

COMMITTEE REPORT

Date: 5 October 2023
Team: West Area

Ward: Copmanthorpe
Parish: Copmanthorpe Parish Council

Reference: 19/00602/FULM
Application at: Land To The South East Of 51 Moor Lane
Copmanthorpe York
For: Erection of 75 dwellings, landscaping, public open space and associated infrastructure.
By: Mr Tate
Application Type: Major Full Application
Target Date: 5 May 2021
Recommendation: Approve, following referral of the application to the Secretary of State for Communities and Local Government under the requirements of Section 77 of the Town and Country Planning Act 1990, and should the application not be called in by the Secretary of State, then APPROVE the application subject to the completion of a Section 106 Agreement

1.0 PROPOSAL

1.1 Planning permission is sought for 75 two storey dwellings:

- 2 no. one bed dwellings
- 19 no. 2 bed dwellings
- 31 no. 3 bed dwellings
- 23 no. 4 bed dwellings

1.2 The application site is a triangular piece of land to the south of the village of Copmanthorpe. The site is 2.58 ha resulting in a proposed housing density of 29 dwellings per ha. The site is flat. The site is bounded to the west by a hedgerow, to the north are dwellings and this boundary is demarcated by a close boarded fencing and some hedging. To the south east is the main east coast rail line bounded by palisade fencing. The application site is accessed from Moor Lane to the east of the site.

1.3 The application site has been identified as a Housing allocation (H29) within the published Draft Local Plan 2018 with an anticipated yield of 92 dwellings.

1.4 The site is within Flood Zone 1. The Copmanthorpe Moor Lane Fields Site of Importance for Nature Conservation lies to the west of the application site.

154 During the application process a number of revisions and additional information has been submitted. The initial scheme proposed 97 dwellings this has been reduced to 75.

1.6 The proposed development does not comprise 'Schedule 1' development. The proposed development is however of a type listed at 10 (b) in column 1 of Schedule 2 (Urban Development Projects) of The Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is the view of Officers that the proposed site is not within or adjacent to an environmentally sensitive area (as specified in the regulations) and taking into account the characteristics of the proposed development, the location of the development, and characteristics of the potential impact, the proposed development would not result in significant environmental effects and therefore an Environmental Impact Assessment is not required.

2.0 POLICY CONTEXT

2.1 The Publication Draft York Local Plan (2018)

SS1 Delivering Sustainable Growth for York

SS2 The Role of York's Green Belt

H1 Housing Allocations

H2 Density of Residential Development

H3 Balancing the Housing Market

H10 Affordable Housing

HW4 Childcare Provision

HW5 Healthcare Services

HW7 Healthy Places

ED6 Preschool, Primary and Secondary Education

D1 Placemaking

D2 Landscape and Setting

D6 Archaeology

D7 The Significance of Non-Designated Heritage Assets

D9 City of York Historic Environment Record

GI1 Green Infrastructure

GI2 Biodiversity and Access to Nature

GI3 Green Infrastructure Network

GI4 Trees and Hedgerows

GI6 New Open Space Provision

GB1 Development in the Green Belt

CC2 Sustainable Design and Construction of New Development

ENV2 Managing Environmental Quality

ENV3 Land Contamination

ENV5 Sustainable Drainage

WM1 Sustainable Waste Management

T1 Sustainable Access

DM1 Infrastructure and Developer Contributions

2.2 Please see the Appraisal Section (5.0) for national and local policy context.

3.0 CONSULTATIONS

INTERNAL CONSULTATIONS

HIGHWAY NETWORK MANAGEMENT

3.1 Footway is required outside of Plot 47 so that a tactile crossing can be installed to standards. Alternatively the chamfered junction design would need to be amended.

3.2 Trees drawn with the square seem to be marked as included in the adopted highway. They are on people's driveways, this would not work. For trees to be highway trees, they need to be in a logical place where we can access them to maintain them, it is obvious that the area is not private, etc. Basically in a highway verge or a built out on the carriageway. If the developer wants to take the tree out of the private areas to keep them for the long term, the trees either need to be clearly in the adopted highway (like the trees opposite plots 35 and 43/44) or retained by the Management Company.

3.3 The paved area between plots 33 and 68/76 will need to be kerbed (footways and carriageways cannot be at the same level)

3.4 In the Public open space (POS) suggest the adoption of the 3.7m wide footpath as it doubles up as emergency access but not the other paths as they can remain within the POS and be maintained by the Management Company (can also agree that maintenance of the wider path can be with the Management Company if preferred by the developer). Assume only the wider path will be lit.

3.5 Request the following conditions: Detail design of the highway; Traffic Regulation Order; Travel Plan; Construction Environmental Management Plan or Method of Works; Internal turning areas; cycle parking details.

3.6 Request following contributions to be sought via S106:

- Car club - Support for the provision of a car club car in the village by providing an incentive for residents of the proposed development to use the vehicle located in the village. This will take the form of free membership and an initial free/discounted mileage offer to residents. The estimated cost is £80/dwelling, to be offered to the first occupier, and to be included in the Section 106 agreement
- Sustainable travel incentive - An initial intervention to encourage first occupiers to use public transport and/or cycle will be included in the Section

106 agreement in the form of a sustainable travel pack of a value of £180/dwelling.

- Travel Plan - CYC officers estimate that a minimum amount of £60 per dwelling per year is required to deliver meaningful travel planning interventions. This would need to be included as a budget for the Travel Plan for the first 5 year period, with an additional £11,640 to be invested in travel planning if the agreed target mode shift is not achieved within the first 5 years. Alternatively, this amount could be included in the Section 106 agreement for CYC teams to deliver the travel planning interventions at the site.
- Off-site highway improvements) - Provision of tactile crossings for the pedestrian route between the site and the village (including access to bus stops and school) at junctions on Moor Lane (Moorlands Gardens, Dykes Lane) + crossing point for cyclists to and from the path across the POS

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (LANDSCAPE ARCHITECT) (comments on previous revision)

3.7 As a result of the pumping/sub stations, the infrastructure becomes more prominent and less incidental (*Officer note: revised plans show the pumping station relocated to the north west corner of the site*). This also reduces the quantity of available open space for recreational purposes. Question if the main space still meets the Public open space quantities required for the number of dwellings, figure should not include the grass margins alongside the railway line in this calculation.

3.8 The proposed treatment of the main POS responds to the landscape concept sketch - The following amendments should also be made:

- Mounding should be reduced in area to provide a more useable flat area of grass in the eastern half of the POS.
- The sketch shows play equipment on both sides of the path. Should be made clear, which two age groups the play areas are aimed at.
- Additional seating should be provided to observe the younger play. A picnic bench should be provided in the orchard area.
- Proposed tree planting along the boundary of the POS should be set within hedging/planting.
- The tight corner created adjacent to plot 87 should be designed out by including this area in the rear garden of plot 87, level with the rear elevation.
- the location for a surface water drainage tank and connections could have a profound impact on the landscape proposals.
- Make unit 19 & 20 one unit to provide a larger garden space to compensate for the shade produced by the adjacent Oak tree.

3.9 Given the quantity and prominence of forecourt parking, there needs to be a variety in surfacing materials/colour/texture. The area to the rear of plots 43 to 66 is particularly poor. It is not clear if there is any variation between the adopted roads

(mid grey), pavements (pale grey), and private driveways & parking spaces (pale yellow). It would not be acceptable for all of these areas to be black tarmacadam

3.10 A timber post and wire system could be integrated into the line of the hedge around the Public Open space to avoid the need for the timber trip rail in this location. The fence separating long runs of back to back gardens should be a living fence.

3.11 Additional information required before determination: Proposed drainage plan to be applied to landscape masterplan. Locations of underground and overhead utilities such as street lighting and media should be shown or at the very least described; Tree pit details for trees proposed within narrow strips between parking bays. (Where trees are placed on the boundary line between two lots of parking bays, it should be clear within whose ownership and responsibility the tree stands.); Cross sections (to scale) through proposed widened road / pavement / ditch / hedge over existing situation (in dashed line); Hard landscape plan showing variations in surfacing materials.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ECOLOGY OFFICER) (combination of three responses)

3.12 August 2023 Biodiversity Gain Assessment shows an increase in post habitat creation and is visible on the landscape masterplan, as such no objections. suggest the applicant explores the potential for providing 'like-for-like' linear habitat creation

3.13 Positive that Yorkshire Wildlife Trust consider S106 could be used to mitigate some impacts from increased visitors pressure to Askham Bog.

3.14 Request following conditions: Timing of works; lighting plan; Construction Environmental Management Plan (Biodiversity); Landscape and Ecological (or Biodiversity) Management Plan. Request informatives for Hedgehogs, invasive non-native species.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (ARCHAEOLOGY)

3.15 An evaluation is required, request this sought via condition.

DESIGN, CONSERVATION AND SUSTAINABLE DEVELOPMENT (DESIGN, CONSERVATION & SUSTAINABLE DEVELOPMENT MANAGER) (comments on previous revision)

3.16 The revised drawings do not address previous concerns about the need for generous soft landscaping in area of proposed housing at the Moor Lane edge.

FORWARD PLANNING

3.17 The Draft Local Plan (DLP) was submitted for examination on 25 May 2018. Four phases of hearing sessions concluded in September 2022. Consultation on proposed main modifications to the DLP closed in March 2023, and responses have been provided to the Local Plan Inspectors for their consideration. The plan has therefore reached an advanced stage of preparation and the Inspectors' report is anticipated autumn 2023. As such a future planning application is likely to be determined in the context of the NPPF2023 and the 2018 submitted Local Plan, inclusive of proposed modifications. In advance of plan adoption, weight may be given to policies in the emerging Plan in accordance with NPPF2023 para 48 (refer to the emerging Local Plan 2018, inclusive of proposed modifications)

3.18 The Council is in discussion with Copmanthorpe Parish Council in developing its submission Neighbourhood Plan. At this stage the NP holds relatively limited weight in relation to planning applications in the Copmanthorpe Parish.

3.19 H1 (Housing allocations) This forms part of Main Modifications consultation (Feb 2023) but no representations were received in relation to H29. Moderate weight can be applied to policy H1 for site allocation H29.

3.20 H2 (Density of residential development) Limited weight given level of unresolved objection.

3.21 H3 (Balancing the Housing Market) It is consistent with the NPPF to use the Local Housing Needs Assessment (LHNA) to inform judgements on appropriate mix of housing and the LHNA is, in itself, material to decision making

3.22 H10: Affordable Housing Policy H10 requires on-site provision of a minimum of 30% affordable units. This is consistent with the NPPF and is supported by the viability evidence prepared as part of the Local Plan. Moderate weight can be given to the 30% requirement.

