

COMMITTEE REPORT

Date: 2 July 2019 **Ward:** Rural West York
Team: Major and **Parish:** Upper Poppleton Parish Council
Commercial Team

Reference: 14/02979/FULM
Application at: Former Civil Service Club and Agricultural Land To The North
Boroughbridge Road York
For: Residential development of 266 dwellings with associated access,
public open space, landscaping and infrastructure
By: Miller Homes Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 1 March 2019
Recommendation: Approve subject to Section 106 Agreement

1.0 PROPOSAL

BACKGROUND

1.1 This matter is reported to Planning Committee following the recent submission of an appeal against non-determination to the Secretary of State by the applicant. Members are requested to consider this report at a special meeting due to the urgency of the matter, as the appeal is to be determined by a Planning Inspector by way of a public inquiry that will follow an accelerated timetable. As part of the appeal process the Local Planning Authority (LPA) is required to submit evidence in explanation of its assessment of the application. Whilst jurisdiction to determine the development proposal now rests with the Secretary of State and not the Council, it is necessary for the LPA to determine how it would have been minded to determine the application so that Officers can present that case for the LPA at the Inquiry.

1.2 The application was registered on 8th January 2015. The application proposed 271 dwellings, access, public open space, landscaping and associated infrastructure. Following consultation and negotiation with the applicants the application was revised on 7th March 2017. The revised application reduced the total number of dwellings proposed to 266. A second round of public consultation followed.

1.3 The LPA still had some issues with the proposed development. The applicants were informed in writing of the outstanding matters on 9th October 2017. Issues raised related to noise, sports provision, layout, and affordable housing.

1.4 The applicants had been informed in correspondence, in September 2016, October 2017 and January 2019 that the Council, at the time, would be unable to support approval of the application due to the site being in Green Belt and the lack of very special circumstances to outweigh the inappropriateness of the development. There have been multiple extensions of time agreements with the applicants, re-setting the determination date for the application. The most recent expired on 1st

March 2019 and the Applicants at this point chose to appeal for non-determination rather than continue to await the progression of the York Local Plan through Examination.

APPLICATION SITE

1.5 The application relates to the former Civil Service Sports ground and an L-shaped agricultural field to its northern side. The sports ground became vacant over 10 years ago; its associated buildings have been removed and the site is now over-grown with vegetation. The site overall is some 10.34 ha. The agricultural field is approx 4.8 ha.

1.6 The site is surrounded by the following land uses -

- There is an agricultural field to the south side of the A59. This site is subject to a planning application for 130 dwellings (15/00183/FULM).
- There is housing to the south east. Part of Westview Close was constructed post 1970 and the side adjacent the application site was recently completed after being granted planning permission at appeal in 2013. Villa Court also bounds the site. This development has access from Low Poppleton Lane and dates from the late 20th century.
- Millfield Lane to the north comprises generally of industrial / storage and distribution uses and the recently extended Manor School and its associated outdoor sporting facilities.
- Between the site and the outer ring road are the Manor School and its playing fields, a group of houses accessed from Cinder Lane and fields.

1.7 A new Local Plan is in the process of examination. Since the Local Plan Preferred Options version, consulted on in 2013, this site has been proposed to be allocated for housing - strategic housing site (ST2). The site is within the general extent of the Green Belt as per the saved policies from the Regional Spatial Strategy, and, as defined in Draft Local Plan policies and the proposals map between the deposit draft in 1998 up to the 4th set of changes 2005.

PROPOSALS

1.8 The application is for 266 dwellings. The primary access would from the A59 with a signalised junction introduced. There are two lesser access points onto Millfield Lane which serve some 25 houses. The dwellings are predominantly 2-storey although there are two 3-storey buildings proposed towards the centre of the site.

1.9 The site is 10.34ha. 266 dwellings are proposed at a density of just under 26dph.

1.10 The site includes a central green which retains 2 trees in centre of the site. The

scheme would have 5 equipped children's play areas; it has dedicated pedestrian and cycle routes which directly thread through the site providing routes towards the central green space, towards Manor School and by passing the A59 on the southern side of the site.

2.0 POLICY CONTEXT

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

2.2 As noted above, the Council does not have a formally adopted local plan. However, the York Green Belt has been established in principle for many years although its detailed boundaries in the City of York Council area have never been formally set.

2.3 Although the Regional Spatial Strategy for Yorkshire and the Humber (May 2008) has otherwise been revoked, its policies which relate to the York Green Belt have been saved together with the Key Diagram insofar as it illustrates the general extent of the Green Belt around York. The saved policies are policy YH9 which states “the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city. The boundaries must take account of the levels of growth set out in this RSS and must also endure beyond the Plan period” and policy Y1 which explains what local policies should achieve with regards to the economy, environment, transport, and strategic policies for development.

2.4 The Statutory Development Plan for the City of York therefore comprises (1) the saved policies and key diagram of the otherwise revoked Yorkshire and Humber Plan Regional Spatial Strategy (2008) insofar as it illustrates the RSS York Green Belt policies and the general extent of the Green Belt around the City of York as it relates to these policies and (2) any made Neighbourhood Plan.

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

The Upper and Nether Poppleton Neighbourhood Plan

2.6 The Upper and Nether Poppleton Neighbourhood Plan was made on 19 October 2017 and forms part of the development plan. The site is within the boundaries of the Neighbourhood Plan area.

2.7 The site is not allocated for development in the Neighbourhood Plan. The Neighbourhood Plan does not alter the Green Belt boundaries; it retains those used in the non-statutory 2005 Development Control Local Plan (as referred to below). However the site was originally identified for development in the Neighbourhood Plan;

it was removed at the request of the independent examiner who determined that the Green Belt boundaries are a strategic matter and should be defined at Local Plan level. Policy PNP1 of the plan establishes the approach to considering proposed development in the Green Belt; it is consistent with the NPPF in this respect. As such in this case the development proposed is 'inappropriate', such development can only be supported if there are very special circumstances.

Draft Local Plans

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

2.9 The Publication Draft City of York Local Plan 2018 was submitted to the Secretary of State for examination on 25 May 2018. The Council is currently consulting on proposed modifications to the emerging Local Plan. The Addendum to Topic Paper 1: The Approach to Defining York's Green Belt is one of the background documents to the modifications consultation and assesses that this site no longer serves any Green Belt purpose. The appeal site is allocated for housing in the emerging Local Plan, identified as a strategic housing site ST2.

2.10 The emerging Local Plan policies can be afforded weight in accordance with paragraph 48 of the Framework according to:

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

2.11 The following policies within the 2018 Draft Local Plan which are directly and most relevant within the consideration of this proposal are:

DP2	Sustainable Development
DP3	Sustainable Communities
SS1	Delivering Sustainable Growth for York
SS2	The Role of York's Green Belt
SS7	Civil Service Sports Ground
H1	Housing Allocations

H2	Density of Residential Development
H3	Balancing the Housing Market
H4	Promoting Self and Custom House Building
H5	Gypsies and Travellers
H9	Older Persons Specialist Housing
H10	Affordable Housing
HW2	New Community Facilities
HW3	Built Sports Facilities
HW4	Childcare Provision
HW7	Healthy Places
D1	Placemaking
D2	Landscape and Setting
D6	Archaeology
GI6	New Open Space Provision
CC1	Renewable and Low Carbon Energy Generation and Storage
CC2	Sustainable Design and Construction of New Development
CC3	District Heating and Combined Heat and Power Networks
ENV1	Air Quality
ENV2	Managing Environmental Quality
ENV3	Land Contamination
ENV5	Sustainable Drainage
T1	Sustainable Access
T7	Minimising and Accommodating Generated Trips
DM1	Infrastructure and Developer Contributions

Emerging Local Plan evidence base

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

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

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

2.13 Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development which means:

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

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

3.0 CONSULTATIONS

Internal

Forward Planning

3.1 The application site is identified within the submitted Local Plan as a proposed allocated for housing under policy SS7 relating to the Civil Service Sports Ground (ST2). It has been consistently allocated for housing through a number of consultation stages of the Plan.

