



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

- To:** Councillors Reid (Chair), Shepherd (Vice-Chair), Ayre, Boyce, Carr, Cullwick, Cuthbertson, D'Agorne, Doughty, Funnell, Galvin, Looker, Richardson, K Taylor and Warters
- Date:** Thursday, 16 August 2018
- Time:** 4.30 pm
- Venue:** The George Hudson Board Room - 1st Floor West Offices (F045)

AGENDA

Site Visits

Would Members please note that the mini-bus for the site visits for this meeting will depart from West Offices
at **10:00am on Tuesday 14 August 2018**

1. Declarations of Interest

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

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

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

2. Public Participation

It is at this point in the meeting that members of the public who have registered their wish to speak can do so. The deadline for registering is by **5:00pm on Wednesday 15 August 2018**. Members of the public can speak on specific planning applications or on other agenda items or matters within the remit of the Committee.

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

Filming or Recording Meetings

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

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The Council's protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/download/downloads/id/11406/protocol_for_webcasting_filming_and_recording_of_council_meetings_20160809.pdf

3. Plans List

This item invites Members to determine the following planning applications:

a) Rufforth Poultry Farm, Land At Grid Reference 458205 449925, West Of Bradley Lane, Rufforth, York [16/01813/FULM] (Pages 5 - 24)

Erection of poultry farm comprising 6 no poultry sheds with ancillary buildings, access road and landscaped embankments (resubmission) [Rural West York Ward]

b) Former Lowfield School, Dijon Avenue, York [17/02428/FULM] (Pages 25 - 48)

Erection of 96 two and three storey houses, 26 bungalows and three storey 18 apartment building with new access and associated infrastructure [Westfield Ward] **[Site Visit]**

c) Former Lowfield School, Dijon Avenue, York [17/02429/OUTM] (Pages 49 - 76)

Outline application for 165 dwellings, care home (approx 80 bed), health and public service building and associated green space, access and infrastructure [Westfield Ward] **[Site Visit]**

d) Spark York, Piccadilly, York [18/01102/FUL] (Pages 77 - 96)

Variation of conditions 1 and 3 of permitted application 17/00274/FUL to amend approved plans to omit timber cladding from containers and for external artwork and vinyl lettering [Guildhall Ward] **[Site Visit]**

4. Urgent Business

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

Democracy Officer

Angela Bielby

Contact details:

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

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 **(01904) 551550**

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PLANNING COMMITTEE**SITE VISITS****Tuesday 14 August 2018**

**The mini-bus for Members of the Committee will leave from West
Offices at 10.00am**

TIME (Approx)	SITE	ITEM
10:15	Former Lowfield School, Dijon Avenue	3b &c
11:15	Spark York, Piccadilly	3d

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Abbreviations commonly used in Planning Reports

(in alphabetical order)

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

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

COMMITTEE REPORT

Date: 16 August 2018 **Ward:** Rural West York
Team: Major and **Parish:** Parish Of Rufforth With
Commercial Team Knapton

Reference: 16/01813/FULM
Application at: Land At Grid Reference 458205 449925 West Of Bradley
Lane Rufforth York
For: Erection of poultry farm comprising 6 no poultry sheds with
ancillary buildings, access road and landscaped
embankments (resubmission)
By: H Barker And Son Ltd
Application Type: Major Full Application (13 weeks)
Target Date: 17 August 2018
Recommendation: Refuse

1.0 PROPOSAL

- 1.1 Land at OS grid reference 458205 449925 comprises a substantial area of presently arable land with woodland to the south west lying within the Green Belt to the south of Rufforth village. Planning permission is sought for the development of a 7,900 sq metre (approx) intensive poultry farm on the site to handle an operational stocking capacity of 144,000 chickens employing 2.5 staff. The proposal falls within Schedule 1 to the 2011 Town and Country Planning (Environmental Impact Assessment) Regulations (which applied at the date of submission) and as such is accompanied by a formal Environmental Impact Assessment. Rufforth Airfield lies directly to the east of the application site and a candidate SINC or Site of Interest for Nature Conservation lies to the south west. The proposal represents a revised re-submission of an earlier proposal that was previously withdrawn.
- 1.2 The proposal has been substantially amended since submission to address concerns in respect of the scale and landscape impact of the proposal. The scheme has been reduced in size from six to three units and the associated landscaping reconfigured. A revised EIA prepared in accordance with Schedule 1 of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations has at the same time been submitted taking account of the amended scheme. It is considered that the revised EIA meets the requirements of the EIA Regulations.

2.0 POLICY CONTEXT

See also section 4 below for further details.

- 2.1 Publication Draft City of York Local Plan (2018) Policies:-
GB1 Development in Green Belt.

2.2 City of York draft Local Plan adopted for Development Control Purposes (2005) Policies:

CGP15A

Development and Flood Risk

CYGB1

Development within the Green Belt

CYGP1

Design

CYGP4A

Sustainability

CYGP9

Landscaping

CYNE1

Trees, woodlands, hedgerows

CYNE5A

Local Nature Conservation Sites

3.0 CONSULTATIONS

INTERNAL:-

3.1 Public Protection draw attention to the site being subject to the Environment Agency permitting regulations and raise no objection to the proposal subject to any permission being conditioned to require the submission and approval of a CEMP.

3.2 Strategic Flood Risk Management raise no objection to the proposal.

3.3 Highway Network Management raise no objection to the proposal.

3.4 Design, Conservation and Sustainable Development(Archaeology) raise no objection to the proposal subject to the undertaking of a full archaeological evaluation prior to the commencement of the development.

3.5 Design, Conservation and Sustainable Development(Landscape) raise no objection in principle to the proposal but expressed concern in relation to the impact of the proposal upon the open character of the surrounding landscape particularly during the months of the year when surrounding trees and other vegetation are not in full leaf. The amended layout and landscape scheme are broadly supported.

3.6 Design, Conservation and Sustainable Development(Ecology) raise no objection to the proposal subject to any permission being conditioned to secure appropriate species mitigation.

EXTERNAL:-

3.7 Askham Richard Parish Council object to the proposal on the grounds of impact from HGVs travelling from the site on the amenity of local residents. If the scheme is approved they seek that a lorry routing agreement be established by Section 106 Agreement attached to any permission.

3.8 Rufforth with Knapton Parish Council object to the proposal on the grounds of impact of heavy traffic on unsuitable rural roads, impact upon the local surface water drainage network and associated flood risk, potential nitrate pollution to surrounding farm land, impact upon the safe and effective operation of the Civil Aviation activity at Rufforth Airfield, impact upon the residential amenity of neighbouring properties by virtue of noise and odour release and impact upon the deliverability of the Rufforth Neighbourhood Plan.

3.9 The Campaign to Protect Rural England objects to the proposal on the grounds that together with its associated landscaped bund it would adversely impact upon the openness of the Green Belt, and by virtue of its scale, layout and relatively remote location it would not amount to sustainable development.

3.10 Natural England raise no objection to the proposal as amended.

3.11 The Environment Agency raise no objection to the proposal which is subject to the Environmental Permitting Regime.

3.12 Yorkshire Water Services raise no objection to the proposal.

3.13 The Ainsty(2008) IDB raise no objection to the proposal.

3.14 The Hutton Wandlesey Estate support the proposal on the grounds that it would reduce surface water run-off into the nearby river catchment.

3.15 York Gliding Club object to the proposal on the grounds of conflict with paragraph 104 f) of the NPPF, safety impact upon aircraft taking off and landing from the nearby airfield runway arising from the location of the proposed building complex and its associated landscaped bund and an increased risk of bird strike arising from the nature and location of the associated landscape planting.

3.16 The Yorkshire Wildlife Trust were consulted with regard to the proposal on 11th August 2016. Views will be reported orally at the meeting

3.17. The National Planning Casework Unit were consulted with regard to the proposal on 11th August 2016. Views will be reported orally at the meeting.

3.18 Harrogate Borough Council wish to make no observations in respect of the proposal

3.19 The York Astronomical Society raise no objection to the proposal subject the lighting of the application site being strictly regulated by condition.

3.20 Chesterfield Poultry support the proposal on the grounds that it would create a secure supply of locally produced chicken to their manufacturing plant.

3.21 The NFU support the proposal on the grounds that it would help secure the viability of the farming industry in Yorkshire and would help to secure a source of low priced chicken meat for the wider market.

3.22 Julian Sturdy MP writing on behalf of constituents raises concerns in respect of the proposal in relation to the impact of heavy traffic from the site upon neighbouring unsuitable rural roads, impact upon the safe operation of Rufforth Airfield, impact of odours from the site upon the residential amenity of neighbouring properties and impact upon the open character and purposes of designation of the York Green Belt.

3.23 Animal Aid object to the proposal on the grounds of impact upon the local surface water drainage system, possible nitrate pollution arising from the waste from the proposed farm, the impact of additional traffic upon unsuitable rural roads, serious concerns in respect of the standards of animal welfare at the proposed farm, concern in respect of standards at the destination processing plant and concern in respect of the impact of the meat from the farm on human health. Further concerns have also been expressed in relation to the robustness of the animal health inspection regime for the farm.

3.24 A 6,764 signature e-petition has been submitted on behalf of PETA (People for the Ethical Treatment of Animals) objecting to the proposal on the grounds of :-

- * Impact upon the openness of the York Green Belt;
- * Impact from pollution on the local environment;
- * Impact upon the local surface water drainage system and consequent increase in flood risk;
- * Impact upon the residential amenity of neighbouring properties;
- * Impact of heavy traffic upon unsuitable rural roads;
- * Impact of the proposed intensive husbandry methods upon the health and welfare of the farm animals.

3.25 7,697 letters of objection have been received in respect of the proposal and two letters of support. The following is a summary of the letters of support:-

- * Support for the assistance the development of the site would give to local construction businesses.

* Support for the lack of harm afforded the residential amenity of neighbouring properties from the applicant's existing farming operations.

3.26 The following is a summary of the letters of objection:-

- * Serious concern in respect of animal welfare practises at the applicant's other farming operations;
- * Concern in respect of the impact of pollution from the proposed farm on human health;
- * Concern in respect of the impact of the proposal upon the residential amenity of neighbouring properties by virtue of smell, noise and light pollution;
- * Concern at the impact of the proposal upon the local surface water drainage network;
- * Concern at the impact of additional traffic movements on unsuitable local roads;
- * Concern at the lack of positive benefits to the local economy arising from the proposal;
- * Concern at the impact of the proposal upon the open character and purposes of designation of the York Green Belt;
- * Concern at the impact upon private water supplies in the surrounding area;
- * Concern at the lack of adequate consideration of alternative sites;
- * Concern at the impact of the proposal upon the safety of aircraft taking off and landing at Rufforth Airfield;
- * Concern at the impact upon the habitat and biodiversity provided by the adjacent candidate SINC

3.27 The revised scheme has been the subject of a further re-consultation exercise which has generated an additional 4,112 letters of objection and 1 letter of support. The following is a summary of the letters of objection:-

- * Serious concern in respect of animal welfare practises at the applicant's other farming operations;
- * Continued concern in respect of the impact of pollution from the proposed farm on human health;
- * Continued concern in respect of the impact of the proposal upon the residential amenity of neighbouring properties by virtue of smell, noise and light pollution;
- * Concern that the amended proposal fails to address the inappropriate industrial scale of the proposed development;
- * Continued concern at the impact of additional traffic movements on unsuitable local roads;
- * Continued concern at the lack of positive benefits to the local economy arising from the proposal;
- * Concern at the impact of the proposal upon the open character and purposes of designation of the York Green Belt;
- * Concern at the continuing impact of the proposal upon the safety of aircraft taking off and landing at Rufforth Airfield

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- * Impact upon the open character and purposes of designation of the York Green Belt;
- * Consideration of Alternative Locations;
- * Issues of Odour, Noise and Light Pollution;
- * Impact upon the Adjacent Candidate SINC;
- * Impact upon Local Aviation Activities;
- * Impact upon the Operation of the York Observatory;
- * Impact of Additional Traffic upon the Local Highway Network;
- * Animal Welfare Issues;
- * Impact upon the Local Pattern of Surface Water Drainage.

PLANNING POLICY CONTEXT:-

Development Plan

4.2 Section 38(6) of the Planning and Compensation 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 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.

Local Plan

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

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

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the

less significant the unresolved objections, the greater the weight that may be given); and

- The degree of consistency of the relevant policies in the emerging plan to the policies in the previous NPPF published in March 2012. (NB: Under transitional arrangements plans submitted for examination before 24 January 2019 will be assessed against the 2012 NPPF).

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

4.5 The revised National Planning Policy Framework (NPPF) was published on 24 July 2018 and its planning policies are now material to the determination of planning applications. It is against the NPPF and the saved RSS policies relating to the general extent of the York Green Belt that this proposal should principally be addressed.

4.6 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development, unless specific policies in the NPPF indicate development should be restricted.

4.7 GREEN BELT:- The site lies within the general extent of the Green Belt and as such Central Government Planning Policies in respect of the Green Belt apply. Central Government Planning Policy as outlined in paragraphs 133 to 147 of the National Planning Policy Framework identifies Green Belts as being characterised by their openness and permanence. New built development is automatically taken to be inappropriate and therefore harmful to the Green Belt unless it comes within one of a number of excepted categories. All other development is inappropriate development and in the Green Belt and may only be permitted if very special circumstances exist. Substantial weight is to be given to any harm to the Green Belt and "very special circumstances" will not exist unless potential harm to the Green Belt and any other harm is clearly outweighed by other considerations. Policy GB1 of the 2018 Draft Plan is relevant and sets a firm policy presumption against inappropriate development within the Green Belt.

4.8 AMENITY ISSUES: - Central Government Planning Policy as outlined in paragraph 127 f) of the National Planning Policy Framework "Core Principles" states that Local Planning Authorities should ensure that developments provide and safeguard a high standard of amenity for all new and existing occupiers of land and buildings.

4.9 RURAL ECONOMY: - Central Government Planning Policy as outlined in paragraph 83 of the National Planning Policy Framework states that planning decisions should enable the development and diversification of agricultural and other land based rural businesses as well as supporting sustainable rural leisure developments which benefit rural communities and respect the character of the countryside.

4.10 HABITAT AND BIODIVERSITY: - Central Government Planning Policy as outlined in paragraph 175 of the National Planning Policy Framework indicates that Local Planning Authorities should seek to conserve or enhance biodiversity by ensuring that planning permission is not granted for development that would result in the loss of irreplaceable habitats.

4.11 SURFACE WATER DRAINAGE AND FLOOD RISK:-Central Government Planning Policy as outlined in paragraph 163 of the National Planning Policy Framework indicates that when determining planning applications Local Planning Authorities should ensure that flood risk is not increased elsewhere.

4.12 ENVIRONMENTAL IMPACT ASSESSMENT: - The 2017 Town and Country Planning (Environmental Impact Assessment) Regulations through Schedules 1 and 2 identify clear categories of development including waste management facilities which are likely to have significant non-local environmental effects. Schedule 3 and the accompanying Circular gives clear guidance as to how those effects can be assessed and mitigated against. The current proposal falls within Schedule 1 by virtue of the physical size of the building complex and the number of chickens to be processed when the operation is at full capacity .The applicant has produced a detailed Environmental Impact Assessment in respect of the proposal and it is felt to comply with the requirements of the Regulations.

IMPACT UPON THE OPEN CHARACTER AND PURPOSES OF DESIGNATION OF THE YORK GREEN BELT:-

4.13 The proposal as amended is for the erection of an intensive poultry farming unit within six sheds covering 7,900 sq metres with ancillary facilities to handle 144,000 chickens when operating at full capacity. The application site lies within the York Green Belt and is presently undeveloped comprising an arable field. Paragraph 145 of the National Planning Policy Framework indicates that all new built development within the Green Belt is automatically inappropriate and therefore harmful to its character unless it comes within one of a number of categories specifically identified as being not inappropriate. These include buildings to be constructed for the purposes of agriculture and forestry. As the proposal falls within the agricultural exemption in paragraph 145, it is in principle appropriate development in the Green Belt and a building of this kind is not to be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. Therefore the impact of the building on openness and purposes of designation of the Green Belt is not at issue in relation to the building element of the proposal.

4.14 In order to be effectively fitted into its location significant landscaping is proposed with some bunding together with reinforcement of the existing hedge planting at the northern and eastern edges of the site. The site as it stands is an open arable field with middle to long distance views of the partially wooded

landscape to the south west which contributes significantly to its openness and character. Engineering operations fall within the scope of the exceptions to inappropriate development in paragraph 146 of the NPPF providing they do not harm the openness or purposes of Green Belt designation. Concern was previously expressed in terms of the visual impact of the proposal and the impact of the nature and extent of the engineering works on the openness of the Green Belt. The amended scheme involves a reduction in size of the order of 50% in terms of the building size with a requirement for less in the way of landscaped bunding. The revised landscape scheme involves the reinforcement of existing hedgerow boundary planting and the planting of additional tree and shrub planting at the north east and south west of the site. It is felt that previous concerns in terms of the impact of the proposed bunding and associated planting on the openness of the Green Belt together with the visual impact of the proposal itself on the surrounding countryside have been successfully resolved giving no rise to harm to the openness of the Green Belt. Five purposes of designation of the Green Belt are identified in paragraph 134 of the NPPF. Of particular relevance in the current context is the safeguarding of open countryside from encroachment. The amended landscaping scheme envisages a lesser element of bunding with more naturalistic planting in terms of both layout and species used. It is felt that it would effectively enable the development to blend in with its surroundings and not give rise to conflict with the purposes of designation of the Green Belt. As such, the proposal is considered to be appropriate development in Green Belt terms and as such, very special circumstances are not required to justify it.