3.23 HW2: New Community Facilities, HW3: Built Sport Facilities, HW7: Healthy Places, T1: Sustainable Access, DM1: Infrastructure and Developer Contributions - Limited weight given level of unresolved objection

3.24 HW5: Healthcare services - The Policy is subject to modification, although these changes provide clarity in policy wording rather than altering the nature/application of policy. HW5 can be applied with moderate weight.

3.25 D1: Placemaking - Policy is consistent with the Framework. In this context, and given that a very small number of minor objections D1 can be afforded moderate weight.

3.26 GB1: Development in the Green Belt - Policy is wholly consistent with the Framework. can be afforded moderate weight.

3.27 G1: Green Infrastructure - Policy is consistent with the Framework and given scope of unresolved objections it can be afforded moderate weight.

3.28 GI2: Biodiversity and Access to Nature - Proposed modifications ensure appropriate distinctions are made between different levels in a hierarchy of nature sites - Policy is consistent with the Framework. Can be afforded moderate weight.

3.29 GI6: New Open Space Provision - Policy has partially resolved objections and is subject to significant modifications. Policy can be afforded limited weight.

3.30 CC2: Sustainable Design and Construction of New Development, CC3: Decentralised Energy Networks, ENV1: Air Quality - Objections are partially resolved. Policies are subject to significant modification can be afforded limited weight.

3.31 ENV2: Managing Environmental Quality, ENV5: Sustainable Drainage - Policy can be afforded moderate weight.

3.32 ENV4: Flood Risk: Policy can be afforded only limited weight but SRFA evidence underpinning the policy can be given significant weight.

LEAD LOCAL FLOOD AUTHORITY

3.33 No objections. Submitted information provides sufficient evidence to prove infiltration methods of surface water disposal will not work on this site. If planning permission is to be granted, request the following conditions: details of the proposed means of foul and surface water drainage to be submitted; separate systems of drainage for foul and surface water on and off site; no piped discharge of surface water.

PUBLIC PROTECTION

3.34 The methodology used within the updated noise assessment is acceptable and the sound mitigation measures for the properties are accepted as they demonstrate that the recommended internal noise levels as per BS8233:2014 will be achieved.

3.35 Request the following conditions: Ensure all sound attenuation measures detailed in the noise assessment supplied [SLR Consulting Limited dated 1/9/23] are fully implemented prior to the occupation; residential development designed so vibration levels stated in BS6472:2008 Evaluation of human exposure to vibration in buildings (1Hz to 80 Hz) are not exceeded; submission of Construction

Environmental Management Plan; timing of construction; submission of investigation and risk assessment. Submission of remediation scheme; submission of verification report; reporting of unexpected contamination. Request following informatives: Electric Vehicle (EV) charge points.

WASTE SERVICES

3.36 It appears from the plans that properties which will require the use of central collection points are plots 58 to 63, 71 to 76, 1 to 3, 26 & 27. Confirmation that the roads on the site are adopted highways and are a minimum of 5 metres wide. Pinch points, such as archways or gates, should give a minimum clearance of 3.7 metre width, and additional allowances must be given if vehicles are required to approach from an angle. Confirmation that the roads are suitable for the refuse collection vehicle specifications identified within the attached Waste Information for Developers Guide which include turning circles of 18.13m kerb to kerb, or 20.68m wall to wall.

LIFELONG LEARNING AND LEISURE

3.37 The City of York Local Plan Evidence Base: Open Space and Green Infrastructure Update September 2017 shows that the ward and connecting wards have a shortfall of outdoor sports provision which would mean a contribution would be necessary. The sport contribution now stands at £47,499 and the potential beneficiaries. The amenity and play space would be a total of £111,521

3.38 Outdoor Sport Provision contribution would be used towards procuring the provision of or improvement to sport or active leisure facilities within 2/3km from the Development the need for which directly arises from the Development.

3.39 Awaiting the completion of the Playing Pitch Strategy for the city that would support the need for outdoor sport (playing pitches) within the area and identify what these should be. Request the following community clubs as potential beneficiaries of the S106 funds: Copmanthorpe Football Club; Copmanthorpe Cricket Club; Copmanthorpe Tennis Club; Copmanthorpe Bowls Club; Bishopthorpe Football Club, Ashfield Pitches Site; and / or another project within the ward or connecting wards, the need for which directly arises from the Development.

HOUSING DEVELOPMENT TEAM (COMMUNITY AND NEIGHBOURHOODS)

3.40 No comments received.

EDUCATIONAL PLANNING OFFICER

3.41 Based on 73 eligible houses of 2 beds or more, Education requests £738,711, £725,280 is towards Place Cost and £13,431 towards Transport costs towards.

3.42 The secondary school allocation reflects the shared catchment area between York's Millthorpe School and NYC's Tadcaster Grammar, and reflects the general split based on choice and availability of places. North Yorkshire Council have confirmed that they do not wish to request a contribution for places at Tadcaster Grammar.

3.43 Regarding Transport, the recent DfE guidance (August 2023) provides the policy basis for the request towards Transport costs. There is no safe walking route within the statutory maximum walking distance to a secondary school.

HOUSING POLICY

3.44 Taking into account the location and type of development this offers a diverse range of homes across both market and affordable tenures, and accordingly would contribute to the goals of Policy H3. This is in consideration of the flexibility across 20 of the 3-bed homes to function as a 2-bed home with appropriately sized study room.

3.45 The applicant meets the affordable housing contribution requirement of 30% for a greenfield site with 22 affordable homes proposed. The affordable meet or exceed the Nationally Described Space Standards (NDSS) which sets out a good practice approach to minimum space standards, and are all of a type that are in particularly high need as affordable housing. If the application is approved, 80% should be for social rent (17) and 20% will be Discount Sale (5), in accordance with the council's policy expectations. The homes would be transferred to a Registered Provider at a price which ensures that no additional public subsidy is required to deliver the affordable homes. If the application is approved, a commuted sum contribution calculated at 0.5 social rent units cost for a typical home on the site must be provided, to be set out in the Section 106 agreement.

EXTERNAL CONSULTATIONS

COPMANTHORPE PARISH COUNCIL (comments on previous revisions)

3.46 Object, the Copmanthorpe Neighbourhood Plan allows for 60 dwellings on this site. This application is for a much higher number of dwellings. the Neighbourhood Plan figure is far more appropriate to this site since it reflects the average housing density across Copmanthorpe village as a whole, the lower figure is unlikely to compromise the housing numbers in the draft Local Plan since recent OAN figures are lower than contained in the draft Local Plan.

3.47 Concerns regarding the increased traffic, will exacerbate existing highway congestion issues. Moor Lane does not have the capacity to take more traffic. Moor

Lane is a narrow road and is in poor condition. It has become difficult to navigate due to the many parked cars along its length. This has been exacerbated by the formation by Network Rail of a compound at the end of Moor Lane to service the upgrade of the main East Coast line. Moor Lane has a footpath on one side only. Consequently pedestrians need to cross at all points along the road to reach housing the other side. Extra traffic from the housing development will increase danger for these pedestrians. Existing concerns regarding the junction of Moor Lane, Main Street and Station Road.

3.48 Insufficient provision of off-street parking, resulting in vehicles park on the road

3.49 Access to the frequent (and evening and weekend) Coastliner bus service is more than a 20 minute walk away at the other end of the village. This will result in on-street parking near the Coastliner bus stop. The No. 13 bus, at the closest bus stop, ceases service early in the evening and is intermittent on Sundays.

ENVIRONMENT AGENCY

3.50 No comments.

YORKSHIRE WATER

3.51 The drainage details submitted on drawing 'Drainage Appraisal' 21M/1011/1029 dated July 23 requires amendments, the matter can be dealt with via condition.

3.52 The following point(s) should be addressed: the submitted drawing appears to show a pumping station for both foul and surface water, however no pumped rate of discharge is shown; Development of the site should take place with separate systems for foul and surface water drainage. The separate systems should extend to the points of discharge to be agreed. the peak pumped foul water discharge must not exceed 4.75 litres per second; no positive surface water is known to have previously discharged to the public sewer network. Surface water discharge to the existing public sewer network must only be as a last resort and the developer is required to eliminate other means of surface water disposal; Curtilage surface water may discharge to public surface water at a pumped rate discharge not to exceed 4.75 litres per second.

AINSTY INTERNAL DRAINAGE BOARD

3.53 The Board has assets in the wider area in the form of Earfit Lane Drain and Westfield Road Drain. Request following condition: Submission of foul and surface water drainage scheme details

NHS YORK HEALTH AND CARE PARTNERSHIP

Application Reference Number: 19/00602/FULM

Item No: 4a

3.54 The proposed development is one which local providers would prefer to not go ahead without due consideration of its impact on local primary care services. Its approval will have an impact on the existing healthcare provision within the vicinity of the site. The planning application does not propose any site-specific mitigation for the healthcare impact arising from the proposed development. The closest GPs to the proposed development are Old School Medical Practice and Front Street Copmanthorpe Surgery both being located circa 0.5 miles from the subject site.

3.55 To identify the additional population created by the proposed 75 residential units, the average population per household figure is 2.4 which we have used for this planning projection (based on 2020 ONS Household data) is adopted. The proposed development will therefore generate approximately **180** residents and subsequently increase demands upon existing services. The primary care health services directly impacted by the proposed development and the current capacity positions are outlined below in **Table 1**.

| Table 1. Primary healthcare services closest to the proposed development | Average Weighted List Size ¹ (patients) | GIA (M2) ² (current property) | Ideal property size 3 | Space Capacity (GIA M2) ⁴ |
|---|--|--|------------------------------|--------------------------------------|
| Premises | | | | |
| Old School Medical Practice: | 5,680 | 308.68 | 486.86 | -178.2 |
| Copmanthorpe Front Street Surgery: | 1,300 | 97.84 | 111.4 | -13.56 |
| Copmanthorpe Surgery | | | | |

3.56 The Department of Health publication “Health Building Note 11-01: facilities for Primary and Community Care Services” indicates a floorspace requirement of approximately 150m² (GIA)/ 120m² NIA per 1,750 patients. Based on Table 1, the GP practices are showing a health infrastructure GIA deficit of 191.76 m², demonstrating that the surgeries do not have existing capacity to absorb any additional residents. The development would therefore have an impact on the primary healthcare provision in the area and its implications, if unmitigated, would be unsustainable. The proposed development must, in order to be considered under the ‘presumption in favour of sustainable development’ in the National Planning Policy Framework, provide appropriate levels of mitigation.