3.2 There are limited objections to the allocation of the site in the emerging Local Plan, these are not considered to be significant, notwithstanding that they are unresolved. The main outstanding objection relates to the status of the site as Green Belt or otherwise. This is considered to be significant, given the extent and significance of unresolved objections to emerging Policy SS2 'The Role of York's Green Belt', and for this reason, in the context of Para 48 of the NPPF only limited weight can be attached to Policy SS7. As such, the application site falls within the general extent of the Green Belt in accordance with the saved policies of the RSS. It is the Council's position that until a Local Plan for York is adopted, development management decisions relating to proposals falling within the general extent of the Green Belt are made on the basis that the land should be treated as Green Belt.

3.3 In terms of site selection, extensive work has been undertaken as part of the emerging Local Plan process. This work has assessed over 800 sites submitted through the Call for Sites in 2012 using the Council's site selection methodology. This methodology is based on the Plan's spatial strategy which seeks to protect the city's unique heritage, environmental assets, avoid areas of high flood risk and locate development in areas that are accessible by sustainable modes of transport and have access to key services. Technical officers in their consideration of appeal site (ST2) set out that Statutory consultees including Historic England support the site's planning principles, including the protection of land to the southern part of the site from development as this would help preserve the historic character and setting of the City. The site has a willing landowner and is controlled by a national house builder.

3.4 A significant factor for those objecting to development of this site is congestion, due to the site's close proximity to the already congested northern ring road. Other common concerns raised in objecting to the site's development include: lack of a need for housing on this site or reference to 'overdevelopment'; loss of Green Belt; insufficient services and amenities to support new development (lack of education provision/nursery space/healthcare); loss of sports facilities and open space. Officers consider that the issues raised through consultation including concerns over transport impacts and the provision of community facilities could be dealt with as part of detailed local planning policy for the site which will set out the requirements for the site masterplan including suitable access requirements, provision of public transport and the provision of local facilities including education provision.

3.5 In addition to complying with Policy SS7 for the site allocation the scheme requires assessment against the following policies of the emerging Local Plan -

3.6 To be consistent with policy H4 (Promoting self and custom housebuilding), strategic sites are required to supply at least 5% of the dwelling plots for sale to self builders or small/custom housebuilders subject to appropriate demand being identified. Evidence of demand is held through the Council's Self Build and Custom House Building Register.

3.7 The application for ST2 is set to deliver of 266 homes and therefore, to be policy compliant with policy H5 (Gypsies and Travellers), is required to provide up to two pitches for gypsies and travellers either on-site, through the provision of alternative suitable land or through a commuted sum payment for off-site provision.

3.8 Policy H9 (Older Persons Specialist Housing) requires Strategic Sites (over 5ha) to incorporate the appropriate provision of accommodation for older persons within their masterplanning. This is consistent with the NPPF wherein there is recognition for the need to provide housing for older people as part of achieving a good mix of housing. A key driver of change in the housing market is expected to be growth in the older persons population. The Council is committed to meeting the specific housing demands of an aging population in recognition of the high proportion of older people in the city. The SHMA (2016) analysis identifies that over the 2012-2033 period there is an identified need for 84 specialist units of accommodation for older people (generally

considered to be sheltered or extra-care housing) per annum. Such provision would normally be within C3 use class and is part of the objective assessment of need. In addition, the SHMA highlights that there is a potential need for an additional 37 bed spaces per annum for older people (over 75) in the 2012-2033 period for nursing and residential care homes (C2 use). The SHMA also suggests, in line with the LIN toolkit, that 170 units of specialist accommodation per 1000 people aged over 75 years.

3.9 Policy H10 (Affordable Housing) requires the site to provide 30% affordable housing. This equates to 80 affordable dwellings. The policy also requires that the tenure split in terms of social renting and intermediate housing reflects the SHMA requirements of 80% social rent and 20% low cost market homes.

3.10 Policy HW2 (New Community Facilities) requires all applications for strategic residential developments to be accompanied by an audit of existing community facilities and their current capacity to be prepared by the applicant. Developments that place additional demands on existing services are required to provide proportionate new or expanded community facilities to meet the needs of existing and future occupiers. These should be provided on site or through off-site contributions.

3.11 Policy HW7 (Health Places) requires that proposals for residential development must provide a statement, proportionate to the size of the development, to show how the site masterplan has adequately considered and incorporated the design principles set out in the policy. This includes well designed street scapes, the provision of safe and easy to navigate footpaths and cycle paths to encourage physical activity, good connections to neighbouring communities and green spaces, spaces for communities to come together, adaptations to buildings and public spaces for those with limited mobility and buildings that are adaptable to the changing needs of residents. These principles should be considered and addressed in the Design and Access Statement. As a strategic site the application must also be accompanied by a Health Impact Assessment to assess the health risks and benefits of the scheme. Comments should be sought from the Council's public health officer.

3.12 All residential development proposals should contribute to the provision of open space for recreation and amenity in line with Policy GI6 (New Open Space Provision). The council encourages on-site provision where possible. The precise type of on-site provision required will depend on the size and location of the proposals and the existing open space provision in the area.

3.13 In line with Policy CC1 new buildings must achieve a reasonable reduction in carbon emissions or at least 28% unless it can be demonstrated that this is not viable. A sustainability statement is also required in line with Policy CC2 to demonstrate energy and carbon dioxide savings in accordance with the energy hierarchy (19% reduction in Dwelling Emission rate compared to the Target emission Rate) and water efficiency (110 litres per person per day). Given this site is a Strategic Site allocation and is identified within a heat priority area, Policy CC3 also needs to be considered. All Strategic Sites are required to demonstrate that heating and cooling technologies

have been selected in accordance with the heating and cooling hierarchy unless it can be demonstrated that it is not viable or an alternative would be more sustainable.

3.14 The policy requirements of emerging plan policies DP2, DP3, H2, H3, H4, H9, H10, HW2, HW3, HW4, HW7, D1, D2, D6, GI6, CC1, CC2, CC3, ENV1, ENV2, ENV3, ENV5, T1, T7 and DM1 should be applied with moderate weight. Policies SS1, SS2, SS7, H1 and H5 can be afforded limited weight. Although consistent with national policy, these policies have outstanding objections, which will be resolved through the local plan examination.

Education

3.15 Officers have advised on the anticipated pupil yield, the capacity of schools in the catchment and where S106 could be used as follows:

	Yield	Places required	Contribution
Pre-school	33	33	£213,728
Primary	63	63	£811,045
Secondary	36	30	£482,773

New pre-school provision within 1.5km of the site
Primary school in NW York area
Secondary - increased capacity at Manor School

Housing

3.16 Officers have asked to be able to approve a layout showing affordable housing across the site. The key principles that officers would expect the provision to comply with are:

- The affordable houses are to be 'pepper-potted' across the site.
- Different tenures should be evenly distributed throughout the site. The only exception to this is within apartments where agreement is made with the Registered Provider to offer a whole block for the purpose of better housing management.
- Smaller house types should not be clustered together within the development where doing so would make the above principles unachievable.
- Affordable provision should be pro-rata in respect of house sizes and house types.
- No more than 50% of any house or flat type will be affordable.

