are unlikely to set a precedent for other development within the Green Belt. These considerations are relevant and significant in weighing against the harm to the green belt and any other harm resulting from the proposal.

## 5.0 CONCLUSION

5.1 The application site is located within the general extent of the York Green Belt and serves a number of Green Belt purposes. As such it falls to be considered under paragraph 143 of the NPPF which states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm are clearly outweighed by other considerations. National planning policy dictates that substantial weight should be given to any harm to the Green Belt.

5.2 National planning policy (para. 145) states that the construction of new building in the Green Belt should be regarded as inappropriate unless it falls within one of the exceptions to this outlined in paragraph 145 b of the NPPF. The proposal has been assessed to represent appropriate facilities for the cemetery, however, the development is inappropriate development because, for the reasons outlined above in this report, it fails to preserve the openness of the Green Belt and conflicts with the purposes of including land within the Green Belt, namely parts C and D of policy 134 of the NPPF (assisting in safeguarding the countryside from encroachment and preserving the setting and special character of historic towns), contrary to paragraph 145b of the NPPF.

5.3 York Cemetery is a Grade II\* listed Historic Park and Garden and contains a number of individually listed buildings, most notably the Chapel (Grade II\*), Lodge (Grade II) and the railings along the boundary with Cemetery Road (Grade II). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It is considered that the siting of the proposed building would not harm the landscape and design heritage significances of the garden cemetery and the setting of the Lodge would not be harmed as a result of the current proposals. The proposal does not result in harm to any of the heritage assets identified.

5.4 It is also acknowledged that space within the Cemetery is at a premium and this proposal represents the most reasonable siting for a building of this use without further harming the Green Belt or causing harm to listed buildings (including the railings) and the character and appearance and setting of the Historic Park and Garden as a whole.

5.5 The extensions and alterations to an existing tool shed and toilet provision to provide a multi-purpose room would provide suitable facilities to assist volunteers in operating and maintaining the cemetery for the public benefit. Having attached substantial weight to the harm to the Green Belt, it is therefore considered that the considerations set out in paragraphs 4.45 to 4.50, 5.3 and 5.4 above would collectively clearly outweigh the harm to the Green Belt. No other harm has been identified and that the very special circumstances necessary to justify the proposed development exist.

COMMITTEE TO VISIT

**6.0 RECOMMENDATION:** Approve

1 TIME2 Development start within three years

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

Application Reference Number: 18/01620/FUL

Item No: 4b

3290/100.1E Plan + Site - As Proposed

3290/100.2E Elevations - As Proposed

3290/100.3C Plan as Proposed

3290/100.4C Plan as Proposed

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

3 LAND1 IN New Landscape details

4 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the development above foundation level. 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 that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location.

5 A 1 x 1m sample panel of the brickwork to be used on this building shall be erected on the site and shall illustrate the coursing, mortar, bonding, colour and texture of brickwork and the mortar treatment to be used, and shall be approved in writing by the Local Planning Authority prior to the commencement of building works above foundation level. This panel shall be retained until a minimum of 2 square metres of wall of the approved development has been completed in accordance with the approved sample.

Reason: So that the Local Planning Authority may be satisfied with the finished appearance of these details prior to the commencement of building works in view of their sensitive location and to protect the special architectural or historic interest of this listed building and to comply with paragraph 132 of the NPPF.

6 Prior to the volunteer's centre and tool store being brought into use, the concrete garage/store shall be removed in its entirety.

Reason: To ensure that the development protects the special architectural or historic interest of this listed building, the Green Belt and general amenity of the area and to comply with paragraph 132 of the National Planning Policy Framework (NPPF) (July 2018).

7 Large scale details of the items listed below shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development above foundation level and the works shall be carried out in accordance with the approved details.

- a. gates and railings
- b. aluminium framed glazing
- c. windows
- d. doors (including garage doors)

Reason: To ensure that the development protects the special architectural or historic interest of this listed building, the Green Belt and general amenity of the area and to comply with paragraph 132 of the National Planning Policy Framework (NPPF) (July 2018).

8 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, details of all new external hardsurfacing shall be submitted to and approved in writing by the Local Planning Authority prior to the laying of any new hardstanding. The development shall be carried out using the approved materials.

Reason: So as to achieve a visually cohesive appearance and to ensure that the development protects the special architectural or historic interest of this listed building and to comply with paragraph 132 of the National Planning Policy Framework (NPPF) (July 2018).

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome:

-Negotiation in respect to design and landscaping, particularly in relationship to listed buildings and the historic park and gardens.

2. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as  
Application Reference Number: 18/01620/FUL                      Item No: 4b

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

**Contact details:**

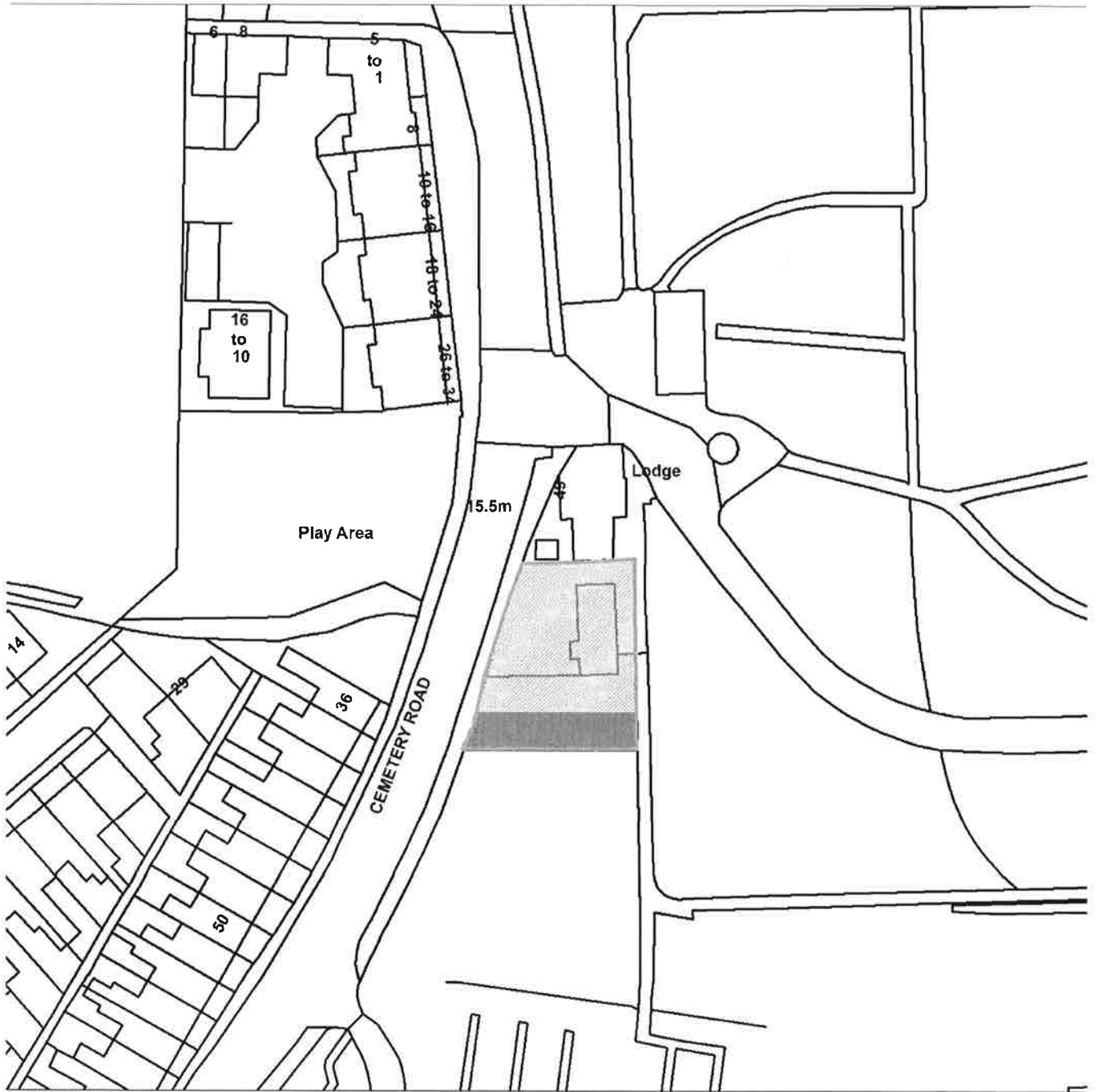
**Author:** Lindsay Jenkins Development Management Officer

**Tel No:** 01904 554575

This page is intentionally left blank



York Cemetery Trust Kiosk



Scale : 1:786

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	14 January 2019
<b>SLA Number</b>	Not Set

This page is intentionally left blank



**COMMITTEE REPORT**

**Date:** 24 January 2019      **Ward:** Fishergate  
**Team:** Major                      and **Parish:** Fishergate      Planning  
Commercial Team                      Panel