3.57 City of York Local Plan Publication Draft (2018) Policy HW5 outlines the council’s support for the provision of new and enhanced primary care services when

there is an identified need. Developer Contributions will be required to support the increase in provision.

3.58 The development could give rise to a need for improvements to capacity, in line with emerging local estates strategy; by way of improvements to, reconfiguration of, or extension of existing premises or providing additional resource for the benefit of the patients; a proportion of the cost of which would need to be met by the developer. Table 2 below provides the capital cost calculation of additional primary healthcare services arising from the development proposal.

Table 2. Capital costs calculation of additional primary healthcare services

| | Additional Population Growth (75 Dwellings) ⁵ | Additional Floorspace required to meet growth (m ²) ⁶ | Spare Capacity (GIA) ⁷ | Capital required to create additional floorspace ⁸ |
|----------------------|--|--|-----------------------------------|---|
| Proposed Development | 180 | 15.42 | 0 (-191.76) | £ 92,690 |

3.59 HNYPC sought advice from its NHS partner, NHS Property Services Ltd, on recent costs benchmarks for healthcare developments for a new build single storey facility. This equated to £6,068 per m² (once adjusted for professional fees, fit out and contingency, but excluding land acquisition). Having rebased this cost to York using BCIS Tender Price Index, the cost equates to £6,011 per m². A developer contribution will be required to mitigate the impacts of this proposal. calculate the level of contribution required in this instance to be £92,690 in the form of a Section 106 planning obligation.

NATIONAL HIGHWAYS (comments on previous revisions)

3.60 No objection

POLICE ARCHITECTURAL LIAISON OFFICER (comments on previous revisions)

3.61 In relation to designing out crime, it is considered that the revised design and layout of this proposal continues to demonstrate the principles of crime prevention through environmental design.

FIRE AND RESCUE PREVENTION OFFICER (comments on previous revisions)

3.62 No objections, Further comments in relation to the suitability of proposed fire safety measures during the Building Regulations consultation.

YORKSHIRE WILDLIFE TRUST

3.63 With regard to recreational impacts on Askham Bog nature reserve, Yorkshire Wildlife Trust have maintained from the outset that this development will lead to additional recreational pressure on Askham Bog nature reserve. This has been accepted by the applicant. The possibility of a financial contribution to manage the recreational impacts on Askham Bog has previously been raised, and the Brooks Ecological Briefing Note (submitted by the applicant) indicates the types of measures this could fund, which would be directly linked the impacts of visitor pressure on the nature reserve. Like many of our reserves it is staff resource which is often the limiting factor in managing the impacts of visitor pressure such as addressing any recreational disturbance, dealing with anti-social behaviour or fly tipping events, undertaking remedial habitat management works and producing engagement resources or delivering events. There is also significant monitoring work which is required in order to assess the status of the reserve, and keep track of the impacts of visitor pressure. Would welcome a financial contribution for this purpose. Appreciate that funding staff resource can sometimes be difficult to accommodate within the requirements for financial contributions. If this is the case, another option is resurfacing the car park, which is directly related to visitor pressure, and a measure which requires funding. Request IRO £40,000 ex VAT.

3.64 Concerns relating to recreational pressure is dog walkers, and the negative impact on the botanical composition of sensitive habitats through increased nitrogen/phosphorous inputs. Request condition for the requirement for dog bins within the application site

3.65 The Biodiversity Net Gain assessment indicates that a gain of 14.55% could be achievable in area-based units and 14.51% in linear (hedgerow units). cautious about the delivery of BNG in areas to be used for recreation – for example, to create ‘other neutral grassland’, to reach a target condition of moderate seems ambitious in areas with planned public access. Would like clarification on the decision-making process for classifying the ditches on site as ‘ditches associated with hedgerow’ rather than a ‘ditch’ under the watercourse section of the metric. Given that the overall loss of ditch habitat is one of the reasons the metric trading rules are not met, support the York City Council ecologist in requesting that the applicant explores the possibility of including a ditch within the final layout.

3.66 Request that the retained hedgerows do not fall within the curtilage of private gardens, as they could then be removed or managed in a way that does not maximise their biodiversity potential and are not protected by the Hedgerow Regulations. All retained hedgerows should be managed as part of the overall habitat management plan for the site.

NETWORK RAIL (comments on previous revisions)

3.67 On the basis of the new plans and information submitted we are able to withdraw our previous comments relating to the footpath link (which appears to have been removed from the new plans) and also our drainage comments as our requirements appear to have been addressed in respect of that.

3.68 Request following details are submitted via condition: drainage, boundary fencing, Armco barriers, method statements, soundproofing, lighting, and landscaping.

NATURAL ENGLAND

3.69 No comments.

4.0 REPRESENTATIONS

4.1 Five representations of objection (to current scheme)

- Facilities and the infrastructure of the village unable to cope with the increase in residents
- Result in pressure to Doctor, Schools etc
- Increase in traffic
- Loss of privacy
- Open space should be moved to create a buffer between the dwellings to the north and the proposed dwellings
- Proximity of proposed dwellings to dwellings to the north boundary will prevent the use solar panels, proposed development will inhibit the light
- Loss of biodiversity
- Existing issues with traffic and congestion, proposal will exacerbate the issue
- Would like reassurance that during works to Moor Lane that access to dwellings is not restricted
- Wildlife including newts on the application site
- Cause disruption during construction
- Existing planning permission in Copmanthorpe meets the housing target
- The hedgerow should be protected on length and age and potential for accommodating protected species. If hedge become part of gardens may be removed in future
- The footpaths detailed in the Brooks Ecological report are incorrect

4.2 49 Representations of objection (to previous revisions)

- Moor Lane is unsuitable to carry the additional traffic created by the development.
- Dwellings would be overbearing to the occupants of Moorland Gardens
- Concerns regarding the allocation (H29) of this site
- Exacerbate existing traffic and congestion issues within the village.
- The width of Moor Lane is restricted by existing vehicle parking
- The housing number are in excess of the Village Plan figure of 60

- The density is out of character
- There are existing surface water flooding issue on the application site and Moor Lane, resulting in flooding to neighbouring properties. Concerned that the proposed development would exacerbate the issue
- Site is within the greenbelt
- Would like reassurance that during works to Moor Lane that access to dwellings is not restricted
- Plans appear to be showing the removal of boundary hedging would like reassurance that replacement planting would provide adequate screening
- There are existing issues with the drainage infrastructure in the area, concerned that the development will exacerbate this
- An acoustic fence to the railway line would be required
- Three storey dwellings are out of character with the surroundings
- Increased pressure on existing services – School, doctors
- Bus services should extend to the site
- Wildlife including newts on the application site
- Loss of outlook
- Cause disruption during construction
- Increase in noise and air pollution from increased traffic
- Existing inadequate bus service
- Disappointed to see that the recommendations about the siting of affordable housing have been ignored
- Loss of green space and loss of tranquillity of the area
- Under section 40 of the Natural Environment and Rural Communities Act 2006, every public authority, in exercising its functions, must have regard to the purpose of conserving biodiversity. This has been neglected
- Loss of privacy to the occupants of the dwellings on Leadley Croft and Moorland Gardens
- Loss of light and overshadowing
- object to the pedestrian access through Leadley Croft/Moorland Gardens would result in disturbance
- Concerned regarding the proximity of the proposed pumping station to neighbouring dwellings
- Proximity of proposed dwellings to dwellings to the north boundary will prevent solar panels, proposed development will inhibit the light
- Existing planning permission in Copmanthorpe meet the housing target
- Overdevelopment
- Loss of biodiversity

4.3 One representation of comments (to previous revisions)

- limitations of the road infrastructure leading up to the site which will require some serious analysis and work to be completed
- Exacerbate existing highway and congestion issues

4.4 Two Representation of Support (to previous revisions)

- The land proposed is neither a beauty spot or used in any beneficial way to the community.
- There is a need for housing
- The number of dwellings is not significant, a welcome addition to a thriving community.

4.5 One representation of objection from ex Cllr Carr

- draft Local Plan provides for 88 dwellings on this site; the emerging Copmanthorpe Neighbourhood Plan proposes a maximum of 60. The Neighbour Plan figure is far more appropriate to this site since it reflects the average housing density across Copmanthorpe village as a whole, and will put less pressure on the access road, Moor Lane.
- The lower figure is unlikely to compromise the housing numbers in the draft Local Plan since recent OAN figures are lower than contained in the draft Local Plan and seem to be on a downward trajectory. York's housing need figures are set to be fully examined, and understand no decision will be made on this application until the Local Plan has been approved.
- Irrespective of the number of dwellings, infrastructure improvements, particularly substantial highway improvements to Moor Lane, will be required and presume these will be secured by condition in the event that the application proceeds and is granted.

4.6 One representation from the Old School Medical Practice, Copmanthorpe (to previous revisions)

- Object, Village serviced by 2 relatively small GP surgeries both surgeries have remained unaltered since 1980s when there has been a significant increase in the number of dwellings. This has resulted in under provision of accommodation for the delivery of primary care services in the village
- Would not be supported without a financial contribution to reflect the impact that the scheme would have on the delivery of primary care services. Would have a detrimental impact on the existing health care provision within the vicinity. No capacity to provide services for additional patients. Based on 86 dwellings request contribution of £103,455.

5.0 APPRAISAL

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The development plan for York comprises the Poppleton Neighbourhood Plan (2017), Rufforth Neighbourhood Plan (2018), Earswick Neighbourhood Plan (2019), Huntington Neighbourhood Plan (2021), the Minster Neighbourhood Plan (2022), and Strensall Neighbourhood Plan (2023) and the saved policies of the Yorkshire and Humber Regional Spatial Strategy (RSS) relating to the general extent of the York Green Belt. These are policies YH9(C) and Y1 (C1 and C2) which relate to York's Green Belt and the key diagram insofar as it

illustrates general extent of the Green Belt. The policies state that the detailed inner and the rest of the outer boundaries of the Green Belt around York should be defined to protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas. The RSS defines the outer boundary of the Green Belt as being "about six miles" (10km) from York city centre. The site is approximately 6 km from the city centre.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

5.2 The planning policies of the National Planning Policy Framework as published are a material consideration in the determination of planning applications. The presumption in favour of sustainable development set out at paragraph 11 of the NPPF does not apply when the application of policies relating to Sites of Special Scientific Interest; land designated as Green Belt indicate that permission should be refused.

