



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

- To:** Councillors Cullwick (Chair), Pavlovic (Vice-Chair), Ayre, Barker, D'Agorne, Daubeney, Doughty, Douglas, Fenton, Fitzpatrick, Hollyer, Kilbane, Perrett, Warters and Widdowson
- Date:** Thursday, 12 September 2019
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

**AGENDA**

**Site Visits**

The mini-bus for Members of the sub-committee will leave from Tanner Row – adjacent to the gates between the Grand Hotel and West Offices at 10.00am

**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

To approve and sign the minutes of the meetings of the Planning Committee held on 13 June 2019, 2 July 2019 (to follow) and 11 July 2019 (to follow).

## 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 11 September 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.

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## 4. Plans List

This item invites Members to determine the following planning applications:

### a) Clifton Ings Flood Alleviation Barrier to the South of Shipton Road, Rawcliffe, York YO30 5RY [19/00007/FULM] (Pages 5 - 48)

Construction of new and improved flood defence works, compensatory habitat creation and other associated works (Clifton Ings Barrier Bank Project) [Rawcliffe and Clifton Without Ward] [Site Visit]

**b) Clifton Ings Flood Alleviation Barrier to the South of Shipton Road Rawcliffe York YO30 5RY [19/00009/FUL] (Pages 49 - 70)**

Construction of a temporary access junction and track off the A19 in association with flood alleviation works [Rawcliffe and Clifton Without 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 مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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**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

**PLANNING COMMITTEE**

**SITE VISITS**

**Tuesday 10 September 2019**

**The mini-bus for Members of the sub-committee will leave from Tanner Row – adjacent to the gates between the Grand Hotel and West Offices at 10.00am**

<b>TIME</b>	<b>SITE</b>	<b>ITEM</b>
(Approx)		
10.15	Clifton Ings Flood Alleviation Barrier To The South Of Shipton Road Rawcliffe – meet at entrance to Shipton Road Allotments	4a & b

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**COMMITTEE REPORT**

**Date:** 12.9.2019                      **Ward:** Rawcliffe And Clifton  
Without  
**Team:** West Area                      **Parish:** Clifton Without Parish  
Council

**Reference:** 19/00007/FULM  
**Application at:** Clifton Ings Flood Alleviation Barrier To The South Of  
Shipton Road Rawcliffe York YO30 5RY  
**For:** Construction of new and improved flood defence works,  
compensatory habitat creation and other associated works  
(Clifton Ings Barrier Bank Project)  
**By:** Environment Agency  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 25 April 2019  
**Recommendation:** Approve

**1.0 PROPOSAL****APPLICATION SITE / BACKGROUND**

1.1 The application is for works to repair and extend the Clifton Ings barrier bank. This is one of the projects within the agencies flood alleviation scheme (FAS) to reduce flood risk throughout the city. £45 million has been allocated to the EA which will upgrade defences in 19 areas (referred to as flood cells). The objective of the FAS is to protect against the 1 in 100 year flood (1% AEP) plus climate change and where this cannot be achieved then deliver the maximum level of protection in each cell within the context of existing flood risk and considering other environmental, social and cultural aspects. Annual Exceedance Probability (AEP) is the probability that a flood event of a particular size will be exceeded in any one year e.g. a flood event with a 1% AEP has a 1 in 100 chance of occurring, or being exceeded, in any year.

1.2 The application includes an Environmental Impact Assessment (EIA). Under The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 the scheme is Schedule 2 development and it has been determined to require an EIA because there would be significant effects on the environment by virtue of its effect on the The Clifton Ings and Rawcliffe Meadows SSSI (Site of Special Scientific Interest).

1.3 The purpose of the barrier bank is to reduce flooding from rivers (fluvial flooding) to the Clifton / Rawcliffe area. However, during the floods in 2000, water from the river outflanked the flood defences, spilled onto Shipton Road and flooded over 100 homes. The flood basin at Blue Beck also exceeded its capacity in 2000 and 2015

and water 'backed up'. In these instances, the Environment Agency had to provide temporary pumps to reduce flooding upstream on Blue Beck.

1.4 The barrier bank was constructed in 1980. It is of earth fill construction and is up to 4.5m high. The embankments on both sides of the River Ouse currently have issues with stability created by high pressure in the banks when the reservoir empties. This has meant that the drawdown rate for the reservoir has had to be reduced from 1,360mm/day to 300mm/day in order to reduce the risk of failure. This reduction in the drawdown rate significantly impacts on the operation and effectiveness of the reservoir as a flood defence, particularly for any consecutive flood events.

1.5 Clifton Ings provides a flood storage reservoir on the eastern side of the River Ouse close to Rawcliffe Park and Ride and the sports clubs Clifton Alliance and York. When not flooded, the northern section of Clifton Ings is used for grazing and the southern section is used as open land by the public. The Sustrans route runs through this area. During high flow events it has a capacity of 2,300,000 m<sup>3</sup>. It is owned and maintained by the Environment Agency.

1.6 The site is within the Green Belt and the existing barrier bank within a site of national importance, designated by Natural England - The Clifton Ings and Rawcliffe Meadows SSSI (Site of Special Scientific Interest).

1.7 The SSSI is designated for its species-rich neutral grassland and presence of endangered beetles. These species rich grasslands are nationally rare and exist due to a range of factors, including historic land management practices, topography, drainage, nutrient enrichment, and the pattern and frequency of flooding.

1.8 The proposed works (replacing the embankment and relocating the Sustrans route and the required associated working areas) will result in a permanent loss of up to 2.3ha of the 25.1 ha of grassland within the SSSI.

1.9 The application site also includes Rawcliffe Cornfield. It is proposed to extend the barrier through the cornfield, and it would also accommodate a construction access and compound. The cornfield was established in 2000 as mitigation for the development of the Rawcliffe Bar Park & Ride facility and Country Park, the aim being to provide some continuity of arable (i.e. annually cultivated) habitat within the local landscape in order to maintain populations of farmland birds and other wildlife.

## PROPOSALS

1.10 The scheme intends to address the stability issues with the bank, avoid flood water outflanking the bank through extending it at both ends and install a permanent pumping station between the River Ouse and Blue Beck.

1.11 The existing standard of protection of the barrier bank is 2% AEP (2 in 100 year flood events). The scheme would ensure that up to 2039 (taking into account climate change) the barrier would protect during the 1 in 100 year flood event / 1% AEP. The proposals will reduce flood risk for 134 properties which will subsequently be defended against the 1 in 100 year flood (plus climate change).

1.12 The works proposed are as follows -

1.13 Works to the barrier bank -

- The existing barrier bank lowers to under 9m AOD in places furthermore the EA state it has stability issues which compromise its functionality. It would be replaced, re-profiled, extended and raised by between 0.36m and 1.21m to achieve AOD levels of between 12.15m AOD and 12.35m AOD.
- The northern extension will consist of a grassed earth embankment constructed to a height of approximately 1.6m above ground level which would run through the cornfield, Rawcliffe Country Park (on the southern side of the Park and Ride) and taper into higher ground.
- The southern extension would be a wall of 1.2m max height (from existing ground levels) which will run in a north easterly direction towards Shipton Road to tie into high ground along the track within Homestead Park.

1.16 Works on the 'dry' side of the bank (which would have avoided the SSSI) have been ruled out due to the presence of a Yorkshire Water drains and also the need to acquire/use 3rd party land.

1.17 Blue Beck Pumping Station & Kiosk -

- To improve flood resilience, a pumping station will be constructed. Under the current situation the pumps are deployable not permanently in-situ. The existing over pumping facility would remain to enable additional pumps to be brought to site if required. The facilities allow flood water to be transferred between the blue beck flood basin into Clifton Ings when necessary. The facility is at the embankment behind the allotments; land which is designated as a site of importance for nature conservation (Rawcliffe Meadow SIN). The station requires a building to accommodate the electrical equipment. Otherwise the works are predominantly below ground, within the embankment.

1.19 Facilitating construction

- There is a companion application 19/00009/FUL for a site compound within the cornfield and for an access from Shipton Road.

## 2.0 POLICY CONTEXT

2.1 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.

2.2 Key relevant Publication Draft Local Plan 2018 Policies are as follows -

SS2	The Role of York's Green Belt
D2	Landscape and Setting
D6	Archaeology
ENV4	Flood Risk
ENV5	Sustainable Drainage
GI2	Biodiversity and Access to Nature
GI3	Green Infrastructure Network
GI4	Trees and Hedgerows
GB1	Development in the Green Belt

2.3 Relevant policies of the Draft Local Plan 2005 are as follows -

SP2	The York Green Belt
GP7	Open Space
NE1	Trees, Woodlands and Hedgerows
NE6	Species Protected by Law
NE7	Habitat Protection and Creation
GB1	Development in the Green Belt
HE10	Archaeology

## 3.0 CONSULTATIONS

### ARCHAEOLOGY

3.1 The Clifton Ings area has the potential to contain a variety of archaeological deposits particularly dating to the Roman period.

3.2 Groundworks for the extension of the embankment and creation of the wall should be monitored by archaeological watching brief. For the compound and

habitat areas which will presumably require stripping the site of all top and subsoil a programme of strip, map and record will need to take place.

3.3 The desk-based assessment (DBA) which accompanies the application highlights the 19th century wall associated with the hospital building. This should be recorded.

## ECOLOGY

3.4 The majority of the Barrier Bank is within Clifton Ings and Rawcliffe Meadow Site of Special Scientific Interest (SSSI); a nationally important site for species-rich neutral grassland and the critically endangered Tansy Beetle.

3.5 The type of grassland found here (National Vegetation Classification (NVC) type MG4) is also a Habitats Directive Annex 1 habitat type for which the UK has a responsibility to maintain the overall resource in Favourable Conservation Status; it is estimated to cover less than 1,500 ha in total in the UK. The conservation status of natural habitats will be taken as 'favourable' when its natural range and areas it covers within that range are stable or increasing; the species structure and functions which are necessary for its long term maintenance exist and are likely to continue to exist for the foreseeable future, and the conservation status of its typical species is favourable. NVC Surveys undertaken in 2017 by the Floodplains Meadow Partnership mapped 25.13ha of MG4 grassland in Clifton Ings and Rawcliffe Meadows SSSI; 1.67% of the National resource.

3.6 As a consequence of the scheme there will be a permanent impact on 2.3ha of SSSI. The 'mitigation hierarchy' as referred to in NPPF Para.175a) seeks as a preference to first avoid impacts then to mitigate unavoidable impacts, and, as a last resort, to compensate for unavoidable residual impacts that remain after avoidance and mitigation measures.

3.7 Officers disagree with the applicant's initial residual impact conclusion that there will be no significant effect at a National level in the long term from the loss of SSSI habitat. There is uncertainty in the success of habitat creation and restoration, with time taken to reach target condition in the tens of years (20-30yrs+), and only then with long term effort in management and monitoring.

3.8 The 'off-site' compensatory habitat will be delivered on land adjacent to the SSSI and owned by the Environment Agency, known as Rawcliffe Ings. Preliminary work undertaken by the Floodplain Meadows Partnership has shown that the soil nutrients levels are suitable for restoration. Compensation ratios for habitat lost are applied on a case-by-case basis and overall 6.2ha of compensatory habitat will be delivered. The long-term aim is to create like-for-like habitat.

3.9 In order to secure the proposed compensatory habitat (and on site restoration) officers have recommended a set of conditions which cover management of the

construction works, a mitigation strategy, a management plan for the proposed areas of the SSSI to be restored and for the compensatory habitat proposed at Rawcliffe Ings, and for monitoring, contingency measures (if necessary) and the responsibility for all such works.

3.10 The officer's comments also cover biodiversity impact beyond the SSSI and recommend conditions in this respect. The comments on these matters are contained within section 4 of the report.

## FLOOD RISK MANAGEMENT

3.11 The FRA contains a sufficient level of information and although in 'river flooding' terms indicates the scheme provides added protection in the immediate vicinity of Clifton Ings it acknowledges that the scheme will increase the depth of flooding downstream.

3.12 Section 4.2.3 advises a loss of flood storage is pushed downstream which would increase the depth of flooding in the following property areas;

- St Olaves School – increase up to 140mm
- Vine/Low Ebor Street and Lower Darnborough – effected to a flood level of 9.77m AOD however the current flood defence level at these areas is 10.05m AOD
- North of River Street – increase up to 290mm
- Car Park on Frederic Street – increase up to 180mm
- Marygate – increase up to 300mm

3.13 The FRA quotes 'delivered as a standalone scheme, Clifton Ings has no significant detrimental impact on flood risk within York up to and including the 1% AEP present day event. However, when taking into account climate change allowance to 2039, the standalone hydraulic modelling indicates that Clifton Ings would permanently increase the risk of flooding to the car park on Frederic Street and residential properties on Marygate but suggests the increase in depth of flooding to the other areas listed above are insignificant.

## HIGHWAY NETWORK MANAGEMENT

3.14 With regards the Sustrans route preference is for the permanent route not to be on the embankment (this is the intent subject to consent from owners).

3.15 When considering the alignment of the Sustrans route, there are currently two main routes used by pedestrians and cyclists alongside Barrier Bank:

- A gravel track at the top of Barrier Bank; and
- A tarmacked Sustrans route alongside the bank toe.

3.16 Although these are not currently recorded in York's Definitive PRow map, the Application Reference Number: 19/00007/FULM Item No: 4a

advice from CYC's Public Right Of Way Officer is that both routes could be recorded as PRow (sufficient evidence). None of these routes can be closed permanently as anyone would be able (and likely) to submit a Definitive Map Modification Order (DMMO) application to record the route as a PRow and it is likely that such an application would succeed. Closure of one of them during the construction period should be acceptable. The applicant will need to cover the cost of any changes required to the PRow network.

## PUBLIC PROTECTION

3.17 The Environmental Statement submitted with the application contains detailed information on the construction activities, the existing noise levels and the impact the construction will have on the residents close to the flood defence works. The conclusion is that the construction works will not have any adverse impact. These conclusions are accepted and therefore provided the noise mitigation measures are employed no further condition is required in relation to noise and dust emissions.

## EXTERNAL

### CLIFTON PLANNING PANEL

3.18 Support the project in principle but think detailed comments are outside the strict remit of Clifton Ward Planning Panel, as it is not part of our ward.

