

**Committee** 15 September 2016 **Ward:** Rural West York  
**Team:** Major and **Parish:** Parish Of Rufforth With  
Commercial Team Knapton

**Reference:** 16/00357/FULM  
**Application at:** Yorwaste Harewood Whin Tinker Lane Rufforth York  
**For:** Construction of a waste transfer station with associated  
ancillary buildings, hardstandings, car parking and  
alterations to access  
**By:** Yorwaste Ltd  
**Application Type:** Major Full Application (13 weeks)  
**Target Date:** 14 June 2016  
**Recommendation:** Approve subject to Section 106 Agreement

## 1.0 INTRODUCTION

- 1.1 On 12<sup>th</sup> May 2016 this Committee resolved to grant planning permission for this proposed development subject to the conclusion of a Section 106 Agreement for the erection of a waste transfer station with associated ancillary buildings, hard-standings, car parking and alterations to the point of access. The draft Section 106 Agreement included provision for a cycle track running along the frontage of the site with the B1224 Wetherby Road.
- 1.2 The applicant has subsequently sought to have this requirement re-considered in terms of the requirements of Section 122 of the CIL Regulations 2010 which sets out the statutory tests for acceptable planning obligations. The purpose of this report is to enable Members to re-visit the decision it reached at the 12 May 2016 meeting re-consider the previous recommendation in the light of this without the proposed cycle track. The previous detailed Officers' report and Officers' Update to this Committee considering the remaining issues in respect of the proposal are appended together with the Minute of 12 May 2016 meeting.

## 2.0 THE CIL REGULATIONS

- 2.1 Regulation 122 of the Community Infrastructure Regulations 2010 state that any planning obligation of a developer [contained within a Section 106 Agreement] may only constitute a reason for granting planning permission for the development if the obligation is compliant with the three tests outlined below:-

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development;
- (c) fairly and reasonably related in scale and kind to the development.

### **3.0 PROPOSED CYCLE TRACK**

- 3.1 The proposal to construct a cycle track along the B1224 Wetherby Road frontage of the site was initially included within a previous proposal for the erection of an MRF building and a waste transfer station (ref:-13/00041/FULM) which was subsequently withdrawn. The purpose of the track was to separate pedestrians and cyclists from HGVs in the environs of the entrance to the site and to partially satisfy the aspirations of Rufforth and Knapton Parish Council to have a direct off-road route for cyclists and pedestrians to the edge of the City. At the same time that the road frontage track was being pursued another route running to the north of the site was also progressed and has now been constructed and is in use.
- 3.2 In view of this route now being in use the applicant has requested that the provision of a cycle track along the road frontage be reconsidered in respect of the requirements of Regulation 122 of the CIL Regulations, specifically bullet points a) and c) above.
- 3.3 Further detailed discussions have since been undertaken with Highways Officers, Public Rights of Way and Rufforth with Knapton Parish Council in respect of the proposed track. Highways Officers have confirmed that the track which would not at this time link into any other off road route would not materially impact upon the acceptability or otherwise of the proposal in Highways terms. Public Rights of Way have at the same time confirmed that whilst a separate road site route would in the long term be an aspiration, the remaining elements that would be required do not form part of any spending programme and so would not be brought forward at any point in the foreseeable future.
- 3.4 Rufforth with Knapton Parish Council have also confirmed that whilst a road side route has been an aspiration, the recently constructed northern route fulfills required provision of a direct link through to the edge of the City and so the provision of a road side route would now to an extent be superfluous.

3.5 Looking at the wider development the provision of the recently constructed northern provides the required degree of separation between cyclists, pedestrians and other vehicles at the site entrance and the development is therefore acceptable in planning terms without it.

#### **4.0 CONCLUSION**

4.1 On 12 May 2016 this Committee resolved to grant planning permission for the erection of a waste transfer station with associated ancillary buildings, hard-standings, car parking and alterations to the point of access subject to the conclusion of a Section 106 Agreement. The draft Section 106 Agreement included provision for a cycle track running along the frontage of the site with the B1224 Wetherby Road. The applicant has subsequently sought to have this requirement re-considered in terms of the requirements of Section 122 of the CIL Regulations, which the provisions of Section 106 Agreement are required to meet.

4.2 Further re-examination of the requirement for a road side cycle track in consultation with Highways and PROW officers along with Rufforth and Knapton Parish Council indicates that it would not comply with the statutory tests for acceptable planning obligations set out at bullet points a) and c) of Regulation 122 of the CIL Regulations 2010. Officers do not consider that the removal of this obligation from the proposed Section 106 Agreement affects the planning balance of this planning application or that it should otherwise affect the resolution of the 12 May 2016 meeting. Approval without the requirement for a roadside cycle track is therefore recommended.

#### **5.0 RECOMMENDATION**

5.1 That PLANNING PERMISSION BE GRANTED subject to the conclusion of a Section 106 Agreement to include the matters referred to in the Minute of the 12 May 2106 meeting but without the requirement for the provision of a cycle way along the B1224 Wetherby Road frontage of the site and subject to the conditions set out in that Minute.

## **6.0 ANNEXES**

- A - Detailed Committee Report Ref:- 16/00357/FULM
- B - Officer update to Committee Ref:- 16/00357/FULM
- C - Minute of meeting held on 12 May 2016 for application Ref 16/00357/FULM.

### **Contact details:**

**Author:** Erik Matthews Development Management Officer

**Tel No:** 01904 551416