CONSIDERATION OF ALTERNATIVE LOCATIONS:-

4.15 The requirements of the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations include a need to consider alternative sites in respect of relevant EIA development. A series of alternative sites both inside and outside of the Green Belt are also considered and discounted. An otherwise suitable site is considered at Gateforth near Selby but discounted on the grounds of being within 800 metres of an area of ancient woodland which would be vulnerable to ammonia pollution from the site and within 100 metres of an open air recreational use, Selby Golf Club. However, in examining the impact of the current proposal upon the adjacent candidate SINC the submitted application details indicate that the risk of harm to the habitat through ammonia pollution is negligible and at the same time the current proposal is also in close proximity to a predominantly open air recreation use, York Gliding Club. The possibility of expansion of the applicant's existing poultry operations at Riccall and Melbourne outside of the Green Belt and at Bilbrough is also considered but specifically discounted on the grounds of proximity to residential property despite being more sustainable than the creation of an entirely new operation as envisaged with the current proposal. The applicant has also sought to highlight the lack of noise and odour pollution complaints arising from the Bilbrough and Melbourne sites within the submitted application details. It is felt that there is a degree of contradiction between the material contained within the

alternative sites exercise and the other submitted documentation in respect of the application site and that it should therefore be afforded little material weight.

POLLUTION ISSUES:-

4.16 ODOUR: - Intensive poultry units carry a risk of pollution from ammonia which is present within the associated manure and which research from continental Europe has indicated can be harmful to a range of habitats if uncontrolled. The application site lies within 60 metres of a candidate SINC notified as of significance as a grassland habitat and approximately 500 metres from an area of priority woodland identified by Natural England. The application has been accompanied by an ammonia modelling report which has at the same time been the subject of a successful application to the Environment Agency for an Environmental Permit for the proposed operation. The EA has examined potential impacts upon the Askham Bog SSSI to the south east and also Grange Wood an area of registered Ancient Woodland in the immediate vicinity and found the risk of harmful impact to be minimal.

4.17 LIGHT:- The applicant in respect of the application details as initially submitted indicated the usage of wall mounted sodium lights with a relatively high level output at the site. Subsequently and in the light of concerns expressed by neighbouring residential properties and by the York Astronomical Society the applicant has agreed to the usage of lower intensity LED lights and to have controls placed upon times of operation by condition to any planning permission. The submitted documentation in respect of the revised application is clear that any issue in terms of lighting would be intensively managed and would not give rise to any material harm to the amenity of the surrounding area.

4.18 NOISE:-The mode of operation of the proposal ensures that the poultry would be confined within the building and any noise arising directly from the farm operation would be the subject to the operation of the Environmental Permit from the Environment Agency. Noise may also occur through traffic exiting and leaving the site when new chickens are brought to be fattened and when taken away for processing. However in view of the frequency of such occurrences and their duration it is felt that any material harm would be modest.

IMPACT UPON THE ADJACENT CANDIDATE SINC:-

4.19 Paragraph 175 of the National Planning Policy Framework indicates that in determining planning applications Local Planning Authorities should aim to conserve and enhance biodiversity by ensuring that if significant harm arising from a development can not be avoided or at least mitigated against or compensated for then planning permission should be refused. The current application site is 1.2 kilometres from an area of ancient woodland at Grange Wood to the east of Rufforth Airfield and 2.9 kilometres from Askham Bog a SSSI to the south east. A candidate SINC notified on the basis of being a rare grassland habitat lies directly to the south

west. Detailed ammonia modelling of the proposal when fully operational has been undertaken in order to fulfil the relevant requirements of the Environmental Permit required for the development by the EIA. This clearly demonstrates that the development can be undertaken without material harm to the ecological and biodiversity value of the neighbouring habitat.

IMPACT UPON LOCAL AVIATION ACTIVITIES:-

4.20 Paragraph 104 f) of the National Planning Policy Framework indicates that the safeguarding of the use of airfields for both leisure and business purposes should be afforded significant weight by Local Planning Authorities. At the same time a plethora of appeal decisions have established the need to ensure the safety of small scale civilian airfields as a material consideration to be afforded significant material weight. Serious concern has once again been expressed in terms of the impact of the proposal upon the safe operation of Rufforth Airfield in respect of the activities of York Gliding Club. The proposed development as amended would be partially aligned on a secondary runway aligned north east south west used by the Club for take off manoeuvres involving a towing aircraft. If a towing or other aircraft were to develop a mechanical problem whilst taking off it requires a clear area in order to perform an emergency landing a short distance away. The relevant CAA technical guidance indicates that such an area should ideally be in a direct alignment with the take off run way which in the current case would be within close proximity to the footprint of the proposed complex of buildings. The applicants own aviation report acknowledges this and recommends that the airfield operator alter their operational practise including warning potential users and discourage the use of certain types of aircraft.

4.21 Usage of the adjacent run-way is to an extent weather dependent with short term changes in wind direction necessitating its usage in preference to the longer north west /south east runway within the site with aircraft both singly and towing gliders using it for take off and landing manoeuvres. The proposed building complex envisages the erection of a substantial building complex set within an area of landscaping of appreciable height when mature .Whilst not blocking the centre line of the runway as previously , the close proximity of the buildings at a critical point in take off and landing would present a significant safety hazard with pilots particularly of towing aircraft having to undertake difficult operations within a confined space. The hazard would be particularly accentuated by the nature of the proposed landscaping which gives rise to the need for a particularly intensive form of management so as to minimise risk. A particular risk of air turbulence has been highlighted within the take off and descent path into the runway arising from the construction of the complex and its associated landscaping. It can be seen that the proposal would give rise to significant material harm in terms of usage of the adjacent airfield contrary to paragraph 104f) of the NPPF even not allowing for potential impact from bird strike.

4.22 A further issue relates to the proposed landscaping to the site and conditions it may create suitable for nesting birds with the possibility of bird strike affecting aircraft taking off and landing at the airfield. The landscaping of the scheme as revised has been redesigned so as to minimise the risk of bird strike. The ecological report submitted with the proposal further indicates the presence of only one species, the sky lark commonly associated with bird strike incidents in the general environs of the site. However the likely operation of the site when developed has not been accounted for with the complex of buildings and associated landscape planting creating appropriate conditions for breeding/foraging habitat for other species more commonly associated with bird strike such as the wood pigeon.

4.23 A detailed report has been prepared to examine the aviation safety risks arising from the amended proposal on behalf of the Local Planning Authority by Eddowes Aviation Safety. This identifies an issue of substantial harm to aviation safety from the construction of the proposal and its relationship in particular to take off manoeuvres from the adjacent runway. The report identifies a significant risk (greater than 1 in 10) based upon detailed statistical analysis of the operation of other similar leisure based airfields and glider facilities of the need to perform emergency landings within a short duration of take off or take off not following a standard pattern with aircraft "undershooting" with the potential of collision with the proposed complex or ancillary structures. As a consequence of the nature of the development and the nature of the airfield operation such incidents may result in casualties or even fatalities. The applicant has challenged the statistical basis for the conclusions adopted and also the responsibility for ensuring that such incidents do not occur. The statistical methodology adopted is however one used and adopted by the HSE in assessing risks from new development in a land use planning context. At the same time, whilst the applicant argues that the airfield should be subject to the same aviation safeguarding practises and procedures as licensed civil airfields, that generally carry commercial traffic, the nature of the operation is fundamentally different taking account of the type of aircraft in use, and such a requirement would be seen as unreasonable. Furthermore there is a significant risk that the development would itself give rise to new conditions that would impact upon how the adjacent runway is used to its detriment over and above the conventionally identified risks.

4.24 In counter to the concerns expressed the applicant has argued that the building complex and its associated landscaping would be no greater hazard to aircraft using the adjacent runway than traffic passing along Bradley Lane in the intervening area. Traffic is however an occasional moving obstruction which an experienced pilot would be able to take evasive action to avoid whereas the proposed complex is a substantial fixed permanent structure. At the same time the applicant has drawn attention to the permitted development rights in respect of erection of agricultural buildings and the potential for various regimes of husbandry within the field which may give rise to conditions prejudicial to air traffic. However the suggested alternative husbandry methods would be of a significantly lower degree of intensity than what is proposed and the permitted development rights in

terms of erection of agricultural buildings are circumscribed by rights of control appertaining to the Local Planning Authority in terms of design and location should it wish to exercise them. It is not therefore felt that the practice of alternative means of husbandry and/or the erection of an agricultural building or buildings would amount to a significantly detrimental fall back position in terms of the wider site and therefore very limited weight should be attached to the fall back position.

4.25 At the same time concern has been expressed in terms of the impact of aircraft noise upon the chickens based upon reported incidents elsewhere. This is not however felt to be a material consideration in respect of this proposal and is not therefore afforded any weight.

IMPACT UPON THE OPERATIONS OF THE YORK OBSERVATORY:-

4.26 Concern has previously been expressed in terms of the impact of the proposal upon the operations of the York Observatory some 400 metres to the east. The applicant has however been able to demonstrate that the proposed lighting and the nature of the likely emissions from the site would not give rise to any material harm to the operation of the observatory.

IMPACT OF ADDITIONAL TRAFFIC UPON THE LOCAL HIGHWAY NETWORK:-

4.27 Concern has been expressed in relation to the impact of additional traffic movements involving large Lorries accessing Bradley Lane Rufforth from the B1224 within Rufforth village and travelling through Askham Richard village heading between the site and the A64 to the south west. Access to the site via Rufforth village would give rise to conditions prejudicial to highway safety by virtue of the size of vehicle and the configuration of the junction between Bradley Lane and the B1224 Wetherby Road. Vehicle movements to the site would however be modest involving five vehicles at a time and dependent upon the chicken growth cycles. Access to the A64 to the south via Askham Richard or Angram would not give rise to the same difficulties in terms of impact upon the safe and free flow of traffic and the applicant has indicated a willingness to submit a s106 planning obligation to cover HGV movements to and from the site.

ANIMAL WELFARE ISSUES:-

4.28 Significant concern has been raised in respect of the conditions under which the intensively farmed chickens would be kept and the associated animal health inspection regime. Particular concern has been raised in respect of conditions within the proposed unit and the nature of its management. Whilst these may be clear concerns the farm operation is regulated by a separate and distinct system of control administered by DEFRA and associated agencies. These matters therefore and ethical or moral issues relating to the operation are not material to the determination of the application.

IMPACT UPON THE LOCAL PATTERN OF SURFACE WATER DRAINAGE:-

4.29 Serious concern has once again been expressed in relation to the impact of the additional hard surfacing upon the levels and rate of run off of surface water into local water courses which are running at capacity together with the possible leaching of pollutants from farm into neighbouring water courses to the detriment of animal and human health. The applicant has indicated that the contaminated surface water from the site would be collected and used as a source of fertiliser in the nearby area with uncontaminated water being collected and used for cleaning and irrigation purposes within the holding. A detailed scheme as to how this would be achieved has now been submitted and it can be clearly demonstrated that the surface water from the site can be dealt with effectively without giving rise to issues of flood risk elsewhere in the vicinity. At the same time manure from the site would be exported on a regular basis to a nearby anaerobic digester to be rendered into an inert fertiliser. The proposal is therefore felt to be acceptable in terms of its impact upon the local pattern of drainage.

5.0 CONCLUSION

5.1 Land at OS grid reference 458205 449925 comprises a substantial area of presently arable land with woodland to the south west lying within the Green Belt to the south of Rufforth village. Planning permission is sought for the development of a 7,900 sq metre (approx) intensive poultry farm on the site to handle an operational stocking capacity of 144,000 chickens employing 2.5 staff. The proposal falls within Schedule 1 to the 2017 Town and Country Planning (Environmental Impact Assessment) Regulations and as such is accompanied by a formal Environmental Impact Assessment. The application site is presently undeveloped and the proposal would result in the construction of a substantial built complex in close proximity to the Askham Richard Rufforth road and the boundary of Rufforth Airfield.

5.2 In terms of applying NPPF Green Belt policies to this proposal, the agricultural building and the engineering operation required by the landscaping bund constitute appropriate development under paragraphs 145 and 146. The scheme as amended is now felt to be acceptable in terms of its impact upon the openness of the Green Belt together with its visual impact upon the surrounding landscape.

5.3 At the same time the proposal by virtue of its scale, location and cumulative presence with the associated landscaping even when amended would give rise to significant detrimental harm to the operation of the adjacent airfield giving rise to a significant risk to the safety of aircraft and gliders taking off and landing using the adjacent runway contrary to Central Government Planning Policy as outlined in paragraph 104 f) of the National Planning Policy Framework. The proposal would therefore give rise to substantial harm which weighs heavily against the proposal in the planning balance.

The planning balance contained in paragraph 11d)ii of the NPPF applies to this application to the effect that permission should be granted unless any adverse

impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.

On that basis it is considered that the harm to the operation of the adjacent airfield identified in paragraph 5.3 above are such that this adverse impact would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole. As a result, refusal is recommended.

6.0 RECOMMENDATION: Refuse

1 The development by virtue of its scale, dense pattern of landscaping and close physical relationship to a principal run-way of Rufforth Airfield would give rise to significant material harm to the safety of aircraft and associated gliders taking off and landing contrary to Central Government Planning Policy as outlined in paragraph 104 f) to the National Planning Policy Framework. That adverse impact would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole.

7.0 INFORMATIVES:

Notes to Applicant

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

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

- i) The relocation of the scheme within the site to lessen impact upon the adjacent airfield.
- ii) The redesign of the landscaping in order to make it appear more naturalistic and of a lesser impact upon the open character of the Green Belt.

However, the applicant/agent was unwilling to amend the application in line with these suggestions, resulting in planning permission being refused for the reasons stated.

Contact details:

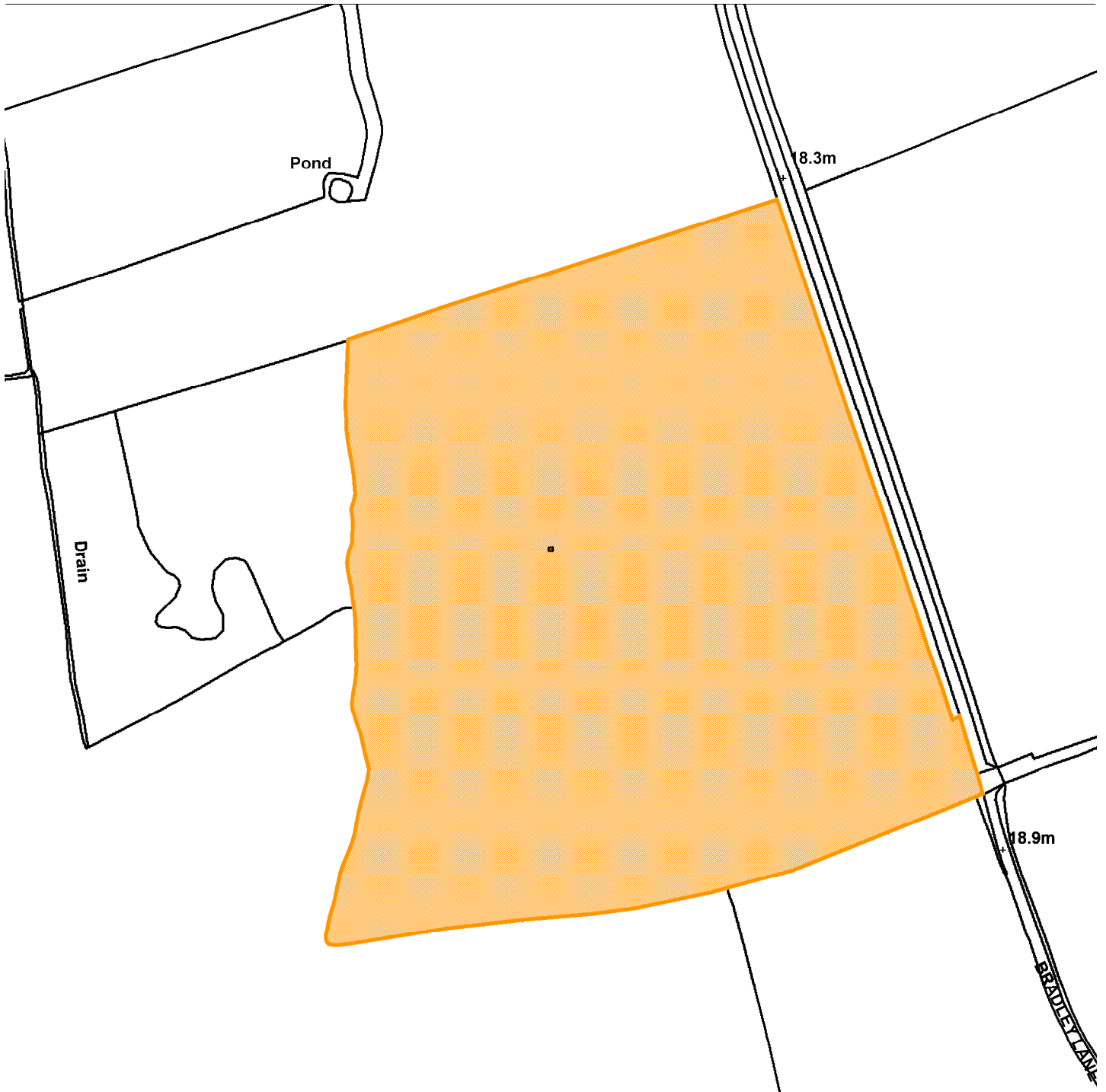
Author: Erik Matthews Development Management Officer