### CLIFTON WITHOUT PARISH COUNCIL

3.19 Clifton (Without) Parish Council do not object but do have concerns regarding traffic movements and also the use of the temporary road. The Parish Council would like to be given assurances that the temporary access is returned fully after completion.

### RAWCLIFFE PARISH COUNCIL

3.20 Rawcliffe Parish Council has no objections; however, it does have concerns as to the detrimental impact this proposed development may have on Rawcliffe Country Park. The significantly high water table in the area equates to a lack of drainage provision on land adjoining this proposed development which could potentially damage this well used public amenity.

### NATURAL ENGLAND (COMMENT 9 JULY 2019)

3.21 Comments follow the submission of the proposed mitigation strategies by the EA. Natural England have no objection to the scheme subject to appropriate mitigation being secured.

3.22 Natural England is in broad agreement with the submitted SSSI mitigation strategy with regards to the proposed methodologies and extent of habitat restoration and creation. Providing that the entire 12ha of Rawcliffe Ings will be restored to floodplain meadow grassland (using the variety of methods described in the SSSI Mitigation strategy) and managed accordingly in perpetuity, the proposed flood bank works can be adequately mitigated.

3.23 The proposed flood bank creation will result in a permanent loss of unimproved species-rich neutral Grassland which is an interest feature of Clifton Ings and Rawcliffe Meadows SSSI. The SSSI is also designated for its Tansy Beetle population which, without adequate mitigation, could be adversely affected by the proposed development.

3.24 Natural England require conditions to secure the following prior to any development taking place within the SSSI -

- A Habitat and Landscape Management Plan. This must include detailed specifications and working methodologies with regards to the proposed restoration within the SSSI and Rawcliffe Ings.
- A Tansy Beetle mitigation strategy.

3.25 The management plan must include further detailed designs and methodologies needed to achieve the mitigation proposals set out in the submitted SSSI mitigation strategy, for example:

- measures to mitigate compaction of soil from access route and working areas within the SSSI;
- agreement of exact working areas and stockpile locations within the SSSI;
- measures to mitigate the installation of the toe drain along the foot of the flood bank; detailed methods for translocation of turves from Rawcliffe Meadows, green hay spreading, seeding, selective plug/pot planting and a management change from pasture to hay meadow.

3.26 The Habitat and Landscape Plan must also formalise and commit to long term management and monitoring of all habitat mitigation areas within the SSSI and Rawcliffe Ings. Natural England recommends that a Management Committee of interested parties is set up to secure the long term delivery of restoration at Rawcliffe Ings. This would provide increased certainty with regards to post scheme delivery of the mitigation (in addition to the submission of a Habitat and Landscape Management Plan).

## ENVIRONMENT AGENCY

3.27 Advise that the scheme is only NPPF compliant provided the proposed flood risk assessment is an approved document. No other comment.



## KYLE & UPPER OUSE INTERNAL DRAINAGE BOARD

3.28 The application relates to work in, on, under or near a watercourse and/or discharging water into a watercourse within the Internal Drainage Board (IDB) Drainage District and requires consent from the IDB. Standing advice has been provided.

## YORKSHIRE WATER

3.29 YW asked for clarification that the proposed pumping station has at least a 5m stand-off from YW sewers.

## PUBLICITY

3.30 There have been objections from 12 individuals and amenity societies to the proposed works on the following grounds -

## BUGLIFE

3.31 Object on the following grounds -

- The proposed works are likely to have a significant impact and the proposed mitigation is insufficient relative to the loss of the high quality habitats.
- Destruction of part of the Clifton Ings and Rawcliffe Meadow Site of Special Scientific Interest (SSSI) and complex of Sites of Importance for Nature Conservation (SINCs).
- Alternative options to fulfil the flood defence works exist. Buglife are of the mind that they should be pursued in preference to the loss of a protected site.

## FRIENDS OF RAWCLIFFE MEADOWS (FoRM)

3.32 Friends of Rawcliffe Meadows (FoRM) was established by a group of local volunteers in 1990. The group was tasked with managing the land now known as Rawcliffe Meadows for nature conservation and public amenity. FoRM have restored and managed the site, primarily through agri-environment funding; in all this time, the applicant has contributed almost nothing, despite being the land owner and having a statutory purpose to conserve the environment.

3.33 Agri-environment funding is FoRM's only regular source of income and Natural England have confirmed that commencement of the proposed development would result in cessation of the current agreement. This will mean that FoRM will cease to operate because the applicant has made no arrangements to ensure continuity of funding.

3.34 FRM believe the Environmental Statement is fundamentally flawed and must be comprehensively revised to give an honest and comprehensive account of the likely destruction of and damage to SSSI grassland.

3.35 The objection goes into further detail which raises issues with the assessment of impact reported by the EA in the Environmental Statement and the mitigation. In summary the key issues with the scheme are that -

- It will result in permanent, irreversible loss of and damage to nationally-important SSSI grassland which cannot be adequately mitigated or compensated for. The applicant has not demonstrated that the proposed scheme is of national importance. Neither have they shown that equivalent flood alleviation benefits could not be delivered by other means.
- There will be adverse impacts on the Cornfield Nature Reserve which are of regional or at least district-wide significance. While these impacts may initially be temporary, there is significant risk that they will become permanent; there is no credible strategy to mitigate these risks.
- There is no evidence that the applicant is offering meaningful net gain for biodiversity.

3.36 Issues / harm identified by those in objection is as follows -

#### Impact on the SSSI

3.37 The SSSI contains Meadow Foxtail - Great Burnet grassland, coded MG4 in the National Vegetation Classification (NVC). MG4 is one of 17 types of grassland vegetation associated with clay, loam or silt soils in Britain (these are referred to collectively as either neutral or mesotrophic grasslands).

3.38 The area of MG4 grassland in the UK totals only 1171 ha. The City of York supports 92.4 ha of this (7.9%) with 299 ha (25.5%) occurring in York, North Yorkshire and the East Riding. This is, therefore, a habitat for which the City has very special responsibility. Grasslands similar to MG4 do occur in Continental Europe but differ in significant ways, presumably reflecting differing land management histories.

3.39 The loss of SSSI grassland would not be adequately compensated for and the FoRM give the following main reasons -

- Turf transplantation is not compensation, it is merely salvage and should not count towards the compensation area.
- There is no evidence that grassland of comparable nature conservation value can be created within a timeframe which could be covered by planning conditions - this is a process which is likely to take several decades of careful management even under the most propitious of conditions.
- The applicant has presented no evidence they have the skills, resources or commitment to manage the compensation habitat in future; nor do they have a viable alternative arrangement in place.

- The proposed mitigation supporting the works appear unfit for purpose, with a reliance on translocation of grassland. The wider proposed works are also likely to significantly impact on the soil profiles and character across a much greater extent of the site, and ultimately the vegetation able to establish post-works. As a result there are likely to be long-term impacts on the quality of both the translocated and retained habitats, and the invertebrate fauna associated with them.
- The assertion that there will be no overall adverse impact on the site's grasslands in only 10 years is simply untrue; grasslands take many decades or even hundreds of years to develop. There is little evidence presented to back up their position and it is a gross underestimation of the complexity of grassland ecology.

3.40 Should City of York Council be minded to permit this application, FoRM strongly urge an extended after-care period for any turf translocation, for a minimum of 100 years. This is based on the estimated length of time for species-rich grassland to achieve a 'steady state' following disturbance, as per English Nature Research Report. This time scale has been cited by English Nature (Natural England's predecessor organisation) at Public Inquiry.

3.41 With regards the proposed mitigation strategy FoRM advise that because the applicant's insufficient budget, they are refusing to undertake topsoil scraping, which in our experience would be essential to create favourable conditions for creation of species-rich grassland. The proposed strategy would certainly be inadequate to re-create grassland of sufficient quality to compensate for the destruction of over 2 hectares of nationally-important, 400 year old SSSI grassland.

3.42 Friends of Rawcliffe Meadows have attempted to engage with the applicant on restoration techniques based on our nearly 30 years experience but the applicant has chosen to ignore this advice. On page 87 of the ES, the applicant refers to our Copse Meadow restoration as "...an excellent example of what can be achieved within 10 years" and "Targets can be set for the restoration of Rawcliffe Ings based on the Copse Meadow success". FoRM dispute their interpretation - it will take decades for the Copse Meadow to acquire the characteristics of mature MG4 grassland - but at least this was a commitment to follow empirical best practice. The relative success of Copse Meadow has been based on nutrient reduction by topsoil scraping and painstaking, labour-intensive management that the applicant can never hope to achieve. Having over-run their budget, they are now reneging on this position and offering instead a low-cost, minimalist approach which cannot possibly achieve adequate compensation relative to the impact of the proposed development.

#### Impact on the cornfield

3.43 The scheme involves use of the Cornfield Nature Reserve to construct an access road and depot would result in the loss, for the duration of the project, of arable and grassland habitat. The Cornfield was established in 2000 to maintain an

area of arable (annually-cultivated) habitat, managed for wildlife, as mitigation for the development of the Rawcliffe Bar Park & Ride site and Country Park.

3.44 The Cornfield is an important source of hay and grazing for the FoRM farming partner, without whom they would be unable to manage the wider area of Rawcliffe Meadows: this has been given no consideration in the ES.

3.45 The original ambition of the Cornfield Nature Reserve was to maintain breeding populations of declining birds which used the arable farmland prior to the development of the Park & Ride site, such as Grey Partridge, Skylark and Corn Bunting. In practice the Cornfield proved to be too small and isolated, and too exposed to predators for this to succeed. However, it provides an important year-round foraging resource for birds of conservation concern nesting in surrounding habitats such as Stock Dove, Dunnock, Tree Sparrow and Reed Bunting. In autumn through to spring, the seed crops and weed-rich fallows attract large numbers of additional species such as Linnet, Yellowhammer and, in cold winters, Corn Bunting. Sometimes counts of these species are amongst the highest in the York area or, occasionally, in Yorkshire as a whole.

3.46 The applicant has erroneously assessed the Cornfield as being of merely Local significance for biodiversity. This is simply not credible: the Cornfield Nature Reserve supports, at least intermittently, regionally-important numbers of declining farmland birds; it regularly supports numbers of declining farmland birds of District-wide importance; it supports an arable flora of at least District importance; and it supports invertebrate assemblages likely to be of District significance.

3.47 The applicant fails to offer a credible mitigation strategy. The claim is made that the construction compound "has been designed to avoid sensitive features within the Cornfield" yet, the applicant has been unable to identify where key species such as scarce arable plants occur. It is suggested that "Feed for farmland birds will be provided prior to and during construction" but the applicant has offered no indication of where or how this would take place, or how they would feed species like Corn Bunting and Linnet which do not attend feeding stations. Providing winter feed is no simple matter.

3.48 FoRM were instrumental in setting-up the Cornfield Nature Reserve and have managed it since 2003, it is frustrating that the applicant has made a flawed assessment on the impact on the scheme, based on almost no dialogue with FoRM. If the applicant had been more collaborative, a much more credible and effective mitigation strategy could have been worked-up. Regrettably, this reflects the applicant's reliance on consultants with no local knowledge.

#### Tansy Beetle

3.49 There is little clarity on the proposed strategy to mitigate impacts on the nationally important population of the Endangered Tansy beetle, a Species of Principle Importance under the Natural Environment and Rural Communities

(NERC) Act 2006 listed in the SSSI citation. The current proposals include the loss of high quality grasslands and are likely to deliver a net loss of the key habitat for the species due to the lower quality of created grassland and different character of the receptor sites for grassland translocations.

#### Invertebrates

3.50 Notable invertebrates were scoped out of the Environmental Statement on the basis that records from within the site were not within the development footprint. However, an absence of records is not equal to an actual absence of the species. Records of such a significant number of invertebrate species of conservation importance from the data search should have led to detailed invertebrate surveys being undertaken.

3.51 Not only has the applicant failed to undertake invertebrate surveys, they have also failed to collate available data, leading to a series of bold but baseless assertions. Several of the invertebrates of conservation concern found at Rawcliffe Meadows are associated with grassland and hedgerow habitats, and could therefore be potentially at risk from the proposed scheme. This includes one species categorised as Endangered and listed as a NERC Act Species of Principal Importance.

#### Necklace ground beetle

3.52 The proposals intend to fence off the arable field margins around the Cornfield during construction. However, the Necklace ground beetle is an active species which will utilise a broad range of habitats, so has the potential to be significantly impacted by the works. This is supported by the Friends of Rawcliffe Meadows' own records, which clearly indicate a much wider use of the site. FoRM records show that the local population is closely associated with relatively short and open species-rich turf and does not occur in dense, tussocky field margins. The mitigation proposes safeguarding the wrong areas of the site and has not identified the much more likely area of occurrence within the Cornfield.

#### Breeding Birds

3.53 The application states that "tree sparrows may have nested in the boundary wall of the former Clifton Hospital, however the thin hedge at this location was categorised as relatively poor habitat for nesting birds". Given the inevitable disturbance at this location, which forms the narrowest 'pinch point' between Ings Dyke and the hospital boundary, this statement is nonsensical. Unless the nesting season is avoided, there would be an impact on Tree Sparrows and no mitigation is proposed. As this was the only location Tree Sparrow was suspected to be nesting in 2018, there is an obvious need for targeted mitigation measures.

#### Great Crested Newt

3.54 Proposals for increasing the Great Crested Newt population are over-played.

#### Common Toad

3.55 The impact has been inadequately assessed as there is no mention of pond at the south side of Rawcliffe Meadows which is used for breeding and is close to the embankment works.

#### Badger

3.56 The Cornfield Nature Reserve is the only sizeable area within the local landscape where people and dogs are excluded. Therefore, if Badgers are present, the Cornfield is likely to be critical to the species' survival in the vicinity.

#### Roe Deer

3.57 Roe Deer were present regularly in the Cornfield in 2012 to 2017 and raised young in the Nature Reserve in at least two years. There is nowhere else in the surrounding landscape sufficiently free from dog disturbance for them to do so. The Cornfield Roe Deer range widely but the Cornfield provides the secure cover they need to breed as well as a critical refuge and source of forage. The development will almost certainly result in the loss of resident Roe Deer in Rawcliffe Parish, at least temporarily, and re-colonization is far from guaranteed since it took many years for a breeding population to establish.