Design, Conservation and Sustainable Development

Archaeology

3.17 Archaeological investigations in the wider study area have produced evidence of deposits dating mainly from the medieval and post medieval eras. The site of a Roman Road is thought to lie approximately 800m to the southwest of the site.

3.18 The applicant has commissioned an archaeological desk-based assessment and geophysical survey of the site. This work has revealed evidence of medieval ridge and furrow on the south of the site, and identified potential archaeological deposits in the north part of the site. The proposed development is likely to have direct impact upon known and unknown buried archaeological features within the site.

3.19 A condition is recommended to secure an archaeological project of excavation analysis, publication archive deposition and community engagement.

Ecology

3.20 The updated ecology assessment, undertaken in November 2016 confirms that the habitats on site remain largely unchanged from the previous survey undertaken in 2012/13.

3.21 The proposed development is unlikely to have an adverse impact on the Clifton Ings and Rawcliffe Meadows SSSI due to the separation from the site and there are no comparable or connected habitats within the development site. Natural England has been consulted and has not raised any concerns. The updated ecology report does not mention the invasive non-native species Himalayan balsam so it is assumed still present on site.

3.22 Conditions recommended as follows –

- Himalayan balsam on site to be removed. Method statement to be approved.
- Measures to protect badgers (under the Protection of Badgers Act 1992)
- Measures to reasonably ensure no harm to bats during felling of trees

Landscape

3.23 The proposals constitute a considered scheme that incorporates a range of open spaces and landscape features, partly guided by existing landscape features, thereby instilling a sense of place such that the vast majority of properties benefit from some open or green aspect and each street has its own distinct identity.

3.24 Proposed properties address Boroughbridge Road, whilst being suitably set back, to allow retention of existing trees supplemented with new tree planting and the majority of the existing hedge, as well as providing a reasonably spacious green foreground, which provides a good quality setting for the development. Officers also support the frontage proposed to Millfield Lane; allowing the creation of a potentially strong, suburban, green frontage of existing hedgerow and new trees. At the northern end, houses address the entrance and cycle way, and the LAP is positioned

to create a welcoming entrance, as well as an end vista to the street running along the NW boundary.

3.25 The main open space is suitably centrally located. It is aligned with the main access, thus providing a good entrance vista and welcoming arrival.

3.26 The most significant trees are located within the 'Central Green' character area; these run through the centre of the site; and along the SW boundary. In order to ensure the trees are fully protected, especially given their mature status, the entire recommended root protection area (RPA) should be free of any development operations, including footpaths. The roadway/footpath/cycleway around T2, T3, T4, T13, T14, and T15 should be adjusted to suit.

3.27 There are currently no arboriculture reasons to fell Sycamore T1, which is close to the centre of the site, however, given the presence of T2, the quality of the proposed layout, and the extent of new tree planting, the removal of T1 Sycamore would likely to be acceptable in the light of the proposed development.

Leisure

3.28 Officers advise there could be an off site sport contribution of £184,671. To be used at Carr Vikings Football Club off Beckfield Lane and Poppleton Sports Association off Millfield Lane, to improve the quality of pitches and enhance on site provision or other off-site outdoor sports provision within the Rural West or Acomb Wards identified by the Playing Pitch Strategy and which are compliant with section 11 of the CIL regulations 2010 .

Highway Network Management

3.29 The Transport Assessment was last updated in 2016. Although the LHA accepted the modelling contained within the TA at the time, it is important to note that the York Central site was not considered as part of the committed developments considered within the analysis undertaken in 2016.

3.30 York Central has since been approved (outline) and detailed modelling work was undertaken to assess the impacts of York Central on the corridor and development mitigation measures to address impacts on private vehicle and bus journey times. These works include Network Capacity Enhancements to upgrade and improve junction design.

3.31 As the proposed development is located on the A59 corridor, which also provides the main access route to/from York Central, the LHA requires an updated Transport Assessment to assess the impact of the proposed site taking into account local development sites (Cobalt and British Sugar, already included and York Central).

3.32 As a number of mitigation measures on the A59 corridor will be supported by contributions from York Central, it is considered that the most appropriate mitigation

measures for the proposed development should focus on reducing car travel to and from the site by making other modes of travel more attractive.

3.33 Vehicle tracking will also be required prior to agreeing the design of access roads.

3.34 Contributions are requested for improvements to bus services to and from the site - to the frequency of service no.10 (Poppleton-York-Stamford Bridge) in evenings and on Sundays, two new high quality bus stops on the A59 and two stops of Millfield Lane to be upgraded. Subject to additional analysis of impact of development traffic on bus journey times on the A59 contributions may also be required towards bus priority measures alongside the site.

3.35 Conditions recommended as follows –

- The proposed vehicle access (details to be agreed)
- Pedestrian and Cycle Linkages to be provided
- Full details of the adoptable highways, junctions and street lighting to be agreed.
- Measures to mitigate mud on the road and highways dilapidation survey
- Provision of parking in accordance with CYC standards
- Provision of cycle parking in accordance with CYC standards
- Travel plan
- EV Charging provision

Public Protection

3.36 Noise – officers asked clarification the community use of sports facilities at the school, in particular during evenings had been considered in the noise assessment.

3.37 Air quality - Whilst the site does not fall within an existing AQMA, the additional traffic generated by the site has the potential to impact on air quality in other areas of the city. The Council has a legal obligation to ‘pursue’ the air quality objectives at all locations in the city. It is required that the additional traffic associated with construction and operation of the site is screened. If the amount of traffic would increase by more than 10% during peak hours an air quality assessment would be required.

3.38 Conditions recommended as follows -

- Construction management plan
- Restricted times of construction
- Land contamination –a site investigation has already been undertaken. Based on the findings ground gas monitoring is required and remediation if necessary
- Electric vehicle charging points for houses
- Emissions mitigation package
- Noise mitigation

External

Network Rail

3.39 No objection to the scheme on the basis that there will be less than 30 vehicles accessing the site from Millfield Lane. Preference is for construction traffic to avoid the level crossing on Millfield Lane.

Highways England

3.40 No objection (comments from 2017)

Environment Agency

3.41 No objection.

Natural England

3.42 No objection.

Police Architectural Liaison Officer

3.43 Comment on the revised scheme were as follows –

- It is pleasing to note that rear service alleyways have been greatly reduced from the original design and layout and those remaining will be gated off immediately at their entrances.
- The number of rear parking courts has also been reduced. Those which remain will need to be well lit and should meet BS5489:2013.
- The inclusion of bridging units to some of the rear parking courts provides a feature which could generate crime and anti-social behaviour.
- Concerns remain with the majority of affordable homes being clustered along the Millfield Lane aspect.
- Some areas of the layout present concerns in respect of their ability to provide natural surveillance opportunities.

Yorkshire Water

3.44 No objections.

Ainsty Internal Drainage Board

3.45 If the Local Authority is satisfied the proposed strategy can provide a robust and long term solution for the drainage of the site and the highway, and the necessary controls and consents are put in place, then the Board is content with this approach.

Parish Councils (note that all comments date from 2015)

Rufforth with Knapton

3.46 Object on the following grounds –

- Contrary to the Neighbourhood Plan – the site and grade 1 agricultural land not designated for development. Site is green belt.
- Development would create a rat run between A59 and Millfield Lane.
- Inadequate access for emergency vehicles.
- Affordable housing appears to be grouped within less desirable areas of the site.
- 3-storey apartments inappropriate in what is a rural location.
- Not in accordance with secure by design
- There is a protected hedgerow along Cinder Lane which must be protected.
- No provision of community facilities/infrastructure.