Tel No: 01904 551416

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16/01813/FULM

Land At GR 458205 449925 West Of Bradley Lane, Rufforth, York



Scale : 1:3081

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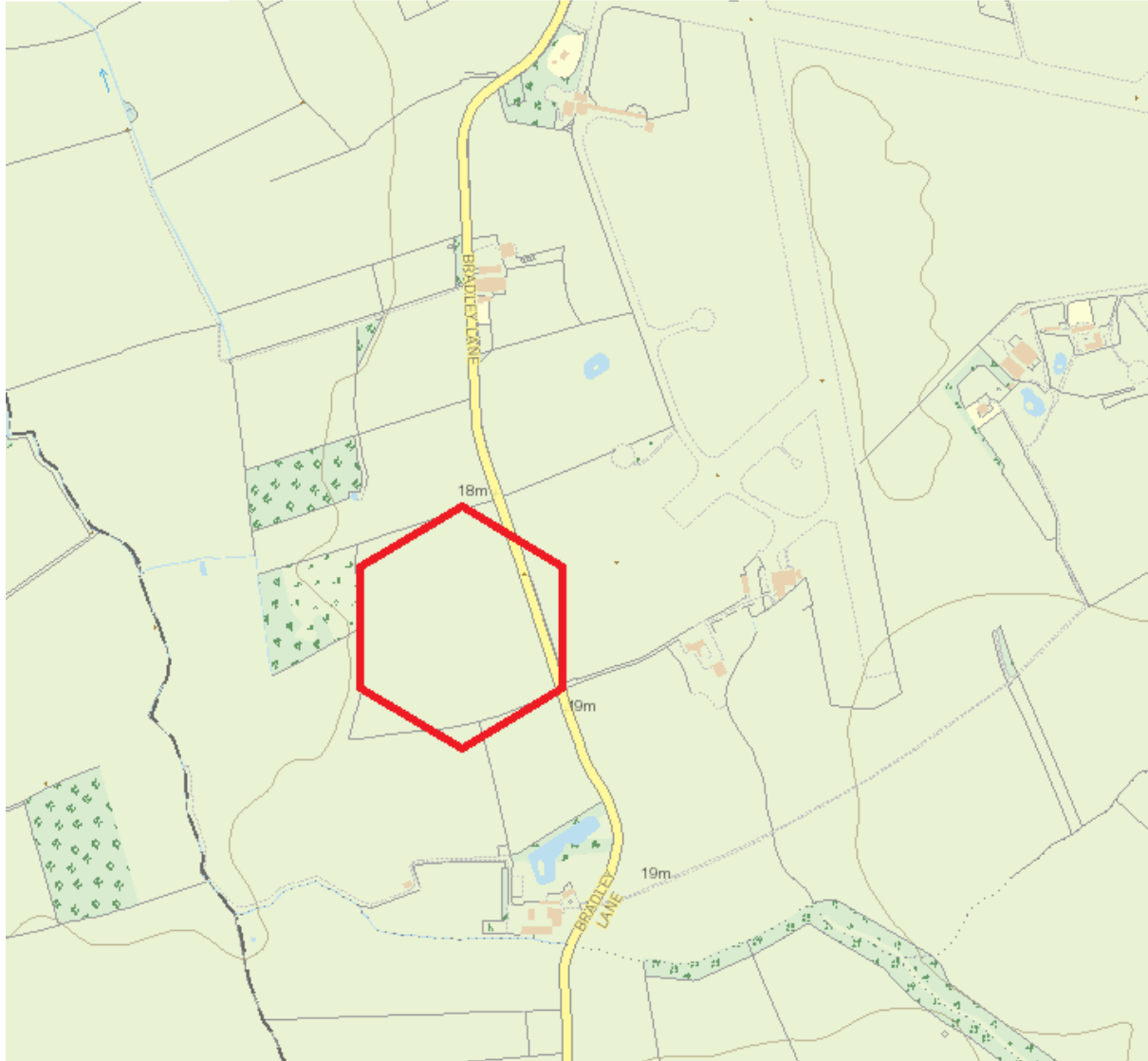
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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	06 August 2018
SLA Number	

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Land At GR 458205 449925 West Of Bradley Lane, Rufforth, York



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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	06 August 2018
SLA Number	

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COMMITTEE REPORT

Date: 16 August 2018 **Ward:** Westfield
Team: Major and **Parish:** No Parish
Commercial Team

Reference: 17/02428/FULM
Application at: Former Lowfield School Dijon Avenue York
For: Erection of 96no. two and three storey houses, 26no. bungalows and three storey 18no. apartment building with new access and associated infrastructure
By: City Of York Council
Application Type: Major Full Application (13 weeks)
Target Date: 20 August 2018
Recommendation: Approve

1.0 PROPOSAL

1.1 The former Lowfield School comprises a large open grassed site of 4.54 hectares formerly occupied by a Secondary School lying to the south west of the Acomb District Centre. The former school playing field has been used by Woodthorpe Wanderers a Junior Football team who have subsequently relocated to a site in Dringhouses and merged with another local team leaving the playing field unused. Full planning permission is sought for the erection of 96 two and three storey dwelling houses, 26 bungalows and a three storey apartment block containing 18 apartments. As part of the submission, it has been confirmed that 20% of the total number of dwellings would be affordable. A parallel application for Outline Planning Permission for the dwellings together with an 80 bed care home, a police station/health centre and an additional 25 self build and community build dwellings ref:- 17/02429/OUTM is for consideration as part of this agenda.

1.2 The proposal is not considered to require an environmental impact assessment.

2.0 POLICY CONTEXT

2.1 Publication Draft City of York Local Plan 2018 Policies:-

H1 Housing Allocations

H2 Housing Densities

D1 Place making

HW1 Retention of Community Facilities

DM1 Infrastructure and Developer Contributions

2.2 City of York Draft Development Control Local Plan (2005) Policies:

CGP15A

Development and Flood Risk

CYED4

Developer contributions towards Educational facilities

CYGP1

Design

CYL1

Open spaces in new residential devts

CYH2A

Affordable Housing

CYH1

Housing Allocations

3.0 CONSULTATIONS

INTERNAL:-

Public Protection

3.1 Raise no objection to the proposal.

Highway Network Management

3.2 Raise no objections to the proposal.

Strategic Flood Risk Management

3.3 Raise no objection to the proposal

Design, Conservation and Sustainable Development(Archaeology)

3.4 Raise no objection to the proposal

Design, Conservation and Sustainable Development (Ecology)

3.5 Raise no objection to the proposal

Design, Conservation and Sustainable Development(Landscape)

3.6 Raise no objection in principle to the proposal but raises some concerns in respect of the loss of mature trees of townscape importance and the nature and extent of compensatory planting.

Public Realm (Strategy and Contracts)

3.7 Raise no objection to the proposal in respect of the provision of open space.

Housing Services

3.8 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Planning and Environmental Management

3.9 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Education Services

3.10 Raise no objection to the proposal subject to payment of a commuted sum in lieu of the provision of primary and secondary school places.

Waste Services

3.11 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting

EXTERNAL:-

Yorkshire Water Services Limited

3.12 Raise no objections to the proposal.

North Yorkshire Police Designing Out Crime Officer

3.13 Raise no objection in principle to the proposal subject to the site layout being designed to maximise the security of each property with any permission conditioned accordingly.

Northern Power Grid

3.14 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Environment Agency

3.15 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Ainsty (2008) Internal Drainage Board

3.16 Raise no objection in principle to the proposal subject to any permission being conditioned to require the submission and approval of a detailed surface water drainage scheme.

Sport England

3.17 Raise no objection to the proposal subject to any permission being conditioned to require the provision and layout of suitable alternative playing field provision which can be made available before the authorised dwellings are first occupied.

Publicity and Neighbour Notification.

3.18 The proposal was advertised by site notice, press advertisement and neighbour notification on 13th November 2017

. 17 letters of objection have been received raising the following planning issues:-

- * the time duration of development
- * location of construction site access;
- * increased traffic flows;
- * over-development of the site;
- * loss of wildlife habitat;
- * loss of open space;
- * loss of playing field;
- * loss of residential amenity;
- * pressure on local infrastructure.

3.19 The Save Lowfields Playing Field Action Group have submitted a detailed letter of objection based upon the following grounds:-

- * severe deficit in open space in the direct locality;
- * proposal premature in terms of its Local Plan status;
- * lack of public support for the proposal;
- * the proposed housing density would lead to an over-development of the site;
- * the proposed care home and community buildings are unlikely to be delivered;
- * the proposals would harm local biodiversity;
- * the development would lead to excessive disruption during the period of construction;
- * the proposal would lead to increases in traffic generation and displacement parking to the detriment of the safety and convenience of highway users.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- * Principle of Development;
- * Dwelling mix and density;
- * Loss of playing field space;
- * Impact upon residential amenity;
- * Impact upon the surrounding townscape;
- * Impact upon local infrastructure
- * Impact upon the safety and convenience of highway users.

PLANNING POLICY CONTEXT:-

STATUS OF THE PUBLICATION DRAFT CITY OF YORK LOCAL PLAN (2018);

4.2 Section 38(6) of the Planning and Compensation Act 2004 requires that determinations be made in accordance with the development plan unless material considerations indicate otherwise. The Publication Draft Local Plan 2018 was submitted for examination on 25 May 2018. In accordance with paragraph 48 of the NPPF as revised in July 2018, the relevant 2018 Draft Plan policies can be afforded weight according to:

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

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

STATUS OF THE YORK DRAFT DEVELOPMENT CONTROL LOCAL PLAN (2005);

4.3 The City of York Draft Local Plan Incorporating the Fourth Set of Changes was approved for Development Control purposes in April 2005 (DCLP). Whilst the DCLP does not form part of the statutory development plan, its policies are considered to be capable of being material considerations in the determination of planning applications where policies relevant to the application are consistent with those in

the NPPF as revised in July 2018, although the weight that can be afforded to them is very limited.

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

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development, unless specific policies in the NPPF indicate development should be restricted.

4.4 PRINCIPLE OF THE DEVELOPMENT:- Paragraph 49 of the NPPF indicates that arguments that a proposed development is premature should not of themselves be grounds for refusing planning permission unless the development is of such a scale either individually or cumulatively that to approve would undermine the plan making process or the emerging plan itself is at a very advanced stage but not at that time adopted. Policy HW 1 of 2018 Draft Plan is of relevance in this context. It indicates a presumption against the loss of existing community facilities such as schools unless it can be demonstrated that the facilities no longer provide a community function or are not capable of being converted to provide a community function.

4.5 RESIDENTIAL DEVELOPMENT:- Central Government Planning Policy in respect of residential development as outlined in paragraph 8b) of the National Planning Policy Framework indicates that Local Planning Authorities should seek to ensure that new developments provide a sufficient number and range of homes to ensure that the needs of present and future generations are met. Policy H1 of the 2018 Draft Plan is also of relevance in this respect which identifies the site as a draft allocation delivering 162 units(including the additional self and community build units within the parallel Outline application).

4.6 LOSS OF PLAYING FIELD SPACE:- Paragraph 97 of the NPPF indicates that existing open space, including sports facilities should not be built on unless the facilities would be re-provided with equal or better provision elsewhere.

4.7 RESIDENTIAL AMENITY:- Paragraph 127 f) of the NPPF indicates that Local Planning Authorities should ensure that new development secures a high standard of amenity for all new and existing users of development.

PRINCIPLE OF DEVELOPMENT:-

There is a strong imperative in favour of housing delivery in the NPPF. It states that a Council must always be able to demonstrate a five-year supply of housing land. It provides that where there are no relevant development plan policies or a five-year housing land supply is absent the determining authority should make decisions in accordance with paragraph 11 of the NPPF. Paragraph 11 requires that authorities

should grant permission for development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole, or where specific policies in the Framework indicate development should be restricted.

4.8 The Lowfield School site comprises the location of a former 11-16 Secondary School which ceased to be used in 2010 and has subsequently been demolished. The associated playing field has until recently been utilised by Woodthorpe Wanderers Junior Football Team for matches and training, although that has now ceased with the relocation of the team to Dringhouses. The site has since 2014 been identified as a potential development site for a mix of uses with a predominance of residential. It forms a draft allocation within the 2018 Draft Plan as a housing site.. The 2018 Strategic Housing Land Availability Assessment identifies a deliverable five year housing land supply which is compliant with the NPPF based upon an accepted methodology making allowance for previous under provision. The present application site forms an important element within the supply trajectory within the document for delivery in the short to medium term. Central Government Planning Policy as outlined in the National Planning Policy Framework within paragraph 8 identifies the provision of access to a range of housing opportunities as an important element of the presumption in favour of sustainable development underwriting the document. As such the development is considered to be acceptable in principle in land use terms.

4.9 Objectors have questioned the principle of development and have raised concerns that the proposal may be treated as being premature in terms of the process of consultation and preparation of the 2018 Draft Plan. The NPPF is however clear that developments may only be treated as premature in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan making process by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken in the development plan context. The current proposal envisages a modest but significant residential development within the context of a draft allocation within the 2018 Draft Plan and identified within the 5 year housing land supply. As such it is not considered to be prejudicial to the local plan process. Policy H1 of the 2018 Draft Plan furthermore indicates that planning permission would be supported for the early release of allocated sites where the release of other sites would not be prejudiced and the infrastructure requirements of the site may easily be met. Both criteria are satisfied by the current proposal.

4.10 Policy HW1 of the 2018 Draft Plan identifies that community facilities such as schools should continue in use or be converted into an alternative community use unless it can be demonstrated that they no longer provide a community use or are capable of fulfilling a community use. The former School buildings have been cleared to foundation level following on from a major fire and as such the site no

longer fulfils a community use and the principle of the development is therefore acceptable.

DWELLING MIX AND DENSITY:-

4.11 Policy H2 of the 2018 Draft Plan sets out density targets for each type of site within the City with a target density of 40 dwellings per hectare for the sub-urban area and a housing mix which meets the requirements and needs of the local area. At the same time Policy H3 of the 2018 Draft Plan seeks the provision of a balance of types of housing which reflects the characteristics of the development site and the needs of prospective occupiers whilst maintaining consistency with the up-to-date SHMA (Strategic Housing Market Assessment). The proposed development seeks permission for a range of two and three storey dwelling houses together with a single block of 18 apartments and a development of bungalows along the eastern boundary geared towards elderly occupation. Properties would be predominantly two and three bedroom with vehicle parking integral to each site. Modest front and rear gardens would be provided and the density and layout would be characteristic of the local area. Furthermore the proposed development would contribute to meeting a short fall in the provision of more modest residential accommodation identified in the SHMA and as such the requirements of draft Policies H2 and H3 would be met.

LOSS OF PLAYING FIELD SPACE:-

4.12 Paragraph 97 of the NPPF indicates a policy presumption against the loss of existing playing field facilities unless they are re-provided on an equal or more generous basis elsewhere. At the same time Policy HW1 of the 2018 Draft Plan seeks the retention of community facilities including sports fields unless it is clear that they are surplus and no longer serve a community need or it can be demonstrated that the facility can be better provided elsewhere in a manner which better reflects local community needs.

4.13 Since the closure and demolition of Lowfield School the former playing fields have been regularly used to provide training and playing facilities for Woodthorpe Wanderers a local Junior Football Club. Consequentially significant concern has been put forward by objectors to the loss of the playing field facility and Sport England who are a statutory consultee in respect of loss of sports facilities initially objected to the proposal. Furthermore the York Open Space Study which forms part of the evidence base for the 2018 Draft Plan identifies a deficit of playing pitches within the western section of the City. Woodthorpe Wanderers have however relocated independently to Dringhouses and subsequently merged with Dringhouses FC. At the same time planning permission has recently been granted by the Committee for development of 10 pitches for training and play purposes subject to resolution of off site parking provision on land at Tadcaster Road (ref:- 18/00251/FUL) for Bishopthorpe White Rose Junior Football Club. This would effectively re-provide for the pitches lost at the Lowfield site as well as making a

substantial contribution towards reducing the deficit in playing pitch space in the western sector of the City. This has been acknowledged by Sport England who now support the proposal subject to any permission being appropriately conditioned in terms of phasing with the Tadcaster Road pitches. It is therefore felt that the requirements of paragraph 97 of the NPPF and Policy HW1 of the 2018 Draft Plan have properly been met.

IMPACT UPON RESIDENTIAL AMENITY :-

4.14 Paragraph 127f) of the NPPF indicates that new development should seek to provide a good standard of amenity for all new and existing users of the development and Policy D1 (place making) of the 2018 Draft Plan(as amended by minor modifications since submission) seeks that new development should seek to safeguard the residential amenity of neighbouring properties. The proposed development has been specifically designed to secure the standard amenity separation distances characteristic of the wider area. The majority of properties bounding the edge of the site are to be two storey with a significantly greater separation distance allowed at the northern edge of the site where a small cluster of three storey properties are proposed. Properties have previously been constructed in very close proximity to the former school boundary in two locations at the north east on Green Lane and the south west on Gale Lane and residents have strongly objected to the proposed development. In the case of the property at the south western boundary of the site it would overlook the blank south western gable of the property within the site together with the adjacent parking area. In the case of the area at the north eastern boundary the boundary itself is heavily landscaped with the closest distance between properties within the development and those outside some 14.2 metres. In that section of the development the proposal envisages the erection of bungalows and the single storey pattern of development together with the landscaping at the site boundary would minimise any risk of overlooking. Subject to the plots at both locations having permitted development rights withdrawn the proposal is felt to be acceptable in terms of residential amenity impact.