#### Butterfly

3.58 The application has not made any mention of the potential to impact on White-letter Hairstreak butterfly, a Red List (Endangered) species and Species of Principal Importance. Several elm trees have been planted in Blue Beck Copse specifically to encourage this butterfly, which is known from the site.

#### Grassland Weeds

3.59 The applicant states with certainty that there will be "no significant effect" from invasive plants. This is untrue since extensive soil disturbance will inevitable create favourable conditions for noxious grassland weeds, which are likely to cause problems for decades to come.

3.60 If the Council is minded to approve this application, it is imperative that an invasive weed management plan is agreed which commits the applicant to a diligent and comprehensive programme of controlling Curled Dock, Broad-leaved Dock, Spear Thistle, Creeping Thistle, Welled Thistle and Common Ragwort (as well as invasive non-native species) for a minimum of 20 years.

#### Proposals to relocate cycle path

3.61 FoRM welcome the proposal to permanently re-route the cycle path onto the well-worn strip running parallel to the Ings Dyke on the Clifton Ings side. We agree that this would have minimal impact on the integrity of Clifton Ings. However, the Planning Authority needs to see evidence that appropriate legal agreements are in place prior to determination. Clifton Ings was never legally enclosed so, as we understand it, there is no freehold ownership.

#### Further objections

3.62 Irreversible damage and destruction of parts of this ancient and vital SSSI habitat. Nearly thirty years of volunteer effort has gone into the site with little thanks or funding from the landowners (the Environment Agency), and that given this record it seems unlikely that they will spend decades ensuring the lost SSSI will be truly compensated for.

3.63 At the time York Natural Environment Trust (YNET) were asked by CYC to take on the management of the area now known generally as Rawcliffe Meadows. It agreed to do this, leading to the formation of the Friends of Rawcliffe Meadows (FoRM,), which, with minimal official help, has managed the site since, achieving conspicuous success, including SINC status. This has been a source of justified pride and a credit for those involved and an enviable asset for York.

3.64 There has been a lack of consultation to allow residents to understand the full effect of the works. Also there are 126 documents associated with this application. This is a huge amount for an individual person to understand and digest and will put many people off trying to grasp what is happening.

3.65 The Ings are a special place - not only for flood events (seeing as it is a flood plain), landscape and biodiversity but individual trees are important and the hedges are vital. It all links together making this area unique especially as it is so accessible and is so close to York centre. The application implies that the flood defence in whatever form overrides any legally protected SSSI status. 140 houses are due to be protected from this huge, expensive flood defence scheme. Why were those houses built in a flood zone and why should they now take priority over a site designated for its very special MG4 grassland status alongside the rare tansy beetle and all of the other mammals, birds and invertebrates that are going to be destroyed or displaced. Hedges will be decimated, trees removed, the existing cycle track will disappear and access will be prevented.

3.66 Loss of grassland and lack of confidence in the proposed mitigation - This habitat cannot just be replaced elsewhere as mitigation. If ground conditions are right and species rich grassland can be created elsewhere this will take years but it is highly unlikely it will ever be successful. Is someone paying for a land manager on the ground for years afterwards to get this right or will everyone just walk away from the site and hope for the best?

3.67 With regards the proposed mitigation strategy given the duration of impacts (over 10 years according to the applicant), how would the Planning Authority ensure that the applicant is capable of addressing long-term impacts? The Planning Authority needs to consider its limited resources available for monitoring and enforcement, and the likely political constraints on taking enforcement action against a statutory agency.

3.68 Habitat translocation is a discredited method of mitigating loss of nationally-important grassland; it is, at best, a salvage operation. Natural England has, on other grassland SSSIs, opposed translocation as a credible mitigation strategy. Even if translocation was accepted as a viable strategy, it will require an exhaustive, painstaking and long-term commitment to ensuring optimal management of the receptor site. The applicant proposes simply to ensure an annual cycle of hay cutting and aftermath grazing of the receptor site. This is likely to be woefully inadequate given the known and empirically-evidenced problems with translocated grassland.

3.69 The strategy put forward for mitigation uses non-committal terms. The applicant should at least present evidence demonstrating that they have applied the proposed techniques elsewhere to achieve a quality of compensatory habitat creation commensurate with offsetting damage to a nationally-important and irreplaceable habitat.

3.70 Lack of comfort all adequate alternatives have been considered. Of the three short-listed alternative options presented in "Appendix 2.1 Long list of Option Assessment", only one, Option 20, includes widening to the dry side. The cost of Yorkshire Water (YW) mains diversion is given as a key reason for its score of -2 (high negative impact). However there is no pipework anywhere near the dry side of the embankment between chains 300-500, 500-780, 780-1100. One comment accepts that the works need to avoid infringing on the adjacent Cricket field in the south of the area and similarly, to the screen of pine trees giving some level of privacy to the low-security hospital towards the North-end of site. But there is a long stretch of existing barrier from the wall of the Old Lunatic Asylum in the North to open area of the Tansy Pond in the South that protrudes westwards and runs along the NCR65 cycle path. Alongside here there is scope to restrict works to the 'dry'-side.

3.71 Lack of information in the PEIR about Necklace Groundbeetle, a NERC Act (Natural Environment and Rural Communities Act) Species of Principal Importance which is also categorised as Endangered in the British Red List. There is also a lack of information about impacts on the numerous birds which occur regularly at Rawcliffe Meadows and are Species of Principal Importance.

Disturbance during construction

3.72 Works to close off the access road by the allotments, build a new access road on the corn field, flood lights for the works, the amount of increased traffic and noise has been poorly communicated. Residents concerned that access to property will be impacted as a result of the closure of the path along the allotments and it is unclear as to how this will be used by workers and how long it will be closed for. This road is not suitable for a heavy traffic use and is prone to pot holes already.

YORKSHIRE WILDLIFE TRUST



3.73 Following submission of the proposed mitigation strategies by the EA the trust maintains an objection to the proposals.

3.74 The Trust is concerned that the area of grassland, which is proposed to be restored to flood plain MG4 grassland, is in very poor condition with extensive weed growth including creeping thistle which will be very difficult to eradicate. There will undoubtedly be a large seedbank topsoil stripping or use of weed killers that will be necessary to ensure high quality grassland can be established. The suggested approach at the moment may lead to increased problems with weeds. Long term management does not appear to be secure. The work by Friends of Rawcliffe Meadows and partners to bring much better quality grassland than that proposed in compensation to SSSI standard has been very intense and involved many hours of volunteer effort. The authority must be certain that a similar amount of effort will be possible over 10-20 years to bring the proposed compensation area into something resembling MG4 grassland.

3.75 The information on translocation of grassland from the Floodplain Meadows Partnership (FMP) is useful. However it does appear that this technique is not guaranteed to work, will depend on weather conditions, and may eventually lead to a lower quality outcome in the compensation area. The Trust would like to see a Biodiversity Offsetting calculation showing more detail of what is proposed, to show whether there will be a net loss or net gain in habitat and biodiversity.

#### YORK NATURAL ENVIRONMENT TRUST

3.76 V.2. of the SSSI Mitigation Strategy provided by the Environment Agency (EA) in May 2019 appears to be a (partial) response to the Natural England response but ignores comments by others including ourselves (YNET), Friends of Rawcliffe Meadows (FoRM), the Yorkshire Wildlife Trust (YWT), Buglife and others. However a few key points from the Natural England response remain ignored those being the absence of Tansy Beetle mitigation from the Strategy and how the EA will ensure that funding for the works will be ensured during the lifetime of the period needed to provide mitigation.

3.77 The mitigation methodology should contain input to the entire grassland restoration. In terms of grassland restoration the FMP (Friends Meadow Partnership) and the FoRM should be involved.

3.78 Section 2.1 of the mitigation methodology contains the EA's evasive reply to the revised biodiversity metric and fails to acknowledge that the EA were part of the working group developing this. Throughout the EA continue to employ the 4:1 ratio (or even less) instead of the minimum 7:1 ratio as if the land being lost were only a Site of Interest to Nature Conservation. Similarly it is not up to the EA to define the area to be mitigated, as they attempt to do, it is the SSSI notification by NE that specifies the area that is SSSI! Also, in attempting to reduce the affected area they

attempt to brush aside the very likely effect of soil compaction and nowhere does it state how this will be recovered.

3.79 The Mitigation Strategy fails to provide the necessary confidence that the EA or their contractors have the finance, ecological knowledge, skills or long-term commitment to mitigate for the development. Given that the EA were planning to start on the main Barrier Bank in 2020 where is the evidence that they have calculated the seed and hay requirements (depending upon the area to be restored considerable quantities will be required) needed for the mitigation, who will do the collection and storage of the seed, how and where will it be stored? Importantly numerous plants will need to be grown on for transplanting when mature - what arrangements have the EA made for this work as there is limited experience and availability for such work in the region.

#### **CLIFTON ALLIANCE CRICKET CLUB**

3.80 Note that the site boundary intrudes onto the cricket ground. The club require an assurance that no work will take place on their land, including; access by vehicles, storing of plant or materials, use of machinery or equipment or any action that would affect the playing of cricket or maintenance of the ground.

#### **3.81 Drainage**

- The club ask for assurance that the works would have no future adverse affect on our grounds draining performance. In particular we are very concerned about damage to existing land drains that run from our land through the existing flood-bank being damaged during the construction of the new barrier. We would like assurances that any such drains would not be blocked or destroyed.
- A "Toe drain" is shown at the base of the "wet side" and the club hope any existing drains could be linked into this. They would welcome any improvement to our drainage that could be incorporated into the scheme.

3.82 As part of the construction management as for consideration of the following -

- As evening games start at 6pm and weekend games start at noon the club would want working hours restricted to 8am to 6pm on weekdays and 8am to 12 noon on weekends.
- Measures to prevent dust travelling on to site and suggest a protective fence to prevent ball being lost on the construction site.

## **4.0 APPRAISAL**

### **ASSESSMENT**

4.1 The key issues are as follows –

- Flood risk
- Impact on the natural environment
- Construction management / amenity
- Green Belt and impact on openness and the purposes of the Green Belt
- Case for Very Special Circumstances

## **FLOOD RISK**

4.2 The application site is within Flood Zone 3b – functional flood plain. National planning guidance (the NPPG) requires therefore that the sequential test be undertaken. The type of development proposed is classed as water compatible and is therefore appropriate; the exception test is not required. However the guidance states that in Flood Zone 3b (functional floodplain) water-compatible uses, should be designed and constructed to:

- remain operational and safe for users in times of flood;
- result in no net loss of floodplain storage;
- not impede water flows and not increase flood risk elsewhere.

4.3 The Sequential Test is passed on the following grounds -

- The barrier bank prevents flooding from rivers of the Clifton and Rawcliffe area. The works are proposed because the existing bank is unstable. They will also enhance protection by extending the barrier at each end and by providing a consistent increased height of protection.
- The works are required in Flood Zone 3b; they are location specific in order to provide better resilience to flooding locally and consequently pass the sequential test.

### Impact on flood risk

4.4 The application (and consequently this report) refers to flood risk AEP. AEP is the probability over the course of a year that there will be a flood event equal to or exceeding the indicated flood extent, depth or level.

4.5 The EA advise that the estimated protection from the existing barrier bank is 2% AEP for the present day. The estimated onset of flooding to local receptors behind the barrier bank is the 1% AEP event (1 in 100 year flood), as water bypasses the northern extent of the bank to flood the open field north of the allotment gardens to a level of 11.15m AOD. Water also bypasses the southern extent of the bank to flood York Sports Club to a level of 9.72m AOD. During the 0.1% AEP present day flood there would be widespread flooding within the Rawcliffe, Clifton and Ings residential areas.

4.6 The proposed barrier bank will have a beneficial effect by reducing the flood extent so that local receptors would no longer be at risk in the 1% AEP event (up to 2039 with climate change). There would also be a reduction in the area at risk during the 0.1 AEP. However with the proposed Project in 2050 27 properties will remain at risk and by 2116 75 properties.

4.7 It should also be noted however that the area is also affected by flooding from surface water (following intense periods of rainfall). The revised FRA confirms this will remain an issue and the impact will not change as a consequence of this scheme.

4.8 The pumping station is required to better manage flood risk (allowing the transfer of flood water between blue beck flood basin and Clifton Ings) in the local area. The permanent facility will be more efficient and reliable; the information supporting the application explains how the current arrangement contributed to flooding in the 2000 and 2015 flood events.

#### Flood plain storage and flood risk elsewhere

4.9 The FRA explains that there would be a loss of flood plain storage and potentially transferred risk elsewhere although the additional risk will be negligible (see 4.2.3 of the FRA).

4.10 As a consequence of the scheme the volume of floodplain storage lost within Clifton Ings (wet side) will be less than 0.7% compared to the current 2,300,000m<sup>3</sup> capacity of Clifton Ings. The EA deem this to be an insignificant reduction and advise that the storage is not lost as the EA control when the storage area is allowed to fill i.e. they close and open the gates to the storage area as needed.

4.11 The FRA states that as a consequence of this scheme there is increased flood risk at Clementhorpe and Marygate. The affected properties would remain protected from flood risk during the 1% AEP (without climate change). Furthermore the EA will be carrying out flood alleviation work in these areas.

### **IMPACT ON THE NATURAL ENVIRONMENT (HARM AS A CONSEQUENCE OF WORKS & THE PROPOSED MITIGATION)**

4.12 NPPF paragraph 175 states that when determining planning applications “development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest”

4.13 The policy goes on to state that if significant harm to biodiversity resulting from a development cannot be avoided (through locating at an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

4.14 Section 9 of the 2018 DLP relates to Green Infrastructure. Its policies are generally consistent with section 15 of the NPPF which relates to the natural environment. Most relevant local policy is as follows -

- Policy GI 1 states - “York's landscapes, geodiversity, biodiversity and natural environment will be conserved and enhanced recognising the multifunctional role of green infrastructure in supporting healthy communities, cultural value, a buoyant economy and aiding resilience to climate change”.
- Policy GI 2 states - “In order to conserve and enhance York’s biodiversity, any development should where appropriate:
  - I. avoid loss or significant harm to Sites of Importance for Nature Conservation (SINCs), whether directly or indirectly. Where it can be demonstrated that there is a need for the development in that location and the benefit outweighs the loss or harm the impacts must be adequately mitigated against, or compensated for as a last resort;
  - II. ensure the retention, enhancement and appropriate management of features of geological, or biological interest, and further the aims of the current Biodiversity Audit and Local Biodiversity Action Plan”
- Policy GI 3 states “in order to protect and enhance York’s green infrastructure networks any development should where relevant:
  - I. maintain and enhance the integrity and management of York’s green infrastructure network, including its green corridors and open spaces;
  - II. protect and enhance the amenity, experience and surrounding biodiversity value of existing rights of way, national trails and open access land;
  - III. ensure the protection of the hierarchy and integrity of York’s local, district and regional green corridors”

#### Habitat Directives

4.15 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended), contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species (EPS). Notwithstanding the licensing regime, the Local Planning Authority must also address its mind to these three tests when deciding whether to grant planning permission for a development which could harm an EPS.