COPMANTHORPE NEIGHBOURHOOD PLAN

5.3 Copmanthorpe Parish Council are preparing a Neighbourhood Plan for their area. As the Copmanthorpe Neighbourhood Plan has not been formally submitted to the Council, has not been consulted on at Submission stage, and no examiners report has been received, the Copmanthorpe Pre-Submission Plan only holds very limited weight in relation to planning applications in the Copmanthorpe Parish.

PUBLICATION DRAFT YORK LOCAL PLAN (2018)

5.4 The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. It has now been subject to full examination. Modifications were consulted on in February and September 2023.

OPENNESS AND PURPOSES OF THE GREEN BELT

5.5 The NPPF states that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open and that, the essential characteristics of the Green Belt are its openness and permanence. The Green Belt serves 5 purposes:

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

5.6 In line with the decision of the Court in *Wedgwood v City of York Council*[2020], and in advance of the adoption of a Local Plan, decisions on whether to treat land as falling within the Green Belt for development management purposes should take into account the RSS general extent of the Green Belt, the 2005 DCLP, the 2018 Draft Plan, insofar as can be considered against paragraph 48 of the NPPF (2019) and site specific features in deciding whether land should be regarded as Green Belt.

5.7 The 2005 Development Control Local Plan shows the site as Green Belt with the existing edge of the village forming the northern boundary. The emerging Local Plan (2018) shows the land as housing allocation H29 and not within the Green Belt. As a result the land to which the application relates would not be part of the Green Belt if the DLP 2018 is adopted, instead becoming part of the defined settlement of Copmanthorpe.

5.8 When the site is assessed on its merits it is concluded that it serves at least three Green Belt purposes, namely assisting in safeguarding the countryside from encroachment, to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another. As such, the site should be treated as lying within the general extent of the York Green Belt and the proposal falls to be considered under the restrictive Green Belt policies set out in the NPPF.

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

5.10 Paragraph 149 of the NPPF states: 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.' The proposed residential development would not meet any of the defined exceptions set out within paragraph 149 of the NPPF. The proposed development is considered to be inappropriate development in the Green Belt.

5.11 The fundamental purpose of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The concept of 'openness' in this context means the state of being freed from development, the absence of buildings, and relates to the quantum and extent of development and its physical effect on the site. The proposal gives rise to harm to the green belt by reason of inappropriateness which should not be approved except in very special circumstances. Additionally, the proposal would result in harm to the openness and permanence of the Green Belt. It also conflicts with the Green Belt purposes of preventing encroachment into the countryside. The NPPF states that local planning authorities should ensure that

substantial weight is given to any harm to the green belt. 'Very special circumstances' will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Whether very special circumstances exist is assessed at paragraphs [5.59 – 5.71] below.

HIGHWAYS

5.12 The NPPF encourages development that is sustainably located and accessible. Paragraph 110 requires that all development achieves safe and suitable access for all users. It advises at paragraph 111 that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Further, paragraph 112 requires development to, inter alia, give priority first to pedestrians and cycle movements and create places that are safe, secure and attractive thereby minimising the scope for conflicts between pedestrians, cyclists and vehicles. Policy T1 of the 2018 draft Local Plan supports the approach of the NPPF in that it seeks the safe and appropriate access to the adjacent adopted highway, giving priority to pedestrians and cyclists.

5.13 Access to the site would be from Moor Lane. The site is considered to be within a sustainable location close to local and public transport. The site is between 400 and 600 metres from a high frequency bus stop (Copmanthorpe Motors, Main Street).

5.14 Each of the dwellings within the development will as a minimum be provided with off-street parking commensurate with the size of the dwelling it would serve; these would consist of in-curtilage driveways. Visitor spaces will be provided within the development. The level of parking to be provided is considered acceptable in this case. Cycle parking provision is indicated in the rear gardens of each property..

5.15 Highways officers have recommended that a number of other conditions be imposed. Collectively these conditions will also ensure that adequate parking, servicing and access arrangements are achieved without giving rise to highway safety concerns. The provision of a construction traffic management plan is considered necessary in this case given the close proximity of the site to an existing school. In addition the Highway team have requested that a Traffic Regulation Order is required to include works outside of the site including including 20mph speed limit for the site (including Moor Lane) and any access and parking management measures required on or off site (this is likely to include parking management measures on Moor Lane as well as the junction with Station Road and Main Street), this would be sought via a S106 legal agreement.

5.16 Overall it is considered that the proposals would accord with the provisions of Policy T1 of the DLP and Section 9 of the NPPF. The proposals would provide

appropriate levels of parking within the development. In addition to this the surrounding highway network would be capable of accommodating the traffic which would be generated by the proposals. The proposals would not give rise to significant highway safety issues and the proposals would be in a sustainable location with regard to access to services and public transport.

HOUSING

5.17 Policy H2: Density of residential development suggests a housing density of 35 units per hectare in rural areas and villages. It also notes that delivering densities that support the efficient use of land requires good design that responds to its context, an appropriate mix of house types and should be informed by local character. The developable area is 2.58ha, the proposed density is 29 dwellings per ha. Copmanthorpe has historically grown outwards from the historic village centre and development nearest the site is more recent and suburban in its character. The proposals would respect this local character in terms of their layout, scale and density. Proposed dwellings are indicated as a mix of detached, semi-detached and short terraces of properties. All the dwellings would be 2 storey in height, all with private amenity space.

HOUSING MIX

5.18 Policy H3 'Balancing the Housing Market' expect developers to provide housing solutions that contribute to meeting York's housing needs, as identified in the latest Local Housing Needs Assessment (LHNA) and in any other appropriate local evidence. New residential development should therefore maintain, provide or contribute to a mix of housing tenures, types and sizes to help support the creation of mixed, balanced and inclusive communities. The final mix of dwelling types and sizes will be subject to negotiation with the applicant. Applicants will be required to provide sufficient evidence to support their proposals. Proposals will be supported that are suitable for the intended occupiers in relation to the type of facilities, and the provision of support and/or care. Housing should be built as flexible as possible to peoples' changing circumstances over their lifetime. The Council will encourage developers to deliver an appropriate proportion of housing that meets the higher access standards of Part M Building Regulations (Access to and use of buildings), unless it is demonstrated that characteristics of the site provide reasons for delivery to be inappropriate, impractical or unviable.

5.19 The Housing Team have advised they are content with the the proposed housing mix shown on the revised plans and they consider that the housing mix will be broadly in line with the requirements of the Housing team and draft 2018 Local Plan Policy H3.

AFFORDABLE HOUSING

5.20 Policy H10 of the draft 2018 Local Plan sets affordable housing thresholds. In this particular case, the site is a greenfield site where more than 15 units are proposed. As a result, the relevant threshold in this case is 30%. Given that the proposal is for 75.no units a 30% affordable housing provision would equate to 22.5 units.

5.21 The development will include the provision of 22.no affordable units. These would comprise of 1 no. one bed unit, 13 no. two bed units, 4 no. three bed units and 4 no. four bed unit. If the application is approved, 80% should be for social rent (17) and 20% will be Discount Sale (5), in accordance with the council's policy expectations. The homes would be transferred to a Registered Provider at a price which ensures that no additional public subsidy is required to deliver the affordable homes. If the application is approved, a commuted sum contribution calculated at 0.5 social rent units cost for a typical home on the site is required to be provided, via a Section 106 agreement.

5.22 Policy H10 requires that the affordable housing is indistinguishable from the open market dwellings. It is noted that recently submitted plans indicate that both the affordable housing and the open market housing use the same housing designs. The affordable housing is pepper potted throughout the development, and accords with Policy H10.

5.23 The provision of affordable units will make a contribution to the affordable housing stock within the city. It will be necessary to include provision of these units through an associated Section 106 agreement to ensure that they are delivered and set out the necessary frameworks and mechanisms for the units to be transferred to a suitable registered provider.

VISUAL AMENITY AND CHARACTER

5.24 Chapter 12 of the NPPF gives advice on design, placing great importance to that design of the built environment. In particular, paragraph 130 of the NPPF states that planning decisions should ensure that development, inter alia, will add to the overall quality of the area, be visually attractive, sympathetic to local character and history and have a high standard of amenity for existing and future users. This advice is reflected in Draft Local Plan policies GP1 and GP9 of the 2005 Draft Local Plan and D1 and D2 of the 2018 Draft Local Plan and, therefore, these policies can be given moderate weight.

5.25 The triangular site is bounded by dwellings to the north. Views of the development from the east would be viewed in context of the existing dwellings, the east coast main line would create a visual barrier. The site is bounded by a road to the west, the visual impact of the development would be felt most keenly in relatively close proximity to the site on Moor Lane and views from the west.

5.26 The proposed development is considered to respect local character in terms of layout, scale and density. The proposed development consists of a mixture of 1,2, 3, and 4 bed dwellings, all of which are two storey units and predominantly detached or semi-detached, there is a single terrace of three units. The specification of external materials and finishes to be used in the development has not been detailed, in the event of planning permission being granted, it would be appropriate to attach a condition requiring details of exterior materials and finishes to be submitted for the approval by the local planning authority.

5.27 Para 131 of the NPPF requires that 'that new streets are tree-lined'(Unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate(footnote 50)). that appropriate measures are in place to secure the long-term maintenance of newly-planted trees..... Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users'. The plans indicate a number of street trees within the front gardens of a number of dwellings. The applicant has advised that they would form part of the highway and would be offered for adoption. The Highways team have advised that as some of the street trees are within people's garden and between driveways it would not be obvious that the area is not private and they would need to be in a logical place to be maintained, and the trees would not be adopted. However the number of street trees is minimal compared to the number of trees within front gardens. It would provide the tree lined streets required by the NPPF a condition could be placed on the planning permission setting out that the trees cannot be removed with prior consent from the local planning authority.

5.28 An indicative proposed landscaping plan has been submitted. This will provide additional tree planting to be incorporated into the development which will add to the existing trees and vegetation which already provide a setting to the site. The proposed layout shows open space predominantly to the north-west. Further areas of green space have been incorporated into the layout of residential development. The children's play space sits within the larger area of open space. Details of the landscaping scheme can be secured via a suitably worded condition and its ongoing maintenance which would be carried out by a management company can be secured under the associated S106 agreement. In addition to this it would also be appropriate to condition that hedge protection measures are utilised during the construction phase of development to ensure that the western hedge to be retained is afforded suitable protection.