IMPACT UPON THE SURROUNDING TOWNSCAPE:-

4.15 Policy D1 of the 2018 Draft Plan sets out a clear requirement that development proposals should reflect best practise in urban design and place making, use appropriate materials and reflect the grain of local townscape character. The proposal has been designed to be predominantly low rise with the use of a palette of materials that reflects that present within the locality with the use of a mix of buff and red brick with render and timber cladding and an interlocking plain tile as a roofing material. The site is not readily visible in long or short distance views from outside of the site and its layout reflects the practise adopted in the surrounding development. Two broad house types are identified with the principal elevation laid out parallel with the street and an alternative with a steeply pitched gable roof with additional accommodation taken up into the roof slope. The site contains extensive mature landscaping with a number of trees of townscape importance. These would be

retained wherever practicable notably at the north eastern edge of the development and a central landscaped square would be provided as a focal point for wider development. The green space would also fulfil the requirement of the site for the provision of informal open space and children's play space. Access to the development would be taken from two locations, to the north from the existing school access and Dijon Avenue and from the south west from Tudor Road with the central green space acting as a boundary. It is felt that the proposal is broadly acceptable in townscape terms and accords with Policy D1 of the 2018 Draft Plan.

IMPACT UPON LOCAL INFRASTRUCTURE:-

4.16 Concern has been expressed by both consultees and objectors in respect of the impact of the proposal upon local infrastructure. A trunk surface water sewer which crosses the northern site access would require to be partially relocated although the mechanism for that has been agreed with the statutory undertaker, Yorkshire Water Services Limited. At the same time a requirement is generated by the proposal for educational improvement works at both Hob Moor Primary School and York High School totalling £963,152 which may be secured by a scheme for securing provision of educational places. The site falls within the scope of Policy H10 of the 2018 Draft Plan with a requirement for the provision of affordable housing at the rate of 20% of the total provision as an urban brown field site. A detailed affordable housing schedule has been submitted as part of the proposal and that has been agreed to by the applicant. The education and affordable housing requirements would be secured by condition because the Council as landowner cannot enter into enforceable Section 106 planning obligations with itself.

IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.17 Concern has been raised by objectors in terms of the impact of increased traffic volumes arising from the development upon the safety and convenience of highway users in the surrounding road network. However, the traffic flows arising from the development have been modelled in detail and subject to the development of two vehicular points of access to the site together with works to the existing bus stop on Tudor Road then the development is considered to be acceptable.

5.0 CONCLUSION

5.1 The former Lowfield School comprises a large open grassed site of 4.54 hectares formerly occupied by a Secondary School lying to the south west of the Acomb District Centre. The former school playing field has been used by Woodthorpe Wanderers a Junior Football team who have subsequently relocated to a site in Dringhouses and merged with another local team leaving the playing field unused. Full planning permission is sought for the erection of 96 two and three storey dwelling houses, 26 bungalows and a three storey apartment block containing 18 apartments. It is considered that the proposal would not be premature in terms of the delivery of the 2018 Draft Plan. At the same time appropriate re-

provision has been made in terms of the playing fields to be lost. The site has been designed to respect its surroundings in terms of its design, layout and density and would secure the delivery of a site allocated for housing in furtherance of the requirements of the NPPF.

In applying the relevant planning balance, it is not considered that there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole. As a result, approval is recommended.

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years

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

Drawing Refs:-7503- BDP-LWG-L-PL-LA-002_D; 7503- BDP-LWG-L-PL-LA-003_C; 7503- BDP-LWG-L-PL-LA-004_C ; 7503- BDP-LWG-L-PL-LA-006_B; 7503- BDP-LWG-L-PL-LA-008_D ; 7503- BDP-LWG-L-PL-LA-009_C ; 7503-BDP-LWG-A-PL-230-002 ; 7503-BDP-LWG-A-PL-MP-001_E ; 7503-BDP-LWG-A-PL-MP-002_B; 7503-BDP-LWG-A-PL-MP-004_C ; 7503-BDP-LWG-A-PL-MP-005_D ; 7503-BDP-LWG-A-PL-MP-006_B ; 7503-BDP-LWG-A-PL-MP-007_A; 7503-BDP-LWG-A-PL-MP-101_C ; 7503-BDP-LWG-A-PL-MP-102_C ; 7503-BDP-LWG-A-PL-SP-001_A ; 064540-CUR-00-XX-DR-D-92001_R02; 064540-CUR-00-00-DR-TP-05002-V01 ; 7503-BDP-LWG-A-PL-240-001_C ; 7503-BDP-LWG-A-PL-240-002_B; 7503-BDP-LWG-A-PL-241-001_C; 7503-BDP-LWG-A-PL-350-001_C ; 7503-BDP-LWG-A-PL-355-001_B ; 7503-BDP-LWG-A-PL-355-002; 7503-BDP-LWG-A-PL-356-001_B ; 7503-BDP-LWG-A-PL-357-001_B ; 7503-BDP-LWG-A-PL-473-001_B ; 7503-BDP-LWG-A-PL-APT-001_C ; 7503-BDP-LWG-A-PL-APT-002_B; 7503-BDP-LWG-A-PL-EL-001_A; 7503-BDP-LWG-A-PL-EL-002_A ; 7503-BDP-LWG-A-PL-MP-005_C; 7503-BDP-LWG-A-PL-MP-006_A ;

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

3 VISQ7 Sample panel ext materials to be approved

4 VISQ8 Samples of exterior materials to be approved

5 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 and other plants; seeding mix, sowing rate and mowing regimes. The scheme shall also include details of ground preparation and a five year maintenance program. The approved landscape scheme shall be implemented within a period of

six months of the substantial completion of the development. Any trees or plants which within a period of five years from completion of the soft landscape works, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, and means of establishment, since the landscape scheme is integral to the amenity of the development.

6 Before the commencement of development, an Arboricultural 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. Amongst others, this statement shall include details and locations of protective fencing, site rules and prohibitions, ground protection, phasing of works, site access during demolition/construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound and marketing suite. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and boundary treatments is proposed within the root protection area of existing trees. The development shall be carried out in accordance with the approved Arboricultural Method Statement and a copy of the document will be available for inspection on site at all times.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development

7 A qualified arboriculturalist shall carry out regular inspections during the development, especially during site preparation. Adherence to the approved method statement and any incidents shall be monitored and recorded. These records shall be made available for inspection by the Local Authority if requested. Before works start on site, the name and address of the appointed arboriculturalist shall be supplied to the local authority.

Reason: To ensure every effort and reasonable duty of care has been exercised by the developer during the development in the interests of protecting the existing trees subject to a tree preservation order.

8 HWAY1 Details roads, footpaths, open spaces req.

9 HWAY7 Const of Roads & Footways prior to occup

10 HWAY18 Cycle parking details to be agreed

11 HWAY19 Car and cycle parking laid out

12 HWAY40 Dilapidation survey

13 The development shall not be begun until details of the junction between the internal access road and the highway as illustrated on drawing 064545-CUR-00-00-DR-TP-05/002-V01) have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety.

14 Prior to first occupation of any part of the development the bus stop works as indicatively shown on drawing titled "Tudor Road Bus Stop Works" dated 08/01/2018 shall have been carried out in accordance with details submitted to and approved in writing by the Local Planning Authority or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users and to promote sustainable modes of transport

15 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
- a scheme for signing the promoted construction traffic routing
- where contractors will park
- where materials will be stored within the site

All works shall be carried carried out in accordance with the approved method of works statement.

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.

16 No part of the development hereby approved shall be occupied until a Full Travel Plan has been submitted to and approved in writing by the LPA. The Travel Plan should be developed and implemented in line with local and national guidelines and the submitted Interim Travel Plan dated September 2017 (ref YORK04/ITP). The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan as approved.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason:- To ensure that traffic flows from the sits can be safely accommodated and to promote the usage of sustainable means of transport.

17 LC1 Land contamination - Site investigation

18 LC2 Land contamination - remediation scheme

19 LC3 Land contamination - remedial works

20 LC4 Land contamination - unexpected contam

21 Prior to the commencement of the development above foundation level full details of all hard landscaping works including design of street furniture, bollards and play equipment shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved prior to the development being first occupied and shall be maintained as such thereafter.

Reason:- To safeguard the visual amenity of the wider street scene and to secure compliance with Policy D1 of the Publication Draft City of York Local Plan (2018)

22 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 scheme, unless otherwise 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

23 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 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents

24 No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off - site works, have been submitted to and approved by the Local Planning Authority . If discharge to public sewer is proposed, the information shall include the point (s) of connection into the existing public sewer and the means by which the discharge rate shall be restricted to a maximum rate of 30 litres per second. Furthermore, 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.

Reason: To ensure that no surface water discharges take place until proper provision has been made for its disposal.

25 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.

26 No building or other obstruction including landscape features shall be located over or within 5 metres either side of the centre lines of each the public sewers i.e. protected strip widths of 10 metres per sewer, that cross the site . If the required stand -off distances are to be achieved via diversion or closure of the sewers , the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area , the approved works have been undertaken.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

27 An electrical socket shall be provided at each dwelling prior to its first occupation to enable to charging of an electric vehicle using a 3m length cable whilst parked (within garage or on driveway) and the electric socket shall thereafter be permanently retained.

Note: Any socket provided must comply with Building Regulations and be suitable for charging electric vehicles. In particular, consideration should be given to cable and circuitry ratings to enable safe charging of modern electric vehicles. Where located on a driveway it should also have a weatherproof cover and an internal switch should be also provided in the property to enable the socket to be turned off. The electrical circuit shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation (2015).

Reason: To facilitate the uptake of low emission vehicles in line with City of York Council's adopted Air Quality Action Plan (AQAP3) and Low Emission Strategy (LES)

28 All contractors involved in arboricultural works to, or the felling of the trees listed in Table 6 on Page 17 of the Extended Phase 1 Habitat Survey by BDP dated August 2017 and identified on plans contained within the Arboricultural Impact Assessment by BDP dated October 2017 to be made aware of the potential presence of bats and the need to follow standard good working practices in relation to bats;

- o Wherever possible, work should be carried out between late August and early October or between March and April.
- o Immediately prior to works the trees should be inspected by a suitably qualified ecologist.
- o Where bat roost potential exists work 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.
- o In the unlikely event that bats are discovered when branches are removed or trees felled (particularly in winter), work must stop immediately and Natural England or the Bat Conservation Trust contacted. Advice will be given on how to proceed, including collecting up any bats with gloved hands and putting them into a bat box, if appropriate.

Reason: To take account of habitat for a protected species

29 Prior to the commencement of development details of what measures are to be provided within the design of the new building to accommodate bats shall be submitted and agreed in writing by the Local Planning Authority. The development shall be constructed in accordance with these approved details. Features suitable for incorporation for this group include the use of special tiles, bricks, soffit boards, bat boxes etc.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and comply with Section 11 of the NPPF.

30 Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Giant Hogweed (*Heracleum mantegazzianum*) on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure that an adequate means of eradicating or containing the spread of an invasive non-native plant is considered and thereafter implemented to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

31 No dwelling within the red line area highlighted on the attached plan (7503-BDP-LWG-A-PL-SP-001A) shall be occupied until three replacement football pitches of the same size as those on land subject to this planning application, have been created. The three pitches shall be on land 'To The South East Of 235 Tadcaster Road', subject planning permission Ref. No. 18/00251/FUL. The completed works shall include all levelling, drainage, ground preparation and grass seeding works

Reason: To ensure that appropriate replacement playing pitch facilities are provided for those lost in association with the development and to secure compliance with paragraphs 73 and 74 of the NPPF.

32 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 A, B, C, E and F ; of Schedule 2 Part 1 of that Order shall not be erected or constructed on plots 8, 9, 10, 11, 12, 13 and 47 as shown on plan ref: 7503-BDP-LWG-A-MP-002B without the express grant of planning permission ..

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.

33 No development shall commence until a detailed scheme to secure improvements to Hob Moor Primary School to re-commission class room spaces to allow for the anticipated pupil yield and improvements to York High School to provide to re-commission classroom spaces to low for anticipated pupil yield in accordance with the Council's SPG Developer Contributions to Educational Facilities 2007 and the timetable and mechanism to secure its implementation have

been provided to and agreed in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with its terms.

Reason: To comply with Paragraph 34 of the NPPF(2018) and Policy DM1 of the Publication Draft City of York Local Plan (2018)

34 The development shall not begin until a detailed scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided and retained in accordance with the approved scheme and shall meet the definition of affordable housing in the Glossary in Annex 2 of the National Planning Policy Framework July 2018 or any future guidance that may replace it. The scheme shall include:

- (i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of the total number of housing units to be provided;
- (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- (iii) the arrangements for the transfer of the affordable housing to a Council approved registered housing provider or the management of the affordable housing (if no registered housing provider is involved);
- (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- (v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be permanently retained thereafter in accordance with the approved scheme.

Reason: To comply with Paragraph 62 of the NPPF (2018) and Policy H10 of the Publication Draft City of York Local Plan (2018).

Reason: To secure compliance with Policy H10 of the Publication Draft City of York Local Plan.

35 The development hereby authorised shall comprise no more than 96 two and three storey residential dwellings; 26 bungalows and a single 3 storey block containing 18 apartments.

Reason: To establish an acceptable pattern of density reflecting local circumstances and to secure the residential amenity of neighbouring properties to comply with paragraph 127 f) of the NPPF

7.0 INFORMATIVES: Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) 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:

Sought the re-provision of the playing pitches to be lost by the development within the local area.

2. UTILITIES:-

You are advised that this proposal may have an affect 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.

3. HIGHWAY WORKS:-

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 Sections 38/278 - (01904) 551550 -
streetworks@york.gov.uk

4. BREEDING BIRDS:

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

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

5. 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.

Contact details:

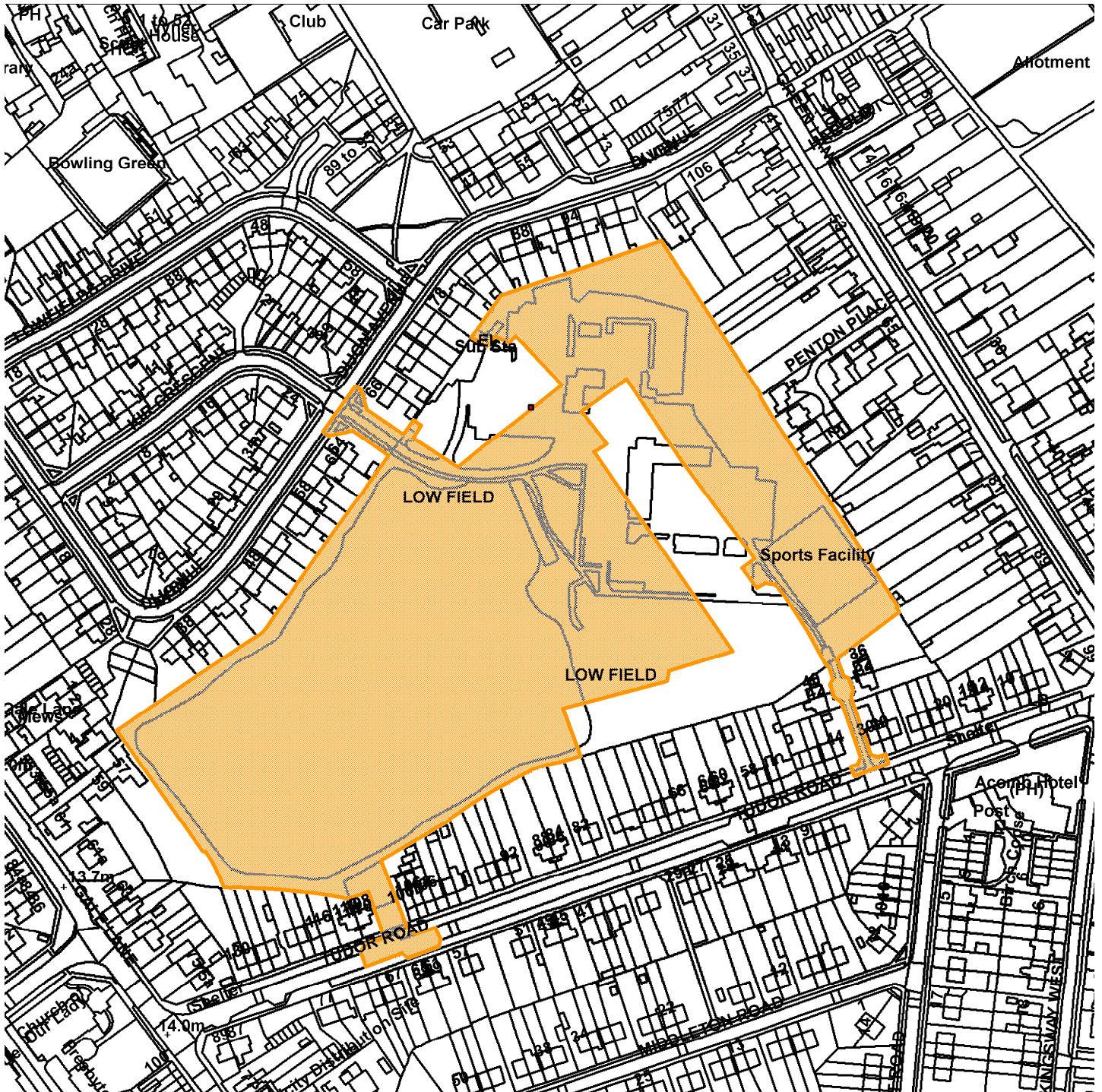
Author: Erik Matthews Development Management Officer

Tel No: 01904 551416

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17/02428/FULM

Former Lowfield School, Dijon Avenue, York



Scale : 1:2683

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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	06 August 2018
SLA Number	

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COMMITTEE REPORT

Date: 16 August 2018 **Ward:** Westfield
Team: Major and **Parish:** No Parish
Commercial Team

Reference: 17/02429/OUTM
Application at: Former Lowfield School Dijon Avenue York
For: Outline application for 165 dwellings, care home (approx 80 bed), health and public service building and associated green space, access and infrastructure
By: City Of York Council
Application Type: Major Outline Application (13 weeks)
Target Date: 20 August 2018
Recommendation: Approve

1.0 PROPOSAL

1.1 The former Lowfield School comprises a large open grassed site of 4.54 hectares formerly occupied by a Secondary School lying to the south west of the Acomb District Centre. The former school playing field has been used by Woodthorpe Wanderers a Junior Football team who have subsequently relocated to a site in Dringhouses and merged with another local team leaving the playing field unused. Outline planning permission with all matters reserved apart from means of access is sought for the erection of 96 two and three storey dwelling houses, 26 bungalows and a three storey apartment block containing 18 apartments together with an 80 bed care home, a police station/health centre and an additional 6 self build and 19 community build dwellings. As part of the submission, it has been confirmed that 20% of the total number of two and three storey dwelling houses, bungalows and apartments together with the community build housing would be affordable. A parallel application for full planning permission in respect of the open market residential element of the proposal ref:- 17/02428/FULM is also for consideration on this agenda.