4.16 The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended) are as follows:

- that the action is for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature;
- that there is no satisfactory alternative;
- that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

4.17 In terms of assessment against the Habitat Directives the proposed development is intended to reduce flood risk and is in the wider public interest. It is proposed to manage the environmental impact through the use planning conditions and the impact is addressed in the following paragraphs.

#### IMPACT ON THE SSSI

4.18 Clifton Ings and Rawcliffe Meadows was designated as a Site of Special Scientific Interest (SSSI) in 2013. It is a nationally important site for species rich neutral grassland, in particular British National Vegetation Classification (NVC) types MG4 and MG8; and the critically endangered tansy beetle.

4.19 According to surveys by the Floodplains Meadow Partnership (see appendix 5.4 of the EIA) some 25.13ha of the SSSI contains MG4 grassland.

4.20 Impacts to the SSSI are set out in the revised Mitigation Strategy (version 2.0, May 2019). Overall there will be a permanent impact on up to 2.3 ha of the 25.1 ha of grassland within the SSSI. NPPF policy is that such harm should not normally be permitted, and then only when the benefits clearly outweigh the impact. The 'mitigation hierarchy' as referred to in NPPF Para.175a) seeks as a preference to first avoid impacts then to mitigate unavoidable impacts, and, as a last resort, to compensate for unavoidable residual impacts that remain after avoidance and mitigation measures. In this respect the Environment Agency's proposals include the last resort of compensatory habitat.

4.21 The application documents explain why impact on the SSSI cannot be avoided; because of the need to repair the existing barrier bank. It gives adequate justification as to why the re-profiling of the barrier bank and working areas cannot take place entirely on the 'dry side' of the existing bank i.e. not within the SSSI due to the impacts that would result on neighbouring sports facilities and other 3<sup>rd</sup> party land.

4.22 Officer's opinion is that there will be a significant effect at a National level in the long term from the loss of SSSI habitat. There is uncertainty in the success of habitat creation and restoration, with time taken to reach target condition in the tens of years (20-30yrs+), and only then with long term effort in management and monitoring.

4.23 The SSSI Mitigation Strategy provided includes a framework for avoidance, mitigation and compensation measures to address the adverse impacts identified. Further detailed designs and methodologies will need to be added once a contractor is in place and this, and a management plan and monitoring strategy would be secured through a planning condition.

4.24 The habitat losses and compensation proposed is described below;

- There will be a permanent loss of 0.9ha of SSSI through the enlargement of the flood bank, this figure is reduced down from the worse case scenario of 1.2ha presented in the Environmental Statement (ES). It will not be possible to avoid or mitigate for this irreversible loss and therefore it will be compensated at a 1:4 ratio i.e. for every 1ha lost 4ha of compensatory habitat (species-rich grassland) will be delivered at Rawcliffe Ings. It is proposed to use the original 1.2ha loss figure and deliver 4.8ha of compensatory habitat through translocation of turves, green hay spreading and collected seeds. The 1:4 ratio has been agreed by Natural England and reflects issues of uncertainty in the success of habitat creation, and the timescales in which compensation habitat takes to develop replacement functionality.
- Three toe drain outfall pipes will be installed from the barrier bank across the SSSI to discharge into Blue Beck. The EA have confirmed that it will be possible to lift turfs and soil, lay the pipes and reinstate in one operation using low impact machinery.
- The access route and working areas required during construction will impact at most 1.2ha of SSSI. Although grassland habitat can be recreated in situ once the access road is removed (including soil compaction remediation), impacts that last beyond ten years are considered to be permanent. As well as restoration in situ this impact will be compensated off site at a 1:1 ratio.
- The existing Sustrans cycle route through Rawcliffe Meadows will be realigned through the Clifton Ings part of the SSSI. This will provide some benefit through removal of the existing tarmac path which can be restored to grassland, but it will result in the permanent loss of 0.2ha of land within the Clifton Ings part of the SSSI. The habitat in the area alongside Ings Dyke where the majority of the cycle path will run is degraded and of lower habitat value however it represents the permanent loss of habitat which could otherwise be restored. This habitat loss will be compensated off site at a 1:1 ratio.

4.25 The compensatory habitat will be delivered on land adjacent to the SSSI and owned by the Environment Agency, known as Rawcliffe Ings. Rawcliffe Ings is some 12ha in area and is in the north-west corner of the application site (between Rawcliffe Park and Ride and Country Park and the river).

4.26 Preliminary work undertaken by the Floodplain Meadows Partnership has shown that the soil nutrients levels at Rawcliffe Ings are suitable for restoration. Compensation ratios for habitat lost are applied on a case-by-case basis and overall 6.2ha of compensatory habitat will be delivered. The long-term aim is to create like-for-like habitat. The mitigation strategy produced by the EA acknowledges that *“although the Strategy will not achieve an exact match for the MG4 grassland which is lost, there is evidence that a species rich MG4 meadow can be created over a relatively short period (under the correct management) and even develop on engineered soils over longer periods. Every effort will be made through long term management to ensure that good quality MG4 (determined by species composition) develops in this area”*.

4.27 To achieve the intended habitat Rawcliffe Ings will require active management to retain conservation interest. In order to maintain a species-rich sward, each year’s growth of vegetation must be removed. The grassland habitat in this area is currently degraded and species-poor with significant weed issues in places (nettle, thistle, dock etc). The proposed change in management of this whole area to a traditional hay cut and aftermath grazing will therefore, if successful, enhance biodiversity overall, in addition to providing the compensatory habitat.

4.28 Natural England has proposed the establishment of a Management Committee of interested parties to advise on and secure the long term delivery of restoration at Rawcliffe Ings. Whilst officers are in favour of this approach unfortunately it could not be secured through a planning condition due to complications in making it enforceable, precise and reasonable; given that it would involve third parties / agreement of committee members and the structure for decision-making and financing.

## TANSY BEETLE

4.29 Although the Tansy Beetle is a notified feature of the SSSI it has been agreed that a mitigation strategy separate to that for the SSSI grassland habitat can be produced post determination (secured by planning condition). This is because the proposal is considered unlikely to directly impact on the beetle; the 2018 surveys by the Tansy Beetle Action Group recorded beetles on Tansy plants outside of the footprint of the works, although due to the length of time of the works there is potential for the distribution of Tansy Beetles to change.

## IMPACT ON OTHER DESIGNATIONS

### RAWCLIFFE MEADOW SINC



4.30 The area immediately north of the flood bank known as Blue Beck flood storage basin and the adjacent field is designated as a Site of Importance for Nature Conservation, named Rawcliffe Meadow SINIC.

4.31 The embankment widening will not directly impact the SINIC. The new pumping station will be located outside of the SINIC but on its southern edge next to the embankment; there will be no significant habitat loss although there is likely to be some disturbance during construction. A condition is proposed (Habitat and Landscape Management Plan) to ensure that the SINIC is continued to be managed throughout the duration of the construction and habitats do not decline.

4.32 The SINIC supports a medium breeding population of Great Crested Newts across several small ponds and scrapes. There will be disturbance and temporary loss to terrestrial habitat within 500m of breeding ponds. As such it is anticipated the works will need to be undertaken in accordance with a European Protected Species licence obtained from Natural England. The proposed approach to works is detailed in the mitigation strategy and a condition can ensure works are carried out in appropriately.

#### RAWCLIFFE BAR / CORNFIELD

4.33 A new section of flood bank will be constructed through the 4.6ha field known as 'Rawcliffe Cornfield Nature Reserve'. The land is part of Rawcliffe Bar Country Park which is long-term leased to City of York Council (CYC). Although it does not hold any statutory or non-statutory designation for nature conservation it has been managed positively for wildlife by a voluntary group the Friends of Rawcliffe Meadows, on behalf of CYC since 2003. The field is currently in a 10 year Higher Level Stewardship agreement predominantly managed as arable, targeted at declining farmland bird species by providing a foraging resource. The land has also developed to support arable flowers and invertebrates that are listed as species of conservation concern.

4.34 The new section of flood bank will be constructed through the southern section that is currently managed as permanent grassland. Once constructed the flood bank will need to be maintained with regular mowing and will impact on how this area is managed in the future.

4.35 The construction site compound will be located in the Cornfield and is subject to a separate planning application (19/00009/FUL), and separate comments are provided on this.

4.36 The new flood bank will extend into Rawcliffe Bar Country Park where it will grade out to the existing ground level. This will result in the temporary loss of amenity grassland, hedgerow and the removal of three semi-mature trees.

4.37 A mitigation and management of the Cornfield Nature Reserve will be detailed and secured through a Habitat and Landscape Management Plan. The plan will be required to cover aims and objectives, ongoing monitoring, and the responsibility for works over a 5 year period.

## IMPACT ON OTHER SPECIEIS

### Necklace Ground-beetle

4.38 A new section of flood bank will be constructed through the 4.6ha field known as 'Rawcliffe Cornfield Nature Reserve'. This will impact, in particular, the habitat of Necklace Ground-beetle which is a species of principal importance for the purpose of conserving biodiversity covered under section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Mitigation proposed for the Necklace Ground-beetle includes the retention and maintenance of field margins. The mitigation and management of the Cornfield Nature Reserve will be detailed and secured through a Habitat and Landscape Management Plan.

### Bats

4.39 Whilst no Bat roosts were identified on site approximately 22 trees were found to have features of moderate or good (high) roost suitability. It is not clear how many of these will be directly impacted, although works do involve the removal of an Oak tree at around ch.400 (behind Eades Close where the wall is being removed to accommodate the embankment realignment) which has been previously recorded as supporting bats.

4.40 Where it is not possible to avoid felling a tree with bat roost potential these will be subject to a climb and inspect survey prior to removal. Bat boxes will be placed in trees on site to replace the loss of roosting features. This provision should be included in the Construction Environmental Management Plan and Habitat and Landscape Management Plan, secured through planning permission.

### Great Crested Newts

4.41 Rawcliffe Meadow SINC (ref. SE55-10YK) supports a medium breeding population of Great Crested Newts, with a combined maximum of 20 individuals recorded across several small ponds and scrapes in 2018. Great Crested Newts have full protection under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended).

4.42 No ponds will be lost through the proposal and the areas of core habitat for GCN within the SINC, and connected habitat to the north (allotments etc) will not be impacted, but there will be disturbance and temporary loss to terrestrial habitat within 500m of breeding ponds.

4.43 Using Natural England's rapid risk assessment tool as a guide it is likely that works will result in wildlife offences and therefore works will have to be carried out under a European Protected Species Licence. A Great Crested Newt Mitigation Plan will need to be developed to minimise potential impacts on newts and terrestrial habitat, and to ensure that adequate mitigation is provided as part of the development proposals.

4.44 The proposed compensation measures; hibernacula within Rawcliffe Meadow SINC, will provide limited enhancement in an area of existing high quality habitat. It will be for Natural England to determine the correct approach however the local planning authority must have regard to the Habitat Regulations in determining the application.

#### Common Toads

4.45 In the 2015 GCN surveys Pond 1 (the Tansy Pond) and ponds in the flood basin were found to potentially support low to good sized populations of toads. Common Toad is a species of conservation concern under Section 41 of the NERC Act 2006.

4.46 Common Toads are particular about where they breed and often migrate back to their ancestral breeding ponds each year. Toads are often most at risk during their migration period from January to March. Toads are typically nocturnal and therefore restricting night-time working would minimise the risk of trampling when toads are active. Trenches and other excavations should be backfilled before nightfall, or a ramp installed to allow amphibians and other fauna that may enter the excavations to easily exit. These provisions would need to be included in the Construction Environmental Management Plan.

#### Invertebrates

4.47 As well as the Tansy Beetle the SSSI and wider area supports invertebrates that are nationally scarce and priority species in England. There has been no specific survey and assessment of the invertebrate communities present in the SSSI however it is considered that there will remain sufficient suitable habitat to support the invertebrate assemblage in the local area.

4.48 The invertebrate assemblage is intrinsic to grassland quality and will be an important indicator in monitoring/measuring the success of the mitigation.

#### Water Vole

4.49 Water Voles are fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 and are a priority conservation species. They are present in Blue Beck flood storage basin, Blue Beck and Ings Dyke. Water Vole population density can fluctuate widely and quickly disperse to colonise new areas, therefore

the installation of outfalls and the Blue Beck culvert extension has potential to impact this species through displacement but also permanent loss of habitat (and potentially burrows). It is proposed to deter Water Voles from colonising the works area, by cutting and maintaining vegetation to a low level. Pre-works checks will be necessary to determine the presence/likely absence of Water Vole from the works area. This provision should be included in the Construction Environmental Management Plan.

## HEDGEROWS AND TREES

4.50 The land on the 'dry' side of the existing embankment is covered by a Tree Protection Order. This extends to include York sports ground at its south-east extent and the cornfield at the north extent.

4.51 Hedgerow and tree removal would occur, in particular where the embankment would run through the cornfield, along the general extent of the existing barrier (which is to be removed) and where the southern extension is proposed. The EA have advised that works will be adjusted on site where possible to avoid loss and the impact as shown on the Tree Plan drawings are worse case scenario. This worse case scenario includes a significant length of mature native species hedgerow alongside Clifton Park that it may not be possible to replant. The tree plans show approx 60 individual trees plus groups of trees will possibly have to be removed.

4.52 The mitigation proposals are for replacements (hedgerows will be replaced on a 1:1 basis, and trees at 1:3; therefore potentially 180 trees). However this has not been illustrated on plans and officers are not confident the extent of replanting proposed can be secured as on site this would likely conflict with the function of the SINC and the strategy for MG4 grassland restoration. There are also further constraints such as drainage easements.