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

RESIDENTIAL AMENITY

5.30 The NPPF seeks a good standard of amenity for all existing and future occupants, and that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; are sympathetic to local character and history, including the surrounding built environment and landscape setting. Policy GP1 of the 2005 Development Control Draft Local Plan and policies D1 and ENV2 of the 2018 Draft Local Plan seek to ensure that development proposals do not unduly affect the amenity of nearby residents in terms of noise disturbance, overlooking, overshadowing or from

5.31 Given the separation distances that would be achieved to existing properties it is not considered that the proposals would give rise to issues of overlooking or overshadowing which could be detrimental to the residential amenity of the existing or future residents. The impact of the development will be felt most keenly by those properties along the northern and southern boundaries who will lose their current outlook of open fields. However suitable separation distances are achieved. It is considered that the proposals would not have an unduly overbearing impact upon existing properties.

5.32 The Council's Public Protection Team have reviewed the proposals and have not raised any objections. They have however requested that a series of conditions be attached to any planning permission. The east coast main line has the potential to give rise to noise disturbance that could impact upon future residents of the proposed development; for future residents the internal noise can be mitigated by robust construction and a high specification of glazing. External noise levels (from the railway line) for gardens are more difficult to achieve, therefore the worst noise affected gardens are proposed to be screened by the buildings. In addition it is considered necessary to ensure the development is built to withstand the vibration levels resulting from the proximity to the railway. Public Protection officers have agreed that the measures proposed are suitable and should be secured by condition.

5.33 Given the nature of the proposed development there will be a degree of disruption caused, particularly during the construction phase. It would therefore be necessary and appropriate to include conditions which seek to manage and mitigate the worst of those impacts in the interests of the residential amenity of the area. This includes the provision of a Construction Environmental Management Plan (CEMP) to manage and mitigate possible issues of construction noise, dust and vibration. An hours of construction condition is also recommended.

BIODIVERSITY

5.34 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities to have regard, in the exercise of the functions, to the

purpose of conserving biodiversity. Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by, inter alia, minimising impacts on and providing net gains for biodiversity. The 2018 Draft Local Plan policies reflect this advice in relation to trees, protected species and habitats.

5.35 An Ecology survey has been submitted during the application process. The Ecology Officer is satisfied with the submitted ecology information and that there are no protected species on the site.

5.36 The NPPF and draft 2018 Local Plan policy both require that development results in net gains for biodiversity. The Environment Act 2021 which comes into force in November 2023 requires Biodiversity Net Gain at a minimum of 10%. Calculation of biodiversity net gain for the site has been undertaken using the Natural England Biodiversity Metric 4.0 and a gain of 14.5% was identified.

5.37 The Ecology Officer has requested a number of conditions including: the timing of works, Construction Environmental Management Plan (Biodiversity); Landscape and Ecological (or Biodiversity) Management Plan. These conditions are considered to be reasonable requirements.

5.38 The site lies close to Askham Bog Site of Special Scientific Interest (SSSI) albeit separated by the village of Copmanthorpe. The NPPF Section 15 'Conserving and enhancing the natural environment' requires that development on land within, or outside, a SSSI, and which is likely to have an adverse effect on it, should not normally be permitted. The applicant has submitted supporting information setting out that it is reasonable to conclude that in the absence of mitigation, there is the potential for very minor negative impacts to occur at Askham Bog SSSI, through increased recreational pressure caused by new residents at the proposed development. The supporting information proposed a financial contribution (through a S106 agreement) which would be ringfenced for exclusive use at Askham Bog SSSI; funding additional management and improvement works. This funding would be targeted at addressing damaging activities linked to aforementioned recreational pressure. This is considered to be mitigation that would overcome the harm from the increased recreational use. The level of financial contribution required would be proportionate to the risk of adverse effects. At the time of writing the report officers were awaiting information from developer as to whether they would agree to the £40,000 contribution required by Yorkshire Wildlife. This will be reported to committee.

ARCHAEOLOGY

5.39 A desk-based assessment of the site was undertaken in 2014. The assessment concludes that there is the possibility of prehistoric features/deposits on the site should they have survived subsequent agricultural ploughing. There is also the small

possibility of remains of the Knights Templar preceptory existing on the site as its exact location within this area is unknown. Overall the site is of moderate potential. The extent and significance of any surviving archaeological features and deposits must be assessed. A geophysical report and a Written Scheme of Investigation has been submitted with the application. The Archaeology Officer considers that the rest of the evaluation can be sought via condition.

DRAINAGE

5.40 The NPPF requires that suitable drainage strategies are developed for sites, so there is no increase in flood risk elsewhere. Publication Draft York Local Plan (2018) Policy ENV5 Sustainable Drainage) advise discharge from new developments should not exceed the capacity of receptors and water run-off should, in relation to existing runoff rates, be reduced.

5.41 The Lead Local Flood Authority Engineer has advised that the principle of the revised drainage scheme is considered to be acceptable. It is considered necessary to condition the drainage scheme to ensure that the drainage scheme is implemented.

5.42 Amongst the objections received, concerns have been raised about the potential risk of flooding resulting from the development, also noting that the site itself floods. The site at present is greenfield (undeveloped) and as such does not benefit from any drainage infrastructure. Flooding in these areas is a result of the natural topography of the land – it is known from that the ability of the land to soakaway surface water is limited. Development of the site will include the provision of drainage infrastructure which should allow for the flows of surface water to be managed and directed.

SUSTAINABILITY

5.43 The modified wording (January 2023) of draft 2018 Local Plan Policy CC2 'Sustainable Design and Construction of New Development' states developments should achieve high standards of sustainable design and construction by demonstrating: energy and carbon dioxide savings in accordance with the energy hierarchy; water efficiency; and consideration of good practice adaptation principles for climate resilience. All new residential development of 1 or more should achieve: on-site carbon emissions reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19 % should come from energy efficiency measures; and a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations. Pending anticipated changes to Building Regulations, developments should further aim to achieve up to a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013) unless it is demonstrated that such reductions would not be feasible or viable. Any higher level of reductions

required through Building Regulations or other legislation will supersede the above requirements. The applicant has advised they are willing to accept a condition requiring compliance with the requirements of Policy CC2. Policy CC2 has partially resolved objections and can be afforded limited weight.

CRIME

5.44 Section 17 of the Crime and Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and do all they reasonably can to prevent crime and disorder". Paragraphs 92 and 130 of the NPPF require developments should create safe places and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The Police Architectural Liaison Officer has advised they have no concerns and the development follows the Designing out Crime principles.

REQUESTED S106 CONTRIBUTIONS

5.45 Policy DM1 of the 2018 Draft Local Plan states that the Council will seek financial contributions from developers to ensure that the necessary infrastructure is in place to support future development in York. The following considerations arise from this application:

- Education
- Open Space
- Healthcare facilities
- Highways
- Mitigation for the impact to Askham Bog
- Affordable Housing

EDUCATION

5.46 In terms of education provision, the need arising from the development and how this would be accommodated is as follows:

- Early Years (10 Places) - £214,050. This would be for new or expanded nursery provision in Copmanthorpe preferable or within 5km if this is not feasible.
- Primary (17 Places) - £363,885. This would be for provision at Copmanthorpe Primary School or other schools in PPA5 if CPS not feasible.
- Secondary (5 Places) - £147,345. This would be for provision at Milthorpe Secondary School and/or Tadcaster.
- Transport costs to catchment Schools - £13,431

5.47 There is no safe walking route within the statutory maximum walking distance to a secondary school.

5.48 The secondary school yield reflects the shared catchment between Millthorpe and Tadcaster Grammar. The proposed s106 planning obligations are considered to be compliant with NPPF paragraphs 55 to 57 and the relevant CIL regulations.

OPEN SPACE

5.49 All residential development proposals are expected to contribute to the provision of open space for recreation and amenity in line with 2018 Draft Local Plan Policy GI6. Each of the proposed dwellings would benefit from private amenity spaces.

5.50 A contribution towards off-site amenity, play, and sport is considered necessary. Based on the number of dwellings and number of bedrooms proposed the required contribution has been calculated as £159,020. The contribution would be intended to be used for community sports clubs at Copmanthorpe Recreation Centre or Bishopthorpe Football Club (Ashfield Pitches site), the play and amenity contribution would be forwarded to the parish council. At the time of writing the report Officers were awaiting agreement from the applicant

5.51 With regard to the future ongoing maintenance of the on-site open space it is understood that this could be carried out by a management company. This can also be secured through a Section 106 Agreement. The proposed s106 planning obligations are considered to be compliant with NPPF paragraphs 55 to 57 and the relevant CIL regulations.

HEALTHCARE SERVICES

5.52 The NPPF sets out that decision should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. 2018 Draft Local Plan Policy HW5 'Healthcare Services' sets out that Improved, enlarged or additional primary or secondary healthcare facilities will may be required to support residential developments that place additional demands on services beyond their current capacity. Developer contributions will be required to support the increase in provision. Proposals which fail to protect existing primary care services, or involve the loss of services, will not be supported, unless it can be demonstrated the facilities are no longer required or that relocating facilities would better meet the community's needs. The draft policy currently has moderate weight. The Policy is subject to modification, although these changes provide clarity in policy wording rather than altering the nature/application of policy.

5.53 The Humber and North Yorkshire Health and Care Partnership under the North Yorkshire Integrated Care Board has responded setting out that the development will have an impact on the existing healthcare provision within the vicinity of the site. The existing GP practices do not have capacity to accommodate the additional growth resulting from the proposed development. The development could give rise to a need for improvements to capacity, by way of improvements to, reconfiguration of, or extension of existing premises or providing additional resource for the benefit of the patients; a proportion of the cost of which would need to be met by the developer. NHSPS and HNYPC calculate the level of contribution required in this instance to be £92,690. Further information has been sought from the NHSPS as to what the contribution would specifically fund. This will be reported to committee. The request has been forwarded to the applicant and at the time of writing the report officers had not received a response.

HIGHWAYS

5.54 The Highways team have requested a contribution towards the provision of a car club car in the village by providing an incentive for residents of the proposed development to use the vehicle located in the village. This will take the form of free membership and an initial free/discounted mileage offer to residents. The estimated cost is £80/dwelling (total £6000), to be offered to the first occupier. Together with a sustainable travel incentive - an initial intervention to encourage first occupiers to use public transport and/or cycle will be included in the Section 106 agreement in the form of a sustainable travel pack of a value of £180/dwelling (total £13,500).

5.55 A contribution is requested towards City of York Council Travel Plan support. This would be a minimum amount of £60 per dwelling per year is required to deliver meaningful travel planning interventions (total £22,500). This would need to be included as a budget for the Travel Plan for the first 5 year period, with an additional £11,640 to be invested in travel planning if the agreed target mode shift is not achieved within the first 5 years. In addition the Highway team have requested that Traffic Regulation Order is required to include works outside of the site including 20mph speed limit for the site (including Moor Lane) and any access and parking management measures required on or off site (this is likely to include parking management measures on Moor Lane as well as the junction with Station Road and Main Street).