1.2 The proposal is not considered to require an environmental impact assessment.

2.0 POLICY CONTEXT

2.1 Publication Draft City of York Local Plan (2018) Policies:-

H1 Housing Allocations

H2 Housing Densities

H4 Self Build and Community Building

D1 Place making

HW1 Retention of Community Facilities

DM 1 Infrastructure and Developer Contributions

2.2 City of York Draft Development Control Local Plan (2005) Policies:

CGP15A

Development and Flood Risk

CYED4

Developer contributions towards Educational facilities

CYGP1

Design

CYH1

Housing Allocations

CYH2A Affordable Housing

3.0 CONSULTATIONS

INTERNAL

Public Protection

3.1 Raise no objection to the proposal.

Highway Network Management

3.2 Raise no objections to the proposal.

Strategic Flood Risk Management

3.3 Raise no objection to the proposal

Design, Conservation and Sustainable Development(Archaeology)

3.4 Raise no objection to the proposal

Design, Conservation and Sustainable Development (Ecology)

3.5 Raise no objection to the proposal

Design, Conservation and Sustainable Development(Landscape)

3.6 Raise no objection in principle to the proposal but raises some concerns in respect of the loss of mature trees of townscape importance and the nature and extent of compensatory planting.

Public Realm(Strategy and Contracts)

3.7 Raise no objection to the proposal in respect of the provision of open space.

Housing Services

3.8 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Planning and Environmental Management

3.9 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Education Services

3.10 Raise no objection to the proposal subject to payment of a commuted sum in lieu of the provision of primary and secondary school places.

Waste Services

3.11 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting

EXTERNAL:-

Yorkshire Water Services Limited

3.12 Raise no objections to the proposal.

North Yorkshire Police Designing Out Crime Officer

3.13 Raise no objection in principle to the proposal subject to the site layout being designed to maximise the security of each property with any permission conditioned accordingly.

Northern Power Grid

3.14 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Environment Agency

3.15 Were consulted with regard to the proposal on 20th October 2017. Views will be reported orally at the meeting.

Ainsty (2008) Internal Drainage Board

3.16 Raise no objection in principle to the proposal subject to any permission being conditioned to require the submission and approval of a detailed surface water drainage scheme.

Sport England

3.17 Raise no objection to the proposal subject to any permission being conditioned to require the provision and layout of suitable alternative playing field provision which can be made available before the authorised dwellings are first occupied.

Publicity and Neighbour Notification.

3.18 The proposal was advertised by site notice, press advertisement and neighbour notification on 13th November 2017. 17 letters of objection and 13 letters of support were submitted in respect of the proposal. The following is a summary of the letters of objection which raise the following planning issues:-

- * the time duration of development
- * location of construction site access;
- * increased traffic flows;
- * over-development of the site;
- * loss of wildlife habitat;
- * loss of open space;
- * loss of playing field;
- * loss of residential amenity;
- * pressure on local infrastructure

3.19 The following is a summary of the letters of support:-

- * support for the provision of bungalows suitable for occupation by the over-55s age group as an integral element of the scheme;
- * support for the relationship of the proposed care home to the central landscaped square;
- * support for the inclusion of plots suitable for self-build;
- * support for the proposed community build scheme with associated sustainability benefits.

3.20 The Save Lowfields Playing Field Action Group have submitted a detailed letter of objection based upon the following grounds:-

Application Reference Number: 17/02429/OUTM

Item No: 3c

- *severe deficit in open space in the direct locality;
- * proposal premature in terms of its Local Plan status;
- * lack of public support for the proposal;
- * the proposed housing density would lead to an over-development of the site;
- * the proposed care home and community buildings are unlikely to be delivered;
- * the proposals would harm local biodiversity;
- * the development would lead to excessive disruption during the period of construction;
- * the proposal would lead to increases in traffic generation and displacement parking to the detriment of the safety and convenience of highway users.

3.21 The York Older People's Assembly support the proposal notably the provision of bungalows suitable for occupation by older age groups together with a Care Home as an integral element of the scheme.

4.0 APPRAISAL

KEY CONSIDERATIONS:-

4.1 KEY CONSIDERATIONS INCLUDE:-

- * Principle of Development;
- * Dwelling mix and density;
- * Provision of allocated area for community build/self build units;
- * Loss of playing field space;
- * Proposed Care Home;
- * Impact upon residential amenity;
- * Impact upon the surrounding townscape;
- * Impact upon local infrastructure;
- * Impact upon the safety and convenience of highway users.

PLANNING POLICY CONTEXT:-

STATUS OF THE PUBLICATION DRAFT CITY OF YORK LOCAL PLAN (2018);

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

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

2019 will be assessed against the 2012 NPPF).

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

STATUS OF THE YORK DEVELOPMENT CONTROL LOCAL PLAN (2005);

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

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

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development, unless specific policies in the NPPF indicate development should be restricted.

4.4 PRINCIPLE OF THE DEVELOPMENT:- Paragraph 49 of the NPPF indicates that arguments that a proposed development is premature should not of themselves be grounds for refusing planning permission unless the development is of such a scale either individually or cumulatively that to approve would undermine the plan making process or the emerging plan itself is at a very advanced stage but not at that time adopted. Policy HW 1 of the 2018 Draft Plan is of relevance in this context. It indicates a presumption against the loss of existing community facilities such as schools unless it can be demonstrated that the facilities no longer provide a community function or are not capable of being converted to provide a community function.

4.5 RESIDENTIAL DEVELOPMENT:-

Central Government Planning Policy in respect of residential development as outlined in paragraph 8b) of the National Planning Policy Framework indicates that Local Planning Authorities should seek to ensure that new developments provide a sufficient number and range of homes to ensure that the needs of present and future generations are met. Policy H1 of the 2018 Draft Plan is also of relevance in this respect which identifies the site as a draft allocation delivering 162 units (including the additional self and community build units).

4.6 LOSS OF PLAYING FIELD SPACE:- Paragraph 97 of the NPPF indicates that existing open space, including sports facilities should not be built on unless the facilities would be re-provided with equal or better provision elsewhere.

4.7 RESIDENTIAL AMENITY:- Paragraph 127 f) of the NPPF indicates that Local Planning Authorities should ensure that new development secures a high standard of amenity for all new and existing users of development.

4.8 PROVISION OF SELF BUILD/COMMUNITY BUILD PLOTS:- Policy H4 of the 2018 Draft Plan sets out a policy presumption in favour of the provision of a minimum of 5% of strategic and allocated sites for community and self build developments. At the same time under Section 1 of the Self-build and Custom Housebuilding Act 2015 (as amended) local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. There are also duties under sections 2 and 2A of the Act to have regard to this register when carrying out its planning functions and to give enough suitable planning permissions to meet the identified demand.

PRINCIPLE OF DEVELOPMENT:-

4.9 There is a strong imperative in favour of housing delivery in the NPPF. It states that a Council must always be able to demonstrate a five-year supply of housing land. It provides that where there are no relevant development plan policies or a five-year housing land supply is absent the determining authority should therefore make decisions in accordance with paragraph 11 of the NPPF. Paragraph 11 requires that authorities should grant permission for development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole, or where specific policies in the Framework indicate development should be restricted.

The Lowfield School site comprises the location of a former 11-16 Secondary School which ceased to be used in 2010 and has subsequently been demolished. The associated playing field has until recently been utilised by Woodthorpe Wanderers Junior Football Team for matches and training, although that has now ceased with the relocation of the team to Dringhouses. The site has since 2014 been identified as a potential development site for a mix of uses with a predominance of residential. It forms a draft allocation within the 2018 Draft Plan as a housing site and as such contributes to the Council's 5 year housing land supply of deliverable sites. Central Government Planning Policy as outlined in the National Planning Policy Framework within paragraph 8 identifies the provision of access to a range of housing opportunities as an important element of the presumption in favour of sustainable development underwriting the document. As such the development is considered to be acceptable in principle in land use terms.

4.10 Objectors have questioned the principle of development and have raised concerns that the proposal may be treated as being premature in terms of the process of consultation and preparation of the 2018 Draft Plan. The NPPF is however clear that developments may only be treated as premature in respect of development proposals which are individually so substantial, or whose cumulative effect would be so significant, that to grant permission would prejudice the outcome of the plan making process by predetermining decisions about the scale, location or phasing of new development which ought properly to be taken in the development plan context. The current proposal envisages a modest but significant residential development within the context of a draft allocation within the 2018 Draft Plan and identified as making a contribution to the identified 5 year housing land supply. As such it is not considered to be of such a scale as to be prejudicial to the local plan process. Policy H1 of the 2018 Draft Plan furthermore indicates that planning permission would be supported for the early release of allocated sites where the release of other sites would not be prejudiced and the infrastructure requirements of the site may easily be met. Both criteria are satisfied by the current proposal.

4.11 Policy HW1 of the 2018 Draft Plan identifies that community facilities such as schools should continue in use or be converted into an alternative community use unless it can be demonstrated that they no longer provide a community use or are capable of fulfilling a community use. The former school buildings have been cleared to foundation level following on from a major fire and as such the site no longer fulfils a community use and the principle of the development is therefore acceptable.

DWELLING MIX AND DENSITY:-

4.12 Policy H2 of the 2018 Draft Plan sets out density targets for each type of site within the City with a target density of 40 dwellings per hectare for the sub-urban area and a housing mix which meets the requirements and needs of the local area. At the same time Policy H3 of the 2018 Draft Plan seeks the provision of a balance of types of housing which reflects the characteristics of the development site and the needs of prospective occupiers whilst maintaining consistency with the up-to-date SHMA (Strategic Housing Market Assessment). The proposed development seeks permission for a range of two and three storey dwelling houses together with a single block of 18 apartments and a development of bungalows along the eastern boundary geared towards elderly occupation. Properties would be predominantly two and three bedroom with vehicle parking integral to each site. Modest front and rear gardens would be provided and the density and layout would be characteristic of the local area. Furthermore the proposed development would contribute to meeting a short fall in the provision of more modest residential accommodation identified in the SHMA and as such the requirements of draft policies H2 and H3 would be met.

PROVISION OF SELF BUILD AND COMMUNITY BUILD PLOTS:-

4.13 The proposal envisages the provision of 6 plots suitable for open market self-build development to be subject to a submitted Design Code together with the provision of a further 19 plots with ancillary community facilities and car parking as a community housing project to be managed by Yorspace. Both areas lie at the south eastern edge of the site with permission sought in principle with all matters reserved. The site boundary with adjacent residential properties is well landscaped and the proposal has been accompanied by a building heights parameters plan which restricts building heights to a maximum of 10.5 metres with no building to take place along the site boundary itself. It is felt that appropriate amenity separation distances may be achieved in respect of the self-build plots and can also be achieved in respect of the relationship of the community build development and adjoining residential properties. Detailed design would form part of any subsequent Reserved Matters application. Each self-build dwelling would require a separate application for reserved matters, each to be made by a separate self-build developer. The community housing project is designed to be managed collectively in line with the principles of sustainable development. The proposed self-build and community build plots would accord with Policy H4 of the 2018 Draft Plan and legislation places a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom house building. The up-to-date self build housing register for the City indicates a demand for 216 units which represents a significant need which the proposal would in part address. As such the proposed self-build and community build plots are acceptable in planning terms.

LOSS OF PLAYING FIELD SPACE:-

4.14 Paragraph 97 of the NPPF indicates a policy presumption against the loss of existing playing field facilities unless they are re-provided on an equal or more generous basis elsewhere. At the same time Policy HW1 of the 2018 Draft Plan seeks the retention of community facilities including sports fields unless it is clear that they are surplus and no longer serve a community need or it can be demonstrated that the facility can be better provided elsewhere in a manner which better reflects local community needs.

4.15 Since the closure and demolition of Lowfield School the former playing fields have been regularly used to provide training and playing facilities for Woodthorpe Wanderers a local Junior Football Club. Consequentially significant concern has been put forward by objectors to the loss of the playing field facility and Sport England who are a statutory consultee in respect of loss of sports facilities initially objected to the proposal. Furthermore the York Open Space Study which forms part of the evidence base for the Publication Draft Local Plan identifies a deficit of playing pitches within the western section of the City. Woodthorpe Wanderers have however relocated independently to Dringhouses and subsequently merged with Dringhouses FC. At the same time planning permission has recently been granted by the Committee for development of 10 pitches for training and play purposes

subject to resolution of off site parking provision on land at Tadcaster Road(ref:- 18/00251/FUL) for Bishopthorpe White Rose Junior Football Club. This would effectively re-provide for the pitches lost at the Lowfield site as well as making a substantial contribution towards reducing the deficit in playing pitch space in the western sector of the City. This has been acknowledged by Sport England who now support the proposal subject to any permission being appropriately conditioned in terms of phasing with the Tadcaster Road pitches. It is therefore felt that the requirements of paragraph 97 of the NPPF and Policy HW1 of the 2018 Draft Plan have properly been met.

PROPOSED CARE HOME:-

4.16 The proposed care home which would be centrally located within the development would be designed to accommodate approximately 80 residents. It would be focussed upon providing services for dementia care and is justified on the basis of a demonstrable need for appropriate accommodation within western York. That need was identified within the 2016 Strategic Housing Market Assessment(SHMA) which forms part of the evidence base to the Publication Draft Local Plan. This identified an un-met on-going need for 37 bed spaces within the local area for those over 75 years of age in need of care. The proposal would make a significant contribution towards addressing that need .An operator has not been identified for the proposal and detailed designs have not been derived at the present time (appearance, landscaping, layout and scale of the proposed development being reserved matters). Subject to the close physical relationship with the bungalow development to the north east being satisfactorily resolved in height terms with eventual development it is felt that adequate amenity space exists for occupiers of the development and the adequate separation distances can be achieved with neighbouring properties. It is proposed that a care home operator be identified soon after any grant of outline permission with a reserved matters application to follow.

IMPACT UPON RESIDENTIAL AMENITY :-

4.17 Paragraph 127f) of the NPPF indicates that new development should seek to provide a good standard of amenity for all new and existing users of the development and Policy D1 (place making) of the 2018 Draft Plan as amended by minor modifications since submission seeks that new development should seek to safeguard the residential amenity of neighbouring properties. The proposed development has been specifically designed to secure the standard amenity separation distances characteristic of the wider area. The majority of properties bounding the edge of the site are to be two storey with a significantly greater separation distance allowed at the northern edge of the site where a small cluster of three storey properties are proposed. Properties have previously been constructed in very close proximity to the former school boundary in two locations at the north east on Green Lane and the south west on Gale Lane and residents have strongly objected to the proposed development. In the case of the property at the south western boundary of the site it would overlook the blank south western gable of the

property within the site together with the adjacent parking area. In the case of the area at the north eastern boundary the boundary itself is heavily landscaped with the closest distance between properties within the development and those outside some 14.2 metres. In that section of the development the proposal envisages the erection of bungalows and the single storey pattern of development together with the landscaping at the site boundary would minimise any risk of overlooking. Subject to the plots at both locations having permitted development rights withdrawn the proposal is felt to be acceptable in terms of residential amenity impact. The physical relationship of the proposed care home to the bungalow development to the north east is close and any permission should be conditioned to ensure that the care home is no more than a single storey in height. Subject to such a condition being put in place impact upon residential amenity is felt to be acceptable.