Nether Poppleton

3.47 Object on the following grounds –

- Contrary to the Neighbourhood Plan – the site and grade 1 agricultural land not designated for development. Site is green belt.
- Development would create a rat run between A59 and Millfield Lane.
- Inadequate access for emergency vehicles.
- Affordable housing appears to be grouped within less desirable areas of the site.
- 3-storey apartments inappropriate in what is a rural location.
- Not in accordance with secure by design
- There is a protected hedgerow along Cinder Lane which must be protected.
- No provision of community facilities/infrastructure.

Upper Poppleton

Object.

3.48 The proposed application is for a site of substantial size. The Parish Council has serious concerns on the cumulative impact on local services and infrastructure of this development.

Publicity

3.49 A total of 39.no letters of objection and general comment have been received. The objections and comments received can be summarised as follows:

- The site is located within the Green Belt.
- Agricultural land will be lost.

- Various playing fields have already been lost.
- There are several inaccuracies in the plans and documents submitted.
- The proposals will lead to an increase in traffic. Existing Highway congestion issues will be exacerbated.
- The land should instead be used as open land for the benefit of existing residents.
- There is a lack of access to schools and doctors.
- The proposals will have a detrimental impact upon the area.
- The construction phase raised highway safety concerns.
- There will be an increased risk of crime and disorder.
- There is a lack of play space, open and green space.
- The development would harm the pleasant rural appearance of one of the main routes in and out of York.
- Development will have a significant visual impact.
- Local infrastructure is not fit for purpose.
- Any future expansion of the school prevented.
- The impacts of this development are compounded by other developments on adjacent sites.
- The suggestion that people will cycle or take the bus to work does not take into consideration how few businesses are in the city centre compared with Clifton Moor and Monks Cross.
- There should be a larger buffer zone between the development and the school.
- Years of disuse of the site has allowed wildlife to inhabit the site.
- Run off from the impervious surfaces will continue to cause extensive problems with flooding.
- There will be a loss of privacy to existing properties.
- Three storey apartment blocks are inappropriate.
- Whilst not opposing the building of houses on the site there are concerns about the routes for heavy site vehicles.
- A number of trees are proposed to be removed.
- The site will produce light pollution.
- The current site is an eyesore, the proposals will improve this.

4.0 APPRAISAL

Key Issues

4.1 The key issues are as follows -

- Principle of development
- Assessment of the scheme against policy SS7 of the Local Plan (which relates to the application site ST2)
- Highways
- Drainage and flood risk
- Design and layout of the site
- Residential amenity
- Archaeology
- Ecology
- Sustainable design and construction
- Planning Obligations
- Whether there are very special circumstances

Principle of development

Whether the site is within the Green Belt

4.2 For the purposes of s.38(6) Planning and Compulsory Purchase Act, the proposal should be assessed against the saved RSS Green Belt policies and the Upper and Nether Poppleton Neighbourhood Plan. The policies in the NPPF are also material considerations.

4.3 The Neighbourhood Plan does not alter the Green Belt boundaries; it retains those used in the DLP 2005. Section 4 of the Neighbourhood Plan explains the approach to the Green Belt for the purposes of the plan; it was decided that the Green Belt boundaries should be defined in the Local Plan and in advance that, the Neighbourhood Plan retains the Green Belt boundaries used in the DLP 2005. The view of the Local Planning Authority is that at this time the site be regarded as Green Belt.

4.4 It is the Local Planning Authority's position that until a Local Plan for York is adopted, development management decisions relating to proposals falling within the general extent of the Green Belt are made on the basis that the land should be treated as Green Belt. As such Green Belt policies set out in the NPPF apply to the determination of the application. NPPF paragraph 133 states that the essential characteristics of Green Belts are their openness and their permanence. Development of the site would conflict with such characteristics.

4.5 Having regard to NPPF paragraph 145, the development proposed does not fall

within any of the categories of new buildings which are exceptions to inappropriate development in Green Belt. The proposed development therefore represents inappropriate development in the Green Belt.

4.6 NPPF Paragraph 143 explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 says when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations. Whether there are such circumstances will be assessed at the end of this report, following consideration of other material planning considerations. This approach is consistent with policy PNP1 of the neighbourhood plan.

4.7 The emerging Local Plan, which has been submitted for examination identifies the site for housing. There is a comprehensive evidence base behind the proposed site allocations which consider deliverability (sites which are available, suitable and viable) and an assessment as to whether the development of such sites would be broadly NPPF compliant. Given the advanced stage of the Local Plan, aside from the issue of Green Belt the site is considered to be acceptable for residential development in principle.

Assessment of the scheme against policy SS7 of the Publication Draft Local Plan which relates to the application site (ST2)

4.8 The policy relating to the site in the emerging Local Plan (SS7) identifies the number of houses to be provided on site (which the application is consistent with) and advises the principles the site should be delivered in adherence with (in addition to complying with the policies within the plan). The scheme is compliant with these principles which are assessed in turn below.

- Create a sustainable balanced community with an appropriate mix of housing informed by the Council's Strategic Housing Market Assessment.

4.9 The mix of dwellings proposed would be as follows -

	No. of dwellings	Mix proposed	Mix required as per SHMA
1-bed	2	1%	15%
2-bed	49	18%	35%
3-bed	105	39%	35%
4-bed	98	37%	15%
5-bed	12	6%	
Total	266		

4.10 Emerging plan policy H2 'Density of Residential Development' recommends densities for housing developments based upon their location; higher densities in the city centre and urban areas and lower densities in suburban locations. Policy H3 'Balancing the Housing Market' seeks to ensure that a mix of housing is delivered in developments to meet the requirements as set out in Strategic Housing Market Assessment (SHMA). There have been objections to policy H3 as part of the local plan consultation, on the grounds that the policy lacks flexibility, considering site circumstances and changing need over time. The mix proposed is deemed broadly compliant with the SHMA and reasonable bearing in mind the edge of city location, where a lower density is expected (consequently larger houses) in comparison to more urban and city centre sites.

4.11 In accordance with emerging plan policy H10 on affordable housing the scheme would deliver 30% affordable units (80 dwellings) on site. An affordable housing layout would be approved through condition or legal agreement, with dwellings pepper potted throughout, and with no more than two affordable dwellings placed next to each other. The size and type of homes shall be a pro rata mix of the total homes.

- *Be of a high design standard to give a sense of place and distinctive character.*

4.12 The site layout is informed by the prevalent urban grain, surrounding land uses and landscape character and it therefore appropriately re-iterates local distinctiveness. With regards to landscape character and the urban grain, boundary treatment, trees and hedgerows are retained at the site boundaries and the layout is focused around a central open space where existing prominent trees are retained and provide a focal point to the scheme.

4.13 Local residential developments are typically suburban in layout and of a vernacular which is of its time. The proposed layout and house types generally respects this.

- *Provide appropriate off-site contributions for education provision.*

4.14 It has been agreed that an S106 obligation will secure off site provision as follows

Pre-school

£213,728 - New pre-school provision in North West York within 1.5km of the site

Primary

£811,045 - New primary provision in North West York

Secondary

£482,773 - to increase capacity at Manor School

- *Create a framework of public realm/spaces/routes to encourage pedestrian and cycle movements into and through the site.*

4.15 The site is well-connected and provides attractive pedestrian and cycle routes, within the sites green infrastructure where possible, which will encourage recreational and physical activity. There would be safe and direct routes to the main open space, towards Manor School and (via improved crossing facilities) to the nursery on the opposite side of the A59 and between the A59 and Millfield Lane.

- *Deliver new and improved green infrastructure to meet the needs for formal and informal recreation and leisure use.*

4.16 There is a significant area of open space within the centre of the development that gives identity to the site and can be used for recreation. The site will also have 5 equipped play areas. The play areas have been located so they have good natural surveillance but would not be unduly close to houses. Trees and hedgerows at site boundaries will be retained and enhanced, in particular at the edge of the site adjacent the A59, Manor School and Westview Close.