**Reference:** 18/01621/LBC  
**Application at:** York Cemetery Trust Kiosk, York Cemetery, Cemetery Road  
**For:** Single storey extension and alterations to building to form  
volunteers centre with associated facilities and tool store  
(resubmission).  
**By:** Dr. Richard Keesing  
**Application Type:** Listed Building Consent  
**Target Date:** 29 January 2018  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application site is York Cemetery, located to the south of York city centre, accessed off Cemetery Road, from Barbican Road (A19). The Cemetery was established in 1836-7 and covers 24.25 acres. To the north, west and south the Cemetery backs on onto residential gardens and to the east, the Cemetery leads into Low Moor Allotments.

1.2 The cemetery grounds are included on the Register of Parks and Gardens at Grade II\* by Historic England for their special historic interest. The emphasis of the register is on 'designed' landscapes rather than on planting or botanical importance. Within the Cemetery, there is the listed Chapel (Grade II\*) and Cemetery Lodge (also referred to as the Gatehouse) (Grade II) as well as a number of individually listed monuments. The Cemetery is bounded to the west by a listed wall, railings, gates and piers (Grade II). In 1837 James Pigott Pritchett, who has a long-established connection with York, prepared plans for the chapel, lodge, and fences in Greek Revival style and the formal layout of the grounds shortly after.

1.3 There is an existing single storey brick built building identified as 'the potting shed' on the plans which provides a tool shed, workshop, toilets and flower stall.

1.4 Listed building consent is sought for the installation of gates between the proposed extended 'potting shed' (to form a volunteer's centre with associated facilities and tool store) and the listed Cemetery Lodge.

1.5 The application is accompanied by an application for planning permission Ref: 18/01620/FUL.

## Planning History

1.6 18/00383/FUL & 18/00384/LBC Single storey extension to form visitors centre with associated facilities and tool store; Application withdrawn

## **2.0 POLICY CONTEXT**

### 2.1 PUBLICATION DRAFT LOCAL PLAN 2008

D5 Listed Buildings  
D8 Historic Parks and Gardens

### 2.2 DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005)

HE4 Listed Buildings  
HE12 Historic Parks and Gardens

## **3.0 CONSULTATIONS**

### Design, Conservation and Sustainable Development (Conservation)

3.1 The gate design, between the extended volunteer's centre and the Cemetery Lodge have been clarified. It is not considered that the listed Cemetery Lodge would be harmed (either through impact of fabric or its setting) as a result of the addition of the proposed gates.

### Historic England

3.2 No objections on heritage grounds.

### York Civic Trust

3.3 The Civic Trust supports the application.

### The Garden History Society (Yorkshire Gardens Trust)

3.4 Yorkshire Gardens Trust is a member organisation of the Gardens Trust and works in partnership with it in respect of the protection and conservation of registered sites, and is organised by the Gardens Trust to respond on the Gardens Trust's behalf in respect of such consultations.

3.5 In principle, the new building seems of a scale which will not impose too much on the adjacent listed Lodge. However concerns are raised that when viewed from within the cemetery and the proposed gates into the service yard are shut, the whole composition would appear as a linked group and result in substantial massing, detracting from the historic integrity of the cemetery. The setting to the adjacent

Lodge does not appear to have been fully considered are required by the NPPF (para 190).

### Conservation Area Advisory Panel

3.6 An improvement on the previously submitted scheme.

### Publicity

3.7 The application has been advertised via site and press notice. No letters of representation have been received.

## **4.0 APPRAISAL**

### 4.1 Key Issues

- Impact on special architectural and historic importance of the adjacent Cemetery Lodge (Grade II listed).

## LEGISLATIVE BACKGROUND

4.2 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant listed building consent for any works, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

4.3 In the exercise of an LPA's planning function with respect to any buildings or other land in a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area

### **National Planning Policy Framework (2018)**

4.4 The revised National Planning Policy Framework (NPPF) (2018) was published on 24 July 2018 and sets out the government's planning policies for England and how these are expected to be applied. Paragraph 7 states that the planning system should contribute to the achievement of sustainable development. To achieve sustainable development, the planning system has three overarching objectives; economic, social and environmental.