IMPACT UPON THE SURROUNDING TOWNSCAPE:-

4.18 Policy D1 of the 2018 Draft Plan sets out a clear requirement that development proposals should reflect best practise in urban design and place making use appropriate materials and reflect the grain of local townscape character. The proposal has been designed to be predominantly low rise with the use of a palette of materials that reflects that present within the locality with the use of a mix of buff and red brick with render and timber cladding and an interlocking plain tile as a roofing material. The site is not readily visible in long or short distance views from outside of the site and its layout reflects the practise adopted in the surrounding development. Two broad house types are identified with the principal elevation laid out parallel with the street and an alternative with a steeply pitched gable roof with additional accommodation taken up into the roof slope. The site contains extensive mature landscaping with a number of trees of townscape importance. These would be retained wherever practicable notably at the north eastern edge of the development and a central landscaped square would be provided as a focal point for wider development. The green space would also fulfil the requirement of the site for the provision of informal open space and children's play space. Access to the development would be taken from two locations, to the north from the existing school access and Dijon Avenue and from the south west from Tudor Road with the central green space acting as a boundary. It is felt that the proposal is broadly acceptable in townscape terms and accords with Policy D1 of the 2018 Draft Plan..

IMPACT UPON LOCAL INFRASTRUCTURE:-

4.19 Concern has been expressed by both consultees and objectors in respect of the impact of the proposal upon local infrastructure. A trunk surface water sewer which crosses the northern site access would require to be partially relocated although the mechanism for that has been agreed with the statutory undertaker. Yorkshire Water Services Limited. At the same time a requirement is generated by the proposal for educational improvement works at both Hob Moor Primary School and York High School totalling £963,152 which may be secured by a scheme for securing provision of educational places. The site falls within the scope of Policy

H10 of the 2018 Draft Plan with a requirement for the provision of affordable housing at the rate of 20% of the general housing provision as an urban brown field site. A detailed affordable housing schedule has been submitted as part of the proposal and that has been agreed to by the applicant. The education and affordable housing requirements would be secured by condition because the Council as landowner cannot enter into enforceable Section 106 planning obligations with itself.

IMPACT UPON THE SAFETY AND CONVENIENCE OF HIGHWAY USERS:-

4.20 Concern has been raised by objectors in terms of the impact of increased traffic volumes arising from the development upon the safety and convenience of highway users in the surrounding road network. However, the traffic flows arising from the development have been modelled in detail and subject to the development of two vehicular points of access to the site together with works to the existing bus stop on Tudor Road then the development is considered to be acceptable.

5.0 CONCLUSION

5.1 The former Lowfield School comprises a large open grassed site of 4.54 hectares formerly occupied by a Secondary School lying to the south west of the Acomb District Centre. The former school playing field has been used by Woodthorpe Wanderers a Junior Football team who have subsequently relocated to a site in Dringhouses and merged with another local team leaving the playing field unused. Outline planning permission with access only considered is sought for the erection of 96 two and three storey dwelling houses, 26 bungalows and a three storey apartment block containing 18 apartments together with an 80 bed care home, a police station/health centre and an additional 6 self build and 19 community build dwellings.

The benefits from the scheme would be the provision of a range of housing reflecting the local pattern of demand and need including for affordable properties together with the provision of an 80 bed care home specialising in dementia care for which there is a demonstrable need in western York.

In applying the relevant planning balance, it is not considered that there are any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole. As a result, the proposal represents sustainable development and approval is recommended.

6.0 RECOMMENDATION: Approve

1 Application for approval of all reserved matters (appearance, landscaping, layout and scale of the proposed development to be carried out) shall be made to the Local Planning Authority not later than the expiration of three years beginning

with the date of this permission and the development hereby permitted shall be begun before:

the expiration of two years for the date of approval of the last of the reserved matters to be approved.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (England) Order 2015.

2 Fully detailed drawings illustrating all of the following details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of building works, and the development shall be carried out in accordance with such details as approved:

Details to be submitted: appearance, landscaping, layout and scale of the proposed development to be carried out, including a schedule of all external materials to be used.

Reason: In order that the Local Planning Authority may be satisfied as to the details of the development and to comply with the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2006.

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

Drawing Refs:- 7503- BDP-LWG-L-PL-LA-002_D; 7503- BDP-LWG-L-PL-LA-003_C ; 7503- BDP-LWG-L-PL-LA-004_C;7503- BDP-LWG-L-PL-LA-006_B;7503- BDP-LWG-L-PL-LA-008_D; 7503- BDP-LWG-L-PL-LA-009_C ; 7503-BDP-LWG-A-PL-MP-001_E; 7503-BDP-LWG-A-PL-MP-002_B ; 7503-BDP-LWG-A-PL-MP-004_C ; 7503-BDP-LWG-A-PL-MP-005_D ; 7503-BDP-LWG-A-PL-MP-006_B ; 7503-BDP-LWG-A-PL-MP-007_A; 7503-BDP-LWG-A-PL-MP-101_C ; 7503-BDP-LWG-A-PL-MP-102_C; 7503-BDP-LWG-A-PL-SP-001_A

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

4 VISQ7 Sample panel ext materials to be approved

5 VISQ8 Samples of exterior materials to be approved

6 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 and other plants; seeding mix, sowing rate and mowing regimes. The scheme shall also include details of ground preparation and a five year maintenance

program. The approved landscape scheme shall be implemented within a period of six months of completion of the development. Any trees or plants which within a period of five years from the substantial completion of the soft landscape works, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority agrees alternatives in writing. This also applies to any existing trees that are shown to be retained within the approved landscape scheme.

Reason: So that the Local Planning Authority may be satisfied with the variety, suitability and disposition of species within the entire site, and means of establishment, since the landscape scheme is integral to the amenity of the development.

7 Before the commencement of development, an Arboricultural 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. Amongst others, this statement shall include details and locations of protective fencing, site rules and prohibitions, ground protection, phasing of works, site access during demolition/construction, types of construction machinery/vehicles to be used (including delivery and collection lorries and arrangements for loading/off-loading), parking arrangements for site vehicles, locations for stored materials, locations and means of installing utilities, location of site compound and marketing suite. The document shall also include methodology and construction details and existing and proposed levels where a change in surface material and boundary treatments is proposed within the root protection area of existing trees. The development shall be carried out in accordance with the approved Arboricultural Method Statement and a copy of the document will be available for inspection on site at all times.

Reason: To protect existing trees which are covered by a Tree Preservation Order and/or are considered to make a significant contribution to the amenity of this area and/or development

8 A qualified arboriculturalist shall carry out regular inspections during the development, especially during site preparation. Adherence to the approved method statement and any incidents shall be monitored and recorded. These records shall be made available for inspection by the Local Authority if requested. Before works start on site, the name and address of the appointed arboriculturalist shall be supplied to the local authority.

Reason: To ensure every effort and reasonable duty of care has been exercised by the developer during the development in the interests of protecting the existing trees subject to a tree preservation order.

- 9 HWAY1 Details roads, footpaths, open spaces req.
- 10 HWAY7 Const of Roads & Footways prior to occupation
- 11 HWAY18 Cycle parking details to be agreed
- 12 HWAY19 Car and cycle parking laid out
- 13 HWAY40 Dilapidation survey

14 The development shall not be begun until details of the junction between the internal access road and the highway as illustrated on drawing 064545-CUR-00-00-DR-TP-05/002-V01) have been approved in writing by the Local Planning Authority, and the development shall not come into use until that junction has been constructed in accordance with the approved plans.

Reason: In the interests of road safety

15 Prior to first occupation of any part of the development the bus stop works as indicatively shown on drawing titled "Tudor Road Bus Stop Works" dated 08/01/2018 shall have been carried out in accordance with details submitted to and approved in writing by the Local Planning Authority or arrangements entered into which ensure the same.

Reason: In the interests of the safe and free passage of highway users and to promote sustainable modes of transport

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
- a scheme for signing the promoted construction traffic routing
- where contractors will park
- where materials will be stored within the site

All works shall be carried out in accordance with the approved method of works

statement.

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 development hereby approved shall be occupied until a Full Travel Plan has been submitted to and approved in writing by the LPA. The Travel Plan should be developed and implemented in line with local and national guidelines and the submitted Interim Travel Plan dated September 2017 (ref YORK04/ITP). The site shall thereafter be occupied in accordance with the aims, measures and outcomes of said Travel Plan as approved.

Within 12 months of occupation of the site a first year travel survey shall have been submitted to and approved in writing by the LPA. Results of yearly travel surveys shall then be submitted annually to the authority's travel plan officer for approval.

Reason: To ensure that traffic flows from the sites can be safely accommodated and to promote the usage of sustainable means of transport

18 LC1 Land contamination - Site investigation

19 LC2 Land contamination - remediation scheme

20 LC3 Land contamination - remedial works

21 LC4 Land contamination - unexpected contamination

22 There shall be adequate facilities for the treatment and extraction of cooking odours at the care home hereby authorised. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the proposed use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines.

Note: It is recommended that the applicant refers to the Defra Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet light/ozon treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

23 Details of all machinery, plant and equipment to be installed in or located on the care home/ public service building premises, which is audible outside of the premises, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not be the representative LA90 1 hour during the hours of 07:00 to 23:00 or representative LA90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area

24 Prior to the commencement of the development above foundation level full details of all hard landscaping works including design of street furniture, bollards and play equipment shall be submitted to and approved in writing by the Local Planning Authority. The development shall thenceforth be undertaken in strict accordance with the details thereby approved prior to the development being first occupied and shall be maintained as such thereafter.

Reason: To safeguard the visual amenity of the wider street scene and to secure compliance with Policy D1 of the Publication Draft City of York Local Plan (2018)

25 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 scheme, unless otherwise 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

26 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 08.00 to 18.00

Saturday 09.00 to 13.00

Not at all on Sundays and Bank Holidays.

Reason: To protect the amenity of local residents

27 No development shall take place until details of the proposed means of disposal of surface water drainage, including details of any balancing works and off-site works, have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include the point (s) of connection into the existing public sewer and the means by which the discharge rate shall be restricted to a maximum rate of 30 litres per second. Furthermore, 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.

Reason - To ensure that no surface water discharges take place until proper provision has been made for its disposal.

28 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.

29 No building or other obstruction including landscape features shall be located over or within 5 metres either side of the centre lines of each the public sewers i.e. protected strip widths of 10 metres per sewer, that cross the site. If the required stand-off distances are to be achieved via diversion or closure of the sewers, the developer shall submit evidence to the Local Planning Authority that the diversion or closure has been agreed with the relevant statutory undertaker and that prior to construction in the affected area, the approved works have been undertaken.

Reason: In order to allow sufficient access for maintenance and repair work at all times.

30 An electrical socket shall be provided at each dwelling prior to its first occupation to enable charging of an electric vehicle using a 3m length cable whilst parked (within garage or on driveway) and the electric socket shall thereafter be permanently retained.

Note: Any socket provided must comply with Building Regulations and be suitable

for charging electric vehicles. In particular, consideration should be given to cable and circuitry ratings to enable safe charging of modern electric vehicles. Where located on a driveway it should also have a weatherproof cover and an internal switch should be also provided in the property to enable the socket to be turned off. The electrical circuit shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electric Vehicle Charging Equipment installation (2015).

Reason: To facilitate the uptake of low emission vehicles in line with City of York Council's adopted Air Quality Action Plan (AQAP3) and Low Emission Strategy (LES)

31 All contractors involved in arboricultural works to, or the felling of the trees listed in Table 6 on Page 17 of the Extended Phase 1 Habitat Survey by BDP dated August 2017 and identified on plans contained within the Arboricultural Impact Assessment by BDP dated October 2017 to be made aware of the potential presence of bats and the need to follow standard good working practices in relation to bats;

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

- o Immediately prior to works the trees should be inspected by a suitably qualified ecologist.

- o Where bat roost potential exists work 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.

- o In the unlikely event that bats are discovered when branches are removed or trees felled (particularly in winter), work must stop immediately and Natural England or the Bat Conservation Trust contacted. Advice will be given on how to proceed, including collecting up any bats with gloved hands and putting them into a bat box, if appropriate.

Reason: To take account of habitat for a protected species

32 Prior to the commencement of development details of what measures are to be provided within the design of the new building to accommodate bats shall be submitted and agreed in writing by the Local Planning Authority. The development shall be constructed in accordance with these approved details. Features suitable for incorporation for this group include the use of special tiles, bricks, soffit boards, bat boxes etc.

Reason: To take account of and enhance the biodiversity and wildlife interest of the area, and comply with Section 11 of the NPPF.

33 Prior to the commencement of development, an invasive non-native species protocol shall be submitted to and approved by the local planning authority, detailing the containment, control and removal of Giant Hogweed (*Heracleum mantegazzianum*) on site. The measures shall be carried out strictly in accordance with the approved scheme.

Reason: To ensure that an adequate means of eradicating or containing the spread of an invasive non-native plant is considered and thereafter implemented to prevent further spread of the plant which would have a negative impact on biodiversity and existing or proposed landscape features.

34 No dwelling within the red line area highlighted on the attached plan (7503-BDP-LWG-A-PL-SP-001_A) shall be occupied until three replacement football pitches of the same size as those on land subject to this planning application, have been created. The three pitches shall be on land 'To The South East Of 235 Tadcaster Road', subject planning permission Ref. No. 18/00251/FUL. The completed works shall include all levelling, drainage, ground preparation and grass seeding works

Reason: To ensure that appropriate replacement playing pitch facilities are provided for those lost in association with the development and to secure compliance with paragraphs 73 and 74 of the NPPF.

35 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 A, B, C, E and F ; of Schedule 2 Part 1 of that Order shall not be erected or constructed in respect of Plots 8, 9, 10, 11, 12, 13 and 47 as shown on plan ref: 7503-BDP-LWG-A-MP-002-B without the express grant of planning permission .

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.

36 Notwithstanding the provisions of Height Parameters Plan Ref:- 7503-BDP-LWG-A-PL-MP-102-B, the Care Home hereby approved shall have a maximum height of 8 meters from ground level on that elevation facing residential development to the east and north east.

Reason: To safeguard the residential amenity of neighbouring properties and to secure compliance with Policy D1 of the Publication Draft City of York Local

Plan(2018)

37 No development shall commence until the details of a scheme to secure improvements to Hob Moor Primary School to re-commission class room spaces to allow for the anticipated pupil yield and improvements to York High School to provide to re-commission classroom spaces to low for anticipated pupil yield in accordance with the Council's SPG Developer Contributions to Educational Facilities 2007 and the timetable and mechanism to secure its implementation have been provided to and agreed in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented and complied with in full.

Reason: To comply with Paragraph 34 of the NPPF(2018) and Policy DM1 of the Publication Draft City of York Local Plan (2018)

38 The development shall not begin until a detailed scheme for the provision of affordable housing as part of the development including both open market and community housing elements has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided and retained in accordance with the approved scheme and shall meet the definition of affordable housing in the Glossary in Annex 2 of the National Planning Policy Framework July 2018 or any future guidance that may replace it. The scheme shall include:

- (i) the numbers, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 20% of housing units (excluding the self build dwellings) to be provided;
- (ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- (iii) the arrangements for the transfer of the affordable housing to a Council approved registered housing provider or the management of the affordable housing (if no registered housing provider is involved);
- (iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- (v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be permanently retained thereafter in accordance with the approved scheme.

Reason: To comply with Paragraph 62 of the NPPF (2018) and Policy H10 of the Publication Draft City of York Local Plan (2018).

39 The development of the 6 self-build dwellings hereby approved for the self build development area shown on approved plan 7503-BDP-LWG-A-PL-MP-101-C shall not be carried out unless as 'Self-build and custom-build' development as defined in the Glossary in Annex 2 of the National Planning Policy Framework July 2018 or any subsequent replacement document and by:

- a) individuals;

b) associations of individuals; or,
c) persons working with or for individuals or associations of individuals;
on the plot(s) to be occupied as homes by those individuals and thereafter the development shall not be occupied by anyone else other than by those same individuals as a principal residence for a continuous period of not less than three years starting from the date of first occupation.

Reserved Matters application shall be submitted in respect of each individual self-build dwelling hereby approved and it shall be accompanied by detailed written evidence that the proposal complies with the definition of 'Self-build and custom-build' development in the Glossary in Annex 2 of the National Planning Policy Framework July 2018 or any subsequent replacement document.

Reason: To ensure that the development is carried out and occupied as a ' Self-build and custom-build' development for which permission was granted.

40 Prior to the submission of any reserved matters application for a self-build dwelling a detailed Design Code in respect of all of the proposed self build housing shall be submitted to and approved in writing by the Local Planning Authority. The Design Code shall set out details such as height, scale and materials to be used within the construction of the proposed properties. Thereafter all applications for approval of reserved matters for the self-build dwellings shall be in accordance with the approved Design Code.

Reason: To ensure a consistent quality of development and to secure compliance with Paragraph 127f) of the NPPF (2018) and Policy D1 of the Publication Draft City of York Local Plan (2018)

41 The community build development as identified on approved plan ref: 7503-BDP-LWG-A-PL-MP-001_E shall not begin until a detailed scheme for the provision, occupation, long-term management and retention of the community dwellings hereby approved and the mechanism for its implementation has been submitted to and approved in writing by the Local Planning Authority. The community dwellings shall thereafter be provided, occupied, managed and retained in accordance with the approved scheme.