- *Provide new open space on site. The development will be required to include open space for recreational purposes which may help to alleviate demand in this location, particularly from the need arising from new development. Further detailed assessment would be required.*

4.17 See reply to the point above. In addition there will be a contribution towards off site sports facilities. The amount is based on supplementary planning guidance. The amount would be £184,671; to be used at Carr Vikings Football Club off Beckfield Lane and Poppleton Sports Association off Millfield Lane, to improve the quality of pitches and enhance on site provision or alternatively other off-site outdoor sports provision within the Rural West or Acomb Wards identified by the Playing Pitch Strategy.

- *Optimise integration, connectivity and access through the provision of new pedestrian, cycle, public transport and vehicular routes to ensure sustainable movement into, out of and through the site. The site would need to provide new cycle facilities along Poppleton Road and through to Millfield Lane or improve links to existing pedestrian and cycle networks.*

4.18 The layout promotes walking and cycling. The development has adequate permeability for cyclists and pedestrians and this will plug into the wider network. The scheme will provide an attractive route to the school for local residents beyond the site, between the A59 and Millfield Lane. There will also be an improved crossing on the A59, linking to the nursery will be provided and bus stops moved into more convenient locations.

- *Set development back from the A59 frontage and retain mature trees and landscape feature (with appropriate setting) to provide a perception of openness and preserve separation between York and Poppleton.*

4.19 This is achieved in the layout with housing set behind landscaping and a new pedestrian / cycle route.

Highways

4.20 The NPPF states that in assessing applications for development, it should be ensured that:

- appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- safe and suitable access to the site can be achieved for all users; and
- any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

4.21 The NPPF goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Sustainable travel

4.22 The application is supported by a Travel Plan sets an initial target to reduce single occupancy vehicle trips from the development by 10% over a five year period following first occupation. This will be monitored by formal traffic surveys or questionnaires to residents. Measures to promote sustainable travel will be secured through a S106 agreement. These include financing to improve the frequency of bus service 10 on evenings and weekends, new bus stops on the A59 and Millfield Lane (including shelters and real time displays), and an improved pedestrian crossing over the A59. A condition will require dwellings have facilities for charging electric vehicles.

Site access

4.23 The primary vehicular access is proposed onto the A59 via a three arm traffic signal junction. The access would have adequate visibility. A pedestrian crossing facility will be included in the design to provide access to the relocated bus stops. It may be that a bus priority lane is desirable at the traffic lights to prevent bus delay. The applicants are in agreement in principle to accommodating this if necessary (subject to further modelling). Each scenario can be covered through a suitably worded planning condition.

4.24 The access points onto Millfield Lane will only serve up to 30 houses; there will be no route through the site for vehicles.

Impacts on the network

4.25 For the purposes of assessing the developments impact on the local highway the transport assessment factored in development of the British Sugar site (and the undecided application for 130 houses on the opposite side of the A59) and worked on the basis of 300 houses at the application site.

4.26 The assessment estimated the following number of car trips from the development.

	Average	Worse case
AM peak (between 8 and 9am)	164 vehicles	219 vehicles
PM peak (between 5 and 6pm)	194 vehicles	250 vehicles

4.27 The assessment estimates that:

- Approx. 55% of traffic from the site would use the A1237, with the majority then travelling south towards the A64.
- Approx. 45% of traffic would travel on the A59 towards York, with the majority continuing onto Water Lane and Poppleton Road.

4.28 Traffic movements at the peak time and the anticipated impact on the network would be as follows -

A59 Boroughbridge Road to join the A1237

Between 90 and 120 additional trips in the AM peak. The A59/A1237 roundabout has been improved since the assessment. Updated modelling to confirm the impact will be provided in due course.

A59 Boroughbridge Road to the Water Lane/Poppleton Road junction

Between 74 and 99 trips in the AM peak - Modelling shows significant impact on the A59 Boroughbridge Road / Low Poppleton Lane / Beckfield Lane junction. As such officers are asking for a bus priority lane to prevent delay to bus services. The applicants have agreed to incorporate such and this would be secured through condition unless updated modelling is provided that demonstrates it would not be necessary.

4.29 The following areas are due to be upgraded and no mitigation is required as a consequence of this scheme –

- A1237 towards the A64 (between 50 and 70 additional trips in the AM peak)
- Boroughbridge Road/Water Lane (between 36 and 48 trips in the AM peak)

Drainage and flood risk

4.30 The thrust of national policy in the NPPF with regards flood risk is to steer development away from areas at risk of flooding, to ensure development is safe from

flood risk and to avoid increased flood risk elsewhere. Local requirements, as detailed in the York Strategic Flood Risk Assessment, with regards drainage are to require a 30% reduction on existing run off rates where practical, to protect against climate change and prevent increased flood risk.

4.31 The site is not in either flood zones 2 or 3 and is therefore acceptable in principle for residential development in terms of policies regarding flood risk.

4.32 With regards surface water drainage the preferred sustainable methods have been considered. Infiltration (soakaway) and direct connection into a watercourse have been agreed as impractical at this site.

4.33 The drainage strategy submitted 2017 proposed surface water attenuation storage on the south east of the site and the scheme also provided reducing water run off within the highway on Millfield Lane. As a consequence of this scheme a policy compliant reduction in surface water run off for a Greenfield site would be achieved. There is no objection to the drainage strategy from Yorkshire Water and the Internal Drainage Board.

Residential amenity

4.34 The NPPF states that developments should create places with a high standard of amenity for all existing and future users. It goes on to state that decisions should avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.

4.35 The proposed houses would be 2-storey where adjacent site boundaries and would maintain adequate levels of amenity for neighbouring residents.

- Adjacent Westview Close the proposed houses are set behind a landscaped buffer and are over 25 m from existing houses.
- Parkside cottage Millfield lane – the proposed houses would be to the north of the site; they would not cause overshadowing and they are orientated to avoid overlooking.
- By Cinder Lane the proposed houses would be over 25 m from neighbouring houses and there is a substantial hedge/tree cover at the boundary.

4.36 A noise assessment which considers noise from traffic and surrounding land uses, including the school and its playing fields has been undertaken. World Health Organisation complaint noise levels can be achieved in dwellings through the use of double glazing. To mitigate against noise from the school houses are setback from the site boundary in places and rear gardens are set behind the houses and boundary treatment. Adequate noise levels can be secured through condition.

Design and layout of the site

4.37 Officers are content with the layout and the landscaping proposals in principle. The scheme would be NPPF compliant in terms of achieving well designed places; it would achieve a strong sense of place, will function well and add to the overall quality of the area and will be visually attractive. The assessment is explained in further detail above, where the scheme has been assessed against the emerging Local Plan policies for this strategic site.

4.38 On the more secondary streets a variety in materials, landscaping, highway design and the positioning of play areas has been used to give these areas a home zone feel.

4.39 The overall amount of car parking is reasonable; larger houses have more than 1 space. There is a variable approach to dealing with car parking, which allows it to be accommodated without visually dominating the setting and providing dedicated off street spaces for visitors.

Archaeology

4.40 As requested by officers a geophysical survey and an intrusive archaeological evaluation sampling a minimum of 3% of the site has been undertaken. The site contains features and deposits of prehistoric and Romano-British date which are of local and regional significance. These features and deposits do not merit preservation in-situ. However, they must be recorded prior to development commencing on this site. This can be achieved through implementation of an archaeological project of excavation analysis, publication archive deposition and community engagement.