### Heritage

4.5 Section 16 of the NPPF considers the conservation and enhancement of the historic environment. Paragraph 190 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be

affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal. Paragraph 193 requires consideration to be given to the significance of a designated heritage asset with great weight given to the asset's conservation; the more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

## **Publication Draft Local Plan 2018**

4.6 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. 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. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

4.7 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

## **ASSESSMENT**

### **HERITAGE- IMPACT ON THE GRADE II LISTED CEMETERY LODGE**

4.8 Whilst York Cemetery is on the ' Register of Historic Parks and Gardens of special historic interest in England', there is no separate consent system for them. Any proposed development affecting these sites or their settings is a 'material consideration' and their significance taken into account in the planning regime.

4.9 The proposed gates situated between the northern (side) elevation of the proposed volunteers centre (as extended), and the Cemetery Lodge, requires listed building consent.

4.10 The application initially proposed solid timber gates between the front corner of the existing building and the Lodge. Following negotiation, this has been replaced with gates of a traditional rail design set back from the facade of the existing building. There are no proposed extensions to the northern elevation or re-siting of the existing tool store and toilet building and therefore the distance and spatial relationship between the existing building and Lodge would be maintained as existing. The

amendments are considered to better preserve visual permeability between the two buildings, respecting their separate architectural identities. Further details shall be required via condition to assess the method of fixing of the gates to the Lodge.

There have been some negotiation and discussion in respect to the size, scale and impact of the extensions and alterations to the existing 'potting shed'. On balance, it is considered that the extensions and alterations would result in a building of cohesive form, scale and character that would continue to constitute a subordinate building to the larger two-storey and more architecturally and historically significant Cemetery Lodge. Consequently, it is not considered that that setting of the Lodge would be harmed as a result of the current proposals.

## **5.0 CONCLUSION**

5.1 York Cemetery is a Grade II\* listed Historic Park and Garden and contains a number of individually listed buildings, most notably the Lodge (Grade II). When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

5.2 It is considered that the installation of the gates between the Lodge and the existing 'potting shed' would not harm the Cemetery Lodge, in terms of impact upon fabric, subject to further details provided by condition nor would it harm its setting..

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION:** Approve

1 TIMEL2 Development start within 3 yrs (LBC/CAC)

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

3290/100.1E Plan + Site - As Proposed

3290/100.2E Elevations - As Proposed

3290/100.3C Plan as Proposed

3290/100.4C Plan as Proposed

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

3 Large scale details of the gates (between the northern side elevation of the potting shed and the Lodge) including details of the method of fixing to the Listed Cemetery Lodge (Gatehouse) shall be submitted to and approved in writing by the

Local Planning Authority prior to the installation of these fixtures and the works shall be carried out in accordance with the approved details.

Reason: To ensure that the development protects the special architectural or historic interest of this listed building and to comply with paragraph 132 of the National Planning Policy Framework (NPPF) (July 2018).