Reason: The design and layout of the development is not suitable in terms of the amenity space provided for prospective residents to form general open market housing(Use Class C3).

42 The development hereby authorised shall comprise in respect of its residential element as identified on approved plan ref: 7503-BDP-LWG-A-PL-MP-002_B no more than 96 two and three storey residential dwellings; 26 bungalows and a single 3 storey block containing 18 apartments.

Reason: To establish an acceptable pattern of density reflecting local circumstances

and to secure the residential amenity of neighbouring properties to comply with paragraph 127 f) of the NPPF

43 The care home hereby authorised and identified on approved plan ref:- 7503-BDP-LWG-A-PL-MP-001_E shall comprise no more than 80 bed spaces.

Reason: To ensure an adequate supply of care bed spaces in the locality and to secure compliance with Policy HW1 of the Publication Draft City of York Local Plan.

45 The Community housing development hereby authorised and identified on approved plan ref:- 7503-BDP-LWG-001_E shall comprise no more than 19 units in total.

Reason: To safeguard the residential amenity of neighbouring properties and to secure compliance with Paragraph 127 f) of the NPPF.

7.0 INFORMATIVES: Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) 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:

Sought the re-provision of the playing pitches to be lost by the development within the local area.

2. UTILITIES:

You are advised that this proposal may have an affect 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.

3. HIGHWAY WORKS:

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 Sections 38/278 - (01904) 551550 -
streetworks@york.gov.uk

Application Reference Number: 17/02429/OUTM

Item No: 3c

4. BREEDING BIRDS:

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

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

5. 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.

Contact details:

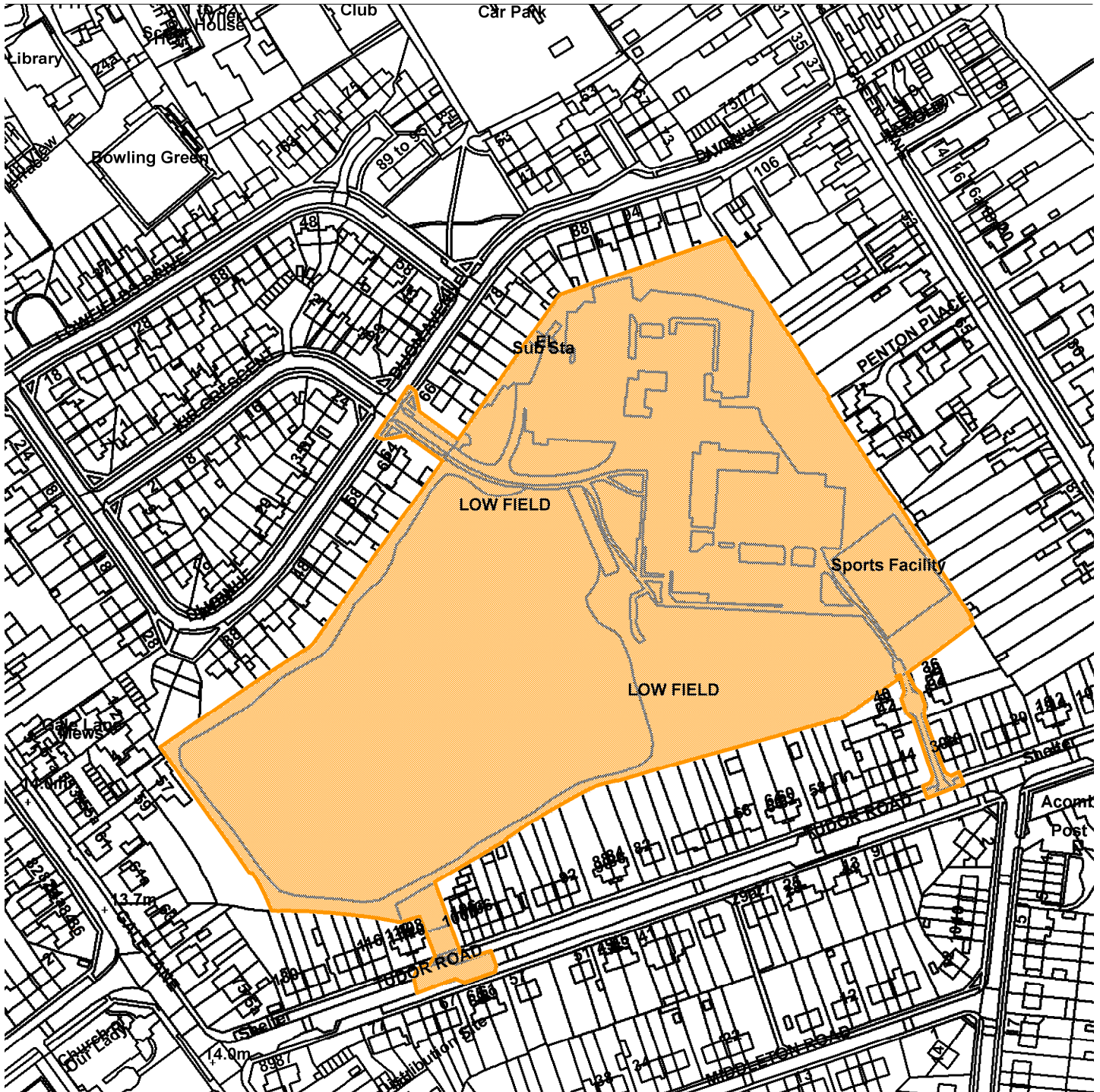
Author: Erik Matthews Development Management Officer

Tel No: 01904 551416

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17/02429/OUTM

Former Lowfield School, Dijon Avenue, York



Scale : 1:2580

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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	06 August 2018
SLA Number	

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COMMITTEE REPORT

Date: 16 August 2018 **Ward:** Guildhall
Team: Major and **Parish:** Guildhall Planning Panel
Commercial Team

Reference: 18/01102/FUL
Application at: Spark York Piccadilly York YO1 9PB
For: Variation of conditions 1 and 3 of permitted application
17/00274/FUL to amend approved plans to omit timber
cladding from containers and for external artwork and vinyl
lettering
By Spark York
Application Type: Full Application
Target Date: 26 July 2018
Recommendation: Approve

1.0 PROPOSAL**APPLICATION SITE / BACKGROUND**

1.1 The application relates to the Spark York development which was first considered by Main Planning Committee in May 2017.

1.2 The scheme presented to Committee was given planning permission to operate until July 2020, as a meanwhile use in advance of an anticipated permanent re-development of the Council owned site.

1.3 The scheme with planning permission proposed timber cladding wrapped around the containers at ground floor level and extending to provide 1.1 m high balustrading at first floor level. Consequently only the upper portion of the 1st floor containers would have been apparent in views from Piccadilly.

1.4 The timber cladding was the applicant's intent at submission stage (there were no revised plans), and was detailed in the submitted design and access statement. The statement proposed various options for the setting out and finish to the cladding and consequently condition 3 of the planning permission required the large scale details and finish of the cladding to be approved.

1.5 The May 2017 officer's report for the original planning application acknowledged that given the proposed use and its temporary nature it would be appropriate for a development that stood out rather than blended in with its surrounds. The structure was though deemed to cause 'less than substantial harm' to heritage assets, which was outweighed as a consequence of the public benefits brought about as a consequence of the proposed use.

1.6 The site is within an area where regeneration is promoted in the 2018 Publication Draft Local Plan - Policy SS5: Castle Gateway. The regeneration is currently subject to consultation and master-planning being undertaken through the My Castlegateway project.

1.7 The application is brought to Committee for determination at the discretion of the Assistant Director for Planning and Public Protection. The original application was considered and determined by the main Planning Committee. The development is on Council owned land and has been the subject of both letters of objection and letters of support. As such it is also brought to committee for determination.

PROPOSALS

1.8 This is an application under Section 73 of the Town and Country Planning Act 1990 to vary the approved plans; to allow the site to retain its current appearance, without the timber cladding around the containers at ground floor level and partially at 1st floor level. The containers have been coated in varying colours and 4 on the Piccadilly elevation are decorated with artwork whilst another displays the Cuckoo Brewery logo.

1.9 Additionally to screen the recently constructed row of houses at Nelson's Yard a timber screen has been erected in the relevant corner of the site; this is higher than the approved timber enclosure in this area and has been erected by the neighbouring landowner. The ramped access to the upper floor has been replaced by a staircase. The latest plans show a lift to the upper floor also but this is yet to be installed.

2.0 POLICY CONTEXT

See Section 4 of this report for more details.

2.1 Development Plan Allocation:

Areas of Archaeological Interest: City Centre Area

Conservation Area: Central Historic Core

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

2.2 Relevant Policies of the Publication Draft City of York Local Plan 2018 ('2018 Draft Plan'):

SS5 Castle Gateway

D1 Placemaking

D2 Landscape and Setting

D3 Cultural Provision

D4 Conservation Areas

D5 Listed Buildings

3.0 CONSULTATIONS

DESIGN & CONSERVATION

3.1 The painted containers, metal balustrade and artwork are undoubtedly more visually striking than the permitted design would have been. Their striking nature has some relevance to the spirit of the evolution of Piccadilly.

3.2 The relationship of the development within the conservation area is not completely at odds with it considering the evolution of Piccadilly and the industrial and commercial uses the street accommodated through the 20th century, as explained in the conservation area appraisal.

3.3 Officer comment on the original scheme was that it was only the lack of permanency in its design that causes a degree of harm to the conservation area, at the bottom end of “Less than Substantial”. The as-built scheme has a greater visual intrusion on the character of the conservation area and so the level of harm has increased. This is not to downplay the value of the artwork, but the assessment relates to its impact on the conservation area.

3.4 Officers recommend the removal of any lettering or branding that directly relates to a business within, because the general form of the development is so striking already that there is no justification for drawing attention to a particular business through direct advertising.

3.5 Officers' advice is that the value of the reduced impact (less harm) that reinstatement of the approved scheme (or any other substituted more discrete proposal) could be judged against a balance of public benefits that could directly arise out of retention of the scheme as built. The applicant's case in the application refers to economic viability, although there are no detailed costs. In addition there could be further benefits such as provision of community uses and local start up business (apart from food and drink uses which currently dominate the development).

GUILDHALL PLANNING PANEL

3.6 In general support the development of the site, but are disappointed that the result is not as sympathetic to residents and the area as in the approved plans and is more edgy than originally proposed.

PUBLICITY

3.7 There have been 9 comments in support of the application and 9 in objection. All those who commented on the original application (approx 580 contributors) were consulted on this application.

Support

- No objection to the appearance of the development which has brought life to this part of Piccadilly. It looks wonderful; post industrial style perfectly suited to its urban 'brownfield' site.
- Spark is one of the best and most innovative developments in the city centre for years. It's been established on a shoe string budget and given so many people (mostly young start-ups) a chance for a future in their own businesses.
- The proposers of Spark are not experienced commercial developers and hence it is most likely that the management failures that lead to this change requirement will have been borne of inexperience. As such it is undeserving of the hostility that it has met from some parties which is completely out of proportion to the actual planning issues at stake.

Objections

3.8 The objections are over the appearance of the development and there have also been comments about the impact on neighbours due to customers overlooking adjacent sites and due to noise.

Visual Impact

- The unlawful artwork and lettering on the containers is completely unacceptable in this conservation area. It is alien and a gross intrusion on the street scene. It is graffiti. One of the reasons why it was first permitted was due to the proposed timber cladding was specifically intended to ameliorate the inappropriate visual impact of old shipping containers. Would Members have approved the scheme initially if it were presented in its current iteration?
- The scheme should not have been permitted in the first case. It was contrary to policy as there was not public benefit to justify the harm to the conservation area.
- The Council is the landowner, supposedly receiving income from this dubious enterprise. As such it has a conflict of interest. It should not really be determining this application for its own preferred tenant on council land. The lease granted to Spark obliges it to comply with planning requirements. The Council should be using its powers and authority as freehold owner of the site to compel Spark to meet their lawful obligations. There should be no need to consider a retrospective application. One which can be taken to appeal so the whole issue is dragged out for months or even years.
- If the containers are to remain exposed then they should be painted in muted colours and not decorated as they are currently.

Residential amenity

- Overlooking over Mawson's Court
- Noise does sometimes exceed background noise levels, in conflict with the relevant condition of the planning permission.

4.0 APPRAISAL

POLICY BACKGROUND

Local Plan

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

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

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

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

4.4 The revised National Planning Policy Framework was published on 24 July 2018 (NPPF) and its planning policies are material to the determination of planning applications. It is against the NPPF (as revised) [*if a GB case*: and the saved RSS policies relating to the general extent of the York Green Belt] that this proposal should principally be assessed.

KEY ISSUES

4.5 This is an application under Section 73 of the Town and Country Planning Act 1990 to vary the approved plans, and make the following changes to the approved scheme –

- There is no timber cladding which was proposed to enclose the site from ground level to the height of the 1st floor balustrades/handrails. Instead the containers are exposed and have been colour coated or decorated with artwork.
- To screen the recently constructed row of houses at Nelson's Yard a timber screen has been erected (by the neighbouring landowner) in the relevant corner of the site.
- The ramped access to the upper floor has been replaced by a staircase. Plans show a lift to the upper floor also but this is yet to be installed.

4.6 Where an application under Section 73 is granted, the effect is the issue of a new grant of permission sitting alongside the original permission, which remains intact and un-amended. If, as in this case, the original application has been implemented the applicant may go ahead and complete the original approved scheme if they wish.

4.7 Given that an application under Section 73 seeks to amend an approved scheme, the development itself has already been judged to be acceptable in principle. In accordance with Government guidance, consideration of the current application therefore is not a complete re-consideration of the application as the local planning authority must only consider any significant changes to policy or other material considerations since the original grant of permission as well as the proposed amendments themselves, but not the principle of the development as a whole.

4.8. The matters of the principle of development, flood risk and highway safety were assessed as part of the original application. The proposed amendments compared to the original application have no implications with regard to flood risk or highway safety. In respect of these issues NPPF policy has been updated and relevant policies are now contained in sections 9 and 14, relevant 2018 Draft Plan policies are T1: Sustainable Access and ENV4: Flood Risk. It is noted that policy T1 asks for proposals to demonstrate suitable access, permeability and circulation for a range of transport modes whilst giving priority to pedestrians (particularly those with impaired mobility), cyclists and public transport services. Inclusive access was considered in the original application. By way of an update we have been advised by the applicants that the lift (to provide access to the upper floor) is due to be installed by October this year.

ASSESSMENT

Impact on Designated Heritage Assets

Relevant policy & legislation

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

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

4.11 Section 66 of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall pay special regard to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses.

4.12 Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development, unless specific policies in the NPPF indicate development should be restricted.

4.13 The NPPF advises that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) and take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal. NPPF paragraph 192 states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the desirability of new development making a positive contribution to local character and distinctiveness.

4.14 NPPF paragraphs 193 and 194 state that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given the asset's conservation. The more important the asset, the greater the weight should be. Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Paragraph 196

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

4.15 National Planning Guidance (NPPG) gives further clarification on public benefits and what is regarded to be less than substantial and substantial harm. It states as follows -

- In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest.
- Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework

Central Historic Core Conservation Area Appraisal

4.16 The conservation area appraisal for the Piccadilly area states that “Piccadilly was developed much later than the rest of the medieval city centre and has larger scale building plots, reflecting its industrial past. The lack of high quality retailers and historic buildings means it is not a destination for visitors, and locals mainly use it for car parking ... A number of buildings are in poor condition suggesting neglect and lack of investment over many years ... The lack of retailers means there are few pedestrians during the day and the area is deserted at night. Many of Piccadilly’s older buildings appear shabby and decayed, adding to the sense that the area has been forgotten and neglected.”

Publication Draft City of York Local Plan 2018 (‘2018 Draft Plan’)

4.17 The 2018 Draft Plan was submitted for examination on 25 May 2018. The 2018 Draft Plan policies can be afforded weight at this stage of preparation in accordance with paragraph 48 of the NPPF according to their degree of consistency with the NPPF (the closer the policies to the NPPF, the greater the weight that may be given), and extent of objections received as part of the plan consultation. The evidence base underpinning the emerging Local Plan is capable of being a material consideration in the determination of planning applications.

4.18 Policy SS5: Castle Gateway is relevant to the application. SS5 states that the ‘Castle Gateway’ has been identified as a major regeneration area of the city centre. The purpose of the regeneration (relevant to this application) is to -

- Improve the economic, environmental and social sustainability of the area.
- Integrate the area with the broader city centre.

4.19 With regards the Piccadilly sub area, the policy states re-development will be delivered in accordance with the following principles -

- Reduce the size of the vehicular carriageway on Piccadilly and improve the size and quality of the pedestrian foot streets, including tree planting.
- Ensure active ground floor frontages to new developments fronting Piccadilly.
- Provide active river frontages to any new development on sites adjoining the River Foss.
- Seek developer contributions in the form of land and/or funding to contribute to delivering the masterplan and highways improvements.

My Castle Gateway project

4.20 Castle Gateway is a Council lead project to regenerate a significant area of the city centre which includes Piccadilly. The project provides an opportunity to identify new future uses, buildings and public space with the overall aim to create a part of York that is valued, well-used and loved.

4.21 The project currently has 2 options for the future of the application site which are explained as follows -

- Long term extension of Spark York

Spark York is a unique venue, offering flexible space to local businesses and the community. Temporary planning permission expires in 2020, but could be extended.