4.53 There is a risk that it will not be possible to fully deliver the proposed mitigation, worse case resulting in a net loss of trees and hedgerows. The replacement hedgerow and tree planting will be detailed and secured through a Habitat and Landscape Management Plan.

4.54 The constraints around replanting trees and hedges are as follows -

- It may not be possible to replant trees or hedgerows by Clifton Park due to a Yorkshire Water Main and an engineering requirement that no replacement tree or hedgerow planting can be undertaken within 5m of the dry or wet side toe of the new defences.
  - Rawcliffe Ings has been identified for replacement hedge planting, although these include alongside Rawcliffe Ings Dyke SINC (ref. SE55-06YK) which is designated for the variety of aquatic wetland species indicating diverse and good
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quality standing water habitat. In the longer term shading from hedgerows could negatively impact the SINC and so the locations identified may not be suitable. The planting of blocks of trees within Rawcliffe Ings will reduce the land available for the proposed enhancement as species-rich grassland.

- The nearby Rawcliffe Bar Country Park managed by CYC is already well vegetated and is not suitable for any additional tree or hedgerow planting.

## **WHETHER THE HARM TO THE NATURAL ENVIRONMENT IS CLEARLY OUTWEIGHED BY THE BENEFITS OF THE DEVELOPMENT?**

4.55 According to NPPF paragraph 175 this application should not normally be permitted and only be approved if the benefits of the development i.e. the flood alleviation scheme clearly outweighs the likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest.

4.56 The 25.13ha of MG4 grassland in Clifton Ings and Rawcliffe Meadows SSSI is 1.67% of the National resource. The proposed development would have a permanent impact on approximately 2.3ha of the SSSI. It would be exceptional for the Local Planning Authority to permit such harm.

4.57 The existing embankment protects a wide area of Clifton / Rawcliffe and reduces the risk of flooding from the River Ouse. The EA advise that the bank is unstable and needs repair. The stability already limits the EA's ability to transfer water between the Ings and the Blue Beck Flood Basin (and therefore detrimentally effects the function of the flood plain). The works would improve flood resilience and protect the area from the 1 in 100 year flood (with climate change) up to 2039.

4.58 The scheme is part of a wider series of flood defence works for the city, which the EA in the process of delivering following the allocation of £45 million after the 2015 floods, to better protect 2,000 properties in York.

4.59 The existing embankment, between Rawcliffe Meadows SINC and Clifton Alliance cricket ground is within the SSSI and consequently the necessary repair works will inevitably have an adverse effect on the SSSI. This is the justification for the works in addition to the enhanced protection the works would bring through increasing the height of the defence and widening its extent.

## **CONSTRUCTION MANAGEMENT**

4.60 The Environmental Statement details the anticipated impacts regarding noise and dust during the construction project and as a consequence of the proposed development. It proposes mitigation for the construction period, covering construction traffic/vehicle routing and times of works and further measures to be imposed to mitigate against noise and dust. These will be covered in conditions. In

addition the proposed condition will require an assessment of the potential impact, and any mitigation if required to ensure that dust does not affect the use of Clifton Alliance cricket club.

## **GREEN BELT AND THE IMPACT ON OPENNESS AND THE PURPOSES OF THE GREEN BELT**

4.61 The site is within the Green Belt. Paragraphs 143 to 146 set out the approach for dealing with development proposals in the Green Belt. The proposed extension to the barrier bank and the pumping station are both in NPPF terms "inappropriate development" (the former because it would not preserve openness) which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

4.62 Paragraph 133 advises 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 their permanence. Paragraph 134 goes on to explain the five purposes of the Green Belt.

4.63 The existing barrier bank would be increased in height a maximum of approx 1.2m and where it would be extended through the cornfield it would be some 1.6m high. There would be a minor adverse impact on openness as a consequence of extending the bank through the cornfield. Otherwise given the existing visual impact of the embankment there would be no adverse impact on openness.

4.64 The pumping station and its associated kiosk is not development which falls within any of the exceptions as listed in NPPF paragraphs 145 and 146. Consequently it is inappropriate development.

4.65 The pumping station will serve the Blue Beck flood basin, which is to the south-west of the allotment gardens. Its inlet and outlet areas, which will be of concrete construction, will be exposed. Otherwise the structure would predominantly be underground / within the bund. Also apparent will be the maintenance platform / access stair and a single storey building 6m by 4m, required to house electrical equipment. These structures would sit within fields and grassland between the allotments and the river. There would be an adverse effect on openness and the landscape setting.

## **CASE FOR VERY SPECIAL CIRCUMSTANCES**

4.66 Paragraph 144 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

4.67 The harm resulting from the proposals would be as follows -

- A permanent loss of some 2.3ha of the 25.1 ha of grassland within the SSSI which according to the NPPF should not normally be permitted. The proposed conditions require mitigation and compensatory habitat in this respect which require long-term management.
- The impacts on biodiversity due to the extension of the embankment through the cornfield and into Rawcliffe Bar Country Park.
- The impacts on biodiversity and landscape character as a consequence of the loss of trees and hedgerows. Whilst the impact on species can be managed and replacement planting can be secured there is a risk the extent of replacement hedges and trees, as proposed by the EA, will not be achieved.
- A low impact on the openness of the Green Belt as a consequence of the proposed pumping station and kiosk and extended embankment.

4.68 The very special circumstances that clearly outweigh the harm to the Green Belt and the other identified harm are as follows -

- The thrust of national policy regarding flood risk, as set out in section 14 of the NPPF is to mitigating and adopting to climate change and avoiding increased vulnerability to flood risk. Whilst the scheme only addresses flood risk from rivers, the barrier bank will enhance protection of a substantial area, including 134 properties, from such flood risk. This scheme delivers benefit by improving the level of protection for the area; to the extent that it is defended during the 1 in 100 year flood and, compared to the existing defence, reduces the area, and number of properties that would be at risk, during the AEP 0.1% event / 1 in 1000 year flood.
- The bank needs remedial work and its enhancement will provide increased protection. The EA state that the bank needs repairs in any event and these would, if permission were not granted, be undertaken under the Reservoirs Act 1975 i.e. without planning permission. Under the Reservoirs Act 1975, the Environment Agency, as the reservoir owner (undertaker), has ultimate responsibility for the safety of the reservoir. Such works would also have an adverse effect on the SSSI.
- The pumping station has a low impact on the openness and purpose of the Green Belt (to assist in safeguarding the countryside from encroachment) and will have a significant beneficial impact on the ability of the EA to manage flood water.

## 5.0 CONCLUSION

5.1 The works are required due to issues with the stability of the existing bank and as part of a wider programme to improve flood defences throughout the city. The existing barrier bank requires repair and such works cannot be undertaken without an adverse effect on the SSSI. The flood defence no longer protects the area from the 1 in 100 year flood / AEP 1% event.

5.2 The works to the existing barrier bank would have an adverse effect on a SSSI that, according to the NPPF, should not normally be permitted. Also as the site is in the Green Belt very special circumstances are necessary which clearly outweigh the identified harm to the Green Belt, as a consequence of the new pumping station and larger barrier bank, which have an adverse effect on openness and the other identified harm.

5.3 The re-profiling of the barrier bank will affect a further 0.9ha of the 25.1ha of grassland within the SSSI. There are adequate grounds as to why this development can't take place outside of the SSSI and this scheme delivers benefit by improving the level of protection for the area; to the extent that it is defended during the 1 in 100 year flood and, compared to the existing defence, reduces the area, and number of properties that would be at risk, during the AEP 0.1% event / 1 in 1000 year flood.

5.4 The proposals involve mitigation on site where possible and otherwise compensated for at Rawcliffe Ings. The recommended conditions are as robust as possible in terms of securing compensatory grassland and rehabilitation of areas affected by the proposals. The conditions will require long-term management of the site and ongoing monitoring to ensure delivery of the mitigation and compensatory habitat. Furthermore the conditions will secure adequate mitigation for the impact on ecology outside of the SSSI and ensure any loss of trees and hedgerows is compensated for; at a rate of at least 1:1, and aiming for 1:3 provided this is consistent with other environmental objectives for the site and site constraints.

5.5 Approval is recommended because the proposed works will bring significant community benefit, by reducing flood risk to a considerable area. Combined with the proposed mitigation there is deemed to be adequate justification for the adverse effect on the SSSI, which may only be permitted in exceptional circumstances, as set out in NPPF paragraph 175.

5.6 The extension of the barrier bank and the pumping station would only have a low adverse impact on the Green Belt; reducing openness. Even when giving substantial weight to harm to the Green Belt, as required by NPPF paragraph 144, the benefits of the scheme; managing and reducing flood risk are deemed to be very special circumstances which clearly outweigh the harm to the Green Belt and other identified harm and make the proposals acceptable in application of Green Belt policy.



## COMMITTEE TO VISIT

### 6.0 RECOMMENDATION: Approve subject to the following conditions:

- 1 TIME2 Development start within three years
- 2 The development hereby permitted shall be carried out in accordance with the following plans:-

Location Plan 660119-JB-DR-PL-4001\_R1

Red Line Boundary Sheet 1 of 4 660119-JB-DR-PL-4002\_R0  
Red Line Boundary Sheet 2 of 4 660119-JB-DR-PL-4003\_R0  
Red Line Boundary Sheet 3 of 4 660119-JB-DR-PL-4004\_R0  
Red Line Boundary Sheet 4 of 4 660119-JB-DR-PL-4005\_R0

General Arrangement Sheet 1 of 4 660119-JB-DR-PL-4007\_R0  
General Arrangement Sheet 2 of 4 660119-JB-DR-PL-4008\_R0  
General Arrangement Sheet 3 of 4 660119-JB-DR-PL-4009\_R0  
General Arrangement Sheet 4 of 4 660119-JB-DR-PL-4010\_R0

Main Embankment Sheet 1 of 5 660119-JB-DR-PL-4026\_R0  
Main Embankment Sheet 2 of 5 660119-JB-DR-PL-4027\_R0  
Main Embankment Sheet 3 of 5 660119-JB-DR-PL-4028\_R0  
Main Embankment Sheet 4 of 5 660119-JB-DR-PL-4029\_R0  
Main Embankment Sheet 5 of 5 660119-JB-DR-PL-4030\_R0

North Extension - Sheet 1 of 2 660119-JB-DR-PL-4016\_R0  
North Extension - Sheet 2 of 2 660119-JB-DR-PL-4017\_R0  
Southern Extension GA Flood Wall 660119-JB-DR-PL-4045\_R0  
Southern Extension Flood Wall Long Section 660119-JB-DR-PL-4046\_R0  
Southern Extension Flood Wall Cross Sections 660119-CH-DR-PL-4050\_R0

Typical Cross Sections Sheet 1 of 2 660119-JB-DR-PL-4012\_R0  
Typical Cross Sections Sheet 2 of 2 660119-JB-DR-PL-4013\_R0

Pumping Station Details 660119-JB-DR-PL-4086  
Pumping Station Elevations 660119-JB-DR-PL-4085  
Pumping Station Electrical Kiosk 660119-JB-DR-PL-4080

Blue Beck Culvert Sheet 1 of 2 660119-CH-DR-PL-4060  
Blue Beck Culvert Sheet 2 of 2 660119-CH-DR-PL-4061

Landscape Masterplan Sheet 1 of 4 660119-JB-DR-PL-4100  
Landscape Masterplan Sheet 2 of 4 660119-JB-DR-PL-4101  
Landscape Masterplan Sheet 3 of 4 660119-JB-DR-PL-4102  
Landscape Masterplan Sheet 4 of 4 660119-JB-DR-PL-4103

Proposed alignment of Sustrans route 660119-JB-DR-PL-4015 R0

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

### **3 Clifton Ings and Rawcliffe Meadows SSSI Mitigation Strategy**

All ecological measures and works shall be carried out in accordance with the Clifton Ings Barrier Bank – SSSI Mitigation Strategy (version 2.0), produced by the Environment Agency and dated May 2019 (as already submitted and agreed in principle with the local planning authority prior to determination).

Notwithstanding the strategy the following further detailed design and specific working methodologies shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development;

- a) Measures to mitigate compaction of soil from access route and working areas within the SSSI.
- b) Agreement of exact working areas and stockpile locations within the SSSI.
- c) Measures to mitigate the installation of the toe drain along the foot of the flood bank.
- d) Detailed methods for translocation of turves from Rawcliffe Meadows.
- e) Details of green hay spreading, seeding, and selective plug/pot planting.
- f) A management change from pasture to hay meadow and other actions across the entire 12ha of Rawcliffe Ings with the aim of restoring it to floodplain meadow grassland.

Reason: Details are required prior to commencement to secure compliance with section 15 of the NPPF, in particular paragraph 175 to avoid, mitigate and compensate for the destruction of interest features for which Clifton Ings and Rawcliffe Meadows SSSI has been notified.

### **4 Clifton Ings and Rawcliffe Meadows SSSI Restoration and Compensatory Habitat Management Plan**

No development shall take place within Clifton Ings and Rawcliffe Meadows SSSI (including vegetation clearance) until a management plan for the SSSI during construction, and delivery of long term restoration and management of the SSSI impacted by the development, and the compensatory habitat within Rawcliffe Ings as set out in the mitigation strategy required under condition 3, has been submitted

to and approved in writing by the local planning authority (and in consultation with Natural England).

The management plan shall be in accordance with BS 42020:2013 Biodiversity – Code of practice for Planning and Development and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) An overview of ongoing monitoring and remedial measures as detailed in the approved mitigation strategy.

The approved plan will be implemented in accordance with the approved details and shall be retained and maintained by the landowner in that manner thereafter, in perpetuity.

Reason: Details are required prior to commencement to secure compliance with section 15 of the NPPF, in particular paragraph 175 to compensate for the destruction of interest features for which Clifton Ings and Rawcliffe Meadows SSSI has been notified.