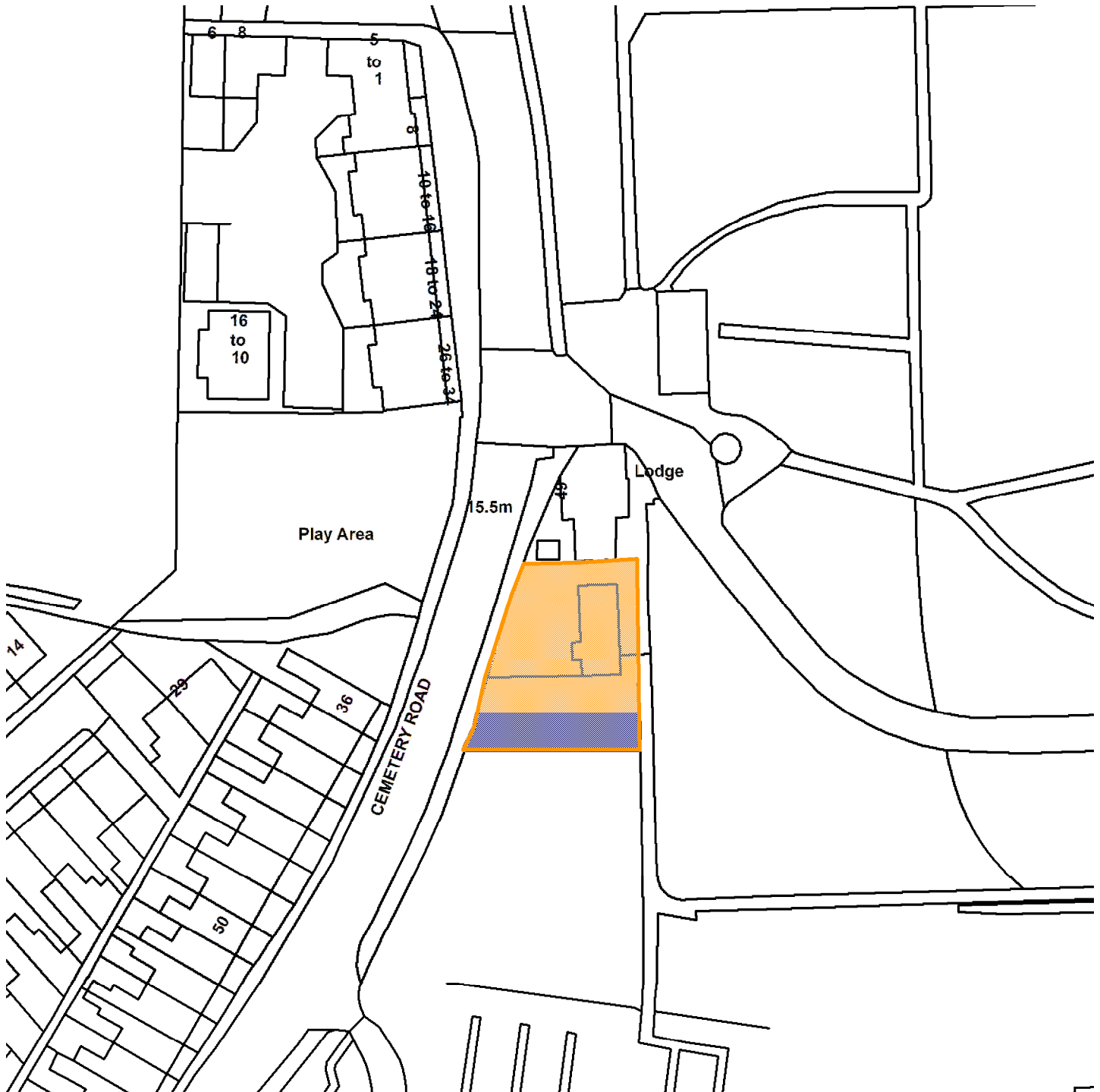
**Contact details:**

**Author:** Lindsay Jenkins Development Management Officer

**Tel No:** 01904 554575

18/01621/LBC

York Cemetery Trust Kiosk



Scale : 1:786

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	14 January 2019
<b>SLA Number</b>	Not Set

This page is intentionally left blank



**COMMITTEE REPORT**

**Date:** 24 January 2019      **Ward:** Guildhall  
**Team:** Major and      **Parish:** Guildhall Planning Panel  
Commercial Team

**Reference:** 18/02268/FUL  
**Application at:** Spark York Piccadilly York YO1 9PB  
**For:** Erection of a temporary stretch tent canopy over existing shipping containers (retrospective)  
**By:** Mr Samuel Leach  
**Application Type:** Full Application  
**Target Date:** 18 January 2019  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 The application relates to the Spark York development which was first considered by main Planning Committee in May 2017. Planning permission was granted to operate until July 2020, as a meanwhile use in advance of an anticipated permanent re-development of the Council owned site.

1.2 An application to vary the approved plans; to allow the site to retain exposed containers (without the timber cladding) was refused at Planning Committee in August 2018.

1.3 This application is for the canopy which covers over the majority of the site. Permission is sought for a temporary basis, between the months of September and May the following year. This would relate to the existing period and 2019/2020.

1.4 Spark was initially granted a temporary permission to use the site in advance of comprehensive regeneration. This 'meanwhile use' was permitted to bring added vitality and viability to the area. The site is occupied by multiple small and independent businesses and the majority of customer floor space is external. The canopy is required to help attract custom during the winter months.

1.5 The application is brought to Committee for determination at the discretion of the Assistant Director for Planning and Public Protection. Previous applications were determined by the main Planning Committee. The development is on Council owned land and has been the subject to a high level of public interest.

**2.0 POLICY CONTEXT**

2.1 Development Plan Allocation:

Areas of Archaeological Interest: City Centre Area

Application Reference Number: 18/02268/FUL

Item No: 4d

Conservation Area: Central Historic Core

Listed Buildings: Grade 2; Red Lion Hotel Merchantgate York YO1 2TU

2.2 The Publication Draft City of York Local Plan 2018 ('2018 Draft Plan') was submitted for examination on 25 May 2018. 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);
- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

2.3 The evidence base underpinning the 2018 Draft Plan is capable of being a material consideration in the determination of planning applications.