- New workspaces and apartments

Alternatively, a more permanent solution for future use of the site could be a live/work development, containing small workshop spaces as well as living accommodation. It could also provide space for independent shops and cafes.

Significance of nearby Listed Buildings and the relevant part of the Central Historic Core Conservation Area

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

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

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

4.25 The conservation area appraisal for Piccadilly has been undertaken in accordance with Historic England guidance, taking into account current and past uses, social and economic factors, density, types and forms of buildings, and spaces. The appraisal explains that the area predominantly was first developed in the early 20th century and was industrial in character. It acknowledges the neglected condition of the area now and how rundown early C20 industrial and commercial buildings remain evident and notes the lack of activity in this area compared to other areas of the city centre.

4.26 Within the appraisal and policy SS5 of the Local Plan are policies and guidance to inform future regeneration of Piccadilly. In addition implementation is taking shape through the My Castlegateway project. Mixed-use regeneration of the area is a Council aspiration, as established in policy SS5, which seeks to improve the economic, environmental and social sustainability of the area.

Assessment of impact on heritage assets

4.27 The appearance of the development as previously proposed with the timber cladding gave a coherent appearance. Its omission has led to a far more utilitarian development which expresses the structure and appears somewhat cluttered.

4.28 The site in its current form causes less than substantial harm to the character and appearance of the Conservation Area and the setting of the Grade II Listed Red Lion Public house. This is not due to the containers being exposed as such but due to the site's makeshift appearance overall, including its detailing, external landscaping, how it relates to the street and deals with variations in ground levels and also the lack of an active frontage onto Piccadilly. The lack of an active frontage does not comply with the aspirations for redevelopment of the area as described in policy SS5 of the 2018 Draft Plan.

4.29 The conservation area appraisal identifies the site is in an area with limited activity and the public art is a device which draws some attention to the site. The artwork is however only prominent when in close vicinity to the site and where the development is viewed alongside 20th and 21st century buildings. It associates with the temporary nature of the development; it would be unsuitable as a permanent solution. Due to the position of the artwork it does not affect the setting of the Grade II Listed Red Lion Public house. However, it does contribute to the harm to the Conservation Area.

4.30 The significance of the Red Lion public house is due to its age and means of construction. The adjacent part of Piccadilly was introduced in 1912 and is set at a higher level than the listed building. The application site accommodated an industrial

warehouse type building (trolleybus garage) between the 1920's and 2015 when permission was granted for its demolition. The setting of the building and how it is viewed from Piccadilly has not changed significantly, hence the low level of harm identified in the previous paragraph.

4.31 St Deny's church is within the Walmgate/Fossgate character area. It is listed at grade I and identified as a landmark in the area appraisal. The impact on its setting was assessed in the original application due to the prominence of the church spire. The church is some 45 m from the application site. Due to the scale of the Spark York development it was assessed as having no impact on the church in the original application. This does not change with the revisions contained in this application.

Public Benefits

4.32 The NPPG explains that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF.

4.33 The commercial units in Spark have been occupied in accordance with the approved scheme and the social space / business hub is used by various local groups and organisations. The Spark development has distinctive character and has helped revitalise the area and enhanced its vitality and viability; this fits with the Council's aspirations, as identified in local planning policy and guidance.

4.34 Spark is a Community Interest Company (CIC). CICs are limited companies which operate to provide a benefit to the community they serve. The purpose of CIC is primarily one of community benefit rather than private profit. Whilst returns to investors are permitted, these must be balanced and reasonable, to encourage investment in the social enterprise sector whilst ensuring true community benefit is always at the heart of any CIC. The ethos of the operation and provision of facilities for small business and community uses are welcome and contributes to the distinctive character of the operation.

4.34 The development therefore brings public benefit in that it makes a positive contribution towards meeting the following social and economic objectives of the NPPF –

- To help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity
- To support strong, vibrant and healthy communities

4.35 The locally distinctive use of the site also fits with national policy objectives for building strong and competitive economies and ensuring the vitality of town centres, as set out in sections 6 and 7 of the NPPF. In particular the following advice -

- Planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- Planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning should:
 - define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters
 - retain and enhance existing markets and, where appropriate, re-introduce or create new ones

Whether the identified public benefits outweigh the less than substantial harm to heritage assets

4.36 Because the proposals have been identified as causing less than substantial harm to the designated heritage assets, the heritage policy test, according to national policy is whether the identified public benefits outweigh this harm.

4.37 The development only has permission until July 2020. Given the current state of this part of Piccadilly, as it awaits regeneration, the development does not look unduly out of character. This is due to its scale and as its industrial materials do not contrast significantly with other buildings along Piccadilly, and recent neighbouring residential development behind Walmgate and at Nelson's Yard, against which the development is appreciated in views from Piccadilly.

4.38 In its current context this iteration of Spark York causes little harm to designated heritage assets. To allow this development in the short-term proposed and in its current form will allow the business to continue to evolve and establish itself further; potentially for it to be re-configured so in future it can fully meet the requirements of the brief for re-development along Piccadilly and be of suitable permanent design (considering form and function) or for the Council to find an alternative and suitable development for the site.

4.39 The NPPF states that significant weight should be placed on the need to support economic growth. Given the current state of the area and temporary life expectancy of the scheme in its current iteration officers are content that the public benefit; specifically the added vitality and viability of this part of the city centre brought about by a locally distinctive business outweighs the low level of harm identified; to the setting of the listed Red Lion public house and the character and appearance of the Piccadilly section of the Conservation Area.

Visual and residential amenity

Relevant planning policy and guidance

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

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

Assessment

4.42 The main considerations with regards amenity are the impact of the design changes on outlook from surrounding buildings and whether there is any increased overlooking.

Effect on outlook

4.43 The approved scheme had a ramped access to the upper floor area and its solid sides were to be clad in timber. Due to the position of the ramp these elements of the scheme would have screened the ground floor kiosks and associated activity from the upper floors of no.15 Walmgate and Mawson's Court. This alteration makes the activity associated with Spark more apparent; there is an impact from 3 windows which serve bedrooms at the aforementioned premises. This has not been raised as an issue in consultation and the presence of commercial activity is not out of character with the area. The metal finish to the installed balustrades does not differ significantly from materials to external balustrading on Mawson's Court.

Overlooking

4.44 One of the comments made by neighbours is the concern of overlooking and loss of privacy. This is as a consequence of people being able to look back towards properties from the 1st floor walkways. From these walkways there are views towards Mawson's Court and the back gardens to the new properties at Nelson's Yard.

4.45 The scheme is no different to the approved scheme with regards to such overlooking.

- The first floor walkway is around 12 m from the closest windows on Mawson's Court (these are bedroom windows) and further from the external access staircase and amenity areas.

- The row of housing at Nelson's Yard is a terrace and gardens can be overlooked into by neighbours. At its closest point the first floor walkway provides access into the community hub building only. Where the walkway provides a circuit around the facility it is significantly further away – 13 m from the closest garden.

4.46 In relation to the approved scheme there would be no different effect on residential amenity that would warrant refusal of the application.

5.0 CONCLUSION

5.1 The proposals have been identified as causing less than substantial harm to the character and appearance of designated heritage assets, being the Conservation Area and the setting of the grade II listed Red Lion public house.

5.2 Piccadilly has a number of vacant sites, and due to the width of street and presence of 20th century industrial and commercial buildings it differs in character to more intimate and historic parts of the Central Historic Core Conservation Area. Despite this vernacular, the make-shift appearance of the development overall, including how it relates with the street, and due to the lack of active frontage onto Piccadilly mean there is harm to designated heritage assets.

5.3 The level of harm to the Conservation Area and setting of the neighbouring listed building is low bearing in mind the extent character and appearance of this part of the Conservation Area and because the development is a 'meanwhile use' with permission expiring in July 2020.

5.4 The heritage asset test therefore according to the NPPF is whether there are public benefits which outweigh this less than substantial harm.

5.5 Regard is had to Sections 66 and 72 of the Act and paragraph 193 of the NPPF, and thus considerable importance and weight is attached to the harm to the setting and significance of the listed building and to the character and appearance of the Conservation Area. However, the public benefits outweigh the identified harm due to the economic and social benefits brought about by enabling this distinctive development which makes a positive contribution to the vitality and viability of this area and the overall city centre. The development is intended to be a meanwhile use whilst regeneration proposals for the area are developed and implemented. In the interim the Spark development has helped promote and give identity to the area; this will assist in allowing locally distinctive regeneration as advocated in the NPPF which requires "significant weight be placed on the need to support economic growth and productivity". These public benefits outweigh the low level of harm to heritage assets.

5.6 The temporary permission that has been proposed for the site is consistent with National Planning Guidance which states that a temporary planning permission may ... be appropriate on vacant land/buildings to enable use for a temporary period prior

to any longer term regeneration plans coming forward (a meanwhile use) or more generally to encourage empty property to be brought back into use. This can benefit an area by increasing activity.

5.7 In comparison to the scheme already approved and its associated planning conditions, there would be no undue effect on residential amenity, flood risk, or highway safety.

5.8 The presumption in favour of sustainable development contained in paragraph 11d) ii of the NPPF applies to this application to the effect that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole. The identified harm to heritage assets is not such that this adverse impact would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole. As a result, the proposal represents sustainable development and approval is therefore recommended subject to reinstatement of other previously imposed conditions.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 Approved plans

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

Drawings 16YRK
Site Plan GA - 100
Floor Plans GA – 101B 102B, 103B,
Elevations and sections GA – 110B, 111B, 112B, 120B, 121B

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

2 Temporary permission only

This use shall cease and all associated structures shall be removed from the site by 1 July 2020; unless prior to that date the consent of the Local Planning Authority has been obtained to extend the period of the permission.

Reason: In the interests of flood risk and to enable a meanwhile use of vacant land prior to its expected longer term regeneration.

3 Cycle Parking

The cycle parking facilities shown on the approved ground floor plan (or any alternative approved as a non-material amendment) shall be installed with 2 months of the date of this permission.

Reason: To promote sustainable travel in accordance with section 4 of the NPPF.

4 Plant & Machinery

Details of all machinery, plant and equipment to be installed in or located on the premises, which would be audible outside of the site, shall be submitted to the local planning authority for approval. These details shall include average sound levels (LAeq), octave band noise levels and any proposed noise mitigation measures. The machinery, plant or equipment and any approved noise mitigation measures shall be fully implemented and operational before the proposed use first opens and shall be appropriately maintained thereafter.

Note: The combined rating level of any building service noise associated with plant or equipment at the site should not exceed 44dB(A) L90 1 hour during the hours of 07:00 to 23:00 or 35dB(A) L90 15 minutes during the hours of 23:00 to 07:00 at 1 metre from the nearest noise sensitive facades when assessed in accordance with BS4142: 2014, inclusive of any acoustic feature corrections associated with tonal, impulsive, distinctive or intermittent characteristics.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

5 Cooking Odours

There shall be adequate facilities for the treatment and extraction of cooking odours. Details of the extraction plant or machinery and any filtration system required shall be submitted to the local planning authority for written approval. Once approved it shall be installed and fully operational before the relevant use first opens and shall be appropriately maintained and serviced thereafter in accordance with manufacturer guidelines for the lifetime of the development.

Note: It is recommended that the applicant refers to the DEFRA Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (January 2005) for further advice on how to comply with this condition. The applicant shall provide information on the location and level of the proposed extraction discharge, the proximity of receptors, size of kitchen or number of covers, and the types of food proposed. A risk assessment in accordance with Annex C of the DEFRA guidance shall then be undertaken to determine the level of odour control required. Details should then be provided on the location and size/capacity of any proposed methods of odour control, such as filters, electrostatic precipitation, carbon filters, ultraviolet

light/ozone treatment, or odour neutraliser, and include details on the predicted air flow rates in m³/s throughout the extraction system.

Reason: To protect the amenity of nearby properties and the environmental qualities of the area.

6 Flood risk management

The development shall be carried out incorporating the proposed flood resilience measures as detailed in the revised Flood Risk Assessment, in particular the following mitigation measures -

- Provision of flood water compensation storage (where existing ground levels are below 1 in 100 flood levels)
- Measures for reducing surface water run-off
- Finished floor levels set above 1 in 100 year flood levels
- Flood resilient construction
- Operators to sign up to flood warning service and on-site management present to administer evacuation when necessary

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to reduce the risk of flooding to the proposed development and future occupants in accordance with the NPPF, in particular paragraph 103.

7 Hours of operation

The site shall only be open to customers between 07.00 and 23.00 each day of the week.

The site shall be vacated by all staff, lighting (apart from any essential safety/security lighting) turned off and the site closed by 24.00 each day.

Reason: In the interests of residential amenity.

8 Reduced capacity after 21.00

Between the hours of 21.00 and 23.00 the area identified on the plans 16YRK-GA-101A and 16YRK-GA-102A shall not be open to customers.

Reason: In the interests of residential amenity.

9 Waste Management

Waste shall only be emptied into bins between the hours of 07.00 and 21.00 each day of the week.

Reason: In the interests of residential amenity.

10 Music

There shall be no performance, playing of amplified or recorded music that would exceed background noise levels at the site boundary.

Reason: In the interests of amenity and the character and appearance of the conservation area.

11 Composition of uses

There shall be no more drinking establishments on site than as shown on the approved floor plans.

Reason: In the interests of residential amenity and to prevent crime and disorder.

7.0 INFORMATIVES:

Notes to Applicant

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

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve a positive outcome: the use of planning conditions.

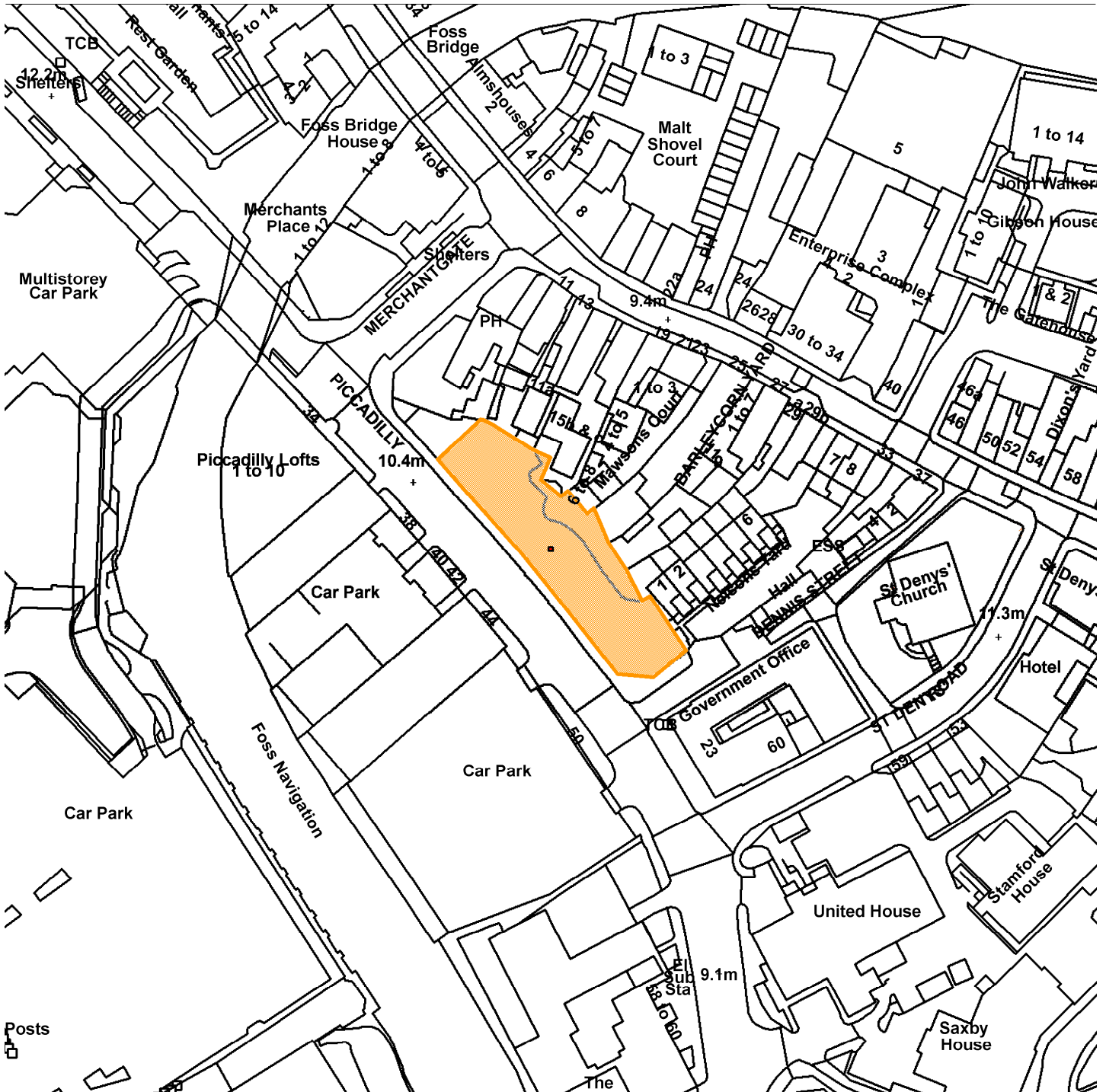
Contact details:

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Organisation	City of York Council
Department	Economy & Place
Comments	Site Location Plan
Date	06 August 2018
SLA Number	

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