## **5 Clifton Ings and Rawcliffe Meadows SSSI and Rawcliffe Ings Biodiversity monitoring strategy (and remedial measures)**

No development shall take place (including vegetation clearance) until a long-term biodiversity monitoring strategy for the restored areas of SSSI and compensatory habitat has been submitted to, and approved in writing by, the Local Planning Authority. The overarching purpose of the strategy shall be to establish whether proposed mitigation, compensation and enhancement measures have achieved the desired outcome. The content of the Strategy shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose.
- b) Identification of adequate baseline conditions prior to the start of development.
- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods for data gathering and analysis.
- e) Location of monitoring.
- f) Timing and duration of monitoring.
- g) Responsible persons and lines of communication.
- h) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals identified in the strategy. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: Details are required prior to commencement to secure compliance with section 15 of the NPPF, in particular paragraph 175 to compensate for the destruction of interest features for which Clifton Ings and Rawcliffe Meadows SSSI has been notified.

## **6 Tansy Beetle Mitigation Strategy**

No development shall take place until a Tansy Beetle mitigation strategy has been submitted to and approved in writing by the local planning authority. The mitigation strategy shall be in accordance with BS 42020:2013 Biodiversity – Code of practice for Planning and Development.

Reason: Details are required prior to commencement to secure compliance with section 15 of the NPPF, in particular paragraph 175 to avoid, mitigate and compensate for potential impacts on an interest features for which Clifton Ings and Rawcliffe Meadows SSSI has been notified.

## **7 Construction Environmental Management Plan (Biodiversity)**

No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following (*but not be limited to*) bats, common toad, water vole, hedgehog, badger, barn owl, nesting birds, SINC habitat, retained trees and hedgerows.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.

- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: Details are required prior to commencement to secure compliance with section 15 of the NPPF, in particular paragraph 175 to avoid and minimise harm to biodiversity resulting from the development.

## **8 Habitat and Landscape Mitigation and Management Plan (non-SSSI features)**

No development shall take place until a plan for the mitigation and management of ecological features not included in the SSSI designation, during construction, and for the delivery of long term restoration and management has been submitted to and approved in writing by the local planning authority.

The management plan shall be in accordance with BS 42020:2013 Biodiversity – Code of practice for Planning and Development and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the management plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details and shall be retained and maintained by the landowner in that manner thereafter.

Reason: Details are required prior to commencement to secure compliance with section 15 of the NPPF, in particular paragraph 175, to minimise harm to biodiversity resulting from the development.

## **9 Great Crested Newt European Protected Species Licence and Mitigation Strategy**

Works or activity within 250m of Blue Beck flood storage basin which is likely to cause harm to Great Crested Newts shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) evidence that the site has been registered on a Natural England Low Impact Class Licence; or
- c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: Details are required prior to commencement to secure compliance with section 15 of the NPPF, in particular paragraph 175 to prevent harm to a European Protected Species.

## **10 Time limit on development before further survey is required**

If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 2 years from the date of the permission, the approved ecological measures secured through Conditions 3 – 9 shall be reviewed and, where necessary, amended and updated. The review shall be informed by further ecological surveys commissioned to i) establish if there have been any changes in the presence and/or abundance of protected species and ii) identify any likely new ecological impacts that might arise from any changes. Where the survey results indicate that changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the local planning authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To take account of changes in the distribution and abundance of mobile protected species in accordance with section 15 of the NPPF.

## **11 Construction Management**

Dust

Prior to the development commencing details of the measures to mitigate the impacts of dust during construction, as detailed in section 14.4 of the Environmental Statement, shall be submitted to and approved in writing by the Local Planning

Authority and construction shall be carried out in accordance with the approved measures. The details shall also include measures to prevent dust having an adverse effect on the use of the neighbouring cricket ground; Clifton Alliance.

#### Noise

The mitigation measures recommended in section 13.5 of the Environmental Statement shall be implemented during the construction period.

#### Impact on the highway

In addition to the above prior to the development commencing details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: To protect the amenity of surrounding occupants and use of local sports facilities and to prevent the egress of water and loose material creating a hazard on the public highway.

### **12 Hours of working during construction**

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

Reason: To protect the amenity of surrounding occupants and use of local sports facilities.

### **13 Sustrans route**

Notwithstanding the approved drawings prior to any works affecting the use of, or access to, the existing Sustrans route (to facilitate the approved development) details of the alternative Sustrans route, to include the alignment, detailed design, materials, gradients and connection with the existing route, shall be submitted to and approved in writing by the Local Planning Authority and the works carried out in accordance with the approved details.

Reason: To maintain public access where possible, to encourage recreation and sustainable modes of travel in accordance with sections 8 and 9 of the NPPF.

INFORMATIVE: Details shall include any alternative temporary arrangements if applicable. It is noted the preferred Sustrans route is the option which avoids the proposed embankment, as illustrated on drawing 660119-JB-DR-PL-4015 R0.

### **14 Archaeology**

A programme of post-determination archaeological mitigation, specifically an archaeological strip, map and record, watching brief and recording of the hospital wall is required on this site.

No stripping or groundworks shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing.

The WSI should conform to standards set by the Chartered Institute for Archaeologists and shall include the site investigation and post investigation assessment and provision made for analysis, publication and dissemination of results and archive deposition. It shall also include:

- a strip, map and record of the proposed habitat area and compound areas
- a watching brief on all other groundworks
- light photographic recording of the hospital wall

The WSI shall be implemented in accordance with the approved details.

A copy of a report (or publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The condition is required to secure compliance with section 16 of the NPPF as site is considered to be an area of archaeological interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction.

## **7.0 INFORMATIVES:**

**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: through seeking revised plans and negotiation and the use of planning conditions to ensure an acceptable impact with regards to biodiversity.

### **Contact details:**

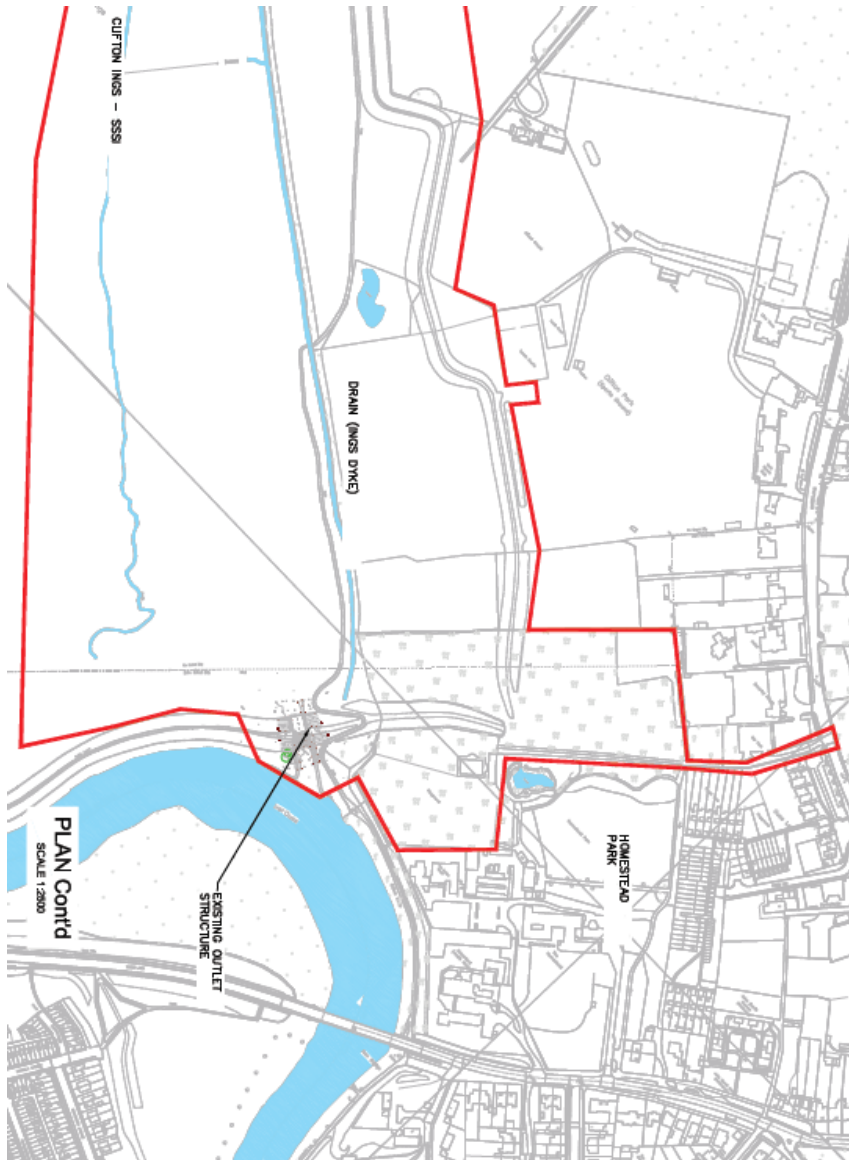
**Author:** Jonathan Kenyon Development Management Officer  
**Tel No:** 01904 551323





19/00007/FULM (South)

Clifton Ings Flood Alleviation Barrier To The South Of Shipton Road



<b>Organisation</b>	City of York
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	04 September 2019
<b>SLA Number</b>	

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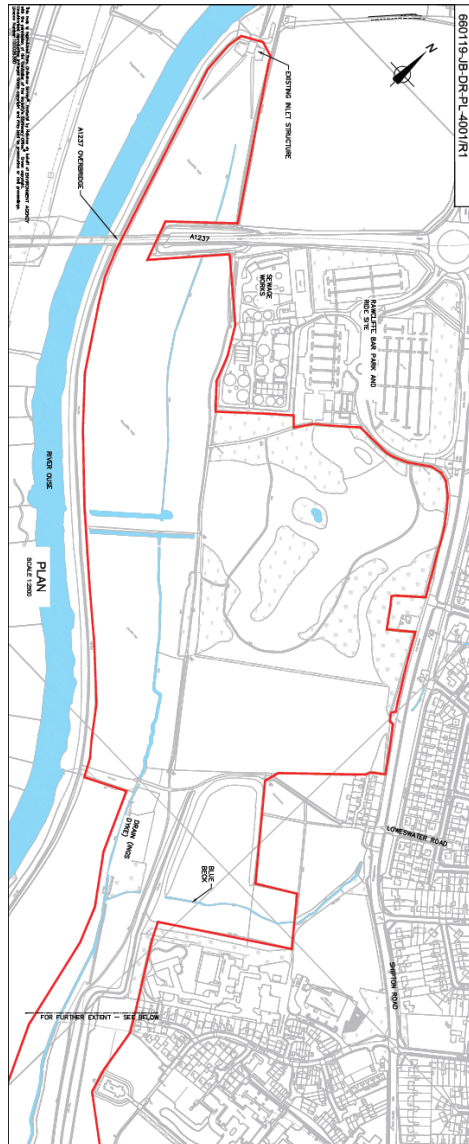
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19/00007/FULM (North)

Clifton Ings Flood Alleviation Barrier To The South Of Shipton Road



<b>Organisation</b>	City of York
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	04 September 2019
<b>SLA Number</b>	

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**COMMITTEE REPORT**

**Date:** 12.9.2019                      **Ward:** Rawcliffe And Clifton  
Without  
**Team:** Major and                      **Parish:** Rawcliffe Parish Council  
Commercial Team

**Reference:** 19/00009/FUL  
**Application at:** Clifton Ings Flood Alleviation Barrier To The South Of Shipton  
Road Rawcliffe York YO30 5RY  
**For:** Construction of a temporary access junction and track off the  
A19 in association with flood alleviation works  
**By:** Environment Agency  
**Application Type:** Full Application  
**Target Date:** 1 March 2019  
**Recommendation:** Approve

**1.0 PROPOSAL**

1.1 This application is for a temporary access road from the A19 to Clifton Ings where the Environment Agency (EA) intends to undertake works to repair and enhance the existing flood defences. The plans also include a site compound that would be located in the Cornfield.

1.2 There is a separate application for the works to Clifton Ings - 19/00007/FULM which has an associated Environmental Impact Assessment. The EIA contains an assessment on the impact on the environment as a consequence of the entire scheme i.e. it includes an assessment on the environmental impact on the cornfield as a consequence of the proposed access road and site compound.

1.3 The site is located on the south side of the A19, between the Rawcliffe Bar Country Park to the west and 153 to 165 Shipton Road and allotments to the east.

1.4 The Cornfield forms part of the Rawcliffe Bar Country Park. It was established in 2000 and has been managed by Friends of Rawcliffe Meadows (FoRM) since 2003 on behalf of the Council. It was created as compensation for the loss of arable land when the Rawcliffe Bar Park and Ride site and Country Park were created. The Cornfield is an arable field and has been managed to provide nesting and a safe feeding ground for rare birds. Unlike the rest of the Country Park residents are excluded from this area.

**2.0 POLICY CONTEXT**

2.1 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.

2.2 Key relevant Publication Draft Local Plan 2018 Policies are as follows -

SS2 The Role of York's Green Belt  
D2 Landscape and Setting  
D6 Archaeology  
GI2 Biodiversity and Access to Nature  
GI3 Green Infrastructure Network  
GI4 Trees and Hedgerows  
GB1 Development in the Green Belt

2.3 Relevant policies of the Draft Local Plan 2005 are as follows -

SP2 The York Green Belt  
GP7 Open Space  
NE1 Trees, Woodlands and Hedgerows  
NE6 Species Protected by Law  
NE7 Habitat Protection and Creation  
GB1 Development in the Green Belt

### **3.0 CONSULTATIONS**

INTERNAL

ARCHAEOLOGY

3.1 The site lies in an area which has been undeveloped. A Roman road and associated funerary activity on the road side is known to exist to the south-east of this site. There is a chance that the works for the creation of the road/compound will reveal the road and/or Roman burials.

3.2 A programme of strip, map and record should take place during the proposed stripping of the topsoil on the site. This provides the best chance of recording the road if it is found. Officers have recommended a condition to cover this issue.

## ECOLOGY

3.3 The access junction and site compound will be in place for the duration of the flood alleviation works which is anticipated to be approximately two years. The new access will be approximately 26m wide where it ties into Shipton Road and will require a length of hedge to be removed.

3.4 The main site access and compound will be located within the 4.6ha field known as 'Rawcliffe Cornfield Nature Reserve'. The land is part of Rawcliffe Bar Country Park which is long-term leased to City of York Council (CYC). Although it does not hold any statutory or non-statutory designation for nature conservation it has been managed positively for wildlife by a voluntary group, the Friends of Rawcliffe Meadows, under successive agri-environment schemes since 2003.