Ecology

4.41 Section 15 of the NPPF relates to the natural environment. It states planning decisions should minimise the impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. Paragraph 175 explains the approach to development proposals. Relevant to this scheme is criteria d) which states opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

4.42 The site was supported initially by a Phase 1 habitat survey. An updated ecology assessment, undertaken in November 2016 confirms that the habitats on site remain largely unchanged from the previous survey undertaken in 2012/13. Updated surveys are currently underway and will be provided in advance of the inquiry. These may require adjustments to the existing recommended list of

conditions which the inspector would be informed of. No changes that could not be mitigated against are anticipated given the content of previous surveys and as the developer has maintained the site periodically.

4.43 The ecology report recommends that the mature trees on site should be retained wherever possible, noting six trees in particular with potential for roosting bats. These have been incorporated into the development apart from a sycamore and a beech tree which have been identified for removal on grounds of safety.

4.44 The beech tree in the southern corner of the site to be removed has been identified as having moderate potential to support roosting bats and will require a checking survey before it is felled. All trees will be re-assessed as the survey will be over one year old if works commence.

4.45 A condition can be applied which seeks to maintain and enhance biodiversity. Measures could include native tree and hedgerow planting, wildflower meadow seeding and the installation of bat and bird boxes. It is important that the development has a sensitive lighting scheme that avoids light spill onto the boundary features and the retained mature trees and this will also be noted in the condition.

Sustainable design and construction

4.46 Publication Draft Local Plan Policies CC1 and CC2 require the following measures that would be required through condition -

- At least a 19% reduction in Dwelling Emission Rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations 2013)
- A (maximum) water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations)
- New buildings to achieve a reasonable reduction in carbon emissions of at least 28%

Planning Obligations

Education

4.47 Policy DM1: Infrastructure and Developer Contributions states that the Council will seek contributions from developers to ensure that the necessary infrastructure is in place to support future development in York. In terms of education the Councils supplementary planning guidance note (2015 version with updated figures) informs the methodology. The need arising from the development and how this would be accommodated is as follows -

- Pre-school (33 places)

- £213,728 New pre-school provision in North West York within 1.5km of the site
- Primary (63 places)
£811,045 - New primary provision in North West York
- Secondary (30 places)
£482,773 - to increase capacity at Manor School

Open Space

4.48 Publication Draft Local Plan Policy GI6 relates to new open space in conjunction with development proposals. It states that all residential development proposals should contribute to the provision of open space for recreation and amenity. It goes on to explain circumstances where off site provision would be appropriate and refers to the supplementary planning guidance on open space dated 2014. Based on guidance this development requires some 1.2ha of amenity space (not including sport).

4.49 This is a low density scheme and the majority of houses have private gardens. In addition there are two areas of amenity, five equipped children's play areas and corridors of landscaping at the periphery of the site which form natural/semi natural amenity space. There is an adequate amount of on site amenity space.

4.50 A contribution towards off site sports provision is proposed. The contribution could be spent in a CIL regulation compliant way at either of the following sites

- Carr Vikings Football Club off Beckfield Lane
- Poppleton Sports Association off Millfield Lane
- Other off-site outdoor sports provision within the Rural West or Acomb Wards identified by the Playing Pitch Strategy

Whether there are very special circumstances

4.51 It is officer's opinion that, even when substantial weight is attached to the harm to the Green Belt, cumulatively there are very special circumstances which, as required by the NPPF, clearly outweigh the harm to the Green Belt and any other harm as a result of development which is currently within the general extent of the Green Belt. These are as follows;

- The site no longer serves the purposes of the Green Belt as is reflected in the emerging Local Plan and reported in the following paragraphs.
- Unmet housing need cannot be accommodated on deliverable sites on land that is outside of the general extent of the Green Belt. Given the location of the site at the edge of the urban area and on one of the main transport corridors into the city the site is sustainably located.

- Aside from the issue of Green Belt there are no objections to the scheme considering other material considerations which cannot be addressed through either planning conditions or a S106 agreement.
- Overall the application would be for sustainable development that will conform to the Government's objective of significantly boosting the supply of homes.

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

4.52 The emerging plan policy relating to the site SS7 explains how over time the setting has changed and the urban edge re-defined. This is predominantly as a consequence of the extension of Manor School, and anticipated future expansion towards the outer ring road, as explained in paragraph 9.5 of the Neighbourhood Plan which states "The Academy has purchased from the City of York an area of land immediately adjacent to the ring road, A1237. This will allow the Academy to expand the playing fields and community activity".

4.53 The five purposes of the Green Belt as explained in the NPPF are as follows -

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

4.54 The appeal site is one of two site allocations in the emerging Local Plan on land which was defined as Green belt in the 2005 DLP where it has now been assessed that development would not conflict with the purposes of the Green Belt. This is most recently discussed in The Topic Paper 1: Approach to defining the Green Belt Addendum March 2019 which provides further detailed information about the York Green Belt and the Local Plan, including an explanation of how and where detailed inner and outer Green Belt Boundaries have been defined through the Local Plan. Criteria to inform the de-lineation of the detailed boundaries are set out in Section 5 of the addendum and have been identified on the basis of considerations of national guidance, the strategic approach undertaken in the local plan core strategy and an appraisal of the essential characteristics of openness and permanence in York. The detailed boundaries have then been assessed in the context of the existing built and rural environment and landscape - without taking account of the potential need for growth or expansion of the built-up area. Annexes 2, 3 and 4 therefore, present the potential boundary to the Green Belt should there be no unmet identified need or exceptional circumstances identified.

4.55 The addendum sets out a methodology, based on a local definition of openness and permanence and evidence which describes the purpose of land within the Green Belt, which is used to define the detailed Green Belt boundary. The key role of the inner Green Belt boundary is to establish long term development limits to the built up

area, and distinguish land that needs to be kept permanently open to meet the purposes of Green Belt including safeguarding the special character and setting of the historic city.

4.56 The main element of the appraisal of the site (as set out in annex 3 to the addendum, section 2 boundary 10) is that due to the extent the Manor School has and will expand, between the site and the outer ring road the site no longer performs any of the purposes of the Green Belt. The boundary in this area has been drawn to prevent coalescence and retain the pattern of villages set within a rural setting; in particular retaining a physical separation of Upper Poppleton and Nether Poppleton from the main urban area. The land to the south of the application site is proposed as Green Belt. It has been identified as an area of open countryside which provides an impression of a historic city set within a rural setting, as an area of open countryside visible from a prominent location enabling views of the city, the historic character of which is particularly important.

4.57 There remain four objections to the allocation of the appeal site for housing on the grounds that the land should remain as, and serves the purposes of, Green Belt; these objections consequently limit the weight that can be attributed to the site allocation in the emerging Local Plan in accordance with paragraph 48 of the NPPF.

Unmet housing need

4.58 The Council cannot currently demonstrate an NPPF compliant 5 year housing supply on deliverable sites on land that is outside of the general extent of the Green Belt, i.e. the site allocations in the emerging Local Plan are required. This site is an allocated housing site in the emerging Local Plan.

Whether prematurity is grounds to refuse the application

4.59 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:

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

4.60 Paragraph 50 of the NPPF states: "Refusal of planning permission on grounds of prematurity will seldom be justified where a draft 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 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”.

4.61 Officers consider that to grant 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 (most recently detailed in Topic Paper 1: Approach to defining the Green Belt Addendum March 2019) concluded that the site does not perform Green Belt functions. Given the size of the site (266 dwellings); that the site no longer performs any Green Belt function; and as the emerging Local Plan has been submitted for examination and promotes this as a housing site, to be delivered within the short to medium term of the plan, there are not clear grounds (as required by the NPPF) to refuse this particular application on the basis that it would prejudice the plan-making process.