2.4 Relevant Policies of the 2018 Draft Plan:

SS5 Castle Gateway  
D1 Place making  
D2 Landscape and Setting  
D3 Cultural Provision  
D4 Conservation Areas  
D5 Listed Buildings

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

2.6 Relevant policies of the 2005 Draft Local Plan:

CYGP1 Design  
CYGP15 Protection from flooding  
CYHE2 Development in historic locations  
CYHE3 Conservation Areas

2.7 The revised National Planning Policy Framework was published on 24 July 2018 (NPPF) and its planning policies are material to the determination of planning applications. It is against the NPPF (as revised) that this application should principally be assessed.

### **3.0 CONSULTATIONS**

#### Guildhall Planning Panel

3.1 Regret that this application is retrospective.

#### Publicity

3.2 Two objections have been received.

- Spark repeatedly ignore the planning permission procedures and has no respect to the council rules by continuing to carry out works without planning permission. The council shall not set the precedent allowing Spark organisation continuing the ignorant behaviour.
- Visual intrusion and inappropriate development in the conservation area. The existing container complex is a hideous alien feature that should never have been allowed in the first place. The tent like roof covering compounds this dreadful monstrosity and makes the eyesore worse.
- The applicants' argument that the roof is necessary to make the place viable in winter months and to maintain footfall is not a valid planning argument. Nor is the issue of temporary permission. York Council planning department have previously rejected these arguments on other sites stating that "they do not overcome policy objections".

### **4.0 APPRAISAL**

#### KEY ISSUES

4.1 The key issues are -

- Impact on designated heritage assets
- Visual and residential amenity

#### ASSESSMENT

4.2 The canopy is a tensile structure which is fixed close to the top of the containers. At its maximum height it is some 1.5 m higher than the containers. The structure stops short of the boundary with adjacent houses (to the North-East); as is evident on the roof plan, and lowers down to 3.5 m. The canopy is a sand colour. Its means of fixing means it overlaps the side of the containers on the North-West side (above the main entrance).

## **Impact on Designated Heritage Assets**

### **Relevant policy & legislation**

4.3 The site is within the Central Historic Core Conservation Area. Nearby listed buildings are the Red Lion Public House (grade II) on Merchantgate and St Deny's Church on Walmgate (grade I).

4.4 The Council has a statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') to consider the desirability of preserving or enhancing the character and appearance of designated conservation areas.

4.5 Section 66 of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses. Where there is found to be harm to the character or appearance of a conservation area, or the setting of a listed building, the statutory duties under section 72 and 66 mean that the avoidance of such harm should be afforded considerable importance and weight.

4.6 The NPPF advises that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) and take this assessment into account when considering the impact of a proposal on a heritage asset. Paragraph 192 states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

4.7 NPPF paragraphs 193 and 194 state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given the asset's conservation. The more important the asset, the greater the weight should be. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196 advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including where appropriate securing its optimum viable use.

## Assessment

4.8 Spark only has permission to continue to operate until July 2020. The development has permission on the basis that given the nature of Piccadilly (as explained in the Central Historic Core Conservation Area appraisal which states that "Piccadilly was developed much later than the rest of the medieval city centre and has larger scale building plots, reflecting its industrial past. The lack of high quality retailers and historic buildings means it is not a destination for visitors, and locals mainly use it for car parking ... A number of buildings are in poor condition suggesting neglect and lack of investment over many years ...) during this short time period a temporary use of a vacant site, that would improve vitality and viability, would not cause undue harm to the conservation area.

4.9 The canopy would only be installed until 1st May 2019 and then between 1st September 2019 and 1st May 2020.

4.10 The Red Lion public house is grade II listed and to the west of the main entrance to the application site. The building is the only listed building in the Piccadilly character area. The two developments are viewed together from Merchantgate and Piccadilly.

4.11 The Red Lion is a relatively complete timber framed building of several phases, with the rear wing rebuilt in brick. The description in *York, Volume V, The Central Area (RCHME)* indicates that the north east wing was built in the 15th century, with the south east part rebuilt in the 16th or 17 century. The south west wing built in two stages in the 17th century. The special interest of the building is derived from it being a relatively complete timber framed building, of several phases which include some rebuilding in brick.

4.12 St Deny's church is within the Walmgate/Fossgate character area. It is listed at grade I and identified as a landmark in the area appraisal. The impact on its setting was assessed in the original application due to the prominence of the church spire.

4.13 The canopy structure is fixed fairly tightly to the containers and generally has a low visual impact. It is most apparent above the main entrance because the fabric overlaps the side of the containers and is in a contrasting colour. If this area were re-designed (i.e. fixed so the canopy either stops short of the edge or closer to it, as it is elsewhere) the structure (on the basis that it is temporary only and is applied to a development that is, and evidently appears, temporary) would not harm the significance (including the setting) of the Red Lion next door. The canopy does not impact on the setting/views of St Deny's Church.