3.5 The field is currently in a 10 year Higher Level Stewardship (HLS) agreement predominantly managed as arable; cultivated and managed with low-inputs, and targeted at declining farmland bird species by providing a foraging resource. The land has also developed to support invertebrates and arable wildflowers and that are classed as species of conservation concern.

3.6 This proposal would result in the early termination of the HLS agreement which would otherwise end 30/09/2021. Natural England have confirmed that an exceptional circumstances (force majeure) application would be required to avoid Friends of Rawcliffe Meadows being liable to repay the funding received to date. No compensation has been proposed for the Friends of Rawcliffe Meadows for the loss of the remaining two years of funding.

3.7 The Environment Agency (EA) would reinstate the Cornfield to either arable or permanent grassland. The mitigation and management of the Cornfield Nature Reserve will be detailed and secured through a Habitat and Landscape Management Plan.

3.8 The proposed works (access road and site compound) will result in the temporary loss of habitat for and disturbance to a range of protected and notable species. If implemented correctly the avoidance and mitigation measures proposed are considered appropriate and to this effect officers have recommended planning conditions which relate to construction management to protect biodiversity, a restoration strategy (for ecological features outside of the SSSI), and confirmation of an acceptable effect on Great Crested Newts (and their habitat).

## HIGHWAYS

3.9 No objections and note that the proposed access has been approved under the Highways Act. Officers ask for conditions to cover construction management (to keep the highway clean and in terms of routing construction traffic), for the access road to

be surfaced, for no gates to obstruct the highway and for site restoration following works.

## PUBLIC PROTECTION

3.10 Officers ask for a construction management plan, to manage the impacts from noise, vibration and dust during construction.

## EXTERNAL

### RAWCLIFFE PARISH COUNCIL

3.11 Rawcliffe Parish Council objects to this planning application. An alternative route should be sought to avoid the huge potential impact on local biodiversity and wildlife areas. If no alternative is possible, then the Friends of Rawcliffe Meadows should be properly financially compensated to allow them to deal with the impacts of the development.

### FRIENDS OF RAWCLIFFE MEADOW

3.12 The application site is Rawcliffe Cornfield Nature Reserve. This was established in 2000 as mitigation for the development of the Rawcliffe Bar Park & Ride facility and Country Park, the aim being to provide some continuity of arable (i.e. annually cultivated) habitat within the local landscape in order to maintain populations of farmland birds and other wildlife.

3.13 Friends of Rawcliffe Meadows were instrumental in the conception and establishment of the Cornfield Nature Reserve and have managed it since 2003 under successive agreements, on behalf of the principal land owner, City of York Council.

3.14 The FoRM have provided an 11 page objection which raises issue with the extent of the statement provided by the EA in support of the application; that the level of harm identified is not thorough and that there is inadequate mitigation. Their view is that the proposals will result in significant short to medium term adverse impacts on key features of the Cornfield Nature Reserve including declining arable plants and foraging birds. There is significant risk that these impacts will become permanent. There is no credible strategy to mitigate these risks (the objection questions the lack of evidence behind the EA's claims that harm will be avoided and lack of specific information on mitigation), and no evidence that the applicant is offering any net gain for biodiversity.

3.15 FoRM state that the agri-environment funding, which is their only regular source of funding, would cease should development go ahead. Natural England confirm that the development would result in cessation of the current agreement, not just for the 3.16 Cornfield Nature Reserve but for the whole of Rawcliffe Meadows. This will



mean, in effect, that FoRM will cease to operate because the applicant has made no arrangements to ensure continuity of funding. Nor has any compensation been offered to compensate for the 15 years of effort FoRM have invested in the Cornfield, the results of which will largely be obliterated.

#### YORKSHIRE WILDLIFE TRUST

3.17 The Trust supports the detailed comments by the Friends of Rawcliffe Meadows (FoRM) on the Environmental Statement and the proposed mitigation. They consider there has been inadequate assessment of the impacts of the development and inadequate mitigation or compensation. There is also inadequate justification/explanation for the choice and design of the site access.

3.18 The construction of an access road and site compound on the Cornfield is likely to remove most of the wildlife value of the site. Detailed information on the value of the site for wildlife is not adequate in the Environmental Statement which leads to inaccurate suggestions for mitigation.

3.19 It is likely that the reinstatement of the Cornfield after two years of use as a site compound with HGVs using the access tracks will be very difficult if not impossible. The ground will be compacted, the grassland damaged, and the bird and invertebrate assemblages and rare arable weeds will be lost.

#### YORK ORNITHOLOGICAL CLUB

3.20 Ask that the Environment Agency submit a plan of mitigating and remedial actions to be implemented. The FoRM currently receive a grant to reflect the enhanced level of environmental management of the meadow and it is likely that this grant, their major source of income currently, will be at risk. Recognition of this loss should be made.

3.21 The Club is particularly concerned with the use of the site by birds. Its potential is largely dependent on the plant and insect life on the site and this is particularly relevant during the winter and early spring period. The club appreciate that, during the construction period some reduction in its use by the avian community is inevitable but would hope that this can be minimised and subsequent remedial action put in place.

#### INTERNAL DRAINAGE BOARD

3.22 The site lies within the board's district. The application may alter the drainage network in the area therefore the applicant will need to ensure that IDB guidelines are taken into consideration.

#### PUBLICITY / FURTHER COMMENTS

3.23 Nine further comments, in addition to those made by amenity societies / groups have been received which also raise issues around harm to biodiversity. Additional points raised are as follows -

- The cornfield meadow area is managed by the highly respected FoRM (since 2003) and (in part because it is largely undisturbed by humans and dogs) is critical for many farmland bird species.
- Environmental impacts on Cornfield Nature Reserve have not been adequately assessed. Specifically, the Breeding Bird survey 2018 for Rawcliffe Ings in supporting documentation does not include the Cornfield in it's scope. Bird use of Cornfield as a food resource is not mentioned in the application, despite it being one of the main purposes of Cornfield. Specifically, bird species that visit regularly are stock dove (51), tree sparrow (50), greenfinch (45), linnet (112), reed bunting (100), yellowhammer (35) and corn bunting (36). Peak counts recorded in the past five years are given in brackets. Mitigation should include provision of alternative winter crop for birds, in an undisturbed location (ideally adjacent to Cornfield NR) and alternatives if this crop were to fail.
- This site is an important linkage for the reservoir basin and the Country Park as well as for the legally protected and designated SSSI - so many years of work and love have been poured into the site to make it a great place for nature - it is quite unique.
- It is critical for a resident roe deer population which can be protected and feel safe within the confines of the cornfield from dogs.
- Great crested newts live in the adjacent basin area. The discussion in the application of potential impacts on Great Crested Newts states that the works affect areas of poor quality terrestrial habitat for this species. This assertion ignores the presence of extensive areas of tussocky grass margins and the 0.3 ha grass baulk crossing the field. The latter provides a favourable area of foraging habitat and a potential dispersal corridor within 100 metres of the flood basin. It is understood that the baulk will be destroyed.
- Disturbance to valuable hedgehog habitat - hedges included.
- Issues with restoration after damage. An ecologically high quality site is a product of living elements and their care, management and development over time. The use of the site by visiting wildlife is something to which wildlife becomes habituated over time. This is a cumulative process and disruption of the annual cycle will disrupt the build-up of numbers whilst permanent loss of nesting habitat will give them less reason to return anyway.

## 4.0 APPRAISAL

### 4.1 KEY ISSUES

- Status of the site / policy context
- Impact on the Green Belt
- Loss of open space

- Impact on the cornfield / biodiversity
- Highway network management
- Residential amenity
- Flood risk
- Whether very special circumstances exist

## ASSESSMENT

### STATUS OF THE SITE / POLICY CONTEXT

4.2 The application site is designated as existing open space and is within the Green Belt. It does not have a designation as a site of national or local nature importance. However the site is of ecological value.

4.3 As such the following NPPF policies apply -

#### Section 13 Green Belts

4.4 Paragraphs 143 to 146 set out the approach for dealing with development proposals in the Green Belt. The proposed access road and the site compound are both in NPPF terms "inappropriate development" which is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### Section 8 Promoting healthy and safe communities

4.5 The relevant paragraph in this section of the NPPF is 97 which states existing open space should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use".

#### Section 15 Conserving and enhancing the natural environment

4.6 Paragraph 170 states planning decisions should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

## Relevant policies of the 2018 Draft Local Plan

### GI3 Green Infrastructure Network

4.7 In order to protect and enhance York's green infrastructure networks any development should where relevant maintain and enhance the integrity and management of York's green infrastructure network, including its green corridors and open spaces.

### GI4 Trees and Hedgerows

4.8 Development will be supported where it recognises the value of the existing tree cover and hedgerows, their biodiversity value, the contribution they can make to the quality of a development, and its assimilation into the landscape context.

### Green Belt

4.9 Green Belt policy is detailed in section 10 of the 2018 DLP. The relevant policy to this application is GB1 which explains when planning permission will be granted. As per the NPPF and GB1 the proposed compound and access road are inappropriate development. NPPF paragraph 143 states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

### IMPACT ON THE GREEN BELT

4.10 The access road requires removal of a section of hedgerow (some 26m in length) which runs parallel to the A19 and the access road would be the extent of the cornfield. The works constitute development that would encroach into the countryside and would therefore conflict with one of the Green Belt purposes as set out in NPPF paragraph 134.

4.11 NPPF paragraph 144 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

### LOSS OF OPEN SPACE

4.12 The loss of open space to accommodate the access route would only be policy compliant with NPPF paragraph 97, which relates to open space, if criteria b were applicable as a consequence of site restoration following the works. Criteria b states as follows - *b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location*

4.13 The site would be restored to its previous appearance and use following works. It forms part of the planning balance as to whether the temporary loss of the open space (and its function) during the construction period and subsequent period of restoration is outweighed by the benefits of enabling the flood defence works at Clifton Ings.

## IMPACT ON BIODIVERSITY

### Cornfield Nature Reserve

4.14 The main site access and compound will be located within the 4.6ha field known as 'Rawcliffe Cornfield Nature Reserve'. The land is part of Rawcliffe Bar Country Park which is long-term leased to City of York Council (CYC). Although it does not hold any statutory or non-statutory designation for nature conservation it has been managed positively for wildlife by a voluntary group, the Friends of Rawcliffe Meadows since 2003.

4.15 The field is currently in a 10 year Higher Level Stewardship agreement (HLS) predominantly managed as arable; cultivated and managed with low-inputs, and targeted at declining farmland bird species by providing a foraging resource. The land has also developed to support invertebrates and arable wildflowers and that are classed as species of conservation concern.

4.16 This proposal would result in the early termination of the HLS agreement which would otherwise end 30/09/2021. Natural England have confirmed that an exceptional circumstances (force majeure) application would be required to avoid Friends of Rawcliffe Meadows being liable to repay the funding received to date. No compensation has been proposed for the Friends of Rawcliffe Meadows for the loss of the remaining two years of funding.

4.17 A bee bank created by Friends of Rawcliffe Meadows alongside the western field boundary with a buffer zone will be retained through the works.

4.18 It has been agreed with the Council (Public Realm team) to create a small area c.03ha of sown crop in Rawcliffe Bar Country Park immediately adjacent to the Cornfield to provide a substitute food source for birds and habitat for arable wildflowers. This area will be fenced with the construction zone from which the public will be excluded, therefore reducing disturbance from walkers and dogs.

4.19 Within the Cornfield it is also proposed to leave a 12m buffer between the site compound and field margins to be scarified to replicate the cultivation during normal agricultural activities, for the benefit of arable wildflowers. Seed collection and propagation would further help to perpetuate the plants.

4.20 The EA will reinstate the Cornfield to either arable or permanent grassland. The mitigation and management of the Cornfield Nature Reserve will be detailed and secured through a Habitat and Landscape Management Plan.

#### Hedgerows

4.21 There will be a loss of 26m native species-poor hedgerow and one semi-mature Beech tree alongside A19 Shipton Road for the new access. It is proposed to replace this hedgerow in-situ. Replacement hedgerow and tree planting will be detailed and would be secured through the proposed Habitat and Landscape Management Plan condition.

#### Protected and Notable Species

4.22 As well as farmland birds, there will be the temporary loss of habitat and disturbance for a range of other species including Roe Deer, Toads, Barn Owls, and Hedgehogs.

4.23 Roe Deer are a native species, abundant through the UK and therefore of low conservation concern. They are found in a range of habitats and will readily disperse into the wider area, however the Cornfield does offer the only area free from disturbance of people and dogs in the immediate surroundings.

4.24 Both Toads and Hedgehogs are species "of principal importance for the purpose of conserving biodiversity" covered under section 41 (England) of the NERC Act (2006). Avoidance measures proposed during construction include an ecological clerk of works (ECoW) supervising vegetation clearance works, no night time working and covering deep excavations at night and these provisions should be included in a Construction Environmental Management Plan.

4.25 Barn Owl are protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), making it unlawful to intentionally or recklessly disturb these birds whilst they are building a nest or are in, on or near a nest containing eggs or young or to disturb their dependent young. There are three artificial Barn Owl boxes in the immediate area, including one in the Cornfield, which will be temporarily closed while not occupied prior to construction, to ensure barn owl/s do not occupy the box during construction. The other two boxes will be kept open to provide alternative roosting features away from the main works. There will be a temporary loss of Barn Owl foraging habitat but this is considered not to be significant.

#### Great Crested Newts

4.26 Rawcliffe Meadow SINC (ref. SE55-10YK) immediately north of the flood bank (Blue Beck flood storage basin) supports a medium breeding population of Great Crested Newts; with a combined maximum of 20 individuals recorded across several small ponds and scrapes in 2018. Great Crested Newts (GCN) have full protection

under the Wildlife & Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). No ponds will be lost through the proposal and the areas of core habitat for GCN within the SINC, and connected habitat to the north (allotments etc) will not be impacted, but there will be disturbance and temporary loss to terrestrial habitat within 500m of breeding ponds. Using Natural England's rapid risk assessment tool as a guide it is likely that works will result in wildlife offences and therefore works will have to be carried out under a European Protected Species Licence. A Great Crested Newt Mitigation Plan will need to be developed to minimise potential impacts on newts and terrestrial habitat, and to ensure that adequate mitigation is provided as part of the development proposals.