4.62 Whilst determining this particular proposal would not prejudice the Local Plan process on its own, the effect individually or cumulatively of allowing other development in the general extent of the Green Belt (in advance of the emerging plan being adopted) which would be so significant, that to grant permission would undermine the plan-making process, would require consideration on a case by case basis in any other forthcoming schemes.

4.63 There are outstanding objections to the removal of the Green Belt designation from the site and its allocation for housing. The objections reduce the weight that can properly be attributed to the emerging plan. However, even taking that into account and recognising that it is a matter of planning judgment the officers consider that there are very special circumstances justifying development now.

4.64 It is also necessary to consider whether this proposal cumulatively with other relevant developments that could be brought forward would be of such a scale that it should properly be considered through the local plan process, rather than by determination of this individual planning application, in order to avoid prejudicing the emerging Local Plan by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan.

5.0 CONCLUSION

5.1 The officers report explains how the scheme, subject to conditions can be NPPF compliant, in particular with regards to the impacts on the highway network and promoting sustainable travel, residential amenity, biodiversity, flood risk and drainage, archaeology and there are mechanisms to provide adequate infrastructure needed to support the development.

5.2 The site is considered at this time to remain within the general extent of the Green Belt. However, it has been assessed as to not serve the purposes of the Green Belt

(as defined in the NPPF) and it is considered that there are very special circumstances that would clearly outweigh any harm to the Green Belt. Further, there is no case for refusing the scheme on prematurity grounds.

5.3 On the basis of the merits of the case, it is considered that should a formal recommendation have been made to Planning Committee, it would have been one of approval subject to appropriate conditions and planning obligations incorporated within a section 106 agreement.

6.0 RECOMMENDATION: That at the appeal officers recommendation is as follows -

(i) Permission be granted subject to:

a. Completion of a Section 106 Agreement to secure off site contributions towards affordable housing and sports facilities. The affordable housing payment will be for 3 dwellings and the amount calculated as the difference between the transfer price and the market value of the approved dwellings. The off site sports payment would be used at Clarence Gardens Bowls Club and the development of York Hospital Bootham Park pitches.

b. The conditions outlined in the officer's report (and any update)

(ii) The Assistant Director be granted delegated powers to finalise the terms and details of the Section 106 Agreement

Recommended conditions are as follows :-

Time

The development shall be begun not later than the expiration of three years from the date of this permission.

Reason: To ensure compliance with Sections 91 to 93 and Section 56 of the Town and Country Planning Act 1990 as amended by section 51 of the Compulsory Purchase Act 2004.

Approved plans

The development hereby permitted shall be carried out in accordance with the following plans, unless otherwise approved by the Local Planning Authority:-

811105-100-01 - Site location Plan

0199-100-01 Rev E - Site Layout Plan

0199-100-04 Rev A – Planning Layout

2694-101 – Landscape Layout

0199-100-02 – Enclosures Plan
0199-100-03 – Character Areas Plan

811105-100-20 – Street scene to Boroughbridge Road (York Green Gateway)
811105-100-21 – Street scene to Millfield Lane (Millfield Court)
811105-100-22 – Street scene to Eastern Boundary (York Green Gateway)
811105-100-23 – Street scene to Central Green
811105-100-24 – Street scene to Western Boundary (Northern Lanes)

Character Area 1 House type Booklet
Character Area 2 House type Booklet
Character Area 3 House type Booklet

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

Dilapidation survey

Prior to commencement of development a dilapidation survey of the highways adjoining the site shall be jointly undertaken with the Council and the results of which shall be agreed in writing with the Local Planning Authority.

Reason: This condition is required prior to commencement in the interests of the safety and good management of the public highway the details of which must be recorded prior to the access to the site by any construction vehicle.

No mud on highway

Prior to commencement of development details of the measures to be employed to prevent the egress of mud, water and other detritus onto the public highway, and details of the measures to be employed to remove any such substance from the public highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures as shall have been approved shall be employed and adhered to at all times during construction works.

Reason: This condition is required prior to commencement to prevent the egress of water and loose material creating a hazard on the public highway.

Hours of construction

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

Reason: To protect the amenities of adjacent residents.

Construction management

Prior to commencement of the development, a Construction Environmental

Management Plan (CEMP) for minimising the creation of noise, vibration and dust during the site preparation and construction phases of the development shall be submitted to and approved in writing by the Local Planning Authority.

The CEMP shall 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 scheme, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenity of the locality.

Biodiversity

Invasive non-native species

Prior to the commencement of development, a method statement shall be submitted to and approved by the local planning authority detailing the containment, control and where possible removal of Himalayan balsam on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: This condition is required pre-commencement as it is an offence under the Wildlife and Countryside Act 1981 (as amended) to “introduce plant or cause to grow wild any plant listed on Schedule 9 Part 2 of the Act” and prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

Protection of Badgers

Prior to the commencement of development measures to protect badgers from being trapped in open excavations and/or pipe and culverts is submitted to and approved in writing by the local planning authority. The measures shall include:

- A checking survey prior to commencement of site works to ensure that the level of use has not changed in the interim period.
- Creation of sloping escape ramps for badgers which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day
- Open pipe-work larger than 150 mm outside diameter should be blanked off at the end of each working day.

Reason: This condition is required pre-commencement to ensure that badgers are not trapped and harmed on site (Protection of Badgers Act 1992) and also to ensure that badgers do not cause problems for future site operation e.g. blockage of pipes.

Protection of bats

All contractors involved in the felling or pruning of trees on site shall be made aware of the potential presence of bats and shall adhere to the following good working practices in relation to bats -

All trees shall be re-assessed immediately prior to felling or tree works, and in particular before felling the beech tree in the southern corner of the site.

Wherever possible, work should be carried out between late August and early October or between March and April.

Works to trees identified with bat roosting potential should be conducted in a sensitive manner, using a 'soft felling' technique where the tree is carefully dismantled in sections and each section slowly lowered to the ground to leave the habitat intact, left for 48 hours and then carefully examined for the presence of bats before removal.

Reason: To take account of and to enhance the habitat for a protected species.

Tree Protection

Prior to the commencement of development, including the importing of materials and any excavations, a method statement regarding protection measures for the existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved statement. For the avoidance of doubt this condition excludes works necessary for routine tree maintenance, pruning and crowning works.

This statement shall include details and locations of protective fencing, and construction details where any change in surface material or installation of services is proposed within the canopy spread and likely rooting zone of a tree. No trenches, pipe runs for services or drains shall be sited within the root protection area of the tree(s) on the site which are to be retained without the prior approval in writing of the Local Planning Authority.

Reason: To safeguard existing trees on the site which make a positive contribution to visual amenity and the landscaped setting of the area and biodiversity, in accordance with sections 12 and 15 of the NPPF.

Ground Gas Monitoring

Prior to commencement of any groundworks ground gas monitoring and a risk assessment shall be carried out by a competent person to assess landfill gas generation and migration. The findings shall be submitted to and approved in writing by the local planning authority. Based on the results of the gas monitoring and risk assessment, the detailed design of a gas protection system shall be submitted to and approved by the local planning authority.

Reason: To ensure that risks from landfill gas to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Verification of Remedial Works

Prior to occupation of the development, the approved remedial scheme (including the gas protection system and the redistribution of ash and clinker beneath highways or a 600mm 'clean' cover layer in gardens or landscaped areas) must be carried out and a verification report that demonstrates the effectiveness of the remediation must be produced and is subject to the approval in writing of the Local Planning Authority.

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

Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of 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.

Drainage

Prior to commencement of construction details of foul and surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority, and carried out in accordance with these approved details.

Reason: In the interests of sustainable design and to avoid increased flood risk, in accordance with section 14 of the NPPF.