5.56 The proposed s106 planning obligations are considered to be compliant with NPPF paragraphs 55 to 57 and the relevant CIL regulations. The applicant has agreed to the requested highway contributions.

MITIGATION FOR THE IMPACT TO ASKHAM BOG

5.57 NPPF para 180 (b) sets out that 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. Paragraph 180 (c) sets out that development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. There is the potential for minor negative impacts to occur at Askham Bog SSSI, through increased recreational pressure caused by new residents. The supporting information from the application sets out that mitigation is required and this could be sought via a S106 agreement. The Yorkshire Wildlife Trust who manage Askham Bog have requested a contribution whilst they have requested flexibility in how this is spent, if this is not possible they have advised that the contribution goes towards formalising the car park at Askham Bog. Yorkshire Wildlife has requested a contribution of £40,000 to mitigate the impact from increased visitor pressure resulting from the proposed development. The existing car park is relatively informal and the formalising of the car park would prevent informal incremental increase of the car park resulting from parked cars and the increased use. The proposed s106 planning obligation is considered to be compliant with NPPF paragraphs 55 to 57 and the relevant CIL regulations.

AFFORDABLE HOUSING

5.58 If the application is approved, a commuted sum contribution calculated at 0.5 social rent units cost for a typical home on the site is required to be secured through a s106 agreement. The provision of 22 affordable units and the mechanisms and frameworks by which they are delivered and then transferred to an appointed registered provider need to be secured within a S106 agreement. The proposed s106 planning obligation is considered to be compliant with NPPF paragraphs 55 to 57 and the relevant CIL regulations.

ASSESSMENT OF VERY SPECIAL CIRCUMSTANCES

5.59 Paragraphs 147-148 of the NPPF advise that permission should be refused for inappropriate development in the Green Belt and should not be approved except in very special circumstances. Local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.60 The applicant contends that the development is appropriate development in the Green Belt. However the agent has put forward the following considerations in support of the application:

- The site is allocated for housing in the emerging Local Plan (2018). The site is considered to be suitable and deliverable.
- Given the location of the site at the edge of an existing settlement the site is sustainably located.
- Unmet housing need cannot be accommodated on deliverable sites on land that is outside of the general extent of Green Belt. In order to meet housing need – the site is identified to be excluded from the Green Belt as part of an expansion to Copmanthorpe Village.
- There is a need for housing and particularly affordable housing within the city.

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

5.62 The application site is a housing allocation within the emerging Local Plan which was defined as Green Belt in the 2005 DLP and forms part of the general extent of Green Belt as outlined in the saved RSS Key diagram. It is the role of the Local Plan to define the detailed Green Belt boundaries to ensure that the city can meet its development needs and allow permanence to the green belt boundaries beyond the plan period. The approach to this is set out within Topic Paper 1: Approach to defining Green Belt Addendum 2021. The Green Belt Addendum (2021) document provides a detailed explanation of how and where detailed inner and outer Green Belt boundaries have been defined to inform the emerging Local Plan. The detailed methodology, including defined criteria to inform the delineation of the detailed boundaries are set out within Section 5 of the Topic Paper Addendum. This methodology takes consideration of national guidance and, an appraisal of the essential characteristics of openness and permanence in York, including the context of the existing built environment and landscape against the relevant green belt purposes set out in the NPPF. The methodology also sets out the approach to strategic permanence and consistency with the local plan's spatial strategy (in line with NPPF para 85) to identify suitable locations for development to meet development needs which cannot be accommodated in the identified urban areas. It also establishes which sites have been considered as suitable for proposed development in this context.

5.63 The key role for defining the detailed boundaries is to establish long term development limits to the built up (urban) area, and other densely developed areas, to distinguish land that needs to be kept permanently open to meet the purposes of Green Belt. For York the primary purpose of the Green Belt is to safeguard the special character and setting of the historic city.

5.64 Copmanthorpe village is identified to be excluded from the Green Belt. Consideration of the detailed Green Belt boundaries around the village of Copmanthorpe is set out in Annex 4 (Other densely developed Areas in the General Extent of the Green Belt) to the 2021 addendum. A total of 5 boundaries are identified around the village. Boundary 2 runs along the southern extent of the village adjacent to the land that forms the subject of this application.

5.65 The detailed Green Belt assessment identified the location of Copmanthorpe as forming a freestanding village in the settlement pattern of villages outside of the York Outer Ring Road, physically separated from the surrounding development clusters. Key points from the analysis identified that allowing the village to grow significantly would take it out of proportion with the settlement pattern of York, an important feature identified in the Heritage Topic Paper. Also, that increasing the distance of residential areas away from the village core can cause harm to the compactness of the village. In Copmanthorpe, boundaries to the south and north east are particularly important in retaining separation with Bishopthorpe. All 5 boundaries have a role in keeping land open as part of the wider view of Copmanthorpe in rural landscape. However it was identified that there is potential for development in the open land surrounding the village in line with the Local Plan strategy.

5.66 In order to deliver long term permanence for the York Green Belt, it was determined that there is potential for the village of Copmanthorpe to grow within a sustainable pattern of development. Copmanthorpe is of an urbanised built up nature with a lack of openness and therefore offers an opportunity for focusing development towards an urban area within the Green Belt and which meets the requirements of the spatial strategy.

5.67 Whilst a number of proposed sites in and around the existing village were put forward as part of the Local Plan process only two have progressed to the examination: the site now known as H29 (Moor Lane); and ST31 (planning permission 18/00680/OUTM for 158 dwellings approved 28.04.2023 following committee meeting 10.07.2022) and the application site was included in the Local Plan as Housing Allocations. The application site was identified for development as part of a development strategy which looks to preserve the character and setting of the historic City and, acknowledging unmet housing need, the plan allocates the site for development.

5.68 In defining a clear and defensible boundary, the GB Addendum (2021) recommends that, with the proposed allocation and this parcel of land inset from the GB, the site is contained on three sides by built development, the railway line and Moor Lane. In defining a clear and defensible boundary, it is recommended that the existing boundaries are strengthened as part of the masterplanning of the site (for example through the creation of landscape buffers) in order to create a boundary,

which acts as a defined and recognisable urban edge which will be permanent in the long term.

5.69 The Council has concluded that changes to the general extent of the York Green Belt are required to meet the development needs for housing, employment land and education, which cannot be solely provided for in urban areas or villages (outside of the Green Belt) or by other means. It is recognised that an undersupply of homes or employment land would exacerbate housing affordability issues, increase unsustainable commuting patterns and adversely impact on building a strong, competitive economy. Site H29 is proposed to be allocated to help meet the overall needs of the city within the general extent of the Green Belt following an extensive exercise to identify suitable sites which minimise harm on York's environmental assets and the purposes of the Green Belt. The provision of 30% affordable housing on the site is considered to be a substantial benefit of the scheme.

5.70 Site H29 is allocated for development through Policy H1 in the 2018 Draft Local Plan. A number of main modifications are proposed to this policy. Given this, the policy as a whole can carry only limited weight in decision making. However, it should be noted that most of the modifications to Policy H1 do not impact directly upon site H29. Furthermore the evidence upon which the allocation relies is material and can be afforded significant weight. The site selection process is well documented through the Strategic Housing Land Availability Assessment (SHLAA) and Local Plan viability work.

5.71 The application site is located within the general extent of the York Green Belt and serves at least three of the Green Belt purposes set out in the NPPF. In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on the openness of the Green Belt when one of the most important attributes of Green Belts are their openness, and that the proposal would undermine the Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt. There are outstanding objections to the removal of land from the general extent of the Green Belt and the delineation of the detailed Green Belt boundaries. Such objections reduce the weight that can be attributed to the relevant draft policy SS2. However, even taking this into account and recognising that it is a matter of planning judgement and attaching substantial weight to the harm to the Green Belt, it is considered that cumulatively there are very special circumstances which, as is required by the NPPF, clearly outweigh the harm to the Green Belt and any other harm as a result of development. It is considered that very special circumstances exist to justify the development

WHETHER PREMATURITY IS GROUNDS TO REFUSE THE APPLICATION

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

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

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

5.74 It is considered that to grant planning permission for this scheme would not undermine the plan-making process because the Council’s assessment of the Green Belt to inform the emerging plan (as detailed within Topic Paper 1: Approach to defining the Green Belt Addendum 2021) concluded that the site could be excluded from the Green Belt to enable development needs to be met in line with the spatial strategy. Given the scale of the development proposed (75 dwellings); that the site is required to meet development needs and will be excluded from the Green Belt; and as the emerging Local Plan has been through examination and promotes this as a housing site, to be delivered within the short to medium term (1-10 years) of the plan, there are no clear grounds (as is required by the NPPF) to refuse this particular application on the basis that it would prejudice the plan-making process.

PUBLIC SECTOR EQUALITIES DUTY

5.75 Section 149 of the Equality Act 2010 contains the Public Sector Equality Duty (PSED) which requires public authorities, when exercising their functions, to have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.76 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.77 The PSED does not specify a particular substantive outcome, but ensures that the decision made has been taken with “due regard” to its equality implications.

5.78 Officers have given due regard to the equality implications of the proposals in making its recommendation. There is no indication or evidence (including from consultation on this application) that any equality matters are raised that would outweigh the material planning considerations.

6.0 CONCLUSION

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

6.2 In addition to the harm to the Green Belt by reason of inappropriateness, it is considered that the proposal would have a harmful effect on the openness of the Green Belt when one of the most importance attributes of Green Belts are their openness and the proposal would undermine at least three of the five Green Belt purposes. Substantial weight is attached to the harm that the proposal would cause to the Green Belt.

6.3 It is considered that the points identified in paragraphs 5.60 to 5.73 above are considered to amount cumulatively to ‘very special circumstances’ that clearly outweigh the definitional harm to the green belt, the harm to the openness and permanence of the green belt [] arising from the proposed development.

6.4 Approval is recommended subject to the referral of the application to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2021 and the application not being called in by the Secretary of State for determination. The application is required to be referred to the Secretary of State as the development is considered to be inappropriate development in the Green Belt, and the proposed 6348.43 sqm of floorspace would be in excess of the 1000 sqm threshold set out in the Direction.