4.14 The canopy is another utilitarian/functional structure that fails to enhance the appearance of the Spark site or the Central Historic Core Conservation Area in which it is located. However as it is fixed tightly to the existing structures on site it is not visually prominent and causes very little further harm to the character and appearance of the conservation area.

4.15 In assessing the scheme against NPPF policy it causes 'less than substantial harm'. As such the heritage policy test is whether any public benefits outweigh this harm. According to NPPG (national guidance) public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework.

4.16 The canopy is required to help continue to attract custom/footfall during the period from September to May. This will benefit the small and independent traders based at Spark, who are reliant upon customers being enticed into the site due to the inward orientated design and layout.

4.17 The canopy will provide a more appealing environment for customers and consequently bring about economic benefits consistent with the grounds for granting permission originally; providing a space for small businesses and bringing commercial activity to the area.

4.18 Given the low level of harm identified, the economic (and therefore public) benefits of allowing the canopy for temporary/seasonal periods outweigh the low level of harm the canopy brings to the character and appearance of the conservation area.

### **Visual and residential amenity**

#### Relevant planning policy and guidance

4.19 The National Planning Policy Framework requires that developments always seek to secure a high standard of amenity for all existing and future users of land and buildings.

4.20 Minor modifications to the 2018 Draft Plan were made 25 May 2018. One of the changes was the inclusion of the following text to policy D1: Place-making - Ensure design considers residential amenity so that residents living nearby are not unduly affected by noise, disturbance, overlooking or overshadowing.

#### Assessment

4.21 Some objections made against the development in previous applications were that there was overlooking over neighbouring properties, in particular from the walkway on the upper floor. Residents in Mawson's Court and Nelson's Yard had a preference for more enclosure to screen activity within the site. The canopy encloses the upper floor area and removes this overlooking issue.

4.22 The canopy is fixed closely to the top of the containers; it lowers in height on the North-East side and stops short of the boundary. Development on site remains lower in scale than the surrounding houses. The canopy conceals the interior of Spark in this corner, where unlike in other areas it was previously exposed, and gives a

coherent appearance. Due to the reduced scale of the canopy on its North-East side and as it coherently conceals the interior of the Spark site, it does not have an adverse impact on visual amenity and development is not over-bearing or over-dominant over surrounding properties.

## **5.0 CONCLUSION**

5.1 The application is to allow the canopy during temporary periods, between September and May the following year.

5.2 In principle allowing the structure subject to a condition requiring a temporary installation only would not conflict with National Planning Policy Guidance on the use of planning conditions which states that "a temporary planning permission may be appropriate on vacant land/buildings to enable use for a temporary period prior to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity".

5.3 The addition of the canopy causes a low level of harm to the character and appearance of the Central Historic Core Conservation Area. The applicants consider the canopy is necessary for Spark to be viable during its tenure. It is accepted that the Spark development is desirable on economic grounds, both in terms of the business it facilitates and also assisting with the vitality, viability and regeneration of Piccadilly.

5.4 To grant permission, subject to conditions, on times the canopy can be in-situ and regarding the finish above the entrance, would bring about a public benefit that would outweigh the low level of harm to the conservation area and prevent any harm to the significance of the grade II listed Red Lion or to St Deny's Church. As a consequence the proposals would be acceptable when assessed against the NPPF and even when considerable weight and importance is given to this harm.

## **COMMITTEE TO VISIT**

### **6.0 RECOMMENDATION: Approve**

1 The canopy hereby approved shall only be in-situ between 1 September 2018 and 1 May 2019 and 1 September 2019 and 1 May 2020. Outside these dates the canopy and its associated fittings shall be removed from the site.

Reason: The temporary nature of the site is such that it is considered inappropriate on a permanent basis. The current use has been permitted for a temporary period prior to regeneration plans coming forward (a meanwhile use), and the canopy will benefit the businesses on site (and vitality and viability of the wider area) by encouraging increased activity during the winter months.

2 The development hereby permitted shall be carried out in accordance with the Application Reference Number: 18/02268/FUL Item No: 4d

following plans:-

Site plan 16YRK-GA-001

Proposed plans and sections - 103, 110, 111, 112, 114, 120, 121

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 approved plans details of the finish to the canopy, where above the main entrance (on the north elevation), shall be approved by the Local Planning Authority, and the canopy installed in accordance with the approved details within 1 month of the date of this permission.