INFORMATIVE: The drainage layout (9599-100-001A) contains an agreed approach in principle.

Archaeology

No groundworks shall take place until a written scheme of investigation (WSI) for the archaeological project has been submitted to and approved by the local planning authority in writing. The WSI shall include details of: archaeological excavation of the site; a post-investigation programme of archaeological, artefactual and environmental analysis of excavated material; production of a report on the archaeological excavation and post-excavation analyses; deposition of the archaeological archive with the Yorkshire Museum; and a full programme of community involvement in the excavation and post-excavation phases of the project.

For land that is included within the WSI, no work shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by the Chartered Institute for Archaeologists.

The development shall be completed in accordance with the programme set out in the approved WSI. A copy of a publication report shall be deposited with City of York Historic Environment Record to allow public dissemination of results within 12 months of completion or such other period as may be agreed in writing with the Local Planning Authority in accordance with the programme set out in the approved WSI.

Reason: In accordance with Section 12 of NPPF and its policy for dealing with non-designated heritage assets of archaeological interest.

Phasing

A phasing plan detailing the installation of the highway network and the green infrastructure (including amenity and play space and pedestrian and cycle routes) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction. The development shall be carried out in accordance with the approved plan.

Reason: To promote sustainable travel and to provide adequate amenity for future occupants in accordance with NPPF sections 8, 9, and 12.

Highways

Main access

Prior to first occupation of the development hereby approved details of the main vehicular access (from Boroughbridge Road as shown on the approved plans), to include a signalised junction and bus priority measures shall be submitted to, approved in writing and provided in accordance with the approved plans.

Reason: In the interests of highway safety and to ensure an acceptable impact on the highway network in accordance with NPPF section 9.

Highway network

Fully detailed drawings illustrating the design and materials of roads, footpaths and other adoptable open spaces shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction and the development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and to ensure an acceptable impact on the highway network in accordance with NPPF section 9.

Pedestrian and cycle routes

The detailed design of the cycle and pedestrian routes as shown on the approved plans and the improved crossing point(s) over the A59 shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of

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

Reason: To promote sustainable travel and in the interests of highway safety and to ensure an acceptable impact on the highway network in accordance with NPPF section 9.

Cycle parking

Prior to first occupation of each dwelling hereby approved details of covered and secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority and development carried out in accordance with the approved details.

Reason: In the interests of visual and residential amenity and to promote sustainable travel in accordance with paragraphs 108 and 127 of the NPPF.

INFORMATIVE: the cycle parking facilities shall be as follows –

Unit size	Minimum number of cycle parking spaces to be provided
1 to 2 bedrooms	1 space
3 to 4 bedrooms	2 spaces
5 or more bedrooms	2 spaces
Visitor parking	1 per 10 dwellings

This can be provided:

- In a private garage (min dimensions 3.5 x 6m unless the garage is not counted as car parking); or
- In a fully enclosed solid structure with secure entrance lock and secure fixings, preferably within the footprint of the building or within the private space of individual dwellings and at the front of the building for ease of use.
- Garden sheds in the back garden are not considered to provide acceptable cycle parking provision unless they meet the following requirements:
 - Walls of tongue and groove construction at least 18mm thick
 - Securely fixed to a concrete foundation, with ground anchors provided to secure bikes inside the sheds
 - Doors must be secured by mortice locks and not padlocks
 - At least 1 sq m storage space must be provided within the shed, for garden equipment etc, in addition to that provided for cycle parking (which should be a minimum of 1.4 x 2m for two bikes)

- Where cycle parking is provided to the rear or sides of private dwellings the access way should be 1.5m wide or a minimum of 1.2m over a distance of no more than 10m.
- For flats and apartments secure covered storage must be provided using Sheffield type racks, preferably housed internally.

EV charging

Prior to first occupation of each dwelling hereby approved a suitably rated electrical socket to allow 'Mode 2' charging of an electric vehicle using a standard 13A 3 pin socket and a 3m length cable shall be installed at each dwelling with off street parking spaces.

Detail of electric vehicle charging facilities for dwellings with car parking which is either on street or within shared parking areas shall be submitted to, approved in writing and installed in accordance with the approved details prior to first occupation of the relevant dwellings.

Reason: To provide facilities for charging electric vehicles in line with NPPF paragraph 110.

INFORMATIVE: All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015).

Travel Plan

Prior to first occupation of the development hereby approved a travel plan shall be submitted to the Local Planning Authority, be approved in writing by the LPA and the development shall be carried out in accordance with the approved details.

In addition to the details set out in the Travel Plan by Sanderson Associates (March 2017) the plan shall contain the following information –

- Travel plan measures to include sustainable transport incentives to residents (car club contribution to be determined, cycle or bus travel pass approx. £180/dwelling).
- Travel plan budget to be increased to a realistic level (or contribution to be paid to CYC travel planning team to deliver service) + penalties to be significant for not meeting targets (an extra £1,000/year is not judged to be significant).
- Travel plan targets to take account of the number of trips to be taken off the network to reduce impact on A59 and key junctions.
- Car club – allocated car parking space(s) to be provided on site.
- All surveys to be agreed with CYC in advance.
- Travel Plan to consider measures to reduce car use to local primary/secondary schools.

Reason: To promote sustainable travel in accordance with NPPF paragraphs 108, 110 and 111.

Landscaping

The development shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a detailed landscaping (hard and soft measures) scheme which shall illustrate the number, species, height and position of trees and shrubs. This scheme shall be implemented in accordance with the approved phasing plan.

If within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted in replacement, is removed, uprooted or destroyed or dies, a replacement of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

Reason: To ensure that there is adequate green infrastructure for the development, in the interests of the amenity of future occupants, good design and biodiversity in accordance with sections 12 and 15 of the NPPF.

Play area design

Details of the equipped play areas shall be submitted to and approved in writing by the Local Planning Authority prior to installation and provided in accordance with the approved plans.

Reason: To provide adequate facilities and amenities for future occupants in accordance with section 8 of the NPPF.

POS management strategy

Prior to first occupation of the development hereby permitted a management and maintenance strategy for the public open space, including play areas, shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall be carried out in accordance with the approved details.

Reason: To provide adequate facilities and amenities for future occupants in accordance with section 8 of the NPPF.

Biodiversity Measures

Prior to first occupation of the development hereby permitted details of measures to enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and the works shall be carried out in accordance with the approved details.

The required details shall include the following –

- Native tree and hedgerow planting,
- Wildflower meadow seeding
- Bat and bird boxes.
- Lighting scheme that avoids light spill onto the boundary features and retained mature trees.

Reason: In order to minimise impacts on and providing net gains for biodiversity as required by NPPF paragraph 170.

Sustainable design and construction

The dwellings hereby approved shall achieve the following measures -

- At least a 19% reduction in Dwelling Emission Rate compared to the Target Emission Rate (calculated using Standard Assessment Procedure methodology as per Part L1A of the Building Regulations 2013).
- A water consumption rate of 110 litres per person per day (calculated as per Part G of the Building Regulations).
- A reduction in carbon emissions of at least 28%.

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

Amenity

The residential accommodation shall be constructed so as to achieve noise levels of:

- a) 30 dB LAeq (8 hour) and 45dB LAmax inside bedrooms at night (23:00 - 07:00 hrs)
- b) 35 dB LAeq (16hour) in all other habitable rooms during the day (07:00 - 23:00 hrs).

The internal noise levels shall be achieved with all windows shut and other means of acoustic ventilation provided.

Reason: To protect the amenity of residents, in accordance with paragraphs 127 and 180 of the NPPF.

7.0 INFORMATIVES:

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