7.0 RECOMMENDATION: That delegated authority to be given to the Head of Development Services to :

- i. Refer the application to the Secretary of State for Communities and Local Government under the requirements of Section 77 of the Town and Country Planning Act 1990, and should the application not be called in by the Secretary of State, then APPROVE the application subject to
- iii. The completion of a Section 106 Agreement to secure the following planning obligations:
 - The provision of affordable housing units and a commuted sum contribution calculated at 0.5 social rent units cost
 - Landscape management plan
 - Open Space: £159,020 towards play, amenity, and off site sports provision.
 - Highways: Car Club £6,000; sustainable travel pack £13,500; Travel Plan £34,140; and Traffic Regulation Order for off-site works
 - Education £738,711 toward the provision of Early Years, Primary and Secondary school places.
 - Askham Bog £40,000 towards the resurfacing of the car park as mitigation measures for increased recreational impacts on Askham Bog SSSI
 - Primary Health Care: £92,690 towards improvements to, reconfiguration of, or extension of existing premises or providing additional resource for the benefit of the patients
- iv. The Head of Planning and Development Services be given delegated authority to finalise the terms and details of the Section 106 Agreement.
- v. The Head of Planning and Development Services be given delegated authority to determine the final detail of the planning conditions

1 TIME2 Development start within three years

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

TBC

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

3 Notwithstanding any proposed materials specified on the approved drawings or in the application form submitted with the application, samples of the external materials (including hard surfacing) to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction works. The development shall be carried out using the approved materials.

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

Reason: So as to achieve a visually cohesive appearance.

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

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

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

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

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

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

Reason: To protect the amenity of the locality

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

| | |
|------------------|--------------------|
| Monday to Friday | 0800 to 1800 hours |
| Saturday | 0900 to 1300 hours |

Not at all on Sundays and Bank Holidays

Reason: To protect the amenity of the locality

6 Prior to development, an investigation and risk assessment (in addition to any assessment provided with the planning application) shall be undertaken to assess the nature and extent of any land contamination. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning

Authority prior to development. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination (including ground gases where appropriate);
- (ii) an assessment of the potential risks to:
 - o human health,
 - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - o adjoining land,
 - o groundwaters and surface waters,
 - o ecological systems,
 - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7 Prior to development, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 Prior to first occupation or use, the approved remediation scheme shall be carried out in accordance with its terms and a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems.

9 In the event that unexpected contamination is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority. No further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried until an investigation and risk assessment has been undertaken and where remediation is necessary a remediation scheme has been submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 A programme of post-determination archaeological evaluation is required on this site. The archaeological scheme comprises 3-4 stages of work. Each stage shall be completed and agreed by the Local Planning Authority (LPA) before it can be approved.

A) The site investigation and post investigation assessment shall be completed in accordance with the programme set out in the approved Written Scheme of Investigation (MAP 2019) and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

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

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

D) No development shall take place until:

- details in D have been approved and implemented on site
- provision has been made for analysis, dissemination of results and archive deposition has been secured
- a copy of a report on the archaeological works detailed in Part D should be deposited with City of York Historic Environment Record within 3 months of completion or such other period as may be agreed in writing with the Local Planning Authority.

Reason: The site lies within an area of archaeological interest. An investigation is required to identify the presence and significance of archaeological features and deposits and ensure that archaeological features and deposits are either recorded or, if of national importance, preserved in-situ. This condition is imposed in accordance with Section 16 of NPPF.

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

Reason: In the interest of satisfactory and sustainable drainage.

12 No development shall take place until details of the proposed means of foul and surface water drainage, including details of any balancing works and off site works, have been submitted to and approved in writing by the Local Planning Authority. The information shall include site specific details of:

- i) the flow control device manhole, means by which the surface water discharge rate shall not exceed 3.5 (three point five) litres per second (l/sec), and the pumped rate shall not exceed 4.75 l/sec,
- ii) the means by which the surface water attenuation up to the 1 in 100 year event with a 30% climate change allowance shall be achieved,
- iii) a topographical survey showing the existing and proposed foul and surface water drainage invert and cover levels, ground and finished floor levels to ordnance datum for the site and adjacent properties. The development should not be raised above the level of the adjacent land, to prevent runoff from the site affecting nearby properties, and
- iv) the future management and maintenance of the proposed drainage scheme.

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

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

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

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

14 Prior to the development commencing full detailed drawings showing the design and materials for roads, footways, and other highway areas (and which shall comply with the requirements set out in the NYCC Residential Design Guide and Specification - second edition) shall be submitted to and approved in writing by the Local Planning Authority. Such roads, footways and other highway areas shall be constructed in accordance with such approved drawings prior to the occupation of any dwelling which requires access from or along that highway.

Informative: Submitted information should include: include the design of tree pits/root barriers for trees shown in private areas but near the adopted highway and street lighting as well as tactile paving and crossing points, etc

Reason: In the interests of good planning and road safety.

15 No part of the development shall be occupied until an updated Full Travel Plan including updated targets has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan should be developed and implemented in line with local and national guidelines. The site shall thereafter be occupied in accordance with the aims, measures and outcomes of the Travel Plan as so approved.

Once 50% occupation is reached a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of annual travel surveys carried out over a period of 5 years (+ 2 years if targets not reached) from the first survey shall then be submitted annually to the authority's travel plan officer for approval in writing.

Reason: To promote sustainable transport and in the interests of good design in accordance with section 9 of the NPPF.

16 A detailed method of works statement identifying the programming and management of site clearance/preparatory and construction works shall be

submitted to and approved in writing by the Local Planning Authority prior to the development commencing. The statement shall include at least the following information:

- measures to prevent the egress of mud and other detritus onto the adjacent public highway;
- a dilapidation survey jointly undertaken with the local highway authority;
- the routing for construction traffic that will be promoted;
- management of traffic on Moor Lane and through village;
- the safe routing of pedestrians around the site;
- the extent and programming of any road /footway closures;
- a scheme for signing the promoted construction traffic routing;
- an outline programme/ schedule for deliveries to site
- hours of work/access;
- where contractors will park; and
- where materials will be stored within the site.

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

Informative: Please contact development.adoption@york.gov.uk to arrange joint dilapidation survey. Please contact highway.regulation@york.gov.uk to discuss Temporary Traffic Regulation Orders.

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

17 No part of the site shall come into use until the turning areas have been provided in accordance with the approved plans. Thereafter the turning areas shall be retained free of all obstructions and used solely for the intended purpose.

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

18 Prior to the development commencing details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall be retained as such and shall not be used for any purpose other than the parking of cycles.

Reason: To promote use of cycles thereby reducing congestion on the adjacent roads and in the interests of the amenity of neighbours.

19 No development shall take place (including ground works and vegetation removal) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The development shall be carried out with the CEMP: Biodiversity as approved. 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 roles 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

Reason: To facilitate the protection of notable/sensitive habitats within the local area.

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

The plan shall:

- o Demonstrate that required external lighting has been selected in-line with current guidance - Bat Conservation Trust (2018) Bats and artificial lighting in the UK.

<https://cdn.bats.org.uk/pdf/Resources/ilp-guidance-note-8-bats-and-artificial-lighting-compressed.pdf?mtime=20181113114229&focal=none>

- o Show how and where external lighting will be installed, so that it can be clearly demonstrated that areas to be lit will not disturb light-sensitive wildlife, such as bats.

The lighting scheme shall be implemented in full accordance with the approved plan.

Reason: To maintain the favourable conservation status of bats and ensure the site remains attractive to other light sensitive species.

21 The residential development must be designed to ensure the following vibration levels stated in BS6472:2008 Evaluation of human exposure to vibration in buildings (1Hz to 80 Hz) are not exceeded.

Place Vibration dose values - Low probability of adverse comment (m/s^{1.75})
Residential buildings 16 h day 0.2 to 0.4
Residential buildings 8 h night 0.1 to 0.2

The applicant shall submit evidence that the above standard will be met, for approval by the Local Planning Authority.

Reason: To ensure that the occupiers and users of the proposed development do not suffer a loss of amenity by reason of excess vibration from transportation sources

242 All the sound attenuation measures detailed in the noise assessment supplied [SLR Consulting Limited dated 1/9/23] shall fully implemented prior to the occupation of the development and permanently retained thereafter.

Reason: To protect the amenity of people living in the new property from externally generated noise and in accordance with the National Planning Policy Framework.

23 Prior to the commencement of development, a complete and detailed Arboricultural Method Statement regarding protection measures for existing trees and hedges within and adjacent to the application site shown to be retained on the approved drawings, shall be submitted to and approved in writing by the Local Planning Authority. Amongst other information, this statement shall include details and locations of protective fencing, ground protection, a schedule of tree/hedge works if applicable, site rules and prohibitions, phasing of works, means of installing utilities and fencing, and location of site compound. The development shall be carried out in accordance with approved Arboricultural Method Statement. A copy of the document shall be available for reference and inspection on site at all times.

Reason: To protect existing trees and hedges which are considered to make a significant contribution to the amenity of this area and/or development.

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

Reason: So that the Local Planning Authority may be satisfied with the variety,

suitability and disposition of species within the entire site, since the landscape scheme is integral to the amenity and open space provision of the development.

25 No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority all tree and hedge planting details, to include: means of support, protection, and irrigation; maintenance regime, and responsibilities; soil volumes and structural soil cell systems where applicable, and the corresponding paving detail, and locations of underground utilities. Where trees and/or hedges are to be located within paved areas or very restricted beds, the surface area of soil cell systems, soil volumes, and tree species, and any utilities shall also be shown on a tree planting plan. This scheme shall be implemented within a period of six months of the completion of the development. Any trees or plants which die, are removed or become seriously damaged or diseased within the lifetime of the development, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing.

Reason: Suitable detailing and maintenance will encourage the proposed trees to survive and thrive since they are a critical element of the approved landscape and setting of the development.

26 The trees and hedges shown as being retained Drawing Number TBC in particular to the west site boundaries shall not be removed. If in the circumstances that a tree/s or part of the hedge is removed details illustrating the number, species, height and position of the replacement trees and/or shrubs shall be submitted to and approved in writing by the Local Planning Authority. This replacement planting shall be completed within a period of six months of the original removal of the tree/s and/or hedge.

Reason: In the interests of the visual amenity of the area, the ecology of the area.

27 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), development of the type described in Classes D and F of Schedule 2 Part 1 of that Order shall not be erected or constructed.

Reason: In the interests of the amenities of the adjoining residents the Local Planning Authority considers that it should exercise control over any future extensions or alterations which, without this condition, may have been carried out as "permitted development" under the above classes of the Town and Country Planning (General Permitted Development) Order 2015. To ensure there the minimum size of parking space is retained. In the interests of visual amenity.