Reason: To reduce the extent the canopy overlaps the north side of the structure and to ensure a more tidy appearance, in the interests of the appearance of the conservation area.

## **7.0 INFORMATIVES:**

### **Notes to Applicant**

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraph 38) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: the use of planning conditions.

#### **Contact details:**

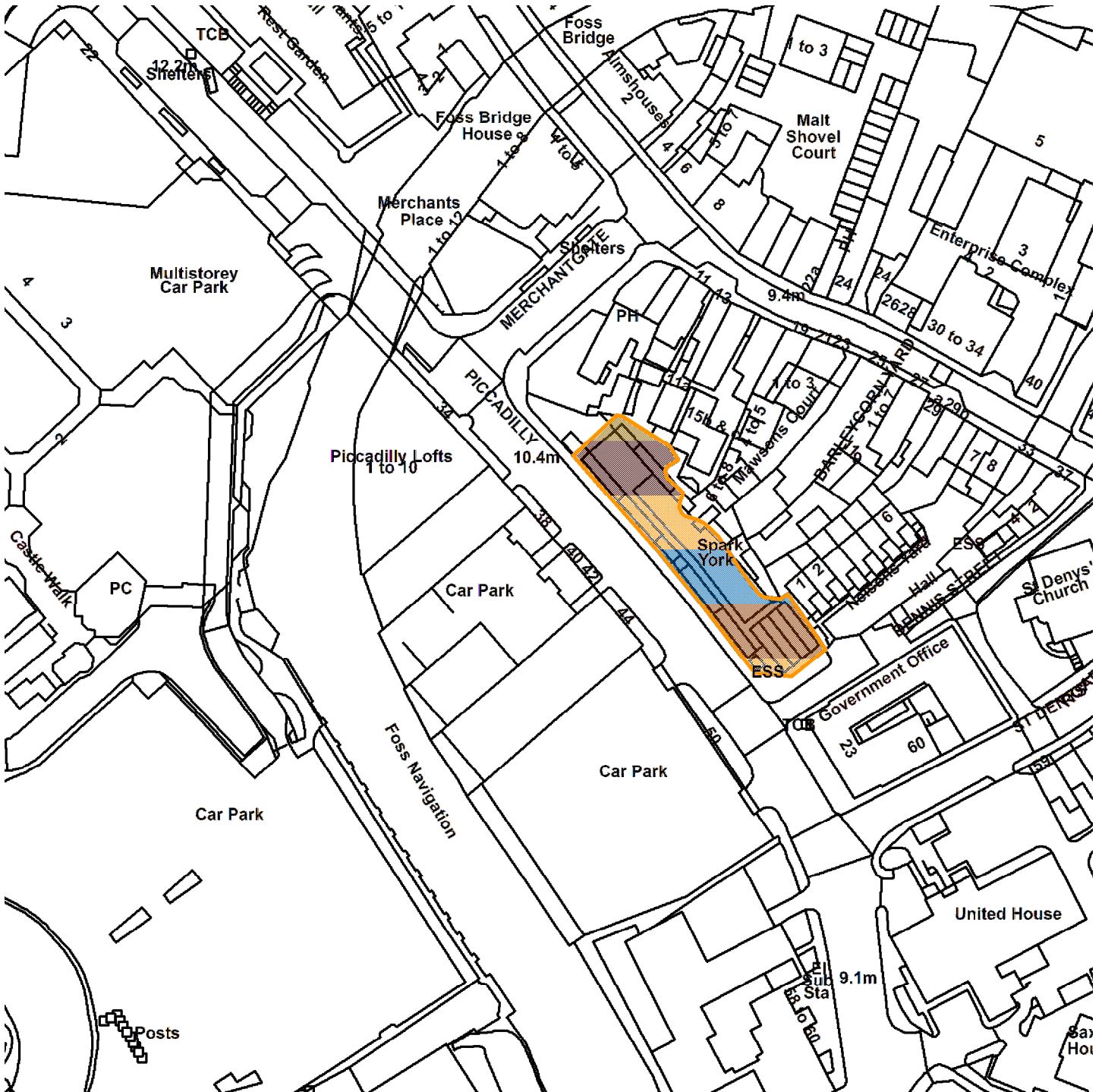
**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323



18/02268/FUL

Spark York Piccadilly



Scale : 1:1269

Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Site Plan
<b>Date</b>	14 January 2019
<b>SLA Number</b>	Not Set

This page is intentionally left blank