4.27 In terms of mitigation it is proposed to follow Natural England's European Protected Species Policy 1: Greater flexibility when excluding and relocating European Protected Species (EPS) from development sites. The policy states Defra considers that compensation for EPS impacts can be delivered without the need to relocate or exclude populations, where:

- exclusion or relocation measures are not necessary to maintain the conservation status of the local population;
- the avoid-mitigate-compensate hierarchy is followed; and
- compensation provides greater benefits to the local population than would exclusion and/or relocation.

4.28 The proposed compensation measures, hibernacula within Rawcliffe Meadow SINC, will provide limited enhancement in an area of existing high quality habitat. It will be for Natural England to determine the correct approach however the Local Planning Authority must have regard to the Habitat Regulations in determining the application.

#### Habitat Directives

4.29 The species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended), contain three "derogation tests" which must be applied by Natural England when deciding whether to grant a licence to a person carrying out an activity which would harm a European Protected Species (EPS). Notwithstanding the licensing regime, the LPA must also address its mind to these three tests when deciding whether to grant planning permission for a development which could harm an EPS.

4.30 The "derogation tests" which must be applied for an activity which would harm a European Protected Species (EPS) are contained within the species protection provisions of the Habitats Directive, as implemented by the Conservation of Habitats and Species Regulations 2017 (as amended) are as follows:

- that the action is for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature;

- that there is no satisfactory alternative; and
- that the action authorised will not be detrimental to the maintenance of the species concerned at a favourable conservation status in their natural range.

4.31 In respect of these tests there is justification for the works as they will enable the works to the barrier bank, which will better defend the area from flood risk and in any event the barrier bank in its current form will require remedial works. Natural England have raised no objection to the works subject to the agreed measures to mitigate the environmental effects.

4.32 Rawcliffe Meadow SINC (Blue Beck flood storage basin) supports a medium meta-population of Great Crested Newts which appears to have established since 2015. No breeding ponds or core-habitat will be lost through the flood barrier works, but terrestrial habitat within 500m of breeding ponds will be disturbed and damaged. Great Crested Newts are nominally widespread across Britain and classed as a species of 'least' conservation concern by the IUCN Red List of Threatened Species (although the population trend is decreasing). The requirement for a European Protected Species Licence or Reasonable Avoidance Measures will prevent any direct harm to GCN, and it is considered possible to adequately mitigate on site through the reinstatement and restoration of habitat. Therefore the third test for maintenance of favourable conservation status can be met.

## HIGHWAY NETWORK MANAGEMENT

4.33 NPPF paragraph 108 requires that safe and suitable access to the site can be achieved for all users. Highways officers have no objection to the proposed access. Conditions are proposed in the interests of highway safety, specifically detailing the condition of the highway and routing of construction traffic to avoid the city centre.

## RESIDENTIAL AMENITY

4.34 The anticipated impacts and recommended mitigation as a consequence of the scheme have been detailed in the Environmental Statement produced by the EA for the application for the works at Clifton Ings. Public Protection Officers are content with the proposed works in this respect. Construction management would be subject to a condition of the companion application for the flood defence works. The plan would include the times of works, bearing in mind the proximity of the access road to housing. For this application which relates to removal of vegetation and insertion / removal of an access track and site compound area a construction management plan to minimise noise and dust is not necessary due to the type and scale of works.

## FLOOD RISK



4.35 Part of the access road is in flood zone 2. Drainage details will be required in the interests of managing surface water run-off and can be secured by way of planning condition.

#### WHETHER VERY SPECIAL CIRCUMSTANCES EXIST

4.36 NPPF paragraph 144 states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

4.37 The proposed access to allow works at Clifton Ings will have an adverse impact on the Green Belt as a consequence of the loss of a section of hedgerow and installation of a road through the cornfield.

4.38 The other identified harm would be as follows –

- A temporary loss of open space during the construction period.
- A temporary loss of habitat by placing development in the cornfield during construction until site restoration.

4.39 Given the scale of the project and the heavy goods traffic that will be associated with the earth movement required in association re-profiling the barrier bank an access road is necessary to facilitate the works. The site compound would be permitted development should the application for the flood defence works gain permission. An impact on the Green Belt and locally designated open space is unavoidable if the flood defence works are to take place.

4.40 The thrust of national policy regarding flood risk, as set out in section 14 of the NPPF is to mitigating and adopting to climate change and avoiding increased vulnerability to flood risk. The access road will enable works to the flood defences which will enhance protection of a substantial area, including 134 properties, from river flooding. This scheme delivers benefit by improving the level of protection for the area; to the extent that it is defended during the 1 in 100 year flood and, compared to the existing defence, reduces the area, and number of properties that would be at risk, during the AEP 0.1% event / 1 in 1000 year flood.

4.41 Given the identified harm and the means of mitigation, which will be secured through condition; the need to facilitate the flood defence works, and benefits that would occur as a consequence of the project are deemed to constitute very special circumstances that outweighs the identified (temporary) harm to the Green Belt and other harm resulting from the proposed temporary access road and site compound.

## **5.0 CONCLUSION**

5.1 The proposed access to allow works at Clifton Ings will have an adverse impact on the Green Belt, open space and biodiversity. The intention is for site restoration following the works and therefore the harm would not be permanent. The role of the Friends of Rawcliffe in managing the area will be in jeopardy and their funding will be lost; however this cannot be avoided through the planning process (we cannot specify that a certain 3<sup>rd</sup> party be required to manage the site). Officers are content that planning conditions can secure a reasonable level of mitigation over time; the responsibility of which will lie with the applicants/developer; the EA. Conditions are proposed to manage and minimise the effect on biodiversity during the works and for comprehensive long term management. The site will be restored to its previous appearance.

5.2 Other options for the access route have legitimately been ruled out due to the scale and type of construction vehicles involved with the flood defence works.

5.3 With regards the impact on the Green Belt the NPPF states that very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. With regards the natural environment the NPPF advises planning decisions should minimise impacts on, and providing net gains for, biodiversity.

5.4 The current barrier bank has issues with stability which significantly impacts on the operation and effectiveness of the flood defence, particularly for any consecutive flood events. The existing standard of protection of the barrier bank is 2% AEP (2 in 100 year flood events). The scheme would ensure that up to 2039 (taking into account climate change) the barrier would protect during the 1 in 100 year flood event / 1% AEP. The proposals will reduce flood risk for 134 properties, and the local area, which will subsequently be defended against the 1 in 100 year flood (plus climate change).

5.5 To facilitate the flood defence works and secure adequate mitigation through conditions are deemed to constitute very special circumstances outweigh the identified harm; the temporary harm to habitats, the openness of the Green Belt and landscape character of the area, and its role as open space which would occur during the period of works.

## **COMMITTEE TO VISIT**

## **6.0 RECOMMENDATION: Approve**

### **Recommended conditions:**

Application Reference Number: 19/00009/FUL

Item No: 4b

1 TIME2 Development start within three years

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

Site layout plan - 660119-JB-DR-PL-4210

Access junction site layout plan - 660119-JB-DR-PL-4211

Access junction sections - 660119-JB-DR-PL-4220

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

3 Construction Management (highways)

No development shall take place until a construction management plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out thereafter in accordance with the approved plan.

The construction management plan shall include the following details –

- a) A dilapidation survey jointly undertaken with the local highway authority.
- b) Measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway.
- c) The routing of construction traffic, to include strategy for signage / communications with contractors.

Reason: In the interests of highway safety and in accordance with NPPF paragraphs 102 and 108.

4 Construction environmental management plan (Biodiversity)

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.
- e) The times during construction when specialist ecologists need to be present on site to oversee works.

- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works or similarly competent person.
- h) Use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: This condition is required prior to commencement to avoid and minimise harm to biodiversity resulting from the development, in line with Paragraph 175a) of the NPPF.

#### 5 Habitat and Landscape Mitigation and Management Plan (non-SSSI features)

No development shall take place until a plan for the mitigation and management of ecological features not included in the SSSI designation during construction, and delivery of long term restoration and management has been submitted to and approved in writing by the local planning authority. The management plan shall be in accordance with BS 42020:2013 Biodiversity - Code of practice for Planning and Development and shall include the following:

- a) Description and evaluation of features to be managed.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period).
- g) Details of the body or organization responsible for implementation of the plan.
- h) Ongoing monitoring and remedial measures.

The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the management plan are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The approved plan will be implemented in accordance with the approved details and shall be retained and maintained by the landowner in that manner thereafter.

Reason: To minimise harm to biodiversity resulting from the development, in line with Paragraph 175a) of the NPPF.

#### 6 Great Crested Newt European Protected Species Licence and Mitigation Strategy

Works or activity within 250m of Blue Beck flood storage basin shall not commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorizing the specified activity/development to go ahead; or
- b) Evidence that the site has been registered on a Natural England Low Impact Class Licence; or
- c) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To prevent harm to a European Protected Species and in accordance with policy GI2: Biodiversity and access to nature of the 2018 DLP.

## 7 Archaeology

A programme of post-determination archaeological mitigation, specifically an archaeological strip, map and record exercise is required on this site.

No groundworks shall take place until a written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI shall conform to standards set by the Chartered Institute for Archaeologists.

A site investigation and post investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. A copy of the report (or publication if required) shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: In accordance with Section 16 of NPPF as the site is considered to be an area of archaeological interest. Therefore, the development may affect important archaeological deposits which must be recorded prior to destruction.

## 8 Drainage

Development of the access road shall not begin until details of surface water drainage works have been submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: So that the Local Planning Authority may be satisfied with these details for the proper drainage of the site; to avoid increased surface water run-off rates arising

from the development and consequently to reduced increased flood risk elsewhere, in accordance with NPPF paragraph 163.

9 Access road to be hard-surfaced

Prior to the development coming into use, all areas used by vehicles shall be surfaced, sealed and positively drained within the site, in accordance with the approved plans.

Reason: To prevent the egress of water and loose material onto the public highway.

10 Site restoration

Following completion of the flood defence works at Clifton Ings (as detailed in application 19/00007/FUL) the site compound and access road shall be removed and the site restored to its previous condition.

Prior to the completion of works the Local Planning Authority shall be notified of the dates for completion of the project and for the removal of the site compound and the access road. The boundary hedge shall be re-instated within a period of six months of the completion of the development. Any associated vegetation 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.

The restoration shall be carried out in accordance with the approved details.

Reason: To avoid permanent harm to the character and appearance of the area and biodiversity and the openness of the Green Belt, in accordance with sections 12, 13 and 15 of the NPPF.

11 Access gate not to obstruct the highway

No gate shall be fitted so as to open outwards over the adjacent public highway.

Reason: To prevent obstruction to other highway users.

**7.0 INFORMATIVES:** Notes to Applicant

1. Breeding birds

The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.

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

## 2. Kyle & Upper Ouse Internal Drainage Board

Any surface water discharge into any watercourses in, on, under or near the site requires CONSENT from the Drainage Board. For further guidance, pre-application advice & consent form visit: [www.shiregroup-idbs.gov.uk](http://www.shiregroup-idbs.gov.uk), and select "Kyle & Upper Ouse IDB. The developer should note the IDB guidelines as noted on their consultation response.

## 3. 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: through negotiation and the use of planning conditions to ensure an acceptable impact with regards to biodiversity.

### **Contact details:**

**Author:** Jonathan Kenyon Development Management Officer

**Tel No:** 01904 551323

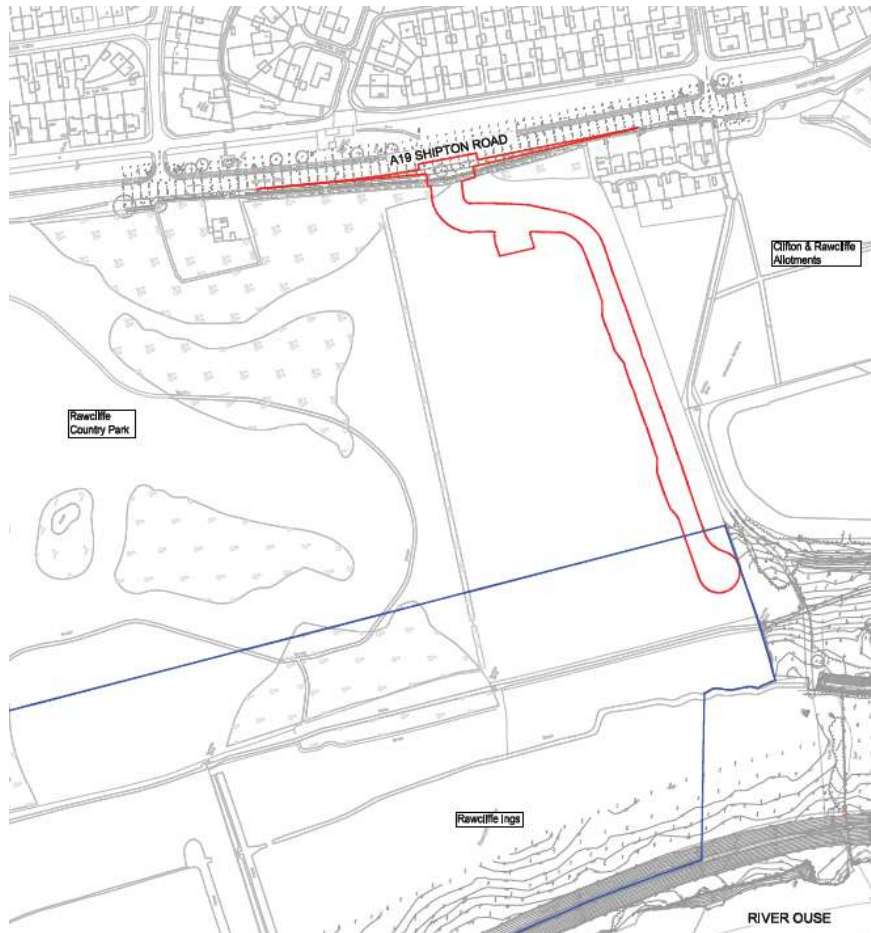
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19/00009/FUL

Clifton Ings, Shipton Road, Temporary Access



<b>Organisation</b>	City of York
<b>Department</b>	Economy & Place
<b>Comments</b>	Site Location Plan
<b>Date</b>	03 July 2019
<b>SLA Number</b>	

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