28 Prior to commencement of development details/specification of the hard landscaping scheme including: gates and fences; ground surface finishes for

driveways/parking, paths etc shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details.

Subsequent to these approved details and notwithstanding the provisions of Article 3 of the Town and Country Planning (General Development Order 2015), (or any Order revoking or re-enacting that Order), no fences, gates, walls or other means of enclosure shall be erected.

Reason: So that the Local Planning Authority may be satisfied with these details. In the interests of the character, appearance, and special interests of the area and the heritage assets.

29 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), the garages shown on the approved drawings shall be retained as shown and shall not be converted to living accommodation without the prior written consent of the local planning authority.

Reason: To ensure that adequate storage space is retained for cycles, vehicles, and refuse bins etc.

30 The development hereby permitted shall achieve on-site carbon emissions reduction of a minimum of 31% over and above the requirements of Building Regulations Part L (2013), of which at least 19 % should come from energy efficiency measures; and, ii. a water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).

Pending anticipated changes to Building Regulations, developments should further aim to achieve up to a 75% reduction in carbon emissions over and above the requirements of Building Regulations Part L (2013) unless it is demonstrated that such reductions would not be feasible or viable.

Prior to commencement of construction, details of the measures undertaken to secure compliance with this condition shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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

8.0 INFORMATIVES:

Notes to Applicant

Application Reference Number: 19/00602/FULM

Item No: 4a

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

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

- Requested revised plans
- Requested additional information
- Use of conditions

2. INFORMATIVE:

You are advised that prior to starting on site consent will be required from the Highway Authority for the works being proposed, under the Highways Act 1980 (unless alternatively specified under the legislation or Regulations listed below). For further information please contact the officer named:

Works in the highway - Section 171 - Vehicle Crossing - Section 184 - Highway Adoption and S278 (01904) 551550 - streetworks@york.gov.uk

3. Informative regarding Electric Vehicle (EV) charge points

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

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

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

From 15th June 2022, Approved Document S applies to new residential and non-residential buildings; buildings undergoing a material change of use to dwellings; residential and non-residential buildings undergoing major renovation; and mixed-use buildings that are either new or undergoing major renovation.

CYC Building Control should be consulted on all proposals for EV charge point provision (active and passive) to ensure compliance with current Building Regulations.

4. Informative note: Drainage

- i) The public sewer network does not have capacity to accept an unrestricted discharge of surface water. Surface water discharge to the existing public sewer network must only be as a last resort, the developer is required to eliminate other means of surface water disposal.
- ii) The applicant should be advised that the Yorkshire Waters prior consent is required (as well as planning permission) to make a connection of foul and surface water to the public sewer network.
- iii) The applicant should be advised that the York Consortium of Drainage Board's prior consent is required (outside and as well as planning permission) for any development including fences or planting within 9.00m of the bank top of any watercourse within or forming the boundary of the site. Any proposals to culvert, bridge, fill in or make a discharge (either directly or indirectly) to the watercourse will also require the Board's prior consent.

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

- a. any connection into a Board maintained watercourse, or any ordinary watercourse in the Board's district.
- b. any discharge, or change in the rate of discharge, into a Board maintained watercourse, or any ordinary watercourse in the Board's district. This applies whether the discharge enters the watercourse either directly or indirectly (i.e. via a third party asset such as a mains sewer).
- c. works within or over a Board maintained watercourse, or any ordinary watercourse in the Board's district - for example, land drainage, an outfall structure, bridges, culverting etc.
- d. any construction, fencing or planting within 9 metres of the top of the embankment of a Board maintained watercourse

Please note that the Board does not, generally, own any watercourses and the requirement for you to obtain the Board's consent is in addition to you obtaining consent from any land owner or other authority to carry out the relevant works. Full details of the Consent process can be found on our website:-

6. If the developer is looking to have new sewers included in a sewer adoption agreement with Yorkshire Water (under Section 104 of the Water Industry Act 1991), they should contact our Developer Services Team (telephone 03451 208 482, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption should be designed and constructed in accordance with the WRc publication 'Code for Adoption - a design and construction guide for developers' as supplemented by Yorkshire Water's requirements.

7. Informative - Hedgehogs: As stated in sections 95 to 98 (Hedgehogs) of the PEA, the application site is likely used by hedgehogs. The applicant is advised to consider using permeable fencing or leaving occasional gaps suitable to allow passage of hedgehogs. Any potential hibernation sites including log piles should be removed outside the hibernation period (which is between November and March inclusive) in order to avoid killing or injuring hedgehog.

Hedgehogs are of priority conservation concern and are a Species of Principal Importance under section 41 of the NERC Act (2006). An important factor in their recent population decline is that fencing and walls are becoming more secure, reducing their movements and the amount of land available to them. Small gaps of approximately 13x13cm can be left at the base of fencing to allow hedgehogs to pass through. Habitat enhancement for hedgehogs can easily be incorporated into developments, for example through provision of purpose-built hedgehog shelters or log piles.

<https://www.britishhedgehogs.org.uk/wp-content/uploads/2019/05/developers-1.pdf>

8. Informative - Invasive Non-Native Species: As noted in section 105 to 109 (Invasive Non-Native Species) of the PEA cotoneaster has previously been identified on site. The applicant is reminded that some species of cotoneaster are listed on Schedule 9 of The Wildlife and Countryside Act 1981 (as amended) making it an offence to "introduce, plant or cause to grow wild" this species. It is therefore recommended that continual monitoring of this species is undertaken and where necessary steps should be taken to prevent further spread of the plant.

9. Informative to use a Landscape architect

It is recommended that the services of a landscape architect are employed to produce a landscape scheme and to oversee the landscape contract on site in order to ensure that the ground preparation and planting are carried out to a satisfactory standard and are in strict accordance with the approved drawings. The developer is also advised to inform the local authority of when the planting is complete so that the local authority can monitor the planting within the ten year period and hence continue to ensure that the requirements of this condition are met; and so there is no discrepancy as to when the requirements of the planning condition cease.

10. Network Rail Informative

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or

plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in

accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken.

Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or

vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Armco Safety Barriers

An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing / wall must not be removed or damaged. Given the considerable number of vehicle movements likely provision should be made at each turning area/roadway/car parking area adjacent to the railway. This is in accord with the new guidance for road/rail vehicle incursion NR/LV/CIV/00012 following on from DfT advice issued in 2003, now updated to include risk of incursion from private land/roadways.

Fencing

Although the existing NR fence is adequate in preventing trespass there will inevitably be pressure from the new residents to soften or even attempt to alter its

appearance. It should be noted that our fence should not be altered or moved in any way and nothing should be put in place to prevent us from maintaining our boundary fence as we are obliged to do so in law. It is our experience that most developments seek to provide their own boundary enclosure so as to avoid such future problems. It would also help to reduce the impact of railway noise. We would advise that the developer should provide a trespass proof fence adjacent to Network Rail's boundary (minimum 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.

Method Statements/Fail Safe/Possessions

Method statements may require to be submitted to Network Rail's Asset Protection Project Manager at the below address for approval prior to works commencing on site. This should include an outline of the proposed method of construction, risk assessment in relation to the railway and construction traffic management plan. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Asset Protection Project Manager and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/piling/buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.

OPE

Once planning permission has been granted and at least six weeks prior to works commencing on site the Asset Protection Project Manager (OPE) MUST be contacted, contact details as below. The OPE will require to see any method statements/drawings relating to any excavation, drainage, demolition, lighting and building work or any works to be carried out on site that may affect the safety, operation, integrity and access to the railway.

Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus reducing the probability of provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

ENCROACHMENT

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil. There must be no physical encroachment of any foundations onto Network Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or air-space is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Noise/Soundproofing

The Developer should be aware that any development for residential use adjacent to an operational railway may result in neighbour issues arising. Consequently every endeavour should be made by the developer to provide adequate soundproofing for each dwelling. Please note that in a worst case scenario there could be trains running 24 hours a day and the soundproofing should take this into account.

Trees/Shrubs/Landscaping

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is

proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable: Birch (*Betula*), Crab Apple (*Malus Sylvestris*), Field Maple (*Acer Campestre*), Bird Cherry (*Prunus Padus*), Wild Pear (*Pyrus Communis*), Fir Trees - Pines (*Pinus*), Hawthorne (*Crataegus*), Mountain Ash - Whitebeams (*Sorbus*), False Acacia (*Robinia*), Willow Shrubs (*Shrubby Salix*), Thuja Plicatata "Zebrina"

Not Acceptable: Acer (*Acer pseudoplatanus*), Aspen - Poplar (*Populus*), Small-leaved Lime (*Tilia Cordata*), Sycamore – Norway Maple (*Acer*), Horse Chestnut (*Aesculus Hippocastanum*), Sweet Chestnut (*Castanea Sativa*), Ash (*Fraxinus excelsior*), Black poplar (*Populus nigra var, betulifolia*), Lombardy Poplar (*Populus nigra var, italica*), Large-leaved lime (*Tilia platyphyllos*), Common lime (*Tilia x europea*)

A comprehensive list of permitted tree species is available upon request.

Lighting

Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition, the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Access to Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development. Network Rail is required to recover all reasonable costs associated with facilitating these works.

11. INFORMATIVE:

You are advised that this proposal may have an effect on Statutory Undertakers equipment. You must contact all the utilities to ascertain the location of the equipment and any requirements they might have prior to works commencing.

12. AVOIDING DAMAGE TO THE HIGHWAY GRASS VERGE

Applicants/Developers are reminded that great care should be taken to ensure that

no damage to the surface or structure of the public highway is caused, by activities relating directly to the approved development (e.g. delivery of building materials via HGV's). The Council is particularly concerned at the increasing impacts and damage occurring to grass verges. This is detrimental to residential amenity, can present safety issues and places an unreasonable financial burden on the Council, if repairs are subsequently deemed necessary. Therefore, applicants/developers are strongly advised to work proactively with their appointed contractors and delivery companies to ensure that their vehicles avoid both parking and manoeuvring on areas of the public highway (grass verges) which are susceptible to damage. The council wishes to remind applicants that legislation (Highways Act 1980) is available to the authority to recover any costs (incurred in making good damage) from persons who can be shown to have damaged the highway, including verges. If the development is likely to require the temporary storage of building materials on the highway, then it is necessary to apply for a licence to do so. In the first instance please email highway.regulation@york.gov.uk, with details of the site location, planning application reference, anticipated materials, timelines and volume. Please refer to the Council website for further details, associated fees and the application form.

Contact details:

Case Officer: Victoria Bell

Tel No: 01904 551347